



CITY COUNCIL REGULAR MEETING AGENDA

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, MAY 20, 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.



To access written translation during the meeting, please scan the QR Code or click this link:

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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**
- 3. COUNCIL CORRESPONDENCE (Informational Only)**
 - 3.1. Update on Grant Applications**
 - 3.2. LAFCO Countywide Fire Service Review Supplemental Response**
 - 3.3. Regional Medical Center Reduction Impact Assessment Report**
- 4. PRESENTATIONS TO THE COUNCIL**

- 4.1. Retirement Proclamation for Fire Chief Jim Wyatt
- 4.2. Retirement Proclamation for Fire Division Chief Randall Wong
- 4.3. Annual Presentation by the Gilroy Youth Commission
- 4.4. 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.

5. 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*)

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, 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

6. 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.

- 6.1. Approval of the Action Minutes of the May 6, 2024 City Council Regular Meeting and the May 13, 2024 Study Session Meeting**
- 6.2. Cash and Investment Report as of March 31, 2024**
- 6.3. A Resolution of the City Council of the City of Gilroy Calling a General Municipal Election for Municipal Officers and Requesting the Santa Clara County Board of Supervisors Consolidate With the Statewide General Election to be Held on November 5, 2024 Pursuant to California Elections Code Section 10403, and Requesting Services of the Registrar of Voters**

7. BIDS AND PROPOSALS

8. PUBLIC HEARINGS

- 8.1. Appeal of Determination of Incomplete Application for 315 Las Animas Avenue (M 24-07)**

- 1. Disclosure of Ex-Parte Communications
- 2. Staff Report: Sharon Goei, Community Development Director
- 3. Open Public Hearing
- 4. Close Public Hearing
- 5. Possible Action:

Staff recommends that the City Council deny the appeal and uphold staff's decision to determine the Architectural and Site Review application (AS 23-21) is incomplete pursuant to Government Code section 65943.

- 8.2. Zoning Text Amendments to Implement Various Programs of the Gilroy 2023-2031 Housing Element**

- 1. Disclosure of Ex-Parte Communications
- 2. Staff Report: Sharon Goei, Community Development Director
- 3. Open Public Hearing
- 4. Close Public Hearing
- 5. Possible Action:

- a) Based on the City Council's independent analysis, find that approval of Zoning Amendment Z 24-0001 is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) where it can be seen with certainty that the amendments to implement the Gilroy 2023-2031 Housing Element would not result in a significant environmental effect; and

- b) Motion to read the ordinance by title only and waive further reading;
and
- c) Introduce an ordinance of the City Council of the City of Gilroy amending the Gilroy City Code, Chapter 30 (Zoning), Article XI (Residential Use Tables) in conformance with the City of Gilroy 2023-2031 Housing Element.

9. UNFINISHED BUSINESS

10. INTRODUCTION OF NEW BUSINESS

10.1. Consent the Appointment of Scot Smithee (Retired Annuitant) as the Interim Senior Executive Team Director Leading and Managing the Gilroy Fire Department Effective May 28, 2024 and Adoption of a Resolution of the City Council of the City of Gilroy Approving the Appointment and Employment Agreement

- 1. Staff Report: LeeAnn McPhillips, Administrative Services and Human Resources Director / Risk Manager
- 2. Public Comment
- 3. Possible Action:
 - a) Consent the City Administrator's recommendation to appoint Scot Smithee (Retired Annuitant) as Interim Senior Executive Team Director leading and managing the Gilroy Fire Department effective May 28, 2024.
 - b) Adopt a resolution of the City Council of the City of Gilroy approving the appointment of Scot Smithee (Retired Annuitant) as Interim Senior Executive Team Director leading and managing the Gilroy Fire Department pursuant to Government Code Section 21221(h) and authorizing the City Administrator to execute the employment agreement.

10.2. Receive Budget Report for the Third Quarter of Fiscal Year 2023-2024 (FY24) and Adopt a Resolution Amending the Appropriations for FY24 and FY25 in the Police Grants Fund

- 1. Staff Report: Harjot Sangha, Finance Director
- 2. Public Comment
- 3. Possible Action:
 - a) Receive Budget Report as of the Third Quarter of FY24.
 - b) Adopt a Resolution of the City Council of the City of Gilroy amending the appropriations for FY24 and FY25 in the Police Grants Fund (225).

10.3. Fiscal Year 2024 Third Quarter Departmental Workplan Update

- 1. Staff Report: Bryce Atkins, Assistant to the City Administrator

2. Public Comment
3. Possible Action:

Council receive the report.

10.4. Authorization for the City Administrator to Execute the Countywide AB 939 Implementation Fee Agreement and the Countywide Household Hazardous Waste (HHW) Collection Agreement

1. Staff Report: Heba El-Guindy, Public Works Director
2. Public Comment
3. Possible Action:

Receive report and provide authorization for the City Administrator to execute the Countywide AB 939 Fee Agreement and the Countywide Household Hazardous Waste (HHW) Collection Agreement.

10.5. Approve First Amendment to Agreement with Ruggeri-Jensen-Azar & Associates in the amount of \$45,314 for the Sharks Ice Gilroy Street Improvements and Traffic Signal Project (24-RFP-PW-492) to complete American Land Title Association Survey for the Sharks Ice Gilroy Facility

1. Staff Report: Heba El-Guindy, Public Works Director
2. Public Comment
3. Possible Action:

Approve the attached First Amendment to the Consulting Services Agreement between the City and Ruggeri-Jensen-Azar & Associates for the Sharks Ice Gilroy Street Improvements and Traffic Signal project (24-RFP-PW-492) in the amount of \$45,314 to complete the American Land Title Association (ALTA) survey for the Sharks Ice Gilroy facility and authorize the City Administrator to execute the necessary Amendment documents.

11. FUTURE COUNCIL INITIATED AGENDA ITEMS

12. CITY ADMINISTRATOR'S REPORTS

13. CITY ATTORNEY'S REPORTS

14. CLOSED SESSION

14.1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION Pursuant to Government Code Section 54957 and Gilroy City Code Section 17A.11 (2);

Employee Name/Title: Jimmy Forbis, City Administrator

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

June 2024

3 Regular Meeting - 6:00 p.m
17 Regular Meeting - 6:00 p.m

July 2024

29 Regular Meeting - 6:00 p.m

August 2024

5 Regular Meeting - 6:00 p.m
19 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>.



City of Gilroy

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 Gilroy, California 95020
 Telephone: 408-846-0400 Fax: 408-846-0500
www.cityofgilroy.org

May 13, 2023

To: Honorable Mayor and City Council
 From: Bryce Atkins, Assistant to the City Administrator

RE: Current Grant Status Report

Below is a listing of the current status of grant applications. The below listing identifies the name of the grant, the amount if known (those grants still in application status or being evaluated may not have a known number yet), the purpose for the grant application, and the status. For this report, we are including the state and federal earmarks, as they constitute grants (required a request, considered competitively with other submissions, and is funding without a match requirement). There are four such entries (three Congressional, one California Legislature earmarks). If Council has any questions regarding a specific grant, please let me know and I can supply the information or gather additional information from the department leading that specific application.

Grant Name	Amount (In US\$)	Purpose/ Project	Status
Clean California Grant	3,960,765	Gourmet Alley and Railroad Street Beautification and Litter Abatement	Awarded
SVCE Resilience Program	314,031	Planning and eventual implementation - likely Electric Vehicle technology	Awarded
Proposition 68 Per Capita Grant	212,134	Sports Park and San Ysidro Park - Protective Rubber safety surface replacement, LED lighting, picnic tables, trash receptacles, etc.	Awarded
California Energy Commission grant	60,000	funds for establishing an online, automated solar permitting program (SolarApp+)	Awarded
SVCE Reach Code Grant	10,000	Reach Code process	Awarded
Safety Training Program	2,000	HR program award	Awarded

Grant Name	Amount (In US\$)	Purpose/ Project	Status
Community Power Resiliency Grant	300,000	advanced-based grant towards the City Hall back-up power project	Awarded
2021 Emergency Management Performance Grant	23,500	Reimbursement-based grant for EOC technology upgrades to include video wall mount with 3 new displays, A/V sharing capability, related cable systems, and 2 laptops. Most purchases already made and working with Santa Clara County on reimbursement process.	Awarded
2022 Emergency Management Performance Grant	3,800	Reimbursement-based grant for emergency management training. Fully Reimbursed.	Awarded
2023 Emergency Management Performance Grant	21,200	Reimbursement-based grant for EOC technology upgrades to include a Surface Hub to enhance collaboration and video conferencing capability. Also, includes funding for emergency management training.	Awarded
California OES Prepare Jumpstart Grant	986,249	Original request: \$357,290 to hire a full-time Community Resilience Coordinator for two years. CalOES contacted the City and asked us to revise our application for a five-year program term and associated costs. The application was awarded.	Awarded
EDI Community Project Funding (US Congressional Omnibus Bill)	3,000,000	San Ysidro Park, Healthy Living Enhancement Project	Awarded
EDI Community Project Funding (US Congressional Omnibus Bill)	1,500,000	Safe Routes to School Initiative	Awarded
EDI Community Project Funding (US Congressional Omnibus Bill)	350,000	Gateway Senior/Monterey Road HAWK Crosswalk	Awarded
Priority Legislative Budget Project (California State Senator Laird Earmark)	350,000	Gateway Senior/Monterey Road HAWK Crosswalk	Awarded
CNRA Youth Community Access Grant	291,006	Three-year nature field trip program for underserved youth. Application has now advanced to second tier review.	Awarded
Recreational Trails Program	200,000	Lions Creek Trail	Awarded
EMS Agency	40,417	LUCAS Device	Awarded
EMS Agency	33,081	iPads, Duodote, Check-it	Awarded
EMS Agency	40,835	Gurney	Awarded
FEMA	69,633	FEMA reimbursement for cost of OT associated with working as COVID-19 vaccinators.	Awarded

Grant Name	Amount (In US\$)	Purpose/ Project	Status
FEMA	20,813	Response to Terrorism Training	Awarded
Assistance to Firefighters Grant	66,583	SCBA Compressor	Awarded
2023 State Homeland Security Grant Program (SHSGP)	8,640	Gilroy OEM Satellite Phone Deployment	Awarded
County of Santa Clara 2023 Fireworks Grant Program	5,000	Offset Costs of annual 4th of July Fireworks display	Awarded
County of Santa Clara 2024 Fireworks Grant Program	5,000	Offset Costs of annual 4th of July Fireworks display	Awarded
Hazard Mitigation Grant Program	TBD	Cancelled due to County LHMP not being FEMA and CalOES Approved in time.	Cancelled
RAISE Grant - 2022 Round	19,525,606	10th Street Bridge Construction	Denied
Family Homelessness Challenge	650,000	Two years' salary for a new full-time City employee (Unhoused Family Specialist) as well as rental/motel vouchers for families with children that are experiencing homelessness	Denied
OBAG3 Grant	16,000,000	Reconstruction of segments of Monterey and Luchessa	Denied
Active Transportation Program (ATP)	4,442,000	Monterey Road sidewalk, pedestrian crossing, and bike lane improvements	Denied
Assistance to Firefighters Grant	850,000	Type 1 Fire Engine	Denied
Opioid Affected Youth Initiative	590,500	Youth and family opioid and other drug treatment and prevention	Denied
Assistance to Firefighters Grant	70,843	Purchase of drones for the Fire Drone Program	Denied
RAISE Grant - 2023 Round	21,934,608	10th Street Bridge Construction. Second round of submittals. Work continues on outreach component of application; submittal of February 28th. Total application amount may change as application is finalized.	Denied
Valley Water Grants & Partnerships Program	1,603,253	Lions Creek Trail	Denied
Habitat Conservation Fund	200,000	Lions Creek Trail	Denied
Assistance to Firefighters Grant	800,000	Replacement of Gilroy Fire Department Self Contained Breathing Apparatus (SCBA) tanks.	Denied
JAG: Edward Byrne Memorial Justice Assistance Grant	TBD	Provides funding to local governments to support program areas in law enforcement	Evaluating for Application
Safe Streets and Roads for All Discretionary Grant Program	TBD	Project is for a to be determined. It may be used for a local road safety plan, or implementation program if the	In Progress

Grant Name	Amount (In US\$)	Purpose/ Project	Status
		requirements of an existing plan are satisfied. Cancelled, some application requirements were not attainable in the application window. Other financing will be explored.	
EPA - sub-applicant with SCC District Attorney's Office	TBD	Notice of Intent submitted - training and supplies	In Progress
Office of Planning and Research - Extreme Heat and Community Resilience Grant	TBD	Notice of Intent submitted - Solar Generator and Senior Center	In Progress
Caltrans Sustainable Transportation Planning Grant	310,300	Climate Action Plan, VMT/TDM Policy Development	Submitted/ Waiting
RAISE Grant - 2024 Round	25,000,000	10th Street Bridge	Submitted/ Waiting
Listos CERT Support	25,000	CERT equipment and supplies	Submitted/ Waiting
SAFER	2,162,841	Submitted 4/11/2024	Submitted/ Waiting
Assistance to Firefighters Grant	365,000	Ambulance	Submitted/ Waiting
Assistance to Firefighters Grant	225,000	Portable radios	Submitted/ Waiting
Patrick Leahy Bulletproof Vest Grant	27,960	To reimburse states, units, and local government for up to 50% of the cost of body armor vests purchases for law enforcement officers	Submitted/ Waiting
Law Enforcement Mental Health and Wellness Act (LEMHWA) Program	200,000	Funding to improve the delivery of and access to mental health and wellness services for law enforcement by funding projects that develop knowledge, increase awareness of effective mental health and wellness strategies, increase the skills and abilities of law enforcement, and increase the number of law enforcement agencies and relevant stakeholders using peer support, training, family resources, suicide prevention, and other promising practices for wellness programs	Submitted/ Waiting

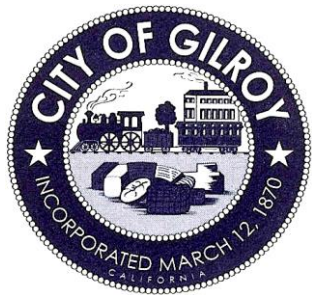
Grant Name	Amount (In US\$)	Purpose/ Project	Status
Cannabis Tax Fund Grant Program (CTFGP)	104,000	With the passage of Proposition 64, voters mandated the State set aside funding for the California Highway Patrol to award grants to local governments to address impaired driving by providing alternative funding sources to augment current activities and programs	Submitted/ Waiting
OTS: Office of Traffic Safety Grant Selective Traffic Enforcement Program	146,000	Provides funding to reduce the number of persons killed and injured in crashes involving alcohol and other primary crash factors	Submitted/ Waiting
OTS: Motorcycle Safety	26,570	Provides funding for hands-on motorcyclist safety courses, helmet usage training, classroom education, community outreach and public awareness campaigns, presentations and workshops	Submitted/ Waiting

Total Number of Grants, including in evaluation: 53		
	<u>Amount (in US\$)</u>	<u># of Applications</u>
Awarded	11,874,687	26
Denied	66,666,810	11
Submitted/ Waiting	28,592,671	11
In Progress	-	3
Cancelled	-	1
Evaluating for Application	N/A	1
Total Applied For Amount ¹	107,134,168	

Respectfully,

Bryce Atkins
Assistant to the City Administrator

¹ Amount includes awarded, declined, submitted, and earmarks.



City of Gilroy

7351 Rosanna Street
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95020

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Jimmy Forbis
City Administrator

April 22, 2024

Santa Clara County LAFCO
777 N. First Street #410
San Jose, CA 95112
lafco@ceo.sccgov.org

Re: Countywide Fire Service Review Report Responses

Dear LAFCO Commissioners and Neelima Palacherla,

Thank you for the opportunity to respond to the Countywide Fire Service Review Recommendations. We have the following responses:

Table A

2C Gilroy Units:

The Chestnut Station has two units cross-staffed with three personnel assigned to the station, and the crew has an UHU of 10.9%. The Station 47/Chestnut Station crew has an UHU of 10.9%, specifically Sta.47 Cross Staffed (2.1%) + E47 (8.8%).

City's Response

The City of Gilroy has diligently worked to hire and train fire personnel to staff a fourth fire station to provide an effective citywide fire response force, to reduce the response times within the Santa Teresa Response (STR) district, and to reduce overall response times throughout the City. Within the past year, the City has hired a total of (6) firefighters to bring the current staffing level to 39-line personnel. Numerous industrial work-related injuries have delayed full implementation of staffing the STR Station. Once the STR Station is fully staffed, it is anticipated to reduce the Unit Hour Utilization currently exceeding 10% at the Chestnut Station.

8A Gilroy:

With two of Gilroy Fire Department's three stations being over forty years old, there should be a facility replacement plan in place. (Chestnut - 51 years) and (Las Animas - 45 years). In reviewing the city's current capital improvement budget, there were no fire facilities identified.

Page 2 - Re: Countywide Fire Service Review Report Responses**City's Response**

The Gilroy City Council recently approved funding for upgrades and improvements to the Chestnut and Las Animas Fire Stations. Additionally, a sales tax ballot initiative is being developed for proposal to the City's voters for approval in 2024. If approved, funding will become available for seismic retrofit, remodel, station upgrades, and completion of a fourth station.

20 AVL Dispatch of Resources:

Gilroy, Morgan Hill, San Jose, Sunnyvale, CCFD, and SCFD are not currently utilizing Automatic Vehicle Location (AVL) technology to dispatch the closest available resource for emergencies. By integrating AVL into the CAD system through GIS mapping, the system can identify and dispatch the nearest unit to the incident. AVL Dispatch can help improve overall response times, potentially making a significant difference in critical calls. Each of these agencies should implement AVL dispatch in their dispatch center.

City's Response

Gilroy has recently purchased the technology and equipment to provide AVL capabilities for all frontline and reserve apparatus. Software integration with the City's CAD system will aid in dispatching the closest Gilroy fire engine to the emergency incident. However, these advantages of full integration of the City's CAD and AVL systems will be limited to City-owned resources only. Mutual-aid/auto-aid responses using AVL will be unavailable until similar capabilities are purchased and implemented by adjacent agencies.

30 Gilroy, Morgan Hill and SCFD:

Exploring options for alternative service structures, such as joint powers authorities combining operations of two or more neighboring agencies, could potentially bring efficiencies and value-added services to Morgan Hill, Gilroy, and SCFD. While CAL FIRE provides contractual service of a large-scale fire agency to Morgan Hill and SCFD, creating a larger local entity consisting of Morgan Hill, Gilroy, and SCFD with a unified structure could offer benefits such as increased accountability, improved efficiency, and enhanced effectiveness in delivering fire services to the community. While reorganization, consolidation, and other shared service structures will likely have efficiencies from which agencies can benefit, if they are facing service related constraints, these structure alternatives do not provide a singular solution to all constraints to services and must be combined with other strategies. It is recommended that SCFD and the cities of Morgan Hill and Gilroy enter into a Memorandum of Understanding, in coordination with CAL FIRE, outlining the agencies' commitment to providing long-term cooperative fire services and establishing a joint strategic planning team to assess potential cooperative service elements for implementation.

City's Response

Regionalization and consolidation of the South County area has been considered repeatedly over the past 20 years. Recently, the City Administrator sought and was given permission by the Gilroy City Council to initiate the exploration of this concept once again, to determine fiscal feasibility, validate efficiencies and value-added services, and recommend the best course of action. In the meantime, the GFD continues to work with the MHFD and South Santa Clara County Fire District through existing Boundary Drop Agreements, Mutual Aid Agreements, and Auto Aid Agreements.

30A Gilroy:

Considering the staffing and facility constraints specific to the City of Gilroy, collaborating with the City of Morgan Hill and SCFD to establish a larger entity may hold particular value.

Page 3 - Re: Countywide Fire Service Review Report Responses**City's Response**

The GFD agrees with and appreciates the potential advantages of combining service for the South County region through participation with a single larger entity that would address increasing costs and needed efficiencies. Contracting out also brings the potential for one or more alternative service models to the GFD. The City is currently in negotiations to finalize and receive funding to build a permanent fourth fire station, the completion of which was contemplated as part of and necessary for the response time goals adopted by the Gilroy City Council in 2019. With the completion of the fourth fire station and recent City Council approval to initiate the exploration of combined service for South County, we believe there are many opportunities underway for significant improvements to GFD services to the Community and our residents.

Please reach out to jimmy.forbis@cityofgilroy.org or jim.wyatt@cityofgilroy.org if you have any questions.

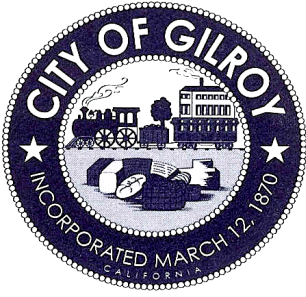
Respectfully Submitted,

DocuSigned by:
Jimmy Forbis
CC6456EF9B054DC...

Jimmy Forbis, Administrator
City of Gilroy

DocuSigned by:
Jim Wyatt
69A10C064674420...

Jim Wyatt, Fire Chief
City of Gilroy



City of Gilroy

Fire Department

7070 CHESTNUT STREET
GILROY, CALIFORNIA
95020-6610

Telephone (408) 846-0370

FAX: (408) 848-0379

<http://www.gilroyfire.com>

JIM WYATT
FIRE CHIEF

DATE: MAY 3, 2024

TO: JIMMY FORBIS, CITY ADMINISTRATOR

FROM: JIM WYATT, FIRE CHIEF

SUBJECT: Regional Medical Center Reduction Impact Assessment Report

BACKGROUND

On February 13, 2024, Regional Medical Center notified the Santa Clara County Emergency Medical Services (EMS) Agency that they would be terminating their Hospital Designation Agreements for Trauma, STEMI, and downgrading their Stroke from Comprehensive to Primary, effective August 12, 2024.

Pursuant to California Health and Safety Code, the EMS Agency completed an impact assessment and conducted a public hearing within 60 days of the notification. A public hearing was held on March 27, 2024, and a presentation was made to the Board of Supervisors on April 16, 2024.

Listed is a summary of the EMS Agency's impact assessment of RMC terminating Trauma, STEMI, and downgrading their Stroke from Comprehensive to Primary.

ASSESSMENT

EMS System Impacts

The changes at RMC are also expected to affect various aspects of EMS operations, including 911 transport times and utilization, interfacility ambulance services, ambulance patient offload times (APOT), and disaster response.

- **911 Transport Times and Utilization:** It is anticipated that 911 patient transport times to other specialty care centers will increase, particularly for incidents located north or east of RMC. Longer transport times may result in ambulances being less available for response due to increased travel time, leading to the loss of several hours of availability.
- **Impact on Interfacility Ambulance Services:** The number of transfers to other acute care hospitals or specialty care centers are expected to increase, and specialty care patients may require higher levels of care during transport, potentially leading to longer response times for IFT units.
- **Ambulance Patient Offload Times (APOT):** Increased volume at the remaining specialty centers in the county will likely lead to delays in offloading patients from ambulances to emergency departments, which can cause resource allocation issues, ED overcrowding, longer wait times, and decreased patient satisfaction.

Page 2 - Regional Medical Center Reduction Impact Assessment Report

- **Impacts on Healthcare Providers:** Additional strains will be placed on hospitals and healthcare providers, including emergency medical personnel, physicians, and nurses. Disrupted care pathways will force patients to seek care at alternative facilities, increasing demand on neighboring hospitals and exacerbating staffing shortages, burnout rates, and compromised patient care.
- **Disaster Response:** The discontinuation of specialty services at RMC may impact disaster response capabilities, particularly for incidents affecting both Santa Clara and Alameda counties. Larger-scale incidents, such as earthquakes or mass casualty events, may further strain the EMS system and require alternative means of medical care.

Overall, the changes at RMC are expected to have **significant** implications for EMS operations, patient care, hospital services, and disaster response capabilities in the region. Strategies for managing increased transport times, addressing offload delays, and ensuring effective disaster response will be crucial for maintaining the quality and efficiency of the EMS system.

Community Impacts:

RMC's reduction of STEMI, Trauma, and Stroke units is expected to have profound effects on health outcomes, access to care, and community well-being.

- County EMSA link to the full report:
<https://bit.ly/RegionalMedicalCenterImpactAssessment>

CONCLUSION – Impact to City of Gilroy

The County EMSA's assessment paints a grim picture for the County, but a significant loss for the South County area (my assessment) because over one-half of Gilroy's trauma patients are currently transported to RMC. **Extended** ambulance transport times coupled with **greater** out-of-service times by our firefighter/paramedics when providing necessary assistance during transport, will lessen chances for patient survival and will stretch our already thin resources even further. However, we have an opportunity to reduce the impact of trauma closures and hospital service reductions if we are able to convince the voters to pass the upcoming Public Safety Sales Tax initiative. Revenues from this tax initiative could fund additional firefighter/paramedic personnel and finance the replacement of our aging fire-based ambulance with the intention to improve timely transportation of critical trauma/medical patients and improve patient survivability within the City.



City of Gilroy

Proclamation




HEREAS,

James "Jim" Wyatt has well served the City of Gilroy for ten years, sharing his expertise, skills, and talents to support Gilroy Fire Operations, Emergency Medical Services, Emergency Management; and leadership within Santa Clara County; and

WHEREAS,

Jim has made significant contributions to the City as it relates to operational readiness, development of COVID-19 policies and protocols, implementation of California's first fire-based Community Paramedicine Behavioral Health Program, fire policy development, leadership succession planning, and significant contributions at the Emergency Medical Services Section Chiefs level and the Santa Clara County Fire Chiefs level; and

WHEREAS,

Jim is retiring from the position of Fire Chief with the sincere gratitude and appreciation of the Gilroy City Council for his years of dedicated public service to our fine City; and

WHEREAS,

Jim has left his legacy as one of public service, teamwork, and collaborative spirit; and

NOW, THEREFORE, I, Marie Blankley, Mayor of the City of Gilroy, and on behalf of the entire City Council and all the citizens and employees of Gilroy, join in thanking

JAMES WYATT

for his commitment of service and wish him well in retirement for years to come.

Attested to by:

Beth Minor
Interim City Clerk

Marie Blankley
MAYOR





Proclamation



WHEREAS,

Randy Wong has well served the City of Gilroy for over twenty-one years, having begun his Gilroy career in 2002. He served the community through dedication, compassion, and commitment to helping all in need; and

WHEREAS,

Randy's skills as a Fire Division Chief, Training Division Manager, exceptional Training Officer, and Fireground Incident Commander have helped the City prepare for and manage many emergencies over the years; and

WHEREAS,

Randy has made significant contributions to the City as it relates to all types of emergency response. This unwavering service and dedication was done with the needs of this community well above his own with a servant heart in full knowledge of the tremendous risk to himself; and

WHEREAS,

Randy is retiring from the position of Fire Division Chief with the sincere gratitude and appreciation of the Gilroy City Council for his years of dedicated public service; and

WHEREAS,

Randy's positive impact to those he worked with and those he served will live on.

NOW, THEREFORE, I, Marie Blankley, Mayor of the City of Gilroy, and on behalf of the entire City Council and all of the citizens and employees of Gilroy, join in thanking

RANDY WONG

For his commitment of service and wish him well in retirement for years to come.

Attested to by:

Beth Minor
Interim City Clerk

Marie Blankley
MAYOR



**GILROY CITY COUNCIL MEETING MINUTES
MONDAY, MAY 6, 2024 | 6:00 PM**

1. OPENING

1.1. Call to Order

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

1.2. Pledge of Allegiance

Council Member Bracco led the Pledge of Allegiance.

1.3. Invocation Father Michael Hendrickson, St. Mary's Church, provided the invocation.

1.4. City Clerk's Report on Posting the Agenda Interim City Clerk Beth Minor advised the agenda was posted on Friday, May 3rd at 8:31 A.M.

1.5. Roll Call

Attendance	Attendee Name
Present	Rebeca Armendariz, Council Member Dion Bracco, Council Member Tom Cline, Council Member Zach Hilton, Council Member Carol Marques, Mayor Pro Tempore Fred Tovar, Council Member Marie Blankley, Mayor
Absent	None

1.6. Orders of the Day

There were none.

1.7. Employee Introductions

Heath McMahon, Utilities Director, introduced Izabela Cirloganu, Management Analyst.

Police Captain Luke Powell to introduced Lucas Asuncion, Police Officer.

Fire Chief Wyatt introduced Gregory Lucas, Casey Main, and Kevin BeBee, all newly Promoted to Fire Captain.

2. CEREMONIAL ITEMS - Proclamations and Awards

2.1. Proclamation Proclaiming May 2024 as Affordable Housing Month

2.2. Proclamation Proclaiming May 2024 as Building Safety Month

3. COUNCIL CORRESPONDENCE (Informational Only)

4. PRESENTATIONS TO THE COUNCIL

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

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THE CITY COUNCIL

Mayor Blankley opened Public Comment.

Ron Gurries spoke regarding the City's homeless encampment ordinance and lack of enforcement.

Michael Harris asked the Council to support a fall baseball program in Gilroy as the closest one is in Morgan Hill.

William Owen also spoke regarding a Gilroy fall baseball program.

Irene Garcia spoke regarding having to wait 3 hours in the Police Department lobby to report a bank fraud incident.

Kristin Brown relayed an incident with a man who was acting crazy and tried to get into her car while she and her daughter were at the signal light at Monterey Road and 6th Street.

Paul Brown came to support his wife and daughter and to speak about the homeless encampments around schools and the use of illegal drugs and their effects on people.

Robert Butler introduced himself to the Council and spoke about his accomplishments and having grown up and worked in Gilroy.

David Behzad spoke about the fire that destroyed his business at 7998 Monterey and the past theft and vandalism that has occurred there.

Rigo Gallardo spoke about the need to prioritize safety at construction sites and the need to hire contractors who embody the values of safety, responsibility, and ethical conduct.

Trinity Elledim spoke about the need for access to care and social services for the homeless.

Elizabeth Bertolone advised the Council that she was also having issues with people stealing gas, vehicle vandalism, and vehicle thefts from her used car business.

Ron Kirkish spoke regarding environmental strategies and sea level rise and the Plan Bay Area 2050 has \$19 Billion for this process.

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

5. REPORTS OF COUNCIL MEMBERS

Council Member Bracco No report.

Council Member Armendariz No report.

Council Member Marques report the new ticket pricing at Gilroy Gardens is working and they showed only a slight decline in attendance, compared to other amusement parks. She also spoke about the upcoming Study Session with the Gilroy Gardens Board on Monday, May 13, 2024.

Council Member Hilton announced the Santa Clara County VTA is seeking proposal to support VTA's vision of equitable, transit-oriented communities. He also attended the California Community Choice Association which represents interests in electricity providers in California. He also noted that bicycles are an essential transportation means for those who need to get around.

Council Member Cline No report.

Council Member Tovar congratulated the over 400 African American students who were recognized for their academic achievements at an event hosted by Santa Clara University, and also congratulated GECA for being awarded the 2024 California Distinguished School award and thanked the Gilroy School Board for considering his idea for School Resource Officer funding.

Mayor Blankley spoke about the rise in northbound ridership on CalTrain by 35%. Caltrain will have a table at the Bike to Work Community Day on May 16th. She also gave an update on SB1031.

6. CONSENT CALENDAR

- 6.1. **Approval of the Action Minutes of the April 8, 2024 and April 15, 2024 City Council Regular Meetings.**
- 6.2. **Approval of Notice of Acceptance of Completion for FY24 CDBG Curb Ramp Project Phase 2 No. 24-PW-289.**
- 6.3. **Approval of a Notice of Acceptance of Completion for the San Ysidro Lighting/Picnic Area Improvements Project No. 23-PW-281.**
- 6.4. **Annual Military Equipment Use Report 2024, per CA Assembly Bill No. 481.**
- 6.5. **Transfer of Interest Income from the Museum Vase Endowment Trust to the Gilroy Museum Fund.**

Mayor Blankley opened Public Comment.

There being no speakers, Mayor Blankley closed Public Comment.

MOTION: To approve the Consent Calendar Items 6.1-6.5.

RESULTS:	PASS: 7-0
MOVER:	Rebeca Armendariz, Council Member
SECONDER:	Carol Marques, Council Member
AYES:	BRACCO, ARMENDARIZ, MARQUES, HILTON, CLINE, TOVAR, BLANKLEY
NOES:	
ABSENT:	p. 22 of 217

ABSTAIN:

7. UNFINISHED BUSINESS**7.1. Preliminary Design Renderings of the Proposed Gilroy Ice Center (Sharks Ice)**

Staff presented the report and building renderings to Council.

Mayor Blankley opened Public Comment.

Palemon Frausto spoke about how this project would benefit the community and also provide jobs for local construction workers.

Eli Robles noted this project needed the contractor to be committed to providing health care benefits and they should hire from accredited apprentice programs.

Jane Howard praised the City for moving forward with this project.

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

7.2. FY24 and FY25 Community Development Department Workplan Update.

Council received the report on the Community Development Department workplan.

Mayor Blankley opened Public Comment.

There being no speakers, Mayor Blankley closed Public Comment.

8. BIDS AND PROPOSALS**9. PUBLIC HEARINGS****9.1. Conduct a Public Hearing to Approve CDBG Program Year 2024-25 Funding Allocations and Annual Action Plan.**

Council Member Armendariz excused herself from this discussion.

Mayor Blankley opened the Public Hearing at 8:13 P.M.

Deanne Everton, the Executive Director for Rebuilding Together, shared how the funds they receive go to helping people make critical repairs to their homes.

Mayor Blankley closed the Public Hearing at 8:16 P.M.

MOTION:

- a) Approve the Community Development Block Grant (CDBG) funding allocations and Annual Action Plan for Program Year 2024-25.
- b) Direct the Community Development Director, or designee, to submit the Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD), and further authorize the Community Development Director, or designee, to make any changes to the Annual Action Plan as needed to comply with CDBG submission guidelines.

RESULTS:	PASS: 6-0-1
MOVER:	Carol Marques, Council Member
SECONDER:	Fred Tovar, Council Member
AYES:	BRACCO, MARQUES, HILTON, CLINE, TOVAR, BLANKLEY
NOES:	
ABSENT:	
ABSTAIN:	ARMENDARIZ

10. INTRODUCTION OF NEW BUSINESS**10.1. City Council Downtown Committee (Part 3) - Subcommittee Reports and Recommendations – Code Enforcement.**

Susan Jacobsen, Downtown Committee member, reported on their findings on downtown code enforcement issues and the stated the need for an Code Enforcement Officer dedicated to downtown.

Mayor Blankley opened Public Comment.

There being no speakers, Mayor Blankley closed Public Comment.

10.2. Customer Service/Relationship Management Program

Council received the report from staff regarding the new Customer Service/Relationship Management Program.

Mayor Blankley opened Public Comment.

There being no speakers, Mayor Blankley closed Public Comment.

10.3. Receive Draft Updates of the City's Annual Shared Cost Sidewalk Replacement Program

Staff shared the draft updates to the annual shared sidewalk replacement program and received feedback from the Council.

Mayor Blankley opened Public Comment.

There being speakers, Mayor Blankley closed Public Comment.

10.4. Approval of an Exception to the CalPERS 180-Day Waiting Period for Work After Retirement for Ogarita Carranza (Retired Annuitant) to Serve in an Extra Help Position in the Public Works Department

Mayor Blankley opened Public Comment.

There being no speakers, Mayor Blankley closed Public Comment.

MOTION: Adopt a resolution of the City Council of the City of Gilroy approving the exception to the CalPERS 180-day wait period and appointment of Ogarita Carranza to an extra help position in the Public Works Department.

RESULTS:	PASS: 7-0 ROLL CALL VOTE
MOVER:	Dion Bracco, Council Member
SECONDER:	Rebeca Armendariz, Council Member
AYES:	BRACCO, ARMENDARIZ, MARQUES, HILTON, CLINE, TOVAR, BLANKLEY
NOES:	
ABSENT:	
ABSTAIN:	

Enactment No.: Resolution No. 2024-20

11. FUTURE COUNCIL INITIATED AGENDA ITEMS

12. CITY ADMINISTRATOR'S REPORTS

13. CITY ATTORNEY'S REPORTS

City Attorney Andy Faber spoke regarding the Grants Pass, Oregon public camping case and Senate Bill 9 as it pertains to Charter Cities.

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)

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

The Council went into the Closed Session at 9:25 P.M. and all Council Members agreed to stay in closed session.

15. ADJOURN TO OPEN SESSION

Mayor Blankley advised no reportable action.

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16. ADJOURNMENT

The meeting ended at 9:41 P.M

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.

DocuSigned by:

D4244EA57BF7425...

/s/Beth Minor

Interim City Clerk

**CITY COUNCIL STUDY SESSION
ACTION MINUTES**

MONDAY, MAY 13, 2024 | 6:00 PM

1. OPENING

1.1. Call to Order

Mayor Blankley called the meeting to order at 6:00 P.M.

1.2. Roll Call

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

2 STUDY SESSION

2.1 Annual Presentation from Gilroy Gardens (Board of Directors and Staff)

Gilroy Gardens Board and staff provided an update about what has been happening at the park and what they are doing moving forward.

Mayor Blankley opened Public Comment.

There being no speakers, Mayor Blankley closed Public Comment.

2.2 Report on the Gilroy Gardens Annual Lease Payments (City Staff)

Staff presented an overview of the lease and lease payments received from Gilroy Gardens.

Mayor Blankley opened Public Comment.

Ron Kirkish highly regards Gilroy Gardens and what they do and have done for the City and the public.

Gregory Felios spoke about his experience with being a docent the past 8 seasons, and how the employees and management work as a team.

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

3. ADJOURNMENT

The meeting was adjourned at 6:56 P.M.

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.

DocuSigned by:

D4244EA57BF7425...

/s/Beth Minor
Interim City Clerk



City of Gilroy

STAFF REPORT

Agenda Item Title:	Cash and Investment Report as of March 31, 2024
Meeting Date:	May 20, 2024
From:	Jimmy Forbis, City Administrator
Department:	Finance
Submitted By:	Harjot Sangha, Finance Director
Prepared By:	Rosemary Guerrero, Finance Manager

STRATEGIC PLAN GOALS

Develop a Financially Resilient Organization

RECOMMENDATION

Accept and file the quarterly cash and investment report as of March 31, 2024.

BACKGROUND

The quarterly investment reports are prepared pursuant to the City's investment policy to keep the City Council apprised of the City's investment activities.

ANALYSIS

As of March 31, 2024, the City's cash and investments totaled \$177.8 million, of which \$72.6 million is invested with the Local Agency Investment Fund (LAIF), and \$104.1 million is invested in US Treasury securities. The fiscal year-to-date interest earnings are \$5.6 million, which includes accrued interest as well as amortization of the discount on the US Treasury securities. Total interest earnings for fiscal year 2023-24 are projected to exceed \$7.0 million, with a current effective rate of return of 4.2%.

In addition, approximately \$20.5 million is held by Fiscal Agents in the Trustee capacity for various bond issues such as bond proceeds, debt service reserves, bond payments, and other post-employment benefits and pension. The majority of this balance (\$16.3 million) consists of the City of Gilroy's share of the Acquisition and Construction Funds for the SCRWA Plant Expansion Project.

FISCAL IMPACT/FUNDING SOURCE

There are no direct fiscal impacts to receiving and filing the quarterly cash and investment report. This is an activity included in the Finance Department's annual workplan.

Attachments:

1. Cash and Investment Report as of March 31, 2024

CITY OF GILROY
INVESTMENT REPORT
MARCH 2024



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**City of Gilroy
Portfolio Management
Portfolio Summary
March 31, 2024**

City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020
(408)846-0294

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 360 Equiv.	YTM 365 Equiv.
LAIF	72,647,919.80	72,647,919.80	72,647,919.80	41.10	1	1	3.906	3.960
Treasury Notes Securities	82,707,000.00	81,157,479.91	81,636,984.40	46.18	514	246	4.766	4.832
Treasury Bill -Amortizing	23,248,000.00	22,363,822.93	22,477,217.55	12.72	364	253	4.997	5.066
	178,602,919.80	176,169,222.64	176,762,121.75	100.00%	284	146	4.442	4.503
Investments								
Cash								
Passbook/Checking (not included in yield calculations)	1,033,055.62	1,033,055.62	1,033,055.62		1	1	0.000	0.000
Total Cash and Investments	179,635,975.42	177,202,278.26	177,795,177.37		284	146	4.442	4.503

Total Earnings	March 31	Month Ending	Fiscal Year To Date
Current Year		697,654.83	5,648,458.95
Average Daily Balance		184,824,994.65	178,210,960.66
Effective Rate of Return		4.44%	4.21%
6 Month T-Bill Benchmark:		5.38%	

NOTES:

1. See "Monies Held by Fiscal Agents" for additional amounts held in the capacity of a trustee.
2. The Maturity Aging Factor of the City's Portfolio = 4.87 months.
3. The unrealized gain resulting from an increase in Market Values obtained from U.S. Bank of all Securities (excluding LAIF) = \$214,871.83
4. The LAIF balance shown includes \$5,485,137.78 in bond proceeds from the Gilroy Library 2010 Bonds that can be used exclusively for the construction of the library.

This is to certify that this schedule of investments is in compliance with the City of Gilroy's investment policy and that there are adequate funds available to meet the City's budgeted and actual expenses for the next six months.

