



CITY COUNCIL REGULAR MEETING AGENDA PACKET

CITY COUNCIL CHAMBERS, CITY HALL
7351 ROSANNA STREET, GILROY, CA
95020

MAYOR

Marie Blankley

COUNCIL MEMBERS

Rebeca Armendariz

Dion Bracco

Tom Cline

Zach Hilton

Carol Marques

Fred Tovar

MONDAY, JANUARY 22, 2024 | 6:00 PM

CITY COUNCIL PACKET MATERIALS ARE AVAILABLE ONLINE AT www.cityofgilroy.org
AGENDA CLOSING TIME IS 5:00 P.M. THE TUESDAY PRIOR TO THE MEETING

PUBLIC COMMENTS ON AGENDA ITEMS ARE TAKEN BEFORE THE CITY COUNCIL TAKES ACTION. [Please keep your comments to 3 minutes](#). Time restrictions may vary based on the Mayor's discretion.

Send written comments on any agenda item to publiccomments@cityofgilroy.org or City Hall, 7351 Rosanna Street, Gilroy, CA 95020. Comments received by 1 p.m. on the meeting day will be distributed to the City Council before the meeting. Comments are also available at bit.ly/3NuS1IN.



In compliance with the Americans with Disabilities Act, the City will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk's Office at least 72 hours prior to the meeting at (408) 846-0204 or cityclerk@cityofgilroy.org to help ensure that reasonable arrangements can be made.



If you dispute any planning or land use decision from this meeting in court, you may only raise issues you or someone else presented at this meeting's public hearing or in written letters to the City Council before the hearing. Be aware that the time to seek a judicial review of any final decision made at this meeting is defined by Section 1094.6 of the California Code of Civil Procedure.

During this meeting, a Closed Session may be called under Government Code Section 54956.9 (d)(2). This will happen if, in the City's legislative body's opinion (based on current facts, circumstances, and legal advice), there's a significant risk of a lawsuit against the City.

Additional materials submitted after agenda distribution are available on www.cityofgilroy.org as soon as possible.

KNOW YOUR RIGHTS UNDER THE GILROY OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, task forces, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE, TO RECEIVE A FREE COPY OF THE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION STAFF AT (408) 846-0204.

If you need translation assistance, contact the City Clerk 72 hours before the meeting at 408-846-0204 or cityclerk@cityofgilroy.org.

Si necesita un intérprete durante la junta y gustaría dar un comentario público, comuníquese con el Secretario de la Ciudad un mínimo de 72 horas antes de la junta al 408-846-0204 o envíe un correo electrónico a la Oficina del Secretario de la Ciudad a cityclerk@cityofgilroy.org.



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Para acceder a la traducción durante la reunión, por favor escanee el código QR o haga clic en el enlace:

bit.ly/3FBiGA0

Choose Language and Click Attend | *Selecione su lenguaje y haga clic en asistir*

Use a headset on your phone for audio or read the transcript on your device.

Use sus auriculares para escuchar el audio o leer la transcripción en el dispositivo.

The agenda for this meeting is outlined as follows:

1. OPENING

- 1.1. Call to Order
- 1.2. Pledge of Allegiance
- 1.3. Invocation
- 1.4. City Clerk's Report on Posting the Agenda
- 1.5. Roll Call
- 1.6. Orders of the Day
- 1.7. Employee Introductions

2. CEREMONIAL ITEMS - Proclamations and Awards

- 2.1. Proclamation Proclaiming January 29 – February 2, 2024 as Catholic Schools Week at St. Mary School in Gilroy

3. PRESENTATIONS TO THE COUNCIL

- 3.1. PUBLIC COMMENT BY MEMBERS OF THE PUBLIC ON ITEMS NOT ON THE AGENDA BUT WITHIN THE SUBJECT MATTER JURISDICTION OF THE CITY COUNCIL

This part of the meeting allows public address on non-agenda topics within the Council's jurisdiction. To speak, complete a Speaker's Card from the entrances and give it to the City Clerk. Speaking time ranges from 1-3 minutes based on the Mayor's discretion. Extended

discussions or actions on non-agenda items are restricted by law. For Council action, the topic may be listed on a future agenda.

Email written comments on non-agenda topics to publiccomments@cityofgilroy.org or mail them to City Hall, 7351 Rosanna Street, Gilroy, CA 95020, by 1:00 p.m. on the meeting day. These comments, available at City Hall, will be shared with the Council and included in the meeting record. Late submissions will be shared as soon as possible. A 10-page limit applies to hard-copy materials, but electronic submissions are unlimited.

4. REPORTS OF COUNCIL MEMBERS

Council Member Bracco – Downtown Committee, Santa Clara County Library Joint Powers Authority, Santa Clara Valley Water Joint Water Resources Committee, SCRWA

Council Member Armendariz – Downtown Committee, Santa Clara County Library Joint Powers Authority (*alternate*), Santa Clara Valley Habitat Agency Governing Board, Santa Clara Valley Habitat Agency Implementation Board, Silicon Valley Clean Energy Authority JPA Board (*alternate*), South County United for Health

Council Member Marques – ABAG, Downtown Committee, Gilroy Gardens Board of Directors, Santa Clara Valley Habitat Agency Governing Board, Santa Clara Valley Habitat Agency Implementation Board, SCRWA (*alternate*)

Council Member Hilton – CalTrain Policy Group (*alternate*), Silicon Valley Clean Energy Authority JPA Board, South County United for Health (*alternate*), VTA Policy Advisory Committee

Council Member Cline – Gilroy Economic Development Partnership (*alternate*), Gilroy Gardens Board of Directors (*alternate*), Gilroy Sister Cities Association, Gilroy Youth Task Force, Silicon Valley Regional Interoperability Authority Board, VTA Policy Advisory Committee (*alternate*), Visit Gilroy California Welcome Center Board, VTA Mobility Partnership Committee

Council Member Tovar – Downtown Committee, Gilroy Youth Task Force (*alternate*), Santa Clara County Expressway Plan 2040 Advisory Board, Santa Clara Valley Water Commission, SCRWA, South County Youth Task Force Policy Team

Mayor Blankley – ABAG (*alternate*), CalTrain Policy Group, Downtown Committee, Gilroy Economic Development Partnership, Gilroy Sister Cities Association (*alternate*), Gilroy Youth Task Force, Santa Clara Valley Water Joint Water Resources Committee, SCRWA, South County Youth Task Force Policy Team, VTA Board of Directors, VTA Mobility Partnership Committee

5. COUNCIL CORRESPONDENCE

5.1. Council Information Request – Animal Services Cost Comparison

6. FUTURE COUNCIL INITIATED AGENDA ITEMS

7. CONSENT CALENDAR

Items under the Consent Calendar are deemed routine and approved with one motion. If a Council member or a member of the public wishes for a separate discussion on an item, it must be requested for removal before the Council's approval vote. If removed, the item will be discussed in its original order.

- 7.1. **Approval of the Action Minutes of the January 8, 2024 City Council Regular Meeting**
- 7.2. **Adoption of the City of Gilroy Donation and Fundraising Policy**
- 7.3. **Claim of Gilroy Arroyo One, LLC and Gilroy Arroyo Two, LLC (The City Administrator recommends a "yes" vote under the Consent Calendar shall constitute a denial of the claim)**

8. BIDS AND PROPOSALS (NONE)

9. PUBLIC HEARINGS (NONE)

10. UNFINISHED BUSINESS

10.1. Downtown Parklet Program

- 1. Staff Report: Victoria Valencia, Economic Development Manager
- 2. Public Comment
- 3. Possible Action:
 - 1. Council to receive the report of the recent downtown business parklet interest survey; and
 - 2. Provide policy direction to:
 - a. Pursue a downtown parklet program; or
 - b. End the development of a downtown parklet program and direct staff regarding any existing parklet permits.

11. INTRODUCTION OF NEW BUSINESS

11.1. Resolution Establishing Gilroy Police Department Towing Rates

- 1. Staff Report: Pedro Espinoza, Police Chief
- 2. Public Comment
- 3. Possible Action:

Adopt a resolution establishing tow rates pursuant to Section 24A.8 - Regulations, of the Gilroy City Code Chapter 24A - Towing Services.

11.2. Quality-of-Life Police Officer Program

- 1. Staff Report: Pedro Espinoza, Police Chief
- 2. Public Comment
- 3. Possible Action:
 - 1. Council approve the City's permanent Quality-of Life-Officer Program; and
 - 2. Approve the reclassification of a Police Officer to a Police Corporal in the Quality-of-Life Officer Program; and
 - 3. Adopt a resolution updating the City's Position Control List for Fiscal Year 2024-25 (FY25).

11.3. City Council Downtown Committee (Part 2) - Subcommittee Reports and Recommendations – Beautification of Downtown and Noise Ordinance

1. Staff Report: Gilroy Downtown Committee
2. Public Comment
3. Possible Action:

Council discussion and direction regarding the report and recommendations provided by the Downtown Committee's Beautification of Downtown and Noise Ordinance Subcommittees.

11.4. Consent to the Appointment of Heba El-Guindy as Public Works Director

1. Staff Report: LeeAnn McPhillips, Administrative Services and Human Resources Director / Risk Manager
2. Public Comment
3. Possible Action:

Consent to the City Administrator's recommendation to appoint Heba El-Guindy to the department head position of Public Works Director.

12. CITY ADMINISTRATOR'S REPORTS

13. CITY ATTORNEY'S REPORTS

14. CLOSED SESSION

14.1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to GC Sec. 54956.8 and GCC Sec.17A.8 (a) (2)

Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park), 3050 Hecker Pass Highway, Gilroy, CA (APN's: 810-17-024, 810-17-026, 810-17-029, 810-17-030, 810-17-031, 810-18-002, 810-18-013, 810-19-005, 810-19-007, 810-19-010, 810-19-011, 810-19-014)

Negotiators: Jimmy Forbis, City Administrator; Victoria Valencia, Economic Development Manager

Other Parties to Negotiations: Paul Nakamoto, Bay.Org (DBA Aquarium of the Bay/Bay Ecotarium); Chris Sutton, Select Contracts; Nicholas Singer, Purchase Capital;

Under Negotiations: Price and terms of payment for sale or lease.

14.2. CONFERENCE WITH LABOR NEGOTIATORS – COLLECTIVE BARGAINING UNIT Pursuant to GC Section 54957.6 and GCC Section 17A.11 (4);

Collective Bargaining Units: Local 2805, IAFF Fire Unit Representing Gilroy Fire Fighters

City Negotiators: Jimmy Forbis, City Administrator, LeeAnn McPhillips, HR Director

Anticipated Issues(s) Under Negotiation: Wages, Hours, Benefits, Working Conditions; **Memorandums of Understanding:** City of Gilroy and Gilroy Fire Fighters Local 2805.

- 14.3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to GC Sec. 54956.8 and GCC Sec. 17A.8(a)(2);**
Properties: 10th Street Bridge: APNs 808-19-007, 799-30-006, 799-30-007, 808-19-020, 808-50-999, Thomas Luchessa Bridge: APNs 808-21-025, 808-21-023, 808-21-021, 808-21-018, New Fire Station: APNs 808-18-003, 808-19-029
Negotiators: Jimmy Forbis, City Administrator; Other Party to
Negotiations: Glen Loma Corporation, John M. Filice, Jr.;
Negotiating Price and terms of payment regarding purchase, sale.

15. ADJOURN TO OPEN SESSION

Report of any action taken in Closed Session and vote or abstention of each Council Member if required by Government Code Section 54957.1 and GCC Section 17A.13 (a); Public Report of the vote to continue in closed session if required under GCC Section 17A.11 (e).

16. ADJOURNMENT

FUTURE MEETING DATES

February 2024

5 Regular Meeting - 6:00 p.m
26 Regular Meeting - 6:00 p.m

March 2024

4 Regular Meeting - 6:00 p.m
18 Regular Meeting - 6:00 p.m

April 2024

8 Regular Meeting - 6:00 p.m
15 Regular Meeting - 6:00 p.m

Meetings are live streamed on the City of Gilroy's website at gilroy.city/meetings and on YouTube at <https://bit.ly/45jor03>.

Access the 2024 City Council Meeting Calendar at <https://bit.ly/3LLzY1n>.

2.1. Proclamation Proclaiming January 29 – February 2, 2024 as Catholic Schools Week at St. Mary School in Gilroy

City of Gilroy Proclamation



HEREAS,

Catholic Schools Week is an annual celebration of Catholic education in the United States and highlights the essential role that Catholic schools, such as St. Mary School in Gilroy, play in providing a quality education to our community; and

WHEREAS,

St. Mary School has been a pillar of our community, providing a values-based education that fosters intellectual, spiritual, and moral growth, nurturing our young minds to become responsible citizens; and

WHEREAS,

Catholic education at St. Mary School instills in our students the virtues of compassion, service, and a commitment to social justice; and

WHEREAS,

Catholic Schools Week allows us to recognize the dedication of the teachers, staff, students, parents, and the entire St. Mary School community for their unwavering commitment to excellence in education.

NOW, THEREFORE, I, Marie Blankley, Mayor of the City of Gilroy, together with the Gilroy City Council, on this 22nd day of January 2024, do hereby proclaim January 29 through February 2, 2024, as

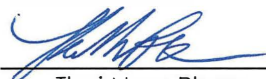
CATHOLIC SCHOOLS WEEK AT ST. MARY SCHOOL IN GILROY

and encourage all residents to recognize the contributions of St. Mary School and Catholic education in our community.

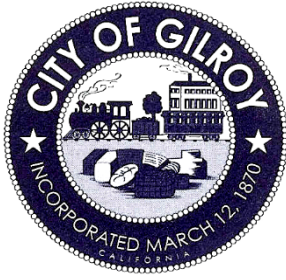
Attested to by:


Marie Blankley
MAYOR




Thai Nam Pham
City Clerk

5.1. Council Information Request – Animal Services Cost Comparison



City of Gilroy

7351 Rosanna Street
Gilroy, California
95020-6197

Telephone (408) 846-0491
Facsimile (408) 846-0500
<http://www.ci.gilroy.ca.us>

TO: City Council

FROM: Captain Juan Rocha

SUBJECT: Council Correspondence – Animal Shelter Full Services Cost Comparison

DATE: January 18, 2024

The following correspondence captures the cost comparison for Animal Control Services from the County of Santa Clara and our current Animal Control Services model.

The Police Department currently contracts with the Santa Clara County (SCC) Animal Shelter for their services. The services provided include but are not limited to sheltering, spaying/neutering, quarantine, adoption, euthanasia, and veterinary services during regular business hours, Monday through Sunday. The Department has all-hours access to the kennels for domestic animals impounded during calls for service. Current costs for these services are \$150,000 in FY24, \$157,000 in FY25, and \$165,375 in FY26.

One of the Department's Community Service Officers (CSO) is assigned as the primary Animal Control Officer (ACO). Other Department staff are cross-trained in ACO duties. The ACO duties include but are not limited to investigating dog bites/fights, cruelty/neglect of animals, barking dog complaints, loose/off-leash violations, issuance of citations for Gilroy City Code violations, and public education.

The SCC Animal Shelter was contacted and asked to provide a quote that would encompass the SCC Animal Shelter assuming all responsibilities for ACO duties for the City of Gilroy. In addition to the above-mentioned Animal Shelter services, the SCC Animal Shelter would provide the following services.

- Pick up lost or displaced domestic animals
- Patrol for stray, roaming, or aggressive domestic animals
- Investigate animal bites
- Investigate dangerous dog complaints
- Investigate animal abuse and neglect, including livestock and exotic animals
- Pick up injured or sick domestic animals
- Assist with injured wildlife
- Investigate domestic animal nuisance complaints
- Pick up deceased animals

These services would be provided to the City Monday through Friday (excluding holidays) between 8 AM and 5 PM. ACO duties outside these times and dates would be the responsibility of the Police Department.

The average annual animal calls for service (CFS) are 2,450. Of these CFS, 790 occurred outside the dates and hours SCC Animal Shelter would provide their services.

The SCC Animal Shelter provided a first year of service quote for \$484,000. The SCC Animal Shelter would assume responsibility for all sheltering and ACO during the dates and times mentioned above.

The current and forecasted fully burdened rate for the Department's CSO responsible for ACO duties is as follows.

Hourly Fully Burdened Rate/Yearly Salary FY24	Hourly Fully Burdened Rate/Yearly Salary FY25	Hourly Fully Burdened Rate/Yearly Salary FY26
\$79.49 \$125,122	\$84.26 \$132,629	\$89.32 \$140,587

The yearly cost of a CSO and the current SCC Animal Shelter service agreement:

CSO Annual Salary + Current SCC Animal Shelter Agreement FY24	CSO Annual Salary + Current SCC Animal Shelter Agreement FY25	CSO Annual Salary + Current SCC Animal Shelter Agreement FY26
\$275,122	\$289,630	\$305,961

FY24 Annual Savings from the Current ACO Model vs. the SCC Animal Shelter Proposed Quote	FY25 Annual Savings from the Current ACO Model vs. the SCC Animal Shelter Proposed Quote	FY26 Annual Savings from the Current ACO Model vs. the SCC Animal Shelter Proposed Quote
\$208,878	\$194,371	\$178,039

**7.1. Approval of the Action Minutes of the January 8, 2024 City Council
Regular Meeting**

**City of Gilroy
City Council Regular Meeting Minutes
Monday, January 8, 2024 | 6:00 PM**

1. OPENING

1.1. Call to Order

The meeting was called to order by Mayor Blankley at 6:00 PM.

1.2. Pledge of Allegiance

Mayor Blankley led the Pledge of Allegiance.

1.3. Invocation

There was none.

1.4 City Clerk's Report on Posting the Agenda

City Clerk Pham reported on the Posting of the Agenda.

1.5. Roll Call

Attendance	Attendee Name
Present	Rebeca Armendariz, Council Member Dion Bracco, Council Member Tom Cline, Council Member Carol Marques, Mayor Pro Tempore Fred Tovar, Council Member Marie Blankley, Mayor
Absent	Zach Hilton, Council Member

1.6. Orders of the Day

There were none.

1.7. Employee Introductions

Police Chief Espinoza introduced Police Officer Virginia Valencia.

2. CEREMONIAL ITEMS - Proclamations and Awards

There were none.

3. PRESENTATIONS TO THE COUNCIL

3.1. PUBLIC COMMENT BY MEMBERS OF THE PUBLIC ON ITEMS NOT ON THE AGENDA BUT WITHIN THE SUBJECT MATTER JURISDICTION OF THE CITY COUNCIL

Mayor Blankley opened Public Comment. The following speakers spoke on items that were not on the agenda:

Donald Perino expressed concerns about various community issues, including the treatment of his 15-year-old cat, problems with neighbors and wildlife, local airport operations, and the impact of a pipeline project on regional water resources.

Ron Kirkish addressed the council, highlighting the repeated absence of

Council Member Hilton, noting this was his 20th absence in three years, including the first meeting of 2024

Tom Miller discussed his personal history in Gilroy and his efforts to revitalize the downtown area, focusing on his initiative to introduce parklets, highlighting their community-building potential and the extensive process he underwent to establish a fully permitted parklet.

Ruth Garcia advocated for equitable treatment of parklets in Gilroy, emphasizing the need for consistent rules and fair consideration for all, and offered assistance in communicating the concerns of another local business owner.

Teo Castillo emphasized the vital role of the parklet for her business's survival amid pandemic and recession challenges, and expressed gratitude for the opportunity to present her case to the council.

Evelyn Hudson advocated for the parklet program, questioning the fairness of requiring a business owner to dismantle an already established parklet while the city deliberates on parklet policies, especially considering the financial and social importance of such spaces during the pandemic.

Sammy Trujillo expressed disappointment in the recent council vote on parklets and urged the council to adopt a parklet program that supports business growth and creates a vibrant, diverse downtown area conducive to outdoor dining and community engagement.

Albert Moran spoke in support of Station 55, emphasizing the importance of al fresco dining in creating a sense of community and family togetherness, advocating for more such spaces in Gilroy to enhance the dining experience and retain local tax dollars.

Parke M. Fox expressed confusion and concern over the council's consideration to remove parklets, emphasizing the challenges they pose to people with injuries, the elderly, and the handicapped, particularly at establishments like Station 55 which are not at ground level and require steps or ramps for access.

Mike Montuy emphasized the importance of parklets like Station 55's for providing a safer outdoor dining option amidst the ongoing Covid-19 pandemic, highlighting the choice it offers to avoid crowded indoor spaces and reduce the risk of contamination.

Robert Zepeda raised concerns about the state's approval of using treated sewer water in tap water, its implications for Santa Clara County, and criticized the broader approach to climate change, questioning the effectiveness of electric cars, solar panels, and wind turbines due to their reliance on fossil fuels, and warned of potential health risks, including E. coli, from tap water consumption.

Andrea Hightower advocated for the support of small businesses and the preservation of parklets like Station 55's, emphasizing their importance for families with disabled members by providing accessible outdoor spaces, aligning with Gilroy's 2030 vision for increased ADA compliance and community inclusion.

Ana Mendoza urged the council to retain Station 55's parklet, emphasizing equality and the challenges faced by the business owner, while calling for community-focused decision-making.

There being no further speakers, Mayor Blankley closed Public Comment.

4. **REPORTS OF COUNCIL MEMBERS**

Council Members Bracco, Armendariz, Marques, Cline, Tovar had no report.

Mayor Blankley reported on SCWRA, the Santa Clara Valley Water Joint Water Resources Committee, and the Gilroy Sister Cities Association.

5. **COUNCIL CORRESPONDENCE**

There were none.

6. **FUTURE COUNCIL INITIATED AGENDA ITEMS**

Council Member Armendariz requested the council to re-agendize the issue of parklets, specifically focusing on the parklet at Station 55, in response to the public interest and community requests on the matter. Mayor Blankley informed Council Member Armendariz that the issue concerning parklets and discussions with businesses, as directed in their last meeting, is already scheduled to be addressed in the upcoming meeting.

7. **CONSENT CALENDAR**

Mayor Blankley opened Public Comment. There being no speakers, Mayor Blankley closed Public Comment.

Motion: Approve the Consent Calendar.

RESULT: Pass

MOVER: Dion Bracco, Council Member

SECONDER: Tom Cline, Council Member

AYES: Council Member Armendariz, Council Member Bracco, Council Member Cline, Mayor Pro Tempore Marques, Council Member Tovar, Mayor Blankley

NOES: None

ABSTAIN: None

ABSENT: Council Member Hilton

7.1. **Approval of the Action Minutes of the December 11, 2023 City Council Special Meeting**

A motion was made to approve the minutes.

7.2. **Acceptance of the Annual Development Impact Fee Report for Fiscal Year 2022-2023 as Required under Government Code 66000**

A motion was made to accept the Annual Development Impact Fee Report.

7.3. **Approval of a First Amendment to the Agreement with Circlepoint, Inc. in the amount of \$32,252 for the Preparation of an Environmental Impact**

Report (EIR) for the Gilroy Data Center Project

A motion was made to approve a first amendment agreement with Circlepoint, Inc.

7.4. Adoption of the Council Modified Resolution in Support of “Build the Future” (Childcare)

A motion was made to adopt the resolution.

Enactment No.: Resolution No. 2024-01

8. BIDS AND PROPOSALS

There were none.

9. PUBLIC HEARINGS

There were none.

10. UNFINISHED BUSINESS

10.1. Annual Appointments to City Boards, Commissions, and Committees with Seats Vacant or Expired as of December 31, 2023

Mayor Blankley opened Public Comment. There being no speakers, Mayor Blankley closed Public Comment.

Council made the following appointments:

Amy Hufford to the Arts and Culture Commission with a term expiring 12/31/2025.

No appointments were made to the Library Commission.

Salvatore Bozzo and Theresa Graham to the Parks and Recreation Commission with terms expiring on 12/31/2027.

Stefanie Elle and Monica Valdez to Planning Commission the Planning Commission with terms expiring 12/31/2027.

No appointments were made to the Open Government Commission.

Emily Lai, Biruh Abaneh, and Gianna Garcia to the Youth Commission with terms expiring 9/30/2025.

11. INTRODUCTION OF NEW BUSINESS

11.1. City of Gilroy Donation and Fundraising Policy

Assistant to the City Administrator Atkins provided staff presentation and responded to Council Member questions.

Mayor Blankley opened Public Comment. There being no speakers, Mayor Blankley closed Public Comment.

Council directed staff to revise and return with the City of Gilroy Donation and Fundraising Policy for further review and potential adoption. The changes include the following:

- Unsolicited Donations Section
 - 1(i) - tie the recognition appropriate to the level of the donation as referenced in Section 2(b) and 2(c)
- Costs, Accounting and Record Keeping Section
 - Add an item No. 5 that requires a donation of \$5,000 or more to be reported to the City Council when it occurs
- Sponsorship Agreements
 - Similar to Unsolicited Donations, tie in a reference to Section 2(b) and 2(c) for the dollar amount to determine which level of authority selects a sponsor
- Other Donations or Contributions
 - 2) Works of Art – insert that the recommendation of the Arts and Culture Commission is to the City Council
- Disclaimers and Miscellany
 - 7) Add elected officials and appointees after staff for the requirement to maintain the highest standard of ethics in fundraising activities
- Purpose
 - Change “one of its commissions, committees, or boards” to list only the Arts and Culture Commission and the Parks and Recreation Commission in addition to the City

11.2. City Council Downtown Committee (Part 1) - Subcommittee Reports and Recommendations – Plywood Removal and Vacancy Ordinances

Downtown Subcommittee on Plywood Removal provided their presentation to Council and responded to Council Member questions.

Downtown Subcommittee on Vacancy Ordinances provided the presentation to Council and responded to Council Member questions.

Mayor Blankley opened Public Comment.

Jeanie Rizzuto inquired about the potential citywide application of the plywood removal and vacancy ordinance, the rationale behind the \$1,500 annual monitoring fee, concerns about publicizing property owner details, and the possibility of city assistance for business owners in maintaining or renting their properties.

There being no further speakers, Mayor Blankley closed Public Comment.

Council directed staff to draft ordinances incorporating the Downtown Standing Committee's recommendations for managing plywood-covered storefronts and prolonged vacancies in downtown, including enforcing aesthetic standards for vacant properties and implementing fines and a vacancy tax for non-compliance.

11.3. Police Department Axon Program and Community Survey Update

Police Captain Rocha provided staff presentation and responded to Council Member questions.

Mayor Blankley opened Public Comment.

Ron Kirkish expressed concern about the outdated calculation of police staffing levels in Gilroy, which haven't been reevaluated since 1986

despite significant population growth and advocated for a reassessment to ensure adequate law enforcement resources in response to current crime rates.

There being no further speakers, Mayor Blankley closed Public Comment.

Council received the report.

11.4. Consent to the Appointment of Heath McMahon as Utilities Director

Administrative Services and Human Resources Director / Risk Manager McPhillips provided staff presentation and responded to Council Member questions.

Mayor Blankley opened Public Comment. There being no further speakers, Mayor Blankley closed Public Comment.

Motion: Consent to the City Administrator's recommendation to appoint Heath McMahon to the department head position of Utilities Director.

RESULT: Pass

MOVER: Rebeca Armendariz, Council Member

SECONDER: Dion Bracco, Council Member

AYES: Council Member Armendariz, Council Member Bracco, Council Member Cline, Mayor Pro Tempore Marques, Council Member Tovar, Mayor Blankley

NOES: None

ABSTAIN: None

ABSENT: Council Member Hilton

12. CITY ADMINISTRATOR'S REPORTS

12.1. Gilroy Garlic Festival Memorial Update

City Administrator Forbis provided his report and responded to Council Member questions.

13. CITY ATTORNEY'S REPORTS

There were none.

14. ADJOURNMENT

The meeting was adjourned by Mayor Blankley at 8:01 PM.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the City Council of the City of Gilroy on January 22, 2024.

/s/Thai Nam Pham, MMC, CPMC
City Clerk

7.2. Adoption of the City of Gilroy Donation and Fundraising Policy



City of Gilroy

STAFF REPORT

Agenda Item Title: Adoption of the City of Gilroy Donation and Fundraising Policy

Meeting Date: January 22, 2024

From: Jimmy Forbis, City Administrator

Department: Administration

Submitted By: Bryce Atkins, Assistant to the City Administrator

Prepared By: Bryce Atkins, Assistant to the City Administrator

STRATEGIC PLAN GOALS

Develop a Financially Resilient Organization

RECOMMENDATION

Council adopt the policy.

BACKGROUND

At the January 8, 2024 regular meeting of the Gilroy City Council, the City Council considered the draft Donation and Fundraising Policy. As part of that discussion, the Council directed certain amendments to the draft policy to be made before the policy is to be adopted. Staff has completed the edits and is bringing the Policy to this meeting for adoption. Attached to this staff report is the draft policy, and the staff report from the January 8, 2024 agenda item which provides the background and analysis of the policy.