05/10/2024

Harjot Sangha, Finance Director

Reporting period 07/01/2023-03/31/2024

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**City of Gilroy
Portfolio Management
Portfolio Details - Investments
March 31, 2024**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	YTM 360	YTM 365	Days to Maturity	Maturity Date
LAIF												
SYSLAIF01	LAIF01	LAIF - City of Gilroy			31,701,393.72	31,701,393.72	31,701,393.72	3.960	3.906	3.960	1	
SYSLAIF03	LAIF03	LAIF - Industrial Dev. Auth.			35,461,388.30	35,461,388.30	35,461,388.30	3.960	3.906	3.960	1	
LAIF05	LAIF05	LAIF LIBRARY			5,485,137.78	5,485,137.78	5,485,137.78	3.960	3.906	3.960	1	
Subtotal and Average			73,905,984.32		72,647,919.80	72,647,919.80	72,647,919.80		3.906	3.960	1	
Treasury Notes Securities												
912828Z52	USB-10	U. S. TREASURY NOTES		05/01/2023	8,419,000.00	8,122,735.39	8,236,690.56	1.375	4.037	4.093	305	01/31/2025
91282CGX3	USB-11	U. S. TREASURY NOTES		07/31/2023	8,186,000.00	8,112,489.72	8,095,904.04	3.875	4.881	4.949	394	04/30/2025
91282CAB7	USB-14	U. S. TREASURY NOTES		11/07/2023	8,915,000.00	8,349,075.80	8,377,175.10	0.250	4.970	5.039	486	07/31/2025
9128283V0	USB-15	U. S. TREASURY NOTES		11/07/2023	506,000.00	494,139.36	494,937.56	2.500	5.171	5.243	305	01/31/2025
91282CEK3	USB-16	U. S. TREASURY NOTES		11/07/2023	11,938,000.00	11,828,886.68	11,910,717.03	2.500	5.366	5.441	29	04/30/2024
9128284M9	USB-17	U. S. TREASURY NOTES		11/07/2023	646,000.00	631,891.36	631,033.13	2.875	5.059	5.129	394	04/30/2025
91282CFA4	USB-18	U. S. TREASURY NOTES		11/07/2023	12,078,000.00	11,935,479.60	11,983,427.17	3.000	5.361	5.436	121	07/31/2024
91282CJE2	USB-20	U. S. TREASURY NOTES		01/31/2024	9,294,000.00	9,373,275.93	9,373,275.93	5.000	4.368	4.429	578	10/31/2025
912828YM6	USB-6	U. S. TREASURY NOTES		11/01/2022	7,527,000.00	7,319,179.53	7,408,285.02	1.500	4.296	4.355	213	10/31/2024
912828X70	USB-7	U. S. TREASURY NOTES		11/01/2022	7,612,000.00	7,532,302.36	7,597,046.09	2.000	4.521	4.584	29	04/30/2024
9128282N9	USB-8	U. S. TREASURY NOTES		11/01/2022	7,586,000.00	7,458,024.18	7,528,492.77	2.125	4.466	4.528	121	07/31/2024
Subtotal and Average			81,559,872.48		82,707,000.00	81,157,479.91	81,636,984.40		4.766	4.832	246	
Treasury Bill -Amortizing												
912797HE0	USB-13	U.S. TREASURY BILL		11/02/2023	12,248,000.00	11,772,287.68	11,885,682.30	5.000	5.270	5.343	213	10/31/2024
912797JR9	USB-19	U.S. TREASURY BILL		01/25/2024	11,000,000.00	10,591,535.25	10,591,535.25	4.501	4.690	4.755	297	01/23/2025
Subtotal and Average			22,431,072.68		23,248,000.00	22,363,822.93	22,477,217.55		4.997	5.066	253	
Total and Average			184,824,994.65		178,602,919.80	176,169,222.64	176,762,121.75		4.442	4.503	146	

**City of Gilroy
Portfolio Management
Portfolio Details - Cash
March 31, 2024**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	YTM 360	YTM 365	Days to Maturity
Wells Fargo Checking											
SYSWFB	WELLS FARGO	WELLS FARGO			203,189.38	203,189.38	203,189.38		0.000	0.000	1
Other Banks-Misc.Account-Petty Cash											
SYSUNDERCOV	UNDERCOV	CHASE BANK		07/01/2023	698.30	698.30	698.30		0.000	0.000	1
SYS/MUFG	MUFG	MUFG / UNION BANK		07/01/2023	0.00	0.00	0.00		0.000	0.000	1
SYSPETTY	PETTY	PETTY CASH		07/01/2023	2,661.56	2,661.56	2,661.56		0.000	0.000	1
SYS/USBANK	USB-CASH	U. S. BANK		07/01/2023	1,070.02	1,070.02	1,070.02		0.000	0.000	1
SYSBAIL	BAIL	WELLS FARGO		07/01/2023	0.00	0.00	0.00		0.000	0.000	1
SYSDISCOVERY	DISCOVERY	WELLS FARGO		07/01/2023	121,621.01	121,621.01	121,621.01		0.000	0.000	1
SYSICS	ICS	WELLS FARGO		07/01/2023	702,220.35	702,220.35	702,220.35		0.000	0.000	1
SYSWORKING	WORKING	WORKING CASH		07/01/2023	1,595.00	1,595.00	1,595.00		0.000	0.000	1
Average Balance			0.00								1
Total Cash and Investments			184,824,994.65		179,635,975.42	177,202,278.26	177,795,177.37		4.442	4.503	146



City of Gilroy
Investments by Issuer
Active Investments
Grouped by Type - Sorted by Type
March 31, 2024

City of Gilroy
 7351 Rosanna Street
 Gilroy, CA 95020
 (408)846-0294

CUSIP	Investment #	Security Type	Investment Class	Remaining Cost	Current Rate	Market Value	Market Date	YTM 365	Redemption Date	Call Date	Collateral
Type: CHECKING ACCOUNTS											
CHASE BANK											
SYSUNDERCOV	UNDERCOV	Other Banks-Misc.Account-Petty Cash	Fair	698.30		698.30	03/31/2024			1	
Subtotal and Average				698.30		698.30				1	
LAIF - City of Gilroy											
SYSLAIF01	LAIF01	LAIF	Fair	31,701,393.72	4.220	31,701,393.72	03/31/2024	4.220		1	
Subtotal and Average				31,701,393.72		31,701,393.72		4.220		1	
LAIF - Industrial Dev. Auth.											
SYSLAIF03	LAIF03	LAIF	Fair	35,461,388.30	4.220	35,461,388.30	03/31/2024	4.220		1	
Subtotal and Average				35,461,388.30		35,461,388.30		4.220		1	
LAIF LIBRARY											
LAIF05	LAIF05	LAIF	Fair	5,485,137.78	4.220	5,485,137.78	03/31/2024	4.220		1	
Subtotal and Average				5,485,137.78		5,485,137.78		4.220		1	
MUFG / UNION BANK											
SYS/MUFG	MUFG	Other Banks-Misc.Account-Petty Cash	Fair	0.00		0.00				1	
Subtotal and Average				0.00		0.00					
PETTY CASH											
SYSPETTY	PETTY	Other Banks-Misc.Account-Petty Cash	Fair	2,661.56		2,661.56	03/31/2024			1	
Subtotal and Average				2,661.56		2,661.56				1	
WELLS FARGO											
SYSWFB	WELLS FARGO	Wells Fargo Checking	Fair	203,189.38		203,189.38	03/31/2024			1	
SYSBAIL	BAIL	Other Banks-Misc.Account-Petty Cash	Fair	0.00		0.00				1	
SYSDISCOVERY	DISCOVERY	Other Banks-Misc.Account-Petty Cash	Fair	121,621.01		121,621.01	03/31/2024			1	
SYSICS	ICS	Other Banks-Misc.Account-Petty Cash	Fair	702,220.35		702,220.35	03/31/2024			1	

City of Gilroy
Investments by Issuer
Grouped by Type - Sorted by Type

CUSIP	Investment #	Security Type	Investment Class	Remaining Cost	Current Rate	Market Value	Market Date	YTM 365	Redemption Date	Call Date	Collateral
Subtotal and Average				1,027,030.74		1,027,030.74				1	
WORKING CASH											
SYSWORKING	WORKING	Other Banks-Misc.Account-Petty Cash	Fair	1,595.00		1,595.00	03/31/2024			1	
Subtotal and Average				1,595.00		1,595.00				1	
Type: NOT CALLABLE											
U. S. BANK											
SYS/USBANK	USB-CASH	Other Banks-Misc.Account-Petty Cash	Fair	1,070.02		1,070.02	03/31/2024			1	
Subtotal and Average				1,070.02		1,070.02				1	
U.S. TREASURY BILL											
912797HE0	USB-13	Treasury Bill -Amortizing	Fair	11,628,827.96	5.000	11,889,501.04	03/31/2024	5.343	10/31/2024	213	
912797JR9	USB-19	Treasury Bill -Amortizing	Fair	10,499,390.00	4.501	10,565,720.00	03/31/2024	4.755	01/23/2025	297	
Subtotal and Average				22,128,217.96		22,455,221.04		5.146		256	
U. S. TREASURY NOTES											
912828Z52	USB-10	Treasury Notes Securities	Fair	8,035,851.31	1.375	8,163,820.11	03/31/2024	4.093	01/31/2025	305	
91282CGX3	USB-11	Treasury Notes Securities	Fair	8,039,879.90	3.875	8,088,832.18	03/31/2024	4.949	04/30/2025	394	
91282CAB7	USB-14	Treasury Notes Securities	Fair	8,215,606.30	0.250	8,387,053.70	03/31/2024	5.039	07/31/2025	486	
9128283V0	USB-15	Treasury Notes Securities	Fair	489,642.10	2.500	495,227.26	03/31/2024	5.243	01/31/2025	305	
91282CEK3	USB-16	Treasury Notes Securities	Fair	11,773,361.37	2.500	11,910,423.22	03/31/2024	5.441	04/30/2024	29	
9128284M9	USB-17	Treasury Notes Securities	Fair	625,487.03	2.875	631,613.58	03/31/2024	5.129	04/30/2025	394	
91282CFA4	USB-18	Treasury Notes Securities	Fair	11,869,314.50	3.000	11,983,912.38	03/31/2024	5.436	07/31/2024	121	
91282CJE2	USB-20	Treasury Notes Securities	Fair	9,381,642.42	5.000	9,320,116.14	03/31/2024	4.429	10/31/2025	578	
912828YM6	USB-6	Treasury Notes Securities	Fair	7,120,136.45	1.500	7,365,846.93	03/31/2024	4.355	10/31/2024	213	
912828X70	USB-7	Treasury Notes Securities	Fair	7,330,453.97	2.000	7,591,447.60	03/31/2024	4.584	04/30/2024	29	
9128282N9	USB-8	Treasury Notes Securities	Fair	7,282,780.07	2.125	7,505,815.98	03/31/2024	4.528	07/31/2024	121	
Subtotal and Average				80,164,155.42		81,444,109.08		4.921		250	
Total and Average				175,973,348.80		177,580,305.54		4.631		146	



**City of Gilroy
Purchases Report
Sorted by Type - Type
January 1, 2024 - March 31, 2024**

City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020
(408)846-0294

CUSIP	Investment #	Type	Sec. Type	Issuer	Original Par Value	Purchase Date	Payment Periods	Principal Purchased	Accrued Interest at Purchase	Rate at Purchase	Maturity Date	YTM	Ending Book Value
NOT CALLABLE													
912797JR9	USB-19	NOT	ATD	USTB	11,000,000.00	01/25/2024	01/23 - At Maturity	10,499,390.00		4.501	01/23/2025	4.690	10,591,535.25
91282CJE2	USB-20	NOT	TRC	USTN	9,294,000.00	01/31/2024	04/30 - 10/31	9,381,642.42	117,451.65	5.000	10/31/2025	4.429	9,373,275.93
Subtotal					20,294,000.00			19,881,032.42	117,451.65				19,964,811.18
Total Purchases					20,294,000.00			19,881,032.42	117,451.65				19,964,811.18



**City of Gilroy
Maturity Report
Sorted by Maturity Date**

City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020
(408)846-0294

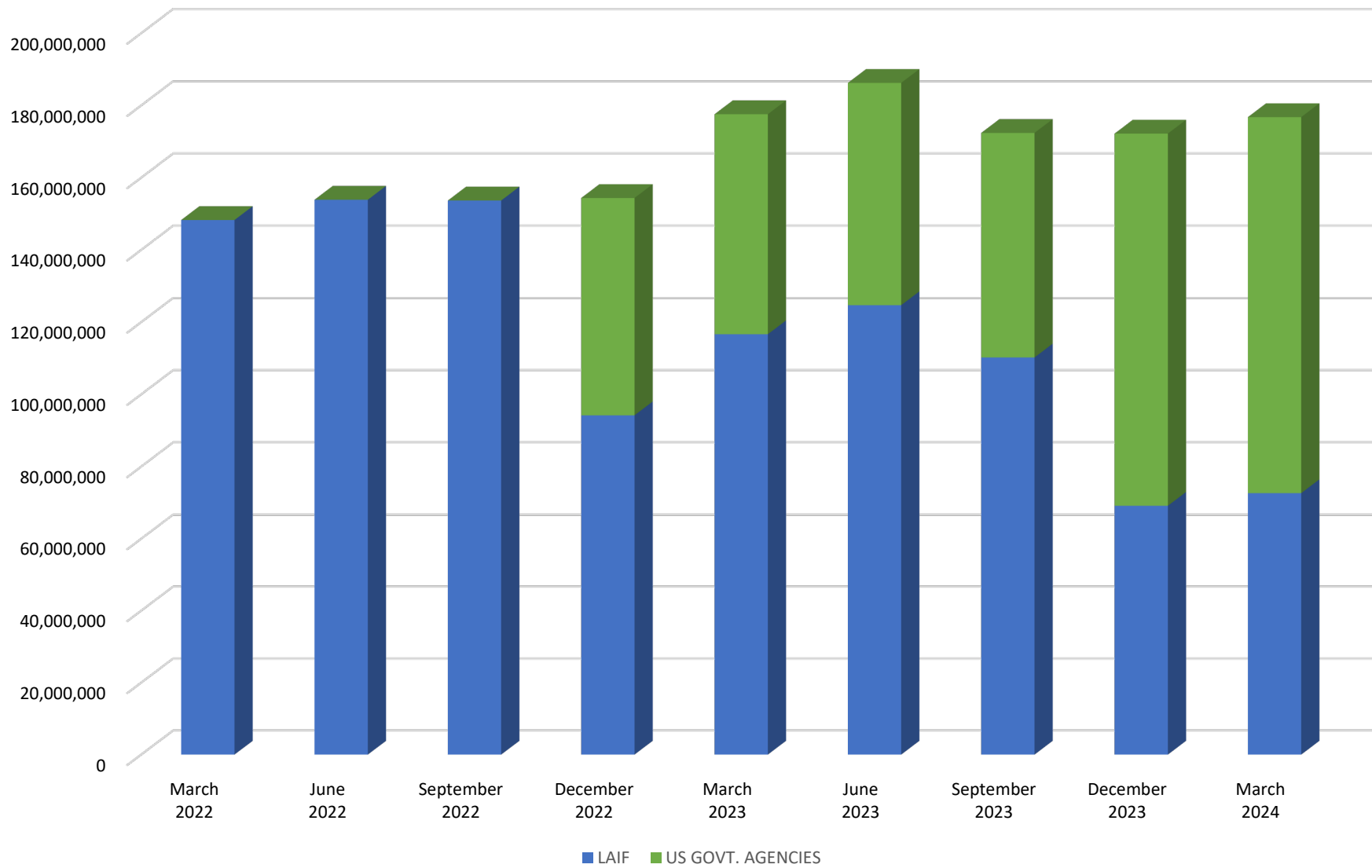
Amounts due during January 1, 2024 - March 31, 2024

CUSIP	Investment #	Type	Sec. Type	Issuer	Par Value	Maturity Date	Purchase Date	Rate at Maturity	Book Value at Maturity	Interest	Maturity Proceeds	Net Income
912797JB4	USB-12	NOT	ATD	USTB	3,401,000.00	01/30/2024	11/02/2023	4.925	3,401,000.00	41,407.52	3,401,000.00	0.00
91282CDV0	USB-5	NOT	TRC	USTN	7,720,000.00	01/31/2024	11/01/2022	0.875	7,720,000.00	33,775.00	7,753,775.00	33,775.00
91282CDV0	USB-9	NOT	TRC	USTN	8,472,000.00	01/31/2024	01/31/2023	0.875	8,472,000.00	37,065.00	8,509,065.00	37,065.00
Total Maturities					19,593,000.00				19,593,000.00	112,247.52	19,663,840.00	70,840.00

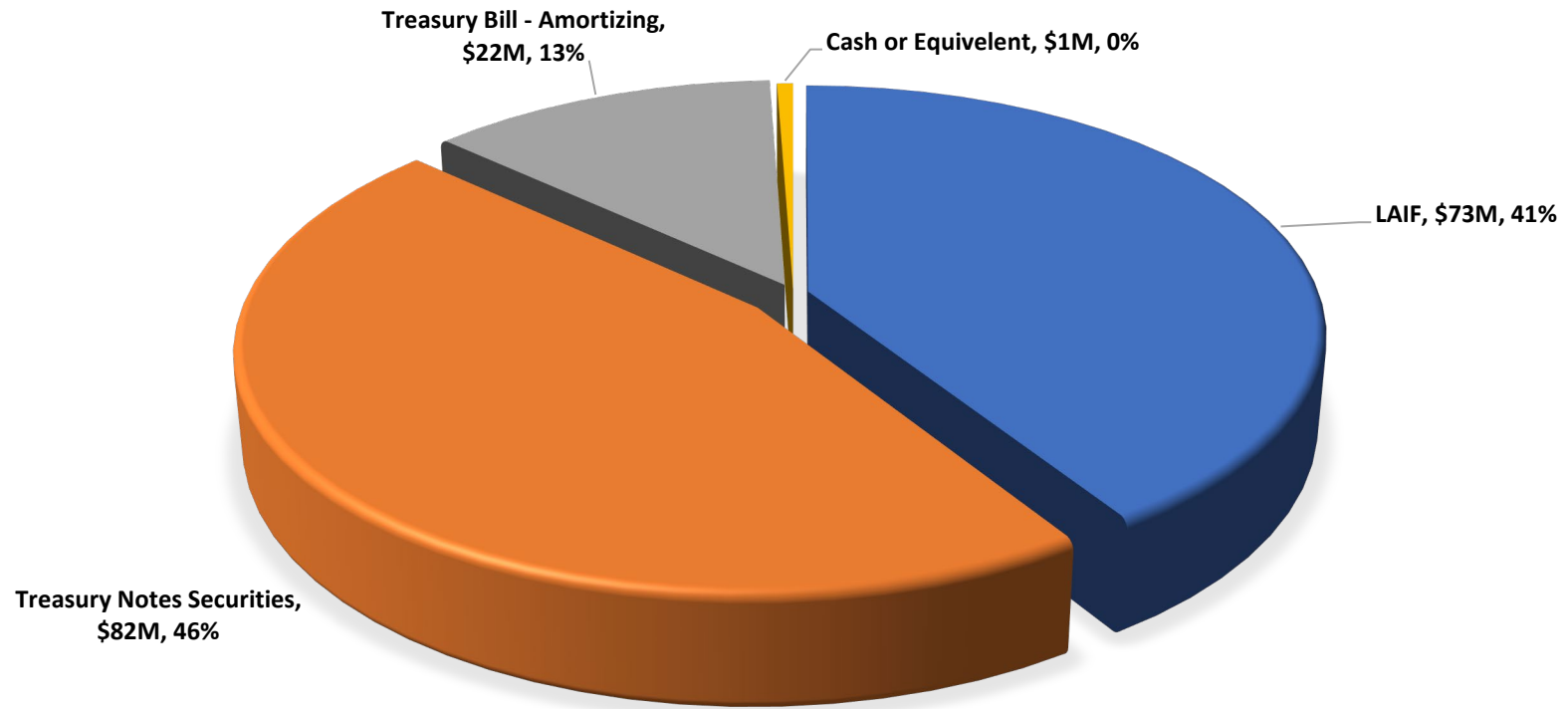
Quarterly Movement over the Last 4 Quarters

DESCRIPTION	JUN 2023	SEP 2023	DEC 2023	MAR 2024	% of Total MAR
LAIF:					
CITY OF GILROY	45,121,206	30,016,288	28,719,992	31,701,394	17.93%
GILROY INDUSTRIAL DEV AGENCY	74,233,655	74,821,324	35,000,001	35,461,388	20.06%
GILROY LIBRARY 2010 BOND	5,340,121	5,382,048	5,430,581	5,485,138	3.10%
SUB TOTAL	124,694,981	110,219,660	69,150,575	72,647,920	41.10%
US GOVERNMENTAL AGENCIES:					
TREASURY NOTES SECURITIES	61,547,102	62,171,563	87,926,764	81,636,984	46.18%
TREASURY BILL-AMORTIZING	-	-	15,118,397	22,477,218	12.72%
SUB TOTAL	61,547,102	62,171,563	103,045,161	104,114,202	58.90%
GRAND TOTAL (Book Value)	186,242,083	172,391,223	172,195,736	176,762,122	100.00%

**City of Gilroy
Investments From:
March 31, 2022 to March 31, 2024**

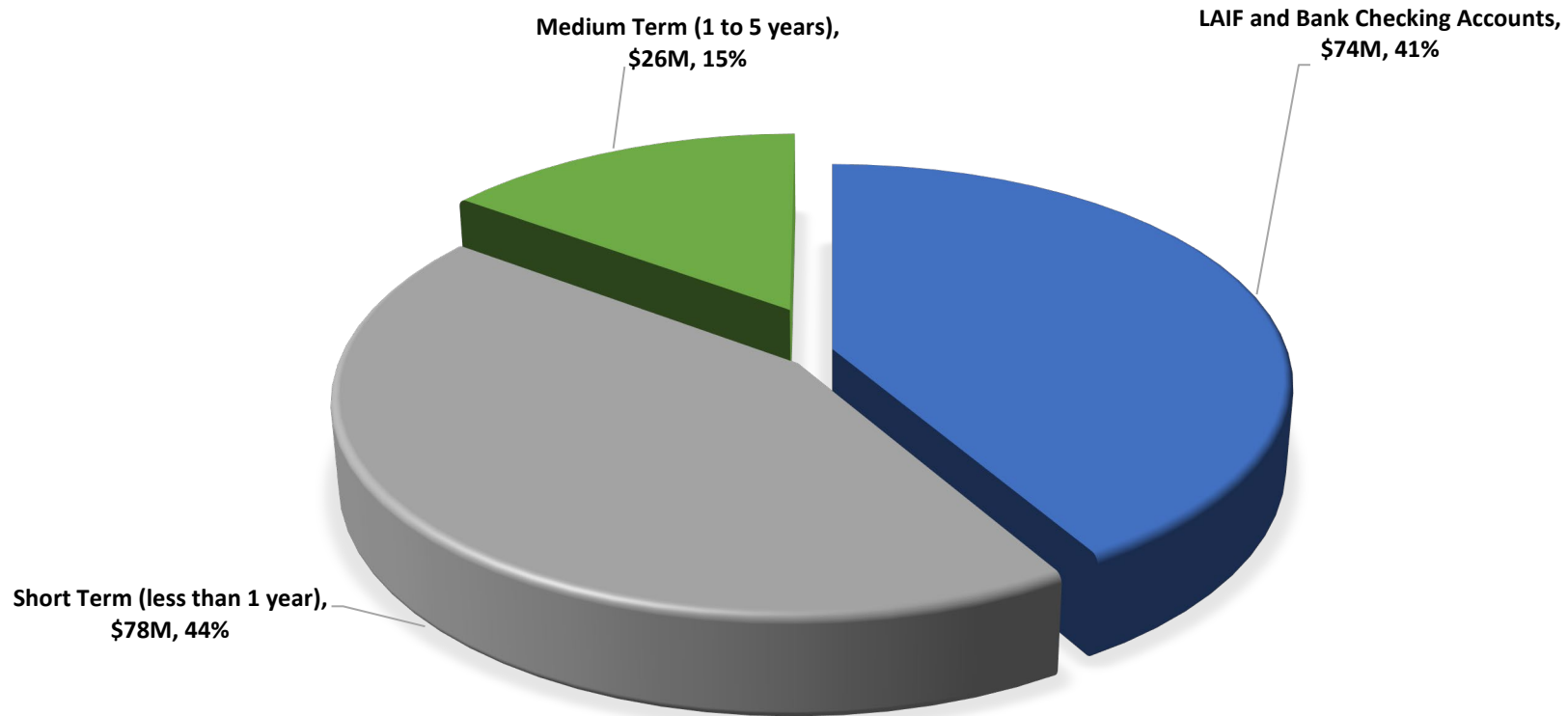


Book Value by Investment Type As of March 31, 2024



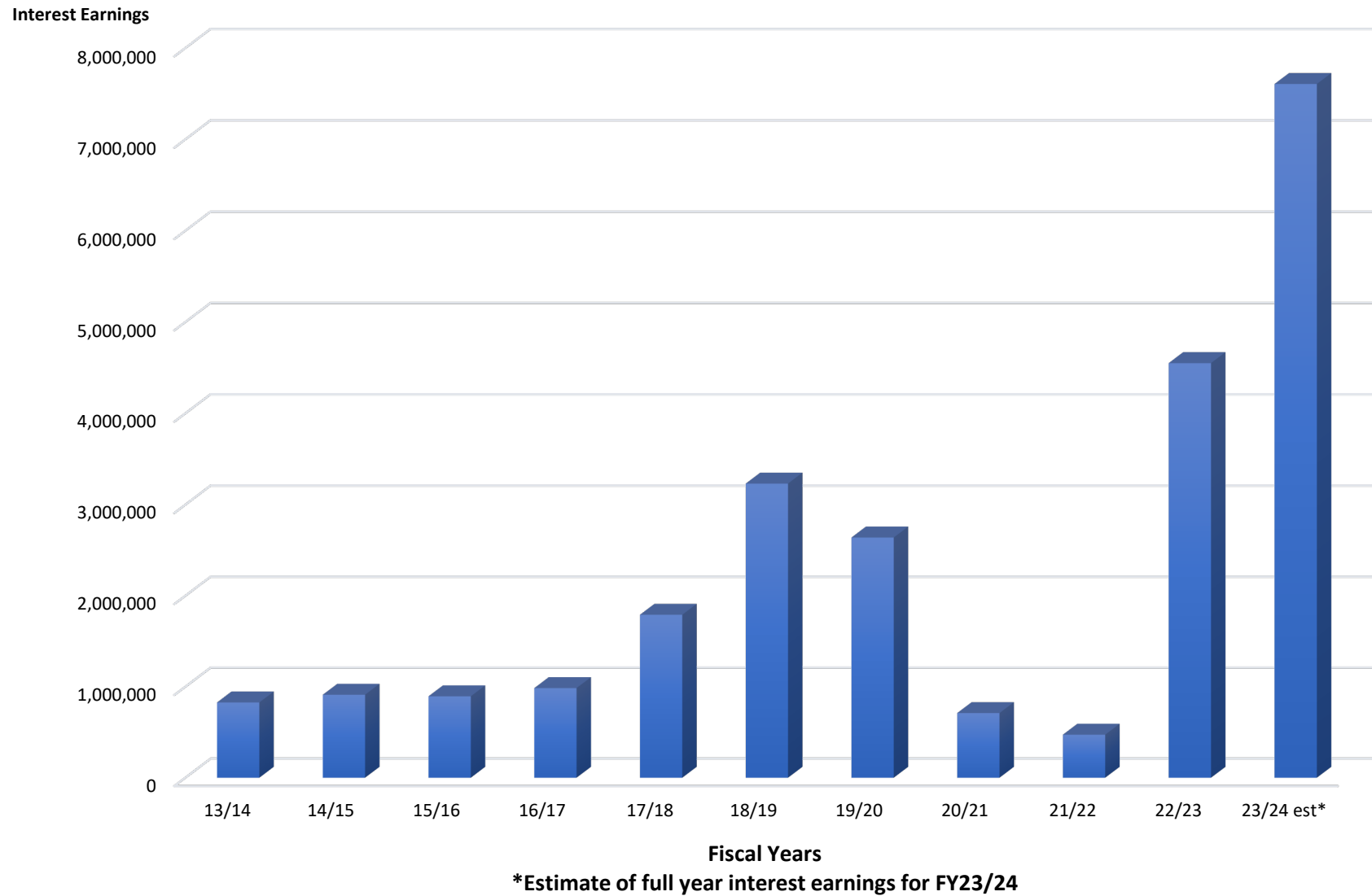
Value of Portfolio: \$177,795,177

Portfolio By Maturity As Of March 31, 2024



Value of Portfolio: \$177,795,177

City of Gilroy Interest Earnings FY2014 - FY2024



**CITY OF GILROY
MONIES HELD BY FISCAL AGENTS**

DESCRIPTION	VALUE ** AS OF 3/31/24
<u>HIGHWAY 152 SPECIAL TAX BONDS SERIES 2018</u>	
<u>SPECIAL TAX FUND - Bond REVENUE - HELD BY U.S. BANK - GL Acct 810-10435</u>	
GOLDMAN SACHS MONEY MARKET FUND #466, CUSIP #3814W265	7,455.33
<u>RESERVE FUND - HELD BY U.S. BANK - GL Acct 810-10430</u>	
GOLDMAN SACHS MONEY MARKET FUND #466, CUSIP #3814W265	291,750.11
<u>SPECIAL TAX FUND - INTEREST ACCOUNT - HELD BY U.S. BANK - GL Acct 810-10550</u>	
GOLDMAN SACHS MONEY MARKET FUND #466, CUSIP #3814W265	20.14
<u>SPECIAL TAX FUND - PRINCIPAL ACCOUNT - HELD BY U.S. BANK - GL Acct 810-10445</u>	
GOLDMAN SACHS MONEY MARKET FUND #466, CUSIP #3814W265	0.63
<u>GILROY PUBLIC FACILITIES FINANCING AUTHORITY REFUNDING LEASE REV BONDS 2020A</u>	
<u>REVENUE FUND - HELD BY U.S. BANK - GL Acct 520-10435</u>	
GOLDMAN SACHS FINANCIAL SQUARE MMKT #466, CUSIP #38141W265	160.94
<u>INTEREST ACCOUNT - HELD BY U.S. BANK - GL Acct 520-10440</u>	
GOLDMAN SACHS FINANCIAL SQUARE MMKT #466, CUSIP #38141W265	200.08
<u>PRINCIPAL ACCOUNT - HELD BY U.S. BANK - GL Acct 520-10445</u>	
GOLDMAN SACHS TR FINL SQ GV ADM #466, CUSIP #38141W265	554.20
<u>GILROY PUBLIC FACILITIES FINANCING AUTHORITY REFUNDING LEASE REV BONDS 2022A</u>	
<u>INTEREST ACCOUNT - HELD BY U.S. BANK - GL Acct 510-10440</u>	
FIRST AM.GOV'T OB FD CL D, CUSIP #31846V401, U.S. TREASURY BILL #912796C31	45.64
<u>PRINCIPAL ACCOUNT - HELD BY U.S. BANK - GL Acct 510-10445</u>	
FIRST AM.GOV'T OB FD CL D, CUSIP #31846V401, U.S. TREASURY BILL #912796C31	142.78
<u>GILROY PUBLIC FACILITIES FINANCING AUTHORITY WASTEWATER REV BONDS 2021A</u>	
<u>BOND PAYMENT FUND - HELD BY U.S. BANK - GL ACCT 700-10428</u>	
FIRST AM.GOV'T OB FD CL D, CUSIP #31846V401, U.S. TREASURY BILL #912796C31,	1,001.91
<u>ACQUISITION AND CONSTRUCTION FUND - HELD BY U.S. BANK - GL Acct 700-10426</u>	
FIRST AM.GOV'T OB FD CL D, CUSIP #31846V401	1,905.48
LAIF MONEY MARKET FUND #5399989H9	16,303,116.82
GILROY POST - EMPLOYMENT BENEFITS TRUST HELD BY PARS	3,932,624.13
TOTAL	20,538,978.19

** Market Values reported by U.S. Bank



City of Gilroy

STAFF REPORT

Agenda Item Title: **A Resolution of the City Council of the City of Gilroy Calling a General Municipal Election for Municipal Officers and Requesting the Santa Clara County Board of Supervisors Consolidate With the Statewide General Election to be Held on November 5, 2024 Pursuant to California Elections Code Section 10403, and Requesting Services of the Registrar of Voters**

Meeting Date: May 20, 2024
 From: Jimmy Forbis, City Administrator
 Department: City Clerk
 Submitted By: Beth Minor, Interim City Clerk
 Prepared By: Beth Minor, Interim City Clerk

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

Staff recommends Council adopt a Resolution of the City Council of the City of Gilroy calling a General Municipal Election for Municipal Officers and requesting the Santa Clara County Board of Supervisors authorize consolidation with the Statewide General Election to be held on November 5, 2024 pursuant to California Elections Code Section 10403, and requesting services of the Registrar of Voters.

BACKGROUND

The City of Gilroy's General Municipal Election is held on the Tuesday following the first Monday in November of even numbered years, with the next general election date being November 5, 2024. Three (3) City Council seats will be up for election this November, which are currently held by Council Members Rebeca Armendariz, Zach Hilton, and Fred Tovar. Additionally, the Mayor's seat, which is currently held by Marie Blankley, will be up for election. The at-large City Council seats and the Mayor's seat are for four (4)-year terms and will run through 2028.

A Resolution of the City Council of the City of Gilroy Calling a General Municipal Election for Municipal Officers and Requesting the Santa Clara County Board of Supervisors Consolidate With the Statewide General Election to be Held on November 5, 2024 Pursuant to California Elections Code Section 10403, and Requesting Services of the Registrar of Voters

Section 10002 of the Elections Code of the State of California provides that the governing body of a City may by resolution request the Board of Supervisors of the County to permit the County elections official to render special services to the City related to the conduct of elections. Upon approval, this resolution will be submitted to the Santa Clara County Board of Supervisors for approval of consolidation. The County requires submission of this resolution by July 3, 2024. The nomination period for the November 5, 2024 election opens at 8:30 a.m. Monday, July 15, 2024, and closes at 5:00 p.m. Friday, August 9, 2024, unless an incumbent fails to file. If an incumbent has not filed nomination papers by the August 9th deadline, the nomination period will be extended for non-incumbent candidates only until Wednesday, August 14, 2024 at 5:00 p.m. The City Clerk's Office will be taking appointments Monday through Friday from 8:30 a.m. to 4:00 p.m. during the period to process nomination papers for those seeking elective office.

During the nomination period, any eligible and qualified Gilroy resident interested in running for City Council may request nomination papers for candidacy from the City Clerk. An appointment for a time during the nomination period will be set. At this meeting, the Clerk will review the Candidate's Guide with the potential candidate and will issue all the forms required for a City Council candidacy. A candidate may, but is not required to, file a 200-word Candidate's Statement of Qualifications for inclusion in the voters' information pamphlet. Each candidate is responsible to pay half of the cost of this statement (\$1,650) at the time of filing. The City Council may also submit ballot measure(s) for the November 2024 election and if that occurs, the Council will take action by separate resolution(s) and/or ordinance(s) that will then be submitted to the Board of Supervisors and Elections Department by the published deadlines for inclusion on the ballot.

FISCAL IMPACT/FUNDING SOURCE

Estimated costs for this election are \$185,000, coming from the General Fund. A total of \$201,850 is appropriated to fund these election costs in the City Clerk's FY 24-25 budget. These costs include a base charge, shared printing, legal notices, measure pages, and candidate statement costs. This budget amount was based on previous registered voter numbers. However, this estimate anticipates a voter registration of 39,408 by November 2024, a 15% increase of actual registration numbers of 34,268 as of February 26, 2024. Please note that these costs are projections and the final amount could be higher than originally budgeted depending upon the number of voters registered at the time of the election, and a budget amendment may be needed if actual costs come in higher than estimated. At this time, staff will attempt to absorb election costs within the current FY 24-25 appropriations.

Any subsequent ballot measure(s) to be placed on the November 5th ballot will add to these election expenses and would require Council adoption of a Resolution by August 9, 2024 to place the measure(s) on the ballot.

A Resolution of the City Council of the City of Gilroy Calling a General Municipal Election for Municipal Officers and Requesting the Santa Clara County Board of Supervisors Consolidate With the Statewide General Election to be Held on November 5, 2024 Pursuant to California Elections Code Section 10403, and Requesting Services of the Registrar of Voters

PUBLIC OUTREACH/NEXT STEPS

Following the Council's adoption of this resolution calling the election for the purpose of electing three (3) Council Members and one (1) Mayor, the City Clerk's Office will publish a notice of the election in the newspaper, pursuant to Section 6061 of the Government Code.

As with previous practice, staff will also dedicate a web page on the City website to the 2024 General Municipal Election and will use all of the City's social media outlets to promote voter registration, vote-by-mail election process, and to highlight the nomination period throughout the community.

Attachments:

1. Draft Resolution Calling the 2024 Election

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY CALLING A GENERAL MUNICIPAL ELECTION FOR MUNICIPAL OFFICES, REQUESTING THE SANTA CLARA COUNTY BOARD OF SUPERVISORS CONSOLIDATE WITH THE STATEWIDE GENERAL ELECTION TO BE HELD NOVEMBER 5, 2024 PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10403, AND REQUESTING SERVICES OF THE REGISTRAR OF VOTERS

WHEREAS, § 1400 of the City Charter of the City of Gilroy provides that a general municipal election shall be held on the regular election date established by the Elections Code of the State of California for the statewide Election in each even-numbered year, commencing with the year 2010, for the election of officers and for such other purpose as the City Council may prescribe; and

WHEREAS, § 13307 of the California Election Code provides that the City may adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidate's statement.

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date, and that within the City that the election be held in all respects as if there were only one election, and that the Santa Clara County Registrar of Voters canvass the returns of the General Municipal Election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

Section 1. A General Municipal Election is hereby called in the City of Gilroy to be held on Tuesday, November 5, 2024, for the purposes of election of three (3) Councilmembers, at large, each for four (4) year full terms, and one (1) Mayor for four (4) year full term.

Section 2. Pursuant to § 13307 of the California Elections Code, each candidate for elective office to be voted for in the City of Gilroy on November 5, 2024, may prepare a candidate's statement on an appropriate form provided by the City Clerk, as the City's Election Official, or her designee. The statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations. Any candidate's statement submitted shall be limited to a recitation of the candidate's own personal background and qualifications, and shall not in any way make reference to other candidates for that office or to another candidate's qualifications, character, or activities.

Section 3. The candidate's statement shall be filed in the office of the City Clerk when the candidate's nomination papers are returned for filing. Except as provided in California Elections Code Section 13309, the statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:00 p.m. of the next working day after the close of the nomination period.

Section 4. The candidate shall be required to pay for one half of the cost of printing^{6.3} handling, and mailing said candidate's statement, one half of the estimated costs to be paid at the time of submittal of said candidate statement.

Section 5. No candidate will be permitted to include additional materials in the sample ballot package, and the City Clerk or her designee shall provide each candidate or their representative with a copy of this Resolution at the time nomination papers are issued.

Section 6. Pursuant to Elections Code Sections 10551 and 15651 and Gilroy City Charter Section 402, if any two or more persons receive an equal and the highest number of votes for an office to be voted for within the city, Council shall proceed to determine the election of such candidates by lot.

Section 7. That pursuant to § 10522 of the Elections Code of the State of California, a current map showing the City boundaries has been submitted to the Registrar of Voters.

Section 8. The City Council hereby requests, consents to and orders that the general municipal election be consolidated with the other district or statewide elections to be held on Tuesday, November 5, 2024, and that upon consolidation the election shall be held and conducted; election officers appointed; ballots and elections guides printed and mailed; election supplies provided; polls opened and closed; ballots opened and returned; return results canvassed and certified to the City Clerk, and all other proceedings in connection with the election to be regulated and completed by the Registrar of Voters of Santa Clara County.

Section 9. Said election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

Section 10. Pursuant to California Elections Code § 10262 (b), the City Clerk, upon receipt of the results of the consolidated election, shall certify the results to the City Council no later than the next regularly scheduled meeting of the City Council following the presentation of the returns, or at a special meeting called for this purpose, to declare the results and to install the newly elected officers.

Section 11. Pursuant to California Elections Code § 10403, the Board of Supervisors of the County of Santa Clara is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 5, 2024, for the purposes of the election of Officers, and the City Clerk shall file with the Board of Supervisors and the Santa Clara County Registrar of Voters, certified copies of this resolution at least eighty-eight (88) days prior to the herein referenced General Municipal Election.

Section 12. Pursuant to the provisions of Elections Code § 10002, The Santa Clara County Registrar of Voters is authorized to canvass the returns of the General Municipal Election. The City of Gilroy recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any and all related costs of consolidation.

Section 13. The City Council acknowledges that the consolidated election will be held and conducted in accordance with the provisions of law regulating the Statewide General Election in the manner prescribed in California Elections Code § 10418.

Section 14. The City shall reimburse the County for services performed when the work is completed and upon presentation to the City of a properly approved bill. ^{6.3}

Section 15. As required by California Elections Code § 12101 and 12102, the City Clerk shall publish the notice of said election in the City no earlier than the 127th day before the election, and no later than the 113th day before the election to fill offices.

Section 16. That the City Clerk is directed to forward without delay to the Board of Supervisors and to the County Election Department, each a certified copy of this resolution.

Section 17. The City Clerk is directed to cause the notice of the election to be published in accordance with the provisions of the California Elections Code. The notice of the General Municipal Election provided for herein shall be published in a newspaper of general circulation within the City of Gilroy.

PASSED AND ADOPTED on this 20th day of May 2024, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

CERTIFICATE OF THE CLERK

I, **BETH MINOR**, Interim City Clerk of the City of Gilroy, do hereby certify that the attached **Resolution No. 2024-XX** is an original resolution, or true and correct copy of a City Resolution, duly adopted by the Council of the City of Gilroy at a Regular Meeting of said held on Council held **Monday, May 20, 2024** with a quorum present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this **May 21, 2024**.

Beth Minor
Interim City Clerk of the City of Gilroy





City of Gilroy

STAFF REPORT

Agenda Item Title: **Appeal of Determination of Incomplete Application for 315 Las Animas Avenue (M 24-07)**

Meeting Date: May 20, 2024

From: Jimmy Forbis, City Administrator

Department: Community Development

Submitted By: Sharon Goei, Community Development Director

Prepared By: Erin Freitas, Senior Planner

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

Staff recommends that the City Council deny the appeal and uphold staff's decision to determine the Architectural and Site Review application (AS 23-21) is incomplete pursuant to Government Code section 65943.

EXECUTIVE SUMMARY

On March 15, 2024, staff determined Architectural and Site Review application AS 23-21 to be incomplete pursuant to Government Code section 65943 of the Permit Streamlining Act. The application was determined to be incomplete due to missing information from the Architectural and Site Review Application Submittal Checklist including the Application Submittal Details document which are posted on the City's website. The applicant, Russell Morse for Gandolfi Investments LLC, filed an appeal of staff's Incomplete Application Determination on April 1, 2024. A final written determination by the agency on the appeal shall be provided not later than 60 calendar days after receipt of the applicant's written appeal pursuant to Government Code section 65943(c).

BACKGROUND

On July 5, 2023, Gandolfi Investments LLC ("Applicant") submitted a Senate Bill (SB) 330 preliminary application for a 504-unit apartment complex including 20% low-income

units on a vacant 26.75-acre site in the M-1 (Limited Industrial) zoning district and the EC (Employment Center) General Plan land use designation. The applicant was notified on August 4, 2023, that the preliminary application was deemed complete due to meeting the minimum preliminary application submittal requirements. A formal application was required to be submitted within 180 days or January 1, 2024.

On December 14, 2023, the applicant submitted a formal application ("Submittal 1") for an Architectural and Site Review permit (AS 23-21) for a 501-unit apartment complex including 20% very-low or low-income units at 315 Las Animas Avenue. The applicant cited the submittal was pursuant to SB 330 and Government Code Section 65589.5(d)(5), informally known as the "Builder's Remedy," in their letter dated December 12, 2023 (See Attachment 1).

The applicant was notified by the City on January 11, 2024, that application AS 23-21 was determined to be incomplete due to not meeting the minimum application submittal requirements found in the Architectural and Site Review Application Submittal Checklist and Application Submittal Details document stated in the checklist as posted on the City's website. The letter to the applicant included an exhaustive list of items that were not complete (See Attachment 2). The letter also included, as a courtesy to the applicant, staff's response to the applicant's attorney letter from Russell Morse of Meyers Nave (See Attachment 1) that "the Builder's Remedy does not apply to this application because the City adopted a Housing Element that was in substantial compliance with state law on May 1, 2023, prior to the submittal of the SB 330 preliminary application for this project." Staff indicated to the applicant that a General Plan Amendment application and Zoning Map Amendment application would be required to amend the General Plan and Zoning Map in this area to High Density Residential to allow the proposed residential development on this parcel. This comment was noted in the letter as a courtesy to the applicant and not as a comment on the completeness of the application.

On February 15, 2024, the applicant resubmitted their application ("Submittal 2") with a current Title Report dated within 6 months and including existing tree information on the site plan to note there are no existing Heritage or Protected trees. The applicant did not address the remaining incomplete items noted in the first review letter and stated that "As a result of the application of the Builder's Remedy to the Project, none of the incompleteness items provided in the City's Notification of Application Incompleteness letter apply to the Project." Staff subsequently determined the resubmittal to be incomplete and a Notification of Application Incompleteness letter was sent on March 15, 2024 (See Attachment 3).

On April 1, 2024, the applicant submitted an application to appeal the Determination of Incompleteness per Government Code section 65943(c) (See Attachment 4). The applicant states the justification for the appeal is that "...the items listed in the City's second Incomplete Letter are not "actually required" and for all practical purposes are irrelevant to the Applicant's project, the Application was wrongly deemed incomplete."

Per state law, the City has 60 days from receipt of the applicant's written appeal to provide a final written determination on the appeal.

ANALYSIS

The Permit Streamlining Act (PSA) was enacted in 1977 in order to expedite the processing of permits for development projects by imposing time limits within which state and local government agencies must either approve or disapprove permits. Pursuant to Government Code section 65943, public agencies have 30 days after an application is submitted in which to inform the applicant of whether the application is complete. If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency's submittal requirement checklist. The applicant shall submit materials to the public agency in response to the list and description.

The City of Gilroy's Planning webpage includes the Application Submittal Checklist for an Architectural and Site Review permit and within that checklist, states to refer to the Application Submittal Details document for clarification and city expectations regarding checklist items. Staff provided a letter of Notification of Application Incompleteness on January 11, 2024 in response to Submittal 1 indicating items from the Application Submittal Details document that were missing, including but not limited to: existing tree information to determine need for an Arborist Report, proposed phasing plan, proposed street names, Civil Planning Checklist per Exhibit C, proposed street sections, right-of-way dedications and easements, sidewalks along the street frontage, street tree locations, stormwater paths of travel, existing storm drain line size, existing water line size and depth, existing storm drain line material, slopes, and inverts, stormwater control plan report per the Central Coast Regional Water Quality Control Board and the City of Gilroy "Stormwater Management Guidance Manual for Low Impact Development & Post Construction Requirements", and a review letter from Solid Waste Operator Recology confirming serviceability.

The applicant resubmitted on February 15, 2024, with a current Title Report dated within 6 months and including existing tree information on the site plan to note there are no existing Heritage or Protected trees. The resubmittal included a letter from the applicant that stated "The City's Notification of Application Incomplete Letter rejecting the Builder's Remedy application, and the refusal to process the formal application, do not qualify as a valid notice of an incomplete application under section 65943. The formal application was complete by operation of law and must be processed to a final decision." Staff subsequently determined the resubmittal to be incomplete because not all of the missing items were addressed, and a Notification of Application Incompleteness letter was sent on March 15, 2024.

Staff did not reject processing the formal application as the applicant stated. Staff has continued to follow a consistent review process as applied to all applications per the Permit Streamlining Act and in line with the submittal requirements in the Application

Submittal Checklist and Application Submittal Details document posted on the City's website.

On April 1, 2024, the applicant filed an appeal of staff's Incomplete Application Determination. Per state law, the City has 60 days from receipt of the applicant's written appeal to provide a final written determination on the appeal.

ALTERNATIVES

The City Council alternatively may uphold the appeal and determine the Architectural and Site Review permit application AS 23-21 is complete. The applicant will not be required to include additional application submittal requirements as requested by staff. Staff will continue the review of the application per the Permit Streamlining Act and request a scope of work from a third-party consultant to determine the required level of review per the California Environmental Quality Act (CEQA) Guidelines. Staff does not recommend this alternative as it will eliminate the requirement to include critical information to complete staff review and analysis of the project and ability to ask for this information later in the review.

FISCAL IMPACT/FUNDING SOURCE

Application fees were collected for the preliminary application and formal Architectural and Site Review permit to cover staff review time. A deposit for attorney fees was collected from the applicant of \$20,000 based on initial estimates.

PUBLIC OUTREACH

A notice of the May 20, 2024, City Council public hearing was advertised in the Gilroy Dispatch on Friday, May 10, 2024 (no less than 10 days prior to the meeting). Individual property owners within 500 feet of the subject property were mailed copies of the notice on May 10, 2024. The City Council public hearing packets are available through the City's webpage. No public comments have been received on this item, as of the writing of this staff report.

NEXT STEPS

If the appeal is denied per staff's recommendation, the applicant would have until June 13, 2024, 90 days from the receipt of the Notification of Application Incompleteness provided on March 15, 2024, to resubmit their application for staff review for completeness, or the application shall be deemed abandoned (Gilroy City Code section 30.51.10(e)). The Director may allow an extension of the resubmittal deadline only for extenuating circumstances if such is requested in advance of the abandonment date. In addition to filing a resubmittal, the applicant can seek judicial review of this decision. Any judicial review must be made within the time set forth in Code of Civil Procedure Section 1094.6.

Attachments:

1. Applicant Letter dated December 12, 2023
2. City Notification of Application Incompleteness Letter dated January 11, 2024
3. City Notification of Application Incompleteness Letter dated March 15, 2024
4. Applicant Appeal Letter dated April 1, 2024

December 12, 2023

Via Online Submittal

Ms. Erin Freitas, Senior Planner
 Community Development Department
 City of Gilroy
 7351 Rosanna Street
 Gilroy, CA 95020

Re: Formal Application
315 Las Animas Avenue, Gilroy California 95020
Builder's Remedy (Government Code Section 65589.5(d)(5))

Dear Erin,

As you know, we represent Gandolfi Investments LLC ("Applicant"), applicant of the proposed housing development project at the property located at 315 Las Animas Avenue in Gilroy, California ("Property"). This letter and the accompanying Formal Application ("Application") for a 501-unit housing development project ("Project") at the Property are submitted on behalf of the Applicant pursuant to Government Code Section 65589.5(d)(5), the portion of the Housing Accountability Act referred to as the Builder's Remedy. The proposed Project includes at least twenty percent (20%) of the total units dedicated affordable to very low-or low-income households, the requisite affordable housing for processing a Builder's Remedy project. This letter outlines the City's legal obligations with respect to processing housing development projects under State law, including the Builder's Remedy.

As you are aware, when the Applicant filed its preliminary application pursuant to SB 330 on July 5, 2023, the City of Gilroy ("City") did not have a compliant Housing Element certified by the California Department of Housing and Community Development ("HCD"). Pursuant to Government Code Section 65588.5 (Housing Element Law), only HCD can make a determination that a city's submitted Housing Element is in substantial compliance with Housing Element Law. As the deadline for securing a compliant Housing Element had passed and the City was without a certified Housing Element, the City is therefore subject to the Builder's Remedy, which requires approval of any housing project containing at least twenty percent (20%) lower-income, or one-hundred percent (100%) moderate-income housing, regardless of its consistency with the general plan land use element or zoning

ordinance. Here, the 501-unit project provides 101 units of lower income housing (equal to 20% of the total number of units), meeting the statutory minimum required number of affordable housing units. As a result, the Builder's Remedy applies to this Project.

Further, as described in our letter filed with the preliminary application, the filing of the SB 330 preliminary application established vesting of all "ordinances, policies, and standards adopted and in effect" at the time of submittal of the Application. Pursuant to SB 330, a preliminary application that meets the list of required items is considered "deemed complete". The included SB 330 preliminary application included all materials required in the SB 330 Preliminary Application, and therefore vested the application. (See HCD's October 5, 2022 Letter of Technical Assistance, which provides that a Builder's Remedy Project is vested under the City's non-compliant Housing Element status and the Builder's Remedy provision in the Government Code shall apply to the Project throughout the duration of the entitlement process and its March 16, 2023 Letter, which provides summary and clarification of requirements for Housing Element compliance.) In sum, the Applicant obtained vested rights to maintain its Builder's Remedy application despite the subsequent certification of the City's Housing Element by HCD.

In general, the Housing Accountability Act establishes limitations to a local government's ability to deny, reduce the density of, or make infeasible housing development projects that contribute to meeting Regional Housing needs. The Builder's Remedy goes further to prohibit local agencies from denying housing development projects, or imposing conditions of approval on a project which render the project infeasible, when the Builder's Remedy project is consistent with statutorily-required affordability levels regardless of the project's consistency with the general plan land use element or a zoning ordinance. Accordingly, a city cannot use its objective general plan, specific plan or zoning regulations to deny or render infeasible an affordable housing development project (i.e., a housing development project that provides at least 20 percent of the total units to lower income households).¹ Here, the Housing Accountability Act precludes the City from applying general plan, specific plan, or Gilroy Municipal Code ("SMC") zoning standards that would deny the Project or render it infeasible, and the City cannot require, among other things, the Applicant obtain a General Plan Amendment and/or Zoning Map Amendment for the Project.

Finally, following submittal of the preliminary application to the City, the Applicant had one hundred eighty (180) days to submit a full application. Here, the Applicant files its formal application on December 12, 2023, 160 days after the preliminary application filing, and within the required time period. A preliminary application may be amended after filing for up to twenty percent (20%) of the density or square footage of the proposed Project. Here, the formal application reduced the project unit count by only three units and increased the square footage by approximately 35,00 square feet, both of which are less than twenty

¹ Lower income household is defined in Health and Safety Code § 50079.5.

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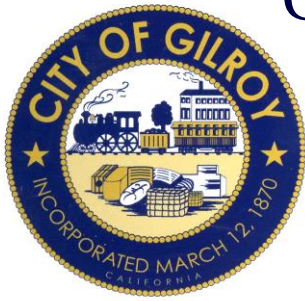
percent (20%) from the preliminary application. Accordingly, this application meets all requirements under State law.

We trust the above information provides a sufficient explanation of the City's obligation under State law with respect to the Project and appreciate the City's prompt attention to this application. Please feel free to contact me with any questions regarding the Project or the application of the Builder's Remedy to the Project.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. Morse', with a long horizontal flourish extending to the right.