ANALYSIS

The final version of the policy is attached to this staff report. The changes requested at the meeting include the following:

- Unsolicited Donations Section
 - 1(i) - tie the recognition appropriate to the level of the donation as referenced in Section 2(b) and 2(c)
- Costs, Accounting and Record Keeping Section
 - Add an item No. 5 that requires a donation of \$5,000 or more to be reported to the City Council when it occurs

- Sponsorship Agreements Section
 - Similar to Unsolicited Donations, tie in a reference to Section 2(b) and 2(c) for the dollar amount to determine which level of authority selects a sponsor
- Other Donations or Contributions Section
 - 2) Works of Art – insert that the recommendation of the Arts and Culture Commission is to the City Council
- Disclaimers and Miscellany Section
 - 7) Add elected officials and appointees after staff for the requirement to maintain the highest standard of ethics in fundraising activities
- Purpose Section
 - Change “one of its commissions, committees, or boards” to list only the Arts and Culture Commission and the Parks and Recreation Commission in addition to the City

These changes have been made in this final policy, as well as some minor cleanup edits. The complete edits are shown in the redline version of the policy, which is attached to the very end of this agenda item in the agenda packet.

Further analysis of the proposed policy is discussed in the attached January 8, 2024 staff report.

ALTERNATIVES

Council may modify or reject the policy.

FISCAL IMPACT/FUNDING SOURCE

None. There are no costs associated with this agenda item. In general, fundraising is performed to generate revenue, however some future costs may be incurred but will generally be absorbed within existing budget appropriations for the department or board/commission.

PUBLIC OUTREACH

This item was introduced at the January 8, 2024 regular City Council meeting, and was included on the publicly posted agenda for this meeting.

Attachments:

1. Gilroy Donation and Fundraising Policy
2. January 8, 2024 Council Staff Report - City of Gilroy Donation and Fundraising Policy
3. Gilroy Donation and Fundraising Policy (Redlined Edits Version)



City of Gilroy

Donation and Fundraising Policy

PURPOSE

The purpose of this policy is to provide direction to City officials, appointees, and employees regarding the acceptance of donations by the City from donors, as well as the development and implementation of fundraising efforts. This policy is meant to formalize the process of receiving donations, and how to fundraise as may be commenced by the City, the Arts and Culture Commission, or the Parks and Recreation Commission.

POLICY

Unsolicited Donations

1. Requirements for accepting donations.
 - a. The donation must have a purpose consistent with City goals and objectives.
 - b. The City may decline any donation without comment or cause.
 - c. The donation will not be in conflict with any provision of law.
 - d. Any non-cash donation will be aesthetically and functionally acceptable to the City.
 - e. The donation will not add to the City's workload unless it provides a net benefit to the City.
 - f. The donation will not bring hidden costs such as starting a program the City would be unwilling to fund when the donation is exhausted.
 - g. The donation places no restriction on the City, unless agreed to by the City Administrator or Council.
 - h. The donation shall become property of the City.
 - i. All donations will receive recognition appropriate to the level and nature of the donation, as determined by Section 2(b) or 2(c). For those of a capital nature, that may be in the form of signage, marking, naming, or any other means the City may deem appropriate. Any naming of parks and recreation facilities shall be consistent with any City policy on the naming of such facilities. Regardless of the recognition strategy selected, the intent is to appropriately honor the donor for their contribution to the

community. The appearance of traditional commercial advertising shall be avoided.

- j. Donations equal to or exceeding \$5,000 shall be accepted through a written agreement consistent with the procedures herein. In-kind capital donations will be subject to normal City review, permitting, inspection, and insurance requirements.
- k. All information and documentation regarding a donor or donors and their respective donation may be public information subject to disclosure pursuant to the California Public Records Act.

2. Procedures for Accepting Donations.

a. Procedures for all Donations.

- 1. A Donation Acceptance Form must be prepared on all donations accepted, which shall be provided to the Finance Department if under \$5,000 in value and submitted to the City Council if the value is greater. The Donation Acceptance Form shall be updated from time-to-time to collect pertinent information for legal and procedural compliance.
- ii. An inappropriate donation is one that meets one of the criteria below, and is to be rejected:
 - 1. Any donation that would violate the requirements of Section 1 of this policy.
 - 2. Any donation that may be of offensive or morally questionable material.
 - 3. Any donation that is connected with a restriction that entails special consideration or favors beyond any other resident, donating or non-donating, as it pertains to activities or functions undertaken by the City in the provision of services or goods.
 - 4. Any other concern, real or perceived, that may result in a loss of reputation, appearance of impropriety, or other negative impact on the City from accepting the donation.

b. Donations under \$5,000.

- i. The City Administrator must approve of receiving the donation before it can be accepted.

- ii. If the donation is appropriate and to be received, the City Administrator or their designee must complete the report to be given to the Finance Department as described above.
 - iii. The City Administrator or designee shall determine the appropriate recognition, if the donation is accepted, for the donor(s).
- c. Donations of \$5,000 or more.
 - i. If the City Administrator determines that the donation is appropriate to be received, the City Administrator or designee shall prepare the report as described above to be given to the City Council at a public Council Meeting.
 - ii. The City Council shall decide in its sole and absolute discretion whether or not to accept the donation, and appropriate the expenditure of any accepted monetary donation.
 - iii. The City Council shall determine the appropriate recognition for the donor(s) if the donation is accepted.

Donation, Sponsorship, and/or Fundraising Programs

Fundraising may only:

1. Happen after a fundraising campaign is designed and established through a donation, sponsorship, and/or fundraising program approved by either the City Administrator or City Council, depending upon the nature of the program.
2. Be for official fundraising campaigns. The City does not accept fundraising for anything other than what is authorized in an approved program.
3. Be conducted in the manner as outlined in an approved program.

All donations shall be tendered to the Finance Department. The Finance Department will defer to the City Administrator or City Council's acceptance of each donation regarding its acceptable status.

Fundraising process

1. The Arts and Culture Commission, Parks and Recreation Commission, and/or City departments shall develop their donation, sponsorship, and/or fundraising programs in consultation with the City Administrator's Office and the Finance Department. In its simplest form, a proposed program may consist of a memorandum to the City Administrator indicating the following:
 - a. Goal of the sponsorship, donation, and/or fundraising activities.
 - b. Timeframe for the program.

- c. Target audience and method of outreach.
 - d. Procedure for acceptance and reporting of activities, ensuring internal controls.
 - e. The types of donor or sponsor recognition that is available for specified value of donorship or sponsorship, subject to City Council approval if the value of recognition is beyond the contract authority of the City Administrator or greater than the authority provided under this policy.
 - f. The sponsorship level or range of sponsorship levels for the naming of the City property if permitted. Sponsorship naming for parks or recreation facilities must also comply with the City of Gilroy Parks or Recreation Facilities Naming, Community and Memorial Contribution, and Gift and Sponsorship Policy, or otherwise be approved by the City Council.
 - g. Specified or maximum sizes and identification of location(s) of any signage in recognition of the donation or sponsorship and any restrictions on the text of the recognition signage.
- 2. The department staff designated to oversee the department's donation, sponsorship and/or fundraising activities will ensure that the proposed donation, sponsorship and/or fundraising program does not conflict with existing City Code provisions, City policy or existing City sponsorships. Department staff shall also ensure that the City property involved is not subject to restrictions that would limit or prohibit the proposed donation or sponsorship.
 - 3. The department staff accepting items donated to the City will ensure that the items are safe and durable, and meet any applicable City design or quality specifications, standards, and policies.
 - 4. Where applicable, the department's donation, sponsorship and/or fundraising program shall set forth the conditions for acceptance of funds. Conditions shall be fair, impartial and shall not discriminate on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, or political views of the proposed donor.
 - 5. Any department considering acceptance of a donation or sponsorship that may impact or affect other departments shall consult with those departments prior to acceptance of the proposed donation or sponsorship.
 - 6. It shall be the goal of any departmental donation, sponsorship and/or fundraising program to find donors or sponsors providing the highest net benefit to the City, along with consideration of the quality of product or service to be received by the City.
 - 7. All donations in cash shall be deposited and recorded with the Finance Department and deposited in a manner as stated within current policies.

8. Unaccepted Donations will be returned to the Donor.

Sponsorship Agreements

After the selection of a sponsor by the City Council, City Administrator or a department head, pursuant to Unsolicited Donations section 2(b) or 2(c) above, the terms of the sponsorship, including any expectation of a significant return or recognition, shall be set forth in a written sponsorship agreement approved as to form by the City Attorney.

The City Administrator may include renewals of a sponsorship agreement at the City's option, provided that the aggregate of all the renewals is within the City Administrator's contract authority under the City Code and City Purchasing Policy. Any renewal shall be subject to annual appropriation by the City Council if City funding is involved.

Sponsorship agreements for parks or recreation facilities shall be subject to additional requirements as outlined in the City of Gilroy Parks or Recreation Facilities Naming, Community and Memorial Contribution, and Gift and Sponsorship Policy.

Costs, Accounting and Record Keeping

Departments shall maintain records that provide an audit trail for the receipt of all sponsorships and donations. Departments shall also comply with the following requirements:

1. All donations and sponsorships and the revenue, products, and services received shall be recorded and maintained for at least the expected life of the item or service, or for a specific time frame that has been established in the donation agreement or sponsorship agreement.
2. Donations or sponsorships paid for with a monetary contribution shall not be paid to staff in cash unless approved, in advance, by the Finance Department and department director and receipt of cash is properly documented.
3. A record of all sponsorships and donations including name, type, contact name if a company, amount, and disposition of sponsorship shall be kept up-to-date and accurate.
4. Departments shall report any donations or sponsorships accepted by the department through reports to the City Administrator's Office and the Finance Department.
5. A report shall be provided to the City Council for any donation equal to or greater than \$5,000 at the time the donation is given or offered.

Other Donations or Contributions

1. Real Property

Restricted donations of real property may be offered to the City for specified purposes. The City will review the proposed conditions of the restrictive donation

of real property, if any, and determine in its sole and absolute discretion whether or not to accept the donation. All donations of any interest in real estate shall require City Council approval.

A donation involving real estate is more complex than cash donations and the donation agreement documenting a real estate-related donation should be prepared and approved by the City Attorney's Office. Terms and conditions of such donations may vary from this policy's general requirements, based on approval of the City Council on a case-by-case basis.

2. Works of Art

If a contribution is proposed related to a work of public art covered by the City's Public Art Policy, the City's review and acceptance of the proposed contribution of public art shall be conducted in accordance with the City's Public Art Policy, which shall include the review and recommendation of the City's Arts and Culture Commission to the City Council and compliance with any policies adopted regarding donations of works of public art.

DISCLAIMERS AND MISCELLANY

1. Different forms of contributions to the City present different opportunities and challenges. Therefore, it is not possible to establish blanket guidelines to cover all types of donation or sponsorship activity that the City may decide to pursue.
2. Unless expressly stated otherwise, the City does not intend to modify or change the non-public forum status of any City property by providing donor recognition or sponsorship recognition on City property.
3. The making of a donation or sponsorship to the City will not provide any extra consideration to the donating or sponsoring party in relation to any City procurement, any regulatory activities of the City, or other City business. No City employee or other City official is authorized to offer any such extra consideration to a donating party.
4. Any donation or sponsorship which, if accepted, would obligate the City to enter into a service or procurement agreement should be reviewed under the City procurement process.
5. The City encourages donations of material and equipment with the understanding that such items have a useful life, and that the City assumes no responsibility for replacement or upkeep. Once a donation is accepted, it becomes City property and the City may maintain, replace or dispose of the item unless the donation is explicitly restricted and accepted by the City as such.
6. The City cannot guarantee the tax deductibility of a donation but may provide the donating party with a letter of acknowledgement and a statement of the City's intended use. No Council Member, appointee, employee, volunteer, or agent of

the City may state that a donation is tax deductible. Each donor must make their own determination as to whether a donated item or monetary contribution is tax deductible.

7. City staff, elected officials, and appointees shall maintain the highest standard of ethics in fundraising activities. All donations or sponsorships must directly enhance the City's ability to provide goods or services to the public or for another valid public purpose and may not be used for the personal financial or promotional gain of any City employee, elected official and/or appointee.
8. City employees who have primary responsibility for the procurement of services, supplies, materials and equipment or public works shall not engage in solicitation of donations or sponsorships.
9. City employees may only solicit donations or sponsorships pursuant to the individual department's donation, sponsorship, and/or fundraising programs approved by the City Administrator. City employees working in an enforcement or regulatory City position (i.e., Police, Fire, Code Enforcement, Building Inspection) shall not solicit donations or sponsorships from the public while they are wearing a City uniform, unless they receive explicit permission from the City Administrator.
10. At any time, the City Administrator, or a department if approved by the City Administrator, may reject any donation or sponsorship offered to the City.
11. Restricted donations that land outside of an authorized fundraising plan or are restricted to a degree where staff determines that the restriction is too limiting for effective use will not be accepted and will be returned to the donor. Pass-through donations to individuals or organizations via the City shall not be accepted.
12. Where an existing, specific policy governing donations and fundraising has already been enacted and conflicts with this policy, the previously enacted specific policy shall apply.



City of Gilroy

STAFF REPORT

Agenda Item Title:	City of Gilroy Donation and Fundraising Policy
Meeting Date:	January 8, 2024
From:	Jimmy Forbis, City Administrator
Department:	Administration
Submitted By:	Bryce Atkins, Assistant to the City Administrator
Prepared By:	Bryce Atkins, Assistant to the City Administrator

STRATEGIC PLAN GOALS

Develop a Financially Resilient Organization

RECOMMENDATION

Council review and provide direction regarding the draft Donation Policy.

EXECUTIVE SUMMARY

To aid the City and its commissions to effectively fundraise in a legally and operationally compliant manner, a donation and fundraising policy is needed. The attached Gilroy Donation and Fundraising Policy (Policy) is in draft form. It outlines the requirements and procedures surrounding soliciting donations, receiving donations, providing recognition to donors, and how to properly document and process receipts for donations. The Policy also outlines procedures on how to set-up and request approval of a fundraising campaign. Staff is bringing the draft Policy to Council for any direction regarding the policy before returning to Council at the next meeting for adoption on the Consent Calendar.

BACKGROUND

Per the City Charter, the Arts and Culture Commission (ACC) is tasked with conducting and managing fundraising for arts and culture activities in and for the City of Gilroy (City Charter Section 909(C)). Additionally, there may be times when the City may seek or receive donations from private persons, businesses, organizations, and others. The City currently does not have a policy in place regarding how to conduct fundraising, nor to receive and process donations. Additionally, other commissions, such as the Parks and

Recreation Commission (PRC), may also wish to fundraise for projects and programs for which they help advise.

ANALYSIS

Attached to this staff report is the draft Policy for Council review and to provide direction regarding any requested changes to the policy that are desired. The policy was pulled from policies that exist in other cities and then modified where needed to meet Gilroy's current structure and practices.

The draft policy has undergone review and modifications by the City Attorney's Office, as well as the Finance Department. The key provisions of the draft policy are identified below.

The draft policy:

- Identifies requirements for accepting donations. Some of these requirements include but are not limited to donations being consistent with City goals and objectives; must not conflict with law; does not provide any restrictions except those pre-approved by the City; appropriate recognition and acceptance based on value of the donation; and compliance with the Public Records Act.
- Outlines the procedures for accepting donations, and details information required to document the donation, the issuance of a receipt, and reporting to the appropriate level based on the amount of the donation.
- Discusses the need and requirements for fundraising programs, including the requirement to develop a plan which must be approved and include such information as the goal of the sponsorship, donation, and/or fundraising activities; target audience and method of outreach; and procedure for acceptance and reporting of activities, ensuring internal controls.
- Contains information about sponsorship agreements and naming rights.
- Lists cost, accounting and record keeping requirements for City staff to follow.
- Discusses special considerations for Real Property and works of art donations.
- Includes miscellaneous provisions and disclaimers, such as the City assuming no requirement of upkeep for materials donated; not guaranteeing the tax deductibility of a particular donation; and City employees with enforcement or regulatory authority (police, fire, inspectors, code enforcement officers) may not solicit donations in uniform.

Commission Reviews and Recommendations

The draft Policy has been presented to both the ACC and the PRC. Both commissions have approved their respective recommendations to the City Council to adopt the draft policy which is attached. Neither commission requested nor recommended any changes to the draft policy.

ALTERNATIVES

Council may provide direction to modify the draft policy.

FISCAL IMPACT/FUNDING SOURCE

None. There are no costs associated with this agenda item. In general, fundraising is performed to generate revenue, however some costs may be incurred but most likely absorbed in existing budget appropriations for the department or board/commission.

PUBLIC OUTREACH

The draft policy has been presented to the ACC on October 10th and December 12, 2023, and to the PRC on October 17 and November 21, 2023, at their regular public meetings. Additionally, this item was included in the publicly posted agenda for this meeting.

NEXT STEPS

Once direction is received, staff will make any final modifications to the policy and return the policy for approval to the following Council Meeting's consent calendar for adoption.

Attachments:

1. Draft Gilroy Donation and Fundraising Policy



City of Gilroy

~~DRAFT~~ Donation and Fundraising Policy

PURPOSE

The purpose of this policy is to provide direction to City officials, appointees, and employees regarding the acceptance of donations by the City from donors, as well as the development and implementation of fundraising efforts. This policy is meant to formalize the process of receiving donations, and how to fundraise as may be commenced by the City, the Arts and Culture Commission, or the Parks and Recreation Commission ~~one of its commissions, committees, or boards~~.

POLICY

Unsolicited Donations

1. Requirements for accepting donations.
 - a. The donation must have a purpose consistent with City goals and objectives.
 - b. The City may decline any donation without comment or cause.
 - c. The donation will not be in conflict with any provision of law.
 - d. Any non-cash donation will be aesthetically and functionally acceptable to the City.
 - e. The donation will not add to the City's workload unless it provides a net benefit to the City.
 - f. The donation will not bring hidden costs such as starting a program the City would be unwilling to fund when the donation is exhausted.
 - g. The donation places no restriction on the City, unless agreed to by the City Administrator or Council.
 - h. The donation shall become property of the City.
 - i. All donations will receive recognition appropriate to the level and nature of the donation, as determined by ~~the City~~ Section 2(b) or 2(c). For those of a capital nature, that may be in the form of signage, marking, naming, or any other means the City may deem appropriate. Any naming of parks and recreation facilities shall be consistent with any City policy on the naming

of such facilities. Regardless of the recognition strategy selected, the intent is to appropriately honor the donor for their contribution to the community. The appearance of traditional commercial advertising shall be avoided.

- j. Donations equal to or exceeding \$5,000 shall be accepted through a written agreement consistent with the procedures herein. In-kind capital donations will be subject to normal City review, permitting, inspection, and insurance requirements.
- k. All information and documentation regarding a donor or donors and their respective donation may be public information subject to disclosure pursuant to the California Public Records Act.

2. Procedures for Accepting Donations.

a. Procedures for all Donations.

- 1. A Donation Acceptance Form must be prepared on all donations accepted, which shall be provided to the Finance Department if under \$5,000 in value and submitted to the City Council if the value is greater. The Donation Acceptance Form shall be updated from time-to-time to collect pertinent information for legal and procedural compliance.
- ii. An inappropriate donation is one that meets one of the criteria below, and is to be rejected:
 - 1. Any donation that would violate the requirements of Section 1 of this policy.
 - 2. Any donation that may be of offensive or morally questionable material.
 - 3. Any donation that is connected with a restriction that entails special consideration or favors beyond any other resident, donating or non-donating, as it pertains to activities or functions undertaken by the City in the provision of services or goods.
 - 4. Any other concern, real or perceived, that may result in a loss of reputation, appearance of impropriety, or other negative impact on the City from accepting the donation.

b. Donations under \$5,000.

- i. The City Administrator must approve of receiving the donation before it can be accepted.

- ii. If the donation is appropriate and to be received, the City Administrator or their designee must complete the report to be given to the Finance Department as described above.
 - iii. The City Administrator or designee shall determine the appropriate recognition, if the donation is accepted, for the donor(s).
- c. Donations of \$5,000 or more.
- i. If the City Administrator determines that the donation is appropriate to be received, the City Administrator or designee shall prepare the report as described above to be given to the City Council at a public Council Meeting.
 - ii. The City Council shall decide in its sole and absolute discretion whether or not to accept the donation, and appropriate the expenditure of any accepted monetary donation.
 - iii. The City Council shall determine the appropriate recognition for the donor(s) if the donation is accepted.

Donation, Sponsorship, and/or Fundraising Programs

Fundraising may only:

1. Happen after a fundraising campaign is designed and established through a donation, sponsorship, and/or fundraising program approved by either the City Administrator or City Council, depending upon the nature of the program.
2. Be for official fundraising campaigns. The City does not accept fundraising for anything other than what is authorized in an approved program.
3. Be conducted in the manner as outlined in an approved program.

~~While fundraising may be conducted by other boards, commissions, committees or City staff, a~~ All donations shall be tendered to the Finance Department. The Finance Department will defer to the City Administrator or City Council's acceptance of each donation regarding its acceptable status.

Fundraising process

1. ~~The Arts and Culture Commission, Parks and Recreation Commission, and/or Boards, commissions, committees, and individual City~~ departments shall develop their donation, sponsorship, and/or fundraising programs in consultation with the City Administrator's Office and the Finance Department. In its simplest form, a proposed program may consist of a memorandum to the City Administrator indicating the following:
 - a. Goal of the sponsorship, donation, and/or fundraising activities.

- b. Timeframe for the program.
 - c. Target audience and method of outreach.
 - d. Procedure for acceptance and reporting of activities, ensuring internal controls.
 - e. The types of donor or sponsor recognition that is available for specified value of donorship or sponsorship, subject to City Council approval if the value of recognition is beyond the contract authority of the City Administrator or greater than the authority provided under this policy.
 - f. The sponsorship level or range of sponsorship levels for the naming of the City property if permitted. Sponsorship naming for parks or recreation facilities must also comply with the City of Gilroy Parks or Recreation Facilities Naming, Community and Memorial Contribution, and Gift and Sponsorship Policy, or otherwise be approved by the City Council.
 - g. Specified or maximum sizes and identification of location(s) of any signage in recognition of the donation or sponsorship and any restrictions on the text of the recognition signage.
- 2. The department staff designated to oversee the department's donation, sponsorship and/or fundraising activities will ensure that the proposed donation, sponsorship and/or fundraising program does not conflict with existing City Code provisions, City policy or existing City sponsorships. Department staff shall also ensure that the City property involved is not subject to restrictions that would limit or prohibit the proposed donation or sponsorship.
 - 3. The department staff accepting items donated to the City will ensure that the items are safe and durable, and meet any applicable City design or quality specifications, standards, and policies.
 - 4. Where applicable, the department's donation, sponsorship and/or fundraising program shall set forth the conditions for acceptance of funds. Conditions shall be fair, impartial and shall not discriminate on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, or political views of the proposed donor.
 - 5. Any department considering acceptance of a donation or sponsorship that may impact or affect other departments shall consult with those departments prior to acceptance of the proposed donation or sponsorship.
 - 6. It shall be the goal of any departmental donation, sponsorship and/or fundraising program to find donors or sponsors providing the highest net benefit to the City, along with consideration of the quality of product or service to be received by the City.

7. All donations in cash shall be deposited and recorded with the Finance Department and deposited in a manner as stated within current policies.
8. Unaccepted Donations will be returned to the Donor.

Sponsorship Agreements

After the selection of a sponsor by the City Council, City Administrator or a department head, ~~as appropriate~~pursuant to Unsolicited Donations section 2(b) or 2(c) above, the terms of the sponsorship, including any expectation of a significant return or recognition, shall be set forth in a written sponsorship agreement approved as to form by the City Attorney.

The City Administrator may include renewals of a sponsorship agreement at the City's option, provided that the aggregate of all the renewals is within the City Administrator's contract authority under the City Code and City Purchasing Policy. Any renewal shall be subject to annual appropriation by the City Council if City funding is involved.

Sponsorship agreements for parks or recreation facilities shall be subject to additional requirements as outlined in the City of Gilroy Parks or Recreation Facilities Naming, Community and Memorial Contribution, and Gift and Sponsorship Policy.

Costs, Accounting and Record Keeping

Departments shall maintain records that provide an audit trail for the receipt of all sponsorships and donations. Departments shall also comply with the following requirements:

1. All donations and sponsorships and the revenue, products, and services received shall be recorded and maintained for at least the expected life of the item or service, or for a specific time frame that has been established in the donation agreement or sponsorship agreement.
2. Donations or sponsorships paid for with a monetary contribution shall not be paid to staff in cash unless approved, in advance, by the Finance Department and department director and receipt of cash is properly documented.
3. A record of all sponsorships and donations including name, type, contact name if a company, amount, and disposition of sponsorship shall be kept up-to-date and accurate.
4. Departments shall report any donations or sponsorships ~~received~~accepted by the department through reports to the City Administrator's Office and the Finance Department.
- 4.5. A report shall be provided to the City Council for any donation equal to or greater than \$5,000 at the time the donation is given or offered.

Other Donations or Contributions

1. Real Property

Restricted donations of real property may be offered to the City for specified purposes. The City will review the proposed conditions of the restrictive donation of real property, if any, and determine in its sole and absolute discretion whether or not to accept the donation. All donations of any interest in real estate shall require City Council approval.

A donation involving real estate is more complex than cash donations and the donation agreement documenting a real estate-related donation should be prepared and approved by the City Attorney's Office. Terms and conditions of such donations may vary from this policy's general requirements, based on approval of the City Council on a case-by-case basis.

2. Works of Art

If a contribution is proposed related to a work of public art covered by the City's Public Art Policy, the City's review and acceptance of the proposed contribution of public art shall be conducted in accordance with the City's Public Art Policy, which shall include the review and recommendation of the City's Arts and Culture Commission to the City Council and compliance with any policies adopted regarding donations of works of public art.

DISCLAIMERS AND MISCELLANY

1. Different forms of contributions to the City present different opportunities and challenges. Therefore, it is not possible to establish blanket guidelines to cover all types of donation or sponsorship activity that the City may decide to pursue.
2. Unless expressly stated otherwise, the City does not intend to modify or change the non-public forum status of any City property by providing donor recognition or sponsorship recognition on City property.
3. The making of a donation or sponsorship to the City will not provide any extra consideration to the donating or sponsoring party in relation to any City procurement, any regulatory activities of the City, or other City business. No City employee or other City official is authorized to offer any such extra consideration to a donating party.
4. Any donation or sponsorship which, if accepted, would obligate the City to enter into a service or procurement agreement should be reviewed under the City procurement process.
5. The City encourages donations of material and equipment with the understanding that such items have a useful life, and that the City assumes no responsibility for replacement or upkeep. Once a donation is accepted, it becomes City property and the City may maintain, replace or dispose of the item unless the donation is explicitly restricted and accepted by the City as such.

6. The City cannot guarantee the tax deductibility of a donation but may provide the donating party with a letter of acknowledgement and a statement of the City's intended use. No Council Member, appointee, employee, volunteer, or agent of the City may state that a donation is tax deductible. Each donor must make their own determination as to whether a donated item or monetary contribution is tax deductible.
7. City staff, elected officials, and appointees shall maintain the highest standard of ethics in fundraising activities. All donations or sponsorships must directly enhance the City's ability to provide goods or services to the public or for another valid public purpose and may not be used for the personal financial or promotional gain of any City employee, elected official and/or appointee.
8. City employees who have primary responsibility for the procurement of services, supplies, materials and equipment or public works ~~shall~~ not engage in solicitation of donations or sponsorships.
9. City employees may only solicit donations or sponsorships pursuant to the individual department's donation, sponsorship, and/or fundraising programs approved by the City Administrator. City employees working in an enforcement or regulatory City position (i.e., Police, Fire, Code Enforcement, Building Inspection) shall not solicit donations or sponsorships from the public while they are wearing a City uniform, unless they receive explicit permission from the City Administrator.
10. At any time, the City Administrator, or a department if approved by the City Administrator, may reject any donation or sponsorship offered to the City.
11. Restricted donations that land outside of an authorized fundraising plan or are restricted to a degree where staff determines that the restriction is too limiting for effective use will not be accepted and will be returned to the donor. Pass-through donations to individuals or organizations via the City shall not be accepted.
- 11.12. Where an existing, specific policy governing donations and fundraising has already been enacted and conflicts with this policy, the previously enacted specific policy shall apply.

- 7.3. Claim of Gilroy Arroyo One, LLC and Gilroy Arroyo Two, LLC (The City Administrator recommends a "yes" vote under the Consent Calendar shall constitute a denial of the claim)**



City of Gilroy

STAFF REPORT

Agenda Item Title: Claim of Gilroy Arroyo One, LLC and Gilroy Arroyo Two, LLC (The City Administrator recommends a "yes" vote under the Consent Calendar shall constitute a denial of the claim)

Meeting Date: January 22, 2024

From: Jimmy Forbis, City Administrator

Department: Administrative Services

Submitted and Prepared By: LeeAnn McPhillips, Administrative Services and Human Resources Director / Risk Manager

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

Based on the recommendation from Municipal Pooling Authority (MPA) and/or legal counsel, this claim is recommended for rejection.