Russell E. Morse



Community Development Department

Sharon Goei
DIRECTOR

7351 Rosanna Street, Gilroy, California 95020-6197
Telephone: (408) 846-0440 Fax: (408) 846-0429
<http://www.cityofgilroy.org>

January 11, 2024

Russell Morse for Gandolfi Investments LLC
707 Wilshire Blvd., 24th Fl
Los Angeles, CA 90017

Sent via: Mail and Email: bill@tensouth.com, rmorse@meyersnave.com

SUBJECT: Notification of Application Incompleteness
Project # AS 23-21, Located at 315 Las Animas Avenue

Dear Mr. Morse:

Thank you for submitting the above-referenced application ("Application"), which proposes a housing development project ("Project") at the property located at 315 Las Animas Avenue in Gilroy, California. The Project site is currently an undeveloped, vacant 26.75-acre parcel. The proposed project would involve the construction of a 501-unit housing development Project including for rent apartment units with 20% affordable dedicated to very-low or low-income households in the M-1 (Limited Industrial) zoning district.

The Application materials and payment were received on December 14, 2023, and have been reviewed by Gilroy's development review staff. The Application has been determined to be **incomplete** for further review at this time. As such, processing of your request is halted pending receipt of items necessary to complete the Application submittal.

In the interest of ensuring development applications are processed in a timely manner, resubmittals must be received within ninety (90) days of this letter, or the Application shall be deemed abandoned (Gilroy City Code section 30.51.10(e)). The Application resubmittal deadline is April 10, 2024. The Director may allow an extension of the resubmittal deadline only for extenuating circumstances if such is requested in advance of the abandonment date. Please note that, once abandoned, no further action shall be taken on an Application and no fees will be refunded.

Therefore, prior to April 10, 2024, please complete your Application submittal by providing the following items. For your convenience, staff contact information is provided for each Division representative.

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Park 315 Residential Project

In this letter, in accordance with the Permit Streamlining Act, Government Code Section 65920, et seq., we explain what further information is needed to make the Application complete. This letter also contains some additional analysis and information related to your Application as a courtesy to the applicant and is subject to augmentation upon receipt of a complete Application submittal.

Response to Meyers Nave Letter of December 12, 2023:

The City has received two letters from the law firm of Meyers Nave in relation to this Application. Here is the City's response to statements made in the Meyers Nave letter dated December 12, 2023 (the "Meyers Nave Letter"):

Builder's Remedy Provision of the Housing Accountability Act

First, the Meyers Nave Letter argues, as they did in their earlier letter dated July 4, 2023, that the application is governed by the provision in the Housing Accountability Act, Government Code section 65589.5(d)(5), generally known as the "Builder's Remedy." Because the Meyers Nave Letter raises this issue, we think it necessary to inform you that the City staff position at this time is that the Builder's Remedy does not apply to this application because the City adopted a Housing Element that was in substantial compliance with state law on May 1, 2023, prior to the submittal of the preliminary application for this project. When the Housing Element was adopted on May 1, 2023, it contained everything required by state law, and thus was in substantial compliance with state law. Although minor modifications and clarifications were made thereafter, the changes did not result in any amendment of the Sites Inventory or substantive policy changes and did not alter the fact that the Housing Element, as adopted, substantially complied with the law. Consequently, staff has taken the position that the Builder's Remedy under the Housing Accountability Act (HAA) is not available to applicants pursuing housing projects in the City of Gilroy since May 1, 2023.

The City Attorney's office has concluded that the position taken in the Meyers Nave Letter is contrary to both statutory and case law. The Meyers Nave Letter references HCD's October 5, 2022 letter and March 16, 2023 memorandum with which we respectfully disagree.

As to statutory law, the requirements for a valid housing element are set out in detail in Government Code section 65583. Guidelines published by HCD for the preparation of housing elements are advisory only, not mandatory. Section 65585(a). A local agency is allowed to adopt a housing element even if HCD has determined it not to be in compliance. Government Code section 65585(e). If a housing element is challenged in court, there is a rebuttable presumption that it is valid if HCD has certified the element, but there is no presumption of invalidity if HCD has not certified the element. Government Code section 65589.3; *Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1184.

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The leading case on the subject is the *Fonseca* case, cited above, in which the Appellate Court affirmed a trial court ruling that the City of Gilroy's Housing Element then in question was in substantial compliance with state law, even though HCD had refused to certify it. See also *Martinez v. City of Clovis* (2023) 90 Cal.App.5th 193.

Since the Gilroy Housing Element was in substantial compliance with state law when adopted on May 1, 2023, the Builder's Remedy does not apply to this project. The appropriate application for you to file would be a request to amend the City's General Plan and Zoning. Please let us know if you desire to file such an application, and we can advise you on the appropriate fees for that application.

Because the Builder's Remedy does not apply to this application, the existing General Plan and Zoning govern the project. The proposed project to construct a 501-unit housing development does not comply with the current General Plan land use designation of the Employment Center or the land uses allowed in the current M-1 (Limited Industrial) zoning district. A General Plan Amendment application and Zoning Map Amendment application would be required to amend the General Plan and Zoning Map in this area to High Density Residential to allow the proposed residential development on this parcel.

Nevertheless, in accordance with the Permit Streamlining Act, Government Code Section 65920, et seq., the City is providing comments on the completeness of the existing application, as well as additional information as a courtesy to the applicant, in the remainder of this letter.

Planning Division

Contact: Erin Freitas at (408) 846-0242 or erin.freitas@cityofgilroy.org

1. **Site Plan:** The Site Plan is missing the following information listed in [Exhibit A of the Application Submittal Details](#) document:
 - a. Data table including required front and street side setbacks and the number of accessible (ADA) parking spaces required and proposed.
 - b. Clearly noting on the plan set the property boundaries (right-of-way and face of curb) and dimensions.
 - c. Location, dimensions, and purpose of all easements (existing and proposed).
 - d. Location and setback dimensions for all existing and proposed structural improvements, measured to the face of curb, all property lines, and between buildings onsite. Be sure to include accessory buildings, walls, fences, gates, trash/recycling enclosures, etc.
 - e. Location and dimensions of existing and proposed streets, alleys, and frontage improvements (e.g., curb cuts, gutter, sidewalk). Include cross-section details.
 - f. Location, dimensions and type of paving material of driveways, driveway throats, drive aisles, walkways, and all hardscape areas (e.g. asphalt, scored concrete, enhanced paving, etc.).
 - g. Details of parking space size is missing.

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- h. Dimensions and design details of trash recycling enclosures.
 - i. Location of aboveground utility vaults, transformers, freestanding mailboxes, gas meters, backflow preventers and other similar utility facilities.
 - j. Location and identification of onsite amenities, including site accessories and furnishings to be included in any outdoor private or common areas. Include outdoor seating areas, fountains, bike parking facilities, trash and recycling containers, and other similar street furniture.
2. **Current Photos:** The current photos and map do not provide what is stated in the [Application Submittal Details](#) document including: photos that include the existing site including existing trees and photos of properties immediately surrounding the development adjacent to and within 100 feet along the same street particularly surrounding architecture and scale.
3. **Floor Plan (ASD document, Ex. B):** The following information is not shown on the floor plans as stated in the required [Application Submittal Details](#) (ASD) document provided online:
- a. Proposed uses are not labeled in some rooms of the Second Amenity Building and Mid-Rise Building. Redlined plans are attached.
 - b. Floor plan dimensions for proposed trash enclosures were not provided.
 - c. Dimensions were not provided for the elevators in the amenity building with 39-plex or mid-rise building.
4. **Building Elevations (ASD document, Ex. B):** The following information is not shown on the elevations as stated in the required [Application Submittal Details](#) (ASD) document provided online:
- a. Trash and recycling enclosures. Indicate color and materials of the enclosure, gates, and cover.
 - b. If roof-mounted equipment is proposed, include a section showing that parapet walls (or roof wells) will prevent visibility of such equipment.
5. **Elements of the Landscape Document Package (ASD 3):** The following information is missing from the landscape submittal package found in the [Application Submittal Details](#) (ASD) document:
- a. Landscape Design Plan: The Landscape Design Plan is missing the following required items from the [Landscape Submittal Requirements](#) with details found in Section 30.38.120 of the municipal code:
 - i. Legend: Planting quantities are required to be listed and are not shown.
 - ii. Existing Tree Plan: Locate all existing mature trees, noting biological name, common name, and approximate trunk size, measured at four (4) feet above existing grade. Note trees to be removed, relocated on site, and/or maintained in place.
 - iii. Identify all paving and hardscape materials (pervious and nonpervious). Include an illustrative spec sheet.

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6. **Color & Material Sample Board:** A physical color and material sample board was not provided as identified in the [Application Submittal Details](#) (ASD) document provided online. Please provide a sample board with the requirements from the ASD document.
7. **Arborist Report:** An Arborist Report was not provided per the [Application Submittal Checklist](#) nor was tree information including species and trunk diameter provided on any site plan so staff is unable to determine if there are any Protected or Heritage trees on the site to require an Arborist Report. Please provide an Arborist Report per the application submittal requirements if there are Protected or Heritage trees on site per Sec. 30.28.270(b). If there are no Protected or Heritage trees on site, the existing trees on site should be identified by species and trunk diameter for confirmation that this requirement is not needed.
8. **Phasing Plan:** A phasing plan was not provided as required per the [Application Submittal Checklist](#) and applicant states on the Environmental Questionnaire that the development will be built in one phase. It is unlikely that the off-street improvements and construction of all three apartment buildings, amenity buildings, 43 townhome buildings, and on-site landscaping and parking improvements would all occur at the same time. Please confirm if this is the construction plan or include a Phasing Plan per the application submittal requirements.
9. **Proposed Street Names:** Proposed street names have not been identified on a site plan per the [Application Submittal Details](#) (ASD) document online. There are many internal private streets on the property that would require a street name for address identification purposes particularly for emergency responders. Please include proposed street names for the internal private streets in the development.

Engineering Division

Contact: Jose Cedano at (408) 846-0410 or jose.cedano@cityofgilroy.org

Civil Plan Set (ASD document, Exhibit C): The following information is unclear or is not shown on the Civil Plans as stated in the required [Application Submittal Detail \(ASD\) document](#) provided online:

10. General Requirements:

- In general, callouts to site plan elements do not reference City Standards.
- Civil Planning Checklist: Per Exhibit C, submittal checklist was not included with submittal.
- In general, all plans (civil, landscape, etc.) need to show (new and existing) right of way, easements (city/Caltrans), dedications, etc.
- Any existing overhead utility along the project frontage shall be undergrounded with this project.

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11. Project Information:

- Parcel flood zone information is not identified on the project information plan sheet.
- Sheet 1 of the Civil plans contains notes referring to a Tentative Map. However, this project is not a Tentative Map. Correct and/or apply correct notes reflecting this project.
- Various new easements and right of way dedication are required as part of this project. A parcel map will be needed to create all mapping required items.
- The provided utility representatives table is incomplete and does not include solid waste management.
- The utility representative table incorrectly identifies City of Gilroy's Engineering as the contact for fire services. The contact for fire services is managed by the City of Gilroy's Fire Department.
- This project will be required to provide new easements (various types) and right of way dedications. The submitted plan package does not show, include, or describe neither of these items.
- The project will be required to show all road offsite improvement improvements, including widening and/or road intersections. Some of these will be related to the project specific traffic study. These plans will not be deemed complete until these items are identified, conceptually designed, and explained.

12. Existing Conditions Plan:

- The Existing Conditions Plan is missing adjacent streets and roadway details (existing street sections).
- The existing top of curb, edge of pavement, flowline of roadside ditch, and property line are not shown. Refer to engineering checklist for complete items required.
- Existing street slopes along the centerlines are not shown. Refer to engineering checklist for complete items required.
- The project boundary is shown within Las Animas Avenue and Murray Avenue. The plan does not show right of way dedications, easements, and/or what is the ultimate project boundary.
- The contour lines shown on the plan are not labeled.
- Existing utility information is not shown.
 - i. The existing pipe information for the sanitary sewer is not shown (pipe size, slope, material, etc.)
 - ii. The existing pipe information for the storm drain is not shown (pipe size, slope, material, etc.)
 - iii. The existing pipe information for the water main is not shown (pipe size, material, etc.)
- The existing lot dimensions are not shown on the plans.

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- The existing right of way dimensions are not shown on the plans.
- The legend calls out a pedestrian easement that is not identified on the plans or the title report.
- There are several drainage facilities located on the project site that are not labeled (indicated by the contour lines).

13. Site Plan:

- Site plan does not show all required proposed easements affecting the property (example, along the project frontage, emergency vehicle access, etc.).
- The proposed Murray Ave extension is classified as an arterial street per the 2040 General Plan. The current plans do not show a proposed street section (therefore not confirming the proposed street width), however, from scale measurements the proposed street is not the correct width consistent with an arterial designation. Subsequently, right of way distance and square footage is not shown, described, or identified.
- The proposed Murray Ave extension needs to be “end” per City standards. This “end of road” must successfully allow for turnaround of all public vehicles, including emergency vehicles.
- The project must complete a detailed traffic study. Any and all offsite improvements must be designed per traffic study conclusions. Offsite improvements must be shown as part of the next planning submittal.
- It is not clear what improvements are required at the Murray Ave / Las Animas Ave intersection. See Traffic study comment above.
- All project streets, drives, alleys, etc., need to be identified by name and also identified as privately owned and maintained.
- Las Animas Ave is classified as a collector street. The current plans do not show a proposed street section (therefore not confirming the proposed street width), however, from scale measurements the proposed street is not the correct width consistent with a collector designation. Subsequently, right of way distance and square footage is not shown, described, or identified.
- The proposed site plan shows the proposed stormwater treatment facilities to be located within the limits of the required public service easement. This is not allowed. Additionally, all new impervious street areas from Murray Ave extension and Las Animas Ave widening will be treated by new stormwater treatment areas maintained by the project. Refer to stormwater comments further in these comments.
- The plan is not clear on right of way dedications, easements, and/or what is the ultimate project boundary.
- It's not clear that the road layout is adequate to maintain proper site circulation, especially at all drive returns. This would be demonstrated by a detailed design vehicle turning movement plan. All design vehicle movements need to be maintained within their respective travel lanes (example, cannot cross opposite lane when traveling around curve

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returns). This concept of “design vehicle” is not to be confused with “emergency vehicle” turning movements.

- The distance of the proposed driveway entrances to the existing intersection of Las Animas and Murray Avenue may not be adequate. The project does not show enough road geometric design information to confirm this item. The project must demonstrate that there will not be an impact (for example queuing of vehicles entering the site) to Murray Ave or Las Animas Ave. The project traffic study will also confirm the adequacy or subsequent improvements needed to support the proposed project entries.
- All offsite improvements to streets and intersections (including Murray Ave/Las Animas Ave) must be designed and constructed for use by design vehicle CA Legal 65 ft truck.
- Information is missing along Las Animas and Murray Avenue. Missing street section, curb, gutter, widening, etc.
- Developer shall design facilities to allow for standard Sight Distance (including intersection sight distance) to the latest edition of AASHTO Policy on Geometric Design of Highways and Streets. In effect at that time.
- Any parking (onsite or offsite) cannot impact sight distance. See comment above for sight distance criteria.
- The plans do not show proposed pedestrian ramps at the intersection of Las Animas and Murray Ave to enable pedestrian connectivity to surrounding streets.
- The site plan does not show the required sidewalk along the project frontages along Las Animas Ave and Murray Ave per City Standard.
- The site plan is missing street sections for Las Animas Ave and Murray Ave.
- The proposed pavement section for the required road widening of Las Animas Avenue is not shown on the plans (Minimum T.I. = 9 and Minimum AC thickness is 6.0” per City Standard). Las Animas Ave and Murray Ave are designated as truck routes.
- The proposed pavement section for the required road widening of Murray Avenue is not shown on the plans. (Minimum T.I. = 9 and Minimum AC thickness is 6.0” per City Standard).
- The proposed driveway approaches are not per City Standard.
- The proposed private drive aisle TI or pavement section is not shown or identified.
- Typical parking stall detail is not shown.
- It is not clear what is the hatched area shown on the vehicle back up area. Call out and/or identify in the legend line.
- Private drive aisle curb return, street, centerline, islands, etc. radii are missing and not verifiable.
- Longitudinal street and driveway slopes and cross slopes are missing and not verifiable. Min 0.5” longitudinal slope shall be used on public streets.

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- Coordination with the landscape architect is necessary to ensure all site landscape design works with the Civil and architect site plan objectives.
- The site plan does show the required street tree locations. Tree location and spacing shall be consistent with City Standards.
- The photometric plan does not adequately evaluate the proposed project frontage or the proposed intersection of Las Animas and Murray Ave. Additionally, the photometric shall analyze all offsite improvement locations identified in the traffic study.
- The plans do not include a signing and striping plan. Design signing and striping plans to the latest addition of the California MUTCD.
- Private monument signs are not allowed in public easements. Plans currently show monuments signs within public easements.
- Any private improvements are not allowed within public easements. Please review plans to keep all private improvements out of public easements.

14. Grading Plan / Drainage Plan:

- Plan is missing and/or not showing information/grades at conform locations. Example, Las Animas Avenue and Murray Avenue.
- Cross sections at boundary conditions were not provided.
- Typical cross sections were not provided.
- The grading plans do not identify the limits of grading. Note – cross slope from street curb to back of public easements shall be 1.5% max.
- The existing and proposed grading contours are not labeled.
- The provided contour intervals do not provide sufficient information, consider increasing the contour interval shown.
- TC elevations are not shown for offsite improvements (at the conform with adjacent property, driveway approaches, BOC, EOC, etc.).
- TC elevations are not shown onsite (curb returns, landscaping islands, etc.).
- Slope ratios and percentages not shown on sections views.
- It is not clear how the water is going to enter the stormwater facilities. More grading information is needed to clearly show stormwater paths of travel.
- Overland release is required and not shown on the plans.
- The proposed street widening cross slopes are not shown.
- The proposed Murray Avenue extension longitudinal slopes are not shown. (centerline, flow line, etc.).

15. Utility Plan:

- The Storm Drain Master Plans identifies the need for a 48-inch SD along Murray Ave. This project will be required to install this 48-inch SD line. A partial reimbursement will be provided for the pipe difference between the

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required property owner 24 inch (per current adopted fees to build Section 4) to the Master Plan required 48-inch. The length of pipe subject to upsize will be from the end of new Murray Ave extension (limit of project) to Ronan Channel – approximately 2,300 ft.

- Utility plan does not show existing sanitary sewer line size, material, slopes, inverts.
- Utility plan does not show existing storm drain line material, slopes, inverts.
- Utility plan does not show existing water lines (sizes, depth, material).
- Preliminary level storm drain calculations were not provided to support intended slopes.
- Preliminary level sanitary sewer calculations were not provided to support intended slopes.
- Minimum pipe slopes for the sanitary sewer line does not meet City standards or cannot verify minimum pipe slopes are adequately meeting City standards.
- Plans do not identify ownership of all utilities. Onsite storm, water, sewer, and stormwater management facilities shall be privately owned and maintained.
- The utility plan does not show the required storm drain inlet to be installed along the project frontage of Las Animas road widening and proposed Murray Avenue extension per City Standard.
- Storm drain maximum distance allowable between catch basins and manholes are not maintained per City Standard.
- Sanitary sewer maximum distance allowable between manholes is not maintained per City Standard.
- City Standard fire hydrant spacing along the project frontage is not being maintained.
- Callout information is overlapping and in conflict by other call out information along the project frontage notes.
- City Standard backflows for the domestic and irrigation services are not shown on the utility plan. Backflows are privately owned and shall be located outside of the required public service easement.
- City Standard manholes are required at all public to private transitions of the storm and sewer utilities, immediately behind the public service easement.
- There is a joint City of Gilroy and City of Morgan Hill sanitary sewer trunk line built on Las Animas Ave. This plan will need to work with and around this new sewer main. This project will be required to show the future sewer trunk main in plan and profile (PDF provided with this response).
- Private utilities are not allowed in public easements. Plans currently incorrectly show private utilities within the limits of the public service easement.
- The plans do not show City Standard gate valves to be installed at the extension of the public water line along the Murray Avenue extension per

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connection and spacing requirements. Shal water valves at all new valve clusters.

- The proposed water main and Sewer main must extend to the end of the Murray Ave extension (to end of City Limits).
- The proposed end of water main does not show a City Standard blow off.
- Requirement for air relief valve cannot be identified due to the lack of information being shown of the proposed water main.
- Minimum vertical cover requirements for proposed water main cannot be verified due to the lack of information being shown of the proposed water main.
- Proposed water main material is not identified on the plans.
- Trash enclosure areas must connect to the sanitary sewer system.
- Provide sanitary sewer manholes at all directional changes.
- Proposed utility locations are not consistent with City Standards (example, water main distance from face of curb). Also confirm all utility spacing is consistent with Depart of Health criteria.
- Fire hydrants and valve locations are not shown on the plans. Cannot confirm conformance to City standards.
- Pipe material references are missing. Cannot confirm conformance to City Standards.
- General comment: information is missing at various levels that does not allow for conformance to City standards (pipe cover, location, material, valve placement, appurtenances, spacing, etc.)

16. Fire Truck Circulation Plan:

- Fire truck movements are shown encroaching onto approaching lanes. This is not allowed.
- Truck movements will confirm if all driveway entries are adequate.
- Contact fire department for any future fire design vehicles that will be required to be modeled for street design.
- Truck movement modeling is showing jumping cubs. This is not allowed.
- Full modeling movements is required in and out and throughout all streets and drives and project entries (example: right in, right out, left in, left out, traversing through streets, etc.)

17. Solid Waste Handling Plan:

- Solid waste truck movements are shown encroaching onto approaching lanes. This is not allowed.
- Truck movements will confirm if all driveway entries are adequate.
- Contact fire department for any future fire design vehicles that will be required to be modeled for street design.
- Truck movement modeling is showing jumping cubs. This is not allowed.

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- Full modeling movements is required in and out and through out all streets and drives and project entries (example: right in, right out, left in, left out, traversing through streets, etc.)
- The Applicant shall obtain a review letter from Recology confirming serviceability and site accessibility of solid waste pickup. No public right of way areas to be used for solid waste pickup. Contact Lisa Patton, Operations Manager LPatton@recology.com 408-846-4421. Provide confirmation that the garbage truck can fully access the site and does not have to “back up” into City Right of Way or Easement. There can be no interruption to the City Right of Way or easements due to solid waste pickup.

18. Stormwater Management:

- A planning level stormwater control plan report (in addition to a stormwater plan sheet in the plan set) was not submitted. As part of the planning submittal, this project shall submit a preliminary (planning level) stormwater control plan (in a report format) in a report template found at Central Coast Regional Board website (MS Word). All technical calculations, exhibits, and background information justifying the stormwater management design must be contained in the stormwater control plan report.
https://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid
- The stormwater control plan sheet (in the plan set) is not clear as to which Tier is claiming infeasibility. Conflicting language in the notes for this plan sheet does not make it clear which tier is claiming infeasibility.
- The City of Gilroy has been under close observation by the Regional Board on stormwater design practices. Further, a Notice of Violation was issued to the City by the Board, which conclusions of this violation requires that projects cannot claim infeasibility strictly on soil classification. Further, project site infiltration rates must be confirmed through site specific geotechnical investigations. Therefore, this project must confirm site specific soil infiltration rates as part of the geotechnical investigation.
- This project shall design stormwater treatment and management facilities per the Central Coast Regional Water Quality Control Board (CRWQCB) and the City of Gilroy “Stormwater Management Guidance Manual for Low Impact Development & Post Construction Requirements” found <https://www.cityofgilroy.org/DocumentCenter/View/5186/Guidance-Manual-for-Low-Impact-Development--Post-Construction-Requirements?bidId=>.
- Sizing tools for structural control measures for runoff retention can be found at the following <https://countyofsb.org/pwd/sbpcw/development/new-and-redevelopment.sbc>
- All new and disturbed areas (onsite and offsite) shall be accounted for and part of the stormwater management design calculations. The proposed

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development also needs to account for offsite improvements as part of the stormwater design. Please update all Stormwater reports and plans.

The following comments are not on the completeness of the existing application but are noted here to provide additional information as a courtesy to the applicant.

Planning Division

Contact: Erin Freitas at (408) 846-0242 or erin.freitas@cityofgilroy.org

In addition to the items required to complete your application submittal, we are providing the following additional information as a courtesy to the applicant.

1. **Environmental Review:** This project is subject to the California Environmental Quality Act (CEQA). We will need to obtain an Initial Study to determine the project's impacts and level of CEQA review required. The following technical studies at a minimum will be required:
 - a. Phase I ESA
 - b. Noise Study
 - c. Air Quality and Greenhouse Gas Emissions Report
2. **Agreement of Deferred Agricultural Mitigation:** An Agreement for Deferred Agricultural Mitigation recorded on the deed June 26, 2007, as required by the approval of the annexation A 01-01 which included the early cancellation of the Williamson Contract outlines conditions required upon an application for future development on this parcel. Per the Agreement, the developer agrees to pay the City an Agricultural Mitigation Fee based on a one-to-one acre ratio to be paid prior to the first discretionary approval. The fee will be determined by an appraisal of the fair market value of the development rights for the Mitigation Land. The City will require the Developer to pay a deposit to be used toward costs of the appraisal. The City may require a further deposit to cover the price of the appraisal and all administrative and transactional fees, including staff time and attorneys' fees, incurred by the City on a cost recovery basis. Please confirm your acknowledgement of this agreement. Staff will contact you in regard to receiving a deposit for the appraisal.
3. **Santa Clara Valley Habitat Plan:** The Coverage Screening Form determination was that the project is a covered project and will require the submittal of the [Application for Private Projects](#) including the [Fees and Conditions Worksheet](#) as stated on page 3 of the form. Please complete these two forms found on the Santa Clara Valley Habitat Agency website and include on your next submittal. A review of this property on the Agency's [Geobrowser](#) determined this is within Fee Zone B under the grain, row crop, hay and pasture land cover zone which requires a fee of \$17,698/acre to the Habitat Agency.

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4. **Multi-Family Residential Objective Design Standards:** This project is subject to the [Gilroy Mixed-Use Residential and Multi-Family Residential Objective Design Standards Policy](#) that was adopted by the City Council on October 18, 2021. On the next submittal, please include a response to how this development is achieving each of the objective design standards related to Multi-Family Residential Developments.

Building Division

Contact: Hipolito Olmos at (408) 846-0572 or hipolito.olmos@cityofgilroy.org.

The following comments are not on the completeness of the application but are noted here to provide additional information as a courtesy to the applicant. It is essential for the building owner and general contractor to ensure compliance with the adopted building codes relevant to new construction projects.

5. **Applicable Codes:** For building permit applications submitted on or after January 1, 2023, and on or before December 31, 2025, design shall conform to Title 24 of the California Code of Regulations, with the 2022 code as the current edition. This encompasses the set of 2022 California Building Standards Code, which the City of Gilroy adopted by reference along with local amendments. Refer to the City of Gilroy website (<https://www.cityofgilroy.org/565/Applicable-Codes-Design-Criteria>). The Gilroy City Code has incorporated the adoption with local amendments (<https://www.codepublishing.com/CA/Gilroy/>).

Fire Prevention Division

Contact: Jonathan Crick at (408) 846-0436 or jonathan.crick@cityofgilroy.org

The following comments are not on the completeness of the existing application but are noted here to provide additional information as a courtesy to the applicant.

6. **FIREWATER SUPPLY:** Show the location and size of the Fire water supply underground. Minimum size is 6-inch diameter pipe. The private fire water supply system shall be separated from the City Main by a DDCA that meets the City Engineering Standard Specifications. The DDCA shall be supervised by a central station monitoring company. There shall be two (2) connections to the City main when there are 100 or more units or total floor area of more than 62,000 square feet. Alternatively, each building can have its own connection to the City Main, each with a DDCA. When multiple buildings are on a fire water supply underground, each shall have a PIV and FDC. Private Fire Hydrants and/or Fire Standpipes shall be provided so that one is within 150 ft of the most remote portion of any building. Draw a circle with a radius of 150 feet to demonstrate that there are an adequate number of fire hydrants positioned to cover all buildings and hazards. The underground water supply system shall meet the current edition of NFPA 24 on the private side of the system. A

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separate plan review and permit are required for the Fire Water Supply System, to be obtained by the underground installer.

7. **FIRE ACCESS:** Buildings shall have fire engine access within 150 feet of any portion of the building. Roads shall be all weather and capable of supporting a 75,000-pound apparatus and provide an outside turning radius of 40 feet. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm). They shall have an unobstructed vertical clearance of 13 feet 6 inches (4115 mm). Curb cuts for driveways that provide Fire Apparatus Access shall be 2 feet wider on each side of the driveway (apron extension). Fire apparatus access road width shall be increased to **26 ft** in width and minimum distance of 30 ft from Buildings when the building is 3 stories or greater. Fire access roads that dead end, and are greater than 150 feet long, shall be provided with a turnaround using the Gilroy Fire Department template. Provide a fire truck circulation plan using Autoturn vehicle tracking software to demonstrate that a fire truck can navigate into the property, throughout the property, and exit the property from all possible approaches. Because this property is "land-locked" on two sides and due to the sheer size of the project, efforts shall be made to maximize fire department access. The Gilroy Fire Department requires the fire department access to be approved by Fire Prevention and Fire Operations. As such, it is recommended that two more points of access be added. One entrance could be achieved by reducing the size of Building D and extending the westernmost internal road to connect with Las Animas Avenue. The second entrance would be made by extending the internal Road located North of Building 47 to connect with Murray Avenue. Looped or through access is preferred when possible. Fire Access roadways shall be clearly marked and maintained clear at all times with red curbing stenciled "**FIRE LANE NO PARKING**".
8. **FIRE ACCESS:** When the total square footage of building floor area, (inclusive of each story), exceeds 62,000 sq ft or there are more than 100 units, there shall be 2 fire access driveways and the Fire Water Underground Line shall be connected to the public system at two points, one at each driveway access. Each connection shall have a City Standard DDCA.
9. **BUILDING FIRE ACCESS:** Stairwells shall be sized based on the building code and the plans shall provide exiting calculations. A minimum of one (1) Fire Access Stairwell shall be provided. Additional Fire Access Stairwells shall be provided such that there is a Fire Access Stairwell within 150 ft of any unit. A Fire Access Stairwell shall have a door to the exterior, have a 2 hour enclosure with self closing doors at each level and a Fire Standpipe connection at each intermediate stair well landing. The stairwell landings shall be sized to allow for the hose standpipe and not degrade the required stair width. Fire Access Stairwells shall also provide access to the roof.
10. **SECURITY GATES:** No security fences or gates were shown on the plans. Where security gates are installed, they shall have an approved means of

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emergency operation. The security gates and the emergency operation shall be maintained operational at all times. When electronic gates are installed across one or more of the fire access roadways they shall be provided with automatic opening devices that can be activated by the Fire/Police department during a response to the location (Click 2 Enter). They shall also be provided with KNOX key over-ride switches. Electric gate operators, where provided shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM 2200. A guest turn-out lane and sufficient gate setback from the street shall be provided. A separate plan review and permit are required for gates.

11. **FIRE PROTECTION:** Apartment Building shall have a fire sprinkler system installed to meet NFPA 13R with all concealed spaces protected if 3 stories or less, or NFPA 13 if 4 or more stories. A separate plan review and permit are required for fire sprinkler system installation.
12. **STANDPIPES:** Buildings 4 or more stories in height shall have a separate fire standpipe. The standpipe shall be pressurized by a dedicated fire pump to provide 100 psi at the roof. The fire pump shall be located in a code compliant pump room. Also, back-up power shall be required when required by the Fire Code or NFPA 22. P.G. and E is considered a reliable power source in Gilroy. A separate plan review and permit are required for fire pump installation.
13. **FIRE ALARMS:** The Fire alarm system shall provide water flow monitoring for each floor level, a tamper switch at the DDCA and PIV (if one is present), a pull station and smoke detector at the riser location. Water flow shall cause alarm to sound in each unit. The smoke detection and CO monitoring shall only sound in the unit of alarm and as a supervisory alarm to the main office. Public areas including the community rooms, laundry rooms hallways shall have smoke detectors located in them and send an alarm to the central station. A separate plan review and permit are required for the fire alarm system.
14. **FIRE EXITING:** providing access from the apartments to a public way shall be adequately sized as part of an exit path or be provided with a courtyard where all occupants can be 50 ft from the structure. Exit gates shall have panic hardware and be protected against unwanted entry.
15. **ELEVATORS:** Elevator must be at least a 3500lb capacity elevator, able to accommodate a Gilroy gurney size of 80" x 25" as well as 2 EMS responders.
16. **EMERGENCY LIGHTING:** Emergency lighting shall be provided in any community rooms, commercial areas, laundry rooms, stairwells and hallways/corridors. These areas shall also have illuminated exit signage.
17. **DOORS:** All doors to be compliant for signage, direction of swing and hardware. Note that some community rooms may be A occupancies and shall have exiting

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in conformance with A occupancy standards.

18. **KNOX BOXES:** Knox Boxes shall be provided at: each stairwell, Fire Riser Room, Fire Alarm Panel location, Electrical Room and each commercial space. Knox boxes shall be located at the upper right-hand side of the main doorway to each. Each of these shall be provided with signage that is approved by the Fire Marshal.
19. **FIRE EXTINGUISHERS:** Fire Extinguishers shall be provided so that there is one within 75 ft travel distance.
20. **RADIO COMMUNICATION SYSTEMS:** Building to be tested for adequate public safety radio coverage. Any building which fails to support adequate radio coverage for the city's public safety communication systems, shall include an amplification system to provide for voice and data communications for police and fire division personnel (DAS). A separate Permit is required to install a Distributed Antenna System (DAS).
21. **IMPACT/TRAINING FEE:** For buildings over 30 ft tall or 4 stories and greater the Fire Department requires a \$200 per unit training fee to fund equipment and training.

Valley Transportation Authority

Contact: Lola Torney at (408) 321-5830 or Lola.Torney@vta.org

The following comments are not on the completeness of the existing application but are noted here to provide additional information as a courtesy to the applicant.

22. **Pedestrian Access to Bus Stops:** There are two bus stops within a quarter of a mile of the project site, at Monterey Highway and Las Animas Avenue and at Monterey Highway and Farrell Avenue. The stops serve Frequent Route 68, which connects the Gilroy Transit Center to Diridon Station in San José. It appears that the project will build sidewalks along Las Animas Avenue in front of the project. VTA recommends the project build a sidewalk to Monterey Highway to allow for connectivity between the site and transit.
23. **Bus Stop Shelter:** The bus stop on Monterey Highway and Las Animas Avenue has adequate spacing to allow for a bus shelter and trash receptacle. Please work with VTA staff to include the bus shelter and trash receptacle which will help encourage the use of the public transit for residents of this development.
24. **Community Design and Transportation Manual:** VTA encourages the applicant to utilize VTA's Community Design and Transportation Manual (CDT) to guide the project's design. The CDT Design Guidelines provide design strategies for development's built form and parking design. These Design Guidelines create places that invite pedestrian activity, support transit, and build on the distinct qualities of each community. The Manual can be found at www.vta.org/cdt.

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25. **Transportation Impact Analysis (TIA) Report:** VTA's Congestion Management Program (CMP) requires a Transportation Impact Analysis (TIA) for any project that is expected to generate 100 or more net new peak-hour trips. Based on the size of this project, a TIA will be required. The 2014 VTA TIA Guidelines, which can be found at www.vta.org/cmp/tia-guidelines, includes procedures for documenting auto trip reductions, analyzing non-auto modes, and evaluating mitigation measures and improvements to address project impacts and effects on the transportation system. We look forward to receiving that analysis.
26. **Bike Parking:** The project site is approximately a quarter of a mile from a VTA designated Cross County Bikeway Corridor. VTA encourages the applicant to provide conveniently located on-site bicycle parking. VTA's Bicycle Technical Guidelines provide guidance for estimating the amount and the design of bicycle parking facilities. The document can be found at www.vta.org/programs/bicycle-program.

Santa Clara Valley Water District

Contact: Benjamin Hwang at (408) 630-3066 or BHwang@valleywater.org

The following comments are not on the completeness of the existing application but are noted here to provide additional information as a courtesy to the applicant.

27. The Stormwater Control Plan prepared by Morgan & Pitalo, Inc. (Exhibit D) states that groundwater levels within the project site varies between 19 and 28 feet below ground. Additionally, the geotechnical report prepared by EnGEO states that "the groundwater at and nearby the site generally ranges between 18 feet to 64 feet below ground surface. (Page 4)" According to an active monitoring well near the site, Valley Water has measured groundwater levels at 10 feet below ground or less in very wet years, and as recently as 2017, 13 feet below ground. The civil or stormwater control plans do not provide any details on the proposed bioretention basins within the site, however the applicant should confirm the basins will perform as intended in very wet years given the potential for shallow groundwater.
28. Since the proposal includes more than 500 residential units, the water retailer is required to prepare a Water Supply Assessment to evaluate water supply availability. When considering water supply and Gilroy's Urban Water Management Plan it is important to recognize that projections of future water supply and availability assume substantial increases in water conservation and demand management measures. For the proposed project to meet its fair share to these water conservation assumptions Valley Water suggests that all available water conservation measures be required. To reduce or avoid adverse impacts to water supply, the City and applicant should consider the following:
- a. Weather- or soil-based irrigation controllers;
 - b. Dedicated landscape meters;

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- c. Maximize the use of alternative water sources for non-potable uses including stormwater, rainwater, and graywater.
 - d. Installation of separate submeters to each residential unit and individual spaces within commercial buildings to encourage efficient water use.
29. Valley Water Ordinance 23-02 (Enforcement Measures for Water Conservation in Santa Clara County) prohibits the use of potable water for non-functional turf in private open space. Non-functional turf is defined as turf that is solely ornamental and does not serve a community or neighborhood function.
30. Sheet L3.1 of the landscaping plans prepared by Yamasaki Landscape Architecture proposes *Platanus acerifolia* (London Plan Tree) and *Ulmus parvifolia* (Truee Green Lacebark Elm) as part of the planting schedule. According to the Guidelines and Standards for Land Use Near Streams (Gns), both species have been identified as invasive species and should be avoided. It should be noted that all proposed plantings should be non-invasive and “propagated from seeds, cuttings or divisions collected from the same local creek or watershed (GnS, Chapter 4, Design Guide 2).” The noted excerpt, which also includes a list of trees and plant species native to Santa Clara County, has been included for the applicant’s reference.
31. Valley Water records indicate there are 2 registered wells within the subject parcel. While Valley Water has records for most wells located within the County, there are numerous unregistered wells, including many that pre-date well permitting or registration requirements. IF any abandoned/unregistered wells or well-like structures are encountered during construction of the project, please contact the Valley Water Well Ordinance Program at (408) 630-2660 to arrange to have the well(s) brought into compliance.

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Your timely submittal of the requested information will help us meet your processing goals.

Note that in the course of processing your development request, in accordance with Section 65944 of the State Government Code, staff may request that you clarify, amplify, correct or otherwise supplement the information provided for the application.

Should you have any questions or if you would like to schedule a meeting to preview your application resubmittal for completeness, please feel free to contact me at (408) 846-0242 or erin.freitas@cityofgilroy.org.

Respectfully,

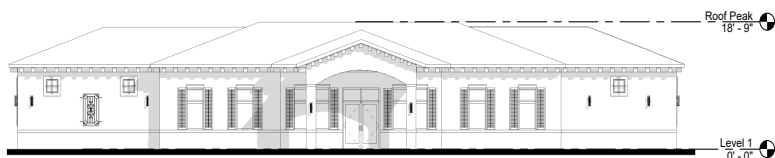


Erin Freitas
Planner II

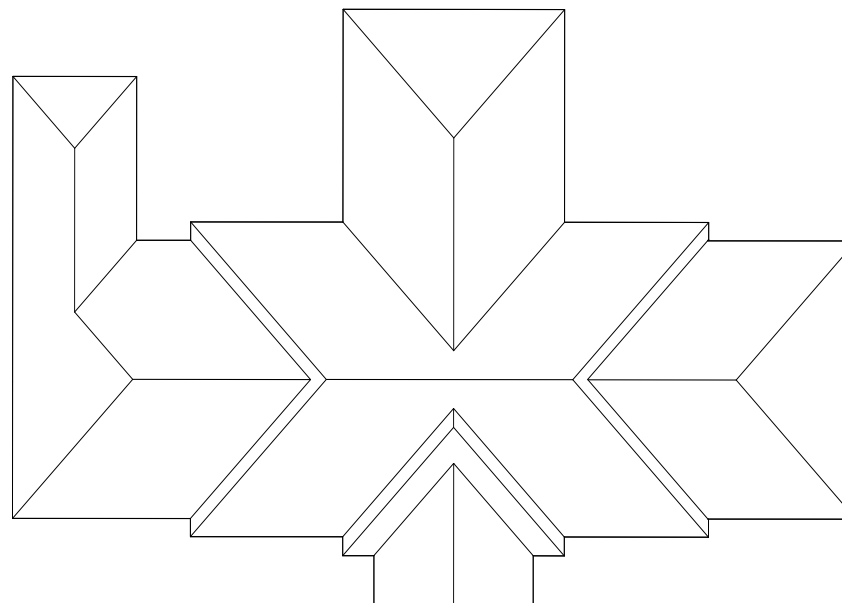
cc: Gandolfi Investments, LLC, Attn: Scott Canel, 445 Central Avenue, Highland Park, IL 60035
Las Animas Development, LLC, Attn: Augustine Melia, 350 Buena Vista Avenue, Gilroy CA 95020

Att: Planning Comments on Architectural Plans
Sewer Relief Trunk Line Project Plans

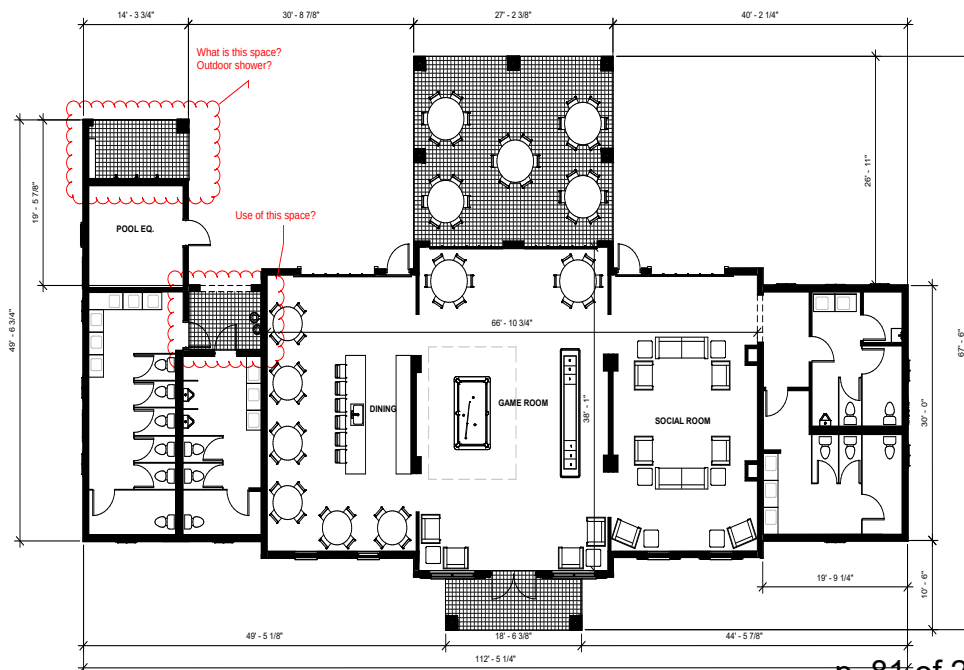
AMENITY BLDG. AREAS (SF)						
BUILDING LEVEL	UNCONDITIONED SPACE (GRADE LEVEL PATIOS)	INTERIOR COMMON SPACE	APARTMENTS (R-2)	UTILITY	FLOOR (NET)	FLOOR (GROSS)
1	811	-	3729	185	-	4725
SUBTOTALS	811	-	3729	185	-	-
TOTAL BLDG AREA						4725



③ WEST ELEVATION
1" = 10'-0"



② ROOF PLAN
1/8" = 1'-0"



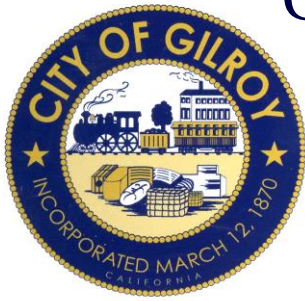
① AMENITY BUILDING FLOOR PLAN
1/8" = 1'-0"

- ## KEY NOTES

-
- Profile view of the proposed 36-inch sewer line. The horizontal axis shows stationing from 134+00 to 143+00. The vertical axis shows elevation from 192 to 220 feet. The sewer line is shown as a solid line with a 0.31% slope, transitioning to a 0.33% slope and then a 0.40% slope. Key features include manholes at stations 135+00, 138+00, and 141+00, and a new SS relief sewer connection at station 138+00. Elevation data points for existing ground (EG) and proposed sewer (INV) are provided at various stations.
- | Station | EG Elevation (ft) | Proposed Sewer INV (ft) | Notes |
|---------|-------------------|-------------------------|---------------|
| 134+00 | 214.85 | 214.85 | STA 134+00.00 |
| 134+15 | 214.85 | 214.85 | CONV 2' R/OPE |
| 134+30 | 214.85 | 214.85 | STA 134+30.00 |
| 134+45 | 214.85 | 214.85 | CONV 2' R/OPE |
| 134+60 | 214.85 | 214.85 | STA 134+60.00 |
| 134+75 | 214.85 | 214.85 | CONV 2' R/OPE |
| 134+90 | 214.85 | 214.85 | STA 134+90.00 |
| 135+00 | 214.85 | 214.85 | MANHOLE |
| 135+15 | 214.85 | 214.85 | CONV 2' R/OPE |
| 135+30 | 214.85 | 214.85 | STA 135+30.00 |
| 135+45 | 214.85 | 214.85 | CONV 2' R/OPE |
| 135+60 | 214.85 | 214.85 | STA 135+60.00 |
| 135+75 | 214.85 | 214.85 | CONV 2' R/OPE |
| 135+90 | 214.85 | 214.85 | STA 135+90.00 |
| 136+00 | 214.85 | 214.85 | MANHOLE |
| 136+15 | 214.85 | 214.85 | CONV 2' R/OPE |
| 136+30 | 214.85 | 214.85 | STA 136+30.00 |
| 136+45 | 214.85 | 214.85 | CONV 2' R/OPE |
| 136+60 | 214.85 | 214.85 | STA 136+60.00 |
| 136+75 | 214.85 | 214.85 | CONV 2' R/OPE |
| 136+90 | 214.85 | 214.85 | STA 136+90.00 |
| 137+00 | 214.85 | 214.85 | MANHOLE |
| 137+15 | 214.85 | 214.85 | CONV 2' R/OPE |
| 137+30 | 214.85 | 214.85 | STA 137+30.00 |
| 137+45 | 214.85 | 214.85 | CONV 2' R/OPE |
| 137+60 | 214.85 | 214.85 | STA 137+60.00 |
| 137+75 | 214.85 | 214.85 | CONV 2' R/OPE |
| 137+90 | 214.85 | 214.85 | STA 137+90.00 |
| 138+00 | 214.85 | 214.85 | MANHOLE |
| 138+15 | 214.85 | 214.85 | CONV 2' R/OPE |
| 138+30 | 214.85 | 214.85 | STA 138+30.00 |
| 138+45 | 214.85 | 214.85 | CONV 2' R/OPE |
| 138+60 | 214.85 | 214.85 | STA 138+60.00 |
| 138+75 | 214.85 | 214.85 | CONV 2' R/OPE |
| 138+90 | 214.85 | 214.85 | STA 138+90.00 |
| 139+00 | 214.85 | 214.85 | MANHOLE |
| 139+15 | 214.85 | 214.85 | CONV 2' R/OPE |
| 139+30 | 214.85 | 214.85 | STA 139+30.00 |
| 139+45 | 214.85 | 214.85 | CONV 2' R/OPE |
| 139+60 | 214.85 | 214.85 | STA 139+60.00 |
| 139+75 | 214.85 | 214.85 | CONV 2' R/OPE |
| 139+90 | 214.85 | 214.85 | STA 139+90.00 |
| 140+00 | 214.85 | 214.85 | MANHOLE |
| 140+15 | 214.85 | 214.85 | CONV 2' R/OPE |
| 140+30 | 214.85 | 214.85 | STA 140+30.00 |
| 140+45 | 214.85 | 214.85 | CONV 2' R/OPE |
| 140+60 | 214.85 | 214.85 | STA 140+60.00 |
| 140+75 | 214.85 | 214.85 | CONV 2' R/OPE |
| 140+90 | 214.85 | 214.85 | STA 140+90.00 |
| 141+00 | 214.85 | 214.85 | MANHOLE |
| 141+15 | 214.85 | 214.85 | CONV 2' R/OPE |
| 141+30 | 214.85 | 214.85 | STA 141+30.00 |
| 141+45 | 214.85 | 214.85 | CONV 2' R/OPE |
| 141+60 | 214.85 | 214.85 | STA 141+60.00 |
| 141+75 | 214.85 | 214.85 | CONV 2' R/OPE |
| 141+90 | 214.85 | 214.85 | STA 141+90.00 |
| 142+00 | 214.85 | 214.85 | MANHOLE |
| 142+15 | 214.85 | 214.85 | CONV 2' R/OPE |
| 142+30 | 214.85 | 214.85 | STA 142+30.00 |
| 142+45 | 214.85 | 214.85 | CONV 2' R/OPE |
| 142+60 | 214.85 | 214.85 | STA 142+60.00 |
| 142+75 | 214.85 | 214.85 | CONV 2' R/OPE |
| 142+90 | 214.85 | 214.85 | STA 142+90.00 |
| 143+00 | 214.85 | 214.85 | MANHOLE |

HORIZ 1 INCH = 40 FT
VERT 1 INCH = 4 FT

SEWER RELIEF TRUNK LINE PROJECT LAS ANIMAS AVENUE PLAN AND PROFILE - STA 134+00 TO 143+50	PRINT DATE:	SEPT 2022
	DWG NUMBER:	C015
	SHEET NUMBER:	21 OF 62



Community Development Department

Sharon Goei
DIRECTOR

7351 Rosanna Street, Gilroy, California 95020-6197
Telephone: (408) 846-0440 Fax: (408) 846-0429
<http://www.cityofgilroy.org>

March 15, 2024

Russell Morse for Gandolfi Investments LLC
707 Wilshire Blvd., 24th Fl
Los Angeles, CA 90017

Sent via: Mail and Email: bill@tensouth.com, rmorse@meyersnave.com

SUBJECT: Notification of Application Incompleteness
Project # AS 23-21, Located at 315 Las Animas Avenue

Dear Mr. Morse:

Thank you for resubmitting the above-referenced application ("Application"), which proposes a housing development project ("Project") at the property located at 315 Las Animas Avenue in Gilroy, California. The Project site is currently an undeveloped, vacant 26.75-acre parcel. The proposed project would involve the construction of a 501-unit housing development Project including for rent apartment units with 20% affordable dedicated to very-low or low-income households in the M-1 (Limited Industrial) zoning district.

The Application materials and payment were received on February 15, 2024, and have been reviewed by Gilroy's development review staff. The Application has been determined to be **incomplete** for further review at this time. As such, processing of your request is halted pending receipt of items necessary to complete the Application submittal.

If you wish to appeal the determination of incompleteness, you may submit an application for the Appeal online at: <https://www.cityofgilroy.org/GOpermit>. The application should include the items in the [Appeal Application Submittal Checklist](#). Once all the application submittal requirements are received, staff will send you an invoice for the application fees per the Planning Fee Schedule. The appeal would be heard by the City's governing body which is the City Council and a determination will be made within 60 days of receiving the complete appeal application.

In this letter, in accordance with the Permit Streamlining Act, Government Code Section 65920, et seq., we explain what further information is needed to make the Application complete. This letter also contains some additional analysis and information related to

Project # AS 23-21
Park 315 Residential Project

your Application as a courtesy to the applicant and is subject to augmentation upon receipt of a complete Application submittal.

In the interest of ensuring development applications are processed in a timely manner, resubmittals must be received within ninety (90) days of this letter, or the Application shall be deemed abandoned (Gilroy City Code section 30.51.10(e)). The Application resubmittal deadline is June 13, 2024. The Director may allow an extension of the resubmittal deadline only for extenuating circumstances if such is requested in advance of the abandonment date. Please note that, once abandoned, no further action shall be taken on an Application and no fees will be refunded.

Therefore, prior to June 13, 2024, please complete your Application submittal by providing the following items. For your convenience, staff contact information is provided for each Division representative.

Planning Division

Contact: Erin Freitas at (408) 846-0242 or Erin.Freitas@cityofgilroy.org

1. **Site Plan:** The Site Plan is missing the following information listed in [Exhibit A of the Application Submittal Details](#) document:
 - a. Data table including required front and street side setbacks and the number of accessible (ADA) parking spaces required and proposed.
 - b. Clearly noting on the plan set the property boundaries (right-of-way and face of curb) and dimensions.
 - c. Location, dimensions, and purpose of all easements (existing and proposed).
 - d. Location and setback dimensions for all existing and proposed structural improvements, measured to the face of curb, all property lines, and between buildings onsite. Be sure to include accessory buildings, walls, fences, gates, trash/recycling enclosures, etc.
 - e. Location and dimensions of existing and proposed streets, alleys, and frontage improvements (e.g., curb cuts, gutter, sidewalk). Include cross-section details.
 - f. Location, dimensions and type of paving material of driveways, driveway throats, drive aisles, walkways, and all hardscape areas (e.g. asphalt, scored concrete, enhanced paving, etc.).
 - g. Details of parking space size is missing.
 - h. Dimensions and design details of trash recycling enclosures.
 - i. Location of aboveground utility vaults, transformers, freestanding mailboxes, gas meters, backflow preventers and other similar utility facilities.
 - j. Location and identification of onsite amenities, including site accessories and furnishings to be included in any outdoor private or common areas. Include outdoor seating areas, fountains, bike parking facilities, trash and recycling containers, and other similar street furniture.

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2. **Current Photos:** The current photos and map do not provide what is stated in the [Application Submittal Details](#) document including: photos that include the existing site including existing trees and photos of properties immediately surrounding the development adjacent to and within 100 feet along the same street particularly surrounding architecture and scale.
3. **Floor Plan (ASD document, Ex. B):** The following information is not shown on the floor plans as stated in the required [Application Submittal Details](#) (ASD) document provided online:
 - a. Proposed uses are not labeled in some rooms of the Second Amenity Building and Mid-Rise Building. Redlined plans are attached.
 - b. Floor plan dimensions for proposed trash enclosures were not provided.
 - c. Dimensions were not provided for the elevators in the amenity building with 39-plex or mid-rise building.
4. **Building Elevations (ASD document, Ex. B):** The following information is not shown on the elevations as stated in the required [Application Submittal Details](#) (ASD) document provided online:
 - a. Trash and recycling enclosures. Indicate color and materials of the enclosure, gates, and cover.
 - b. If roof-mounted equipment is proposed, include a section showing that parapet walls (or roof wells) will prevent visibility of such equipment.
5. **Elements of the Landscape Document Package (ASD 3):** The following information is missing from the landscape submittal package found in the [Application Submittal Details](#) (ASD) document:
 - a. Landscape Design Plan: The Landscape Design Plan is missing the following required items from the [Landscape Submittal Requirements](#) with details found in Section 30.38.120 of the municipal code:
 - i. Legend: Planting quantities are required to be listed and are not shown.
 - ii. Existing Tree Plan: Locate all existing mature trees, noting biological name, common name, and approximate trunk size, measured at four (4) feet above existing grade. Note trees to be removed, relocated on site, and/or maintained in place.
 - iii. Identify all paving and hardscape materials (pervious and nonpervious). Include an illustrative spec sheet.
6. **Color & Material Sample Board:** A physical color and material sample board was not provided as identified in the [Application Submittal Details](#) (ASD) document provided online. Please provide a sample board with the requirements from the ASD document.
7. **Phasing Plan:** A phasing plan was not provided as required per the [Application Submittal Checklist](#) and applicant states on the Environmental Questionnaire that the development will be built in one phase. It is unlikely that the off-street

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improvements and construction of all three apartment buildings, amenity buildings, 43 townhome buildings, and on-site landscaping and parking improvements would all occur at the same time. Please confirm if this is the construction plan or include a Phasing Plan per the application submittal requirements.

8. **Proposed Street Names:** Proposed street names have not been identified on a site plan per the [Application Submittal Details](#) (ASD) document online. There are many internal private streets on the property that would require a street name for address identification purposes particularly for emergency responders. Please include proposed street names for the internal private streets in the development.

Engineering Division

Contact: Weston Hill at (408) 846-0410 or Weston.Hill@cityofgilroy.org

Civil Plan Set (ASD document, Exhibit C): The following information is unclear or is not shown on the Civil Plans as stated in the required [Application Submittal Detail \(ASD\) document](#) provided online:

9. **General Requirements:**

- In general, callouts to site plan elements do not reference City Standards.
- Civil Planning Checklist: Per Exhibit C, submittal checklist was not included with submittal.

10. **Project Information:**

- Parcel flood zone information is not identified on the project information plan sheet.
- Sheet 1 of the Civil plans contains notes referring to a Tentative Map. However, this project is not a Tentative Map. Correct and/or apply correct notes reflecting this project.
- Various new easements and right of way dedication are required as part of this project. A parcel map will be needed to create all mapping required items.
- The provided utility representatives table is incomplete and does not include solid waste management.
- The existing lot dimensions are not shown on the plans.

11. **Existing Conditions Plan:**

- The Existing Conditions Plan is missing adjacent streets and roadway details (existing street sections).
- The existing top of curb, edge of pavement, flowline of roadside ditch, and property line are not shown. Refer to engineering checklist for complete items required.
- Existing street slopes along the centerlines are not shown. Refer to

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engineering checklist for complete items required.

- The contour lines shown on the plan are not labeled.
- Existing utility information is not shown.
 - i. The existing pipe information for the sanitary sewer is not shown (pipe size, slope, material, etc.)
 - ii. The existing pipe information for the storm drain is not shown (pipe size, slope, material, etc.)
 - iii. The existing pipe information for the water main is not shown (pipe size, material, etc.)
- The existing right of way dimensions are not shown on the plans.
- There are several drainage facilities located on the project site that are not labeled (indicated by the contour lines).

12. Site Plan:

- Site plan does not show all required proposed easements affecting the property (example, along the project frontage, emergency vehicle access, etc.).
- The plan is not clear on right of way dedications and/or what is the ultimate project boundary. The project boundary (right of way) is shown within Las Animas Avenue and Murray Avenue. Site plan shall show ultimate Right of Way/Project Boundary per City Standards.
- The proposed Murray Ave extension is classified as an arterial street per the 2040 General Plan. The current plans do not show a proposed street section (therefore not confirming the proposed street width), however, from scale measurements the proposed street is not the correct width consistent with an arterial designation. Subsequently, right of way distance and square footage is not shown, described, or identified.
- The proposed Murray Ave extension needs to be “end” per City standards. This “end of road” must successfully allow for turnaround of all public vehicles, including emergency vehicles.
- All project streets, drives, alleys, etc., need to be identified by name and also identified as privately owned and maintained.
- Las Animas Ave is classified as a collector street. The current plans do not show a proposed street section (therefore not confirming the proposed street width), however, from scale measurements the proposed street is not the correct width consistent with a collector designation. Subsequently, right of way distance and square footage is not shown, described, or identified.
- Information is missing along Las Animas and Murray Avenue. Missing street section, curb, gutter, widening, etc.
- The plans do not show proposed pedestrian ramps at the intersection of Las Animas and Murray Ave to enable pedestrian connectivity to surrounding streets.
- The site plan does not show the required sidewalk along the project frontages along Las Animas Ave and Murray Ave per City Standard.

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- The site plan is missing street sections for Las Animas Ave and Murray Ave. Typical information shown on street sections include pavement structural section, lane widths, bike lane widths, lane cross slopes, etc.
- The proposed pavement section for the required road widening of Las Animas Avenue is not shown on the plans (Minimum T.I. = 9 and Minimum AC thickness is 6.0" per City Standard). Las Animas Ave and Murray Ave are designated as truck routes. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C
- The proposed pavement section for the required road widening of Murray Avenue is not shown on the plans. (Minimum T.I. = 9 and Minimum AC thickness is 6.0" per City Standard). Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- The proposed driveway approaches shown are not per City Standard. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- The proposed private drive aisle TI or pavement section is not shown or identified. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- Typical parking stall detail is not shown.
- Private drive aisle curb return, street, centerline, islands, etc. radii are missing and not verifiable.
- Longitudinal street and driveway slopes and cross slopes are missing and not verifiable. Min 0.5" longitudinal slope shall be used on public streets.
- The photometric plan does not adequately evaluate the proposed project frontage or the proposed intersection of Las Animas and Murray Ave. Additionally, the photometric shall analyze all offsite improvement locations identified in the traffic study.
- The project will be required to show all road offsite improvements, including widening and/or road intersections. Some of these will be related to the project specific traffic study. These plans will not be deemed complete until these items are identified, conceptually designed, and explained.
- The proposed street widening cross slopes are not shown.
- The proposed Murray Avenue extension longitudinal slopes are not shown. (center line, flow line, etc.).

13. Grading Plan / Drainage Plan:

- Plan is missing and/or not showing information/grades at conform locations. Example, Las Animas Avenue and Murray Avenue.
- Typical cross sections were not provided.

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- The grading plans do not identify the limits of grading. Note – cross slope from street curb to back of public easements shall be 1.5% max.
- The existing and proposed grading contours are not labeled.
- TC elevations are not shown for offsite improvements (at the conform with adjacent property, driveway approaches, BOC, EOC, etc.).
- TC elevations are not shown onsite (curb returns, landscaping islands, etc.).
- Slope ratios and percentages not shown on sections views.
- It is not clear how the water is going to enter the stormwater facilities. More grading information is needed to clearly show stormwater paths of travel.
- Overland release is required and not shown on the plans.

14. Utility Plan:

- Utility plan does not show existing sanitary sewer line size, material, slopes, inverts.
- Utility plan does not show existing storm drain line material, slopes, inverts.
- Utility plan does not show existing water lines (sizes, depth, material).
- Minimum pipe slopes for the sanitary sewer line does not meet City standards or cannot verify minimum pipe slopes are adequately meeting City standards. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- The utility plan does not show the required storm drain inlet to be installed along the project frontage of Las Animas road widening and proposed Murray Avenue extension per City Standard. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- Storm drain maximum distance allowable between catch basins and manholes are not maintained per City Standard. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- Sanitary sewer maximum distance allowable between manholes is not maintained per City Standard. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- City Standard fire hydrant spacing along the project frontage is not being maintained. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- City Standard backflows for the domestic and irrigation services are not shown on the utility plan. Backflows are privately owned and shall be

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located outside of the required public service easement. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.

- City Standard manholes are required at all public to private transitions of the storm and sewer utilities, immediately behind the public service easement. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- The plans do not show City Standard gate valves to be installed at the extension of the public water line along the Murray Avenue extension per connection and spacing requirements. Show water valves at all new valve clusters. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- The proposed water main and Sewer main must extend to the end of the Murray Ave extension (to end of City Limits). Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- The proposed end of water main does not show a City Standard blow off. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- Requirement for air relief valve cannot be identified due to the lack of information being shown of the proposed water main. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- Minimum vertical cover requirements per City standards for proposed water main cannot be verified due to the lack of information being shown of the proposed water main. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- Proposed water main material is not identified on the plans.
- Provide sanitary sewer manholes at all directional changes. Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- Proposed utility locations are not consistent with City Standards (example, water main distance from face of curb). Design features shall reference and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.
- Fire hydrants and valve locations are not shown on the plans. Cannot confirm conformance to City standards. Design features shall reference

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and be in conformance with Design Standards/Standard Details/City Standards as mentioned in the General Requirements of Exhibit C.

- Pipe material references are missing. Cannot confirm conformance to City Standards.

15. Fire Truck Circulation Plan:

- Fire truck movements are shown encroaching onto approaching lanes. This is not allowed. Showing driveway details will help you model Fire Department vehicle for proper vehicle circulation.
- Truck movements will confirm if all driveway entries are adequate.
- Truck movement modeling is showing jumping cubs. This is not allowed.
- Full modeling movements is required in and out and throughout all streets and drives and project entries (example: right in, right out, left in, left out, traversing through streets, etc.).

16. Solid Waste Handling Plan:

- Truck movement modeling is showing jumping cubs. This is not allowed. Showing driveway details will help you model solid waste vehicle for proper vehicle circulation.
- Full modeling movements is required in and out and throughout all streets and drives and project entries (example: right in, right out, left in, left out, traversing through streets, etc.).
- The Applicant shall obtain a review letter from Recology confirming serviceability and site accessibility of solid waste pickup. No public right of way areas to be used for solid waste pickup. Contact Lisa Patton, Operations Manager LPatton@recology.com 408-846-4421. Provide confirmation that the garbage truck can fully access the site and does not have to “back up” into City Right of Way or Easement. There can be no interruption to the City Right of Way or easements due to solid waste pickup.

17. Stormwater Management:

- A planning level stormwater control plan report (in addition to a stormwater plan sheet in the plan set) was not submitted. As part of the planning submittal, this project shall submit a preliminary (planning level) stormwater control plan (in a report format) in a report template found at Central Coast Regional Board website (MS Word). All technical calculations, exhibits, and background information justifying the stormwater management design must be contained in the stormwater control plan report.
https://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid

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- This project shall design stormwater treatment and management facilities per the Central Coast Regional Water Quality Control Board (CRWQCB) and the City of Gilroy “Stormwater Management Guidance Manual for Low Impact Development & Post Construction Requirements” found <https://www.cityofgilroy.org/DocumentCenter/View/5186/Guidance-Manual-for-Low-Impact-Development--Post-Construction-Requirements?bidId=>.

The following comments are not on the completeness of the existing application but are noted here to provide additional information as a courtesy to the applicant.

Planning Division

Contact: Erin Freitas at (408) 846-0242 or Erin.Freitas@cityofgilroy.org

1. **Environmental Review:** This project is subject to the California Environmental Quality Act (CEQA). We will need to obtain an Initial Study to determine the project's impacts and level of CEQA review required. The following technical studies at a minimum will be required:
 - a. Phase I ESA
 - b. Noise Study
 - c. Air Quality and Greenhouse Gas Emissions Report
2. **Agreement of Deferred Agricultural Mitigation:** An Agreement for Deferred Agricultural Mitigation recorded on the deed June 26, 2007, as required by the approval of the annexation A 01-01 which included the early cancellation of the Williamson Contract outlines conditions required upon an application for future development on this parcel. Per the Agreement, the developer agrees to pay the City an Agricultural Mitigation Fee based on a one-to-one acre ratio to be paid prior to the first discretionary approval. The fee will be determined by an appraisal of the fair market value of the development rights for the Mitigation Land. The City will require the Developer to pay a deposit to be used toward costs of the appraisal. The City may require a further deposit to cover the price of the appraisal and all administrative and transactional fees, including staff time and attorneys' fees, incurred by the City on a cost recovery basis. Please confirm your acknowledgement of this agreement. Staff will contact you in regard to receiving a deposit for the appraisal.
3. **Santa Clara Valley Habitat Plan:** The Coverage Screening Form determination was that the project is a covered project and will require the submittal of the [Application for Private Projects](#) including the [Fees and Conditions Worksheet](#) as stated on page 3 of the form. Please complete these two forms found on the Santa Clara Valley Habitat Agency website and include on your next submittal. A review of this property on the Agency's [Geobrowser](#) determined this is within Fee Zone B under the grain, row crop, hay and pasture land cover zone which requires a fee of \$17,698/acre to the Habitat Agency.

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4. **Multi-Family Residential Objective Design Standards:** This project is subject to the [Gilroy Mixed-Use Residential and Multi-Family Residential Objective Design Standards Policy](#) that was adopted by the City Council on October 18, 2021. On the next submittal, please include a response to how this development is achieving each of the objective design standards related to Multi-Family Residential Developments.

Engineering Division

Contact: Weston Hill at (408) 846-0410 or Weston.Hill@cityofgilroy.org

5. In general, all plans (civil, landscape, etc.) need to show (new and existing) right of way, easements (city/Caltrans), dedications, etc.
6. The utility representative table incorrectly identifies City of Gilroy's Engineering as the contact for fire services. The contact for fire services are managed by the City of Gilroy's Fire Department.
7. Any existing overhead utility along the project frontage shall be undergrounded with this project.
8. Cross sections at boundary conditions were not provided.
9. The provided contour intervals on the Grading and Drainage plans do not provide sufficient information, consider increasing the contour interval shown.
10. The plans do not include a signing and striping plan along the project frontage. Design signing and striping plans to the latest edition of the California MUTCD. Submit signing and striping plans.
11. Private monument signs are not allowed in public easements. Plans currently show monuments signs within public easements.
12. Any private improvements are not allowed within public easements. Please review plans to keep all private improvements out of public easements.
13. The proposed site plan shows the proposed stormwater treatment facilities to be located within the limits of the required public service easement. This is not allowed. Additionally, all new impervious street areas from Murray Ave extension and Las Animas Ave widening will be treated by new stormwater treatment areas maintained by the project. Refer to stormwater comments further in these comments.
14. The Existing Conditions Plan legend calls out a pedestrian easement that is not identified on the plans or the title report.
15. It's not clear that the road layout is adequate to maintain proper site circulation, especially at all drive returns. This would be demonstrated by a detailed design vehicle turning movement plan. All design vehicle movements need to be maintained within their respective travel lanes (example, cannot cross opposite lane when traveling around curve returns). This concept of "design vehicle" is not to be confused with "emergency vehicle" turning movements.
16. Coordination with the landscape architect is necessary to ensure all site landscape design works with the Civil and architect site plan objectives.

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17. It is not clear what is the hatched area shown on the vehicle back up area. Call out and/or identify in the legend line.
18. The stormwater control plan sheet (in the plan set) is not clear as to which Tier is claiming infeasibility. Conflicting language in the notes for this plan sheet does not make it clear which tier is claiming infeasibility.
19. The City of Gilroy has been under close observation by the Regional Board on stormwater design practices. Further, a Notice of Violation was issued to the City by the Board, which conclusions of this violation requires that projects cannot claim infeasibility strictly on soil classification. Further, project site infiltration rates must be confirmed through site specific geotechnical investigations. Therefore, this project must confirm site specific soil infiltration rates as part of the geotechnical investigation.
20. Sizing tools for structural control measures for runoff retention can be found at the following: <https://www.countyofsb.org/2324/New-Redevelopment>
21. All new and disturbed areas (onsite and offsite) shall be accounted for and part of the stormwater management design calculations. The proposed development also needs to account for offsite improvements as part of the stormwater design. Please update all Stormwater reports and plans.
22. Stormwater control plan does not identify location, size, and/or proposed landscaping plant material.
23. Preliminary (planning level) stormwater calculations were not provided.
24. Pollutants and pollutant source areas were not identified.
25. Solid waste truck movements are shown encroaching onto approaching lanes. This is not allowed.
26. Truck movements will confirm if all driveway entries are adequate.
27. Contact fire department for any future fire design vehicles that will be required to be modeled for street design.
28. The Storm Drain Master Plans identifies the need for a 48-inch SD along Murray Ave. This project will be required to install this 48-inch SD line. A partial reimbursement will be provided for the pipe difference between the required property owner 24 inch (per current adopted fees to build Section 4) to the Master Plan required 48 inches. The length of pipe subject to upsize will be from the end of new Murray Ave extension (limit of project) to Ronan Channel – approximately 2,300 ft.
29. Preliminary level storm drain calculations were not provided to support intended slopes.
30. Preliminary level sanitary sewer calculations were not provided to support intended slopes.
31. Plans do not identify ownership of all utilities. Onsite storm, water, sewer, and stormwater management facilities shall be privately owned and maintained.
32. Callout information is overlapping and in conflict by other call out information along the project frontage notes.
33. There is a joint City of Gilroy and City of Morgan Hill sanitary sewer trunk line built on Las Animas Ave. This plan will need to work with and around this new sewer main. This project will be required to show the future sewer trunk main in plan and profile (PDF provided with this response).

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34. Private utilities are not allowed in public easements. Plans currently incorrectly show private utilities within the limits of the public service easement.
35. Trash enclosure areas must connect to the sanitary sewer system.
36. Confirm all utility spacing is consistent with Department of Health criteria.
37. General Utility plan comment: information is missing at various levels that does not allow for conformance to City standards (pipe cover, location, material, valve placement, appurtenances, spacing, etc.).
38. The project must complete a detailed traffic study. Any and all offsite improvements must be designed per traffic study conclusions. Offsite improvements must be shown as part of the next planning submittal.
39. It is not clear what improvements are required at the Murray Ave / Las Animas Ave intersection. See Traffic study comment above.
40. Developer shall design facilities to allow for standard Sight Distance (including intersection sight distance) to the latest edition of AASHTO Policy on Geometric Design of Highways and Streets. In effect at that time.
41. Any parking (onsite or offsite) cannot impact sight distance. See comment above for sight distance criteria.
42. The distance of the proposed driveway entrances to the existing intersection of Las Animas and Murray Avenue may not be adequate. The project does not show enough road geometric design information to confirm this item. The project must demonstrate that there will not be an impact (for example queuing of vehicles entering the site) to Murray Ave or Las Animas Ave. The project traffic study will also confirm the adequacy or subsequent improvements needed to support the proposed project entries.
43. All offsite improvements to streets and intersections (including Murray Ave/Las Animas Ave) must be designed and constructed for use by design vehicle CA Legal 65 ft truck.
44. The site plan does not show the required street tree locations. Tree location and spacing shall be consistent with City Standards.

Building Division

Contact: Hipolito Olmos at (408) 846-0572 or hipolito.olmos@cityofgilroy.org.

It is essential for the building owner and general contractor to ensure compliance with the adopted building codes relevant to new construction projects.

45. **Applicable Codes:** For building permit applications submitted on or after January 1, 2023, and on or before December 31, 2025, design shall conform to Title 24 of the California Code of Regulations, with the 2022 code as the current edition. This encompasses the set of 2022 California Building Standards Code, which the City of Gilroy adopted by reference along with local amendments. Refer to the City of Gilroy website (<https://www.cityofgilroy.org/565/Applicable-Codes-Design-Criteria>). The Gilroy City Code has incorporated the adoption with local amendments (<https://www.codepublishing.com/CA/Gilroy/>).

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Fire Prevention Division

Contact: Jonathan Crick at (408) 846-0436 or jonathan.crick@cityofgilroy.org

46. **FIREWATER SUPPLY:** Show the location and size of the Fire water supply underground. Minimum size is 6-inch diameter pipe. The private fire water supply system shall be separated from the City Main by a DDCA that meets the City Engineering Standard Specifications. The DDCA shall be supervised by a central station monitoring company. There shall be two (2) connections to the City main when there are 100 or more units or total floor area of more than 62,000 square feet. Alternatively, each building can have its own connection to the City Main, each with a DDCA. When multiple buildings are on a fire water supply underground, each shall have a PIV and FDC. Private Fire Hydrants and/or Fire Standpipes shall be provided so that one is within 150 ft of the most remote portion of any building. Draw a circle with a radius of 150 feet to demonstrate that there are an adequate number of fire hydrants positioned to cover all buildings and hazards. The underground water supply system shall meet the current edition of NFPA 24 on the private side of the system. A separate plan review and permit are required for the Fire Water Supply System, to be obtained by the underground installer.
47. **FIRE ACCESS:** Buildings shall have fire engine access within 150 feet of any portion of the building. Roads shall be all weather and capable of supporting a 75,000-pound apparatus and provide an outside turning radius of 40 feet. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm). They shall have an unobstructed vertical clearance of 13 feet 6 inches (4115 mm). Curb cuts for driveways that provide Fire Apparatus Access shall be 2 feet wider on each side of the driveway (apron extension). Fire apparatus access road width shall be increased to **26 ft** in width and minimum distance of 30 ft from Buildings when the building is 3 stories or greater. Fire access roads that dead end, and are greater than 150 feet long, shall be provided with a turnaround using the Gilroy Fire Department template. Provide a fire truck circulation plan using Autoturn vehicle tracking software to demonstrate that a fire truck can navigate into the property, throughout the property, and exit the property from all possible approaches. Because this property is “land-locked” on two sides and due to the sheer size of the project, efforts shall be made to maximize fire department access. The Gilroy Fire Department requires the fire department access to be approved by Fire Prevention and Fire Operations. As such, it is recommended that two more points of access be added. One entrance could be achieved by reducing the size of Building D and extending the westernmost internal road to connect with Las Animas Avenue. The second entrance would be made by extending the internal Road located North of Building 47 to connect with Murray Avenue. Looped or through access is preferred when possible. Fire Access roadways shall be clearly marked and maintained clear at all times with red curbing stenciled “**FIRE LANE NO PARKING**”.
48. **FIRE ACCESS:** When the total square footage of building floor area, (inclusive of each story), exceeds 62,000 sq ft or there are more than 100 units, there shall be

Project # AS 23-21
Park 315 Residential Project

2 fire access driveways and the Fire Water Underground Line shall be connected to the public system at two points, one at each driveway access. Each connection shall have a City Standard DDCA.

49. **BUILDING FIRE ACCESS:** Stairwells shall be sized based on the building code and the plans shall provide exiting calculations. A minimum of one (1) Fire Access Stairwell shall be provided. Additional Fire Access Stairwells shall be provided such that there is a Fire Access Stairwell within 150 ft of any unit. A Fire Access Stairwell shall have a door to the exterior, have a 2 hour enclosure with self closing doors at each level and a Fire Standpipe connection at each intermediate stair well landing. The stairwell landings shall be sized to allow for the hose standpipe and not degrade the required stair width. Fire Access Stairwells shall also provide access to the roof.
50. **SECURITY GATES:** No security fences or gates were shown on the plans. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained operational at all times. When electronic gates are installed across one or more of the fire access roadways they shall be provided with automatic opening devices that can be activated by the Fire/Police department during a response to the location (Click 2 Enter). They shall also be provided with KNOX key over-ride switches. Electric gate operators, where provided shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM 2200. A guest turn-out lane and sufficient gate setback from the street shall be provided. A separate plan review and permit are required for gates.
51. **FIRE PROTECTION:** Apartment Building shall have a fire sprinkler system installed to meet NFPA 13R with all concealed spaces protected if 3 stories or less, or NFPA 13 if 4 or more stories. A separate plan review and permit are required for fire sprinkler system installation.
52. **STANDPIPES:** Buildings 4 or more stories in height shall have a separate fire standpipe. The standpipe shall be pressurized by a dedicated fire pump to provide 100 psi at the roof. The fire pump shall be located in a code compliant pump room. Also, back-up power shall be required when required by the Fire Code or NFPA 22. P.G. and E is considered a reliable power source in Gilroy. A separate plan review and permit are required for fire pump installation.
53. **FIRE ALARMS:** The Fire alarm system shall provide water flow monitoring for each floor level, a tamper switch at the DDCA and PIV (if one is present), a pull station and smoke detector at the riser location. Water flow shall cause alarm to sound in each unit. The smoke detection and CO monitoring shall only sound in the unit of alarm and as a supervisory alarm to the main office. Public areas including the community rooms, laundry rooms hallways shall have smoke detectors located in them and send an alarm to the central station. A separate

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plan review and permit are required for the fire alarm system.

54. **FIRE EXITING:** providing access from the apartments to a public way shall be adequately sized as part of an exit path or be provided with a courtyard where all occupants can be 50 ft from the structure. Exit gates shall have panic hardware and be protected against unwanted entry.
55. **ELEVATORS:** Elevator must be at least a 3500lb capacity elevator, able to accommodate a Gilroy gurney size of 80" x 25" as well as 2 EMS responders.
56. **EMERGENCY LIGHTING:** Emergency lighting shall be provided in any community rooms, commercial areas, laundry rooms, stairwells and hallways/corridors. These areas shall also have illuminated exit signage.
57. **DOORS:** All doors to be compliant for signage, direction of swing and hardware. Note that some community rooms may be A occupancies and shall have exiting in conformance with A occupancy standards.
58. **KNOX BOXES:** Knox Boxes shall be provided at: each stairwell, Fire Riser Room, Fire Alarm Panel location, Electrical Room and each commercial space. Knox boxes shall be located at the upper right-hand side of the main doorway to each. Each of these shall be provided with signage that is approved by the Fire Marshal.
59. **FIRE EXTINGUISHERS:** Fire Extinguishers shall be provided so that there is one within 75 ft travel distance.
60. **RADIO COMMUNICATION SYSTEMS:** Building to be tested for adequate public safety radio coverage. Any building which fails to support adequate radio coverage for the city's public safety communication systems, shall include an amplification system to provide for voice and data communications for police and fire division personnel (DAS). A separate Permit is required to install a Distributed Antenna System (DAS).
61. **IMPACT/TRAINING FEE:** For buildings over 30 ft tall or 4 stories and greater the Fire Department requires a \$200 per unit training fee to fund equipment and training.

Valley Transportation Authority

Contact: Lola Torney at (408) 321-5830 or Lola.Torney@vta.org

62. **Pedestrian Access to Bus Stops:** There are two bus stops within a quarter of a mile of the project site, at Monterey Highway and Las Animas Avenue and at Monterey Highway and Farrell Avenue. The stops serve Frequent Route 68, which connects the Gilroy Transit Center to Diridon Station in San José. It appears that the project will build sidewalks along Las Animas Avenue in front of

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the project. VTA recommends the project build a sidewalk to Monterey Highway to allow for connectivity between the site and transit.

63. **Bus Stop Shelter:** The bus stop on Monterey Highway and Las Animas Avenue has adequate spacing to allow for a bus shelter and trash receptacle. Please work with VTA staff to include the bus shelter and trash receptacle which will help encourage the use of the public transit for residents of this development.
64. **Community Design and Transportation Manual:** VTA encourages the applicant to utilize VTA's Community Design and Transportation Manual (CDT) to guide the project's design. The CDT Design Guidelines provide design strategies for development's built form and parking design. These Design Guidelines create places that invite pedestrian activity, support transit, and build on the distinct qualities of each community. The Manual can be found at www.vta.org/cdt.
65. **Transportation Impact Analysis (TIA) Report:** VTA's Congestion Management Program (CMP) requires a Transportation Impact Analysis (TIA) for any project that is expected to generate 100 or more net new peak-hour trips. Based on the size of this project, a TIA will be required. The 2014 VTA TIA Guidelines, which can be found at www.vta.org/cmp/tia-guidelines, includes procedures for documenting auto trip reductions, analyzing non-auto modes, and evaluating mitigation measures and improvements to address project impacts and effects on the transportation system. We look forward to receiving that analysis.
66. **Bike Parking:** The project site is approximately a quarter of a mile from a VTA designated Cross County Bikeway Corridor. VTA encourages the applicant to provide conveniently located on-site bicycle parking. VTA's Bicycle Technical Guidelines provide guidance for estimating the amount and the design of bicycle parking facilities. The document can be found at www.vta.org/programs/bicycle-program.

Santa Clara Valley Water District

Contact: Benjamin Hwang at (408) 630-3066 or BHwang@valleywater.org

67. The Stormwater Control Plan prepared by Morgan & Pitalo, Inc. (Exhibit D) states that groundwater levels within the project site varies between 19 and 28 feet below ground. Additionally, the geotechnical report prepared by EnGEO states that "the groundwater at and nearby the site generally ranges between 18 feet to 64 feet below ground surface. (Page 4)" According to an active monitoring well near the site, Valley Water has measured groundwater levels at 10 feet below ground or less in very wet years, and as recently as 2017, 13 feet below ground. The civil or stormwater control plans do not provide any details on the proposed bioretention basins within the site, however the applicant should confirm the basins will perform as intended in very wet years given the potential for shallow groundwater.
68. Since the proposal includes more than 500 residential units, the water retailer is required to prepare a Water Supply Assessment to evaluate water supply

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availability. When considering water supply and Gilroy's Urban Water Management Plan it is important to recognize that projections of future water supply and availability assume substantial increases in water conservation and demand management measures. For the proposed project to meet its fair share to these water conservation assumptions Valley Water suggests that all available water conservation measures be required. To reduce or avoid adverse impacts to water supply, the City and applicant should consider the following:

- a. Weather- or soil-based irrigation controllers;
 - b. Dedicated landscape meters;
 - c. Maximize the use of alternative water sources for non-potable uses including stormwater, rainwater, and graywater.
 - d. Installation of separate submeters to each residential unit and individual spaces within commercial buildings to encourage efficient water use.
69. Valley Water Ordinance 23-02 (Enforcement Measures for Water Conservation in Santa Clara County) prohibits the use of potable water for non-functional turf in private open space. Non-functional turf is defined as turf that is solely ornamental and does not serve a community or neighborhood function.
70. Sheet L3.1 of the landscaping plans prepared by Yamasaki Landscape Architecture proposes *Platanus acerifolia* (London Plan Tree) and *Ulmus parvifolia* (Truee Green Lacebark Elm) as part of the planting schedule. According to the Guidelines and Standards for Land Use Near Streams (Gns), both species have been identified as invasive species and should be avoided. It should be noted that all proposed plantings should be non-invasive and "propagated from seeds, cuttings or divisions collected from the same local creek or watershed (GnS, Chapter 4, Design Guide 2)." The noted excerpt, which also includes a list of trees and plant species native to Santa Clara County, has been included for the applicant's reference.
71. Valley Water records indicate there are 2 registered wells within the subject parcel. While Valley Water has records for most wells located within the County, there are numerous unregistered wells, including many that pre-date well permitting or registration requirements. IF any abandoned/unregistered wells or well-like structures are encountered during construction of the project, please contact the Valley Water Well Ordinance Program at (408) 630-2660 to arrange to have the well(s) brought into compliance.

Your timely submittal of the requested information will help us meet your processing goals.

Note that in the course of processing your development request, in accordance with Section 65944 of the State Government Code, staff may request that you clarify, amplify, correct or otherwise supplement the information provided for the application.

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Should you have any questions or if you would like to schedule a meeting to preview your application resubmittal for completeness, please feel free to contact me at (408) 846-0242 or erin.freitas@cityofgilroy.org.

Respectfully,

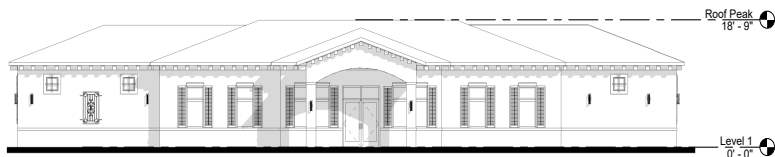
Erin Freitas

Erin Freitas
Senior Planner

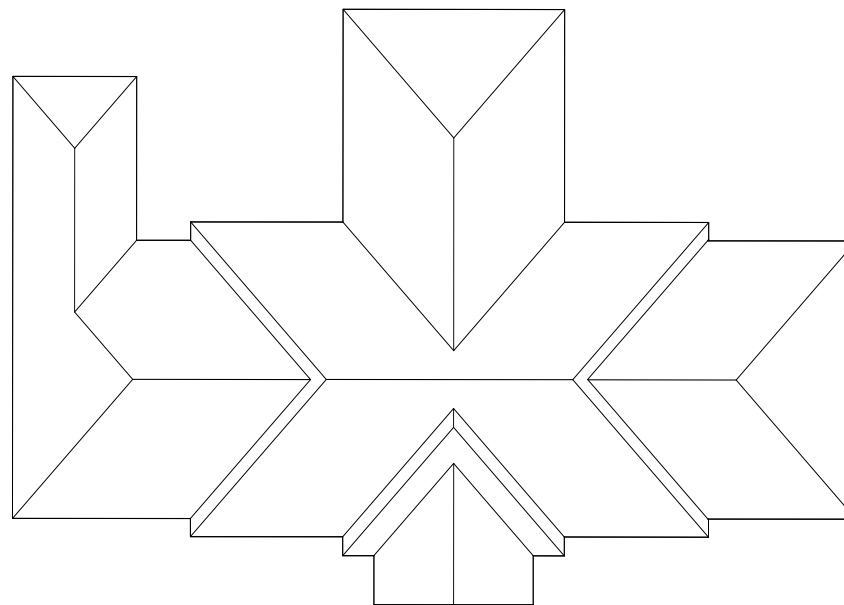
cc: Gandolfi Investments, LLC, Attn: Scott Canel, 445 Central Avenue, Highland Park, IL 60035
Las Animas Development, LLC, Attn: Augustine Melia, 350 Buena Vista Avenue, Gilroy CA 95020

Att: Planning Comments on Architectural Plans
Sewer Relief Trunk Line Project Plans

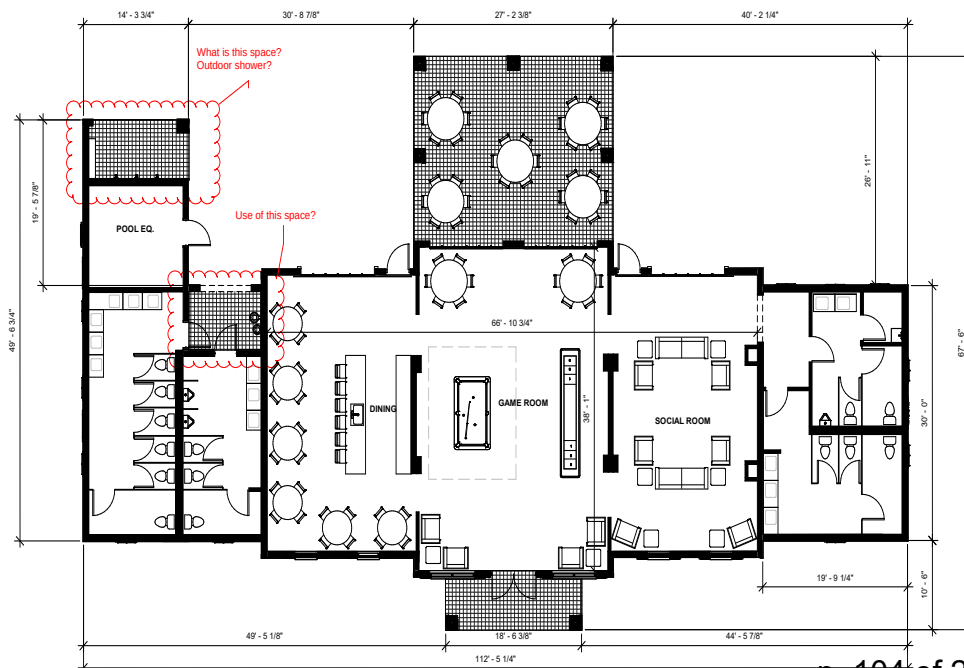
AMENITY BLDG. AREAS (SF)						
BUILDING LEVEL	UNCONDITIONED SPACE (GRADE LEVEL PATIOS)	INTERIOR COMMON SPACE	APARTMENTS (R-2)	UTILITY	FLOOR (NET)	FLOOR (GROSS)
1	811	-	3729	185	-	4725
SUBTOTALS	811	-	3729	185	-	-
TOTAL BLDG AREA						4725



③ WEST ELEVATION
1" = 10'-0"

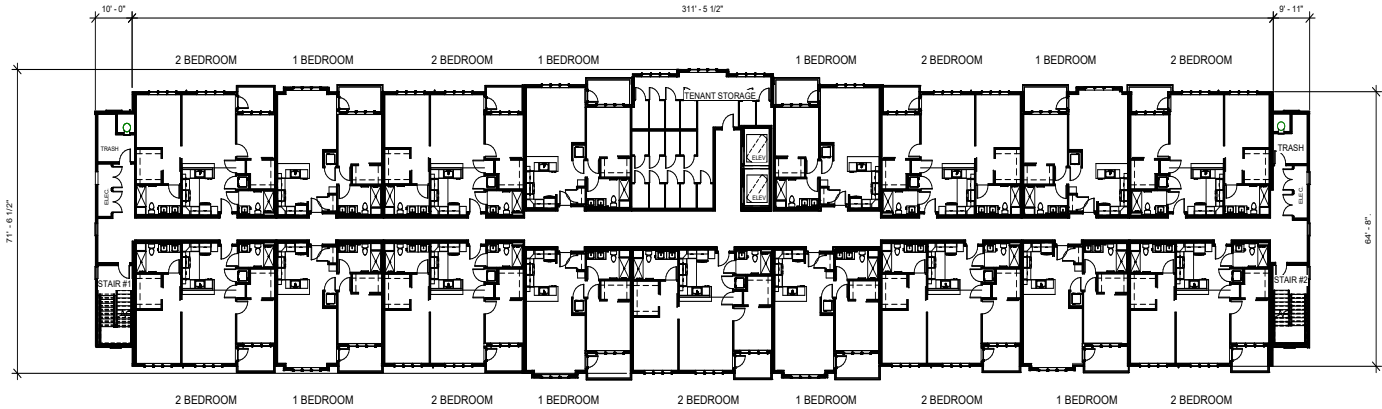


② ROOF PLAN
1/8" = 1'-0"

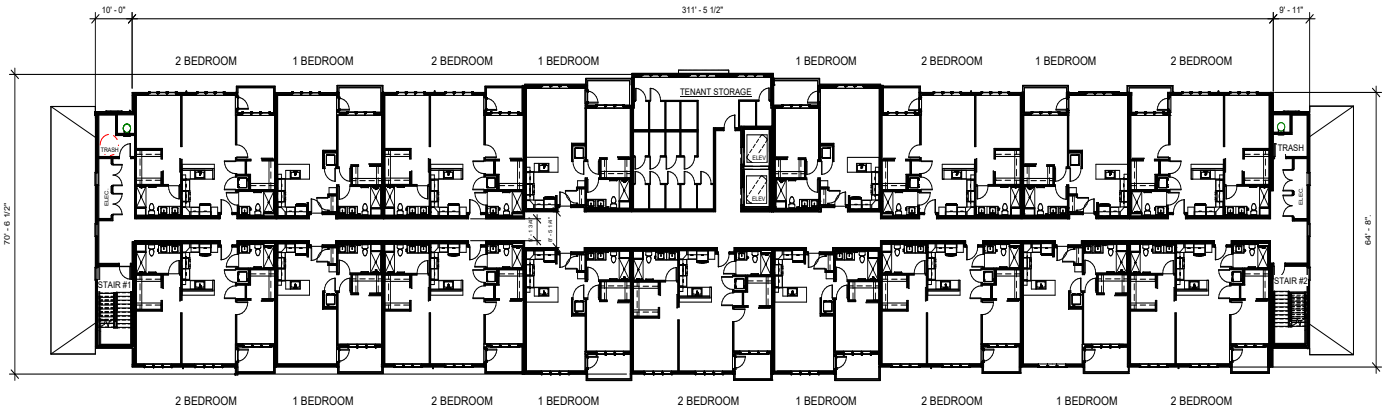


① AMENITY BUILDING FLOOR PLAN
1/8" = 1'-0"

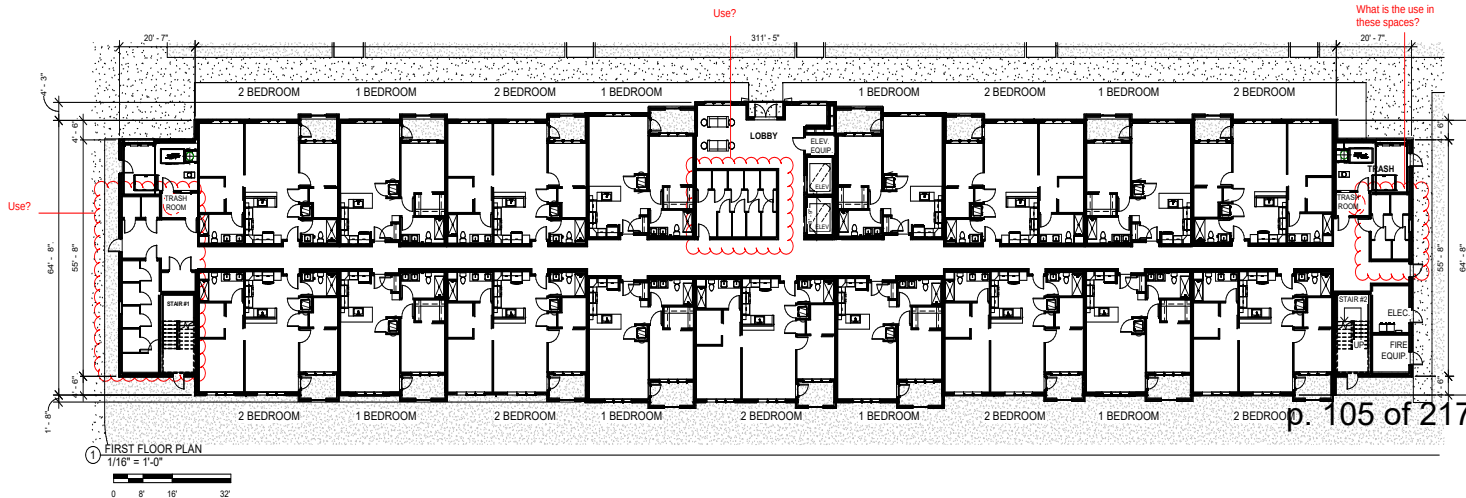
68 UNIT - MID-RISE BUILDING AREAS (SF)						
BUILDING LEVEL	UNCONDITIONED SPACE (GRADE LEVEL PATIOS)	INTERIOR COMMON SPACE	APARTMENTS (R-2)	UTILITY	FLOOR (NET)	FLOOR (GROSS)
1	1160	4653	16381	955	-	23149
2	-	4214	16381	233	-	20828
3	-	4214	16381	233	-	20828
4	-	4080	16381	367	-	20828
5	-	-	-	604	-	604
SUBTOTALS	1160	17161	65524	2392	-	86237
TOTAL BLDG AREA						



③ THIRD FLOOR PLAN
1/16" = 1'-0"



② SECOND FLOOR PLAN
1/16" = 1'-0"



① FIRST FLOOR PLAN
1/16" = 1'-0"

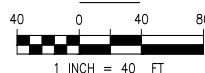
- ① TYPICAL 60" SEWER MANHOLE, PER
DETAIL 1 / C201.
- ② TYPICAL PIPELINE TRENCH & SURFACE
RESTORATION THROUGH CITY OF GILROY,
PER DETAIL 6 / C202.
- ③ REMOVE AND REPLACE (E) MONUMENT PER
DET 5 / C203.
- ④ PROTECT EXISTING SD INLET IN PLACE.
- ⑤ PROTECT EXISTING SDMH IN PLACE.