EXECUTIVE SUMMARY

Based on the recommendation from Municipal Pooling Authority (MPA) and/or legal counsel, the following claim is submitted to the City Council for rejection at the January 22, 2024 meeting:

- Claim of Gilroy Arroyo One, LLC and Gilroy Arroyo Two, LLC

Attachments:

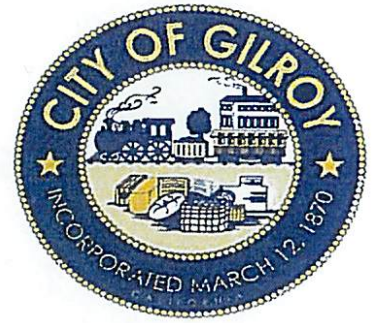
1. Claim of Gilroy Arroyo One, LLC and Gilroy Arroyo Two, LLC

File With:
City Clerk's Office
7351 Rosanna Street
Gilroy, CA 95020-6141

CITY OF GILROY

CLAIM FOR DAMAGES To Person Or Property

CLAIM No. _____

**INSTRUCTIONS**

1. Claims for death, injury to person or to personal property must be filed not later than six months after the occurrence. (Gov. Code Sec. 911.2)
2. Claims for damages to real property must be filed not later than 1 year after the occurrence. (Gov. Code Sec. 911.2)
3. Read entire claim before filing.
4. See page 2 for diagram upon which to locate place of accident.
5. This claim form must be signed on page 2 at bottom.
6. Attach separate sheets, if necessary, to give full details. SIGN EACH SHEET.

RECEIVED JUL 19 2023

TO: CITY OF GILROY

Date of Birth of Claimant _____

Name of Claimant

Gilroy Arroyo One, LLC and Gilroy Arroyo Two, LLC

Occupation of Claimant _____

Home Address of Claimant

City and State _____

Home Telephone Number _____

Business Address of Claimant

City and State _____

Business Telephone Number _____

Property address- 7800 Arroyo Circle Gilroy, CA 95020

Give address and telephone number to which you desire notices or communications to be sent regarding this claim:

Claimant's e-mail address _____

18640 Sutter Blvd Suite 300 Morgan Hill, CA 95037 408.779.0090

When did DAMAGE or INJURY occur?

Date _____

Time _____

If claim is for Equitable Indemnity, give date claimant served with the complaint:

Date June 8, 2023

Names of any city employees involved in INJURY or DAMAGE:

Matt Jones, Jon Castro, Marshall Silva, Jonathan Crick

Where did DAMAGE or INJURY occur? Describe fully, and locate on diagram on reverse side of this sheet. Where appropriate, give street names and address and measurements from landmarks:

City employees discovered a leak, near the curb of the South driveway. After their own investigations, the City employees presumed that the leak was coming from the shared fire line, located between 7800 and 7810 Arroyo Circle Gilroy, CA 95020.

Describe in detail the DAMAGE or INJURY occurred:

On June 8, 2023, we received a phone call from Jonathan Crick, Deputy Fire Marshall for the City of Gilroy. He advised us of a leak that was located at 7800 Arroyo Circle, a property that we manage for Gilroy Arroyo One and Gilroy Arroyo Two, LLC. Our Property Manager Assistant, Bianca Barbour, met with Jonathan Crick and Marshall Silva on June 8, 2023 at 11:30am to walk the property and discuss the leak that the City had discovered. We were notified that the leak was coming from our fire line that is shared with Gilroy Unified School District, 7810 Arroyo Circle, and we were told that the fire line was shut off and would remain shut off until the repairs were made. Considering that the buildings wouldn't have any functioning fire sprinklers, with the line shut off, we were required to have Fire Watch at the property 24/7 until the repairs were made and the fire line was turned back on. We contracted, Scott Thompson with Phoenix Fire Protection, Inc. to begin the plumbing repairs right away and we contracted Express Employment Professionals to provide Fire Watch coverage. On June 16, 2023, it was determined, by Scott Thompson, that there was no leak coming from the fire line of from our property. Plumbing repair efforts were ceased and Fire Watch ended on June 15, 2023.

On July 5, 2023, we received a call from Matt Jones with the City of Gilroy. Mitsie Smith and Bianca Barbour, with Smith Commercial Management, Inc. met with Matt Jones, Jon Castro, and two other City employees. Matt and his team had determined that the leak was coming from a punctured irrigation line. The City employees believe it was punctured by a third party vendor, which is now involved in their own investigation to determine what may have happened. Jon Castro confirmed that the irrigation line was turned back on, on July 6, 2023.

Why do you claim the city is responsible?

The City employees provided inaccurate information on the origin of the leak, which resulted in the property owner incurring costs for a multiple days of plumbing investigations and eight days of Fire Watch. Jonathan Crick, Deputy Fire Marshall, required immediate 24/7 fire watch from us. We followed all directives given to us per their instruction. The City employees later found that the leak was due to an irrigation line puncture, from what was presumed to be damaged by a third party vendor. The irrigation line, that the City has now determined was the original issue, does not belong to our property. It is managed and operated by the Southpoint Business Park Association. The leak issue had nothing to do with anything related to our property.

Describe in detail each INJURY or DAMAGE:

SEE PAGE 2 (OVER)

THIS CLAIM MUST BE SIGNED ON REVERSE SIDE

Agenda Packet Page No. 41 of 160

The amount claimed, as of the date of presentation of this claim, is computed as follows:

Damages incurred to date (exact):

Damage to property. \$ _____
 Expenses for medical and hospital car \$ _____
 Loss of earnings \$ _____
 Special damages for \$ _____

 General damages \$ 27,761.57
 Total damages incurred to date \$ 27,761.57

Estimated prospective damages as far as known:

Future expenses for medical and hospital care . . \$ _____
 Future loss of earnings \$ _____
 Other prospective special damages \$ _____
 Prospective general damages \$ _____
 Total estimate prospective damages \$ _____

Total amount claimed as of date of presentation of this claim: \$ 27,761.57

Was damage and/or injury investigated by police? No If so, what city? N/A
 Were paramedics or ambulance called? No If so, name city or ambulance N/A
 If injured, state date, time, name and address of doctor of your first visit N/A

WITNESSES to DAMAGE or INJURY: List all persons and addresses of persons known to have information:

Name Scott Thompson- Plumbing America Address _____ Phone 408.592.0457
 Name Matt Woolman- Gilroy Unified School District Address _____ Phone 408.710.8480
 Name _____ Address _____ Phone _____

DOCTORS and HOSPITALS:

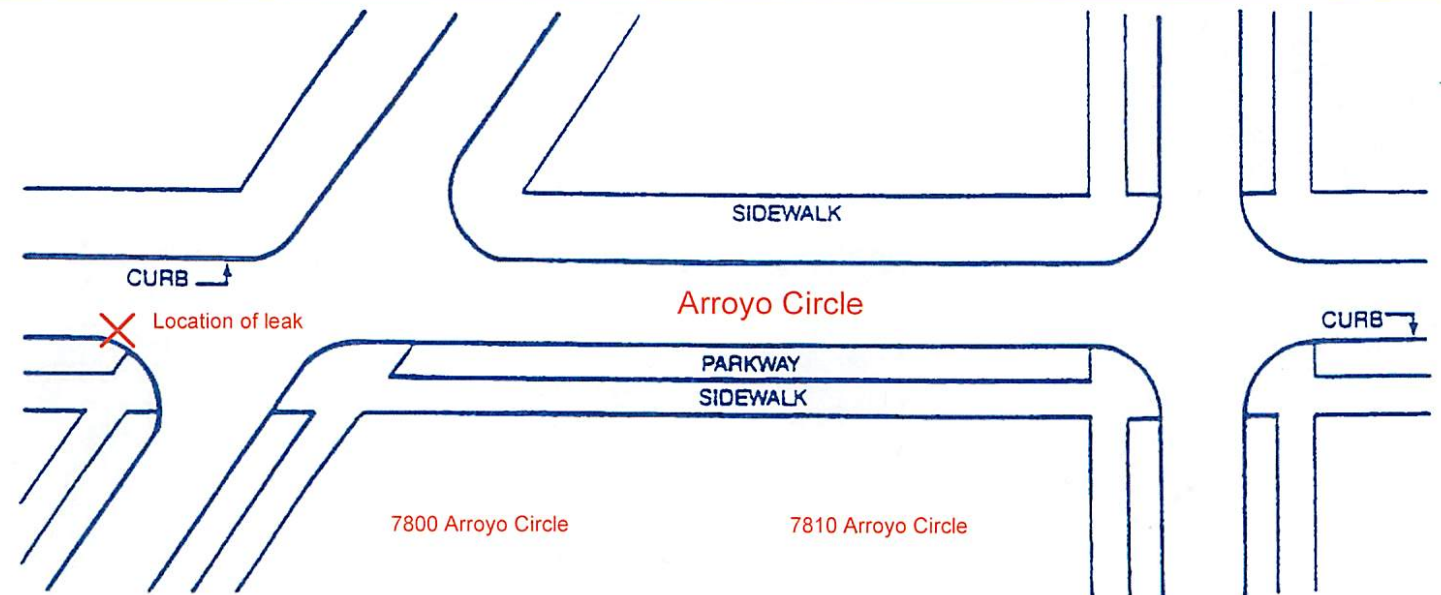
Hospital N/A Address _____ Date Hospitalized _____
 Doctor _____ Address _____ Date of Treatment _____
 Doctor _____ Address _____ Date of Treatment _____

READ CAREFULLY

For all accident claims, place on following diagram names of streets, including North, East, South and West: Indicate place of accident by "X" and by showing house numbers or distances to street corners. If City Vehicle was involved, designate by letter "A" location of City Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw City Vehicle:

Location of City at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X."

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.



Signature of Claimant or person filing on his behalf giving relationship to Claimant: GILROY ARROYO ONE, LLC and GILROY ARROYO TWO, LLC By: <u>Michelle Molk Donner</u>	Typed Name: Michelle Molk Donner, Owner's Agent	Date: 7-17-2023
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NOTE: CLAIMS MUST BE FILED WITH CITY CLERK (Gov. Code Sec. 915a). Presentation of a false claim is a felony (Pen. Code Sec. 72).

10.1.Downtown Parklet Program

1. Staff Report:
2. Public Comment
3. Possible Action:
 1. Council to receive the report of the recent downtown business parklet interest survey; and
 2. Provide policy direction to:
 - a. Pursue a downtown parklet program; or
 - b. End the development of a downtown parklet program and direct staff regarding any existing parklet permits.



City of Gilroy

STAFF REPORT

Agenda Item Title: Downtown Parklet Program
Meeting Date: January 22, 2024
From: Jimmy Forbis, City Administrator
Department: Administration
Submitted By: Victoria Valencia, Economic Development Manager
Prepared By: Victoria Valencia, Economic Development Manager

STRATEGIC PLAN GOALS

Promote Economic Development Activities

RECOMMENDATION

1. Council to receive the report of the recent downtown business parklet interest survey; and
2. Provide policy direction to:
 - a. Pursue a downtown parklet program; or
 - b. End the development of a downtown parklet program and direct staff regarding any existing parklet permits.

BACKGROUND

Following the Council decision at its December 11, 2023 regular meeting to not extend the temporary outdoor dining parklet permit beyond the expiration date of December 31, 2023 (previously extended by Council in August 2023), at Station 55 Seafood & Mexican Cocina, Council directed staff to survey all downtown food and drink establishments between 4th Street and 7th Street, from Egleberry Street to Railroad Street, to determine if there is interest in the City developing an official parklet program.

Current Parklets in Downtown

Two parklets currently exist in Downtown Gilroy, both are located in front of restaurants, and both utilize two to three parking stalls.

One parklet (Tempo Kitchen and Bar) was constructed under a pilot program in 2017 with the intent of the parklet being a permanent structure and part of a parklet program

that would extend equally to downtown businesses. It has a revocable encroachment permit issued by the Public Works Department.

The second parklet (Station 55) was requested and constructed under the temporary outdoor dining program during the COVID-19 pandemic and was constructed as an emergency measure where the City allowed restaurants to expand their outdoor space when indoor occupancy was limited and based on the structure being temporary with a known expiration date. The temporary permit expired on May 31, 2023. In August, Council provided direction to extend the permit to December 31, 2023, in order to allow the completion of the City's downtown parking management plan. At the special City Council meeting on December 11, 2023 the Council provided direction to not extend the temporary parklet beyond December 31, 2023.

ANALYSIS

Survey Participants

Staff identified 28 food and drink establishments in the survey area which included businesses that are currently open, businesses that are closed but have historically been food and drink establishments, and businesses that have a projected 2024 opening date. Food businesses were identified as any establishment primarily serving food and/or non-alcoholic beverages. Drink businesses were identified as any establishment serving primarily alcoholic beverages with no on-site food options. Businesses are categorized as serving both food and alcoholic beverages.

Staff determined 8 of the businesses in the selected area would not be included for various reasons, including not currently having a tenant, a business not having an estimated opening date, and businesses that did not have public parking adjacent to their building, as well as businesses that were not typically open during the day. Staff contacted the remaining 20 businesses through phone calls, emails, and invitations on social media. Staff received responses from 16 of the 20 downtown food and drink establishments and interviewed the owners of each business through in-person and phone interviews.

The 4 businesses that did not respond were left contact information and the survey in paper form in both English and Spanish.

Survey Results

The 16 business owners surveyed were primarily tenants, with two being property owners. The businesses interviewed included 7 food establishments, 3 drink establishments, and 6 food and drink establishments. Detailed survey results are attached. Please note, business names have not been included with the results, as several businesses requested to remain anonymous.

When asked if they felt a parklet program would be necessary to the success of their business, 9 said no, 4 said yes, 3 did not feel it was necessary or unnecessary. When

asked if they felt a parklet program would be necessary to the success of the businesses around them, 9 said no, 6 said yes, 1 did not feel it was necessary or unnecessary.

When asked about whether or not businesses felt parklets would impact the Downtown's overall atmosphere and community feel either positively or negatively, 6 out of 16 felt it would negatively impact, 7 out of 16 felt it would positively impact, and 3 businesses did not feel it would have a negative or positive impact.

Concerns for implementing a parklet program were mainly related to the following:

- 7 out of 16 expressed concerns related to limited parking availability in the core downtown area.
- 5 out of 16 expressed concerns related to the cost to construct and maintain a parklet.
- 3 out of 16 expressed concerns related to the permanent removal of parking spaces, even when they are not in use.

When asked about other solutions and alternatives that businesses would like the City to implement, instead of or in addition to parklets, 11 out of 16 recommended allowing and promoting additional sidewalk dining and seating, and 2 out of 16 recommended updating signage on Monterey Road to highlight the parking options around Downtown.

Additional comments were made, not related to a specific survey question. These comments are as follows:

- A few businesses suggested that if the City did allow parklets there should be uniformity in the design and that businesses utilizing parking spaces should pay a fee.
- Location was mentioned as a factor regarding potential impact on businesses. One business mentioned having a parklet would be a reason for them to choose a location, while another mentioned if their neighboring business had a parklet, they would most likely close their business.

Points of Consideration Moving Forward

Should Council determine to proceed with the development of a parklet program, staff would like to raise the below considerations to your attention:

- 1 out of the 16 businesses desired a parklet and said they would be willing to contribute financially to setting up and maintaining a parklet outside of their business if allowed.
- 14 out of the 16 businesses surveyed were tenants and their opinions may not be in line with the opinion of the property owners.
- Existing parklets may not be compliant with standards developed for a new program (cost for modifications, cost for permitting/encroachment, eligibility if limited number of parklets are allowed, location/site requirements and criteria

may be in conflict of final standards). The existing parklets may need to be rebuilt or modified dependent on updated parklet design standards.

- Of the 4 who said they felt a parklet was necessary to the success of their business, 3 stated that they would not be willing to pay for it.
- AB 1217 was signed into law by Governor Newsom in 2021 and builds off AB 61. During the pandemic, AB 61 provided restaurants with regulatory flexibility on several key issues, including enabling more outdoor food preparation and service, allowing restaurants to better use their own spaces for increased outdoor dining capacity, and extending existing orders allowing for alcohol service on outdoor premises. AB 1217 extends this regulatory flexibility to July 1, 2026. After July 1, 2026, any establishment serving alcohol would need to apply for an extension of their premises to continue to operate in parklets.
- Conditions placed on permitting may affect decisions of businesses on whether to pursue a parklet or not.
- Based on communication from the Santa Clara County Assessor's Office in August 2023, outdoor dining parklets could result in potential property tax implications.

If Council chooses not to proceed, staff would seek Council direction regarding the existing parklet permits.

FISCAL IMPACT/FUNDING SOURCE

There have been no fiscal impacts at this time besides minimal staff time reviewing, surveying, and managing documentation. The introduction of a formal parklet program will have associated costs which will be determined if and when the item is researched and brought back to Council, should that be Council's direction.

PUBLIC OUTREACH

Staff directly contacted businesses and business organizations, and the information was posted and included in the January 22, 2024 agenda packet.

NEXT STEPS

If the City Council provides staff direction to develop a formal parklet program, staff will add parklet program development to Economic Development's workplan and anticipates bringing a formal policy for Council to review by mid-2024.

Attachments:

1. Survey Questionnaire
2. Survey Results



Parklet Program Survey

The City of Gilroy is currently exploring the possibility of introducing permanent or semi-permanent parklets in downtown Gilroy between 4th and 7th street, and we'd like to hear your thoughts on this matter before moving forward with research and development of a parklet program. As a downtown food/drink establishment, your input is crucial to our decision-making process. We are particularly interested in understanding your level of interest in building and having parklets outside of your business.

Your insights will play a key role in helping us shape a program that takes into account the needs and preferences of the downtown business community. We value your time and appreciate your input as we work towards creating a downtown environment that fosters community engagement and economic vitality.

Key Notes:

- According to the National Association of City Transportation Officials, the average cost of constructing a parklet can be anywhere from \$15,000-\$50,000. Please note, this does not account for permit fees or fees that may be assessed by the County of Santa Clara for utilizing space in the public right of way.
- At this time, city staff has not determined associated fees or locations that parklets would be allowed. Some factors may include proximity to bus stops, fire hydrants, driveways, crosswalks, etc.

La ciudad de Gilroy está explorando actualmente la posibilidad de introducir parklets permanentes o semipermanentes en el centro de Gilroy entre las calles 4 y 7, y nos gustaría escuchar sus pensamientos sobre este asunto antes de seguir adelante con la investigación y el desarrollo de un programa de parklets. Como establecimiento de alimentos y bebidas en el centro de la ciudad, su opinión es crucial para nuestro proceso de toma de decisiones. Estamos particularmente interesados en comprender su nivel de interés en construir y tener parklets fuera de su negocio.

Sus ideas jugarán un papel clave para ayudarnos a dar forma a un programa que tenga en cuenta las necesidades y preferencias de la comunidad empresarial del centro. Valoramos su tiempo y apreciamos sus comentarios mientras trabajamos para crear un entorno en el centro de la ciudad que fomente la participación de la comunidad y la vitalidad económica.

Notas clave:

- Según la Asociación Nacional de Funcionarios de Transporte de la Ciudad, el costo promedio de construir un parklet puede oscilar entre \$15,000 y \$50,000. Tenga en cuenta que esto no tiene en cuenta las tarifas de permisos o tarifas que pueda cobrar el Condado de Santa Clara por utilizar el espacio en el derecho de paso público.
- En este momento, el personal de la ciudad no ha determinado las tarifas asociadas o las ubicaciones en las que se permitirían los parklets. Algunos factores pueden incluir la proximidad a paradas de autobús, bocas de incendio, entradas de vehículos, cruces peatonales, etc.

Business Name:

Contact and Relationship to Business (building owner, tenant):

1. Are you familiar with the concept of parklets? Have you seen or experienced parklets in other areas?
2. On a scale of 1 to 5, with 1 being not at all and 5 being extremely necessary:
 - a. How necessary do you feel parklets are to the success of your business?
 - b. How necessary do you feel parklets are to the success of the businesses around you?
3. On a scale of 1 to 5, with 1 being not willing at all and 5 being very willing, how willing is your business to contribute financially to setting up and maintaining a parklet outside of your establishment? This includes all associated design and construction costs and permit fees.
4. If allowed, what do you anticipate your timeline would be for constructing a parklet? (circle one)

0-1 month	1-3 months	3-5 months	unsure
-----------	------------	------------	--------
5. On a scale of 1 to 5, with 1 being negatively impact and 5 being positively impact, how do you think parklets would impact the overall atmosphere and community feel downtown?
6. What concerns, if any, do you have about the implementation of a parklet program?
7. Do you foresee any challenges for your business related to the introduction of parklets?
8. Are there alternative solutions you would prefer to see instead of or in addition to parklets?
9. Any additional feedback you'd like the city to consider?

Nombre de la empresa:

Contacto y relación con la empresa (propietario del edificio, inquilino):

1. ¿Conoces el concepto de parklets? ¿Has visto o experimentado parklets en otras áreas?
2. En una escala del 1 al 5, donde 1 es nada y 5 es extremadamente necesario:
 - a. ¿Qué tan necesarios crees que son los parklets para el éxito de tu negocio?
 - b. ¿Qué tan necesarios crees que son los parklets para el éxito de los negocios que te rodean?
3. En una escala del 1 al 5, donde 1 es que no está dispuesto en absoluto y 5 que está muy dispuesto, ¿qué tan dispuesta está su empresa a contribuir financieramente a la instalación y mantenimiento de un parklet fuera de su establecimiento? Esto incluye todos los costos asociados de diseño y construcción y las tarifas de permisos.
4. Si se le permite, ¿cuál anticipa que sería su cronograma para construir un parklet? (encierre en un círculo uno)

0-1 mes	1-3 meses	3-5 meses	inseguro
---------	-----------	-----------	----------
5. En una escala del 1 al 5, donde 1 es el impacto negativo y 5 el impacto positivo, ¿cómo crees que los parklets afectarían la atmósfera general y la sensación de la comunidad en el centro?
6. ¿Qué preocupaciones, si las hay, tiene sobre la implementación de un programa de parklets?
7. ¿Prevé algún reto para su negocio relacionado con la introducción de parklets?
8. ¿Hay soluciones alternativas que preferiría ver en lugar o además de los parklets?
9. ¿Algún comentario adicional que le gustaría que la ciudad considerara?



Parklet Program Survey Results

16 Total Business Surveyed: Food - 7, Drink - 3, Both – 6

Answers to questions 1-5 are provided in the chart below.

1. Are you familiar with the concept of parklets? Have you seen or experienced parklets in other areas?
2. On a scale of 1 to 5, with 1 being not at all and 5 being extremely necessary:
 - a. How necessary do you feel parklets are to the success of your business?
 - b. How necessary do you feel parklets are to the success of the businesses around you?
3. On a scale of 1 to 5, with 1 being not willing at all and 5 being very willing, how willing is your business to contribute financially to setting up and maintaining a parklet outside of your establishment? This includes all associated design and construction costs and permit fees.
4. If allowed, what do you anticipate your timeline would be for constructing a parklet? (circle one)

0-1 month

1-3 months

3-5 months

unsure

5. On a scale of 1 to 5, with 1 being negatively impact and 5 being positively impact, how do you think parklets would impact the overall atmosphere and community feel downtown?

Business	Business Type (Food=F, D=Drink, B=Both)	Tenant or Property Owner	1	2	2b	3	4	5
a	B	Tenant	y	2.5	5	5	1-3 Months	5
b	B	Owner	y	1	1	1	NA	1
d	B	Tenant	y	1	1	1	NA	3
j	B	Tenant	y	5	5	1	NA	5
l	B	Tenant	y	1	1	1	NA	3
m	B	Tenant	y	1	2	1	NA	2
k	D	Tenant	y	3	4	5	3-5 Months	5
n	D	Tenant	y	5	5	1	NA	5
p	D	Tenant	y	3	3	3	NA	4
c	F	Tenant	y	1	1	1	NA	1
e	F	Tenant	y	1	1	1	NA	1
f	F	Tenant	y	1	1	1	NA	1
g	F	Tenant	y	5	5	5	6+ Months	5
h	F	Tenant	y	1	1	1	NA	1

Parklet Survey Results 1

i	F	Tenant	y	2	1	2	6+ Months	3
o	F	Tenant	y	5	5	1	NA	5

6. What concerns, if any, do you have about the implementation of a parklet program?

- Cost of maintenance, too many parklets could hurt rather than help. There should be limitations dependent on the size of location, as well as proximity to other parklets
- safety issues
- Parking, and who is going to take care of them
- The cost to construct. Would rather use the money they'd spend on other enhancements.
- Parking challenges from large businesses who's employees park on Monterey Road
- Safety, current parklets are underutilized and take up space permanently.
- Parklets take up permanent space, and parking is already an issue. Also, who is going to clean them?
- They do take parking away, but it would depend on what block the business is on.
- Parklets should be limited so they don't take up all of the downtown, and they should all look similar
- The city needs to make sure they are uniform, and the city needs to come up with guidelines, including the type of material and stain to be used. To be successful, the city needs to provide the template and plans.
- Not enough people to fill inside, they take up space and usually are empty, especially when the weather is bad
- Parking, ongoing maintenance and upkeep
- Parking is limited on Monterey Road

7. Do you foresee any challenges for your business related to the introduction of parklets?

- Yes, additional parklets with limits, could benefit Downtown, too many could be detrimental.
- Parking issues
- Already limited on parking
- We are already limited on parking
- Parking is already impacted
- Parking is already limited and parklets should not be allowed on Monterey Road.
- Yes, would seriously consider closing business if parklets were allowed. Already challenges with trash and no accountability from neighbor business

- No because of proximity to parking lots
- Parking

8. Are there alternative solutions you would prefer to see instead of or in addition to parklets?

- Promote sidewalk dining instead of more parklets
- Would much rather see bicycle parking, sidewalk dining
- Outdoor seating on the sidewalk is a better option
- Allow sidewalk dining instead. Tables can be put out and brought back in.
- businesses should utilize their existing space better
- Al Fresco dining program, focus on outdoor seating, but really look at how much of a need their actually is for your customers. Parklets in downtown are not enjoyable because of the noise from cars.
- Focus on enforcement at drinking establishments.
- Sidewalk dining
- Sidewalk dining, better signage for parking
- Outdoor seating on the sidewalk, not just dining.
- Sidewalk dining
- Activate Gourmet Alley for seating.

9. Any additional feedback you'd like the City to consider?

- Removing parklets "would be a death sentence". A reasonable fee would be \$1500-\$2000 annually.
- Consider sidewalk dining instead.
- We have beautiful buildings downtown, and parklets cover up the beauty and the architecture.
- Parklets can be nice to have, but business "will survive without it."
- Parklets occupy permanent space, there are already parking issues from the same people parking all day and it's difficult to access our own business when we have supply deliveries, even when using a side or back entrance.
- Businesses should look at their return on investment on a \$50,000 project. We live in an area where "food is for existence, and we eat to live, not live to eat".

- Repeat customers who come and go are more valuable than parklets that sit empty. During the pandemic, yes, they were necessary because people were scared. Now, they are using the public space when they shouldn't be. If [businesses] really want to cater to the people who are still concerned with COVID, they should do sidewalk dining and use the outside space they have.
- Would like to have the option, but unsure due to costs associated with building and permit fees.
- City should offer funding for building additional parklets, and if they are allowed, they need to be uniform and have symmetry.
- Parklets add charm to downtown, but the city needs to control what they look like. Parallel spaces would be best.
- Parklets sit empty when the weather isn't good, and "if people like your business, they will come to your business."
- Side streets and alley should be used, not Monterey Road
- Come up with a plan for parklets and add sidewalk dining.
- There isn't a parking problem, and until there is, parklets, food trucks, and street vendors need to be allowed.

From: [Council Member Zachary Hilton](#)
To: [Public Comments](#)
Subject: Fwd: EXTERNAL - Tempo Parklet Letter to Council
Date: Tuesday, January 16, 2024 5:37:01 PM

Please add this under public comment to Item # 10.1 for the Jan 22 agenda.

Zach Hilton
Gilroy City Council Member
www.zachhilton.com
[#HiltonForCouncil](#) [@zachhilton_ca](#)

Begin forwarded message:

From: [REDACTED]
Date: January 16, 2024 at 4:27:14 PM PST
To: Mayor Marie Blankley <Marie.Blankley@ci.gilroy.ca.us>, Council Member Rebeca Armendariz <Rebeca.Armendariz@ci.gilroy.ca.us>, Council Member Dion Bracco <Dion.Bracco@ci.gilroy.ca.us>, Council Member Tom Cline <Tom.Cline@ci.gilroy.ca.us>, Council Member Zachary Hilton <Zachary.Hilton@ci.gilroy.ca.us>, Council Member Carol Marques <Carol.Marques@ci.gilroy.ca.us>, Council Member Fred Tovar <Fred.Tovar@ci.gilroy.ca.us>
Subject: EXTERNAL - Tempo Parklet Letter to Council

CAUTION: This email originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Greetings City Council Members,

My name is Tracey Miller and, together with my husband Tom, we are the owners of 7560 Monterey St., home of Tempo Kitchen and Bar and the adjoining parklet. (We also have 4 other tenants upstairs and have kept the building 100% occupied for the past 4 years through Covid.) We understand that you are considering removing all parklets, and we strongly urge you to reconsider this action.

In December 2016, when Tom (raised in Gilroy) brought me to downtown Gilroy and showed me the dilapidated, uncared-for building he wanted us to purchase in the severely unoccupied and depressed downtown, I thought he had lost his mind. Spending our life savings (no deep pockets here) to invest in what seemed more like a ghost town than a downtown seemed crazy. "It just needs vitality and people...community...places for people to gather, eat and drink," he urged me. And because part of his soul lives in this town (his dad was a City Councilman and founding father of the Garlic Festival), we agreed to the risk. And that's just what it was....a gigantic risk.

Part of Tom's vision for increased vitality and community was to include a parklet in the site-plan for the restaurant. What better way to turn a ghost town into an ALIVE town by having people gather where other people can

see them! I won't go into all the ways parklets increase community – just look at EVERY OTHER CITY in the Bay Area to see how vital parklets are to vibrancy. Not to mention covid and the need for safe spaces for patrons to dine.

In 2016 we struggled to find a tenant willing to also take the risk and jump with us in this vision. Tom was knocking on doors all over the Bay Area. We had prospective tenants do site-visits and nearly laugh at us. Despite the rejections we eventually found a tenant and we pumped more money into the building than the cost of the building itself. But even our first tenant (who left owing us hundreds of thousands of dollars) walked away because they could not see a clear path to profitability in the downtown of this City. And we are still not out of the woods.

The downtown is still way below occupancy, with very few major tenants in the works. The difficulty in finding major tenants is absolutely real. And although Tempo has experienced some success, restaurants succeed by slim margins. Taking away the parklet will stunt the business and hurt Tempo. We jumped through hoops with ABC, Health Department and the City to get this parklet approved, and built it under guidance from the City.

Instead of crippling businesses with parklets that are taking risks to invest in Downtown Gilroy, we urge you to support them – both of them. Tempo is now an anchor tenant bringing visibility and vibrancy through exposure in the parklet. If Tempo fails it will be a MAJOR setback to Downtown's progress.

Please don't go backwards.

Thank you,

Tracey Miller



11.1.Resolution Establishing Gilroy Police Department Towing Rates

1. Staff Report:
2. Public Comment
3. Possible Action:

Adopt a resolution establishing tow rates pursuant to Section 24A.8 - Regulations, of the Gilroy City Code Chapter 24A - Towing Services.



City of Gilroy

STAFF REPORT

Agenda Item Title:	Resolution Establishing Gilroy Police Department Towing Rates
Meeting Date:	January 22, 2024
From:	Jimmy Forbis, City Administrator
Department:	Police
Submitted By:	Pedro Espinoza, Police Chief
Prepared By:	Luke Powell, Captain

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

Adopt a resolution establishing tow rates pursuant to Section 24A.8 - Regulations, of the Gilroy City Code Chapter 24A - Towing Services.

EXECUTIVE SUMMARY

Gilroy Municipal Code Section 24A.8 - Regulations, provides authority to the City Council to establish towing service rates by adopting a resolution. The current rates being utilized are based on the California Highway Patrol's (CHP) Tow Services Agreement (TSA) with various regional participants. CHP manages one of the largest government entity-initiated tow programs in the state, and its rates are viewed as representative and reliable benchmarks. Thus, many local agencies utilize the CHP rates in respective regions as benchmarks to establish their local tow rates. The purpose of this report is to formalize and establish the tow rates currently being utilized and include rates that are applicable to the City of Gilroy that are not otherwise addressed in the CHP's TSA, such as abated/abandoned vehicles. There are additional expenses with abated/abandoned vehicles (valued at \$500.00 or less) that are junked and the added expense for the disposal of refuse contained within those vehicles, including hazardous materials. Therefore, staff also recommends adding rates for abated/abandoned vehicles that will be junked to our current rate schedule.

BACKGROUND

Current tow rates are established in the TSA with the CHP, and participants in the CHP Rotation Tow Program submit their rates during the application process for the program. The CHP Area Commander has final discretion on a reasonable rate.

ANALYSIS

In 1981, Gilroy Municipal Code Section 24A.8, entitled “Regulations” was adopted, which establishes that the City Council may regulate towing charges through adoption of a resolution. The towing fees are recommended to be updated, which must be approved through the adoption of a resolution.

The Gilroy Police Department previously reached an agreement with three of the tow companies to provide tow services for the City of Gilroy at the rates established in the CHP Rotation Tow Program. Those three tow companies are All Pro Towing and Recovery LLC, Bracco’s Towing and Transport Inc., and Marx Towing Inc. These three tow companies currently provide the following services at the rates specified below:

Tow Company	Class A Hourly Tow Rate	Class B Hourly Tow Rate	Class C Hourly Tow Rate	Class D Hourly Tow Rate	Inside Storage	Outside Storage	Labor
All Pro	\$325	N/A	N/A	N/A	\$170	\$140	\$150
Bracco’s	\$300	\$400	\$500	\$600	N/A	\$120	\$150
Marx	\$325	\$425	\$550	\$650	N/A	\$125	\$125

Additional rates/fees may be applied for situations requiring unusual and/or specialized equipment. Examples of specialized equipment are Rotator (\$1,200 w/4 hr. min.), Lowbed (\$400 w/1 hr. min.), Refer (\$325), Rescue/Haz. Mat. Trailer (\$300), Forklift (\$200), Landoll (\$375), Skid Steer (\$250), Scene Lighting (\$175), 2 Axle Dump Trailer (\$175), Rigger (\$150), and Heavy Incident Recovery Trailer (\$250).

One area of the CHP tow program that was not addressed and has become an issue is junked abated/abandoned vehicles. When these vehicles are abated, the tow companies take a loss because it costs them more money to dispose of the waste than there is value in the dismantling of the vehicle. These vehicles contain hazardous materials such as radiator fluid, engine oil, transmission fluid, and refrigerants, and many contain biohazards such as hypodermic needles, feces, and urine. These vehicles hold very little to no value because they are unregistered, no longer road-worthy, unsafe, and will never return to the street.

In addition to the added costs of disposal fees, California Vehicle Code Section 22851 mandates the junked abated/abandoned vehicle must be stored for a minimum of fifteen (15) days to allow the owner time to claim the vehicle. The tow companies do not

recoup any storage fees on vehicles that go unclaimed and equates to a loss of approximately \$1,875-\$2,100 per vehicle.

The City of Gilroy and the Gilroy Police Department recognize the financial impact that vehicles meeting the junked vehicle requirements can have on our rotational tow companies. Staff proposes the following rate additions:

- For junked abated/abandoned passenger vehicles (valued at \$500.00 or less) that are dismantled, a flat fee of \$900.00 per vehicle with written proof of destruction; and
- For junked abated/abandoned recreational vehicles (RVs) (valued at \$500.00 or less) that are dismantled, a flat fee of \$1,500.00 per vehicle with written proof of destruction.
 - Important Note - In October of 2018, the police department received authority from the City Council to include a \$1,000 fee for junked RVs. If adopted, the associated increase of \$500 will be included in the newly adopted fee amount of \$1,500.

To qualify for these charges, the junked vehicle must meet the following criteria:

- The junked vehicle must be a Gilroy Police Department-generated tow;
- The junked vehicle must be towed per California Vehicle Code (CVC) section 22669;
- The junked vehicle must meet the criteria for “Junk Vehicle”, per CVC sections 22851.2 and 22851.3.

In 2023, the Gilroy Police Department towed approximately 1,000 vehicles. Four hundred of those vehicles were abated, and only 15 qualified as “Junk Vehicles” per CVC. All 15 junked vehicles were RVs.

ALTERNATIVES

Council may modify or reject the resolution establishing the rates. Staff does not recommend altering the resolution, as it is in keeping with the current practices of the CHP, a model for other law enforcement agencies.

FUTURE ADJUSTMENTS

Staff recommends future maximum tow rates be determined by the CHP’s highest annual Tow Services Agreement, and any adjustments to the rates for junked, abated/abandoned vehicles will coincide with the Consumer Price Index (CPI).

FISCAL IMPACT/FUNDING SOURCE

Assuming 2024 vehicle abatements will be consistent with 2023, we can estimate these additional tow charges for junked vehicles will increase our annual fees by approximately \$7,500. At this time, abated and junked vehicle fees expended by the City of Gilroy are reimbursed by the County of Santa Clara through the Abandoned Vehicle Abatement Services Authority (AVASA).

PUBLIC OUTREACH

Staff has taken the initiative to connect with our service providers, strengthening our positive working relationship. We have reaffirmed our dedication to providing excellent services to our community through open communication.

NEXT STEPS

If this resolution is adopted, the Police Department will establish separate service agreements with the tow companies listed on the CHP's rotation tow list that express interest in offering their services to the City of Gilroy.

Attachments:

1. CHP TSA 2023-2024
2. CHP TSA Addenda
3. Resolution FY24 Tow Rates
4. July 2023 through June 2024 CHP Tow Rates

2023 — 2024

TOW SERVICE

AGREEMENT

JULY 2023

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STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
TOW SERVICE AGREEMENT
 CHP 234 (07-2023) OPI 061

This Tow Service Agreement (TSA) contains terms and conditions that a company agrees to comply with in order to receive and maintain a rotation tow listing with the California Highway Patrol (CHP). Participation in the CHP Rotation Tow Program is voluntary and is not intended to be a main source of income. An operator, by agreeing to participate in the program, does not establish a contractual relationship with the CHP and is not acting as an agent for the CHP or the State of California when performing services under the TSA. Exceptions to compliance with the TSA shall not be authorized by verbal agreement. Any exceptions shall be documented as a written addendum by the Area commander, with justification, and shall have the Division Chief's approval.

1. TOW DISTRICTS

- A. The CHP Area commander shall establish tow districts for each class of tow truck to facilitate the distribution of calls and meet the needs of the CHP with regard to response time and availability of tow services.
- B. Within each tow district, the Area commander shall determine the maximum response time, reasonable rates, minimum number of trucks, and any applicable addendum annually.
 - 1) The Area commander may require more than one tow truck in each class in tow districts where rapid response for congestion relief is required.
 - 2) Addendums shall be approved by Division prior to implementation and a copy forwarded to Research and Planning Section as well as the individual operator.
 - 3) Addendums with major cost incurring changes shall contain a fair and equitable projected date for compliance.
- C. An operator shall have a business office and storage yard located within the district they serve, unless this requirement is waived by an addendum, with justification, from the Area commander in order to meet specific Area needs.
- D. An operator with a business and storage yard in one CHP Area shall provide service in only that Area command. If also applying for an adjacent Area, without having the required business and storage yard, the need must exist, and be approved by an addendum from both adjacent Area commanders with the Division commander's concurrence.

- E. A secondary storage yard does not qualify an operator for an additional tow district.
- F. Within each tow district, the CHP shall maintain separate rotation tow lists for each class of tow truck to ensure an equitable distribution of calls.

2. ROTATION LISTS

- A. A call to an operator shall constitute one turn on the list, and the operator shall be moved to the bottom of the list.
 - 1) This includes when the operator fails to answer the phone, is unable to respond, is unable to perform the required service, refuses to respond or provide service, or is canceled due to excessive response time.
- B. If it is determined the operator is not needed and is canceled by the CHP, up to and including arrival on scene and standby time which does not result in a tow, there shall be no charges and the operator shall be placed back at the top of the list.
- C. If the operator responds to a CHP call and is canceled by the vehicle's registered owner or agent, prior to the operator taking possession of the vehicle, there shall be no charge and the operator shall be placed back at the top of the list.
 - 1) Possession is deemed to arise when the vehicle is removed and is in transit, or when vehicle recovery operations or load salvage operations have begun (Section 3068.1[a] of the Civil Code [CC] and Section 22851[a][1] of the California Vehicle Code [CVC]).
 - 2) Whenever a vehicle owner returns to a vehicle that is in possession of a towing company prior to the removal of the vehicle, the owner may regain possession of the vehicle from the towing company if the owner pays the tow company the towing charges incurred at the time service is concluded (Section 22851[a][2] CVC).

NOTE: Simply attaching a cable to or blocking a vehicle does not constitute recovery or load salvage operations.
- D. Nothing in the TSA shall prohibit an Area commander, supervisor, or scene manager, from requesting a specific tow company when, in their opinion, the necessary resources to clear a hazard are not available from the tow company currently at the top of the rotation tow list.
 - 1) In such an instance, the selected company would then go to the bottom of the list and those tow companies which were by-passed, would remain in the same list order.

- E. Nothing shall prohibit a Class B, C, or D operator from maintaining a position on a lighter class rotation list, provided the tow truck meets the equipment specifications for that class of operation.
 - 1) Regardless of the class of tow truck utilized or responding to the call, charges shall not be more than for the class of vehicle towed or serviced, except when vehicle recovery operations require a larger class tow truck.
- F. A Salvage and Recovery Rotation Tow List shall be established for each Area office when there are tow operators who meet the Salvage and Recovery Rotation Tow List qualifications established in Item G.
 - 1) The Salvage and Recovery Tow List may be for each tow district or for the entire Area.
 - 2) This list shall be utilized whenever a large commercial vehicle is overturned and/or down an embankment, or a total burn, regardless of the officer's request.
 - 3) This list **shall not** be utilized for a large commercial vehicle which is upright and on all wheels.
 - 4) If an operator receives a call for Salvage/Recovery in error due to incorrect information (i.e., vehicle type, weight, type of equipment), the operator shall immediately pass the call and be placed back on top of the rotation list if no recovery attempts are started.
 - a) In the event the operator attempts to start recovery on a Salvage/Recovery call they knowingly should have turned down, they shall be placed on the bottom of the list, no billing charges shall occur, and may be subject to further disciplinary action.
 - 5) Salvage and recovery operations shall be handled in a professional manner.
 - 6) Salvage and recovery operations exceeding two hours from time of arrival on scene shall be justified.
 - 7) If an operator is dismissed from the scene due to obvious incompetency, the operator shall be placed at the bottom of the list, no billing charges shall occur, and may be subject to further disciplinary action.
- G. Those operators on the Salvage and Recovery Rotation Tow List shall respond with the following:

- 1) At least one (1) driver shall have five (5) verifiable years of for-hire salvage and recovery experience.
 - a) The five (5) verifiable years of for-hire salvage and recovery experience shall be determined by the CHP.
 - b) The driver with five (5) verifiable years of for-hire salvage and recovery experience shall not be shared between tow operators. If two operators combine for salvage and recovery response, both drivers shall have five (5) verifiable years of experience.
- 2) In order to qualify for the Salvage and Recovery Rotation Tow List, an operator shall possess two (2) tow trucks of the appropriate class. One (1) shall be a Class D tow truck and one (1) Class C tow truck.
 - a) Depending on an Area's needs and a tow operator's equipment availability, the Area commander may allow an operator to respond with one of the following to meet the two (2) tow truck response criteria:
 - 1) Two (2) Class C tow trucks.
 - 2) One (1) Class C tow truck and one (1) Class B tow truck only in remote Areas in the state where traffic congestion is not an issue.
 - 3) If the Area does not have sufficient operators who meet the two-truck requirement, they may allow two operators from within the same Area to combine, with Area approval, in order to meet the needs of the Area through an approved addendum.

NOTE: A Quick Swap unit does not qualify for the Salvage and Recovery Tow List.

3. TOW OPERATORS

- A. Operators applying for the rotation tow program shall have a minimum of three (3) verifiable years of for-hire towing experience, as an owner or principal, prior to the final filing date of an open enrollment period in order to qualify for a rotation tow listing.
 - 1) The three (3) verifiable years of for-hire experience shall be determined by the CHP.

- B. Operators and owners who do not meet the three (3) verifiable years of for-hire towing experience, may be considered if a full-time manager is employed who possesses three (3) verifiable years of for-hire tow experience, as an owner, principal, or full-time manager.
 - 1) The three (3) verifiable years of for-hire experience, as an owner, principal, or full-time manager shall be determined by the CHP.
- C. Management experience shall be determined and qualified by the CHP as follows:
 - 1) The designation of “manager” implies general power and permits reasonable inferences that the employee so designated is vested with the general conduct and control of their employer’s business.
 - 2) An individual who has charge and control of a business and is vested with a certain amount of discretion and independent judgment.
- D. If the manager ceases to be employed by the company, the TSA shall be immediately suspended until a new manager is approved by the CHP.
- E. Operators and owners applying for an additional identified business/terminal(s) located in a different CHP Area(s), shall utilize a full-time manager pursuant to Items B and C (above) in each Area. A manager shall not be shared between Areas.
- F. New operators, managers, and tow truck drivers, involved with the CHP Rotation Tow Program, shall be fingerprinted via Live Scan for the purpose of conducting criminal history inquiries.
 - 1) New operators, managers, and tow truck drivers shall submit to the Area a CHP 234F, Tow Operator/Driver Information, pay the appropriate Live Scan Fees and obtain a BCIA 8016, Request for Live Scan Service, form if the Live Scan is performed at a location other than the Area office. No Live Scans shall be performed prior to this action.
 - 2) Any operator, manager, or tow truck driver who separates from the rotation tow program, in excess of one year, shall be fingerprinted for the purpose of conducting a criminal history regardless of prior criminal history clearances upon reapplication (e.g., CHP Evidence Tow Contract, Freeway Service Patrol).
 - 3) The CHP will receive subsequent arrest/conviction notifications for all operators, managers, and tow truck drivers.

- 4) An operator shall notify the CHP of any arrest and/or conviction of a tow truck driver, manager, or the operator, prior to the beginning of the next work shift.
 - a) Failure to make notification should be cause for disciplinary action.
 - 5) The Area tow officer shall be notified immediately by an operator upon a manager's or tow truck driver's separation from the rotation tow program.
- G. Operators shall have all tow truck drivers involved with CHP rotation tow operations participate in a controlled substance and alcohol testing (CSAT) program.
- 1) Drivers requiring a Class A, Class B, or commercial Class C license (endorsed for hazardous materials transportation) shall participate in a CSAT program as defined in the Code of Federal Regulations, Title 49, Parts 40 and 382.
 - 2) Drivers not required to possess a Class A, Class B, or commercial Class C license shall be enrolled in a CSAT program consistent with the requirements as outlined in Item G.1 (above) which shall not be a self-administered program.
 - 3) The operator shall ensure selection pools for commercial and noncommercial licensed drivers are maintained separately.
 - 4) A driver possessing a noncommercial driver license who returns with a positive test result, which includes medicinal or recreational use of marijuana, shall meet the same reinstatement requirements as a driver required to possess a commercial driver license.
 - 5) The operator shall provide a current list of all drivers and proof of enrollment in the CSAT program to the Area office during the open enrollment period.
 - 6) Upon the addition of a new driver, an operator shall be granted a maximum of 30 days to enroll the driver in a CSAT (or consistent) program and provide proof to the Area office.
- H. The operator shall provide a current list of all drivers and proof of enrollment in a CSAT and/or program consistent with the requirements as outlined in Item G.1 (above), to the Area office during the open enrollment period.
- I. The operator, manager, and all tow truck drivers shall be enrolled in the Employer Pull Notice (EPN) program.

- 1) The operator shall provide a current list of all managers and drivers, and a copy of the current EPN report, or in the case of a newly hired tow truck driver, proof of enrollment in the EPN program, to the Area office during open enrollment.
 - a) The operator's signed and dated EPN report shall be kept on file in the Area office.
 - 2) Upon the addition of new managers or drivers, an operator shall be granted a maximum of 30 days to enroll drivers in the EPN.
 - J. The operator shall maintain a current list of drivers and provide a current list of drivers to the Area every six (6) months.
 - 1) When a driver is no longer employed by the operator, the operator shall immediately notify the Area.
 - K. Operators shall have a Carrier Identification number and a valid Motor Carrier Property (MCP) permit. The MCP documentation shall be provided to the Area office during the open enrollment period.
 - 1) The expiration of an operator's MCP and/or suspension of the MCP, pursuant to Section 34623 CVC, shall result in the immediate suspension of the tow operator, as well as additional disciplinary action which may be imposed by the Area commander.
 - L. Operators shall have a sufficient number of drivers in order to comply with hours-of-service. All drivers shall comply with intrastate and/or interstate hours of service pursuant to Title 13, Sections 1212 and 1212.5 of the California Code of Regulations (CCR).
 - 1) Operators shall ensure their drivers' record of duty status complies with Title 13, Section 1213 CCR.
- 4. TOW OPERATOR'S BUSINESS**
- A. An operator's place of business shall have a sign which clearly identifies it to the public as a tow service.
 - 1) The sign shall have letters which are clearly visible to the public from the street and shall be visible at night.
 - B. Business hours shall be posted in plain view to the public.

- C. An operator's place of business shall have posted in plain view to the public the "Towing and Storage Fees and Access Notice" and copies of the notice readily available to the public pursuant to Section 22651.07(a)(1)(A) CVC.
- 1) The "Towing and Storage Fees and Access Notice" shall be a standardized document plainly printed in no less than 10-point type and shall contain the required language pursuant to Section 22651.07(e) CVC.
- D. An operator's place of business shall be sufficiently staffed to allow customers to talk face-to-face with a tow company's owner, manager, or employee during normal business hours.
- 1) Normal business hours shall not be less than 8 a.m. to 5 p.m., Monday through Friday, except for the following state recognized holidays: New Year's Day, Martin Luther King Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, day after Thanksgiving Day, and Christmas Day.
- NOTE: When the Area office is closed in observance of a holiday, the tow operator may also be closed.
- E. An operator's place of business shall be open during normal business hours pursuant to Section 22651.07 (d) CVC except for the recognized holidays outlined on D.1. above.
- F. The operator shall maintain records of all tow services furnished at the operator's primary business office. (Note: printable electronic records are acceptable.)
- 1) Invoices shall contain the required itemized information pursuant to Section 22651.07(e) CVC.
 - 2) Itemized invoices shall contain a distinct notice upon the invoice stating, "Upon request, you are entitled to receive a copy of the Towing and Storage Fees and Access Notice." This notice shall be contained within a bordered text box, printed in no less than 10-point type pursuant to Section 22651.07(a)(1)(B)(3) CVC.
- G. The operator's primary business office shall also maintain business records relating to personnel, insurance, personnel taxes, payroll, applicable operating authorities, local operating authorities, lien sale actions, driver's record of duty status (intrastate and/or interstate), Federal Communication Commission licensing (if applicable), and non-CHP tows.

- H. The CHP may inspect **all** operator records relating to compliance with the TSA and Section 2424 CVC without notice during normal business hours.
- I. Operators shall permit the CHP to make copies of business records at their place of business, or to remove business records for the purpose of reproduction.
 - 1) The CHP shall provide a receipt for any record removed from the place of business.
- J. An operator shall maintain business records for a period of two (2) years (effective July 1, 2012), plus the current term of this TSA, and shall make them available for inspection.
 - 1) Failure of the operator to comply with the aforementioned inspection requirements shall be cause for disciplinary action.

5. FINANCIAL INTEREST

- A. No operator or applicant, not holding legal ownership, shall be directly involved in the towing-related business of any other operator or applicant within the same rotation tow district. No company shall take any action to intentionally influence the activities of another company within the same district without prior CHP approval. Persons or groups providing investment or financial support for profit, who do not make business decisions that may directly affect the public, need not be listed on the CHP 234A, Rotation Tow Listing Application.
- B. No operator or applicant shall share equipment with any other Area involved with the CHP rotation tow list.
 - 1) Cross utilization within an Area may only occur when justified and the operator maintains the required number of trucks to participate in the Area's Rotation Tow Program. Any violations shall result in disciplinary action.
- C. The sale or transfer of the controlling interest in a company shall immediately terminate the TSA. Companies changing ownership are encouraged to consult with Area commands in order to facilitate minimal disruption to company operations during the transition.
 - 1) A new owner may apply for the rotation tow program at any time during the remainder of the current TSA term, regardless of the Area's open enrollment period.

6. RESPONSE TO CALLS

- A. The operator shall respond to calls 24 hours a day, seven (7) days a week, within the maximum response time limits established by the Area commander.
- B. An operator or tow truck driver shall respond with a properly equipped tow truck of the class required to tow the vehicle, perform vehicle recovery (e.g., rollover, down embankment), provide service (e.g., fuel, flat tire change), and be in possession of the appropriate class of driver license, applicable endorsements, and permits.
 - 1) Any applicable permits (e.g., load variance, oversize) shall be valid and maintained in the tow truck.
- C. The operator shall advise CHP dispatch, at the time of notification, if they are either unable to respond or unable to meet the maximum response time.
 - 1) If, after accepting the call, the operator is unable to respond or will be delayed in responding, the operator shall immediately notify the appropriate CHP communications center.
- D. A failure or refusal to respond to towing or service calls, and/or repeated failures to meet maximum response time requirements, without justification, shall result in disciplinary action. (This includes refusing to respond for junk vehicle calls. Justification for failure or refusal to respond to calls shall be determined by the CHP.)
- E. If service, other than towing, recovery, and load salvage, is canceled by the vehicle's registered owner or agent, no lien shall arise for the service unless the operator has presented a written statement to the vehicle's registered owner or agent for the signed authorization of services to be performed pursuant to Section 3068(a) CC.
 - 1) The operator shall not attempt to take possession of a vehicle in order to establish a lien for any non-towing services performed, or initiated and subsequently canceled.
- F. Nothing shall prohibit a Class B, C, or D tow truck from maintaining a place on a lighter class rotation tow list, provided the tow truck meets the equipment specifications for that class of operation.
 - 1) Regardless of the class of tow truck utilized or responding to the call, charges shall not be more than for the class of vehicle towed or serviced, except when vehicle recovery operations require a larger class tow truck.

- G. One tow company per vehicle shall be dispatched to a multi-car incident unless the Area commander has established local policy which allows an operator to dispatch more than one tow truck to a multiple vehicle crash scene in response to a rotation tow call.
- H. If two or more operators are called to the same incident, distribution of the vehicles shall be at the discretion of the CHP incident commander.
- I. When an operator will be temporarily unavailable to provide services due to a pre-planned or scheduled activity, the operator shall notify the Area command at least 24 hours prior to the date that services will be unavailable, noting the times and dates of the unavailability.
- J. Only tow truck personnel and equipment requested shall respond to a CHP call (e.g., tow truck driver bringing significant others, family members, friends, or pets, is not allowed).
 - 1) Exceptions would be transporting required personnel to a major incident, or responding a tow truck driver trainee with an approved rotation tow truck driver and only if a CHP 234F has already been submitted for the trainee to the Area office.
- K. An operator/tow truck driver shall not respond to a CHP call assigned to another operator or reassign a call to another tow operator, unless requested to do so by the CHP.
 - 1) Nothing would preclude the assigned operator/tow truck driver from responding to an incident to ascertain if additional assistance or equipment is required.
- L. There shall be no additional charge for any personnel or equipment which is not necessary to perform the required service. Any additional personnel or equipment shall be approved by CHP on scene.
- M. There may be times when the operator/tow truck driver assigned the initial call, may require assistance from an additional operator/tow truck driver.
 - 1) The assigned operator/tow truck driver may, with concurrence of the scene manager, request a specific operator/tow truck driver for additional assistance.
 - 2) The operator/tow truck driver's approved request shall be routed through the CHP on scene incident commander.

- N. There may be times when an operator/tow truck driver, who was not called to the scene, comes upon a crash scene where a vehicle or vehicles are blocking a roadway and the on-scene officer requests assistance in clearing the roadway.
 - 1) In such a case, the operator/tow truck driver may be requested by the officer to move the vehicle to a safe location and leave it.
 - 2) There shall be no charge for this assistance, and the assistance provided shall not change the operator's place in the rotation.
 - a) Violations of Section 22513 CVC shall result in disciplinary action.
 - 3) If the operator/tow truck driver is requested to provide service at the scene resulting in a tow, that company will be moved to the bottom of the list.

7. STORAGE YARD

- A. The operator shall be responsible for the safekeeping and prevention of vandalism of all vehicles and contents which are stored/impounded by the CHP.
 - 1) At a minimum, a permanent securely fenced or an enclosed storage area of an adequate size shall be provided for the proper storage of vehicles.
- B. The primary storage yard shall be at the same location as the business address.
 - 1) Stored/impounded vehicles shall be at the primary storage yard.
 - 2) This requirement may only be waived by a written addendum from the Area commander with justification.
- C. A secondary storage yard shall be located reasonably close to the main business office.
 - 1) There shall be no charge to the vehicle's owner/agent for towing a vehicle from a secondary storage yard to the primary storage yard.
- D. Tow operators shall maintain sufficient storage spaces.
 - 1) A secondary storage yard shall only be utilized if the primary storage yard is full and only with prior CHP approval.
 - a) This requirement may be only waived by a written addendum from the Area commander with justification.