Plan view of Las Animas Ave showing proposed 500 LF 36 inch SS sewer line. The drawing includes stationing from 136+00 to 143+00, existing and proposed pavement edges, and various utility lines. Key features include:

- Proposed 500 LF 36 inch SS sewer line (THIS SHEET)** shown as a thick black line.
- Existing 16 inch LF 36 inch SS sewer line (THIS SHEET)** shown as a dashed line.
- Proposed 288 LF 36 inch SS sewer line (THIS SHEET)** shown as a dashed line.
- Various utility lines** including water mains (WV), gas lines (G), and storm sewers (SS).
- Stationing markers** from 136+00 to 143+00.
- Property lines and APNs** (Assessor's Parcel Numbers) for adjacent lots.
- Notes for construction** of new sewer lines and protection of existing ones.
- A north arrow** pointing towards the top left.

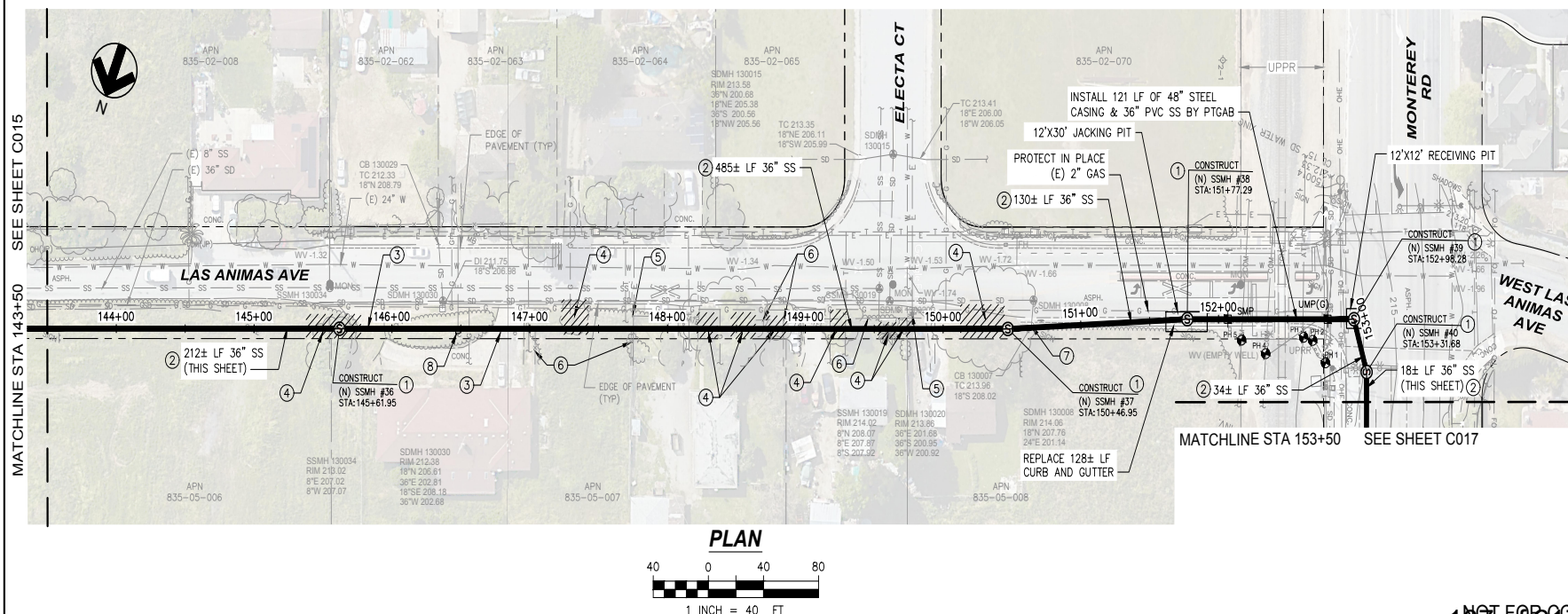
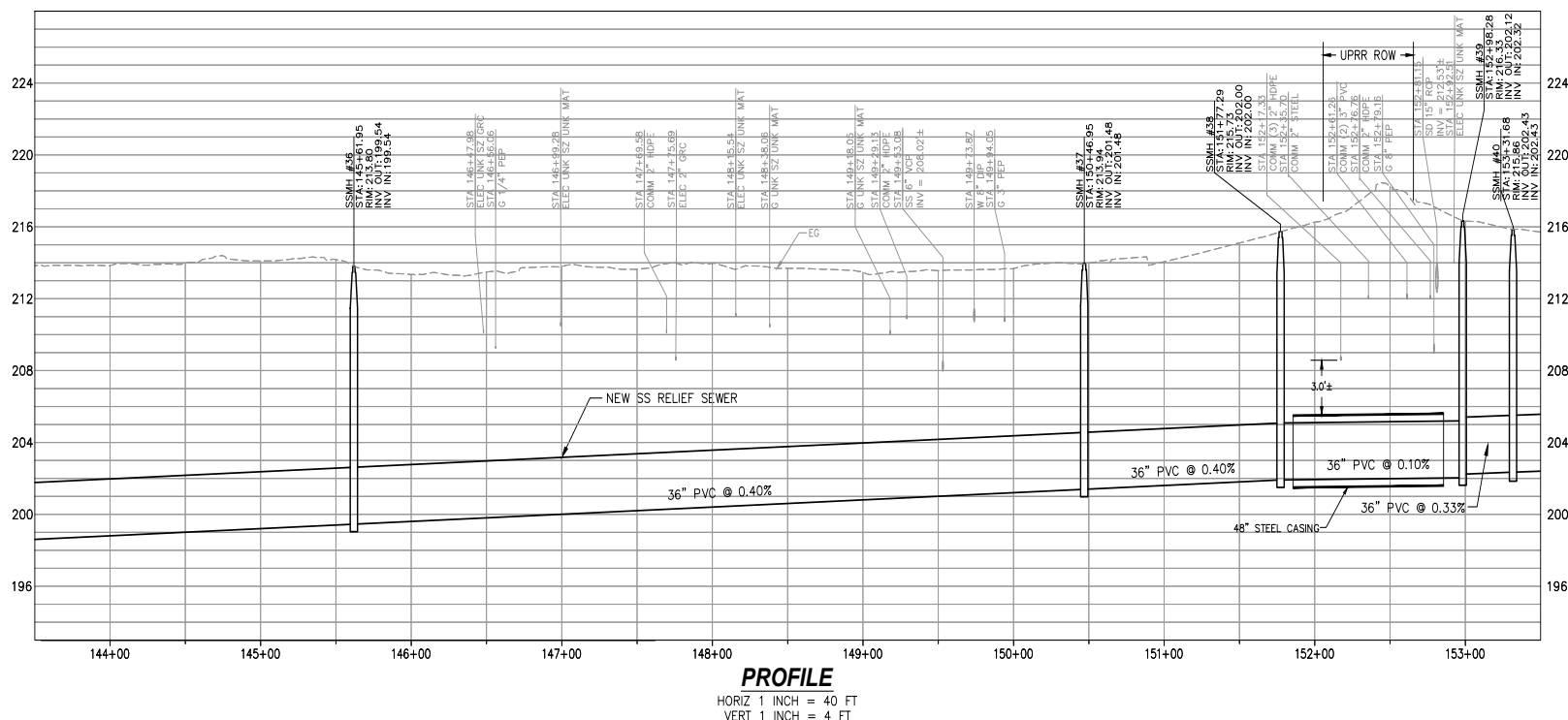
PLAN



				WORK ACCEPTED: INSPECTOR:		DRAWING: <u>AP/AW</u> DESIGN: <u>RL</u>		HOURS: <u>AS SHOWN</u>		 City of Morgan Hill Public Works Department	 HydroScience	SEWER RELIEF TRUNK LINE PROJECT LAS ANIMAS AVENUE PLAN AND PROFILE - STA 134+00 TO 143+50	PRINT DATE:
				90% SUBMITTAL		CHECKED: <u>EAP</u>		VERT: <u>AS SHOWN</u>					DWG NUMBER:
NO. DESCRIPTION DATE BY				DATE:		APPROVED: DATE:		JOB NUMBER:					C015
Revisions						SCOTT CHEN, CITY ENGINEER SEP 2022 (P. 134-143)		17575 Peak Avenue Morgan Hill, CA 95037 (408)778-6480, Fax (408)779-7236				SHEET NUMBER:	
												21 OF 62	

- SHEET NOTES** **8.1**
1. LOCATION OF EXISTING UTILITIES ARE APPROXIMATE ONLY. DATA SOURCES INCLUDE GIS, UTILITY MAPS, TOPOGRAPHIC SURVEY, AND AVAILABLE RECORD DRAWINGS. DEPTHS OF DRY UTILITIES, WATER SERVICES, AND SEWER LATERALS ARE ASSUMED UNLESS OTHERWISE NOTED.
 2. CONTRACTOR SHALL FIELD-VERIFY LOCATION AND DEPTH OF ALL CROSSING UTILITIES AND TIE-IN POINTS. IMMEDIATELY NOTIFY THE CONSTRUCTION MANAGER OF ANY DISCREPANCIES.

- KEY NOTES**
- ① TYPICAL 60" SEWER MANHOLE, PER DETAIL 1 / C201.
 - ② TYPICAL PIPELINE TRENCH & SURFACE RESTORATION THROUGH CITY OF GILROY, PER DETAIL 6 / C202.
 - ③ SAWCUT CONCRETE AT EXISTING JOINTS AND REMOVE PORTION OF EXISTING DRIVEWAY TO EDGE OF ROAD PAVEMENT. REPLACE IN-KIND FROM JOINT TO JOINT PER GILROY STANDARDS ON C203.
 - ④ REMOVE EXISTING TREE.
 - ⑤ RELOCATION OF PG&E UTILITY POLES BY OTHERS. COORDINATE WITH PG&E.
 - ⑥ REPLACE ALL EXISTING FENCES IN-KIND UP TO PUBLIC RIGHT-OF-WAY OF LAS ANIMAS AVENUE.
 - ⑦ REPLACE EXISTING SD CURB INLET IN-KIND.
 - ⑧ COORDINATE WITH PG&E TO RELOCATE (E) PULLBOX.



NO.		DESCRIPTION		DATE	BY	90% SUBMITTAL	INSPECTOR	AP/AW	DESIGN	DATE	REVISIONS	CITY OF MORGAN HILL Public Works Department		SEWER RELIEF TRUNK LINE PROJECT LAS ANIMAS AVENUE PLAN AND PROFILE - STA143+50 TO 153+50		PRINT DATE: 2022 DWG NUMBER: C016 SHEET NUMBER: 22 OF 62
NO.		DESCRIPTION		DATE	BY	90% SUBMITTAL	INSPECTOR	AP/AW	DESIGN	DATE	REVISIONS	CITY OF MORGAN HILL Public Works Department		SEWER RELIEF TRUNK LINE PROJECT LAS ANIMAS AVENUE PLAN AND PROFILE - STA143+50 TO 153+50		PRINT DATE: 2022 DWG NUMBER: C016 SHEET NUMBER: 22 OF 62

April 1, 2024

Via Online Submittal

Mr. Thai Pham
 City Clerk
 City of Gilroy
 7351 Rosanna Street
 Gilroy, CA 95020

**Re: Appeal of City's Notification of Application Incompleteness
 315 Las Animas Avenue, Gilroy California 95020
 Project No. AS 23-21**

Dear Mr. Pham,

We represent Gandolfi Investments LLC ("Applicant"), applicant of the proposed housing development project at the property located at 315 Las Animas Avenue in Gilroy, California ("Property"). This letter shall serve as the Applicant's appeal of the City's Notification of Application Incompleteness, dated March 15, 2024, pursuant to California Government Code Section 65943 (the "Permit Streamlining Act").

A. Notification of Application Incompleteness and Appeal.

On January 11, 2024, the Applicant received the City's first Notification of Application Incompleteness. On February 14, 2024, despite the fact Applicant believes the application was complete and did not believe it was required to resubmit the application prior to requesting an appeal, the Applicant resubmitted its application to eliminate staff's purported objection to the ripeness of an appeal. This resubmittal was substantially the same as the original submittal, but included the following additional items: (1) a Tree Survey and (2) an Updated Title Report.

On March 15, 2024, the Applicant received the City's second Notification of Application Incompleteness.

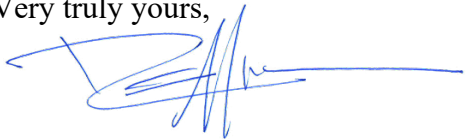
Pursuant to Gov. Code § 65943(c), the Applicant now seeks an appeal to the City Council to make a final written determination on the completeness of the Application. Pursuant to § 65943(a), the list of incomplete items, upon which the agency's incompleteness determination rests, "shall be limited to those items actually required on the lead agency's

Mr. Thai Pham, City Clerk
City of Gilroy
April 1, 2024
Page 2

submittal requirement checklist.” As the City notes on its Application Submittal Details, which provides detail to its Application Submittal Checklist, “some of the submittal requirement items may not apply to all projects” Yet, the City’s Notifications of Application Incompleteness contain a rote recitation of all missing checklist items regardless of whether they are actually required for this project. As the items listed in the City’s second Incomplete Letter are not “actually required” and for all practical purposes are irrelevant to the Applicant’s project, the Application was wrongly deemed incomplete. Accordingly, the Applicant appeals the City’s finding of incompleteness.

We trust the above information provides a sufficient explanation of the nature of the appeal and the City’s obligation under State law with respect to the Project. We appreciate the City’s prompt attention to this appeal. Please feel free to contact me with any questions regarding the appeal or the Project.

Very truly yours,



Russell E. Morse

cc: Ms. Sharon Goei, Community Development Director
Mr. Robert Schultz, Outside Special Counsel to City of Gilroy
Ms. Erin Freitas, Senior Planner
Mr. Scott Canel, Gandolfi Investments, LLC

5696078.2



City of Gilroy

STAFF REPORT

Agenda Item Title: Zoning Text Amendments to Implement Various Programs of the Gilroy 2023-2031 Housing Element

Meeting Date: May 20, 2024

From: Jimmy Forbis, City Administrator

Department: Community Development

Submitted By: Sharon Goei, Community Development Director

Prepared By: Cindy McCormick, Planning Manager

STRATEGIC PLAN GOALS

Promote Safe Affordable Housing for All

RECOMMENDATION

- a) Based on the City Council's independent analysis, find that approval of Zoning Amendment Z 24-0001 is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) where it can be seen with certainty that the amendments to implement the Gilroy 2023-2031 Housing Element would not result in a significant environmental effect; and
- b) Motion to read the ordinance by title only and waive further reading; and
- c) Introduce an ordinance of the City Council of the City of Gilroy amending the Gilroy City Code, Chapter 30 (Zoning), Article XI (Residential Use Tables) in conformance with the City of Gilroy 2023-2031 Housing Element.

EXECUTIVE SUMMARY

The City of Gilroy Planning Division is proposing amendments to Gilroy City Code, Chapter 30 (Zoning), Article XI (Residential Use Tables) as necessary to implement various programs of the Gilroy 2023-2031 Housing Element, including Program A-3 (By-Right Approval of Projects with 20 Percent Affordable Units on "Reused" RHNA Sites), Program A-10 (Facilitate Missing Middle / Middle Income Housing), Program E-2 (Zoning to Encourage and Facilitate Single Room Occupancy Units), Program E-3 (Emergency Shelter Standards), Program E-5 (Incentivize Micro Units), Program E-8

(Consistency with the Employee Housing Act), Program E-10 (Development and Rehabilitation of Housing for Persons with Disabilities), and Program E-13 (Permanent Supportive Housing).

BACKGROUND

On May 1, 2023, the City of Gilroy City Council adopted the Gilroy 2023-2031 Housing Element. When the Housing Element was adopted, the City intended to implement several of the housing programs by the end of the 2023 calendar year as part of the 2023 comprehensive zoning update. However, the comprehensive zoning update has been delayed due to changing priorities and resources. Rather than wait for the comprehensive update, City staff has prepared amendments to Gilroy City Code Chapter 30 (Zoning), Article XI (Residential Use Tables) to implement various programs of the Housing Element. Additional amendments planned for the comprehensive update being presented to the Planning Commission and City Council beginning later this year will further implement programs from the 2023-2031 Housing Element.

On May 2, 2024, the Gilroy Planning Commission held a public hearing on the proposed text amendments and unanimously recommended approval of the CEQA exemption and Zoning Amendment Z 24-0001.

ANALYSIS

Environmental Assessment: The City of Gilroy Planning Division has determined that there is no substantial evidence that the proposed Zoning Amendment (“Project”) would have a significant effect on the environment, and therefore the Project is exempt from the California Environmental Quality Act (“CEQA”). Pursuant to CEQA Guidelines Section 15061(b)(3), the Project is exempt from CEQA under the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Zoning Ordinance Text Amendment Review: Pursuant to City Code Section 30.52.60, the City Council may approve, modify or disapprove a proposed ordinance amendment. The ordinance shall recite, among other things, the facts and reasons that, in the opinion of the City Council, make the approval, denial, or denial without prejudice of the Zoning Ordinance amendment necessary to carry out the general purposes of the Zoning Ordinance and the General Plan. The attached draft Ordinance contains the necessary findings for approval. The action by the City Council shall be final and conclusive.

The following analysis demonstrates that the proposed Zoning Ordinance text amendment is necessary to carry out the general purpose of the Zoning Ordinance and applicable General Plan goals and policies.

Existing City Code: The Zoning Ordinance is the primary tool by which the City implements the policies of the General Plan. The Zoning Ordinance is, among other purposes, intended to guide and regulate each development in accordance with the General Plan and the objectives and standards set forth therein. The Gilroy City Code Chapter 30 (Zoning), Article XI (Residential Use Tables) currently regulates permitted and conditional uses in the City’s residential zoning districts. Adoption of the Zoning Ordinance text amendment is necessary to implement the Gilroy 2040 General Plan and Gilroy 2023-2031 Housing Element Programs A-3, A-10, E-2, E-3, E-5, E-8, E-10, and E-13.

General Plan Guiding Principles: The Gilroy 2040 General Plan includes eight (8) guiding principles, including principle #8 (Support Housing Options) to encourage a mix of housing types to create diverse neighborhoods that meet the needs of all Gilroyans, and to promote the building, retention, and renovation of quality housing for all incomes, ages, and abilities.

General Plan Housing Element Goals, Policies, and Programs: The Gilroy 2023-2031 Housing Element goals, policies, programs, and quantified objectives are designed to help ensure housing opportunities for all existing and future residents of the community.

General Plan / Housing Element Consistency: The proposed zoning text amendments are consistent with the Gilroy 2040 General Plan Land Use Goal LU 3 to provide a variety of housing types that offer choices for Gilroy residents and create complete, livable neighborhoods; Gilroy 2023-2031 Housing Element Goal 1 (Housing Production) to provide adequate residential sites to accommodate projected housing needs and encourage the production of a variety of housing types; Housing Element Goal 2 (Removal of Government Constraints) to remove or reduce governmental constraints to the development, improvement, and maintenance of housing where feasible and legally permissible; and Housing Element Goal 5 (Special Housing Needs) to increase access to decent and suitable housing for Gilroy residents with special housing needs.

The following table provides a summary of the proposed amendments provided in the attached draft Ordinance.

Draft Ordinance Summary
Article XI Residential Use Table <u>Section 30.11.10(c) Residential Use Table was amended as follows:</u>

To ensure that important footnotes are not overlooked by an applicant, several of the footnotes are now referenced under one new general footnote (1) and moved into a new section (32.11.15).

Agriculture footnote #5 was removed since a CUP is not needed for all new uses given agriculture is currently listed as a permitted use in the A1 and RR zoning districts.

Home Occupation was moved from the commercial category to the residential category since home occupations are a secondary use of a residence, while commercial uses are not intended to be a primary use of a residence. The footnote “D” and “2” were combined into one footnote (4).

Emergency Shelter was moved to the housing / residential category in line with the purpose of an emergency shelter as “housing” for homeless persons.

The footnote for *Private Neighborhood Park, Recreation Facility* was moved to the first column for easier reference and also changed from “4” to “2” given the new footnote numbering scheme.

Supportive and Transitional Housing was moved to the housing / residential category in line with its purpose as “housing”. The corresponding footnote was moved into the new Specific Housing Use Types section 32.11.15 for easier reference.

Accessory Dwelling Units are now listed as a permitted use in the A-1 zone in accordance with state law, since residential uses are an allowed use in the A1 zone.

Condominiums and Townhomes were combined since the permitted zones are the same.

The footnote for *Duplex* was moved to the new Specific Housing Use Types section for easier reference.

A new residential use type “*Efficiency Dwelling / Micro Unit*” was added to implement Housing Element Program E-5 (Incentivize Micro Units).

A new residential use type “*Employee / Agricultural Worker Housing*” was added to implement Housing Element Program E-8 (Consistency with the Employee Housing Act).

Residential Care Homes were combined into one category in compliance with state law regarding the number of residents and to implement Program E-10 (Development and Rehabilitation of Housing for Persons with Disabilities).

A new residential use type *Single-Room Occupancy (SRO)* was added to implement Program E-2 (Zoning to Encourage and Facilitate Single Room Occupancy Units).

Footnotes

The corresponding footnote text for “X”, “C”, and “T” were modified for consistency.

Footnotes “D” and “2” were combined under a single footnote “4” regarding home occupations.

Footnotes “1, 3, 6, and 7” are now combined under a single footnote “1” and now are referenced in the new Specific Housing Use Types section for easier reference.

Footnote “4” is now footnote “2” given the new footnote numbering scheme.

Footnote “5” is not applicable since agriculture is currently listed as a permitted use in the A1 and RR zoning districts.

A new footnote “3” is proposed to implement program B-7, clarifying that the residential portions of mixed-use projects are not subject to any FAR restrictions. This is consistent with existing City code but is now made explicit.

A new section, 32.11.15 Specific Housing Use Types was added to ensure that important footnotes are not overlooked by an applicant. This new section also introduces new standards to implement the Housing Element.

(a) *Accessory Dwelling Unit(s)*. Moved here from the footnotes section.

(b) *Emergency Shelter*. Moved here from the footnotes section. Implements Program E-3 (Emergency Shelter Standards) in compliance with state law.

(c) *Efficiency Dwelling / Micro Unit*. New text to implement Program E-5 (Incentivize Micro Units) and comply with state law.

(d) *Employee / Agricultural Worker Housing*. New text to implement Program E-8 (Consistency with the Employee Housing Act) and comply with state law.

(e) *Housing Element Opportunity Sites*. New text to implement Program B-7 (Zoning Ordinance Update) regarding demolished residential units on a RHNA opportunity site, consistent with state law. New text was also added here to implement Program A-3 (By-Right Approval of Projects with 20 Percent Affordable Units on “Reused” RHNA Sites) and comply with state law.

(f) *Duplex/Triplex/Fourplex Housing*. New text to implement Program A-10 (Facilitate Missing Middle / Middle Income Housing).

(g) *Residential Care Homes*. New text to implement Program E-10 (Development and Rehabilitation of Housing for Persons with Disabilities) and comply with state law.

(h) *Single-Room Occupancy*. New text to implement Program E-2 (Zoning to Encourage and Facilitate Single Room Occupancy Units).

(i) *Supportive and Transitional Housing*. New text to implement Program E-13 (Permanent Supportive Housing) and comply with state law.

ALTERNATIVES

Pursuant to City Code Section 30.52.60, the City Council may approve, modify or disapprove a proposed ordinance amendment. However, disapproval of the proposed text amendments is not recommended because the amendments are necessary to implement the City's certified Housing Element and conform to state law.

FISCAL IMPACT/FUNDING SOURCE

Staff time and resources required to adopt new zoning regulations to implement the Housing Element and state requirements are typically funded under the Department's operational budget and through the City's General Fund.

PUBLIC OUTREACH

A notice of the May 20, 2024 City Council meeting was advertised in the Gilroy Dispatch on Friday, May 10, 2024 (no less than 10 days prior to the meeting). The City Council public hearing packets are available through the City's webpage. Since the amendments apply city-wide, a separate mailed notice to property owners was not required. No public comments have been received on the proposed amendments.

NEXT STEPS

If the proposed ordinance is introduced, it will be placed on the consent calendar of the next City Council meeting for adoption, tentatively scheduled for June 3, 2024. The ordinance will become effective 30 days following adoption.

Attachments:

1. Draft Ordinance Z 24-0001, incorporating Exhibit 'A' proposed amendments

ORDINANCE 2024-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GILROY AMENDING THE GILROY CITY CODE, CHAPTER 30 (ZONING), ARTICLE XI (RESIDENTIAL USE TABLE) TO IMPLEMENT VARIOUS PROGRAMS OF THE GILROY 2023-2031 HOUSING ELEMENT

WHEREAS, State Planning and Zoning Law requires the City of Gilroy to adopt a comprehensive, long-term general plan for the physical development of the city that includes a housing element; and

WHEREAS, on May 1, 2023, the City of Gilroy City Council adopted the Gilroy 2023-2031 Housing Element; and

WHEREAS, the City intends to implement various programs of the Gilroy 2023-2031 Housing Element, including but not limited to Program A-3 (By-Right Approval of Projects with 20 Percent Affordable Units on “Reused” RHNA Sites), Program A-10 (Facilitate Missing Middle / Middle Income Housing), Program E-2 (Zoning to Encourage and Facilitate Single Room Occupancy Units), Program E-3 (Emergency Shelter Standards), Program E-5 (Incentivize Micro Units), Program E-8 (Consistency with the Employee Housing Act), Program E-10 (Development and Rehabilitation of Housing for Persons with Disabilities), and Program E-13 (Permanent Supportive Housing); and

WHEREAS, the Gilroy City Code Chapter 30 (Zoning), Article XI (Residential Use Tables) currently regulates permitted and conditional uses in the City’s residential zoning districts; and

WHEREAS, adoption of the Zoning Ordinance text amendment is necessary to implement the Gilroy 2023-2031 Housing Element Programs A-3, A-10, E-2, E-3, E-5, E-8, E-10, and E-13; and

WHEREAS, adoption of the Zoning Ordinance text amendment is exempt from review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3) where it can be seen with certainty that the Zoning Ordinance text amendment would not result in a significant environmental effect; and

WHEREAS, on May 2, 2024, the Planning Commission held a duly noticed public meeting, at which time the Planning Commission received and considered the staff report as well as all evidence received including written and oral public testimony related to the proposed Zoning Amendment (Z 24-0001); and

WHEREAS, on May 2, 2024, the Planning Commission unanimously recommended the City Council find that approval of Zoning Amendment Z 24-0001 is exempt from review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3), and adopt an Ordinance, approving Zoning Amendment Z 24-0001, amending the Gilroy City Code, Chapter 30 (Zoning), Article XI (Residential Use Tables) in conformance with the City of Gilroy 2023-2031 Housing Element; and

WHEREAS, the City Council held a duly noticed public hearing on May 20, 2024, at which time the City Council received and considered the proposed zoning ordinance text amendment, took and considered written and oral public testimony including the staff report, and all other documentation related to the proposed Zoning Amendment (Z 24-0001); and

WHEREAS, in accordance with City of Gilroy Chapter 30 (Zoning), Article LII (Amendment to the Zoning Ordinance), the Planning Commission has recommended, and the City Council finds, that the proposed Zoning Ordinance text amendment is necessary to carry out the general purpose of the Zoning Ordinance, and applicable General Plan goals and policies including: Gilroy 2040 General Plan Land Use Goal LU 3 to provide a variety of housing types that offer choices for Gilroy residents and create complete, livable neighborhoods; Gilroy 2023-2031 Housing Element Goal 1 (Housing Production) to provide adequate residential sites to accommodate projected housing needs and encourage the production of a variety of housing types; Housing Element Goal 2 (Removal of Government Constraints) to remove or reduce governmental constraints to the development, improvement, and maintenance of housing where feasible and legally permissible; Housing Element Goal 5 (Special Housing Needs) to increase access to decent and suitable housing for Gilroy residents with special housing needs; Housing Element Program A-3 (By-Right Approval of Projects with 20 Percent Affordable Units on “Reused” RHNA Sites), Program A-10 (Facilitate Missing Middle / Middle Income Housing), Program E-2 (Zoning to Encourage and Facilitate Single Room Occupancy Units), Program E-3 (Emergency Shelter Standards), Program E-5 (Incentivize Micro Units), Program E-8 (Consistency with the Employee Housing Act), Program E-10 (Development and Rehabilitation of Housing for Persons with Disabilities), and Program E-13 (Permanent Supportive Housing); and

WHEREAS, the location and custodian of the documents or other materials which constitute the record of proceedings upon which the project approval is based is the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF GILROY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I

The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION II

The amendments to the Gilroy City Code, Chapter 30 (Zoning), Article XI, set forth in Exhibit ‘A’ regarding residential uses, are hereby adopted.

SECTION III

If any section, subsection, subdivision, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise void or invalid by any court of competent jurisdiction, the validity of the remaining portion of this Ordinance shall not be affected thereby.

SECTION IV

Pursuant to section 608 of the Charter of the City of Gilroy, this Ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

PASSED AND ADOPTED by the City Council of the City of Gilroy at a regular meeting duly held on the **Xst** day of **Month** 2024 by the following roll call vote:

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

APPROVED:

Marie Blankley, Mayor

ATTEST:

Beth Minor, Interim City Clerk

Attachment:

1. Exhibit 'A': Proposed amendments to Chapter 30 (Zoning), Article XI

CERTIFICATE OF THE CLERK

I, **BETH MINOR**, Interim City Clerk of the City of Gilroy, do hereby certify that the attached **Ordinance No. 2024-XX** is an original ordinance, or true and correct copy of a City Ordinance, duly adopted by the Council of the City of Gilroy at a Regular Meeting of said Council held on **Monday, Date**, with a quorum present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this **Date**.

Beth Minor
Interim City Clerk of the City of Gilroy

(Seal)

EXHIBIT “A”

ORDINANCE 2024-XX

Gilroy City Code, Chapter 30 (Zoning), Article XI is hereby modified as follows (where new text is indicated in **bold type** and deleted text is crossed out):

(c) Residential Use Table

	A1	RR	R1	R2	R3	R4	RH	ND
Accessory Building	X	X	X	X	X	X	X	*
Temporary Building	X	X	X	X	X	X	X	*
Agricultural Uses								
— Agriculture	X	X	C⁵	C⁵	C⁵	C⁵	C⁵	*
Agriculture	X	X	C	C	C	C	C	*
Animal Husbandry	C	C						*
Animal Services								*
Animal Boarding	X	X						*
Veterinary Hospital	X	X						*
Commercial Uses								
Bed/Breakfast Establishment (1—2 Rooms)		C	C	C	C	C	C	*
Boarding or Rooming House		X	C	C	C	C	C	*
Day Care Center		C	C	C	C	C	C	*
Family Day Care Home		X	X	X	X	X	X	*
— Home Occupation²		D	D	D	D	D	D	*
Landscape Nursery		C						*
Sale of Farm Products (Grown on Site)	X	C						*
Subdivision Sales Office			T	T	T	T	T	*
Public and Semi-Public Uses								
Community Garden		X	X	X	X	X	X	*
— Emergency Shelter⁷	C	C	C	C	C	X	C	*
Golf Course or Country Club		C	C	C	C	C	C	*
Hospital					C	C		*
Neighborhood Bazaar			T	T	T	T	T	*
Open Space (Recreational)		X	X	X	X	X	X	*
— Private Neighborhood Park, Recreation Facility		C⁴	C⁴	C⁴	C⁴	C⁴	C⁴	*

	A1	RR	R1	R2	R3	R4	RH	ND
Private Neighborhood Park, Recreation Facility ⁽²⁾		C	C	C	C	C	C	*
Publicly Owned Building or Facility		X	X	X	X	X	X	*
Religious Institution		X	X	X	X	X	X	*
Schools (Private ≤ 12 Students or Public)		X	X	X	X	X	X	*
Schools (Private > 12 Students)		C	C	C	C	C	C	*
—Supportive and Transitional Housing ⁶	X	X	X	X	X	X	X	*
Housing / Residential Uses ⁽³⁾								
—Accessory Dwelling Unit [†]		X	X	X	X	X	X	*
Accessory Dwelling Unit ⁽¹⁾	X	X	X	X	X	X	X	*
Condominiums / Townhomes					X	X	X	*
—Duplex			X ³	X	X	X		*
Duplex ⁽¹⁾			X	X	X	X	X	*
Efficiency Dwelling / Micro Unit ⁽¹⁾	X	X	X	X	X	X	X	
Emergency Shelter ⁽¹⁾	C	C	C	C	C	X	C	*
Employee / Agricultural Worker Housing ⁽¹⁾	X	X	X	X	X	X	X	*
Home Occupation ⁽⁴⁾	X	X	X	X	X	X	X	*
Mobile Home Park			C	C	X	X		*
Multiple-Family Building (3 or more units)					X	X		*
—Residential Care Homes (More Than 6 Residents)		C	C	C	C	C	C	*
Residential Care Homes (Up to and Including 6 Residents)		X	X	X	X	X	X	*
Residential Care Homes ⁽¹⁾	X	X	X	X	X	X	X	*
—Single-Family Dwelling or Modular Home	X ⁸	X	X	X	X	X	X	*
Single-Family Dwelling or Modular Home	X	X	X	X	X	X	X	*
Single-Room Occupancy (SRO) ⁽¹⁾						X		*
Supportive and Transitional Housing ⁽¹⁾	X	X	X	X	X	X	X	*
—Townhouse					X	X	X	*

X = Unconditionally permitted.

C = Permitted only with conditional use permit granted by planning commission.

D = Permitted subject to the approval of the planning manager.

T = Temporary use — see Article XLVII.

* = Refer to the master plan or specific plan adopted for the neighborhood district area in which the property is located.

† Accessory dwelling unit(s) and/or junior accessory dwelling units may be allowed subject to

~~compliance with the regulations prescribed in Article LIV.~~

~~2— Permitted only if the regulations of Article XL are met.~~

~~3— A duplex dwelling is permitted when all of the following conditions are met:~~

~~—(a) The duplex dwelling shall be located on a corner lot only; and~~

~~—(b) The corner lot shall have a minimum area of eight thousand (8,000) square feet and be so designated for a duplex unit on a tentative and final map; and~~

~~—(c) The duplex shall not increase the overall density within any given land subdivision beyond the maximum of seven and one fourth (7 1/4) dwelling units per net acre.~~

~~4— Conditional use permit required unless otherwise allowed through an approved planned unit development.~~

~~5— Planning commission approval of a conditional use permit is required for all new agricultural uses.~~

~~6— Supportive and/or transitional housing that serves more than six (6) individuals, provides on-site services and is licensed by the state as a group home shall only be allowed upon the granting of a conditional use permit.~~

~~7— Emergency shelters shall be subject to the performance standards listed in section [30.41.32](#). Emergency shelters shall be permitted by right in the R4 zone district and areas designated mixed use (MU) on the Gilroy 2040 general plan land use diagram.~~

~~8— One (1) residential dwelling unit may be permitted on an A1 zoned parcel that has a minimum size of twenty (20) acres or more. Subdivision of land for further development is not permitted without rezoning to another zoning district that implements the general plan land use map.~~

X = Principally permitted (See Article L for related planning application requirements).

C = Subject to the approval of a conditional use permit (see Article L, Section 30.50.30)

T = Subject to the approval of a temporary use permit (see Article XLVII).

*** = Refer to the master plan or specific plan adopted for the neighborhood district area in which the property is located.**

(1) See Section 32.11.15 (Specific Housing Use Types)

(2) A private neighborhood park or recreation facility is subject to the approval of a Conditional Use Permit granted by the planning commission, unless otherwise allowed through an approved planned unit development.

(3) For mixed-use projects, the residential portion shall comply with the density standards and the non-residential portion shall comply with the FAR requirements.

(4) A home occupation shall meet the requirements of Article XL and shall be subject to approval of a Zoning Clearance by the Planning Manager or designee.

32.11.15 Specific Housing Use Types

(a) Accessory Dwelling Unit(s). Accessory dwelling unit(s) and/or junior accessory dwelling units are permitted subject to compliance with the regulations prescribed in Article LIV.

(b) Emergency Shelter. Emergency shelters shall be subject to the performance standards listed in Article XLI, section [30.41.32](#). Emergency shelters shall be permitted by right in the

R4 zone district and areas designated mixed use (MU) on the Gilroy 2040 General Plan land use diagram.

(c) Efficiency Dwelling / Micro Unit. Pursuant to Health and Safety Code Section 17958.1, there shall be no limit on the number of efficiency units, whose meaning is as specified in Part 2 of Title 24 of the California Code of Regulations, the California Building Code, on property located within one-half mile of public transit or where there is a car share vehicle located within one block of the efficiency unit. Any requirements related to density, setbacks, lot coverage, or height restrictions are not considered a limit on the number of efficiency units.

(d) Employee / Agricultural Worker Housing. Pursuant to Health and Safety Code Section 17021.5, employee housing for six or fewer persons will be treated as a single-family structure and residential use, subject to the same density requirements, regulations, and objective standards that apply to other single-family dwellings in the same zone (A1, RR, R1). Pursuant to Health and Safety Code Section 17021.6, employee housing consisting of 36 or fewer beds in group quarters, or 12 or fewer units designed for use by a single family or household will be treated as an agricultural use, subject to the same density requirements, regulations, and objective standards that apply to other agricultural activity in the same zone (R2, R3, R4, RH, ND).

(e) Housing Element Opportunity Sites. Development projects on property identified in the Gilroy 2023-2031 Housing Element RHNA Opportunity Sites Inventory shall include replacement units, subject to the requirements of Government Code section 65915, subdivision (c)(3). Pursuant to Government Code Section 65583.2.(c), a non-vacant site that has been identified as a housing opportunity site in a prior Housing Element and a vacant site that has been included in two or more consecutive Housing Element planning periods shall be allowed residential use by right (with approval of a building permit) for housing developments in which at least 20 percent of the units are affordable to lower income households. Pursuant to [Government Code Section 65583.2.\(i\)](#), the development shall comply with the City of Gilroy's objective development and design standards and a proposed subdivision of the property shall be subject to all laws, including, but not limited to, City ordinances implementing the Subdivision Map Act.

(f) Duplex/Triplex/Fourplex Housing. A duplex is permitted on a corner parcel that is at least 8,000 square feet in size in the R1 Zoning District. A triplex or fourplex development is permitted on a corner parcel in the R1 and R2 Zoning Districts when such development is proposed in lieu of an ADU and/or JADU, the project complies with adopted objective design standards, the lot area is at least 8,000 square feet, and the lot was created prior to May 1, 2023.

(g) Residential Care Homes. Residential care homes (also known as group homes) are subject only to the density requirements, regulations, and objective standards that apply to other residential dwellings of the same type (e.g., single-family or multi-family) in the same zone, with no additional requirements based solely on the number of units provided, other than density requirements.

(h) Single-Room Occupancy. Single Room Occupancy (SRO) Housing is subject to the same restrictions and objective standards that apply to multi-family dwellings within the same zone. SRO Housing means a structure that provides living units that have separate

sleeping areas and some combination of shared bath or toilet facilities. The structure may or may not have separate or shared cooking facilities for the residents. SRO includes structures commonly called residential hotels or rooming houses.

(i) Supportive and Transitional Housing. Supportive and transitional housing is permitted in all residential zones subject only to those restrictions and objective standards that apply to other residential dwellings of the same type (e.g., single-family or multi-family) in the same zone, when such housing meets the criteria listed in Government Code Section 65651. Parking is not required for units occupied by supportive housing residents if the development is located within one-half mile of a public transit stop.



City of Gilroy

STAFF REPORT

Agenda Item Title: **Consent the Appointment of Scot Smithee (Retired Annuitant) as the Interim Senior Executive Team Director Leading and Managing the Gilroy Fire Department Effective May 28, 2024 and Adoption of a Resolution of the City Council of the City of Gilroy Approving the Appointment and Employment Agreement**

Meeting Date: May 20, 2024

From: Jimmy Forbis, City Administrator

Department: Administrative Services

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

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

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

- a) Consent the City Administrator's recommendation to appoint Scot Smithee (Retired Annuitant) as Interim Senior Executive Team Director leading and managing the Gilroy Fire Department effective May 28, 2024.
- b) Adopt a resolution of the City Council of the City of Gilroy approving the appointment of Scot Smithee (Retired Annuitant) as Interim Senior Executive Team Director leading and managing the Gilroy Fire Department pursuant to Government Code Section 21221(h) and authorizing the City Administrator to execute the employment agreement.

EXECUTIVE SUMMARY

To ensure continuity in the leadership and management of the Fire Department during a critical time, it is recommended that the City Council consent to the appointment of Scot Smithee (retired annuitant) as Interim Senior Executive

Consent the Appointment of Scot Smithee (Retired Annuitant) as the Interim Senior Executive Team Director Leading and Managing the Gilroy Fire Department Effective May 28, 2024 and Adoption of a Resolution of the City Council of the City of Gilroy Approving the Appointment and Employment Agreement

10.1

Team Director for the Fire Department effective May 28, 2024, and approve the resolution consenting to the appointment and authorizing the City Administrator to execute the employment agreement.

BACKGROUND

Due to the upcoming retirement (last day of work May 31, 2024) of Fire Chief Jim Wyatt, the City of Gilroy has a vacancy in the Senior Executive Team Department Director position for the Fire Department. The city plans to commence recruitment for an ongoing Fire Chief and hire an Interim Director to lead and manage the Fire Department while the recruitment is being conducted. Former Gilroy Police Chief Scot Smithee is available to serve in this leadership position.

Mr. Smithee is a California Public Employees' Retirement System (CalPERS) retired annuitant, having retired in 2020. He has the education, skills, and experience to hit the ground running and serve as Senior Executive Team Department Director for the Gilroy Fire Department beginning May 28, 2024. This date allows for a few days of overlap with Chief Wyatt to ensure a smooth transition.

Mr. Smithee has over thirty years of public safety experience and served as the Gilroy Police Chief from 2017 – 2020. His prior City of Gilroy experience coupled with his leadership and management experience makes him a strong fit to serve in this interim role.

California Government Code Section 21221(h) allows an agency to hire a retired annuitant to serve in an "interim" position when there is an immediate need for expertise and specialized skills and recruitment is underway for the position. The city has already initiated steps to begin a recruitment for a new Fire Chief and we expect to complete the selection process in the next four to six months. Further, the retired annuitant may not work more than 960 hours in a fiscal year and cannot receive any compensation other than the hourly rate of pay for the work performed by other employees performing comparable duties.

In the Interim Senior Executive Team Department Director role for the Fire Department and as an officer of the city, Scot Smithee agrees to perform the following duties related to the Gilroy Fire Department:

- a. Plan, direct, and coordinate the activities of the Fire Department.

Consent the Appointment of Scot Smithee (Retired Annuitant) as the Interim Senior Executive Team Director Leading and Managing the Gilroy Fire Department Effective May 28, 2024 and Adoption of a Resolution of the City Council of the City of Gilroy Approving the Appointment and Employment Agreement

10.1

- b. Serve as head of the Fire Department and technical advisor to the City Administrator and other department heads on fire and emergency services related matters.
- c. Provide general supervision and direction to the Division Chiefs in charge of the Operations, Emergency Medical Services, or Training Division to insure their respective divisions comply with city and departmental policies and that they meet their established goals and objectives.
- d. Work with staff to develop goals and objectives, policies, procedures, and work standards for the Fire Department.
- e. Direct the preparation and administration of the annual and/or biennial department budget, including the following: preparing division budgets, projecting revenues and monitoring revenues and expenditures. Research, analyze, and make recommendations for cost effective departmental operations to include: developing, administering, and evaluating departmental programs and services; addressing process issues; and implementing required changes.
- f. Prepare reports and make presentations to the City Administrator, City Council, community groups, and other agencies on issues pertaining to the Fire Department.
- g. Coordinate the activities of the Fire Department with other departments and agencies.
- h. Serve as Operations Section Chief on the City Disaster Response Team and provide technical advice to the City Administrator during an emergency.
- i. Prepare and present comprehensive technical reports.
- j. Develop, analyze, and make recommendations on the formulation of policy, procedures, staffing and organizational requirements for the department.
- k. Select, train, and evaluate departmental personnel.
- l. Participate and be visible in the Gilroy community as appropriate.
- m. Perform related work as required.

As the Interim Senior Executive Team Director for the Fire Department, Scot Smithee will report directly to the City Administrator and shall comply with all City rules, policies, guidelines, regulations, and laws. Mr. Smithee will be paid \$121.33 per hour with no other benefits or incentives.

ALTERNATIVES

The alternative would be not to approve the interim appointment. The city would then need to alternatively identify someone else to serve in this role or leave the position vacant. These alternatives are not recommended.

FISCAL IMPACT/FUNDING SOURCE

Consent the Appointment of Scot Smithee (Retired Annuitant) as the Interim Senior Executive Team Director Leading and Managing the Gilroy Fire Department Effective May 28, 2024 and Adoption of a Resolution of the City Council of the City of Gilroy Approving the Appointment and Employment Agreement

10.1

This interim appointment provides a cost savings to the city as only the hourly rate for the position is paid to the retired annuitant and not any benefits. It is estimated that this interim appointment will save the city approximately \$7,000 per month when filled on a full-time basis. Over a four-to-six-month period, the savings will total approximately \$28,000 – \$42,000.

NEXT STEPS

Upon Council approval, the City Administrator will sign the employment agreement. In addition, staff has already commenced steps to begin the Fire Chief recruitment process and will work to complete the process over the next four to six months.

Attachments:

1. Resolution for Interim Appointment and Employment Agreement
2. Exhibit A - Employment Agreement for Scot Smithee Effective May 28, 2024

RESOLUTION NO. 2024-XX**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY APPOINTING SCOT SMITHEE AS AN INTERIM SENIOR EXECUTIVE TEAM DIRECTOR TO LEAD AND MANAGE THE FIRE DEPARTMENT AND APPROVING EMPLOYMENT AGREEMENT**

WHEREAS, Government Code Section 21221(h) permits the City Council to appoint a retired annuitant to a vacant position requiring specialized skills during recruitment for a permanent appointment, and provides that such appointment will not subject the retired person to reinstatement from retirement or loss of benefits so long as it is a single appointment that does not exceed 960 hours in a fiscal year; and

WHEREAS, Scot Smithee retired from California Public Employees' Retirement System employment on June 2, 2020; and

WHEREAS, Scot Smithee has over thirty years of municipal public safety experience and most previously served as the City of Gilroy Police Chief from 2017 - 2020; and

WHEREAS, the position of Fire Chief will become vacant on June 1, 2024 following the retirement of Jim Wyatt; and

WHEREAS, the Gilroy City Council desires to consent the City Administrator's recommendation to appoint retired annuitant Scot Smithee to lead and manage the Gilroy Fire Department in an Interim Senior Executive Team Director position for the City of Gilroy under Government Code Section 21221(h), effective May 28, 2024; and

WHEREAS, Scot Smithee has extensive experience leading and managing a public safety department, specific City of Gilroy experience, and experience with all administrative aspects of leading and managing a city department; and

WHEREAS, an appointment under Government Code Section 21221(h) requires that the City has initiated steps to begin the recruitment process for the vacant position; and

WHEREAS, this Section 21221(h) appointment shall only be made once and therefore will end on the date immediately preceding the date on which the permanent replacement for the vacant position of Fire Chief for the City of Gilroy commences his or her employment or, if earlier, the date that this appointment is terminated by the City or Scot Smithee; and

WHEREAS, the entire employment agreement between Scot Smithee and the City of Gilroy has been reviewed by this body and is attached hereto as **Exhibit A**; and

WHEREAS, no matters, issues, terms, and/or conditions related to this employment and appointment have been or will be placed on the consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

Resolution No. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY APPOINTING SCOT SMITHEE AS INTERIM SENIOR EXECUTIVE TEAM DIRECTOR FOR THE GILROY FIRE DEPARTMENT AND APPROVING EMPLOYMENT AGREEMENT

City Council Meeting | May 20, 2024

Page 2 of 3

WHEREAS, the maximum base monthly salary for this position is \$21,031.25 and the hourly equivalent is \$121.33 and the minimum base monthly salary for this position is \$15,771.00 and the hourly equivalent is \$90.99; and

WHEREAS, the hourly rate to be paid to Scot Smithee will be \$121.33; and

WHEREAS, Scot Smithee has not and will not receive any other benefit, incentive compensation in lieu of benefits or any other form of compensation in addition to this hourly pay rate.

NOW, THEREFORE, the City Council of the City of Gilroy hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council hereby certifies the nature of the employment of Scot Smithee as described herein and detailed in the attachment employment agreement and that this appointment is necessary to fill the critically needed position of Senior Executive Team Director for the City of Gilroy Fire Department to provide the specialized skills necessary to lead and manage the City's fire department functions.
3. The City Council hereby authorizes the appointment of Scot Smithee to Interim Senior Executive Team Director effective on May 28, 2024 pursuant to the authority provided under Government Code Sections 21221(h), which shall end on the date immediately preceding the date on which the permanent replacement for the vacant position of Fire Chief for the City of Gilroy commences his or her employment or, if earlier, the date that this appointment is terminated by the City or Scot Smithee.
4. The employment agreement with Scot Smithee, a copy of which is attached hereto as **Exhibit A** and will be maintained on file with the Human Resources Department, is approved by the City Council, effective on May 28, 2024.
5. The City Administrator is authorized to execute said agreement on behalf of the City, with such technical amendments as may be deemed appropriate by the City Administrator and City Attorney.

PASSED AND ADOPTED this 20th day of May, 2024 by the following roll call vote:

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

Resolution No. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY APPOINTING SCOT SMITHEE AS
INTERIM SENIOR EXECUTIVE TEAM DIRECTOR FOR THE GILROY FIRE DEPARTMENT AND
APPROVING EMPLOYMENT AGREEMENT

City Council Meeting | May 20, 2024

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APPROVED:

Marie Blankley, Mayor

ATTEST:

Beth Minor, Interim City Clerk

EXHIBIT A

RETIRED ANNUITANT EMPLOYMENT AGREEMENT

The Retired Annuitant Employment Agreement (“Agreement”) is made by and between the City of Gilroy, a municipal corporation of the State of California (“City”) and Scot Smithee, an individual (“Retired Annuitant”) as of May 28, 2024 (“Effective Date”).

RECITALS

- A. Retired Annuitant previously was employed by the City of Gilroy, a California Public Employees’ Retirement System (CalPERS) employer since 1986, having previously served as Gilroy’s Police Chief (Senior Executive Team Director) from 2017-2020; and
- B. Retired Annuitant retired from public service effective June 2, 2020 and began collecting a retirement pension from the California Public Employees’ Retirement System (CalPERS); and
- C. The City will have a vacancy in the position of Fire Chief beginning June 1, 2024, a regular position for which the City will commence steps to initiate the recruitment for a permanent appointment prior to May 28, 2024; and
- D. The City has an immediate need for an employee to temporarily perform the position of Senior Executive Team Director, a position involving specialized skills and training, and which is critically necessary to the on-going duties and functions of the City’s Fire Department; and
- E. Retired Annuitant has the necessary qualifications, experience, and abilities to assist City in the duties of leadership and management of the Fire Department; and
- F. Retired Annuitant’s employment is authorized by Government Code section 21221(h), which permits the City to appoint a CalPERS retired annuitant to a vacant position requiring specialized skills during recruitment for a permanent replacement; and
- G. City desires to retain the services of Retired Annuitant in accordance with California Government Code Section 21221(h) and Retired Annuitant agrees to provide certain services to City under the strict terms and conditions set out in this Agreement; and

In consideration of this matter described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the parties of this Agreement agree as follows:

AGREEMENT

Section 1. Term of Services

The term of this Agreement is from May 28, 2024 until such time as a permanent replacement for the position of Fire Chief has been selected and has commenced employment, unless terminated sooner as provided below.

Section 2. Scope of Services

Retired Annuitant, as an officer of the city, agrees to perform the following duties related to the Gilroy Fire Department:

- a. Plan, direct, and coordinate the activities of the Fire Department.
- b. Serve as head of the Fire Department and technical advisor to the City Administrator and other department heads on fire and emergency services related matters.
- c. Provide general supervision and direction to the Division Chiefs in charge of the Operations, Emergency Medical Services, or Training Division to insure their respective divisions comply with city and departmental policies and that they meet their established goals and objectives.
- d. Work with staff to develop goals and objectives, policies, procedures, and work standards for the Fire Department.
- e. Direct the preparation and administration of the annual and/or biennial department budget, including the following: preparing division budgets, projecting revenues and monitoring revenues and expenditures. Research, analyze, and make recommendations for cost effective departmental operations to include: developing, administering, and evaluating departmental programs and services; addressing process issues; and implementing required changes.
- f. Prepare reports and make presentations to the City Administrator, City Council, community groups, and other agencies on issues pertaining to the Fire Department.
- g. Coordinate the activities of the Fire Department with other departments and agencies.
- h. Serve as Operations Section Chief on the City Disaster Response Team and provide technical advice to the City Administrator during an emergency.
- i. Prepare and present comprehensive technical reports.
- j. Develop, analyze, and make recommendations on the formulation of policy, procedures, staffing and organizational requirements for the department.
- k. Select, train, and evaluate departmental personnel.
- l. Participate and be visible in the Gilroy community as appropriate.
- m. Perform related work as required.

Retired Annuitant will report directly to the City Administrator. Retired Annuitant shall comply with all City rules, policies, guidelines, regulations, and laws.

Section 3. Compensation; Hours

City agrees to compensate Retired Annuitant at \$121.33 per hour for all services provided under this Agreement. Payments from City to Retired Annuitant shall be made during the normal payroll cycles of other City employees.

City has reviewed and compared the hourly rate set forth in this Section with other employees performing comparable duties and the hourly rate set forth in this Section does not exceed such other employee's compensation.

Retired Annuitant agrees and acknowledges that he shall not perform any services under this Agreement exceeding a total of nine hundred sixty (960) hours during any fiscal year (July 1 to June 30) inclusive of any hours worked during the same period for other CalPERS employers as a retired annuitant. Retired Annuitant shall record his hours on a pre-approved timesheet that shall be submitted to the City every month.

The position is a temporary, hourly assignment which is generally not expected to exceed 40 hours per week. The City, through the City Administrator, will assign Retired Annuitant hours to work. Due to the nature of the position, it is understood that the workday and workweek hours may vary, however Retired Annuitant shall not work overtime (i.e. in excess of 40 hours per week) as payment of overtime is prohibited under Government Code Section 21221(h).

There are no other benefits, incentives, compensation in lieu of benefits or other forms of compensation in addition to the hourly pay rate set forth in this Section.

Section 4. Location

The primary locations for services will be at the following addresses:

Gilroy Fire Department, 7070 Chestnut Street, Gilroy, California 95020
Gilroy City Hall, 7351 Rosanna Street, Gilroy, California 95020

Section 5. Compliance with Laws

This Agreement will be construed in accordance with and governed by the laws in the State of California. In the event that suit shall be brought by any of the parties, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California. Retired Annuitant shall comply with all applicable laws, rules, policies, and guidelines. Retired Annuitant agrees and acknowledges that the State of California and the governing body of the California Public Employees' Retirement System enact strict laws, regulations and guidelines relating to services provided by "retired annuitants" to public agencies contracting with the California Public Employees' Retirement System. Retired Annuitant agrees to comply with all applicable laws, regulations and guidelines relating to the services provided under this Agreement.

Section 6. Termination

This Agreement may be terminated by either party for convenience by providing written notice to the other party.

Section 7. Miscellaneous

a. Retired Annuitant has read each and every part of this Agreement and Retired Annuitant freely and voluntarily has entered into this Agreement. This Agreement is a negotiated document and shall not be

interpreted for or against any party by reason of the fact that such party may have drafted this Agreement or any of its provisions.

b. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjusted shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

c. This Agreement represents the entire and integrated agreement between City and Retired Annuitant and supersedes all prior negotiations, representations, or agreements, either written or oral.

In witness where of the parties have duly affixed their signatures on this __ day of May, 2024.

Employer: City of Gilroy

Jimmy Forbis, City Administrator

Retired Annuitant:

Scot Smithee

Approved as to Form:

Andrew L. Faber, City Attorney

Attest:

Beth Minor, Interim City Clerk



City of Gilroy

STAFF REPORT

Agenda Item Title: Receive Budget Report for the Third Quarter of Fiscal Year 2023-2024 (FY24) and Adopt a Resolution Amending the Appropriations for FY24 and FY25 in the Police Grants Fund

Meeting Date: May 20, 2024
 From: Jimmy Forbis, City Administrator
 Department: Finance
 Submitted By: Harjot Sangha, Finance Director
 Prepared By: Carina Baksa, Finance Manager

STRATEGIC PLAN GOALS

Develop a Financially Resilient Organization

RECOMMENDATION

- a) Receive Budget Report as of the Third Quarter of FY24.
- b) Adopt a Resolution of the City Council of the City of Gilroy amending the appropriations for FY24 and FY25 in the Police Grants Fund (225).

EXECUTIVE SUMMARY

This report provides the City Council with an update on the Fiscal Year 2024 (FY24) Budget as of March 31, 2024, and appropriates funds in the Police Grants Fund (225).

BACKGROUND

The FY24 budget was adopted on June 5, 2023, and FY24 activity began on July 1, 2023. The City has now had three full quarters of operations for FY24. Staff presented the quarterly financial updates to the Council on December 11, 2023, and February 26, 2024. This report provides a financial summary of activity from July 1, 2023, through March 31, 2024.

Additionally, in February 2023, the Gilroy Police Department received a \$43,529 grant from the Board of State and Community Corrections Officer Wellness and Mental Health Grant Program. Staff appropriated the total amount of the grant in FY23, but only a portion, \$5,743, was expended during that year. Staff have until December 2025 to utilize the total amount of the grant. Staff requests to appropriate \$15,948 of the funds in FY24 and appropriate the remaining \$21,838 in FY25 (GL #2253000-52610).

ANALYSIS

General Fund Forecast Update

The City Council last received the General Fund forecast at the February 26, 2024, City Council meeting. The chart below is an updated General Fund Forecast, which incorporates budget amendments to date and additional adjustments to the forecast based on current information.

Fiscal Year 2024 and 2025 General Fund Forecast (05/16/2024)

General Fund Forecast (In Millions)	Actuals FY23	Amended FY24	Amended FY25	Forecast FY26	Forecast FY27	Forecast FY28	Forecast FY29
Beginning Fund Balance	\$ 34.6	\$ 38.4	\$ 29.8	\$ 25.7	\$ 24.6	\$ 23.2	\$ 22.0
Add: Revenues	66.2	66.5	68.9	70.3	72.5	74.7	76.7
Less: Expenditures	(62.4)	(66.0)	(69.3)	(71.4)	(73.9)	(75.9)	(78.9)
Operating Margin	\$ 3.8	\$ 0.5	\$ (0.4)	\$ (1.1)	\$ (1.4)	\$ (1.2)	\$ (2.2)
One-time Use of Fund Balance	-	(9.1)	(3.7)	-	-	-	-
Ending Fund Balance (after one-time use)	\$ 38.4	\$ 29.8	\$ 25.7	\$ 24.6	\$ 23.2	\$ 22.0	\$ 19.8
Fund Balance as a % (min 30% per CC policy)	62%	40%	35%	34%	31%	29%	25%

Following are the notable adjustments to the updated General Fund Forecast:

- **Sales Tax** – Staff previously shared that the sales tax revenue for FY24 was projected to come under budget by about \$1.1 million. Based on the current quarterly sales tax report, there are indications that the shortfall will now be approximately \$0.9 million for FY24 and is cautiously optimistic for subsequent years. Sales tax revenue for FY24 is now projected to come in at \$20.9 million, compared to the \$21.8 budgeted. The estimates for the subsequent forecast years have also been adjusted upwards by about \$0.4 million/year.
- **Lease Payment**—During the third quarter, the City received a catch-up payment from Gilroy Gardens totaling \$0.6 million under their Lease Agreement.

Overall, the adjustments had a net positive impact on the General Fund forecast. The operating margin for FY24 is now projected to be \$0.5 million positive due to increased sales tax estimate and the one-time catch-up payment. The forecast for subsequent years also improved due to the upward adjustment in sales tax revenues. The General Fund is now projected to maintain the minimum required fund balance through FY28 and dip below the required level in the last year of the forecast.

General Fund

Revenues

General fund revenues received through March 31, 2024, total \$42.3 million or 64% of the amended budget of \$66.4 million. For some revenues, such as tax revenues, there is a lag between when the economic transaction occurs and when the City's revenues are received. The table below provides a breakdown of General Fund revenues by category and a comparison to the amended budget.

(In Millions)				
General Fund Revenues by Category	FY24 Amended Budget	Actuals through March 31, 2024	% of Budget	
Sales Tax	\$ 21.8	\$ 12.5	57%	
Property Tax	20.4	11.4	56%	
Utility User Tax	6.5	4.5	69%	
Franchise Tax	2.3	0.8	34%	
Transient Occupancy Tax	2.0	0.9	45%	
Business License	0.7	0.7	100%	
Other Revenues	12.7	11.5	90%	
Total	\$ 66.4	\$ 42.3	64%	

Sales Tax - The City receives its sales tax revenue approximately two months after funds are collected by the California Department of Tax and Fee Administration. The FY24 budget for sales tax revenue is \$21.8 million, of which \$12.5 million (57%) has been received as of March 31, 2024. Receipts reflect collections from July 2023 through January 2024. Based on the previous quarterly sales tax report, it was reported that the City's sales tax revenue for FY24 was expected to come in under budget by approximately \$1.1 million. Based on the latest quarterly report, sales tax revenue is now projected to come in at \$20.9 million, which is approximately \$0.9 million under budget for FY24.

Property Tax - The City's property tax revenues are received in various intervals from Santa Clara County and are not distributed in even amounts. Property tax installments are typically due in November and April of each fiscal year. The FY24 budget for property tax revenue is \$20.4 million of which \$11.4 million (56%) has been received as of March 31, 2024. Much of the annual property tax revenue is received in the second half of the fiscal year, including the yearly ERAF payment. At this time, property tax revenue is projected to come in at the budgeted amount.

Utility Users Tax (UUT) - Utility taxes are assessed against the value of energy and telecommunications, such as gas, electricity, steam, cable, and phone charges. The current tax rates are 4.5% for telecommunications and 5% for gas and electricity. The City's UUT revenues are typically received one month after the revenues are earned. The FY24 budget for utility user tax is \$6.5 million of which \$4.5 million (69%) has been

received as of March 31, 2024. Receipts to date represent revenue through February. The utility user tax is projected to come in higher than budget.

Franchise Tax - The City receives franchise tax revenue from three franchise types: gas and electric, cable TV, and garbage/refuse. The FY24 budget for franchise tax is \$2.3 million of which \$0.8 million (34%) has been received as of March 31, 2024, primarily reflecting eight monthly refuse and two quarterly cable franchise payments. The more significant portion of franchise tax comes from PG&E, which remits payments once a year and is typically received in the fourth quarter of the fiscal year.

Transient Occupancy Tax (TOT) - The City's TOT revenue comes from a 9% tax on hotel room rentals under 30 days and some of the RV parks in the City. The hotels pay within one month after their quarter ends. The FY24 budget for TOT is \$2.0 million of which \$0.9 million (45%) has been received as of March 31, 2024, which reflects two quarters of returns. At this time, TOT revenue is expected to come in at budgeted levels.

Business License - The FY24 budget for Business License fees is \$0.7 million of which \$0.7 million (100%) has been received as of March 31, 2024. The business license revenue is tied to the timing of the annual renewal of the license and any new business licenses issued. At this time, Business License revenue is expected to come in slightly higher than budget.

Other General Fund revenues - This category comprises departmental service charges, general administration charges, fines and forfeitures, and other intergovernmental revenues. The FY24 budget for this aggregate revenue category is \$12.7 million of which \$11.5 million (90%) has been received as of March 31, 2024. At this time, this revenue is expected to come in higher than budget primarily due to increased development activity and related fees, and a catch-up payment received from Gilroy Gardens under their Lease Agreement.

Expenditures

General Fund expenditures as of March 31, 2024, total \$51.2 million, or 68% of the amended budget of \$75.0 million. The table below provides a breakdown by department and function. The table compares the actual expenditures for the first three quarters to the amended budget. Most departments are tracking at or under budget due to vacancies. The Public Works Department is tracking under budget for the period but is expected to encumber funds for the annual citywide pavement rehabilitation project, which was awarded by the Council after this reporting period.

(In Millions)				
General Fund Expenditures by Department/Function	FY24 Amended Budget	Actuals through March 31, 2024	% of Budget	
Administration	\$ 3.8	\$ 2.4	62%	
Recreation Transfer	1.5	1.1	75%	
Other Transfers	1.0	0.7	75%	
Human Resources	1.7	1.0	60%	
Community Development	6.1	3.8	62%	
Finance	1.2	0.8	65%	
Fire	15.8	11.8	75%	
Other General Government	3.3	2.5	76%	
Police	30.8	22.3	72%	
Public Works	9.8	4.7	48%	
Total	\$ 75.0	\$ 51.2	68%	

Non-General Fund

Revenues

The City has approximately 60 non-general funds. The information (revenues and expenditures) for these funds is presented in the table below in aggregate, by fund type, along with a brief description of what is included in these categories.

Non-General Fund revenues received as of March 31, 2024, total \$57.5 million or 60% of the amended budget of \$96.1 million. Revenues received up to this point are usually under the 75% fiscal-year mark due to the timing of receipts, especially for special revenue and capital/development funds.

(In Millions)				
Non-General Fund Revenues by Fund Type	FY24 Amended Budget	Actuals through March 31, 2024	% of Budget	
Special Revenues	\$ 9.6	\$ 4.8	50%	
Recreation	2.3	1.8	78%	
Capital/Development	32.1	10.6	33%	
Debt Service	5.0	3.3	67%	
Internal Service	16.2	12.0	74%	
Sewer	16.4	13.5	82%	
Water	14.5	11.5	79%	
Total	\$ 96.1	\$ 57.5	60%	

Special Revenues – The primary source of this fund type is intergovernmental funds in the manner of tax sharing or grants from Federal, State, County, and other regional governments. For the City of Gilroy, these Special Revenues provide funding for transportation (Gas Taxes, Vehicle Registration, and Measure B), public safety (Proposition 172 sales tax, Gang Prevention, and regional task forces), and community development (CDBG and housing) among others. The FY24 budget for Special Revenues is \$9.6 million of which \$4.8 million (50%) has been received as of March 31, 2024.

Recreation – The Recreation Fund receives an annual allocation of \$1.5 million from the General Fund and, in addition, acquires revenues from charges for services or grants related to recreation programs. The services provided by Recreation are seasonal, typically most active during spring and summer. The FY24 budget for Recreation revenue is \$2.3 million of which \$1.8 million (48%) has been received as of March 31, 2024.

Capital/Development Impact Funds – Revenues in the Capital and Development Impact Funds are primarily generated by new development approvals and the required contributions to offset infrastructure impacts. Revenue depends on the development's size and impact and the project's timing; therefore, revenue is not evenly distributed throughout the fiscal year. The FY24 budget for Capital/Development Funds revenue is \$32.1 million of which \$10.6 million (33%) has been received as of March 31, 2024. In discussion with the Public Works Department there is an indication that large development projects previously expected to materialize in FY24 may be delayed into FY25, thus the related impact fee revenues will also be collected in the next fiscal year.

Debt Service - Debt Service funds receive their revenue from annual property tax levies and/or via interfund transfers from other funds and are typically aligned with the timing of the debt service payment. For the period, the debt service funds have received \$3.3 million, or 67% of its \$5.0 million budget.

Internal Service – Internal Service Funds (Information Technology (IT), Fleet, Facilities, Worker's Compensation, and Liability Funds) primarily receive their revenue from charges to other departments and funds in the City. These charges are typically assessed in equal monthly amounts based on the budget, and therefore, it is expected that the full budgeted amount will be received.

Sewer – The FY24 budget for Sewer revenue is \$16.4 million of which \$13.5 million (82%) has been received as of March 31, 2024. The Sewer Fund is tracking above for the period. The Sewer Enterprise Fund generates its revenue from utility user charges.

Water – The FY24 budget for Water revenue is \$14.5 million of which \$11.5 million (79%) has been received as of March 31, 2024. The Water Fund is tracking above for the period. Like the Sewer Fund, the Water Fund generates its revenues from utility user charges.

Expenditures

Non-General Funds expenditures as of March 31, 2024, total \$63.5 million, or 46% of the amended budget of \$137.5 million. The table below presents the Non-General Fund expenditures by Fund Type.

(In Millions)				
Non-General Fund Expenditures by Fund Type	FY24 Amended Budget	Actuals through March 31, 2024	% of Budget	
Special Revenue	\$ 15.6	\$ 7.0	45%	
Recreation	2.1	1.2	58%	
Capital/Development	35.8	7.8	22%	
Debt Service	4.9	4.4	89%	
Internal Service	22.0	9.4	43%	
Sewer	36.5	23.7	65%	
Water	20.6	10.0	48%	
Total	\$ 137.5	\$ 63.5	46%	

Special Revenues – The primary expenditures in this fund type are for roads and sidewalk infrastructure, followed by grant-related expenditures for the Police Department. As of March 31, 2024, expenditures are at \$7.0 million (45%) of the budgeted amount of \$15.6 million. Road and infrastructure capital projects typically commence after the winter/rainy season. Therefore, staff expects funds to be encumbered and expenditures to commence in the fourth quarter of the fiscal year.

Recreation – As of March 31, 2024, expenditures are at \$1.2 million (58%) of the budgeted amount of \$2.1 million. The services provided by Recreation are seasonal, typically, most active during spring and the summer.

Capital/Development – As of March 31, 2024, expenditures are at \$7.8 million (22%) of the budgeted amount of \$35.8 million. The below target spending is primarily in the capital outlay. Several capital projects are currently in their design phases, and the construction phase, the larger category of expenditure, for certain projects will commence in the fourth quarter, while others will cross into the next fiscal year.

Debt Service – As of March 31, 2024, expenditures are at \$4.4 million (89%) of the budgeted amount of \$4.9 million. The debt service payments typically include semiannual interest payments, and one annual principal payment.

Internal Services - As of March 31, 2024, expenditures are at \$9.4 million (43%) of the budgeted amount of \$22.0 million. The City's internal service funds are IT, Fleet,

Facilities, Equipment Outlay, Worker's Compensation, and Liability Funds. The under spending is primarily in capital outlay for IT, Fleet and Facilities.

Sewer – As of March 31, 2024, expenditures are at \$23.7 million (65%) of the budgeted amount of \$36.5 million. Approximately \$27.0 million of this budget is related to capital outlay, primarily the South County Regional Wastewater Authority's Plant Expansion project which is currently under construction.

Water – As of March 31, 2024, expenditures are at \$10.0 million (48%) of the budgeted amount of \$20.6 million. Approximately \$4.2 million of this budget is related to capital outlay projects, several of which are in their design phases.

FY24 and FY25 Budget Adjustment

In February 2023, the Gilroy Police Department received a \$43,529 grant from the Board of State and Community Corrections Officer Wellness and Mental Health Grant Program. Staff appropriated the full amount of the grant in FY23 but only a portion, \$5,743, was expended during that year. The Department has until December 2025 to utilize the full amount of the grant. Staff requests to appropriate \$15,948 of the funds in FY24 and appropriate the remaining \$21,838 in FY25 (GL #2253000-52610).

ALTERNATIVES

There are no recommended alternatives to the Third Quarter Budget Report for FY24.

Council could reject the resolution to appropriate the \$15,948 to FY24 and \$21,838 to FY25 for the Police Department Grants Fund (F225). Staff does not recommend this option as it would mean an alternative funding source would need to be utilized for officer wellness purchases.

FISCAL IMPACT/FUNDING SOURCE

The fiscal impact of the Third Quarter Budget Report for FY24, and the updated General Fund Forecast has been discussed in the report above.

The fiscal impact of appropriating the \$15,948 to FY24 and \$21,838 to FY25 would be an increase in budgeted appropriations in Fund 225.

Attachments:

1. Draft Resolution - FY24 and FY25 Appropriations in Fund 225

RESOLUTION NO. 2024-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY
AMENDING THE BUDGET FOR THE CITY OF GILROY FOR FISCAL
YEAR 2024 AND FISCAL YEAR 2025 IN THE EXPENDITURE
ACCOUNTS OF THE POLICE GRANTS FUND AND
APPROPRIATING PROPOSED AMENDMENTS**

WHEREAS, the City Administrator prepared and submitted to the City Council a budget for the City of Gilroy for Fiscal Years 2024 and 2025, and the City Council carefully examined, considered and adopted the same on June 5, 2023; and

WHEREAS, City Staff has prepared and submitted to the City Council a proposed amendment to said budget for Fiscal Year 2024 for the City of Gilroy in the staff report dated May 20, 2024, for the third quarter budget update, more specifically appropriating funding received from the Board of State and Community Corrections Officer Wellness and Mental Health Grant Program; and

WHEREAS, the City Council has carefully examined and considered the same and is satisfied with said budget amendments.

NOW, THEREFORE, BE IT RESOLVED that appropriations to the expenditure accounts in the Police Grants Fund, Fund 225, are hereby increased by \$15,948 for Fiscal Year 2024 and increased by \$21,838 for Fiscal Year 2025.

PASSED AND ADOPTED this 20th day of May 2024 by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

Marie Blankley, Mayor

ATTEST:

Beth Minor, Interim City Clerk

CERTIFICATE OF THE CLERK

I, **BETH MINOR**, Interim City Clerk of the City of Gilroy, do hereby certify that the attached **Resolution No. 2024-XX** is an original resolution, or true and correct copy of a City Resolution, duly adopted by the Council of the City of Gilroy at a Regular Meeting of said held on Council held **Monday, May 20, 2024**, with a quorum present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this **May 20, 2024**.

Beth Minor
Interim City Clerk of the City of Gilroy

(Seal)



City of Gilroy

STAFF REPORT

Agenda Item Title: **Fiscal Year 2024 Third Quarter Departmental Workplan Update**

Meeting Date: May 20, 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

Ensure Neighborhood Equity from City Services
 Develop a Financially Resilient Organization
 Promote Economic Development Activities
 Promote Safe Affordable Housing for All
 Maintain and Improve City Infrastructure

RECOMMENDATION

Council receive the report.

BACKGROUND

At the June 5, 2023 regular meeting, the City Council adopted the FY24 and FY25 operating budgets. As part of that process, the workplans for the various departments of the City were also presented and adopted by the City Council. At the February 26, 2024 regular meeting of the City Council, an update on the status of those workplans was provided. This report is intended to provide an update on those workplan items since the previous report was provided.

ANALYSIS

Categories

- Mandated (13 workplan items)
 These items are those imposed by regulation, law, or compliance requirement that the City has no discretion to avoid or defer.
- Core (31 workplan items)

Core items represent a fundamental aspect of the department's purpose. It is what we do as a City, vital but not mandated.

- **Discretionary** (19 workplan items)

As its name implies, discretionary items are those that are provided by the City for the public good, and is usually Council and/or community driven, but not mandated nor an expected core service of the City.

Figure 1 – Departmental Workplan Items at Adoption

Department	Mandated	Core	Discretionary	Total
Administration	0	4	8	12
Administrative Services	0	5	0	5
Community Development	6	6	6	18
Finance	3	4	0	7
IT	1	5	0	6
Fire	0	4	0	4
Police	1	2	6	9
Public Works	3	1	3	7
Total	14	31	23	68
Difference from Previous Report	+1	0	+4	+5

As can be seen above, the total amount of continuing workplan items increased by five from the original 63 items. These increases have been in Community Development and Public Works, related to the recommendations from the Downtown Committee to the City Council, as well as a new mandated task in Community Development.

Work across the various workplan items have reached various levels of completion. The update table attached to this staff report also identifies what the status of each item is. Below in Figure 2, the table identifies the number of workplan items that are in each status.

Figure 2 – Departmental Workplan Item Status Summary

Department	Pending	Underway	Completed	Cancelled
Administration	3	5	3	1
Administrative Services	1	4	0	0
Community Development	9	6	3	0
Finance	1	3	2	1
IT	1	3	2	0
Fire	0	3	1	0
Police	1	4	4	0

Department	Pending	Underway	Completed	Cancelled
Public Works	0	6	1	0
Total	16	34	16	2
Share of Total	24%	50%	24%	3%

Overall, nearly a quarter of the number of items on the workplan have been completed to-date, even with the increase in the number of workplan items. Half of the total workplan items are underway, and a little less than a quarter of the items are pending.

Council Initiated Items

Since the adoption of the departmental workplans, the City Council has added 16 Council-initiated agenda items. These items range in labor hour consumption from a few hours to many days and weeks' worth of labor hours. Below is the list of the items that have been added during this fiscal year to-date:

1. Report on Security, Safety, and Parking at Las Animas Park
2. JEDI Policy Consultant Update
3. Smoking Prohibition Ordinance Implementation
4. Sidewalk Vending Ordinance
5. Naming the Downtown Pop-Up Park after Donald "Elvis" Prieto (introduction and discussion) and final approval staff report
6. Gilroy Garlic Festival Memorial Improvements
7. Council-Initiated Agenda Item Policy
8. Downtown Parklet Program
9. Downtown Plywood Storefront Ordinance
10. Downtown Vacancy Ordinance
11. Downtown Noise Ordinance
12. Downtown Beautification
13. Discussion on Rules of Conduct/Hybrid Meetings

Added Since Prior Report

14. Consideration of a Ceasefire Resolution
15. Resolution Proclaiming April 2024 as Arts, Culture and Creativity Month
16. Downtown Code Enforcement Recommendations

These three additions increase the total Council-Initiated items to 16 total additions, and increased the total number of tasks to 25% above the original number of workplan items.

Community Development and Public Works Departments' Workplans

The Community Development Department presented a report at the May 6, 2024 regular meeting on their workplan update. The workplan pages for Community Development that is attached to this staff report is the updated page from that May 6th meeting's table. Additionally, Public Works will be coming before the Council in June with an update on their workplan as well.

ALTERNATIVES

None, this is an informational item.

FISCAL IMPACT/FUNDING SOURCE

None, this is an informational item.

PUBLIC OUTREACH

This report was included on the publicly posted agenda for tonight's meeting.

NEXT STEPS

None. Should Council determine to provide feedback or direction, staff will receive the information and return to Council should more structured discussion on the item be required.

Attachments:

1. Department Workplan Update Tables

Fiscal Year 2024 and 2025 Departmental Work Plan

10.3

	Administration Workplan Item	Category	Estimated Completion	Status	Update
1	Develop City Logo Policy	Core	FY25 - Q4	Underway	Work has commenced on this project. Anticipated completion in June of 2025, if not before.
2	Complete the Emergency Operations Center (EOC) Operations Plan	Core	FY24 - Q4	Underway	Draft document under review. Review and comment period ends in June and draft document based on stakeholder feedback to be finalized in July. Final draft to be ready for council by August.
3	Develop a Justice, Equity, Diversity and Inclusion (JEDI) Policy	Core	FY25 - Q2	Underway	The initiative is in progress. The JEDI Plan should be completed and ready for implementation by December 31, 2024.
4	Recreational Facility Needs Assessment Implementation	Core	FY25 - Q4	Pending	Project is budgeted to take place in FY25. RFP under development. Anticipate entering into agreement at the beginning of the fiscal year.
7	Downtown Strategic Plan Update	Discretionary	FY25 - Q4	Pending	This will be a cooperative project between Community Development and Economic Development. This project is budgeted and planned to commence in FY25.
8	Pursue Opportunities for an Assessment District	Discretionary	FY25 - Q2	Underway	Staff has developed a draft plan and preliminary petition. To date, not enough support currently exists to support the ballot for the district to form. Work to gather input from more potential district members is underway, including support from the Gilroy Chamber of Commerce.
9	Planning for a Community/Youth Center/Civic Center Master Plan	Discretionary	FY25 - Q4	Pending	Project is budgeted to take place in FY25. RFP under development. Anticipate entering into an agreement at the beginning of the fiscal year.

Fiscal Year 2024 and 2025 Departmental Work Plan

10.3

Administrative Services Workplan Item		Category	Estimated Completion	Status	Update
1	Transition Fleet from Paper to Electronic Work Orders/Documentation	Core	FY 25 - Q2	Underway	The fleet team is in the process of transitioning to electronic work order documentation over hard copy paper records. Purchase of computer equipment for fleet shop underway.
2	Performance Management System Update	Core	FY 25 - Q4	Underway	Initial review of professional development plan templates underway as of April, 2024.
3	Evaluate Possible Transition to Biweekly Payroll	Core	FY 25 - Q3	Underway	Initial review underway; evaluating TM HCM system; beginning to develop action task list.
4	Update Human Resources Rules and Regulations	Core	FY 25 - Q2	Underway	Personnel Commission completed training on January 22, 2024; legal review completed as of April, 2024; staff review to begin May, 2024.
5	Update the City's Employer-Employee Relations Resolution to Incorporate State Laws	Core	FY 25 - Q3	Pending	Project has not yet started.

Fiscal Year 2024 and 2025 Departmental Work Plan

10.3

Community Development Workplan Item		Category	Estimated Completion	Status	Update
1	Climate Action Benchmarks	Mandated	Depending on grant No later than FY27 - Q4	Pending	The Climate Action Plan is combined with VMT/TDM policies. Staff submitted a grant application in January 2024. Applicants will be notified in the summer of 2024. If grant is not awarded, the \$400,000 budget will be carried forward to FY25 so staff can issue the RFP to begin work. A project timeline will be provided after grant applicants are notified.
15	Develop ADU Pre-Reviewed Plans Program	Mandated	FY25 - Q2	Pending	AB 1332 mandates that local agencies, by January 1, 2025, establish a pre-reviewed approval program for ADU plans and maintain a webpage with pre-reviewed plans. AB 1332 aims to expedite the approval process for ADU plans and mandates a 30-day review period for pre-reviewed ADU plans. ADU plans will need to be updated every code cycle to comply with current building codes.
6	Update Zoning Code and Zoning Map (including noise impacting residential properties and drive-throughs near residential areas)	Core	FY25 - Q3	Underway	Project has been reassigned due to staff retirement. Initial recommendations are estimated to be scheduled for review by the Planning Commission and City Council at joint study sessions in summer 2024.
--	Drive-Throughs Near Residential Areas	See Zoning Code	See Zoning Code	Underway	Regulations for drive-throughs will be developed as part of the comprehensive Zoning Code update.
7	Develop Vehicle Miles Traveled (VMT) Policy	Core	See Climate Action	Pending	See Climate Action update.
8	Develop Transportation Demand Management (TDM) Policy	Core	See Climate Action	Pending	See Climate Action update.
9	Partner with the County on 8th and Alexander Affordable Housing Development	Core	Estimated FY28	Underway	Staff has provided input to the County. Draft documents related to the County's Request for Offers process are pending. County will issue a Request for Offers to invite developers to respond and submit proposals.
10	Inclusionary Housing Policy/Ordinance	Core	FY25 - Q3	Underway	Inclusionary housing introduction was presented to the City Council in November 2023. A community workshop was held in November 2023. Consultant and staff are completing analysis and initial recommendations which will be presented to City Council in summer 2024.
11	Conduct Community Development Focused Fee Study	Core	FY25 - Q4	Pending	Work will begin when resources become sufficient, anticipating in FY 25. Staff will conduct fee studies focused on each development services function to fully account for staff time and costs since fee updates have yet to achieve cost recovery. A fee schedule will be developed accordingly.
Council Added 1	Smoking Prohibition Ordinance Implementation	Discretionary	FY25 - Q1	Underway	Staff from several departments collaborated to create a webpage with forms, handouts, signage template, and utility bill insert. Code Enforcement team has been implementing the ordinance through identifying, notifying, and working with 552 properties. As of April 26, 2024, 460 properties met ordinance requirements and 92 properties have yet to comply. Over 640 interactions have occurred with individuals regarding the ordinance. Implementation, community education, and enforcement will continue.
Council Added 3	Downtown Parklet Program	Discretionary	FY24 - Q3 for Permits and Initial Direction on Program Development (by Community Development and Economic Development) FY24 - Q4 for Program Development (by Downtown Committee) FY25 - Q3 for Program Implementation (by Community Development)	Underway	The City Council provided direction between August 2023 and February 2024 regarding the temporary program, existing parklet permits, parklet interest survey, and pursuance of a formal program. The workplan item was originally transitioned to Economic Development and was planned to begin after adoption of the Downtown Parking Management Plan. In January 2024, Council directed Downtown Committee to research and develop a downtown parklet program.

Fiscal Year 2024 and 2025 Departmental Work Plan

10.3

Community Development Workplan Item		Category	Estimated Completion	Status	Update
Council Added 4	Downtown Plywood Storefront Ordinance	Discretionary	FY25 - Q4	Pending	City Council received Downtown Committee Plywood Removal Subcommittee report on January 8, 2024 and directed staff to create an ordinance incorporating the Downtown Committee's recommendations for managing plywood-covered storefronts in downtown.
Council Added 5	Downtown Vacancy Ordinance	Discretionary	FY25 - Q4	Pending	City Council received Downtown Committee Vacancy Ordinance Subcommittee report on January 8, 2024 and directed staff to create a vacancy ordinance for downtown incorporating the Downtown Committee's recommendations.
12	Safe Parking Policy	Discretionary	FY25 - Q4	Pending	Development of a safe parking program is estimated to be conducted in FY2024-25.
Council Added 6	Downtown Noise Ordinance	Discretionary	FY25 - Q3	Pending	City Council received Downtown Committee Noise Ordinance Subcommittee report on January 22, 2024 and directed staff to create a noise ordinance for downtown incorporating the Downtown Committee's recommendations.

Fiscal Year 2024 and 2025 Departmental Work Plan

10.3

Finance Workplan Item		Category	Estimated Completion	Status	Update
2	Other Post Employment Benefits (OPEB) Actuarial Valuation/Study	Mandated	FY25 - Q1	Underway	Work has commenced in FY24Q4 and will be completed by FY25Q1.
3	Implementation of GASB Statement. 101 - Compensated Absences	Mandated	FY25 - Q4	Pending	Work will commence during second half of the Fiscal Year 2025 and be included as part of the annual financial audit and audited statements preparation.
5	Utility Customer Water Usage Reports and Portal	Core	FY25 - Q2	Underway	A Request-for-Proposal (RFP) will be issued in FY24 - Q4, with contract award by August 2024, followed by implementation through the remainder of calendar year 2024.
7	Transient Occupancy Tax Compliance Review	Core	FY25 - Q4	Underway	RFP has been issued. Contract award is expected in June 2024 with implementation of services through FY25.

Information Technology Workplan Item		Category	Estimated Completion	Status	Update
1	Upgrade Enterprise Resource Planning System to Latest Version	Mandated	FY24 - Q4	Complete	The upgrade was complete and systems went live on April 1st as planned. Item will be relocated to Complete list at next report.
3	Implement Cybersecurity Assessment Recommendations	Core	FY25 - Q4	Underway	Certain recommendations have been implemented. IT Division has successfully filled the Network Administrator position, and implementation of the remaining recommendations has commenced.
4	Develop Information Technology Asset Lifecycle Plan/Policy	Core	FY24 - Q4	Underway	Policy has been drafted. It is pending IT Steering Committee review and approval.
5	Internet Capacity and Redundancy Upgrades	Core	FY25 - Q3	Underway	Internet capacity upgrades are complete. Internet redundancy planning has commenced.
6	Develop a GIS Program Roadmap/Strategic Plan	Core	FY25 - Q4	Pending	This project will commence in FY25 upon completing the migration of the GIS services in-house, expected by June 2024.

1) Governmental Accounting Standards Board

Fiscal Year 2024 and 2025 Departmental Work Plan

10.3

Fire Workplan Item		Category	Estimated Completion	Status	Update
1	Develop and Implement the Santa Teresa Temporary/Permanent Fire Station	Core	FY24 - Q4	Underway	Improvements to the TEEC are underway. Station Alerting equipment has been installed, and the full system will be completed in June/July 2024. Perimeter fencing plans were approved, and a permit was issued on 5/3/24. The contractor is preparing for the fencing installation with a June/July 2024 completion estimate.
3	Develop and Implement a Plan for Over the Air Mapping	Core	FY24 - Q4	Underway	The new RMS system will go live in May/June 2024 and this feature is part of this new system.
4	Improve RMS Incident Data Reporting	Core	FY24 - Q4	Underway	The new RMS system will go live in May/June 2024. Once the program goes live, the department will work with the vendor to implement the advanced reporting features.

Fiscal Year 2024 and 2025 Departmental Work Plan

10.3

Police Workplan Item		Category	Estimated Completion	Status	Update
2	Public Safety/Mental Health Response Team	Core	2025-Q1	Underway	A no-cost MOU with the County of Santa Clara for a Psychiatric Emergency Response Team (PERT) Justice and Mental Health Collaboration Program is underway. The clinician will be housed at the PD and staff will use best practices for keeping measures by utilizing the RIMS (Records/CAD) system. Fiscal uncertainty at the county level may cause a delay in finalizing the MOU. 4/23/24: The County interviewed three candidates for a clinician position. PD and County are in the process of formalizing a MOU and a presentation is scheduled for the June 17, 2024 City Council meeting.
3	Employee Wellness & Resiliency Program	Core	2025-Q2	Underway	State funding of \$43,000 was received in February 2023 and funds are being expended to expand the peer support program and initiatives. Gilroy was selected by the University of San Diego and POST as a model to develop a wellness and resiliency program for other law enforcement agencies. 4/23/24: Staff are scheduled to attend a 40-hour Organizational Wellness Coordinator certificate course funded by UC San Diego Centers for Integrative Health.
7	Develop the Police Department's Three-Year Strategic Plan	Discretionary	2025-Q2	Underway	This project is in progress and pending the onboarding of the Department's Community Engagement Coordinator. This project will be one of their first year's goals. 4/17/24: CEC interviews took place with a second round interviews scheduled for May 2024.
8	Develop a Department Succession Plan	Discretionary	2025-Q1	Underway	In concert with the mentorship program, a formalized succession plan is being used to develop staff for promotional opportunities to the supervision ranks for Corporal, Sergeant, Captain and Chief of Police and specialized units of Traffic, Anti-Crime Team and Investigations. April 2024: Assessment interviews were with final selection for Sergeant and Corporal vacancies finalized by May.
9	Promote Neighborhood Watch Program (NWP)	Discretionary	2025-Q3	Pending	The Department continues to recruit for vacant positions and hopes to onboard a Community Engagement Coordinator to implement a NWP. In the meantime, staff communicates to the public the steps to take to enhance community safety through social media platforms, community engagement and presentations.

Fiscal Year 2024 and 2025 Departmental Work Plan

10.3

Public Works Workplan Item		Category	Estimated Completion	Status	Update
1	Implement State Mandate for City-wide Storm Drain Trash Capture Pro	Mandated	35% by 2026	Underway	The City was mapped and trash capture plan was identified. City crew are evaluating field conditions prior to issuing an RFP in September for devices installation.
2	SB1383 Solid Waste Reporting and Enforcement Implementation	Mandated	FY25 - Q4	Underway	The City has not yet determined its enforcement policy. Work is continuing on developing this program and implementing SB 1383 requirements. The Environmental Program Manager position was posted, who will lead this program.
3	Implement State Water Conservation Measures	Mandated	Ongoing	Underway	This program is ongoing.
5	Implement Strategies from the Public Works Department Evaluation	Discretionary	FY25 - Q4	Underway	The City has hired a new Utilities Department Director, and is pursuing additional position recruitments. Utilities and Public Works are collaborating on the transition, and taking on elements of the evaluation recommendations respective to each department.
6	Explore a Transit First Policy	Discretionary	TBD	Underway	Research is underway. Staff has also been teaming with VTA on various projects and funding opportunities.
7	Complete 10th Street Bridge Project Environmental Clearance	Mandated	FY25 - Q4	Underway	Coordination with consultants is underway. Bridge overcrossing the Uvas Creek is in the PS&E/design phase, and bridge overcrossing US 101 is in the PA&ED/environmental phase.
Council Added 1	Downtown Beautification	Discretionary	Ongoing	Underway	The Downtown Beautification Fund (Fund 487) is currently being used for funding construction of the Gourmet Alley Improvements Project which will be reimbursed by the Clean California Local Grant Program fund awarded to the City. City Council also received the Downtown Committee - Downtown Beautification Subcommittee report on January 22, 2024 and recommended staff to carry out capital projects, maintenance, and marketing programs incorporating the Downtown Committee's recommendations. Multiple departments will be involved to achieve these recommendations, financial assessment is yet to be carried out.



City of Gilroy

STAFF REPORT

Agenda Item Title: Authorization for the City Administrator to Execute the Countywide AB 939 Implementation Fee Agreement and the Countywide Household Hazardous Waste (HHW) Collection Agreement

Meeting Date: May 20, 2024
 From: Jimmy Forbis, City Administrator
 Department: Public Works
 Submitted By: Heba El-Guindy, Public Works Director
 Prepared By: Tanya Carothers, Program Representative

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

Receive report and provide authorization for the City Administrator to execute the Countywide AB 939 Fee Agreement and the Countywide Household Hazardous Waste (HHW) Collection Agreement.