- E. A storage yard owned by an operator and shared with another operator shall only be approved if the operator/owner charges for the space exclusively on a flat monthly rate rather than a vehicle-by-vehicle basis, or combination thereof.
- F. A storage yard shared by operators, or any other business establishment(s), regardless if owned by the operator or not, shall be physically separated and secured from each other, including business records related to the tow company.
- G. Prior to the utilization of a new storage yard, which was not listed on the CHP 234A, the storage yard shall be inspected, and the operator shall obtain the Area commander's approval.
- H. An operator's employee shall be properly trained to conduct business transactions related to towing, storage, and release of vehicles/property.
- I. The operator or their employee shall release personal property from a vehicle which has been stored/impounded by the CHP at the request of the vehicle's registered owner or agent pursuant to Sections 22851(b) and 22651.07 CVC.
 - 1) California Highway Patrol approval shall be obtained prior to the release of personal property from a vehicle that has been impounded for evidence or investigation.
 - 2) A receipt shall be provided for the removed personal property, with a copy placed inside the stored/impounded vehicle.
 - a) This procedure shall also apply to the removal of property by the tow operator and/or their employee to a secured area within the business.
- J. Personal property and/or the vehicle shall be released at the primary storage yard.
 - 1) Personal property or a vehicle release from a secondary storage yard shall only be granted if it's acceptable to the vehicle's registered owner or agent.
 - a) Personal property is considered to be items which are not affixed to the vehicle. Personal property includes: papers, cellular phones, pull-out radios, clothes, luggage, tools, etc.
- K. No fee shall be charged for the release of a vehicle or personal property during normal business hours pursuant to Sections 22851(b) and 22651.07(c)(1) CVC.
 - 1) The maximum charge for a non-business hours release shall be one-half the hourly tow rate charged for the vehicle towed, or less, for initially towing the vehicle pursuant to Section 22851(b) CVC.

- 2) No lien shall attach to any personal property in or on the vehicle pursuant to Section 22851(b) CVC.
- 3) Loads for hire (i.e., cargo) are not considered personal property pursuant to Section 3051.5 CC.
- L. The operator shall keep a written record of every vehicle stored/impounded for a period longer than 12 hours pursuant to Section 10650(a) CVC.
 - 1) The record shall contain the name and address of the person storing or requesting the tow, the names of the owner and driver of the vehicle (if ascertainable), and a brief vehicle description (make, model, license plate number, and any vehicle damage) pursuant to Section 10650(b) CVC.
- M. The operator shall allow insurance companies to inspect vehicles at their storage yard at no charge and allow 45 consecutive minutes for inspection as necessary pursuant to Section 22651.07 (3)(B) CVC.

8. TOW TRUCK DRIVERS

- A. The operator shall ensure tow truck drivers responding to calls initiated by the CHP are competent and have completed a Tow Service Agreement Advisory Committee (TSAAC) approved tow truck driver training program.
 - 1) The TSAAC approved tow truck driver training course list is contained in Attachment A of this TSA.
 - 2) All drivers shall provide documentation that they have completed Traffic Incident Management training in accordance with the Federal Highway Administration.
 - 3) Documentation of completion of an approved tow truck driver training program within the past five (5) years shall be submitted along with the CHP 234F. Certificates with a three-year expiration date will be accepted five (5) years from the date of issuance.
 - a) A CHP 234F shall include all convictions of felonies and misdemeanors.
 - b) Tow truck driver training documentation shall be for the appropriate class of tow truck (e.g., a Class D driver shall have heavy duty tow truck driver's training documentation).

NOTE: A certificate for a higher level of training will be acceptable for all lower levels of tow trucks.

- c) All operators, managers, and drivers shall be provided with written notification regarding the reason(s) for denial of an operator, manager, or driver's CHP 234F within 30 days.
 - 1) If denial is based on fingerprint results, a copy of the results shall be provided to the denied applicant.
 - d) A failure to disclose any felony and/or misdemeanor convictions shall be cause for denial of a CHP 234F and is a misdemeanor pursuant to Sections 20 and 31 CVC.
- B. Completion and/or documentation of a tow truck driver's training does not indicate a sufficient level of competence.
- C. Tow truck drivers shall perform all towing and recovery operations in the safest and most expedient manner possible.
- D. Tow truck drivers shall be at least 18 years of age and shall possess the proper class of license and endorsements for the towed and towing vehicle.
- E. Uniforms: CHP rotation tow truck drivers shall wear an identifiable uniform (either shirt and pants, or coveralls) displaying the company and the driver's name while engaged in CHP rotation tow operations.
- F. Personal Appearance: CHP rotation tow truck drivers shall represent a professional image. An unacceptable representation would include: unbathed, excessively dirty/torn uniform, inappropriate visible body art, inappropriate visible body piercing, etc.
- G. Safety Garments: CHP rotation tow truck drivers **shall** wear appropriate warning garments (e.g., vests, jackets, shirts, retroreflective clothing) during daylight and hours of darkness in accordance with Code of Title 8, Section 1598 CCR. If the tow truck driver is working on a Federal-aid highway, the operator **shall** comply with the guidelines contained in the Federal Code of Regulations, Title 23, Highways, Chapter 1, Federal Highway Administration, Department of Transportation, Part 634, Worker Visibility, which requires high-visibility personal protective safety clothing to be worn that meets the Performance Class 3 requirements of the ANSI/ISEA 107-2004.

9. TOW TRUCK CLASSIFICATIONS

- A. An operator shall equip and maintain tow trucks covered under the TSA in accordance with the provisions set forth in the CVC, Title 13 of the CCR, the specifications contained in this TSA, and in a manner consistent with industry standards and practices.

- B. All recovery vehicles (wreckers) shall have an extendable/retractable recovery boom meeting the specifications contained in this TSA and the most recent electronic version of the CHP 234B, Tow Truck Inspection Guide.
- 1) Class D tow trucks used exclusively for salvage and recovery operations are not required to possess wheel lift capabilities.
 - 2) An operator who has a car carrier is exempted from the recovery, wheel lift, and boom capability requirements. However, the car carrier must be an additional unit and **shall not be used for recovery**.
 - 3) An auto-loader without an extendable/retractable boom is an additional unit and **shall not be used for recovery**.
 - a) For purposes of the TSA, recovery is defined as a vehicle which is overturned, down an embankment, or otherwise not upright on its wheels.
- C. A violation of the gross vehicle weight rating (GVWR) and/or safe loading requirements of a tow truck should be cause for immediate suspension. This includes exceeding the tow truck's GVWR, front axle weight rating, rear axle weight rating, maximum tire weight ratings, or not maintaining 50 percent of the tow truck's unladen front axle weight on the front axle when towing.

There are four (4) classes of tow trucks covered under this TSA.

- 1) **Class A - Light Duty**
 - a) An operator should maintain a minimum of one tow truck which has a manufacturer's GVWR of at least 14,000 pounds.
 - 1) After June 30, 2006, Class A 4-wheel drive tow trucks with a GVWR of less than 14,000 pounds may be listed as special equipment on the CHP 234A. These tow trucks shall be used only for recoveries requiring the use of 4-wheel drive.
- 2) **Class B - Medium Duty**
 - b) An operator should maintain a minimum of one tow truck with a GVWR of at least 33,000 pounds. The truck shall be equipped with air brakes and a tractor protection valve or device, and be capable of providing and maintaining continuous air to the towed vehicle.

3) **Class C - Heavy Duty**

- a) An operator should maintain at least one three-axle tow truck with a GVWR of at least 52,000 pounds. The truck shall be equipped with air brakes and must be capable of providing and maintaining continuous air to the towed vehicle.

4) **Class D - Super Heavy Duty**

- a) An operator should maintain at least one three-axle tow truck with a GVWR of at least 54,000 pounds. The truck shall be equipped with air brakes and must be capable of providing and maintaining continuous air to the towed vehicle.
 - 1) If this class of tow truck is used exclusively for salvage and recovery operations, there is no requirement for providing and maintaining continuous air to the towed vehicle.

NOTE: For purposes of the TSA, a “low-boy trailer” is considered special equipment.

10. GENERAL EQUIPMENT SPECIFICATIONS

- A. Tow Truck and Car Carrier Classifications: Tow truck and car carrier classifications are based on the truck chassis GVWR and the classification system used by the American Trucking Association and truck manufacturers. Tow truck and car carrier classifications shall meet all applicable state and/or federal standards.
- B. Identification Labels: Each piece of towing equipment shall have a manufacturer’s label or identification tag permanently affixed to the equipment in a prominent location to identify the manufacturer, serial number, model, and rated capacity.
- C. Recovery Equipment Rating: The basic performance rating of the recovery equipment is the weight the equipment can lift in a winching mode, when the boom is static at a 30-degree elevation with the load lines vertical and the lifting cables sharing the load equally, measured with a live load (weight or load cell).
 - 1) The structural design of the recovery equipment must have a higher load capacity than the performance ratings.
 - 2) Winches shall conform to, or exceed, the specifications set forth by the Recovery Equipment Rating, Society of Automotive Engineers (SAE) Handbook, SAE J706.

- 3) All ratings for wire rope and chain assemblies are for the undamaged assembly condition. All wire rope and chain assemblies should be the same type, construction, and rating as specified by the original equipment manufacturer.
- D. Control/Safety Labels: All controls shall be clearly marked to indicate proper operation, as well as any special warnings or cautions.

11. INSPECTIONS

- A. The CHP shall provide one (1) annual inspection of all tow trucks utilized on CHP rotation calls, at no charge to the operator, in order to qualify for participation in the term of the TSA.
 - 1) The CHP may conduct additional inspections without notice during normal business hours.
- B. The operator shall not dispatch any tow truck which has not been inspected and approved by the CHP.
 - 1) The CHP shall inspect all newly acquired tow trucks within thirty (30) days of a request from an operator prior to use in the Rotation Tow Program.
- C. The annual inspection shall consist of the following:
 - 1) A tow truck inspection (CHP 234B) conducted by a commercial enforcement officer or Area tow officer.
 - 2) A Level One inspection (CHP 407F, Driver/Vehicle Examination Report) conducted by a commercial enforcement officer or Area tow officer with the assistance of a motor carrier specialist or commercial vehicle inspection specialist. Tow trucks with a Commercial Vehicle Safety Alliance (CVSA) decal and copy of the associated CHP 407F from a past inspection within the same quarter are deemed to have completed the Level One inspection, and need only be re-inspected upon request, or if conditions of the truck warrant inspection at the time the tow truck inspection (CHP 234B) is being conducted.
 - 3) Tow trucks arriving for inspection shall be properly equipped as outlined on the CHP 234B, and ready for immediate response for service.
 - a) Operators or tow truck drivers found exchanging equipment with other tow truck drivers during inspections shall be subject to disciplinary actions.

- D. Upon the successful completion of a Level One inspection, if conducted, a CVSA decal shall be issued, regardless of the tow truck inspection (CHP 234B) results.
- E. If two (2) or more CVC requirements on the CHP 234B, Page one, receive a failing mark, the inspected truck has failed the initial annual inspection and shall count against the 50 percent failure rate. An “Out-of-Service” violation on a CHP 407F shall count as a failure of the initial annual inspection.
 - 1) Other than the two (2) or more CVC requirements, a tow truck may fail based on additional failed items outlined on the CHP 234B, within reason.
- F. If a tow operator passes the required annual tow truck inspection with more than 50 percent of their tow trucks, the operator’s initial annual inspection requirement shall be deemed satisfied for the purposes of their application. Otherwise, the operator’s application shall be denied, and the operator may reapply during the next open enrollment period.
 - 1) The operator whose trucks have successfully passed the initial annual inspection, by more than 50 percent, but still have some tow trucks which failed, shall be allowed one re-inspection for those failed tow trucks.
- G. The intent of the inspections is to ensure operators are involved in an ongoing safety maintenance program for their tow trucks. The annual inspection is not intended to find out what needs to be repaired/replaced on an operator’s tow truck. A tow truck responding to a CHP call shall be properly equipped and operating in a safe condition.
- H. Tow truck inspections (CHP 234B) shall be inspected by the Area for which they are designated. If a tow truck fails its initial inspection for its designated Area, it **shall not** be sent to another Area and re-inspected for use in another Area. (An exception would be rural areas, i.e., resident posts that must utilize an “out-of-area” operator.)
- I. The operator shall be provided with written notification of the failure/denial of any tow truck or equipment and allowed a hearing upon request to the Area office pursuant to Section 2424(d) CVC and Element 22. Hearing/Appeal.
- J. All of the equipment listed on an operator’s CHP 234A shall be accounted for during the annual inspection.
- K. Tow trucks shall comply with California Air Resources Board requirements. Tow trucks not in compliance shall be cause for disciplinary action. Operators shall provide a current copy of their California Air Resources Board Certificate of Reported Compliance Truck and Bus Regulation during open enrollment.

L. Special Equipment

- 1) To properly and safely tow, service, or recover the wide variety of vehicles being operated on the highway, a towing procedure may require the use of special equipment specifically designed for the purpose. This special equipment shall be listed on the operator's CHP 234A and should be used when appropriate.
- 2) All special equipment listed on the CHP 234A shall be accounted for during the annual inspection or when additional equipment is added.
- 3) Any special equipment which requires certification/inspection of the equipment and/or operator (e.g., cranes, forklifts), the applicable and current certification/inspection document(s) shall be provided to the Area office at the time of enrollment or as equipment is added by an operator.

12. RATES

- A. The tow operator's prior year's approved towing and storage rates shall be the baseline for the operator's reasonable rates. Fees charged for calls originating from the CHP shall not be in excess of those rates charged for similar services provided in response to requests initiated by a public agency or private person and approved by the CHP.
 - 1) Reasonableness shall be determined as compared to other similar service rates and with consideration of increased operating costs beyond the control of the operator (i.e., insurance rate increases without cause, property lease/tax increases, etc.)
- B. Based upon the average of the proposed fees submitted, the Area commander shall determine the reasonableness and validity of all submitted rates (i.e., storage, labor, special equipment, etc.).
- C. An operator who submits a rate, which is determined by the Area commander to be unreasonable and/or invalid, shall be allowed to re-submit rates only once. The operator may choose to appeal the denial prior to resubmitting the rates.
 - 1) If the re-submitted rate is unreasonable and/or invalid, the operator shall be disqualified from participating in that class for which the rate was unacceptable, or charge for services in which the rate was submitted, until the next open enrollment period.
 - 2) An operator shall be provided with written notification regarding the disqualification within 30 days.

- D. Rate requirements represent the maximum an operator may charge on a CHP call per hour.
 - 1) An operator is not precluded from charging less when deemed appropriate by the operator.
 - 2) These requirements shall not be construed as requiring a charge if an operator would not normally charge for such service.
- E. Any operator who charges rates above the submitted rates for a CHP call shall be subject to disciplinary action.
- F. In an effort to remain competitive in the open market, the operator may lower retail rates at any time by notifying the CHP.
 - 1) When an operator lowers the retail rate, that retail rate becomes the operator's new approved rate.
- G. A valid bank credit card or cash payment shall be accepted for payment of towing and/or storage pursuant to Sections 22651.1 and 22651.07(c)(5) CVC.
- H. The approved schedule of rates charged by the operator shall be available in the tow truck and shall be presented upon demand to the vehicle owner/agent for whom the tow service was provided or any CHP officer at the scene.
- I. There shall be no additional charge for moving (i.e., driving, towing, pushing, utilizing a forklift) a stored/impounded vehicle from inside an operator's storage yard to the front of the business establishment.
- J. Operators may only raise rates during the enrollment period or upon approval after a midterm review has been initiated by the CHP.
- K. Tow Rates
 - 1) The rate for towing should be computed from portal to portal when a vehicle is towed to the operator's storage yard.
 - a) Portal to portal is defined as follows: Time shall start from either the point of dispatch or upon departure from the place of business, whichever is closer to the location of the call, and shall end at the estimated time of return to the place of business or completion of the call, if another call is pending, whichever is shorter.
 - 1. The time expended for towing a vehicle back to the operator's storage yard should be charged at a rate not to exceed the hourly rate.

- b) Time expended in excess of the hourly rate shall be calculated in no more than one-minute increments.
- c) There shall be no additional charges for mileage, etc.
 - 1. A clear, itemized, and detailed explanation of any additional service that caused the time to exceed one hour shall be documented on the invoice pursuant to Section 22651.07(e)(7) CVC.
 - 2. The operator may submit two retail hourly tow rates to the Area: one rate for calls originating during normal business hours; and one rate for calls originating after business hours, not to exceed 10 percent of the daily rate.
 - 3. The operator shall base charges on the class of vehicle being towed or serviced, regardless of the class of tow truck used. When vehicle recovery operations require a larger class tow truck, the higher rate may be charged during the recovery process.

L. Service Calls

- 1) The operator may charge up to a 30-minute minimum per call for any service which is performed when the vehicle operator or agent is present and the vehicle is not stored at the direction of an officer or returned to the operator's storage yard.
- 2) Rates for a service call (out-of-gas, lockouts, tire changes, etc.) should be from portal to end of service.
- 3) Charges, in excess of a 30-minute service call, may be charged in no more than one-minute increments.
 - a) A clear, itemized, and detailed explanation of any additional service that caused the time to exceed one hour shall be documented on the invoice pursuant to Section 22651.07(e)(7) CVC.
 - b) If the service cannot be performed safely at the vehicle's location, the vehicle may be moved to safe location to perform the service at the service call rate.
- 4) Fuel charges for gasoline dispensed on out-of-gas service calls shall be at the prevailing market rate.

- a) In lieu of dispensing gasoline, the tow driver may transport the vehicle and its driver to a safe location or gas station at the service call rate.

M. Fees for Special Operations

- 1) Fees shall be reasonable and consistent with industry standards for similar operations.
- 2) Operators involved in the two (2) tow truck Salvage and Recovery List may charge a minimum two-hour rate.
 - a) Time expended in excess of the two-hour minimum shall be at the hourly rate in no more than one-minute increments.
 - b) If a second hour is charged, the second hour shall meet the invoicing requirements pursuant to Section 22651.07(e) (7) CVC.
 - c) If it is determined that only one truck is required, the second truck may claim portal to portal and time expended on scene until determination was made that it was not required.
- 3) Hourly rates shall be established for the following:
 - a) Auxiliary and contracted equipment (e.g., airbags, converter gear/dolly, additional trailers, forklift, front loaders, low-boy trailers, rotators).
- 4) Operators shall submit a markup rate (percentage of the cost to the operator) for rental equipment and labor not otherwise listed on the CHP 234A.
- 5) If an operator performs a service for which a required rate was not submitted and approved by the Area, the operator shall only be entitled to charge for the actual cost of that service plus a markup rate not to exceed ten (10) percent.

N. Storage Fees

- 1) A vehicle stored/impounded 24 hours or less shall be charged no more than one-day storage pursuant to Section 3068.1(a) CC.
 - a) If the vehicle is released from storage after 24 hours has lapsed, charges may be allowed on a full, calendar-day basis for each day of storage, or part thereof pursuant to Section 3068.1(a) CC.

- 1) Storage of vehicles in combination should be charged a per vehicle rate except for dollies, con-gear, vehicle on a car carrier/trailer, etc.
 - a. Dollies and con-gear, not in combination, may be charged a storage rate not to exceed Class A storage fees.
- 2) Inside storage fees shall only be charged when inside storage is requested by the CHP, registered owner, legal owner, insurance company, or when the inside storage can be justified by the tow operator.
- 3) The operator shall display in plain view at all cashier's stations, a sign as described in Section 3070(d)(2)(E) CC, disclosing all storage fees and charges in force, including the maximum storage rate.

O. Lien Fees

- 1) If a vehicle has been determined to have a value exceeding four thousand dollars (\$4,000), pursuant to Section 22670 CVC, the lien shall be satisfied pursuant to Section 3071 CC (Section 3074 CC).
- 2) The lienholder may charge a fee for lien sale preparations not to exceed seventy dollars (\$70), for a vehicle valued at four thousand dollars (\$4,000) or less, and not to exceed one hundred dollars (\$100) for a vehicle valued at greater than four thousand dollars (\$4,000) (Section 3074 CC).
 - a) These charges may commence when the lienholder requests the names and addresses of all persons who have an interest in the vehicle from the Department of Motor Vehicles (Section 3074 CC).
 - b) Not more than 50 percent of the allowable fee may be charged until the lien sale notifications are mailed to all interested parties and the lienholder or registration service agent has possession of the required lien processing documents (Section 3074 CC).
 - c) This charge shall not be made in the case of any vehicle redeemed prior to 72 hours from the initial storage (Section 3074 CC).

13. COLLUSION

- A. An operator and/or applicant shall not conspire, attempt to conspire, or commit any other act of collusion with any other operator or applicant for the purpose of secretly, or otherwise, establishing an understanding regarding rates or conditions to the TSA that would bring about any unfair condition which could be prejudicial to the CHP, the motoring public, or other operators.
- B. A finding by the CHP that any operator or applicant has been involved in collusion shall be cause for denial of an application or shall nullify the TSA. Any operator or applicant found to be involved in any act, or attempted act of collusion, shall be disqualified from participation on all CHP rotation tow lists for the current term, plus three years.

14. INSURANCE

- A. The operator shall maintain the following minimum levels of insurance from an insurance carrier admitted in California, or admitted in the state in which the operator's business is located, and is authorized to do business in California:
 - 1) Minimum Level of Financial Responsibility (as required by Section 34631.5 CVC) – Bodily injury and property damage with a combined single limit of not less than \$750,000 for Class A tow trucks. The combined limits for Classes B, C, and D shall not be less than \$1,000,000. These minimum standards are to include non-owned and hired auto coverage.
 - 2) Uninsured Motorist – Legal minimum, combined single limit.
 - 3) On-Hook Coverage/Cargo – Insuring the vehicle in tow with limits based on the size of the tow truck.
 - a) Class A tow truck.....\$50,000.
 - b) Class B tow truck.....\$100,000.
 - c) Class C tow truck.....\$200,000.
 - d) Class D tow truck.....\$250,000.
 - 4) Garage Liability – Includes premises and operations. Coverage for bodily injury and property damage with a combined single limit of not less than \$500,000.

- 5) Garage Keeper's Liability – Shall be the same minimum as on-hook coverage for vehicles in the care, custody, and control of the operator in the storage yard.
- B. An operator shall provide proof of insurance for all storage facilities listed on the CHP 234A.
- C. Proof of insurance shall be in the form of a certificate of insurance. The operator's insurance policy shall provide for not less than 30 days written notice to the CHP in the event the insurance policy is canceled or is due to expire.
- D. Failure of the operator to maintain the minimum insurance requirements set forth in the TSA shall immediately nullify the TSA, remove the operator from the rotation tow list, and be subject to disciplinary action by the Area commander.

15. ANNUAL OPEN ENROLLMENT MEETINGS

- A. The Area commander shall conduct one (1) annual open enrollment meeting to discuss the forthcoming TSA term and issues concerning the rotation tow program.
 - 1) The CHP shall provide a 30-day written notice of the meeting to operators currently approved for the rotation tow program and to those new operators expressing interest.
 - a) The written notice shall be sent via certified mail, hand delivered, or electronically delivered with confirmation within 24 hours, or next business day.
 - 2) If an operator or operator's designee fails to attend the annual open enrollment meeting, the operator's application for the forthcoming TSA term shall be denied.
 - a) The operator shall be provided with written notification of the denial and may reapply during the next open enrollment.
- B. Any subsequent meetings, outside of the open enrollment meeting, shall be mandatory for the operator or operator's designee.
 - 1) The CHP shall give a 30-day written notice, if practical, of the meeting.
 - 2) Failure to attend a meeting shall result in disciplinary action.

16. DEMEANOR AND CONDUCT

- A. While involved in CHP rotation tow operations or related business, the tow operator and/or employee(s) shall refrain from any acts of misconduct including, but not limited to, any of the following:
 - 1) Rude or discourteous behavior.
 - 2) Lack of service, selective service, or refusal to provide service which the operator is capable of performing.
 - 3) Any act of sexual harassment or sexual impropriety.
 - 4) Unsafe driving practices.
 - 5) Exhibiting any objective symptoms of alcohol or drug use.
 - a) The operator/tow truck driver shall submit to a preliminary alcohol screening test upon demand of the CHP if an odor of an alcoholic beverage is detected upon the person.
 - 6) Any acts of discrimination based on a protected group.

17. TOW COMPLAINTS

- A. All CHP related tow service complaints received or initiated by the CHP against a tow operator or tow operator's employee shall be accepted and investigated in a fair and impartial manner.
 - 1) The tow operator and their employees shall cooperate with CHP investigators during the course of an investigation.
- B. Alleged violations of the TSA shall be investigated by the CHP Area covered by the TSA.
- C. Should the filing of criminal charges be a possibility, the CHP shall conduct the investigation to conclusion or assist the lead investigating agency and request prosecution, if warranted.
- D. Complaints for violations of the law not normally investigated by CHP shall be referred to the agency with investigation jurisdiction.
- E. Completed complaint investigations shall be forwarded to the appropriate CHP Division for review and approval.

- F. The operator shall be notified in writing of the findings within 30 days of the conclusion of any investigation.

18. COMPLIANCE WITH LAW

- A. The tow operator and employees shall, at all times, comply with federal, state, and local laws and ordinances.
- B. Any conviction of the operator or employee involving a stolen or embezzled vehicle, fraud related to the towing business, stolen or embezzled property, a crime of violence, a sexual offense, a drug-related offense, felony driving while under the influence of alcohol and/or drugs, misdemeanor driving while under the influence of alcohol and/or drugs, or acts of moral turpitude should be cause for suspension or removal of an operator/employee, denial of an operator/employee's application, or termination of the TSA.
- C. California Highway Patrol personnel, as well as tow operators and their employees, shall not be offered nor accept gratuities pursuant to Section 12110(a) CVC.
- D. No tow operator or their employees shall accept any gratuities from a repair shop for the delivery of a vehicle, not owned by the repair shop or tow company, for the purpose of storage or repair pursuant to Section 12110(c) CVC.
- E. An operator shall satisfy a court order mandating reimbursement to the vehicle or property owner for the damage or loss which occurred while the vehicle was in the operator's custody.
- F. An operator or employee arrested/charged for a violation involving any of the above crimes should be suspended until the case is adjudicated.

19. COMPLIANCE WITH TOW SERVICE AGREEMENT

- A. The operator agrees, as a condition of inclusion in the rotation tow program, to comply with the terms and conditions of the TSA. Furthermore, the operator or operator's agent agrees that failure to comply with these terms and conditions shall be cause for disciplinary action (i.e., written reprimand, suspension, termination, or denial of an application).
- B. A violation of the equipment requirements related to safety shall be cause for immediate suspension.
 - 1) The suspension shall remain in effect until the suspension period is completed and the CHP has inspected the equipment and concluded the operator is in compliance.

- C. A violation of the GVWR and/or safe loading requirements of a tow truck may be cause for disciplinary action.
 - 1) This includes exceeding the tow truck's GVWR, front axle weight rating, rear axle weight rating, maximum tire weight ratings, or not maintaining 50 percent of the tow truck's unladen front axle weight on the front axle when in tow.
- D. A violation of intentionally overcharging or a pattern of overcharging shall be cause for suspension.
 - 1) The suspension shall remain in effect until the suspension period is completed and proof of reimbursement to the aggrieved customer has been provided to the CHP.
- E. Any unsatisfactory evaluation rating issued by the Motor Carrier Safety Unit (MCSU) shall be cause for suspension.
 - 1) The suspension shall remain in effect until proof of a satisfactory compliance rating from the MCSU has been provided to the Area commander.
- F. Allowing an incompetent tow truck driver to respond to a CHP call shall be cause for disciplinary action of the operator.
- G. An operator responding a tow truck driver to a CHP call (i.e., the drivers dispatched by the tow operator's business) who has not been approved by the Area office shall be cause for disciplinary action of the operator.
- H. Tow operators shall not record (i.e., videotape or photograph) a scene unless it is for official use by the tow company for business related reasons.
 - 1) The on-scene investigating officer or incident commander shall make the determination when a tow operator may record a scene for tow related business reasons.
 - 2) In the event a tow operator is determined to be in violation of this provision, they will immediately surrender any such recording device to an officer of the CHP.

20. DISCIPLINARY ACTION

- A. The Area commander shall take disciplinary action against an operator for violations investigated and sustained. Furthermore, the operator agrees that failure by the operator, or their agent, to comply with these terms and conditions shall be cause for disciplinary action (i.e., written reprimand, suspension, denial

of an application, or termination from the CHP Rotation Tow Program–Section 2424[d] CVC).