EXECUTIVE SUMMARY

For well over 20 years, Santa Clara County has collected a fee to offset each jurisdiction's solid waste management and HHW management expenses. The Countywide AB 939 Fee Agreement is typically approved by City Council once every three years and the agreement currently in place was approved in 2021.

Additionally, for decades the City has met its obligation to provide for HHW management by participating in the Countywide HHW Collection Program. The Countywide HHW Agreement currently in place was approved by the City Council in 2021 and was amended in 2022 and 2023 to reflect the annually updated HHW Program augmentation amount and collection dates/times. City Council has historically acted annually on either an HHW Agreement or on the annual amendments.

The sole purpose of this item is to approve the City's execution of the new three-year Countywide AB 939 Fee Agreement and the Countywide HHW Collection Agreement in order to continue participating in these countywide programs.

BACKGROUND

Countywide AB 939 Fee Agreement

Named after the State bill that required all jurisdictions to establish recycling programs, the Countywide AB 939 Fee is collected at waste transfer and disposal facilities by facility operators and remitted to the County quarterly. In order for the fee to be practically enforced, every jurisdiction in the County must approve the same agreement.

The AB 939 Fee has two components. The first component, the Program Fee of \$1.50 per ton, is charged to assist in funding integrated waste management activities. The County transfers Program Fee revenues to each jurisdiction quarterly based on the waste tonnage emanating from the jurisdiction. The second component, the HHW Fee of \$2.60 per ton, is held by the County and used to directly offset the HHW program costs associated with the use of the program by each jurisdiction's residents. If HHW Fee revenues exceed a jurisdiction's HHW program costs at the end of the fiscal year, the remaining funds are transferred to the jurisdictions to be used to promote or support HHW management costs.

Countywide HHW Collection Agreement

The popular HHW Program provides City residents with the opportunity to participate in several collection events each month. The permanent collection center in San Martin has improved the convenience associated with these services. Over 850 Gilroy households participated in collection events in FY 22/23. In FY 23/24 and FY 24/25, it is estimated that over 1,000 and 1,100 households will participate in the program, respectively.

ANALYSIS

The Countywide HHW Collection Program Agreement includes a base assumption that 4% of each jurisdiction's households will participate in the program annually. Typically, Gilroy resident participation in the HHW Collection Program has been more than 4%; therefore, an augmentation of the 4% base assumption must be specified in Section 16 of the HHW Agreement. For 2024-2025, an augmentation of \$27,110 is recommended to ensure that all Gilroy residents desiring to participate in the program will be allowed to do so. As discussed below in the fiscal impact section, it is likely that the actual program costs will be completely offset by the revenues collected as part of the Countywide AB 939 Fee.

ALTERNATIVES

The Council could decide to not approve the HHW Collection Agreement and direct staff to further evaluate the provision of these services. There is not a viable alternative to approving the AB 939 Fee Agreement as this is a single countywide agreement that must be approved by every jurisdiction in the County.

FISCAL IMPACT/FUNDING SOURCE

Countywide AB 939 Fee Revenues

AB 939 Program Fee revenues of approximately \$90,900 are anticipated for FY 24/25.

Countywide HHW Collection Revenues

It is estimated that providing HHW collection services to Gilroy residents participating in the County program will cost approximately \$151,804 in FY 24/25 for 4% base participation. Since the HHW Fee revenues credited to Gilroy for this purpose will total approximately \$157,558, a small surplus of \$5,754 will likely be generated and can be used to offset the recommended \$27,110 augmentation to increase City participation beyond 4%.

Fees collected and actual participation in HHW can vary from year to year. The trend for the past six years, as shown in the chart below, has been that discretionary HHW funds collected have been enough to cover costs for actual participation in the program. If City participation is lower than anticipated, any additional HHW Fee revenues remaining in the City's credit with the County, will be refunded to the City for use in promoting the program. In the event that participation in the HHW Collection Program exceeds expectations, staff will return to the Council to request an additional augmentation and appropriation if necessary.

A six-year chart with historical data from 2017 onward, displaying the Discretionary Funds from HHW Fees relative to their reimbursement amounts, is listed here:

Year	Recommended Augmentation	Actual Augmentation	Discretionary Funds from HHW Fees	Gilroy Reimbursement
FY 2022/23	\$31,542	\$7,410.06	\$43,365.58	\$35,955.52
FY 2021/22	\$23,027	\$15,785.82	\$34,952.79	\$19,166.98
FY 2020/21	\$15,294	\$18,179.88	\$80,340.33	\$62,160.46
FY 2019/20	\$15,294	\$1,812.05	\$66,506.97	\$64,694.92
FY 2018/19	\$15,294	\$9,240.44	\$70,051.57	\$60,811.13
FY 2017/18	\$5,000	\$6,052.36	\$71,915.48	\$66,915.48

It should be noted that while the HHW Agreement specifies that an interim payment of 50% of the recommended augmentation amount of \$27,110 will be due at the beginning of FY 24/25, the County HHW Program staff and the City of Gilroy agreed that the first interim payment by Gilroy would be due in FY 25/26. This is to allow budget planning by

the City since the interim payment is a new element to the HHW Program that was not previously anticipated.

PUBLIC OUTREACH

The recommended action is an extension of a long-standing program with no changes proposed so no engagement activities were conducted prior to presenting the amendment for City Council consideration. Should the HHW Agreement be approved, staff will continue to inform the public about the availability of the County program.

NEXT STEPS

The City Administrator will execute the Countywide AB 939 Fee Agreement and the Countywide HHW Collection Agreement if approved.

Attachments:

1. Countywide AB 939 Implementation Fee Agreement FY25-FY27
2. Countywide HHW Program Agreement FY25-FY27
3. Interim Payment Schedule Deferment Request

AGREEMENT FOR COUNTYWIDE AB939 IMPLEMENTATION FEE

This Agreement is made by and among the Cities and Towns of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Morgan Hill, Monte Sereno, Mountain View, Palo Alto, San José, Santa Clara, Saratoga, and Sunnyvale (CITIES) and the County of Santa Clara (COUNTY) on the _____ day of _____ 2024. The term CITIES may refer to CITIES collectively or individually.

RECITALS

WHEREAS, pursuant to Public Resources Code Section 41901, a city, county, or city and county may impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing a countywide integrated waste management plan;

WHEREAS, State law, Public Resource Code Section 41750, requires that the countywide integrated waste management plans contain a household hazardous waste (“HHW”) element for each city within the county as well as for the unincorporated area of the county;

WHEREAS, the Board of Supervisors of the County of Santa Clara (“Board”) has imposed a Countywide AB939 Implementation Fee (“Fee”) since July 1, 1992 to pay for the costs of preparing, adopting, and implementing integrated waste management plans and programs, including HHW program elements;

WHEREAS, the Board has approved reimposing the Fee for Fiscal Years 2025, 2026, and 2027 (July 1, 2024 through June 30, 2027) at \$4.10 per ton of waste landfilled or incinerated in the County; received at any nondisposal or collection facility located within the County and subsequently transported for disposal or incineration outside of the County; collected from any location within the County by a solid waste hauler operating pursuant to a franchise, contract, license, or permit issued by any local jurisdiction and subsequently transported for disposal or incineration outside of the County; and removed from any location in the County by any person or business for disposal or incineration outside the County;

WHEREAS, HHW programs provide household hazardous waste management services to residents of Santa Clara County and are necessary to meet HHW planning and management requirements under State law;

WHEREAS, jurisdictions in Santa Clara County desire to provide safe, convenient, and economical means for residents to properly dispose of household hazardous wastes in an environmentally safe manner in order to avoid unauthorized or improper disposal in the garbage, sanitary sewer, storm drain system, or on the ground or in any other manner which creates a health or environmental hazard. These wastes include, but are not limited to, common household products such as household cleaning products, spot remover, furniture polish, solvents, oven cleaner, pesticides, oil based paints, motor oil, antifreeze, fluorescent lamps, and batteries; and

WHEREAS, the County will collect the Fee on behalf of the fifteen cities and for the unincorporated area of the County and will apportion the Fee according to the terms of this Agreement.

NOW THEREFORE, CITIES and COUNTY AGREE AS FOLLOWS:

1. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which the COUNTY will collect and distribute the Fee of \$4.10 per ton of waste to be disposed in Fiscal Years 2025, 2026 and 2027. The Fee is divided into two parts: 1) a Program Fee of \$1.50 per ton to assist in funding the costs of preparing, adopting, and implementing the integrated waste management plan in the fifteen cities and the unincorporated area of the County; and 2) a Household Hazardous Waste Fee of \$2.60 per ton to provide funding to implement the Countywide HHW Program. The Program Fee will be allocated among the CITIES and COUNTY as described in Exhibit B, attached hereto and incorporated herein. The HHW Fee will be allocated to the COUNTY, CITIES, and Countywide HHW Program as described in Exhibit C, attached hereto and incorporated herein. The Fee shall be imposed on each ton of waste landfilled or incinerated within the County; received at any non-disposal or collection facility located within the County and subsequently transported for disposal or incineration outside of the County; collected from any location within the County by a solid waste hauler operating pursuant to a franchise, contract, license, or permit issued by any local jurisdiction and subsequently transported for disposal or incineration outside of the County; or removed from any location in the County by any person or business for disposal or incineration outside the County. Non-Disposal Facilities are defined as those facilities included in the County of Santa Clara Non-Disposal Facility Element (and subsequent amendments to that Element) and are listed in Exhibit A, attached hereto and incorporated herein.

2. SERVICES PROVIDED BY COUNTY

COUNTY will collect and distribute the Fee. COUNTY will collect the Fee from landfills and non-disposal facilities listed in Exhibit A, and any landfill or non-disposal facility subsequently permitted, on a quarterly basis using data from tonnage reports filed by landfill and non-disposal facility operators with the County Recycling and Waste Reduction Division. COUNTY shall require each landfill and non-disposal facility to submit required payment, documentation of tonnages disposed, and state-mandated Disposal Reporting System Reports on a quarterly basis, within 45 days of the end of each calendar quarter. Late submissions and/or payments shall be subject to a late filing penalty and delinquent penalties. COUNTY will research Santa Clara County tonnage reported to COUNTY by landfills outside the COUNTY in significant amounts to determine the identity of the hauler. That hauler will subsequently be billed in the same fashion subject to the same penalties as mentioned above. Collected funds and any late filing payments and delinquency penalties shall be distributed to CITIES and Countywide HHW Program based on the formula set forth in Exhibits B and C. COUNTY shall not be obligated to distribute funds that COUNTY has been unable to collect from landfill or non-disposal facility operators.

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3. ROLE OF CITIES

CITIES shall review the Disposal Reporting System Reports as prepared and submitted by the COUNTY and within 30 days of receipt shall report to COUNTY, with appropriate documentation, errors in waste allocations among jurisdictions.

4. COLLECTION AND USE OF FEE

Each ton of waste will be subject to the fee if it is landfilled or incinerated in the County; received at any non-disposal facility or collection facility in the County and subsequently transported for disposal or incineration outside the County; collected from any location within the County by a solid waste hauler operating under franchise, contract, license, or permit issued by a local jurisdiction and subsequently transported for disposal or incineration outside the County; or removed from any location in the County by any person or business for disposal or incineration outside the County. Best efforts will be made to prevent tonnage from being assessed a double fee (for instance, once at a non-disposal facility and again at a landfill within Santa Clara County). The Program Fee funding share paid to CITIES shall be used to assist in funding the CITIES' costs of preparing, adopting, and implementing the integrated waste management plan of each of the CITIES and the unincorporated area of the COUNTY. The HHW Fee portion shall be applied to fund the costs of CITIES' share of Countywide Household Hazardous Waste services; any HHW fees directly disbursed to CITIES as provided in this Agreement shall be used to fund the costs of preparing, adopting, and implementing the jurisdiction's HHW element of the Countywide integrated waste management plan, including providing HHW services to residents.

5. INSURANCE

Each party shall maintain its own insurance coverage, through third party insurance, self-insurance or a combination thereof, against any claim, expense, cost, damage or liability arising out of the performance of its responsibilities pursuant to this Agreement. CITIES agree to provide evidence of such insurance to COUNTY via Certificate of Insurance or other documentation acceptable to the COUNTY upon request.

6. INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between CITIES and COUNTY pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the parties agree that each of the parties hereto shall fully indemnify and hold each of the other parties harmless from any claim, expense or cost, damage or liability arising out of, or in connection with, performance of its responsibilities pursuant to this Agreement and as described in Exhibit D.

Additionally, CITIES shall indemnify, hold harmless, and defend COUNTY, its officers, agents, and employees with respect to any loss, damage, liability, cost or expenses, including attorney fees and court costs, arising from any misuse of the Fee distributed to CITIES. COUNTY shall indemnify, hold harmless, and defend CITIES, its officers, agents, and employees with respect to any loss, damage, liability, cost or expenses, including attorney fees and court costs, brought by third parties based on COUNTY's sole negligence in the collection or distribution of said Fees.

7. DISTRIBUTION OF FEE

COUNTY shall distribute the AB939 Program Fee to CITIES and the HHW Program Fee to the Countywide HHW Program pursuant to the formulas described in Exhibits B and C within 45 days of receipt of landfill and non-disposal facility payments and disposal documentation required for calculation of Fee distribution amounts. Distributions shall begin December 15, 2024, and continue quarterly through October 15, 2027.

8. PARTICIPATION IN THE COUNTYWIDE HHW PROGRAM

CITIES, at their option, may individually participate in the Countywide HHW Program by entering into the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.

9. LATE PAYMENTS

If Fee payments and disposal documentation are not received from landfill or non-disposal facility operators prior to scheduled distribution of payments to CITIES and the Countywide HHW Program, payment distribution shall be calculated on a pro rata share of monies received. Upon collection, late payments and accrued delinquent penalties, if any, shall be distributed among CITIES and the Countywide HHW Program according to the formula in Exhibits B and C.

10. ACCOUNTING

COUNTY shall maintain records of all transactions related to collection, use and distribution of the Fee for at least five (5) years after the termination date of this Agreement, unless otherwise required by law to retain such records for a longer period. Such records will be available for inspection upon written request by CITIES, and will include but not be limited to tonnage reports submitted by landfills and non-disposal facilities, waste stream documentation provided by cities, payments made by the landfills and non-disposal facilities to the COUNTY and by the COUNTY to CITIES, and expenditures for programmatic and overhead costs.

11. REQUEST FOR REVIEW

In the event CITIES have a dispute regarding the calculation of its share of the Fee or the distribution or use of the Fee, CITIES may request in writing a review by COUNTY within 10

days of receipt of their Fee allocation. The review shall be performed within 30 days of request and results shall be reported to CITIES in writing.

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12. EFFECTIVE DATE OF AGREEMENT

This agreement is effective upon approval by all fifteen CITIES and the COUNTY.

13. AMENDMENT

This Agreement may be amended only by an instrument signed by all fifteen CITIES and the COUNTY.

14. INDEPENDENT CONTRACTOR

Each party shall perform responsibilities and activities described herein as an independent contractor and not as an officer, agent, servant or employee of any of the parties hereto. Each party shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the parties.

15. TERM OF AGREEMENT

The term of this Agreement shall be from July 1, 2024 to June 30, 2027, or until all funds from the last quarter's Fee payments have been distributed, whichever is later. COUNTY shall bill the operators of the landfills and non-disposal facilities listed in Exhibit A for the Fee commencing with the Quarter ending September 30, 2024. Said landfills and non-disposal facilities will be billed for the Fee through June 30, 2027.

16. NOTICES

All notices required by this Agreement will be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such address as the party may designate in writing in accordance with this section.

City of _____
 Contact: _____
 Title: _____
 Address: _____

County of Santa Clara

Contact: Recycling and Waste Reduction Program Manager
 Program: Integrated Waste Management Services
 Address: 1553 Berger Drive, Building 1
 San José, CA 95112

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17. CONTROLLING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

18. ENTIRE AGREEMENT

This document embodies the entire Agreement between the parties with respect to the subject matter hereof. No modification of this Agreement shall be effective unless and until modification is evidenced by writing signed by all parties or their assigned designees.

19. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

20. CONTRACT EXECUTION

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the County.

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IN WITNESS WHEREOF, the parties have executed this AGENCY AGREEMENT
FOR COUNTYWIDE AB939 IMPLEMENTATION FEE on the dates as stated below:

Date: _____

COUNTY OF SANTA CLARA

JAMES R. WILLIAMS
County Executive

Date: _____

CITY”

CITY/TOWN OF _____
Title _____
A municipal corporation

APPROVED AS TO FORM AND LEGALITY:

Willie Nguyen
Deputy County Counsel

EXHIBIT A

LANDFILLS LOCATED IN SANTA CLARA COUNTY

Guadalupe Rubbish Disposal Site
 Kirby Canyon Sanitary Landfill
 Newby Island Sanitary Landfill
 Pacheco Pass Sanitary Landfill
 Palo Alto Refuse Disposal Area
 Zanker Materials Processing Facility
 Zanker Road Landfill

NON-DISPOSAL FACILITIES AND TRANSFER STATIONS LOCATED IN SANTA CLARA COUNTY

Butterick Enterprises Recyclery
 California Waste Solutions Recycling & Transfer Station
 City of Palo Alto Green Composting Facility
 ComCare Farms Composting Facility
 Environmental Management Systems Facility
 Green Waste Recovery Facility
 Mission Trail Waste Systems, Inc.
 Newby Island Compost Facility
 Pacheco Pass Landfill Composting Facility
 Pacific Coast Recycling, Inc.
 Premier Recycling Facility
 The Recyclery at Newby Island
 San Martin Transfer Station
 Sunnyvale Materials Recovery and Transfer Station (SMaRT Station)
 Z-Best Composting Facility
 Zanker Materials Processing Facility

EXHIBIT B**FORMULA FOR DISTRIBUTION OF AB939 PROGRAM FEE**

Each of the CITIES, and the COUNTY for its unincorporated area, will receive \$1.50 per ton of solid waste disposed of in landfills or taken to non-disposal facilities located in Santa Clara County that originates from that jurisdiction, as documented in quarterly reports submitted by the County to the State Disposal Reporting System.

Fees collected from undocumented disposed tonnage, or tonnage originating outside of Santa Clara County, will be distributed according to each jurisdiction's percent of countywide population, according to the latest available population report issued by the California Department of Finance.

EXHIBIT C

COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE PROGRAM FEE (HHW Fee)

1. PROGRAM FUNDING SOURCE

HHW Program services are mandated by State law, Public Resources Code Section 41500 et seq. Public Resources Code Section 41901 authorizes imposition of a fee to support planning and implementation of integrated waste management programs, including their HHW elements. The HHW Fee, of \$2.60 per ton, collected as part of the AB939 Implementation Fee, will be the primary source of funding for Countywide Household Hazardous Waste Collection Program (CoHHW Program) services.

Funds derived from the HHW Fee will be allocated among five types of CoHHW Program service costs as follows:

- A. Fixed Program Costs will be apportioned based on the number of households in each participating jurisdiction. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."
- B. San José Facility Use Surcharge will be apportioned based on CITIES' anticipated participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José.
- C. Variable Cost Per Car is the cost associated with labor, waste disposal, transportation, and other services provided to residents at the County HHW Collection Facilities and at temporary HHW collection events. The Variable Cost Per Car is based on the estimated cost of providing a base level service to 4% of households in all participating jurisdictions. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."
- D. Available Discretionary Funding is allocated based on tonnage generated per participating jurisdiction, and after allocation of Fixed Program Costs, San José Facility Use Surcharge, and Variable Cost Per Car allocation.
- E. Abandoned Waste Disposal Costs will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations as defined in Public Resources Code Section 41904.

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2. FIXED PROGRAM COST

Funds shall be allocated on a per household basis for Fixed Program Costs at the conclusion of each Fiscal Year. This portion of the funds shall be distributed directly to the Countywide HHW Program to pay for HHW Program costs. Fixed Program Costs funding shall be calculated shall not exceed \$5.07 per household in Fiscal Years 2025, 2026, and 2027. Fixed Program Costs may include, but are not limited to, eleven (11) CoHHW Program staff members, facility leasing costs, vehicle lease costs, office rent, office supplies, county administrative overhead, county legal counsel, training costs, equipment and facility maintenance, and union negotiated salary and benefit changes.

3. ABANDONED WASTE DISPOSAL COST

The Abandoned Waste Disposal Cost will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations. The Abandoned Waste Disposal Cost is based on the cost to the County to dispose of abandoned waste allocated among participating jurisdictions based on their proportional share of the County population and shall not exceed \$0.05 per household. Projected Abandoned Waste Disposal Costs to the CITY based on a charge of \$.05 per household are set forth in Attachment A, attached hereto and incorporated herein. Any existing unexpended non-profit abandoned waste fund balance may be allocated toward funding of disposal of HHW illegally abandoned at nonprofit charitable reuser organizations as defined in Public Resources Code Section 41904.

For the purposes of this agreement, a nonprofit charitable reuse organization has the definition provided in Public Resources Code Section 41904 as follows: "Nonprofit charitable reuser" means a charitable organization, as defined in Section 501(c)(3) of the federal Internal Revenue Code, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than 50 percent of its revenues from the handling and sale of those donated goods or materials.

4. SAN JOSÉ FACILITY USE SURCHARGE

The total San José Facility Use Surcharge for CITY will be based on CITY residents' proportional participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José. The San José Facility Use Surcharge will vary depending on facility usage but will not exceed \$8.09 per car for Fiscal Years 2025, 2026, and 2027. The total San José Facility Use Surcharge for CITY will be based on CITY's participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José.

5. VARIABLE COST PER CAR

The Variable Cost Per Car is the cost associated with actual labor, waste disposal, transportation and other services provided to the residents at the County HHW Collection

Facilities and Temporary Events. This portion of the funds shall be distributed directly to the Countywide HHW Program. The Variable Cost Per Car is estimated to be \$66.02 per car for Fiscal Years 2025, 2026, and 2027. The estimated cost per car will be adjusted annually to reflect actual service costs. After fixed costs and San José Facility Use Surcharge are allocated on a per household basis, the variable cost per car will be used to calculate the costs to service 4% of households across all participating jurisdictions. If the level of 4% of households is not reached, the Countywide HHW Program will use the remaining balance of funds, in cooperation with the CITIES, to increase public outreach and/or provide additional services in that jurisdiction where the level of 4% is not reached the following year.

6. AVAILABLE DISCRETIONARY FUNDING

The Available Discretionary Funding portion will be allocated based on the tons of waste generated within each jurisdiction and after allocation of Fixed Program Cost, San José Facility Use Surcharge, and Variable Per Car Cost. Available Discretionary Funds must be used for HHW purposes. Options for how to spend these funds include, but are not limited to, increasing the number of residents served in the jurisdiction by the Countywide HHW Program, universal waste collection, emergency HHW services, funding HHW public education, the support of capital infrastructure projects to accommodate HHW drop-off and collection events, or providing special programs such as retail collection of certain waste and/or door-to-door collection of HHW for the elderly and/or persons with disabilities and neighborhood clean-up events. CITIES authorize the COUNTY to determine appropriate uses of available discretionary funding and to use CITIES' Available Discretionary Funding portion of the AB939 HHW Fee to provide for additional HHW services requested by the CITIES.

7. PROGRAM FUNDING PASS-THROUGH

Annual funding calculations include HHW Fees collected on behalf of all jurisdictions in the County. CITIES, at their option, may participate in the Countywide HHW Program by entering into the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM. If CITIES elect to participate in the Countywide HHW Program, their pro-rata share of the HHW Fee shall be retained by the County to utilize for HHW Program costs, as provided in this Agreement and the Agreement for Countywide Household Hazardous Waste Collection Program. The COUNTY will distribute to CITIES not participating in the Countywide Household Hazardous Waste Collection Program their pro-rata share of funding received by the COUNTY from the HHW Fee, except that the COUNTY may retain and expend that portion of the non-participating CITIES' fee attributable to Abandoned Waste Disposal Costs.

If CITIES not participating in the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM desire to allow residents to participate in HHW Program services on an emergency basis, then services to these residents will be provided on a cost recovery basis. A charge equal to the established rates charged by the Countywide HHW Program to Conditionally Exempt Small Quantity Generators will be billed to the CITIES. A CITIES' representative must call the Countywide HHW Program appointment line to schedule

an appointment for the resident. Liability shall be apportioned as provided in Exhibit D to this Agreement.

EXHIBIT D

SECTION 28 OF AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM

HOLD HARMLESS AND INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between CITY and COUNTY pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead COUNTY and CITY agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other parties under this Agreement.

Additionally, CITY shall indemnify COUNTY for CITY's apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of the household hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. Apportionment for disposal liability shall be determined by each participating jurisdiction's pro rata proportion of household participation in the Program. Apportionment for transportation and treatment liability shall be determined by each participating jurisdiction's pro rata household participation at the event where the waste was generated. COUNTY will use reasonable efforts to obtain recovery from all available resources, including insurance, of any liable hauler or liable disposal facility operator. No liability shall be apportioned to CITY for transportation, treatment or disposal in any case where COUNTY has contracted for such services and has failed to require the contractor to maintain the insurance requirements set forth in Section 23 of the AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.

CITY shall further indemnify COUNTY for CITY's apportioned share of liability incurred and attributed to the Countywide HHW Program for the transportation, treatment or disposal of household hazardous waste at corporate sponsored events where non-county resident employees of the corporate sponsor are authorized to participate in the event. Liability for the nonresident portion of the disposal of waste shall be shared by the cities and the county as described above. The nonresident portion shall be determined by calculating the percentage of nonresidents participating in the event. This percentage will then be subtracted from the total

liability for the household hazardous waste prior to assessing CITY's apportioned share of any liability for the household hazardous waste.

COUNTY shall require Conditionally Exempt Small Quantity Generators ("CESQG") and Nonprofit Charitable Reusers to indemnify COUNTY for, at minimum, their apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of their hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. The CESQG and Nonprofit Charitable Reuser portion of the waste shall be determined by calculating the percentage, by weight, of the total household hazardous waste accepted by the CoHHW Program. This percentage will be used to calculate the portion of liability attributed to CESQGs and Nonprofit Charitable Reusers and will be subtracted from the total liability prior to assessing CITY's apportioned share of any liability for household hazardous waste.

AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM

This Agreement for Countywide Household Hazardous Waste Collection Program (“AGREEMENT”) is made by and between the _____ (“CITY”) and the County of Santa Clara (“COUNTY”) on the _____ day of _____ 2024.

RECITALS

WHEREAS, the Board of Supervisors of the County of Santa Clara (“Board of Supervisors”) has approved a Countywide Household Hazardous Waste Collection Program whereby residents of the unincorporated areas of the Santa Clara County and cities and towns within Santa Clara County participating in the Countywide program will have an opportunity to safely dispose of household hazardous wastes (HHW), regardless of the specific location at which the collection has been scheduled; and

WHEREAS, CITY desires to provide residents with convenient opportunities to safely dispose of their HHW in order to encourage the proper disposal of toxic products, and avoid unauthorized or improper disposal in the garbage, sanitary sewer, storm drain system, or on the ground, in a manner which creates a health and/or environmental hazard; and

WHEREAS, CITY desires to provide a safe, convenient, and economical means for residents to dispose of HHW. These wastes include, but are not limited to, common household products such as household cleaning products, furniture polish, solvents, oven cleaner, pesticides, oil-based paints, motor oil, antifreeze, car batteries, mercury thermostats, fluorescent lamps, household batteries, and electronic waste; and

WHEREAS, CITY desires to schedule Household Hazardous Waste Collection Events (Events) for residents for FY 2025 through FY 2027 (July 1, 2024 – June 30, 2027); and

WHEREAS, CITY desires to provide household hazardous waste collection services to a minimum of 4% of the households per fiscal year in its jurisdiction; and

WHEREAS, CITY desires to participate in the Countywide Household Hazardous Waste Collection Program to meet these objectives; and

WHEREAS, pursuant to Public Resources Code Section 41901, the Board of Supervisors has approved the collection of a \$4.10 per ton Countywide AB939 Implementation fee, including a \$2.60 per ton Household Hazardous Waste Fee (AB939 HHW Fee), for FY 2025 through FY 2027 (July 1, 2024 – June 30, 2027) on all wastes landfilled or incinerated within Santa Clara County, received at any non-disposal or collection facility located within Santa Clara County and subsequently transported for disposal or incineration outside of Santa Clara County, collected from any location within the County by a solid waste hauler operating pursuant to a franchise, contract, license, or permit issued by any local jurisdiction and subsequently

transported for disposal or incineration outside of Santa Clara County, or removed from any location in Santa Clara County by any person or business for disposal or incineration outside the county; and

WHEREAS, the AB939 HHW Fee is allocated to the Countywide Household Hazardous Waste Program and participating jurisdictions to fund HHW program costs in accordance with the terms of the Countywide AB939 Implementation Fee Agreement; and

WHEREAS, CITY desires for COUNTY to utilize CITY's share of the AB939 HHW Fee to provide HHW services for CITY residents.

NOW THEREFORE, CITY and COUNTY AGREE AS FOLLOWS:

1. PURPOSE

The purpose of this AGREEMENT is to state the terms and conditions under which CITY will participate in the Countywide Household Hazardous Waste Collection Program (CoHHW Program) available to its residents. Participating jurisdictions are those jurisdictions that enter into this AGREEMENT with the County.

2. PROGRAM FUNDING SOURCE

HHW Program services are mandated by State law, Public Resources Code Section 41500 *et seq.* State law authorizes cities and counties to impose fees in amounts sufficient to support planning and implementation of integrated waste management programs, including HHW elements. The AB939 HHW Fee, of \$2.60 per ton, imposed by COUNTY as part of the AB939 Implementation Fee and collected and distributed in accordance with the Agreement for Countywide AB939 Implementation Fee will be the primary source of funding for CoHHW Program services. CITY agrees that COUNTY may utilize CITY's share of the AB939 HHW fee to provide HHW Program services in accordance with the terms and conditions of this AGREEMENT.

Funds derived from the AB939 HHW Fee will be allocated among five types of CoHHW Program service costs as follows:

- A. Fixed Program Costs will be apportioned based on the number of households in each participating jurisdiction. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."
- B. San José Facility Use Surcharge will be apportioned based on CITY residents' participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José, CA 95133.

- C. Variable Cost Per Car is the cost associated with labor, waste disposal, transportation, and other services provided to residents at the County HHW Collection Facilities and at temporary HHW collection events. The Variable Cost Per Car is based on the estimated cost of providing a base level service to 4% of households in all participating jurisdictions. The number of households will be determined at the beginning of each Fiscal Year by statistics compiled by the California Department of Finance, Demographic Research Unit from their most recent Report, "Population Estimates for California Cities and Counties."
- D. Available Discretionary Funding is allocated based on tonnage generated per participating jurisdiction, and after allocation of Fixed Program Costs, San José Facility Use Surcharge, and Variable Cost Per Car allocation.
- E. Abandoned Waste Disposal Costs will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations as defined in Section 41904 of California Public Resources Code.

The projected AB939 HHW Fee Allocation by jurisdiction is set out in Attachment A, attached hereto and incorporated herein.

3. FIXED PROGRAM COST

Estimated HHW Fixed Program Costs are projected in Attachment B, attached hereto and incorporated herein. Fixed Program Costs are allocated to CITY at the conclusion of each fiscal year based on CITY's proportional share of the County population and will not exceed \$5.07 per household for Fiscal Years 2025, 2026, and 2027. Fixed Program Costs may include, but are not limited to, up to eleven (11) County HHW Program staff members, facility lease costs, vehicle lease costs, office rent, office supplies, county administrative overhead, county legal counsel, training costs, equipment and facility maintenance and union negotiated salary and benefit changes.

4. ABANDONED WASTE DISPOSAL COST

The Abandoned Waste Disposal Cost will fund disposal of HHW illegally abandoned at Nonprofit Charitable Reuser organizations. The Abandoned Waste Disposal Cost is based on the cost to the County to dispose of abandoned waste allocated among participating jurisdictions based on their proportional share of the County population and shall not exceed \$0.05 per household. Projected Abandoned Waste Disposal Costs to the CITY based on a charge of \$0.05 per household are set forth in Attachment A, attached hereto and incorporated herein.

For the purposes of this Agreement, "Nonprofit Charitable Reuser Organization" is defined in accordance with Section 41904 of California Public Resources Code as follows: a charitable organization, as defined in Section 501(c)(3) of the federal Internal Revenue Code, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than 50 percent of its revenues from the handling and sale of those donated goods or materials.

5. SAN JOSÉ FACILITY USE SURCHARGE

The total San José Facility Use Surcharge for CITY will be based on CITY residents' proportional participation at the County Household Hazardous Waste Collection Facility located at 1608 Las Plumas Avenue, San José. Estimated San José Facility Use Surcharges are projected in Attachment A, attached hereto and incorporated herein. The San José Facility Use Surcharge will vary depending on facility usage but will not exceed \$8.09 per car for Fiscal Years 2025, 2026, and 2027.

6. VARIABLE COST PER CAR

The Variable Cost Per Car is the cost associated with actual labor, waste disposal, transportation and other services provided to the residents at the County Household Hazardous Waste Collection Facilities (CoHHWCF) and at Temporary Events. The Variable Cost Per Car is estimated to be approximately \$66.02 per participating resident car for Fiscal Years 2025, 2026 and 2027. The estimated cost per car will be adjusted to reflect actual service costs. After Fixed Program Costs and San José Facility Use Surcharge are allocated on a per household basis, the Variable Cost Per Car will be used to calculate the costs to service 4% of households across all participating jurisdictions. If the level of 4% of households is not reached in the CITY, the CoHHW Program may use the remaining balance of funds, in cooperation with the CITY, to increase public outreach and/or provide additional services in that jurisdiction the following year.

7. AVAILABLE DISCRETIONARY FUNDING

The Available Discretionary Funding portion of the AB939 HHW Fee will be allocated based on the tons of waste generated within each jurisdiction, and after allocation of Fixed Program Costs, San José Facility Use Surcharge, and Variable Cost Per Car allocation. Available Discretionary Funds must be used for HHW purposes. Options for how to spend these funds include, but are not limited to, increasing the number of residents served in that jurisdiction by the CoHHW Program, subsidizing curbside used motor oil collection, electronic waste (e-waste) collection, universal waste collection, emergency HHW services, funding HHW public education, the support of capital infrastructure projects to accommodate HHW drop-off and collection events, or providing special programs such as retail collection of certain waste and/or door-to-door collection of HHW for the elderly and/or persons with disabilities and neighborhood clean-up events. COUNTY has discretion to determine appropriate uses of Available Discretionary Funding in accordance with the terms and conditions in this Agreement, and to apply the funding toward those uses.

8. ADMINISTRATION AND PAYMENT OF THE AB939 HHW FEE

The County of Santa Clara Recycling and Waste Reduction Division will administer the AB939 HHW Fee, as part of the existing online disposal reporting and payment system. Administration and payment will be made in accordance with the Agreement for Countywide AB939 Implementation Agreement. Notwithstanding the foregoing, the COUNTY shall maintain records of the amount, use, and distribution of Fixed Program Cost expenditures for at least five (5) years after the termination date of this Agreement, unless otherwise required by law

to retain such records for a longer period. CITY may request in writing a review by COUNTY of the Fixed Program Cost records. The review shall be performed within 30 days of request and results shall be reported to participating cities in writing.

9. PROGRAM PUBLICITY

The CoHHW Program shall produce and make available to the public an HHW brochure for distribution. The brochure will be made available at various events, including but not limited to, environmental events and community fairs. The brochure may also be distributed, upon request, to cities within Santa Clara County and to Santa Clara County residents and businesses. The CITY shall be responsible for developing and coordinating citywide awareness of the HHW Program. The CoHHW Program shall be responsible for Countywide public education for used oil recycling. CoHHW Program public awareness responsibilities shall include, but not be limited to, the following activities:

- Serving as the formal contact to the local media such as local newspapers and television news stations;
- Providing participating jurisdictions with educational materials developed for the CoHHW Program;
- Promoting oil and oil filter recycling by developing, purchasing, and distributing educational materials, media relations materials, basic art work and camera ready advertising materials for distribution countywide and for use by jurisdictions;
- Representing the program through educational presentations at schools and businesses and attendance at community events such as local fairs and festivals; and
- Providing participating jurisdictions opportunities to review and comment on the development of countywide outreach materials.

CITY's public awareness responsibilities, at the sole discretion of the CITY, shall include, but not be limited to, the following activities:

- Providing a copy of HHW promotional materials to the CoHHW Program for review for accuracy and completeness, prior to publication;
- Developing and distributing HHW promotion communications to residents for local and CITY newsletters, newspapers and to the electronic media;
- Providing the CoHHW Program with a copy of HHW promotion materials produced by the CITY;
- Conducting and supporting outreach and publicity to attain the goal of 4% of households in the CITY participating in the CoHHW Program; and
- Providing the CoHHW Program a report summarizing all outreach activities conducted by the CITY during the fiscal year. The report is due 30 days after the end of the reporting period.

10. TEMPORARY HHW EVENTS

COUNTY shall conduct Temporary HHW Events at various sites located in Santa Clara County. COUNTY shall obtain all necessary permits and licenses required for the Temporary

HHW Events and shall provide or contract for the services of properly trained, qualified personnel and hazardous waste haulers, and shall provide or secure suitable equipment and supplies to properly receive, package, label, haul, recycle and dispose of the household hazardous wastes collected at the Temporary HHW Events.

When COUNTY conducts a Temporary HHW Event in CITY's jurisdiction, CITY agrees to provide solid waste and recycling services at such event at no cost to the CoHHW Program to ensure the proper management of non-hazardous waste generated at the event. Any additional expenses for such event incurred beyond the agreed-upon budget shall be subject to negotiation and mutual agreement between the COUNTY and the CITY.

To increase the Community's awareness of and participation in any Temporary HHW Event in CITY's jurisdiction, the CITY agrees to promote, at the CITY's sole expense, each such event to the residents at least thirty (30) days in advance before the scheduled date. The promotion may include, but is not limited to, bill inserts, door hangers, flyers, in-person outreach events, newsletters, press releases, public service announcements, social media, television public access stations, websites, etc.

11. HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITIES

COUNTY shall conduct collection operations at two County Household Hazardous Waste Collection Facilities (CoHHWCF).

The CoHHWCF are located at:

- ◆ *San Martin, 13055 Murphy Avenue, San Martin, CA 95046*
- ◆ *San José, 1608 Las Plumas, San José, CA 95133*

The COUNTY shall obtain all necessary permits and licenses required for the CoHHWCF and shall provide or contract for services, equipment, and supplies to properly receive, package, label, haul, recycle and dispose of wastes collected.

12. RECYCLING AND DISPOSAL PROGRAM FOR VERY SMALL QUANTITY GENERATORS

COUNTY will provide services to accept hazardous waste from Very Small Quantity Generators (VSQG) in accordance with Section 25218.3 of California Health and Safety Code, as amended from time to time. VSQG is defined in Section 25218.1(q) of California Health and Safety Code.

Eligible VSQGs include, but not limited to, small businesses, governmental entities, non-profit organizations, schools, special districts, etc. within the County so long as they meet the criteria as defined in Section 25218.1(q) of California Health and Safety Code. Eligible VSQGs will be allowed to bring their hazardous waste to CoHHWCF. These services to VSQGs located within the CITY will be provided on a cost recovery basis, which will include program administration,

on-site collection, transportation, and disposal costs. COUNTY will assume responsibility for fee collection from participating VSQG.

The CITY may choose to pay for services for VSQG's within the CITY and will notify the COUNTY in writing with 30-day advance notice in order to exercise this option. If the CITY exercises this option, the COUNTY will invoice the CITY for all costs associated with VSQG's within the CITY. If CITY has available Discretionary Funding, COUNTY may use this funding to pay for VSQG costs.

13. ABANDONED HOUSEHOLD HAZARDOUS WASTE

The CoHHW Program will allow for the disposal of abandoned HHW by government agencies and qualified nonprofit charitable reusers. Abandoned HHW means HHW left at a property by an unknown party. Abandoned household hazardous waste does not include waste generated by a known organization or agency in the course of normal business operations such as, but not limited to, the assembly or manufacture of products from new or used materials or the provision of charitable services such as classroom education, meal preparation, and shelter, or the provision of services for a fee.

A) GOVERNMENT AGENCIES

Government agencies shall be charged for disposal of abandoned HHW according to the CoHHW Program's rates for VSQGs.

B) NONPROFIT CHARITABLE REUSER

In order to qualify as a Nonprofit Charitable Reuser, the business must submit to the County Executive a request to be so designated. The County Executive shall review the request and supporting documentation and shall make a final decision on the designation. COUNTY will accept abandoned HHW from Nonprofit Charitable Reusers and will waive disposal fees on the cost of disposal of the abandoned HHW in an annual amount not to exceed funds available from the existing unexpended abandoned waste fund. Funding for disposal available to Nonprofit Charitable Reuser shall be on a first come first serve basis. Once the available fund to pay for the disposal of the abandoned HHW from Nonprofit Charitable Reusers is exhausted, disposal fees shall no longer be waived, and Nonprofit Charitable Reusers shall be charged for disposal of abandoned HHW according to the CoHHW Program's rates for VSQGs. No additional costs shall be applied to the budget of the CITY or any other participating jurisdiction.

14. HOUSEHOLD HAZARDOUS WASTES ACCEPTED

HHW accepted by the CoHHW Program shall be limited to those materials that qualify as "Household Hazardous Waste" pursuant to Section 25218.1(d) of California Health and Safety Code, as amended from time to time. These materials include, but are not limited to, automotive fluids, automotive and other types of batteries, latex and oil paint, oil filters, garden chemicals,

household cleaners, pool chemicals, mercury thermostats, fluorescent lamps containing mercury, household batteries, electronic waste (e-waste), and other common hazardous consumer products.

15. WASTES NOT ACCEPTED

Certain hazardous wastes shall not be accepted for collection and disposal. These include, but are not limited to, compressed gas cylinders larger than 5 gallons, radioactive materials, biohazardous waste, and explosives. Other wastes not accepted by the CoHHW Program are wastes generated as part of operating a business, including a home operated business, except that waste from VSQGs as provided for in Section 12 of this Agreement shall be accepted.

16. ADDITIONAL SERVICES UNDER THIS AGREEMENT

CITY must augment funding provided under this Agreement to cover the cost of a minimum participation level of 4% of CITY households; CITY may also elect to augment funding to provide additional services to increase CITY participation beyond the 4% minimum participation level. Additional services shall be made available upon written agreement between the CITY's authorized representative and the County Executive Officer or designee. Additional services may include, but are not limited to, additional appointments (charged at the Variable Cost Per Car rate), door-to-door HHW collection, used oil filter collection, universal waste collection, electronic waste collection, and abandoned waste collection.

CITY agrees to augment up to an additional \$ 27,110 to the Countywide HHW Program during Fiscal Year 2025 for the purpose of attaining or increasing CITY household participation above the 4% minimum participation level at the scheduled collection dates listed in Attachment C, attached hereto and incorporated herein. Augmentation will be calculated, where applicable, at the Variable Cost Per Car rate. Other services will be charged based on a cost recovery basis. CITY authorizes the COUNTY to use CITY'S Available Discretionary Funding portion of the AB939 HHW Fee, if available, to offset the above agreed additional augmentation amount.

CITY agrees to make an interim payment to COUNTY amounting to 50 percent of the augmentation amount stated above for each fiscal year. This interim payment shall be made no later than September 30th of each fiscal year. The remaining balance of any outstanding cost shall be reconciled and paid or refunded in accordance with the terms outlined in the annual cost statement.

At the end of each fiscal year, a final annual cost statement shall be prepared by COUNTY and issued to CITY by November 30th. The annual cost statement will take into consideration costs incurred on behalf of CITY for additional services and all payments made by CITY to COUNTY. If any balance is owed to COUNTY, it will be due within 30 days following receipt of the annual cost statement. If any credit is owed to CITY, COUNTY will refund that amount to CITY within 30 days following delivery of the annual cost statement.

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17. INFORMATION AND APPOINTMENT LINE

COUNTY will operate a telephone information and appointment desk Monday through Friday, from the hours of 9:00 a.m. to 5:00 p.m, except for COUNTY-recognized holidays. The information service will register residents for the Temporary HHW Events and the collections at CoHHWCF. The information service will provide information about hazardous household materials. CITY will be notified immediately if resident participation approaches a level of service that may not be supported by available funding.

18. SCHEDULING AND SITE SELECTION

COUNTY shall work with CITY to determine the date(s) of Temporary Events and collections at the CoHHWCF. CITY shall coordinate with COUNTY in locating and securing sites for Temporary HHW Events. It is recognized that some participating jurisdictions in the CoHHW Program may not have appropriate sites available. A proposed HHW schedule for Fiscal Year 2025 of Temporary Events and collections at CoHHWCF is included as Attachment C. COUNTY will schedule an adequate number of collection days to serve the 4% level of service. The COUNTY determines the adequate number of collection days by tracking attendance at each event.

19. OUTSIDE FUNDING

During the term of this Agreement, COUNTY may seek outside funding sources for services that would supplement existing HHW services such as permanent collection sites, equipment, retail take-back collection and operational funding. If outside funding is obtained, the CoHHW Program will, at COUNTY's discretion, proceed with development of additional programs using that outside funding without drawing on CITY's funding provided under this Agreement.

20. REGIONAL GRANT AND OIL PAYMENT PROGRAM PARTICIPATION

The CITY authorizes the CoHHW Program to apply for lead agency grants, including but not limited to Used Oil Payment Program grants, from the California Department of Resources Recycling and Recovery (CalRecycle), on behalf of participating jurisdictions. The CoHHW Program will act on behalf of all participating jurisdictions, as the lead applicant and administrator. The CoHHW Program will oversee how the moneys are used and work in cooperation with CITY as to how the funds will be spent. Nothing in this section shall preclude the COUNTY or a participating jurisdiction from applying for grant funds in any case where the CoHHW Program does not apply for the grant opportunity.

21. EMERGENCY SERVICES

Participating jurisdictions, at their option, may desire to provide residents with convenient emergency opportunities to safely dispose of their HHW in the event of a disaster. The purpose of this emergency planning for HHW is to minimize potential public health and safety impacts, as well as to minimize costs and confusion. Attachment D sets out CITY and

COUNTY responsibilities for the collection of household hazardous wastes in response to an emergency. CITY shall make good faith efforts to provide the public with information related to the problems associated with HHW. Upon the decision to hold an emergency collection event, it is CITY's responsibility to make a good faith effort to prepare and disseminate the necessary outreach to notify the public of an emergency collection event. An emergency collection event shall be initiated by a written request from CITY to COUNTY. Emergency collection events can be scheduled in as little as ten (10) working days of CITY's written request or at an agreed upon date thereafter. The emergency collection plan is set out in Attachment D, Household Hazardous Waste Emergency Collection Plan.

COUNTY agrees to conduct the Emergency Collection Event at a mutually agreeable site and time. The COUNTY will obtain the necessary permit from California Department of Toxic Substances Control and will handle wastes in accordance with applicable state laws and regulations. COUNTY will bill CITY for all Emergency Collection Events on a cost recovery basis, and all payments shall be due COUNTY within 30 days following the receipt of the invoice.

22. PRIVATE SPONSORED EVENTS

COUNTY may also secure funding from corporations or agencies to conduct HHW Collection Events for corporate employees and residents of participating jurisdictions and to pay for special programs such as Universal Waste collection at retail locations. The transportation, treatment, and disposal liability for nonresident employee participation in these events shall be shared by all participating jurisdictions, including the CITY, and the COUNTY, as described in Section 26 of this Agreement. Summary information concerning these corporate sponsored events, if any, will be included in the CoHHW Program's annual report to the participating jurisdictions.

23. INSURANCE REQUIREMENTS

Contractors who provide hazardous waste transportation, treatment, or disposal services shall have the required insurance as outlined in Attachment E, Exhibit E Insurance Requirements for Environmental Services Contract. Other contractors shall have insurance in amounts to be determined by COUNTY Insurance Manager, after consultation with CITY. COUNTY shall obtain insurance certificates from each of the contractors prior to the contractor providing service to the program naming the COUNTY as an additional insured.