- 1) The Area commander shall retain discretion regarding the length of any suspension imposed pursuant to the terms and conditions of this TSA.
- B. Nothing shall preclude the CHP from taking the appropriate enforcement or administrative action for any violations of law.
- C. Nothing herein shall be deemed to prohibit the CHP from immediately suspending, terminating, or denying an application of any operator or employee for any of the following:
- 1) Whose conduct, in the opinion of the Area commander, is deemed to be a danger to the motoring public (e.g., registered sex offender, acts of violence, fraud).
 - 2) A violation of equipment requirements, related to safety.
 - 3) Who has engaged in conduct constituting a flagrant violation of the TSA.
- D. Records of violations shall be retained by the CHP for 36 months, plus the current TSA term.
- E. Disciplinary action taken against an operator by an Area commander should be honored by all CHP Areas being serviced by the operator in question.

21. TERMS OF DISCIPLINARY ACTION

- A. Violations of the terms and conditions of the TSA may be cause for disciplinary action in the following manner:
- 1) First violation within a 12-month period – letter of written reprimand.
 - 2) Second violation within a 12-month period – one to 30-day suspension.
 - 3) Third violation within a 12-month period – 60 to 90-day suspension.
 - 4) Fourth violation within a 12-month period – termination of the TSA.

NOTE: Nothing may preclude an Area commander from imposing a suspension for a first violation pursuant to Element 20, Disciplinary Action, Item C.

- B. Violations of the terms and conditions of the TSA which warrant suspension for the first violation are categorized as major violations. Any subsequent or continuing major violation may be cause for termination.
 - 1) In lieu of termination, the CHP may impose additional suspensions for longer periods, if deemed appropriate.
 - 2) When considering disciplinary action for a major violation of the TSA, an Area commander should take into consideration all violations which have occurred within 36 months prior to the date of the current violation.
- C. A suspended or terminated operator, and/or the tow business owner at the time of the suspension or termination, shall not be eligible for a rotation listing for the duration of the suspension or termination.
 - 1) This provision applies to the operator working in any capacity within any tow business or operating any tow business, even if operated under new ownership.
- D. If the operator is serving a suspension, the operator shall be required to have complied with all terms and conditions of the current TSA at the time of reinstatement.
- E. An operator shall comply with all the terms of the suspension (i.e., restitution to victims, court orders) prior to reinstatement or reapplication.

22. HEARING/APPEAL

- A. A hearing shall be granted, upon an operator's request, within ten (10) calendar days, for any of the following circumstances:
 - 1) Operator is served with disciplinary action.
 - 2) Denial of an operator's rotation tow application (CHP 234A) or an operator/driver application (CHP 234F).
- B. The Area commander shall provide written notification to the operator requesting a hearing indicating acknowledgement of the hearing request and a hearing date assigned.
- C. A hearing shall be held as soon as practicable.
- D. The hearing shall be conducted by the Area commander or designee, and the operator shall be entitled to present all relevant facts and circumstances in support of the operator's position.

- 1) The operator shall be entitled to present testimony of at least one qualified person (i.e., representation by counsel or attorney).
- E. The operator shall be notified in writing of the Area commander's decision(s) within ten (10) business days of the date of completion of the hearing.
- F. Upon receipt of the Area commander's written hearing decision, if the operator is dissatisfied with the decision(s), the operator may appeal by submitting a written request to the CHP Division commander within ten (10) business days.
- G. The appeal shall be conducted by the Division commander or designee and shall be held as soon as practicable.
- H. The Division commander shall provide written notification to the operator requesting an appeal indicating acknowledgement of the appeal request and an appeal date assigned.
 - 1) The operator shall have the same rights as afforded at the Area level.
 - 2) The operator shall be notified in writing of the Division commander's decision(s) within ten (10) business days of the appeal.
 - 3) The Division commander's decision(s) shall be subject to no further administrative appeal.
- I. Disciplinary action shall not take effect until the hearing and appeal process has been exhausted, with the exception of operators whose conduct is deemed to be a danger to the motoring public or who continue to violate the terms and conditions of this TSA.
- J. If an operator fails to request a hearing or appeal within the specified time or fails to appear at a scheduled hearing or appeal, the action taken by the CHP Area commander shall be final and the disciplinary action shall take effect upon written notification to the operator by the Area commander.

23. MIDTERM REVIEW

- A. The purpose of this section is to provide a process for a midterm review of the terms and conditions of the TSA in the event there is a legitimate and substantial change in conditions or law affecting the majority of the operators within an Area or the CHP.
- B. A midterm review, when granted by the Commissioner or designee, will not automatically authorize a change in the terms and conditions of the TSA.

- 1) If a midterm review is announced by the Commissioner or designee, it is the responsibility of the Department to conduct a review of the conditions which initially caused the request to be communicated and to determine if the change is justified.

24. ADVERTISING

- A. The operator shall not display any sign or engage in any advertisement indicating an official or unofficial connection with the CHP or the Department of Motor Vehicles.

25. CANCELLATION

- A. This TSA may be canceled by an operator by providing written notice to the Department.

26. OPERATOR APPROVAL

I certify that all drivers operating under this Tow Service Agreement (TSA) are qualified and competent. I further certify that I have read and understand this TSA and agree to abide by all the provisions. I further agree to indemnify, defend, and save harmless the state, its officers, agents, and employees from any and all claims and losses accruing or resulting to the operator in connection with the performance of the TSA, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the operator in the performance of this TSA. The operator, and the agents and employees of the operator, in the performance of this TSA, shall act in an independent capacity and not as officers or employees or agents of the State of California. The terms of this TSA (2023-2024 TSA) will become effective:

_____ and end _____
Date Date

Operator Approval		
Signature	Printed Name	
Company	Title	Date
Business Address		Phone Number
Motor Carrier Permit Number		

ATTACHMENT A

TOW SERVICE AGREEMENT ADVISORY COMMITTEE APPROVED TOW TRUCK DRIVER TRAINING COURSES

Automobile Club of Southern California
3333 Fairview Road
Costa Mesa, CA 92626
Contact: Rob Wade at (714) 885-1333
E-mail: wade.robert@aaa-calif.com

AAA Mountain West Group – MWG
1277 Treat Blvd #1000
Walnut Creek, CA 94597
Contact: Joey Schiller at (925) 963-3034
E-mail: joey.schiller@norcal.aaa.com

California Tow Truck Association/ ERSCA (Emergency Road Service Coalition of America)
643 West Stadium Lane
Sacramento, CA 95834
Contact: (916) 617-2882
E-mail: ctta@ctta.com Online: <http://ctta.com/>

International Institute of Towing & Recovery (Instructor Led/Self Study Course)
301 Edlee Avenue
Palo Alto, CA 94306
Contact: Peter Fuerst at (415) 859-1889
E-mail: pfuerst1@comcast.net Online: <https://www.iitronline.org/>

Randall Resch Training
28385 Vista Del Valle
Hemet, CA 92544
Telephone: (619) 807-3177
E-mail: reschran@gmail.com

Tow Pros, LLC
4615 East Brundage Lane
Bakersfield, CA 93307
Contact: Joe Wallace at (661) 979-0747
E-mail: trainer@towpros.com Online: <http://www.towpros.com/>

WreckMaster Incorporated
5550 Genesee Street
Lancaster, NY 14086
Telephone: (800) 267-2266
E-mail: www.WreckMaster.com Online: <https://www.wreckmaster.com/w/us/>

GTI (Gerard Training Institute)
P.O. Box 1321
Williams, CA 95987-1321
(530) 505-1789
E-mail: mailto:gerard.training.inst@gmail.com Online: <https://www.gerardtraining.com>

**STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
HOLLISTER GILROY AREA**

Tow Service Agreement – Application Instructions CHP 234 (4-25) 725

ADDENDA

The California Highway Patrol Tow Service Agreement (TSA) allows the Area Commander discretion in a variety of areas. Below is a list of conditions and guidelines that will be applicable to the Hollister- Gilroy Area and will be strictly enforced.

Element 1 Sections A & B

Within each tow district, the Area Commander shall determine the maximum response times, enrollment eligibility, reasonable rates, minimum number of trucks **(3)** and applicable waiver period.

Hollister - Gilroy Area Guidelines

Maximum response time: Class A & B tow trucks is 30 minutes for daytime response from 0600 – 1800 hours. 30 minutes for night time responses from 1800 to 0600 hours. Class C & D tow trucks is 30 minutes for daytime responses from 0600 – 1800 hours. 40 minutes for night time response from 1800 to 0600 hours.

Enrollment period is from May 10th to June 10th 2023.

Reasonable Rates: To be determined by participating companies.

Minimum number of trucks: Each tow company shall have three (3) trucks total. One truck shall be a car carrier, one truck shall be capable of vehicle recovery operations (wrecker) and not a car carrier. All trucks shall be available for 24 hour 7 day a week responses. In the event that an operator falls below the required number of trucks or drivers, for more than seven calendar days due to mechanical failure, staffing, or collision repair, the operator shall notify the Area Tow Officer or Area Commander, within 24 hours and acknowledged by the area before continuing operations by verbal and written confirmation.

For inclusion in additional tow districts, the company must have three (3) additional tow trucks, three (3) additional tow drivers, an approved manager, a **staffed office** and storage yard located in the tow district requested.

STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
HOLLISTER GILROY AREA

Tow Service Agreement – Application Instructions CHP 234 (4-25) 725

Element 1 Section C

An operator shall have a business office and storage facility yard located within the tow district(s) they serve, unless approved by the Area Commander.

Hollister-Gilroy Area Guidelines

Tow district boundaries are geographically located in a fashion to meet the needs and provide efficient service to the motoring public. If a tow district has insufficient tow companies to provide service for the motoring public, the C.H.P. will assign additional tow companies deemed necessary to service the tow district.

Element 1 Section D

An operator shall provide service in only one Area command unless waived by an addendum from both adjacent Area commanders and with the Division commander's concurrence.

Hollister- Gilroy Area Guidelines

The following companies have been approved to provide service in the San Jose C.H.P. Area office and to the Hollister-Gilroy Area.

City Towing, Great America Towing, San Jose Towing, Silva Bro Towing.

Element 2 Section F

A Salvage Recovery Rotation Tow list shall be established for each Area office when there are tow operators that meet the Salvage and Recovery Rotation Tow list qualifications established in item G.

Hollister – Gilroy Area Guidelines

The Hollister-Gilroy Area will be utilizing a Salvage and Recovery Rotation Tow list. This list shall be utilized whenever a 'Large Commercial Truck' is overturned and/or down an embankment or field and not on its wheels. The Salvage and Recovery Tow List will be utilized for the entire Hollister-Gilroy Area.

Element 6 Section G

The Area Commander may establish a local policy which allows an operator to dispatch more than one tow truck to a multi-vehicle collision in response to a C.H.P. rotation call.

**STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
HOLLISTER GILROY AREA**

Tow Service Agreement – Application Instructions CHP 234 (4-25) 725

Hollister – Gilroy Area Guidelines

An operator may dispatch more than one tow truck to a multi-vehicle collision, But there shall be no additional charge, including response time, for any extra personnel or equipment that is not necessary to perform the required service.

In no event, shall an operator call another company for assistance. Calling another company for assistance shall only be done with the incident commander's approval on-scene and only through C.H.P. Dispatch.

CHP Hollister – Gilroy Area – TSA Addenda

The terms of this addendum coincide with the terms of the 2023 - 2024 California Highway Patrol Tow Service Agreement and are effective from July 1, 2023 through June 30, 2024.

Captain P. Cooper #14548
Hollister – Gilroy Area Commander

**STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATOL
HOLLISTER GILROY AREA**

Tow Service Agreement – Application Instructions CHP 234 (4-25) 725

CHP Hollister – Gilroy Area – TSA Addenda

Operator Approval

I certify that I have read and understand this Tow Service Agreement Addenda and agree to abide by all the provisions. I further agree to indemnify, defend and save harmless to the State of California, its officers, agents and employees from any and all claims and loss accruing or resulting to the operator in connection with the performance of this agreement, and from any and all claims losses accruing or resulting to any person, firm, or corporation who may be injured or have property damaged by the operator in the performance of the agreement, shall act in an independent capacity and not as officers , employees or agents of the State of California. The terms of this Addendum coincide with the terms of the TSA (2023-2024 T.S.A.) and are effective from: July 1, 2023 to June 30, 2024.

Operator Approval

Signature:

Printed Name:

Company Name:

Title:

Date:

Business Address:

Business Phone/Fax/Email

Motor Carrier Permit

RESOLUTION NO. 2024-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
GILROY ESTABLISHING TOW RATES PURSUANT TO
SECTION 24A.8 – REGULATIONS OF THE GILROY CITY
CODE CHAPTER 24A – TOWING SERVICES**

WHEREAS, on August 17, 1981, the City Council of the City of Gilroy adopted an ordinance (Ordinance No. 81-25) establishing Chapter 24A of the Gilroy City Code regulating towing services; and

WHEREAS, the City of Gilroy's Police Department causes to tow and or impound vehicles pursuant to authority under California Vehicle Code; and

WHEREAS, the City of Gilroy's Police Department is tasked with establishing and utilizing the rotational towing list of service providers for City-initiated tows or impounds; and

WHEREAS, section 24A.8 of the Gilroy City Code authorizes the City Council to establish towing service rates through adoption of this resolution; and

WHEREAS, the City of Gilroy intends to establish the maximum towing service rates that may be levied for the City of Gilroy's Police Department-initiated tow services based on the Hollister-Gilroy Area tow rates set by the California Highway Patrol (CHP), which manages one of the largest government entity-initiated tow programs in the state, and its rates are viewed as representative and reliable benchmarks; and

WHEREAS, the City of Gilroy intends to review and adjust as necessary the established maximum towing service rates every year based on the CHP tow rates for the Hollister – Gilroy Area, as the same may be amended from time to time; and

WHEREAS, the City of Gilroy's Police Department recommends establishing additional rates for abated or abandoned junk vehicles that require dismantling; and

WHEREAS, the City of Gilroy intends to adjust the rates for abated and abandoned junk vehicles based on the Consumer Price Index (CPI) for the San Francisco Area.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Gilroy:

1. Approves the maximum towing service rates established in "Exhibit A".
2. Approves the maximum rates for abated and abandoned junk vehicles that require dismantling as established in "Exhibit B".
3. Authorizes the City's Finance Director, or designee, to review and adjust as necessary the established maximum towing service rates (Exhibit A) every year in July based on the Hollister-Gilroy Area tow rates set by the California Highway Patrol (CHP), as the same may be amended from time to time.

4. Authorizes the City's Finance Director, or designee, to automatically adjust the rates established for abated or abandoned junk vehicles (Exhibit B) annually in July based on the change in the Consumer Price Index (CPI) for San Francisco (San Francisco – Oakland – San Jose) April Edition or, if said index ceases to be published, according to a comparable measure of inflation as determined by the City's Finance Director, and rounded to the nearest dollar.

BE IT FURTHER RESOLVED that the established rates in Exhibit A and Exhibit B shall be effective January 23, 2024.

PASSED AND ADOPTED on this 22nd day of January 2024 by the following roll call vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

APPROVED:

Marie Blankley, Mayor

ATTEST:

Thai Nam Pham, City Clerk

Exhibit A*

Description	Maximum Rate
Class A - Light Duty Vehicles With a Gross Vehicle Weight Rating (GVWR) of at least 14,000 lbs.	\$325.00/hour
Class B - Medium Duty Vehicles With a GVWR of at least 33,000 lbs.	\$425.00/hour
Class C – Heavy Duty Vehicles With a GVWR of at least 52,000 lbs.	\$550.00/hour
Class D – Super Heavy-Duty Vehicles With a GVWR of at least 54,000 lbs.	\$650.00/hour
Inside Storage	\$170.00/per day
Outside Storage	\$140.00/ per day
Labor	\$150.00/hour

***The maximum towing service rates are established based on the maximum tow rates for the Hollister-Gilroy Area approved by the California Highway Patrol (CHP) and shall be reviewed and adjusted as necessary in July of each year.**

Exhibit B**

Description	Maximum Rate
Abated or Abandoned Junk Passenger Vehicle (Includes Towing, cleaning, landfill, and dismantling services)	\$900.00 per vehicle
Abated or Abandoned Junk Recreation Vehicle (Includes Towing, cleaning, landfill, and dismantling services)	\$1,500.00 per vehicle

****The abated and abandoned junk vehicle rates will be automatically adjusted annually in July based on the Consumer Price Index (CPI) change for the San Francisco Area, April Edition.**

STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
ROTATION TOW LISTING APPLICATION
CHP 234A (Rev. 3-15) OPI 061

TYPE OR PRINT CLEARLY

CHP AREA

CHP AREA OF APPLICATION Gilroy	CHP AREA NUMBER
-----------------------------------	-----------------

BUSINESS

BUSINESS NAME All Pro Towing & Recovery, LLC	CHP AREA NAME Gilroy/Hollister
BUSINESS ADDRESS 5717A Obata Way, Gilroy, CA 95020	DAY PHONE NUMBER (INCLUDE AREA CODE) 408-842-9090
BUSINESS MAILING ADDRESS IF DIFFERENT THAN ABOVE	NIGHT PHONE NUMBER (INCLUDE AREA CODE) 408-842-9090

NUMBER OF YEARS IN TOWING BUSINESS 32	AUTOMOBILE CLUB AFFILIATE(S)
--	------------------------------

HAVE YOU OR ANYONE FINANCIALLY INVOLVED WITH YOUR COMPANY EVER BEEN CONVICTED OF ANY CRIME INVOLVING STOLEN OR EMBEZZLED VEHICLES, FRAUD RELATED TO THE TOWING BUSINESS, STOLEN OR EMBEZZLED PROPERTY, CRIMES OF VIOLENCE, SEXUAL CRIMES, DRUG RELATED OFFENSES, FELONY DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS, MISDEMEANOR DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS WHILE INVOLVED IN A CHP ROTATION TOW CALL, OR MORAL TURPITUDE?

☐ YES ☒ NO

VEHICLE STORAGE

PRIMARY STORAGE YARD ADDRESS 5717A Obata Way, Gilroy, CA 95020	☒ OWNED ☐ LEASED ☐ RENTED
SECONDARY STORAGE YARD ADDRESS	☐ OWNED ☐ LEASED ☐ RENTED
ADDITIONAL STORAGE YARD ADDRESS	☐ OWNED ☐ LEASED ☐ RENTED
OUTSIDE STORAGE CAPACITY 100	INSIDE STORAGE CAPACITY 4

FINANCIAL INTEREST

ALL OWNER (IF FIRM, COMPANY, ASSOCIATION OR CORPORATION LIST ALL PERSONS HAVING FINANCIAL INTEREST)

Gerald Movrich, LLC

DO YOU HAVE ANY FINANCIAL INTEREST IN ANY OTHER TOW COMPANY WITHIN THE LOCAL CHP AREA? ☐ YES ☒ NO	IF YES, LIST THE TOW COMPANY(S):
DOES ANY MEMBER OF YOUR FAMILY (RELATED BY BLOOD OR MARRIAGE) OPERATE ANOTHER TOW SERVICE IN THE LOCAL CHP AREA? ☐ YES ☒ NO	IF YES, LIST THE OTHER CHP AREA(S):
ARE YOU CURRENTLY ON ROTATION OR APPLYING FOR ROTATION WITHIN ANY OTHER CHP AREA? ☐ YES ☒ NO	IF YES, LIST THE OTHER CHP AREA(S):
DO YOU SHARE ANY FACILITIES WITH ANY OTHER TOW COMPANY? ☐ YES ☒ NO	IF YES, LIST THE OTHER TOW COMPANY(S):

RATES

	Class A	Class B	Class C	Class D
HOURLY RATE	325			
INSIDE STORAGE	170			
OUTSIDE STORAGE	140			
LABOR (NONSKILLED)	150			
SPECIAL EQUIPMENT (LIST)				
RENTAL/SKILLED LABOR MARKUP (%)				

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STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
ROTATION TOW LISTING APPLICATION
CHP 234A (Rev. 3-15) OPI 061

TYPE OR PRINT CLEARLY

CHP AREA

CHP AREA OF APPLICATION

HOLLISTER-GILROY

CHP AREA NUMBER

BUSINESS

BUSINESS NAME

BRACCOS TOWING & TRANSPORT INC

CHP AREA NAME

BUSINESS ADDRESS

14245 MONTEREY RD SAN MARTIN CA 95046

DAY PHONE NUMBER (INCLUDE AREA CODE)

408-779-4760

BUSINESS MAILING ADDRESS IF DIFFERENT THAN ABOVE

NIGHT PHONE NUMBER (INCLUDE AREA CODE)

NUMBER OF YEARS IN TOWING BUSINESS

31

AUTOMOBILE CLUB AFFILIATE(S)

GEICO/AAA/NSD/STATE FARM/ALLSTATE

HAVE YOU OR ANYONE FINANCIALLY INVOLVED WITH YOUR COMPANY EVER BEEN CONVICTED OF ANY CRIME INVOLVING STOLEN OR EMBEZZLED VEHICLES, FRAUD RELATED TO THE TOWING BUSINESS, STOLEN OR EMBEZZLED PROPERTY, CRIMES OF VIOLENCE, SEXUAL CRIMES, DRUG RELATED OFFENSES, FELONY DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS, MISDEMEANOR DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS WHILE INVOLVED IN A CHP ROTATION TOW CALL, OR MORAL TURPITUDE?

☐ YES

☒ NO

VEHICLE STORAGE

PRIMARY STORAGE YARD ADDRESS

14245 MONTEREY RD SAN MARTIN CA 95046

☒ OWNED

☐ LEASED

☒ RENTED

SECONDARY STORAGE YARD ADDRESS

☐ OWNED

☐ LEASED

☐ RENTED

ADDITIONAL STORAGE YARD ADDRESS

☐ OWNED

☐ LEASED

☐ RENTED

OUTSIDE STORAGE CAPACITY

40

INSIDE STORAGE CAPACITY

FINANCIAL INTEREST

ALL OWNER (IF FIRM, COMPANY, ASSOCIATION OR CORPORATION, LIST ALL PERSONS HAVING FINANCIAL INTEREST)

DO YOU HAVE ANY FINANCIAL INTEREST IN ANY OTHER TOW COMPANY WITHIN THE LOCAL CHP AREA?

☐ YES

☒ NO

IF YES, LIST THE TOW COMPANY(S):

DOES ANY MEMBER OF YOUR FAMILY (RELATED BY BLOOD OR MARRIAGE) OPERATE ANOTHER TOW SERVICE IN THE LOCAL CHP AREA?

☐ YES

☒ NO

IF YES, LIST THE OTHER CHP AREA(S):

ARE YOU CURRENTLY ON ROTATION OR APPLYING FOR ROTATION WITHIN ANY OTHER CHP AREA?

☐ YES

☒ NO

IF YES, LIST THE OTHER CHP AREA(S):

DO YOU SHARE ANY FACILITIES WITH ANY OTHER TOW COMPANY?

☐ YES

☒ NO

IF YES, LIST THE OTHER TOW COMPANY(S):

RATES

	Class A	Class B	Class C	Class D
HOURLY RATE	300	400	500	600
INSIDE STORAGE				
OUTSIDE STORAGE	120	140	140	140
LABOR (NONSKILLED)	150			
SPECIAL EQUIPMENT (LIST)				
LANDOLL	375			
SKID STEER	250			
FORKLIFT & OPERATOR	200			
SCENE LIGHTING	175			
2 AXLE DUMP TRAILER	175			
RIGGER	150			
AVY INCIDENT RECOVERY TRAILER	250			
RENTAL/SKILLED LABOR MARKUP (%)				

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STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
ROTATION TOW LISTING APPLICATION
CHP 234A (Rev. 3-15) OPI 061

PE OR PRINT CLEARLY

CHP AREA

CHP AREA OF APPLICATION Hollister/Gilroy	CHP AREA NUMBER 725
--	-------------------------------

BUSINESS

BUSINESS NAME Marx Towing, Inc.	CHP AREA NAME Hollister/Gilroy
BUSINESS ADDRESS 5757 Obata Way, Gilroy, CA 95020	DAY PHONE NUMBER (INCLUDE AREA CODE) (408) 847-8697
BUSINESS MAILING ADDRESS IF DIFFERENT THAN ABOVE P.O. Box 531, Gilroy, CA 95021	NIGHT PHONE NUMBER (INCLUDE AREA CODE) (408) 847-8697
NUMBER OF YEARS IN TOWING BUSINESS 30+	AUTOMOBILE CLUB AFFILIATE(S) AAA/GoodSam

HAVE YOU OR ANYONE FINANCIALLY INVOLVED WITH YOUR COMPANY EVER BEEN CONVICTED OF ANY CRIME INVOLVING STOLEN OR EMBEZZLED VEHICLES, FRAUD RELATED TO THE TOWING BUSINESS, STOLEN OR EMBEZZLED PROPERTY, CRIMES OF VIOLENCE, SEXUAL CRIMES, DRUG RELATED OFFENSES, FELONY DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS, MISDEMEANOR DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS WHILE INVOLVED IN A CHP ROTATION TOW CALL, OR MORAL TURPITUDE?

☐ YES ☒ NO

VEHICLE STORAGE

PRIMARY STORAGE YARD ADDRESS 5757 Obata Way, Gilroy, CA 95020	☒ OWNED ☐ LEASED ☐ RENTED
SECONDARY STORAGE YARD ADDRESS	☐ OWNED ☐ LEASED ☐ RENTED
ADDITIONAL STORAGE YARD ADDRESS	☐ OWNED ☐ LEASED ☐ RENTED
OUTSIDE STORAGE CAPACITY 100	INSIDE STORAGE CAPACITY

FINANCIAL INTEREST

LEGAL OWNER (IF FIRM, COMPANY, ASSOCIATION OR CORPORATION, LIST ALL PERSONS HAVING FINANCIAL INTEREST) Frank J. LaCorte, Jr / Karen J. LaCorte	
DO YOU HAVE ANY FINANCIAL INTEREST IN ANY OTHER TOW COMPANY WITHIN THE LOCAL CHP AREA? ☐ YES ☒ NO	IF YES, LIST THE TOW COMPANY(S):
DOES ANY MEMBER OF YOUR FAMILY (RELATED BY BLOOD OR MARRIAGE) OPERATE ANOTHER TOW SERVICE IN THE LOCAL CHP AREA? ☐ YES ☒ NO	IF YES, LIST THE OTHER CHP AREA(S):
ARE YOU CURRENTLY ON ROTATION OR APPLYING FOR ROTATION WITHIN ANY OTHER CHP AREA? ☐ YES ☒ NO	IF YES, LIST THE OTHER CHP AREA(S):
DO YOU SHARE ANY FACILITIES WITH ANY OTHER TOW COMPANY? ☐ YES ☒ NO	IF YES, LIST THE OTHER TOW COMPANY(S):

RATES

	Class A	Class B	Class C	Class D
HOURLY RATE	\$325.00	\$425.00	\$550.00	\$650.00
INSIDE STORAGE				
OUTSIDE STORAGE	\$135.00			
LABOR (NONSKILLED)	\$125.00			
SPECIAL EQUIPMENT (LIST)				
Rotator 4 Hr Min.	\$1,200.00			
Lowbed 2 Hr Min.	\$400.00			
Refer	\$325.00			
Rescue Trailer/Haz Mat	\$300.00			
Light Tower	\$200.00			
rklift	\$200.00			
4 Hr Min on all Special Equipment				
RENTAL/SKILLED LABOR MARKUP (%)	30.00 %			

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11.2. Quality-of-Life Police Officer Program

1. Staff Report:
2. Public Comment
3. Possible Action:
 1. Council approve the City's permanent Quality-of Life-Officer Program; and
 2. Approve the reclassification of a Police Officer to a Police Corporal in the Quality-of-Life Officer Program; and
 3. Adopt a resolution updating the City's Position Control List for Fiscal Year 2024-25 (FY25).



City of Gilroy

STAFF REPORT

Agenda Item Title: Quality-of-Life Police Officer Program

Meeting Date: January 22, 2024

From: Jimmy Forbis, City Administrator

Department: Police

Submitted By: Pedro Espinoza, Police Chief

Prepared By: Luke Powell, Captain

STRATEGIC PLAN GOALS

Ensure Neighborhood Equity from City Services

RECOMMENDATION

1. Council approve the City's permanent Quality-of Life-Officer Program; and
2. Approve the reclassification of a Police Officer to a Police Corporal in the Quality-of-Life Officer Program; and
3. Adopt a resolution updating the City's Position Control List for Fiscal Year 2024-25 (FY25).

EXECUTIVE SUMMARY

In November 2021, the City Council authorized the implementation of the Quality-of-Life (QOL) Police Officer Pilot Program, designed to address quality-of-life crimes and concerns proactively within the City of Gilroy. Two officers were selected for this full-time assignment in March 2022. This report will detail the endeavors undertaken by the QOL officer team throughout the two-year pilot program, set to conclude in March 2024. Given the remarkable outcomes of the program and the positive relationships established by these officers, staff proposes the permanent staffing of the two QOL program positions.

BACKGROUND

The strategy for addressing quality-of-life and homelessness-related issues is comprehensive, involving collaboration with community, faith-based, and governmental

entities to meet the service demand. The primary point of contact for coordination, resource allocation, referrals, and enforcement of criminal acts within the unhoused community is the two-officer QOL team within the Department.

ANALYSIS

On November 1, 2021, the City Council authorized implementing the QOL Police Officer Pilot Program. The goal of this program was to address quality-of-life concerns and crimes proactively. The two QOL officers began their full-time assignment on March 8, 2022, and have been typically deployed Tuesday through Friday, 7:00 A.M. to 5:00 P.M., with adjustments as needed for specific projects.

Two officers (one Police Officer and one Police Corporal with supervisory responsibilities) volunteered to participate in the selection process and were ultimately chosen for the two-year pilot program because of their outstanding work history, excellent problem-solving skills, and ability to provide balanced policing to a diverse population. The QOL officers both had previous training in crisis intervention and de-escalation tactics and have received training in Principled Policing – Procedural Justice and Implicit Bias, which focuses on policing practices that emphasize respect, listening, neutrality, and trust. One of our QOL officers is an instructor on this subject matter and has provided training to all Gilroy PD personnel, while another QOL officer has also completed restorative justice training.

During the initial team development phase, the QOL team met with other police departments with similar teams to charter a best practice approach. They learned that a collaborative approach and partnerships with local unhoused service providers was paramount in delivering a service model to address unhoused issues and concerns. At the inception of this program, California's unhoused population had increased by over 22,000 in the previous three years, along with pandemic, policy, and legislative challenges.

The daily duties of the QOL officers include but are not limited to responding to calls for service related to unhoused individuals and/or encampments, following up on new or ongoing complaints, working with property owners to resolve QOL-related problems, building relationships with community and faith-based organizations who work with the unhoused community, and community outreach and education on the issues and challenges affecting our community. The QOL officers liaise with Patrol personnel to help answer questions, provide community service updates, offer follow-up assistance, and provide case law updates.

Most of the QOL officers' days are spent proactively going out to encampments and making face-to-face contact with the unhoused community. The QOL officers do not wear a traditional police uniform and identify themselves as a resource for help and information. One of their primary goals is to get to know the unhoused community on an individual level, build their trust, and try to understand what type of services that

individual needs and would benefit from. The QOL officers provide the individual with contact information on resources tailored to their needs. If the QOL officers had already contacted the individual and the individual had not been in contact with our partner service providers, the QOL officers would coordinate a site visit at the individual's encampment. This approach has had success, as the QOL team has been able to establish relationships with local service providers, including Home First, the South County Compassion Center, Goodwill – S.T.R.I.V.E, Carry the Vision, ABODE Services, Santa Clara County Behavioral Health Services – Mobile Crisis, St. Joseph's Family Center, and the Salvation Army.

While on-site, the QOL officers determine if the encampment is on private or public property. If the encampment falls on private property, the QOL officers will contact the property owner and determine if they want the unhoused person on their property. If they do not, the QOL officer will warn the unhoused individual of trespassing and ask them to leave. The QOL officer will then follow up with the property owner to get written trespass warnings on file with the Police Department, ensure the property has proper signage, and then give the unhoused individual a period of time to relocate their encampment. If voluntary compliance is not achieved after pursuing every other option, the QOL officers will then make an arrest.

If the unhoused individual is located on public land, the QOL officers will try to work with the individual to identify a long-term housing solution. If the QOL officer identifies an illegal activity, the QOL officer will take the appropriate enforcement action based on the observed violation(s).

The QOL officers partner with the City of Gilroy Streets and Landscaping/Parks Divisions, the Santa Clara Valley Water District, Union Pacific Railroad, and private party landowners in cleanup efforts. The QOL officers ensure that these cleanups are conducted in accordance with all legal requirements and equitable treatment of all parties involved. QOL officers conduct follow-up visits of previous cleanup locations to ensure clean sites are not repopulated. If individuals previously given trespass warnings return, the violation will be enforced. If an individual is new to the location, they will be issued a trespass warning and asked to leave.

Lastly, although a function of the QOL team is to enforce local and state crime statutes associated with quality-of-life crimes, enforcement action has not been the primary objective of the QOL officers when contacting an unhoused individual, particularly when the complaint is related to their unhoused status (i.e., sleeping in the park or camping in the water canal). Enforcement is the objective if a call for service is related to an unhoused individual's criminal activity or if actively committing a crime.

Challenges faced by the QOL officers that make this team unique and specialized are: there are a substantial number of unhoused individuals who do not want the services offered; there is also a significant number of individuals who do not want to follow the structured environment of these services; there is a significant void in mental

health/alcohol/drug treatment programs and services; and lastly, the last resort enforcement approach has significantly been hampered by legal amendments like AB109, Prop 47, Prop 57, the implementation of the Bend the Arc reforms in Santa Clara County, and the Martin vs. Boise Supreme Court Decision.

The subsequent sections will delve into statistical data, success stories, and accomplishments of the QOL Police Officer Pilot Program.

Services Offered / Enforcement Statistics

	Calls for Service (CFS) by QOL Officers	% of Dept Total QOL CFS	Individuals Connected with Services	Individuals Who Received Services	Individuals Who Received Housing	Warnings	Reports	Arrests	Tows
2022	400	54%	60	60	10	60	47	19	3
2023	768	73%	198	89	75	165	22	12	10

Partnerships, such as those with the South County Compassion Center, have exponentially benefited the City and the Compassion Center. Due to different reporting requirements, statistical data to show the benefits of this partnership could not be captured for the entire two-year pilot program, but two separate samples of data were gathered. The above numbers, regarding the number of individuals connected with services, those who received services, and those who received housing, are all estimates based on two sample surveys.

The shelter at the Gilroy Armory is often filled with many people from outside the City of Gilroy. The QOL team worked with Home First to secure multiple beds at the shelter specifically reserved for members of the Gilroy unhoused community. While at the shelter, services are offered, and the individual can occupy the bed space until they can be placed at a long-term location.

Over the past two years, the QOL officers have impacted a significant number of lives, in particular, in the summer of 2023, an unhoused female had found her way to Gilroy and was the frequent source of calls for service pertaining to public nuisance. The female refused local shelter resources and refused to speak with service providers. A Mobile Crisis clinician deemed her unsuitable for mental health resources, and she had not broken any laws warranting an arrest. Through multiple lengthy conversations with her, QOL officers learned this person's desire was to return to Merced, CA, and reconnect with her friendship circles and family structure. QOL officers reached out to community service providers in Merced and were able to secure her housing at a local shelter in her hometown. QOL officers personally transported this person and her belongings to the shelter in Merced, where she was able to reconnect with family and friends.

Cleanup Efforts

	Santa Clara Valley Water District	Union Pacific Railroad	City of Gilroy	Private Property	Total
2022	6	1	2	2	11
2023	7	3	7	4	21

While providing security for the cleanup efforts, the QOL team utilized these opportunities to provide outreach by offering provider services to those who were contacted during each of the cleanup efforts.

Some cleanup locations that gained a good deal of community interest were:

- The cleanup under the I.O.O.F bridge just east of Monterey Street. The QOL team discovered unhoused individuals occupying the encampment under the bridge had dug into its foundation to make space for their tents and structures. The team contacted the Public Works Department, inspected the bridge, and determined the occupants of the encampment had to immediately vacate the location to prevent further damage to the bridge. The QOL Officers and service providers worked to get all the unhoused individuals in the encampment to relocate.
- The cleanup in the water canal from Monterey Street and Howson Street to Church Street. Multiple unhoused individuals were occupying the long canal tunnel running under Monterey Street and the Longhouse Restaurant and were having open fires under the bridge where exposed utility lines, including gas lines, were visible overhead. The QOL team contacted individuals, as well as working with local service providers, to assist in relocating those living there away from the dangerous conditions and the risk of living in a long, enclosed waterway.
- The efforts in the canal area on I.O.O.F. Avenue next to Gilroy Prep School - in early 2022, a small fire was in the canal area associated with a large encampment next to Gilroy Prep. There was also an incident where an unhoused individual was near the school fence while children played in the yard. This caused concern from the school staff and parents. The QOL team worked with the Gilroy Unified School District (GUSD) and identified the property in question as being a GUSD property. The QOL officers then assisted GUSD with posting proper signage and warning the individuals occupying the encampments on the property. With the help of community service providers, the QOL officers got all the unhoused individuals to relocate from the property without arrests or issuing citations. This allowed GUSD to clean the area properly and post no-trespassing signs.

Here are a few before and after pictures of QOL officer-partnered cleanups.

Auto Mall Parkway



10th Street and Railroad



Electa Court



Las Animas Avenue



Truck Stop (North End)



Silacci Way



Uvas Creek**Uvas Park Drive and Laurel Drive (Levee)**

The QOL team also educated several private property owners about the cleanup process of their property, their rights as owners, creating proper signage for the property to prevent future trespassing, and conducting enforcement on private property at the owner's request.

The inception of the Community Engagement Team (CET) Newsletter was an independent initiative by the QOL officers, resulting in the publication of four issues in September 2022, November 2022, June 2023, and January 2024. This newsletter has emerged as a crucial instrument in fortifying communication and collaboration across various divisions within the Police Department. Acting as a vital conduit, the newsletter plays a pivotal role in dispersing essential information regarding the initiatives and

progress of the QOL team. By ensuring the entire Department stays well-informed, the newsletter acquaints all officers with the proactive endeavors and achievements of the QOL team in addressing quality-of-life concerns within the unhoused community. This transparency cultivates a sense of unity and shared purpose among department personnel, enhancing their understanding and support for the specialized work conducted by the QOL officers. Furthermore, the newsletter serves as a platform for sharing success stories, statistical data, and key insights, fostering a continuous exchange of information that significantly contributes to the overall effectiveness and success of the QOL program.

Should the determination be made to extend the QOL program, a set of enduring service goals and objectives will be upheld and sustained. These aims encompass:

- Sustaining proactive efforts to deliver enforcement and referral services to the unhoused community;
- Expanding community outreach to educate the entire community on unhoused issues and serving as a liaison between all stakeholders to ensure overall community success;
- Persisting in identifying City locations requiring encampment cleanups and coordinating additional City-sponsored cleanups;
- Continuing collaboration with property owners, guiding them on steps to facilitate cleanups;
- Maintaining QOL officers as the Police Department's in-house experts and primary points of contact for QOL concerns;
- Collaborating with other City staff to establish long-term housing options and ensure the safety of these housing solutions;
- Providing recommendations for municipal code modifications or adoptions based on current caselaw and industry best practices;
- Establishing a program to identify individuals' origins before arriving in Gilroy and facilitating their return to reconnect with social networks like friends and family;
- Integrating a Santa Clara County Psychiatric Emergency Response Technician (PERT) into the QOL team to enhance the assessment and service provision for the unhoused community with mental health needs.

The Quality of Life (QOL) Officer Program is a commendable and effective initiative in addressing the complex and multifaceted challenges posed by quality-of-life concerns within the unhoused community. Through proactive engagement, community partnerships, and a commitment to principled policing, the QOL officers have demonstrated a holistic approach that goes beyond traditional law enforcement. Their emphasis on building trust, understanding individual needs, and fostering connections with service providers has improved the lives of unhoused individuals and positively impacted community relationships. The program's success in navigating challenges,

coupled with its commitment to respectful and compassionate service, underscores the importance of such specialized teams in creating meaningful and sustainable solutions to enhance the overall well-being of the unhoused population and the community.

Position Control List Update

Should the Council decide to make the QOL a permanent program, staff recommends that the City Council adopt the attached resolution amending the position control list for the second year of the current biennial budget, FY25. As mentioned earlier in the report, the pilot program authorized two officers, both being the Police Officer classification. The current program is staffed a Police Officer and a Police Corporal with supervisory responsibilities, which has proven to be effective. Staff recommends the program continue to be staffed in that manner. As such, an amendment to the position control will be necessary to convert one of the Police Officer positions to a Police Corporal classification, with a net zero impact to the full-time equivalent (FTE) count.

ALTERNATIVES

Council may not approve the permanent staffing of the pilot program approved in 2021. This is not recommended as the pilot program was initially a recommendation of the Unhoused Ad Hoc Committee and approved by the City Council.

FISCAL IMPACT/FUNDING SOURCE

The two-year pilot program was funded by the General Fund (100). The two officers' salaries were included in the current adopted budget for the Patrol Division. Should the QOL program be approved as a permanent program, staff recommends that it be staffed with a Police Officer and a Police Corporal position. The fiscal impact of converting one Police Officer position to a Police Corporal position is approximately \$8,800/year. No budget amendment is needed, as the impact will be absorbed within existing expenditure appropriations within the Department.

Attachments:

1. Draft Resolution – Position Control FY24 and FY25 January 2024 Update

RESOLUTION NO. 2024-XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
GILROY ADOPTING THE AUTHORIZED POSITION
CONTROL LIST FOR THE CITY OF GILROY FOR FISCAL
YEARS 2023-2024 AND 2024-2025**

WHEREAS, the business operations of the City of Gilroy are conducted by hired professional staff; and

WHEREAS, the City of Gilroy is committed to delivering services to our residents; and

WHEREAS, the delivery of services is effectuated by providing adequate and appropriate staffing levels to carry out the business of the City.

NOW, THEREFORE, BE IT RESOLVED that the number and classifications of both regular and limited-term full-time positions in which persons may be employed by the City of Gilroy during Fiscal Years 2023-2024 and 2024-2025 are hereby amended and shall be as set forth in the attached position control list, incorporated herein by reference.

BE IT FURTHER RESOLVED that a change in the position control list shall only be accomplished by resolution of the City Council of the City of Gilroy.

PASSED AND ADOPTED at a Regular Meeting of the City Council this 22nd day of January 2024 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

Marie Blankley, Mayor

ATTEST:

Thai Nam Pham, City Clerk

POSITION CONTROL LIST

Below is the Table of adopted full-time positions by Department for FY24 and FY25.

DEPARTMENT	Amended FY22	Amended FY23	Amended FY24	Amended FY25
ADMINISTRATION	14	16	15	15
Assistant to the City Administrator	0	1	1	1
City Administrator	1	1	1	1
City Clerk	1	1	1	1
Community Coordinator	1	1	1	1
Communication and Engagement Manager	1	1	1	1
Community Engagement Coordinator	0	0	1	1
Community Resilience Coordinator	0	1	1	1
Deputy City Clerk	1	1	1	1
Economic Development Manager	1	1	1	1
Emergency Services & Volunteer Coordinator	1	1	1	1
HCD Technician	1	1	0	0
Management Analyst	0	1	1	1
Office Assistant VII	0	0	1	1
Program Administrator	1	1	0	0
Recreation Coordinator	2	1	1	1
Recreation Manager	1	1	1	1
Recreation Supervisor	0	1	1	1
Senior Management Analyst	2	1	0	0
ADMINISTRATIVE SERVICES	14	14	14	14
Administrative Services & Human Resources Director/Risk Manager	1	1	1	1
Equipment Mechanic	2	2	2	2
Facilities Maintenance Specialist	3	3	2	2
Facilities Superintendent	1	1	0	0
Fleet Superintendent	1	1	0	0
Facilities and Fleet Superintendent	0	0	1	1
Human Resources Analyst	1	1	1	1
Human Resources Technician II	1	1	1	1
Management Assistant	1	1	2	2
Senior Custodian	1	1	1	1
Senior Equipment Mechanic	1	1	1	1
Senior Human Resources Analyst	1	1	1	1
Senior Facilities Maintenance Specialist	0	0	1	1
COMMUNITY DEVELOPMENT	23	23	26	26
Building Inspector I/II	3	3	3	3
Building Official	1	1	1	1
Code Enforcement Officer	2	2	2	2
Community Development Director	1	1	1	1
Customer Service Manager	1	1	1	1
Deputy Fire Marshal/Haz Mat Supervisor	1	1	1	1
GIS Coordinator/Planner	1	0	0	0
Hazardous Materials Inspector I/II	3	3	3	3
HCD Technician	0	0	1	1
Housing and Community Services Manager	0	0	1	1
Management Analyst	1	1	1	1
Management Assistant	1	1	1	1
Office Assistant VII	1	1	1	1
Permit Technician	2	3	3	3
Planner VII	2	2	2	2
Planning Technician	1	1	1	1
Supervising Code Enforcement Officer	0	0	1	1
Senior Planner	2	2	2	2
FINANCE	17	20	21	21
Accountant VII	1	1	2	2
Accounting Assistant VII	6	7	7	7
Accounting Technician - Payroll	1	1	1	1
Accounting Technician I/II	1	0	0	0
Finance Director	1	1	1	1
Finance Manager	2	2	2	2

Resolution No. 2024-XX
Position Control List
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Financial Analyst	1	1	1	1
Geographic Information Systems Analyst	0	1	1	1
IT Applications Analyst	1	1	1	1
IT Manager	1	1	1	1
IT Technician I/II	1	1	1	1
Network Administrator	0	1	1	1
Public Safety Systems Administrator	1	1	1	1
Supervising Accounting Technician	0	1	1	1
FIRE	44	44	44	46
Fire Administration Technician	1	1	1	1
Fire Captain	10	10	10	10
Fire Chief	1	1	1	1
Fire Division Chief	3	3	3	3
Fire Engineer	9	9	9	9
Firefighter VII	19	19	19	21
Management Analyst	1	1	1	1
POLICE	101	102	104	107
Community Engagement Coordinator	0	0	1	1
Community Services Officer	4	4	4	4
Police Crime Analyst	1	1	1	1
Detention Services Officer	3	4	4	4
Management Analyst	1	1	1	1
Management Assistant	1	1	1	1
Multi-Service Officer	1	1	1	1
Office Assistant I/II	1	1	1	1
Police Captain	3	3	3	3
Police Chief	1	1	1	1
Police Corporal	8	8	8	9
Police Officer	44	44	44	45
Police Records Technician I/II	6	6	6	6
Police Sergeant	11	11	11	11
Property and Evidence Technician	1	1	1	1
Public Safety Communications Supervisor	1	1	1	1
Public Safety Communicator	12	12	13	14
Police Records Supervisor	1	1	1	1
Youth Task Force Coordinator	1	1	1	1
PUBLIC WORKS	49	49	31	31
City Engineer/Transportation Engineer	1	1	1	1
Deputy Director of Public Works	1	1	1	1
Engineer I/II	5	5	5	5
Engineering Technician/Inspector I/II/III	2	2	3	3
Maintenance Worker I/II	27	25	10	10
Management Analyst	2	2	2	2
Management Assistant	1	1	1	1
Operations Services Supervisor	3	3	2	2
Program Administrator	0	0	1	1
Public Works Director	1	1	1	1
Senior Civil Engineer	2	2	2	2
Senior Environmental Engineer	1	1	0	0
Senior Maintenance Worker	3	5	2	2
UTILITIES	0	0	27	27
Utilities Director	0	0	1	1
Business Manager	0	0	1	1
Engineer I/II	0	0	2	2
Environmental Engineer	0	0	1	1
Maintenance Worker I/II	0	0	15	15
Management Analyst	0	0	1	1
Office Assistant I/II	0	0	1	1
Operations Services Supervisor	0	0	1	1
Senior Environmental Engineer	0	0	1	1
Senior Maintenance Worker	0	0	3	3
CITYWIDE FULL-TIME PERSONNEL	262	268	282	287

11.3. City Council Downtown Committee (Part 2) - Subcommittee Reports and Recommendations – Beautification of Downtown and Noise Ordinance

1. Staff Report:
2. Public Comment
3. Possible Action:

Council discussion and direction regarding the report and recommendations provided by the Downtown Committee's Beautification of Downtown and Noise Ordinance Subcommittees.



City of Gilroy

STAFF REPORT

Agenda Item Title: City Council Downtown Committee (Part 2) - Subcommittee Reports and Recommendations – Beautification of Downtown and Noise Ordinance

Meeting Date: January 22, 2024
 From: Gilroy Downtown Committee
 Department: Administration
 Submitted By: Gilroy Downtown Committee
 Prepared By: Gilroy Downtown Committee

STRATEGIC PLAN GOALS

Promote Economic Development Activities

RECOMMENDATION

Council discussion and direction regarding the report and recommendations provided by the Downtown Committee's Beautification of Downtown and Noise Ordinance Subcommittees.

BACKGROUND

The Downtown Committee (Committee) was formed by Council on May 1, 2023, with its first meeting on May 9, 2023. The resolution forming the fifteen-member Brown Act committee established five Council Members as members of the Committee, each to appoint two of the remaining ten seats as detailed in the resolution.

The Committee is charged with reviewing and offering recommendations to improve the Gilroy Downtown. The Committee formed five sub-committees, each with a different focus area relating to improving the downtown. Below are the five subcommittees, in no particular order:

- Plywood Removal
- Beautification of Downtown
- Vacancy Ordinance
- Noise Ordinance

- **Code Enforcement**

Tonight's presentation from the Committee is for the recommendations developed by the Noise Ordinance and Beautification of Downtown Subcommittees. Should Council direct staff to proceed with the recommendations, staff will return to the Council to update the department work plans to incorporate the work to implement these efforts. There will be legal and other operational review needed on the recommendations and how to proceed with implementation, which will need to be balanced against the other work currently in the department work plans.

ANALYSIS**Noise Ordinance Subcommittee**

The Noise Ordinance Subcommittee has provided to Council their recommendations in the attached Memorandum. In the document, the subcommittee provides a series of recommended edits to the City's current noise ordinance. Additionally, the memorandum has two enclosures: a survey of other cities' noise ordinances and the City's current noise ordinance found in the City Code. Generally, the suggested revisions involve the following subjects, as detailed in the memorandum:

- Additional definitions that are needed
- Amplified sound types, hours of operation, and permit exemptions
- Standards for the Downtown Specific Mixed-Use District

Beautification of Downtown Subcommittee

The Beautification of Downtown Subcommittee was tasked with outlining projects and policies that would aid in promoting beautification in order to improve the appeal of downtown, revitalize its appearance, and create a warm, welcoming, and attractive space for our residents and visitors. The subcommittee has assessed current conditions and prepared eight recommendations for the City Council to consider. These recommendations include both capital projects as well as maintenance and service programs. The report and recommendations are attached to this agenda report.

ALTERNATIVES

Council may issue any direction that it desires relating to these recommendations from the Downtown Committee.

FISCAL IMPACT/FUNDING SOURCE

No detailed financial impact analysis has been conducted. Depending upon the direction of Council, any future actions will have a fiscal impact determined as part of the agenda report for any such agenda item.

PUBLIC OUTREACH

The Downtown Committee has been holding public meetings, including posted agendas monthly. This item was also included on the publicly posted agenda for this meeting.

NEXT STEPS

Staff will proceed towards implementing any Council-issued direction and return to Council with updates to the department work plans to incorporate the direction and work received.

Attachments:

1. Noise Ordinance Subcommittee Report/Recommendations
2. Beautification of Downtown Subcommittee Report/Recommendations.

MEMORANDUM

DOWNTOWN COMMITTEE

TO: City of Gilroy Council Members
FROM: Noise Ordinance Subcommittee
DATE: 1/22/24
SUBJECT: Proposed Downtown Noise Ordinance Amendments (3rd & Final Rev.)
ENCLOSED: City of Gilroy Current Noise Related Ordinance & Citywide Research Table

In response to the City of Gilroy's understanding and belief that addressing an increase in Downtown Noise as the City's Downtown grows and activates previously vacant commercial dwellings, essential for the continued health and welfare of the residents, commercial occupants and patrons, the Downtown Noise Ordinance Subcommittee is recommending revisions to the existing Noise Ordinance and seeks comments from the City Council and eventually from the community.

Purpose of the Recommended Revisions:

Develop a noise ordinance specific to the downtown that ensures clarity, accountability, enforceability and fairness to both residents and commercial businesses.

Suggested Revision:

1. Include Definitions Section
 - a. Meanings of words used
 - Ambient noise level
 - Decibel (dBA)
 - Construction Site
 - Emergency
 - Disturbing noise
 - Holidays/ Weekends/Weekends
2. General (keep current language)
3. Construction (keep current language)

4. Maintenance Equipment (keep current language)
5. Amplified Sound
 - a. Types (outdoor paging systems, intercoms, outdoor patio music for businesses, peddlers, parked vehicles with engines running or of which noise is sourced)
 - b. Hours of operation

Include language that reads: *“prohibits noise from these and similar devices at any time with louder volume than necessary for convenient hearing of persons in room or vehicle from which noise is sourced and who are voluntary listeners thereto; prohibits noise plainly audible from 50 feet of a building or vehicle where sourced”*
 - c. Permit exemptions for events and other conditional uses
6. Animals (keep current language)
7. Exemptions (keep current language)
8. Downtown specific mixed use district noise standards (ADD specific language)
 - a. The Downtown Mixed Use District (DMUD) is defined as 3rd to 7th Street and Egleberry to Railroad. It was developed to facilitate an active daytime and nighttime city destination with restaurants, theaters, diverse retail and shopping opportunities and high-density residential uses.
 - b. Given the desired intensity of land use and activity in the DMUD, daytime and nighttime ambient noise levels in the DMUD will exceed other mixed use, residential and commercial districts in the city.
 - c. Due to the range and level of outdoor and indoor activities in the DMUD, sound from allowed uses in the DMUD shall only be considered a noise violation under the following conditions:
 - The noise interrupts the operation of surrounding businesses;
 - The noise exceeds levels comparable to that typically associated with the allowed function of uses that are allowed in the DMU district;
 - The noise is due to individuals congregating in public areas outside of an individual establishment for extended periods of time;
 - The noise is the result of pedestrian and traffic queueing associated with an establishment, business or event; or
 - The noise level exceeds 85 dBA from 8:00 a.m. to 12 midnight, 65 dBA from 12 midnight to 2:00 a.m., or 50 dBA from 2:00 a.m. to 8:00 a.m., measured at the property line where the noise is being generated.*

(voted on in session to change timeframes as indicated above)

	General	Construction	Equipment	Amplified Sound	Drive Thrus	Street Sales	Animals	Motor Vehicles	Radio, Musical Instruments, Phonographs	Nuisance Alarms	Exemptions	Other
Gilroy	Outdoor noise: limited to 70 dBA and 7am-10pm daily residential noise from fixed source outdoor mechanical equip (ex: pool, spa, A/C) limited to 60 dBA or 70 dBA if no more than 10% of the time; commercial & industrial noise emanating from properties zoned other than residential limited to 70 dBA max 10% of time and to 7am-10pm daily	limited to 70 dBA and 7am-10pm daily	limited to 70 dBA and 7am-10pm daily				prohibits excessive and/or habitual barks, yelps, cries, howls that annoy 2 or more reasonable persons of separate residences				emergency response; permitted events	
							prohibits frequent or long-continued noise	auto body repairs must be confined to enclosed building and may not operated between 8pm - 7am daily; see radio/music category for noise emanating from vehicles	prohibits noise from these and similar devices at any time with louder volume than necessary for convenient hearing of persons in room, vehicle, or chamber from which noise is sourced and who are voluntary listeners thereto; prohibits noise plainly audible from 50 feet of building or vehicle where sourced between 11pm - 7am daily		emergency response; permitted events	
Morgan Hill		limited to 7am-8pm M-F, 9am-6pm Saturdays, prohibited Sundays and federal holidays	noise from blowers, fans or combustion engines must be muffled	prohibited for advertising purposes or to attract public attention, including Hawkers and Peddlers								

Noise Ordinance Sub-committee research table
01-22-2024

	prohibits at any time excessive, unnecessary or unusually loud noise. Except in the Downtown Mixed Use Zoning District (DMU), and excluding barking dog, commercial construction and commercial landscape maintenance, standards to consider for violation include: >55 dBA in residential districts during daylight hours and >50 dBA after sunset; volume, intensity or duration; proximity to residential	limited to 7am-6pm M-F; 8am-6pm Saturdays; prohibited on Sundays and federal holidays	For <1/2 hr of noise duration, limited to 8am-6pm daily; For >1hr limited to 8am-6pm M-F, 8am-5pm Saturdays, and prohibited on Sundays and federal holidays; Does not apply to works of construction or grounds maint by occupants of residential property for personal non-commercial use						duty of animal control and PD to take necessary steps in their discretion to abate nuisance occurring in their presence					emergency response, permitted events	be considered noise violations in the DMU; noise that interrupts the operation of businesses; noise exceeding levels comparable to allowed uses in DMU zone; noise due to individuals congregating in public areas outside of an individual establishment for extended periods of time; noise from pedestrian or traffic queuing; >85 dBA from 8am 10:30pm, >65 dBA from 10:30pm-2am, or >50 dBA from 2am-8am daily
Hollister															
	Operational noise not to exceed 75dBA at any pt. on the property line; provided the noise sound level shall not exceed 50dBA during nighttime hours or 60dBA during daytime hours at any point on adjacent residential zoned property	between 7am-6pm M-F and Saturday 8am-5pm, no construction on Sunday or federal holidays. No loud environmentally disruptive noises, such as air compressors, continuously running motors, musical instruments, radios etc. will be allowed where such noises may be a nuisance to residential neighborhoods. Exceptions include: permitted for single-family residential properties where work being	on temp basis per general dBA limits shall only be used during daytime hours when used adjacent to property w/ a residential zoning district. Powered equipment used more frequent (not temp) shall comply w/ operational noise requirement. This general provision doesn't apply to leaf blowers. Note: Leaf blowers has it's own section which reads: Unlawful use on private property or adjacent to residential area except between												
Sunnyvale															

The following shall

	between the hours of 10:00pm and 8:00am make, cause, suffer or permit to be made by any noise disturbance which: 1. is made w/in 100 ft. of any building or place regularly used for sleeping or 2. disturbs any person(s) or 3. are not necessary in connection w/ any activity which is otherwise lawfully conducted.	repair activities which are authorized by permit shall be allowed s between 8:00dam to 6:00pm weekdays and 9:00dam to 4:00pm Saturdays.	prohibited from use in all residential, commercial and industrial zones 50 ft. from source. Electric leaf blowers in excess of 65 dBA shall be prohibited from use in all residential, commercial & industrial zones 50 ft. from source.	Public performances or special events not exceeding 70dB(A) at the property plane are exempt from this chapter when approval therefore has been obtained from appropriate gov't entity.		Offering, selling or advertising outcry, shouting the use of noise making device within any residential, commercial or a noise sensitive zone, except by permit, shall be prohibited.	Owning, possessing or harboring any animal or bird which howls, barks, meows, sqwaks or makes other noises continuously and/or incessantly for a period of 10 minutes or intermittently for one half hour or more which creates a noise disturbance across a residential or commercial property plan or within a noise sensitive zone shall be prohibited. Exceptions when trespassors tease or provoke animal.	collection: no collection between 6:00pm to 6:00am Vehicle, motorboat and aircraft repairs/;esting: prohibited across residential property planes at any time in violation w/ Art.III of noise chapter Standing Motor Vehicles: No person shall operate or permit the operation of any motor vehicle GVMR in excess of 10,000 pounds including refrigeration/heatng units attached to a vehicle weighing in excess of 5,000 pounds				Safety devices, emergencies and tow maintenance are all exemptions.		
Los Gatos	Residential Exterior: not to exceed 60B above the noise level specified for that specified noise zone (see noise zone map)	exception for owner working on property between 8:00dam to 8:00pm Monday through Saturday and 9:00dam to 5:00pm Sundays and holidays. Also, exception for emergencies.	blowers, edge trimmers etc. shall be operated only during hours of 8:00dam to 5:00pm weekdays and 9:00dam to 4:00pm weekends in residential, commercial, industrial, public	Amplified sound: Requires city permit to be transmitted publicly subject to: 1. only human speech or combo 2. Sound amplification systems, including paging systems for commercial purposes, limited to 8:00dam to 7:00pm weekdays,										
Mountain View		Applies to types of equipment such as: compressors, swimming pools, spas, air conditioners and not to exceed 55dB(A) during day or 50 dB(A) during the night 10pm-7am) Note: specifies sound level meter must be equal or better than ANSI standard S1.4-1971 Type 2 or better (conditional use permit is required to step outside this restriction)	Conditional use permit required. Any drive-up or drive through speaker system shall not be audible above the ambient noise levels beyond the property boundaries.										Public sound amplification system exemption for 1. Christmas Season 12/5-12/25 9am-10pm not to exceed 150 ft. And 2. special conditional use permit applied for	

Milpitas	permitted, it is unlawful... to make, continue, maintain, permit or cause to be made, continued, maintained, or permitted and disturbing noise that increases the noise exposure level by 3 dB over the local ambient noise level measured from the property line of the noise source, or more than 65 dB measured from the property line of the noise source, whichever is more restrictive. Disturbing noises prima facie violation is	No person shall engage or permit others to engage in construction... except within the hours of 7:00am to 7:00pm weekdays and weekends. No construction shall be permitted on holidays specifically enumerated.		permitted in certain zones as an accessory to a restaurant or bar that is a principal permitted use or approved conditional use. Other music shall be permitted between the hours of 9:00am to 11:00pm. Outdoor music shall not exceed 70-90dB measured from property line of the parcel on which the property occurs. For residential in mixed use zones, it is recognized that noise from outdoor music is permitted as an accessory use to a										An alarm shall be deemed a nuisance alarm when it has emitting sound for at least 1 hour or intermittently for two hours and has been report to PD as an annoyance. An alarm system shall be deemed a nuisance alarm if actuates excessive false alarms. 4 false alarms in 90 days is hereby deemed excessive.	Exemption from Construction Regulation: 1. emergencies, 2. preempted from federal regulation by state law such as construction of public school buildings. 3. Furnishing utility services 4. Any work by property owner themselves 5. operation to construct and maintain facilities w/in the public-right-of-way as deemed necessary by Public Works Director	
	Generally unlawful unless following met: Residential noise from any stationary sources not to exceed 65dBA for exterior and 45dBA for interior. Traffic related noise (new development) not to exceed outdoor 60dBA and indoor 45dBA														1. City Parks where City approved recreation/programs 2. Safety, Warning & Alarm Devices 3. Schools 4. Emergencies 5. Private Construction (M-F 8a-5p and Saturday 9a-4p 6. Powered Equipment 8a-7p M-F and 9a-6p Sat/Sun & national holidays	specifies using the A-weighting network at slow meter response; calibration of tool using ANSI standards made prior to recording data; measured at the property line; microphone positioned 3-5 ft. above ground and away from reflective surfaces
Campbell																

30.41.31 Specific provisions—Noise.

It shall be unlawful to generate noise within the city limits that exceeds the limits established in this section.

(a) Definitions.

“Decibel (dBA)” means a unit measuring the amplitude of sound or noise, weighted to the range of human hearing (A-weighting scale on a sound level meter).

“L₁₀” means the maximum noise level to be exceeded no more than ten percent (10%) of the time.

“Noise level” means measurement of sound in decibels (dBA) obtained by using a sound level meter at slow response.

“Sound level meter” means an instrument comprised of a microphone, an amplifier, an output meter and frequency weighing networks, used for measuring sound levels in decibel (dBA) units.

(b) Maximum Outdoor Noise Levels.

(1) Residential Noise Impacting Residential Properties. Fixed-source outdoor mechanical equipment installed after July 1, 2007 (e.g., pool, spa, air conditioning or similar equipment) is limited to a maximum of sixty (60) dBA Ldn measured at the property line or seventy (70) dBA (L₁₀) measured at the property line.

(2) Commercial and Industrial Noise Impacting Residentially Zoned Properties. Noise emanating from properties that are zoned for uses other than residential is limited to a maximum of 70 dBA (L₁₀) measured at the residential property line. Such noise is limited to the hours of 7:00 a.m. to 10:00 p.m., and prohibited between the hours of 10:00 p.m. and 7:00 a.m.

(c) Exceptions to the Exterior Noise Limits Listed in Subsection (b) of This Section.

(1) Persons, equipment, vehicles, alarms or sirens utilized in essential activities necessary to preserve, protect or save lives or property from danger, loss or harm;

(2) Refuse and recycling collection vehicles when operating between the hours of 5:00 a.m. and 6:00 p.m.;

(3) Special events operating in compliance with an approved special events permit; and

(4) City-approved activities on public properties. (Ord. No. 2013-08, § 2 (Exh. A), 8-5-13; Ord. No. 2019-08, § 23, 10-7-19)

Memorandum

To: Gilroy City Council

From: Beautification of Downtown Subcommittee

Date: 1/17/2024

Re: Recommendations to the City Council Regarding the Beautification of Downtown

The Beautification of Downtown Subcommittee was tasked with outlining projects and policies that would aid in promoting beautification in order to improve the appeal of downtown, revitalize its appearance and create a warm, welcoming and attractive space for our residents and visitors.

After assessing current conditions, considering the prior recommendations of the downtown ad hoc committee, the vision outlined in the downtown specific plan and receiving input from the community; the beautification committee has carefully crafted the following 8 recommendations for Council consideration.

1. Lighting improvements.
2. Installation of two Gateway Arches at 3rd and 8th Streets on Monterey announcing entry into historic downtown.
3. Sidewalk cleaning/maintenance/landscaping/weed abatement.
4. Further development of the downtown Pop-Up Park to include interactive art display and public stage for community events and performances.
5. Published timeline and ongoing updates on City of Gilroy website regarding work to be completed on Gourmet and Railroad Alley.
6. Implementation of Facade Improvement and Permit Abatement Programs for downtown.
7. Develop advertising and marketing campaign for downtown with community partners.
8. Explore opportunities for corporate sponsors and partnerships with community organizations to promote and fund beautification projects downtown.

These recommendations outlined in a presentation to Council would improve the appearance of downtown in a way that reflects, honors and respects the unique history that only Gilroy has to tell while also bolstering economic vitality and encouraging revitalization to areas that are underused and unsightly.

If acceptable, the Beautification of Downtown Subcommittee would work with City Staff to obtain cost estimates for any capital improvement projects in order to ascertain any fiscal impacts while also exploring alternative funding sources as outlined in presentation to Council.

11.4. Consent to the Appointment of Heba El-Guindy as Public Works Director

1. Staff Report:
2. Public Comment
3. Possible Action:

Consent to the City Administrator's recommendation to appoint Heba El-Guindy to the department head position of Public Works Director.



City of Gilroy

STAFF REPORT

Agenda Item Title:	Consent to the Appointment of Heba El-Guindy as Public Works Director
Meeting Date:	January 22, 2024
From:	Jimmy Forbis, City Administrator
Department:	Administrative Services
Submitted and Prepared By:	LeeAnn McPhillips, Administrative Services and Human Resources Director / Risk Manager

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

Consent to the City Administrator's recommendation to appoint Heba El-Guindy to the department head position of Public Works Director.

BACKGROUND

Utilizing the assistance of an executive search firm, Koff & Associates, the city recently completed a recruitment process for the position of Public Works Director. After a series of panel interviews comprised of subject matter experts, a community member, department heads, and the City Administrator, a top finalist was selected for the Public Works Director position, Heba El-Guindy. Based on her knowledge, skills, and leadership style, Ms. El-Guindy has been identified as a strong fit for the Public Works Director position. Ms. El-Guindy recently completed a thorough background check, and, at this time, City Administrator Forbis is recommending Ms. El-Guindy be appointed as Gilroy's Public Works Director.

Heba El-Guindy brings over thirty years of related work experience. She has primarily worked in public sector engineering and public works positions; however, she has also worked in the private sector engineering space serving public agencies. In the early 2000s, Ms. El-Guindy did some work for Higgins & Associates and completed some work on Gilroy and Morgan Hill projects. Most recently, Ms. El-Guindy has served as the Public Works Director for Nevada County. She has also held positions with the cities of

Stockton, Sunnyvale, San Jose, Berkeley, and Culver City. Ms. El-Guindy holds both a bachelor's degree and a master's degree in civil and environmental engineering. She is also a licensed professional traffic engineer by the State of California.

Ms. El-Guindy was attracted to the Gilroy position based on the projects and challenges associated with the Gilroy Public Works Department. She is excited to serve the Gilroy community and make an impact by applying her experience and education to Gilroy's projects and initiatives. She prefers a roll-up-your-sleeves position in a busy, fast-paced environment. Project management and her positive project delivery track record are two areas where she believes her experience and training will add value to Gilroy.

Ms. El-Guindy brings to this position some of the key leadership and management traits the city sought in a new director: strong technical and leadership skills, an excellent customer service orientation, an action-oriented work style focused on getting projects completed on time and within budget, a calm and deliberate approach to project management, the ability to develop, mentor, and lead teams, and creative problem-solving. She is a consensus builder, communicator, and problem solver while at the same time focusing on bringing projects to a successful completion.

Understanding some of Gilroy's current challenges, Ms. El-Guindy is excited to join the Gilroy team and put her talents to work to fulfill the Council's and City Administrator's priorities. In addition, this position will allow her to grow her experience in an active and engaged community where she will be responsible for engineering (development, capital, and traffic) as well as the non-utilities operational areas of public works (streets, parks and landscape, and trees).

FISCAL IMPACT/FUNDING SOURCE

The salary and benefits for this position have been included in the FY24 operating budget approved by the Council and are paid from the General Fund (Fund 100 - 20%), Water (Fund 705 - 40%), and Wastewater (Fund 700 - 40%) funds.

NEXT STEPS

Upon consent of the City Council and issuance of a final offer letter, Ms. El-Guindy is scheduled to begin employment on February 12, 2024.

14.1.CONFERENCE WITH REAL PROPERTY NEGOTIATORS Pursuant to GC Sec. 54956.8 and GCC Sec.17A.8 (a) (2)

Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park), 3050 Hecker Pass Highway, Gilroy, CA (APN's: 810-17-024, 810-17-026, 810-17-029, 810-17-030, 810-17-031, 810-18-002, 810-18-013, 810-19-005, 810-19-007, 810-19-010, 810-19-011, 810-19-014)

Negotiators: Jimmy Forbis, City Administrator; Victoria Valencia, Economic Development Manager

Other Parties to Negotiations: Paul Nakamoto, Bay.Org (DBA Aquarium of the Bay/Bay Ecotarium); Chris Sutton, Select Contracts; Nicholas Singer, Purchase Capital;

Under Negotiations: Price and terms of payment for sale or lease.

From: [Chris Sutton](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment for Item 14.3 for January 22nd council meeting relating to 3050 Hecker Pass Road, Gilroy
Date: Monday, January 15, 2024 1:40:37 PM

CAUTION: This email originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Dear Council Members,

As you are hopefully all aware, our company, Select Contracts, has been working with Gilroy Gardens and the City of Gilroy since late 2016 to try and bring an adventure park to the 536 acres of 3050 Hecker Pass Road.

In 2021, it was declared at a council meeting that 342 of the 536 acres could be declared as surplus so the City then proceeded to issue the Notice of Availability to developers registered with the California Department of Housing and Community Development (HCD), pursuant to the Surplus Lands Act (SLA). This land was approved as surplus in March 2022.

It states in Council Packet 202330223211150655 (agenda packet item 11.2) that "The City received interest and proceeded through the negotiation with the interested party, but ultimately no deal was closed". Select Contracts was that interested party to develop the adventure park on those surplus lands and a full Exclusive Negotiating Agreement (ENA) had been negotiated between ourselves and the City, however, the reason why it never closed was:-

- 1) The City only applied for 245 acres of the proposed 342 acres and specifically excluded the base area of the adventure park which makes the park impossible to develop as there would be no base for the chairlift or parking and;
- 2) The discussion prior to applying had included all 536 acres of land to be declared as Surplus but only 245 were applied for

We had negotiated the ENA with the City and were about to sign when we finally got to see Exhibit A which showed the findings listed above. When this was discovered we requested that the correct piece of land be declared as surplus so that the ENA could then be signed between Select Contracts and the City and the City proceeded with this.

Now that the full 536 acres has been declared as Surplus, we have signed the ENA and have submitted to the City for counter signature, however, we see on agenda item 14.3 under the closed session on January 22nd, that there are now other Parties interested in the land. The only reason that the ENA was not signed in early 2023 was because of a mistake made by the City so we would very kindly request a counter signature on the ENA so that we can all continue towards an adventure park at 3050 Hecker Pass Road. If any of these other Parties are interested in a tourism attraction on the land, we would be more than happy to have a discussion with them once the ENA is in place.

We very much look forward to hearing from you and assure you of our very best attention at all times.

Yours sincerely

Chris Sutton
CEO
Select Contracts

From: [Ralph Tan](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Monday, January 15, 2024 11:28:21 AM

CAUTION: This email originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Gilroy City Council,

Select Contracts proposal for an Adventure Park in Gilroy will be a positive project in the region for people that bike, hike, and enjoy the outdoors. It will provide a benefit to our local community and attract tourism to the city. “The inclusion of a full-scale lift accessed downhill bike park within day-trip of the Bay area and weekend trip distance for much of the central California coastline is totally unique and compelling as its own offering,” said Select Contracts in their proposal.

The park would be an amazing resource for local high school mountain bike teams, mountain bike enthusiasts, new riders, hikers, and those who enjoy emerging trends in recreation. There is not another project like this in the region. Gilroy is a Bicycle Friendly Community, and the Adventure Park supports the 2018 Tourism in the Hecker Pass Corridor Resolution, and the 2020 Recreation Destination Community Resolution. We are actively embracing, advancing ideas, and projects that promote the concept of free-range people in the City of Gilroy.

Thank you for your time.

From: [Carla Rosa](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Monday, January 15, 2024 11:28:10 AM

CAUTION: This email originated from an External Source. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Gilroy City Council,

Select Contracts proposal for an Adventure Park in Gilroy will be a positive project in the region for people that bike, hike, and enjoy the outdoors. It will provide a benefit to our local community and attract tourism to the city. I know many people that travel to Henry Coe for cycling and another option for mountain biking would be highly sought after. "The inclusion of a full-scale lift accessed downhill bike park within day-trip of the Bay area and weekend trip distance for much of the central California coastline is totally unique and compelling as its own offering," said Select Contracts in their proposal.

The park would be an amazing resource for local high school mountain bike teams, mountain bike enthusiasts, new riders, hikers, and those who enjoy emerging trends in recreation. There is not another project like this in the region. The opportunity for a site to host year-round mountain biking is welcomed and would also spread out the impact on other trail systems given the exponentially growing sport. Gilroy is a Bicycle Friendly Community, and the Adventure Park supports the 2018 Tourism in the Hecker Pass Corridor Resolution, and the 2020 Recreation Destination Community Resolution. We are actively embracing, advancing ideas, and projects that promote the concept of free-range people in the City of Gilroy.

Thank you for your time.

Best.
Carla Rosa

From: [Cody Breuninger](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Monday, January 15, 2024 3:59:41 PM

CAUTION: This email originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Gilroy City Council,

Select Contracts proposal for an Adventure Park in Gilroy will be a positive project in the region for people that bike, hike, and enjoy the outdoors. It will provide a benefit to our local community and attract tourism to the city. “The inclusion of a full-scale lift accessed downhill bike park within day-trip of the Bay area and weekend trip distance for much of the central California coastline is totally unique and compelling as its own offering,” said Select Contracts in their proposal.

The park would be an amazing resource for local high school mountain bike teams, mountain bike enthusiasts, new riders, hikers, and those who enjoy emerging trends in recreation. There is not another project like this in the region. Gilroy is a Bicycle Friendly Community, and the Adventure Park supports the 2018 Tourism in the Hecker Pass Corridor Resolution, and the 2020 Recreation Destination Community Resolution. We are actively embracing, advancing ideas, and projects that promote the concept of free-range people in the City of Gilroy.

Thank you for your time.

From: [Jeremy Nuger](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Monday, January 15, 2024 11:42:14 AM

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This looks great. Let's please build this!

Gilroy City Council, Select Contracts proposal for an Adventure Park in Gilroy will be a positive project in the region for people that bike, hike, and enjoy the outdoors. It will provide a benefit to our local community and attract tourism to the city. "The inclusion of a full-scale lift accessed downhill bike park within day-trip of the Bay area and weekend trip distance for much of the central California coastline is totally unique and compelling as its own offering," said Select Contracts in their proposal. The park would be an amazing resource for local high school mountain bike teams, mountain bike enthusiasts, new riders, hikers, and those who enjoy emerging trends in recreation. There is not another project like this in the region. Gilroy is a Bicycle Friendly Community, and the Adventure Park supports the 2018 Tourism in the Hecker Pass Corridor Resolution, and the 2020 Recreation Destination Community Resolution. We are actively embracing, advancing ideas, and projects that promote the concept of free-range people in the City of Gilroy. Thank you for your time.

Sent from Gmail Mobile



January 15, 2023

Re: Public Comment Item 14.3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park), 3050 Hecker Pass Highway, Gilroy, CA Negotiators: Jimmy Forbis, City Administrator; Victoria Valencia, Economic Development Manager Other Parties to Negotiations: Paul Nakamoto, Bay.Org (DBA Aquarium of the Bay/Bay Ecotarium); Chris Sutton, Select Contracts; Nicholas Singer, Purchase Capital; Under Negotiations: Price and terms of payment for sale or lease.

Gilroy City Council,

We want to carry forward the voices of over 300 residents, visitors, and organizations that have taken the time to provide support for the Select Contracts Hillside Adventure Park proposal to both the City Council and since the dissolved Bicycle Pedestrian Commission. There are letters of support from Santa Clara County Parks, Gilroy Chamber of Commerce, Gilroy Economic Development Corporation, Garlic City BMX, Bike Therapy, and South County Composite Mountain Bike Team. Bay Area Ridge Trail, Mountain Bikers of Santa Cruz, Silicon Valley Mountain Bikers, and Trailhead Cyclery all spoke in support during public comment at the Gilroy Bicycle Pedestrian Commission September 2019 meeting and subsequent Gilroy City Council meetings.

Select Contracts proposal for an Adventure Park in Gilroy will be a positive project in the region for people that bike, hike, and enjoy the outdoors. It will provide a benefit to our local community and attract tourism to the city. "The inclusion of a full-scale lift accessed downhill bike park within a day-trip of the Bay area and weekend trip distance for much of the central California coastline is totally unique and compelling as its own offering," said Select Contracts in their proposal. The park would be an amazing resource for local high school mountain bike teams, mountain bike enthusiasts, new riders, hikers, and those who enjoy emerging trends in recreation. There is not another project like this in the region. We are actively embracing, advancing ideas, and projects that promote the concept of free-range people in the City of Gilroy. We advocate for building and planning that considers future generations as well as current residents who don't own cars. Advancing mobility options reflects what we are teaching the youth in our community through Safe Routes to School and why we are nationally recognized as a Bicycle Friendly Community from the League of American Bicyclists, as well as recognized by the World Health Organization as an Age-Friendly Community.

Sincerely,

Gilroy Bicycle Pedestrian Advisory Committee (Gilroy BPAC)

GilroyBPAC@gmail.com

<https://www.facebook.com/GilroyBPAC>

We are a community group actively embracing, advancing ideas, and projects that promote the concept of free-range people in Gilroy. We support building projects that are energy resilient and promote the reduction of greenhouse gasses (GHG). We are seeking your input whether you are a BMX rider, trail runner, recreational bike rider, MTB rider, walker, and hiker! #GilroyBPAC

From: [Steve Nelson](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Tuesday, January 16, 2024 9:08:20 AM

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Gilroy City Council,

Select Contracts proposal for an Adventure Park in Gilroy will be a positive project in the region for people that bike, hike, and enjoy the outdoors. It will provide a benefit to our local community and attract tourism to the city. “The inclusion of a full-scale lift accessed downhill bike park within day-trip of the Bay area and weekend trip distance for much of the central California coastline is totally unique and compelling as its own offering,” said Select Contracts in their proposal.

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Thank you for your time.

From: [Steve Parmley](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Tuesday, January 16, 2024 9:14:47 AM

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Gilroy City Council,

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Thank you for your time.

From: [Theresa Nguyen](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Tuesday, January 16, 2024 10:24:26 AM

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Gilroy City Council,

Select Contracts proposal for an Adventure Park in Gilroy will be a positive project in the region for people that bike, hike, and enjoy the outdoors. It will provide a benefit to our local community and attract tourism to the city. “The inclusion of a full-scale lift accessed downhill bike park within day-trip of the Bay area and weekend trip distance for much of the central California coastline is totally unique and compelling as its own offering,” said Select Contracts in their proposal.

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Thank you for your time.

Best Regards,
Theresa Nguyen

From: [Lucas Nissen](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Tuesday, January 16, 2024 3:54:23 PM

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Gilroy City Council,

Select Contracts proposal for an Adventure Park in Gilroy will be a positive project in the region for people that bike, hike, and enjoy the outdoors. It will provide a benefit to our local community and attract tourism to the city. “The inclusion of a full-scale lift accessed downhill bike park within day-trip of the Bay area and weekend trip distance for much of the central California coastline is totally unique and compelling as its own offering,” said Select Contracts in their proposal.

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Thank you for your time.

Lucas Nissen

From: [Benjamin Norris](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass
Date: Tuesday, January 16, 2024 4:04:25 PM

CAUTION: This email originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Gilroy City Council,

Please consider the proposal for an Adventure Park in Gilroy. As an outdoor enthusiast and a mountain biker, I can tell there is great need in the Bay Area for fun and accessible trails for a wide range of skill levels. The construction of such a bike park in Gilroy will be a huge benefit to the local community and the broader Bay Area. I live and ride bikes in Santa Cruz, and can tell you personally about how many hundreds of riders come to our town to ride bikes on a weekly basis. One imagines that, if there were lift-accessed trails available, a large number of riders would prefer such an arrangement. This undoubtedly would provide tourist dollars to the City of Gilroy and support local businesses. Please consider this proposal.

Thank you,

Benjamin Norris

From: [Sean Estes](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Tuesday, January 16, 2024 4:31:52 PM

CAUTION: This email originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Dear Gilroy City Council,

I am writing to express my support for the proposed Adventure Park in Gilroy. The Bay Area is lacking in areas for mountain bike recreation and is the perfect location for such a facility. As a long-time mountain biker and member of the cycling industry, and resident of the area since 1987, I think this is a great idea and one that would bring tremendous revenue to Gilroy in the form of spending at hotels, restaurants, gas stations, etc. It really seems like a win-win proposition for all parties.

Sincerely,
Sean Estes

From: [Eleanor Markarian](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Tuesday, January 16, 2024 5:56:53 PM

CAUTION: This email originated from an External Source. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Gilroy City Council,

Select Contracts proposal for an Adventure Park in Gilroy will be a positive project in the region for people that bike, hike, and enjoy the outdoors. It will provide a benefit to our local community and attract tourism to the city. “The inclusion of a full-scale lift accessed downhill bike park within day-trip of the Bay area and weekend trip distance for much of the central California coastline is totally unique and compelling as its own offering,” said Select Contracts in their proposal.

The park would be an amazing resource for local high school mountain bike teams, mountain bike enthusiasts, new riders, hikers, and those who enjoy emerging trends in recreation. There is not another project like this in the region. Gilroy is a Bicycle Friendly Community, and the Adventure Park supports the 2018 Tourism in the Hecker Pass Corridor Resolution, and the 2020 Recreation Destination Community Resolution. We are actively embracing, advancing ideas, and projects that promote the concept of free-range people in the City of Gilroy.

Thank you for your time.

All the best,
Eleanor Markarian

Sent from my iPhone

From: [Fiona Swartz](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Tuesday, January 16, 2024 8:48:30 PM

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Thank you for your time.

Sent from my iPhone

From: [Jason Fass](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Tuesday, January 16, 2024 9:52:01 PM

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Building a lift accessible bike park in Gilroy would be an enormous boost for all businesses and the entire Bay Area community. I believe it would have a very positive impact on youth sports development and benefit many different adjacent communities.

- Jason

Gilroy City Council, Select Contracts proposal for an Adventure Park in Gilroy will be a positive project in the region for people that bike, hike, and enjoy the outdoors. It will provide a benefit to our local community and attract tourism to the city. “The inclusion of a full-scale lift accessed downhill bike park within day-trip of the Bay area and weekend trip distance for much of the central California coastline is totally unique and compelling as its own offering,” said Select Contracts in their proposal. The park would be an amazing resource for local high school mountain bike teams, mountain bike enthusiasts, new riders, hikers, and those who enjoy emerging trends in recreation. There is not another project like this in the region. Gilroy is a Bicycle Friendly Community, and the Adventure Park supports the 2018 Tourism in the Hecker Pass Corridor Resolution, and the 2020 Recreation Destination Community Resolution. We are actively embracing, advancing ideas, and projects that promote the concept of free-range people in the City of Gilroy. Thank you for your time.

From: [Sean Cassidy](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Wednesday, January 17, 2024 9:50:29 AM

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Gilroy City Council,

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Thank you for your time.

Sean Cassidy
El Granada, CA

From: [Dean Wilton](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Thursday, January 18, 2024 9:08:23 AM

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Gilroy City Council,

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Thank you for your time.

Dean Wilton
Sent from my iPhone

From: [Devin Babic](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Thursday, January 18, 2024 9:17:41 AM

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Thank you for your time.

Devin A. Babic



From: [Lucas Martinez](#)
To: [Public Comments](#)
Subject: EXTERNAL - Public Comment Item #14.3 Property: City-Owned 536 Acres at Hecker Pass (Including Gilroy Gardens Theme Park)
Date: Wednesday, January 17, 2024 6:14:14 PM

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Hello Gilroy City Council,

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