24. WASTE TRACKING AND REPORTING

COUNTY will provide a mid-year report to CITY regarding participation rates from each participating jurisdiction by March 15 of each year. Mid-year and year end reports will outline the types and quantities of waste collected, the amount of waste diverted for reuse or recycling and the waste management method for each waste stream and associated costs for services. COUNTY will prepare a report summarizing program activities which will be delivered to the participating jurisdictions no later than six months after the end of COUNTY's fiscal year.

It will be assumed for cost and reporting purposes that each participating jurisdiction is contributing to the waste stream in proportion to the number of its residents who directly participate.

COUNTY shall take steps to assure that the bi-annual statements to jurisdictions reflect the funds necessary to cover costs for CITY participation in services scheduled during the next quarter.

25. PARTICIPATION REPORTING

COUNTY shall employ means necessary to verify the place of residence of all participants in the CoHHW Program.

26. HOLD HARMLESS AND INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between CITY and COUNTY pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead COUNTY and CITY agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other parties under this Agreement.

Additionally, CITY shall indemnify COUNTY for CITY's apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment or disposal of the household hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. Apportionment for disposal liability shall be determined by each participating jurisdiction's pro rata proportion of household participation in the Program. Apportionment for transportation and treatment liability shall be determined by each participating jurisdiction's pro rata household participation at the event where the waste was generated. COUNTY will use reasonable efforts to obtain recovery from all available resources, including insurance, of any liable hauler or liable disposal facility operator. No liability shall be apportioned to CITY for transportation, treatment or disposal in any case where COUNTY has contracted for such services and has failed to require the contractor to maintain the insurance requirements set forth in Section 23 above.

CITY shall further indemnify COUNTY for CITY's apportioned share of liability incurred and attributed to the Countywide HHW Program for the transportation, treatment or disposal of household hazardous waste at corporate sponsored events where non-county resident

employees of the corporate sponsor are authorized to participate in the event. Liability for the nonresident portion of the disposal of waste shall be shared by the participating jurisdictions and the COUNTY as described above. The nonresident portion shall be determined by calculating the percentage of nonresidents participating in the event. This percentage will then be subtracted from the total liability for the household hazardous waste prior to assessing CITY's apportioned share of any liability for the household hazardous waste.

COUNTY shall require VSQGs and Nonprofit Charitable Reusers to indemnify COUNTY, at minimum, for their apportioned share of any liability incurred and attributed to the Countywide HHW Program for the transportation, treatment, or disposal of their hazardous waste, once the waste has been accepted by a licensed hazardous waste hauler. The VSQG and Nonprofit Charitable Reuser portion of the waste shall be determined by calculating the percentage, by weight, of the total household hazardous waste accepted by the CoHHW Program. This percentage will be used to calculate the portion of liability attributed to VSQGs and Nonprofit Charitable Reusers and will be subtracted from the total liability prior to assessing CITY's apportioned share of any liability for household hazardous waste.

27. TERMINATION

This Agreement may be terminated by either the COUNTY or CITY upon thirty (30) days written notice given by the terminating party.

28. TERM OF AGREEMENT

The term of this Agreement shall be from July 1, 2024 to June 30, 2027, or until all revenue from the last quarter's AB939 fee payments have expended and/or distributed, whichever is later.

29. INDEPENDENT CONTRACTOR

Each party shall perform responsibilities and activities described herein as an independent contractor and not as an officer, agent, servant or employee of any of the parties hereto. Each party shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the parties.

30. EXECUTION BY COUNTERPART

This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed an original and all of which shall together constitute one and the same instrument.

31. CONTROLLING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

32. ENTIRE AGREEMENT

This document embodies the entire Agreement between the parties with respect to the subject matter hereof. No modification of this Agreement shall be effective unless and until modification is evidenced by writing signed by all parties or their assigned designates.

33. NOTICES

All notices and communications herein required shall be in writing to the other party as follows, unless expressly changed in writing:

CITY of _____	City Representative _____
	Representative's Title _____
	City Address _____

County of Santa Clara

Director
 Consumer and Environmental Protection Agency
 1553 Berger Drive
 San José, California 95112

34. CONTRACT EXECUTION

Unless otherwise prohibited by law or COUNTY policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the COUNTY.

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IN WITNESS WHEREOF, the parties have executed this AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM on the dates as stated below:

Date: _____

COUNTY OF SANTA CLARA

JAMES R. WILLIAMS
County Executive

Date: _____

“CITY”

CITY/TOWN OF _____
Title _____
A municipal corporation

APPROVED AS TO FORM AND LEGALITY:

WILLIE NGUYEN
Deputy County Counsel

Attachments:

- A Projected Fiscal Years 2025, 2026, and 2027 AB939 HHW Fee Funding Allocation by Jurisdiction
- B Estimated HHW Program Fixed Costs for Fiscal Years 2025, 2026, and 2027
- C HHW Schedule of Collection Events for Fiscal Year 2025
- D Household Hazardous Waste Emergency Collection Plan
- E Exhibit-E Insurance Requirements for Environmental Services Contracts

ATTACHMENT A: PROJECTED FISCAL YEARS 2025-2027 ANNUAL HHW FEE FUNDING ALLOCATION BY JURISDICTION

Cities	No of Households	4% of Households	Disposal Tonnage	AB939 HHW Fee per Ton \$2.60	Fixed Cost per HH \$5.07	SJ Facility Surcharge \$8.09	Variable Cost per Car \$66.02	Abandoned Waste Disposal Cost per HH \$0.05	Discretionary Fund	Estimated Augmentation	Anticipated Participation	Anticipated Participation at SJ Facility
Campbell	18,451	738	37,162	\$ 96,620	\$ 93,494	\$ 5,971	\$ 48,725	\$ 923	\$ (52,493)	\$ 80,093	1,156	1,056
Cupertino	21,787	871	29,930	\$ 77,819	\$ 110,398	\$ 7,050	\$ 57,536	\$ 1,089	\$ (96,254)	\$ 133,081	1,399	936
Gilroy	18,784	751	60,599	\$ 157,558	\$ 95,181	\$ 6,079	\$ 49,605	\$ 939	\$ 5,754	\$ 27,110	1,162	154
Los Altos	11,871	475	16,597	\$ 43,153	\$ 60,152	\$ 3,842	\$ 31,349	\$ 594	\$ (52,784)	\$ 96,037	1,130	784
Los Altos Hills	3,151	126	5,589	\$ 14,531	\$ 15,967	\$ 1,020	\$ 8,321	\$ 158	\$ (10,934)	\$ 22,221	297	174
Los Gatos	14,006	560	23,770	\$ 61,802	\$ 70,970	\$ 4,532	\$ 36,987	\$ 700	\$ (51,368)	\$ 94,219	1,209	1,199
Milpitas	25,769	1,031	59,694	\$ 155,204	\$ 130,575	\$ 8,339	\$ 68,051	\$ 1,288	\$ (53,049)	\$ 79,341	1,429	969
Monte Sereno	1,353	54	735	\$ 1,911	\$ 6,856	\$ 438	\$ 3,573	\$ 68	\$ (9,024)	\$ 17,334	180	185
Morgan Hill	16,178	647	44,235	\$ 115,011	\$ 81,976	\$ 5,235	\$ 42,723	\$ 809	\$ (15,732)	\$ 75,407	1,551	392
Mountain View	39,194	1,568	51,011	\$ 132,629	\$ 198,602	\$ 12,684	\$ 103,504	\$ 1,960	\$ (184,120)	\$ 169,083	1,340	772
Palo Alto	29,285	1,171	45,188	\$ 117,489				\$ 1,464	\$ 116,025			
San Jose	345,798	13,832	827,019	\$ 2,150,250	\$ 1,752,210	\$ 111,904	\$ 913,183	\$ 17,290	\$ (644,337)	\$ 1,185,168	22,039	20,539
Santa Clara	53,370	2,135	113,691	\$ 295,597	\$ 270,434	\$ 17,271	\$ 140,939	\$ 2,069	\$ (135,715)	\$ 237,003	3,669	2,010
Saratoga	11,353	454	17,897	\$ 46,533	\$ 57,527	\$ 3,674	\$ 29,981	\$ 568	\$ (45,217)	\$ 76,767	932	800
Sunnyvale	63,111	2,524	99,239	\$ 258,021	\$ 319,793	\$ 20,423	\$ 166,664	\$ 3,156	\$ (252,014)	\$ 262,351	2,681	1,533
Unincorporated	18,558	742	45,693	\$ 118,802	\$ 94,036	\$ 6,006	\$ 49,008	\$ 928	\$ (31,176)	\$ 80,009	1,482	845
Total	692,019	27,661	1,478,050	\$ 3,842,931	\$ 3,358,172	\$ 214,467	\$ 1,750,148	\$ 34,601	\$ (1,514,457)	\$ 2,636,224	41,666	32,348

Notes: No of HH and Disposal tonnage are based on FY2022-2023 actuals. Anticipated participation and anticipated participation at SJ facility are based on 10% increase from FY2022-2023 actual participation.

ATTACHMENT B: ESTIMATED ANNUAL HHW PROGRAM FIXED COSTS FOR FISCAL YEARS 2025, 2026, AND 2027

FIXED COST		
Staff Salary and Benefits		\$ 1,926,605.10
County Admin Overhead		\$667,328
County Counsel		\$17,745
Phones and Communications		\$13,787
Facilities Lease Costs	San Jose	\$215,880
Vehicle Costs		\$44,363
Office Supplies and postage		\$4,430
Maintenance, Software		\$150,150
HHW Hotline		\$150,000
Garbage & Utilities		\$47,434
Membership & Dues		\$20,475
Training & Conference		\$6,825
Safety Wear		\$28,392
Printing		\$11,632
Other Services & Supplies		\$53,127
ESTIMATED ANNUAL TOTAL		\$ 3,358,171.77

**ATTACHMENT C: HHW SCHEDULE OF PERMANENT & TEMPORARY
COLLECTION EVENTS FOR FISCAL YEAR 2025-2027***

2024/Month	Day	Date	Location	Type of Event	County Holidays/ Notes
July	Wed	3	San Jose	Permanent	
	Thursday	4	No Event	No Event	4th OF JULY
	Fri,Sat	5,6	San Jose	Permanent	
	Fri,Sat	5,6	San Martin	Permanent	
	Thurs,Fri	11,12	San Jose	Permanent	
	Saturday	13	Sunnyvale	Temporary	Confirmed
	Thurs,Fri,Sat	18,19,20	San Jose	Permanent	
	Thurs,Fri,Sat	25,26,27	San Jose	Permanent	
August	Thurs,Fri,Sat	1,2,3	San Martin	Permanent	
	Thurs,Fri,Sat	1,2,3	San Jose	Permanent	
	Fri,Sat	4,5	San Martin	Permanent	
	Thurs,Fri,Sat	8,9,10	San Jose	Permanent	
	Thurs,Fri,Sat	15,16,17	San Jose	Permanent	
	Thurs,Fri	22,23	San Jose	Permanent	
	Saturday	24	Mountain View	Temporary	Confirmed
	Thurs,Fri	29,30	San Jose	Permanent	
	Saturday	31	No Event	No Event	LABOR DAY WEEKEND
September	Thurs,Fri,Sat	5,6,7	San Martin	Permanent	
	Thurs,Fri,Sat	5,6,7	San Jose	Permanent	
	Thurs,Fri,Sat	12,13,14	San Jose	Permanent	
	Thurs,Fri	19,20	San Jose	Permanent	
	Saturday	21	Santa Clara	Temporary	Confirmed
	Thurs,Fri,Sat	26,27,28	San Jose	Permanent	
October	Thurs,Fri,Sat	3,4,5	San Martin	Permanent	
	Thurs,Fri,Sat	3,4,5	San Jose	Permanent	
	Thurs,Fri,Sat	10,11	San Jose	Permanent	
	Saturday	12	Sunnyvale	Temporary	Confirmed
	Thurs,Fri,Sat	17,18,19	San Jose	Permanent	
	Thurs,Fri,Sat	24,25,26	San Jose	Permanent	
	Thurs	31	San Jose	Permanent	
November	Fri, Sat	1,2	San Jose	Permanent	
	Thurs,Fri, Sat	7,8,9	San Martin	Permanent	
	Thurs	7,8,9	San Jose	Permanent	
	Thurs,Fri,Sat	14,15,16	San Jose	Permanent	
	Thurs,Fri,Sat	21,22,23	San Jose	Permanent	
	Thurs,Fri,Sat	28,29,30	No Event	No Event	THANKSGIVING
December	Fri, Sat	5,6,7	San Martin	Permanent	
	Thurs,Fri,Sat	5,6,7	San Jose	Permanent	
	Thurs,Fri,Sat	12,13,14	San Jose	Permanent	
	Thurs,Fri,Sat	19,20,21	San Jose	Permanent	
	Wed,Thurs	25,26	No Event	No Event	CHRISTMAS
	Fri,Sat	27,28	San Jose	Permanent	

**ATTACHMENT C: HHW SCHEDULE OF PERMANENT & TEMPORARY
COLLECTION EVENTS FOR FISCAL YEAR 2025-2027* (Continued)**

2025/Month	Day	Date	Location	Type of Event	County Holidays/ Notes
January	Wed	1	No Event	No Event	NEW YEAR'S
	Thurs,Fri, Sat	2,3,4	San Martin	Permanent	
	Thurs,Fri,Sat	2,3,4	San Jose	Permanent	
	Thurs,Fri	9,10	San Jose	Permanent	
	Saturday	11	Sunnyvale	Temporary	TBD
	Thurs,Fri,Sat	16,17,18	San Jose	Permanent	
	Thurs,Fri	23,24	San Jose	Permanent	
	Saturday	25	Santa Clara	Temporary	TBD
	Thurs,Fri	30,31	San Jose	Permanent	
February	Sat	1	San Jose	Permanent	
	Thurs,Fri, Sat	6,7,8	San Martin	Permanent	
	Thurs,Fri,Sat	6,7,8	San Jose	Permanent	
	Thurs,Fri,Sat	13,14,15	San Jose	Permanent	
	Thurs,Fri,Sat	20,21,22	San Jose	Permanent	
	Thurs,Fri	27,28	San Jose	Permanent	
March	Sat	1	San Jose	Permanent	
	Thurs,Fri, Sat	6,7,8	San Martin	Permanent	
	Thurs,Fri,Sat	6,7,8	San Jose	Permanent	
	Thurs,Fri,Sat	13,14,15	San Jose	Permanent	
	Thurs,Fri,Sat	20,21,22	San Jose	Permanent	
	Thurs,Fri,Sat	27,28,29	San Jose	Permanent	
April	Thurs,Fri,Sat	3,4,5	San Jose	Permanent	
	Thurs,Fri, Sat	3,4,5	San Martin	Permanent	
	Thurs,Fri	10,11	San Jose	Permanent	
	Saturday	12	Los Altos	Temporary	TBD
	Thurs,Fri	17,18	San Jose	Permanent	
	Saturday	19	Sunnyvale	Temporary	TBD
	Thurs,Fri	24,25	San Jose	Permanent	
	Saturday	26	Santa Clara	Temporary	TBD
May	Thurs,Fri,Sat	1,2,3	San Jose	Permanent	
	Thurs,Fri, Sat	1,2,3	San Martin	Permanent	
	Thurs,Fri,Sat	8,9,10	San Jose	Permanent	
	Thurs,Fri,Sat	15,16,17	San Jose	Permanent	
	Thurs,Fri	22,23	San Jose	Permanent	
	Saturday	24	No Event	No Event	MEMORIAL DAY WEEKEND
	Thurs,Fri,Sat	29,30,31	San Jose	Permanent	
June	Thurs,Fri, Sat	5,6,7	San Martin	Permanent	
	Thurs,Fri,Sat	5,6,7	San Jose	Permanent	
	Thurs,Fri	12,13	San Jose	Permanent	
	Saturday	14	Milpitas	Temporary	TBD
	Thurs, Fri,Sat	19,20,21	San Jose	Permanent	
	Thurs,Fri,Sat	26,27,28	San Jose	Permanent	

*SUBJECT TO CHANGE

ATTACHMENT D:

COUNTY HOUSEHOLD HAZARDOUS WASTE EMERGENCY COLLECTION PLAN

1. PURPOSE

The purpose of the Household Hazardous Waste Emergency Collection Plan is to minimize potential public health and safety impacts, as well as to minimize costs and confusion during an emergency or disaster. This Attachment describes the services the County can provide and the responsibilities of each party for the collection of household hazardous wastes (HHW) in response to an emergency as defined by the local jurisdiction.

Jurisdictions should contact local emergency agencies, the Governor's Office of Emergency Services (OES), and California Department of Toxic Substances Control (DTSC) for more specific information on hazardous materials emergency response.

2. Timing of HHW

While it is important to have special collection opportunities for disaster-related HHW as soon as possible to avoid illegal disposal or harm to people and/or the environment, having an event or service too soon after a disaster may result in low participation. Sufficient public notification, assessment and monitoring of the disaster and cleanup process by the designated City HHW Coordinator(s) is essential.

3. Public Information/Notification:

Cities should be prepared to provide the public with information related to the problems associated with HHW along with information about special collection events and services. Upon the decision to hold an emergency collection event, it is the City's responsibility to prepare and deliver the necessary public outreach to notify the public of an upcoming event. A City's public outreach program should evaluate all forms of media including: newspaper ads, posters, flyers, press releases, banners, door-to-door notices, roadside signs, signs on dumpsters, radio public service announcements, social media outlets and television public access stations. Be aware of communities where multiple language outreach efforts will be necessary.

4. State HHW Collection Permits

DTSC is responsible for issuing the necessary state permits for HHW collection facilities. During an emergency, the County will obtain the necessary emergency permit for special collection of household hazardous waste from DTSC through their expedited approval process.

5. Collection Events

Temporary collection events can be set-up at various sites including parking lots, city maintenance yards, within neighborhoods needing service, and at landfills or a centralized

location to service larger segments of the population. Waste collected will be transported with a transportation vehicle provided by the HHW Program. In addition, events can be scheduled at the two existing Countywide Household Hazardous Waste Collection Facilities (CoHHWCF). The following options are available to each participating City.

- Neighborhood Drop-off Events: The County is able to provide localized service to specific areas in need of household hazardous waste collection services. The County will work with City Solid Waste Coordinators to conduct coordinated efforts to residents in the affected area. After a specific event, waste will be transported by County staff or a hazardous waste contractor to an appropriate facility.
- Mobile HHW Event: The County conducts Household Hazardous Waste Collection Event (Events) at various sites located in Santa Clara County throughout the year. Events will be expanded to give priority to disaster victims when requested by the City. The County shall obtain all necessary permits and licenses required for the events and shall provide and/or contract for the services of properly trained personnel and hazardous waste haulers. The County shall also provide or secure suitable equipment and supplies to properly receive, package, label, haul, recycle and dispose of the household hazardous wastes collected at events.
- CoHHWCF: The County operates two permitted HHW collection facilities for the collection and storage of HHW. The County shall provide or contract for services, equipment, and supplies to properly receive, package, label, haul, recycle and dispose of wastes collected at the CoHHWCF.

The CoHHWCF are located at:

San Martin, 13055 Murphy Ave, San Martin, CA 95046
San Jose, 1608 Las Plumas, San Jose, CA 95133

6. Costs, Documentation, and Reimbursements

Cities will be billed on a cost recovery basis. Costs of emergency events will be tracked and billed separately. Emergency funding applications pending from the State or Federal government for reimbursements in no way relieves the City of responsibility to make timely payment to the County in accordance with the terms of the AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.

The County agrees to provide the City with a detailed accounting of services provided for an emergency collection. Documentation will track the time and materials of staff, outside contractor expenses, and quantities and types of waste collected to demonstrate that the wastes were generated above and beyond existing collection programs.

Services to businesses will be provided on a cost recovery basis and according to Section 12 of the AGENCY AGREEMENT FOR COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM, which includes program administration, on-site collection, transportation, and disposal costs. The County will assume responsibility for collecting fees from participating businesses.

7. State and Federal Assistance and Funds

It is the City's responsibility to pursue reimbursement from State or Federal agencies.

California Governor's Office of Emergency Services (Cal OES)

Cal OES is responsible for requesting assistance if a state disaster area is declared, and the local jurisdiction deems that the needs of the disaster response are beyond the capability of local jurisdictions for resources beyond the capability of the jurisdiction. State assistance may include assistance available from State, Federal, or private sources. If a local jurisdiction exceeds its capabilities, then the local jurisdiction can request assistance and reimbursement of costs from Cal OES.

Follow Standardized Emergency Management System (SEMS)

All requests and emergency responses must be in accordance with the SEMS. DTSC may have funding available for hazardous waste response and collection.

Federal Assistance

If a state disaster area is declared a federal disaster, then federal funding assistance may be available through the Cal OES. Funding and assistance may be available from Federal agencies such as FEMA and the USEPA.

Damage estimates: The city should provide to the Cal OES estimates of damages and a "scope of work requested." It is recommended that the local HHW coordinator meet ahead of time with local emergency agencies or Cal OES contacts regarding the proper procedures and wording of requests for assistance.

Funding Process: The funding process may vary depending on the unique circumstances of the disaster. The process can either be the traditional FEMA reimbursement process, or by direct assistance from USEPA.

REFERENCES

California Integrated Waste Management Board, Integrated Waste Management Disaster Plan: Guidance for local government on disaster debris management, January 1997.

Emergency Planning Contacts and Personnel

Primary County Contact: County of Santa Clara
Consumer and Environmental Protection Agency
Household Hazardous Waste Program
ATTN: Hazardous Materials Program Manager
(408)-918-1967

For Non-Emergency after-hours, contact County Communications at: (408) 977-3220

Responsibility: Coordinate and establish proper collection and disposal methods for household hazardous waste. Assess the need for HHW and VSQG services in consultation with the City and other operations.

Cal OES Public Safety Communications Main Office

601 Sequoia Pacific Boulevard
Sacramento, CA 95811
(916) 894-5209

Cal OES

3650 Schriever Avenue
Mather, CA 95655-4203
(916) 845-8510

CHEMTREC Emergency number, (800) 424-9300
Non-emergency (800) 262-8200

Chemtrec is a public service established by the Chemical Manufacturers Association. The Center was developed as a resource for obtaining immediate emergency response information to mitigate accidental chemical releases, and as a means for emergency responders to obtain technical assistance from chemical industry product safety specialists, emergency response coordinators, toxicologists, physicians, and other industry experts to safely mitigate incidents involving chemicals.

ATTACHMENT E

EXHIBIT E

INSURANCE REQUIREMENTS FOR
ENVIRONMENTAL SERVICES
CONTRACTS

(Hazardous Waste Disposal, Remediation Services, Environmental Consulting, etc.)

Indemnity

The Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any third party claim, liability, loss, injury or damage to the extent arising out of, or in connection with, performance of this AGREEMENT by Contractor and/or its agents or employees, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this AGREEMENT to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this AGREEMENT and does not prevail in that contest.

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this AGREEMENT, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this AGREEMENT, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the AGREEMENT until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

ATTACHMENT E

Exhibit E (Continued)

C. Notice of Cancellation

Should any of the requested policies be cancelled before the expiration date, notice will be provided in accordance with policy provisions.

D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:
 - a. Each occurrence - \$1,000,000
 - b. General aggregate - \$2,000,000
 - c. Products/Completed Operations aggregate - \$2,000,000
 - d. Personal Injury - \$1,000,000
2. General liability coverage shall include:
 - a. Premises and Operations
 - b. Products/Completed
 - c. Personal Injury liability
 - d. Severability of interest
3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, (Commercial General Liability Additional Insured provided pursuant to Additional Insured Endorsement #1), which shall read:

“County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds provided pursuant to Additional Insured Endorsement Form #1.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided

Exhibit E (Continued)

under this policy. Public Entities may also be added to the Additional Insured Endorsement Form #1 as applicable by way of insurance addendum, and the contractor shall be notified by the contracting department of these requirements.

4. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles. Coverage shall include Environmental Impairment Liability Endorsement MCS90 for contracts requiring the transportation of hazardous materials/wastes.

5. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

6. Contractors Pollution Liability Insurance

Coverage shall provide a minimum of not less than five million dollars (\$5,000,000) per occurrence and aggregate for bodily injury, personal injury, property damage and cleanup costs both on and offsite.

7. Professional Errors and Omissions Liability Insurance (required for contractors providing professional services, such as through a professional engineer, registered geologist, etc.)

- a. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per claim/aggregate.
- b. If coverage contains a deductible or self-retention, it shall be reviewed and approved by the County's Insurance Manager prior to contract execution.
- c. Coverage as required herein shall be maintained for a minimum of two years following termination or completion of this AGREEMENT.

Exhibit E (Continued)

8. Claims Made Coverage

If coverage is written on a claims made basis, the Certificate of Insurance shall clearly state so. In addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
- b. Policy allows for reporting of circumstances or incidents that might give rise to future claims. If coverage terminated Run-Off (Tail) coverage will be purchased for three (3) years following termination.

E. Special Provisions

The following provisions shall apply to this AGREEMENT:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this AGREEMENT, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this AGREEMENT may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this AGREEMENT. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractors obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this AGREEMENT be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages.
4. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

Exhibit E (Continued)

F. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this AGREEMENT, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this AGREEMENT, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this AGREEMENT, at the option of County.



CITY OF MORGAN HILL
 17575 PEAK AVENUE
 MORGAN HILL, CA 95037
 PHONE 408-779-7271
 FAX 408-779-3117

WWW.MORGANHILL.CA.GOV

Household Hazardous Waste Program
 County of Santa Clara
 Consumer and Environmental Protection Agency
 Attn: Billy Puk and Teresa Curiel

May 6, 2024

Dear Billy Puk and Teresa Curiel,

On Friday, April 19, 2024, the County HHW Program met with Tanya Carothers who is the Solid Waste Program Representative for the City of Gilroy/Morgan Hill, and Elaine Marshall, Myvan Khuu-Seeman, and Alan Ha from the City of Milpitas to discuss the HHW Program Agreement FY 2025_2027 (FINAL 2024.04.15).

Section 16 of the Countywide HHW Program Agreement FY 2025_2027 (FINAL 2024.04.15) includes a paragraph that reads as follows:

CITY agrees to make an interim payment to COUNTY amounting to 50 percent of the augmentation amount stated above for each fiscal year. This interim payment shall be made no later than September 30th of each fiscal year. The remaining balance of any outstanding cost shall be reconciled and paid or refunded in accordance with the terms outlined in the annual cost statement.

The above paragraph requiring a 50% interim payment is a new element in the HHW Program, which Gilroy did not budget for in the upcoming FY 2024/25. Therefore, at the April 19th meeting Tanya Carothers formally requested that the City of Gilroy be allowed to start the 50% interim payment schedule in FY 2025/26. This would allow for one year of budget planning by the City and an easier transition into the new HHW Program payment schedule. County HHW staff approved this request at the April 19th meeting and asked that the request be submitted in writing, which is the sole purpose of this letter.

Our understanding is that the County will not revise any of the contract language in the Countywide HHW Program Agreement FY 2025_2027 (FINAL 2024.04.15), however, this letter serves as an Agreement between the City of Gilroy and the County which allows for deferment of the 50% interim payment to FY 2025/26. Please confirm in writing that this letter contains what is required by the County to fulfill the request, as described. Thank you.

Sincerely,

Tanya S. Carothers
 City of Gilroy Solid Waste Program Representative &
 City of Morgan Hill Environmental Services Administrator
 408 763 5200

Cc: Heba El-Guindy, City of Gilroy Public Works Director

p. 205 of 217



City of Gilroy

STAFF REPORT

Agenda Item Title: **Approve First Amendment to Agreement with Ruggeri-Jensen-Azar & Associates in the amount of \$45,314 for the Sharks Ice Gilroy Street Improvements and Traffic Signal Project (24-RFP-PW-492) to complete American Land Title Association Survey for the Sharks Ice Gilroy Facility**

Meeting Date: May 20, 2024

From: Jimmy Forbis, City Administrator

Department: Public Works

Submitted By: Heba El-Guindy, Public Works Director

Prepared By: Karl Bjarke, Assistant to the City Administrator

STRATEGIC PLAN GOALS

Promote Economic Development Activities
Maintain and Improve City Infrastructure

RECOMMENDATION

Approve the attached First Amendment to the Consulting Services Agreement between the City and Ruggeri-Jensen-Azar & Associates for the Sharks Ice Gilroy Street Improvements and Traffic Signal project (24-RFP-PW-492) in the amount of \$45,314 to complete the American Land Title Association (ALTA) survey for the Sharks Ice Gilroy facility and authorize the City Administrator to execute the necessary Amendment documents.

EXECUTIVE SUMMARY

To complete the lease agreement with Sharks Sports & Entertainment for the construction and operation of the Sharks Ice Gilroy facility, a comprehensive survey of the Sharks Ice Gilroy site is required. The ALTA survey will meet this need as it provides accurate property boundaries, title encumbrances, recorded easements, and setbacks affecting the site. The proposed survey will provide firm boundaries of the specific site where the Sharks Ice Gilroy facility will be located via a plat map and legal description. In addition, the survey will provide aerial topography, topographic survey of conditions on the ground, and utility locations, all to support the design and construction

10.5

Approve First Amendment to Agreement with Ruggeri-Jensen-Azar & Associates in the amount of \$45,314 for the Sharks Ice Gilroy Street Improvements and Traffic Signal Project (24-RFP-PW-492) to complete American Land Title Association (ALTA) Survey for the Sharks Ice Gilroy Facility

of the Sharks Ice Gilroy facility.

The City has Ruggeri-Jensen-Azar & Associates (RJA) under contract to design the street improvements and traffic signal adjacent to the Sharks Ice Gilroy site. RJA has performed several ALTA surveys in the past and it is recommended that they prepare this proposed ALTA and associated survey work since they are providing survey services for the adjacent street and traffic signal project. The City Council has previously approved a maximum expenditure for the Street Improvements and Traffic Signal project in the amount of \$316,000. The proposed First Amendment will increase that amount by \$45,314, increasing the total expenditure to \$361,314.

BACKGROUND

The Sharks Ice Gilroy facility represents phase III of the Gilroy Sports Park Master Plan. The original 2002 Environmental Impact Report (EIR) for the Sports Park was amended in 2019 to consider the construction of the facility.

In June of 2022, the City and Sharks Sports and Entertainment, LLC (Sharks Sports) entered into a Non-Binding Term Sheet for an Operating Agreement for the proposed Sharks Ice Gilroy facility to be located at the City's Outdoor Sports Park. The Sharks Ice Gilroy facility is proposed to be a two-story 100,000-square-foot building with two indoor National Hockey League sized ice rinks, a restaurant, snack bar, pro shop, and other ancillary uses. The Term Sheet is set up to allow the City to build the facility and Sharks Sports to operate the facility under a long-term lease agreement.

Preparing an American Land Title Association (ALTA) survey is an important next step in the process to complete the lease agreement between the City and Sharks Sports. While the site for the Sharks Ice Gilroy facility is roughly established at the Outdoor Sports Park, the specific legal boundaries are not yet tied down. In addition to the need to establish firm boundaries of the Sharks Ice Gilroy facility site, it will be necessary to establish other metrics associated with the site such as topographic survey, property encumbrances, easements, setbacks, and utility locations. An ALTA survey is a very comprehensive land title survey and will provide the necessary title information required for the City and Sharks Sports to negotiate and execute the lease agreement for the Sharks Ice Gilroy facility. In addition, the survey will become a critical part of the design and construction of the facility.

On December 4, 2023, the City Council awarded a contract to Ruggeri-Jensen-Azar & Associates (RJA) for the design of the Sharks Ice Gilroy Street Improvements and Traffic Signal project. This project is a companion to the Sharks Ice Gilroy construction in the City's adopted Capital Improvement Program (CIP). In addition, the construction of the street improvements and traffic signal are required mitigation measures in the 2019 amended EIR for the completion of the Sharks Ice Gilroy facility. Since RJA is already under contract with the City and their current scope requires field survey, staff requested a proposal from RJA to perform the ALTA survey for the site. RJA has

10.5
Approve First Amendment to Agreement with Ruggeri-Jensen-Azar & Associates in the amount of \$45,314 for the Sharks Ice Gilroy Street Improvements and Traffic Signal Project (24-RFP-PW-492) to complete American Land Title Association (ALTA) Survey for the Sharks Ice Gilroy Facility

performed several ALTA surveys in the past and is in a unique position to begin this work immediately. The RJA proposal to perform the additional ALTA survey and associated compensation submitted on March 27, 2024 is included under Attachment 1.

ANALYSIS

For the Sharks Ice Gilroy facility to be completed as envisioned under the partnership with Sharks Sports and Entertainment, LLC, an ALTA survey will be required for the site. An ALTA survey is one of the most important documents in the real estate transaction process. It reveals information not covered by title insurance and helps avoid future legal disputes related to the property. The proposed survey will provide a legal description of the parcel that the facility is to be located on and identify all of the land title elements and encumbrances required to execute the lease agreement between the City and the Sharks. The survey work will also include topographic mapping and utility locations.

RJA's proposed scope includes the following survey components: Resolve property boundaries; aerial topography with ortho-photo mapping; flight marker control (to establish survey points for aerial topography); topographic ground survey; utilities location; plat and legal description of the Sharks Ice Gilroy specific site; and all other related ALTA data collection.

Once completed, the City and Sharks Sports will have a thoroughly documented description of the Sharks Ice Gilroy facility site that will become the basis for the lease agreement.

ALTERNATIVES

The City Council could opt to forgo the ALTA survey or choose to seek proposals from other firms. Without the survey, the lease transaction for building and operating the Sharks Ice Gilroy facility would likely not go forward. RJA's proposal is economical because the firm is already performing work in the area associated with the access road improvements and new signal.

FISCAL IMPACT/FUNDING SOURCE

The Sharks Ice Gilroy Street Improvements and Traffic Signal project is included in the adopted FY 2024 Capital Improvements Program (Project No. 800900), intended to be a companion project to the Sharks Ice Gilroy facility. Funding for this project comes from the Public Facilities Fund (440), Traffic Impact Fund (425), and subject to be reimbursed from future project bond proceeds.

On December 4, 2023, the City Council awarded a Consulting Services Agreement to Ruggeri-Jensen-Azar & Associates for the design of the Street Improvements and Traffic Signal project. Total approved expenditure for that contract is \$316,000. The

10.5
Approve First Amendment to Agreement with Ruggeri-Jensen-Azar & Associates in the amount of \$45,314 for the Sharks Ice Gilroy Street Improvements and Traffic Signal Project (24-RFP-PW-492) to complete American Land Title Association (ALTA) Survey for the Sharks Ice Gilroy Facility

additional amount for the proposed First Amendment is \$45,314. Therefore, subject to approval of the First Amendment, the revised total approved expenditure will be \$361,314.

PUBLIC OUTREACH

No public outreach was conducted for this phase of the project.

NEXT STEPS

Should the Council approve the First Amendment to the Agreement between the City and RJA, the ALTA and associated survey work will commence and is expected to take approximately 6 weeks. Once that is completed, the City and Sharks Sports can complete the lease agreement and the process for building the facility can begin. Under the current schedule, the Sharks Ice Gilroy facility will be completed and operational in mid-2026.

Attachments:

1. First Amendment to the Agreement between the City and RJA.
2. Exhibits A, B, and C submitted by RJA covering additional Scope of Services by ALTA Survey, associated compensation, and optional tasks.

**FIRST AMENDMENT TO GILROY ICE CENTER STREET IMPROVEMENTS AND
TRAFFIC SIGNAL DESIGN AGREEMENT**

WHEREAS, the City of Gilroy, a municipal corporation ("City"), and Ruggeri-Jensen-Azar & Associates entered into that certain agreement entitled "Agreement for Services", effective on December 4, 2023, hereinafter referred to as "Original Agreement"; and

WHEREAS, City and Ruggeri-Jensen-Azar & Associates have determined it is in their mutual interest to amend certain terms of the Original Agreement.

NOW, THEREFORE, for valuable consideration, the parties hereto agree as follows:

1. Article 1 (Term of Agreement) of the Original Agreement: The term of the agreement will continue in effect through December 31, 2025.
2. The Payment Schedule of the Original Agreement shall remain in effect and supplemented with the additional Scope of Services described in Exhibit A and associated Compensation described in Exhibit B, dated March 27, 2024.
3. This Amendment shall be effective on May 20, 2024.
4. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.
5. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
6. IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the dates set forth besides their signatures below.

CITY OF GILROY

Ruggeri-Jensen-Azar & Associates

By: _____

[signature]

Jimmy Forbis

[employee name]

City Administrator

[title/department]

By: _____

[signature]

Arminta J Jensen

[name]

Executive Vice President

[title]

Date: _____

Date: _____

Approved as to Form

ATTEST:

City Attorney

City Clerk

EXHIBIT A
SCOPE OF SERVICES
For
GIC STREET IMPROVEMENTS & TRAFFIC SIGNAL
SPORTS PARK ALTA SURVEY
GILROY, CALIFORNIA
MARCH 27, 2024

RJA JOB NUMBER: 242003

TYPE OF WORK: ALTA Survey and Supporting Documents

CLIENT: City of Gilroy

SUBJECT PROPERTY:

Approximately 78.5+/- acres located in Gilroy, CA known as the Gilroy Sports Park (APNs 808-21-026,-028,-030). City of Gilroy is considered the Lead Agency for processing the work described herein.

SCOPE OF SERVICES:

10. DESIGN SURVEY

A. Resolved Boundary

Consultant will establish project horizontal and vertical control, search for and locate existing controlling boundary monumentation and resolve project boundary based upon the record title information with supporting documents supplied by the Client and available Public Records. Client shall provide a current preliminary title report with exceptions package and legal description prior to the commencement of work for this item.

B. Aerial Topography & Ortho-photo

Consultant will coordinate with the photogrammetrist for flight marker requirements, layout, time of flight and scheduling, to provide a topographical map of the portion of the property shown in Exhibit C at a scale of 1" = 40' with a 1-foot contour interval. Scope and fee also includes a color ortho-rectified photo of the entire property at a scale of 1" = 40'.

C. Flight Marker Control

Consultant will perform field surveys to set flight markers for aerial photogrammetry control. Flight markers will be field surveyed to tie to project horizontal and vertical control. Flight marker field survey will be reduced and coordinate geometry results will be supplied to photogrammetrist.

D. Supplemental/Topo Survey

Consultant will provide supplemental ground survey and data reduction to augment aerial topography. Consultant will provide field supplemental survey within the project boundary and office support to obtain horizontal and vertical locations of selected visible aboveground features, as required for the ALTA Survey. Fee is for up to sixteen (16) hours of 2-Person Field Crew labor, and up to sixteen (16) hours of office labor for data reduction. Labor in excess of this will be considered "additional services"/"extra work" and be billed on a Time and Expense basis per the attached Rate and Expense Schedule.

E. Utility Survey

At the request of the Client, Consultant will subcontract with a private utility locate service to identify the approximate locations of underground utilities located within the area of the future ice rink facility area as shown on Exhibit D. The locations of the markings provided by the private utility locate service will be located and included on the ALTA Survey.

F. Plat and Legal Description

Consultant will prepare plat and accompanying legal descriptions (1 total) to describe a portion of the property to be used in a lease agreement.

This item specifically excludes the following items:

- Assistance with any property, easement or right-of-way acquisition or agreements
- Acquisition or assistance with signatories
- Preparation of grant, quit-claim or deeds
- Processing/Recording of documents

I. ALTA Survey

Consultant will prepare an ALTA/ACSM Land Title Survey to assist Client in obtaining an ALTA Owner's policy for the subject property. Survey will include resolved boundary, topographic survey of potential encroachments within 5 feet of the project boundary, plotting of easements in preliminary title report, and the location of existing utilities serving the property based upon readily visible surface evidence. The ALTA Survey document will be prepared in accordance with the 2021 Minimum Standard Detail requirements for ALTA/NSPS Land Title Surveys. These services exclude aerial photogrammetry and/or topographic mapping and Table A items not listed herein. ALTA Survey document will be prepared in accordance with the 2021 Minimum Standard Detail, including the following Table "A" items: 3, 4, 5, 8, 11A, 15, 20(a)(b), detailed in Exhibit C.

40. COORDINATION DURING FINAL DESIGN**A. Client Coordination**

Upon request of the Client, Consultant will assist Client in the coordination of items related to the project processing and subconsultant issues not specifically mentioned in this scope of work. Fee is for up to eight (8) hours of labor. Labor in excess of this will be considered "additional services"/"extra work" and be billed on a Time and Expense basis per the attached Rate and Expense Schedule.

EXCLUSIONS

The services to be provided are those detailed in this Scope of Services (Exhibit A). All items not expressly described in this Scope of Services shall be deemed "additional services"/"extra work" and compensation shall be on a time and expense basis per the attached Rate and Expense Schedule. The following items are specifically excluded from this Scope of Work:

A. Preliminary/Tentative Map and/or Final Map Exclusions

1. Plats and legal descriptions for easements or ROW not specifically mentioned in the Scope of Services
2. Provision of preliminary or final title report
3. Any plats and descriptions for offsite purposes
4. Preparation of a "Vesting Tentative Map"
5. Any and all documents required for public noticing or mailing of such
6. Assistance with any property, right-of-way, or easement acquisition.
7. Potholing of existing underground facilities/utilities

EXHIBIT B
COMPENSATION
for
GIC STREET IMPROVEMENTS & TRAFFIC SIGNAL
SPORTS PARK ALTA SURVEY
GILROY, CALIFORNIA
MARCH 27, 2024

Client shall compensate Consultant for the performance of the work previously described in Exhibit A, SCOPE OF SERVICES, and for such extras and additions as follows:

I. SCOPE OF SERVICES ITEM

FEE

10. DESIGN SURVEY

A. Boundary/Control	\$6,985
B. Aerial Topography & Ortho-photo	\$7,059
C. Flight Marker Control	\$2,843
D. Supplemental/Topo Survey	\$8,558
E. Utility Survey	\$3,040
F. Plat and Legal Description	\$4,585
I. ALTA Survey	<u>\$9,884</u>
Sub-total:	\$42,954

40. COORDINATION DURING FINAL DESIGN

A. Client Coordination	<u>\$2,360</u>
Sub-total:	\$2,360
TOTAL:	\$45,314

II. Printing and Miscellaneous Expenses

Any reproduction work, other than that required for the Consultant's in house use, and all mileage, Federal Express, UPS, On-Trac, and other deliveries and expenses will be billed per the attached Rate and Expense Schedule, in addition to the above fees.

III. Additional Services

The services to be provided are those detailed in Exhibit A, Scope of Services. All items not expressly described in this scope and all hours for a specific item which are above those stated in the scope of services shall be deemed "Additional Services"/"Extra Work" and compensation shall be on a time and expense basis per the attached Rate and Expense Schedule, in addition to the above fees.

IV. Payment Terms

Invoices will be rendered monthly for the work done in the preceding month and will be due and payable upon receipt. All accounts not paid within thirty (30) days after date of invoice will bear a FINANCE CHARGE OF 1.5% per month, or the legal rate of interest, whichever is less, on the unpaid balance until paid in full. In the event any action is brought in this agreement concerning any amounts due hereunder, the prevailing party shall be reimbursed for all litigation and collection expenses, including but not limited to reasonable attorneys' fees.

Fees shown are good through June 30, 2024. Rate & Expense Schedule is good through June 30, 2024. At the end of June each year, the rates and remaining fees for all services shall be increased proportionately to the increase in costs incurred by Consultant for labor and expenses and the Rate and Expense Schedules will be updated.

RATE AND EXPENSE SCHEDULES
(Effective through June 30, 2024)

HOURLY RATE SCHEDULE FOR PROFESSIONAL SERVICES

<u>Classification</u>	<u>Rate</u>
Senior Project Manager.....	\$279.00
Project Manager	264.00
Senior: Engineer, Surveyor, Planner	251.00
Associate: Engineer, Surveyor, Planner	234.00
Engineer, Surveyor, Planner.....	217.00
Assistant: Engineer, Surveyor, Planner.....	188.00
Senior Designer/Technician	184.00
Technician	163.00
Assistant Technician.....	141.00
Project Coordinator	125.00
Administrative Assistant	107.00
Clerical	81.00
Field Survey Manager	232.00
1-Person Survey Crew.....	214.00
2-Person Survey Crew.....	328.00
3-Person Survey Crew.....	395.00
Principal.....	295.00
Deposition/Court Appearance	rates are available upon request

EXPENSE SCHEDULE

Bond Copy (24"x36").....	\$1.50 each
Color/mylar plot (small, medium).....	\$10.00 each
Color/mylar plot (large).....	\$50.00 each
Xerox copy	\$0.15 each
Color xerox copy (8½ x 11 or 11 x 17)	\$0.50 each
Client-Requested Overtime	Hourly Rate plus 25%
All other expenses, including:	Actual Cost plus 15%
Delivery Service	Travel & Expenses
Outside Reproduction	Filing or Permit Fees
Mileage - Auto	Conference Call Expenses
Outside Consultants	

TABLE A**OPTIONAL SURVEY RESPONSIBILITIES AND SPECIFICATIONS**

NOTE: Whether any of the nineteen (19) items of Table A are to be selected, and the exact wording of and fee for any selected item, may be negotiated between the surveyor and client. Any additional items negotiated between the surveyor and client must be identified as 20(a), 20(b), etc. Any additional items negotiated between the surveyor and client, and any negotiated changes to the wording of a Table A item, must be explained pursuant to Section 6.D.ii.(g). Notwithstanding Table A Items 5 and 11, if an engineering design survey is desired as part of an ALTA/NSPS Land Title Survey, such services should be negotiated under Table A, Item 20.

If checked, the following optional items are to be included in the ALTA/NSPS LAND TITLE SURVEY, except as otherwise qualified (see note above):

1. ☐ Monuments placed (or a reference monument or witness to the corner) at all major corners of the boundary of the surveyed property, unless already marked or referenced by existing monuments or witnesses in close proximity to the corner.
2. ☐ Address(es) of the surveyed property if disclosed in documents provided to or obtained by the surveyor, or observed while conducting the fieldwork.
3. ☒ Flood zone classification (with proper annotation based on federal Flood Insurance Rate Maps or the state or local equivalent) depicted by scaled map location and graphic plotting only.
4. ☒ Gross land area (and other areas if specified by the client).
5. ☒ Vertical relief with the source of information (e.g., ground survey, aerial map), contour interval, datum, with originating benchmark, when appropriate.
6. ☐ (a) If the current zoning classification, setback requirements, the height and floor space area restrictions, and parking requirements specific to the surveyed property are set forth in a zoning report or letter provided to the surveyor by the client or the client's designated representative, list the above items on the plat or map and identify the date and source of the report or letter.
☐ (b) If the zoning setback requirements specific to the surveyed property are set forth in a zoning report or letter provided to the surveyor by the client or the client's designated representative, and if those requirements do not require an interpretation by the surveyor, graphically depict those requirements on the plat or map and identify the date and source of the report or letter.
7. ☐ (a) Exterior dimensions of all buildings at ground level.
☐ (b) Square footage of:
☐ (1) exterior footprint of all buildings at ground level.
☐ (2) other areas as specified by the client.
☐ (c) Measured height of all buildings above grade at a location specified by the client. If no location is specified, the point of measurement shall be identified.
8. ☒ Substantial features observed in the process of conducting the fieldwork (in addition to the improvements and features required pursuant to Section 5 above) (e.g., parking lots, billboards, signs, swimming pools, landscaped areas, substantial areas of refuse).
9. ☐ Number and type (e.g., disabled, motorcycle, regular, and other marked specialized types) of clearly identifiable parking spaces on surface parking areas, lots, and in parking structures. Striping of clearly identifiable parking spaces on surface parking areas and lots.

10. _____ As designated by the client, a determination of the relationship and location of certain division or party walls with respect to adjoining properties.

11. Evidence of underground utilities existing on or serving the surveyed property (in addition to the observed evidence of utilities required pursuant to Section 5.E.iv.) as determined by:

___X___ (a) plans and/or reports provided by client (with reference as to the sources of information)

_____ (b) markings coordinated by the surveyor pursuant to a private utility locate request.

Note to the client, insurer, and lender – With regard to Table A, item 11, information from the sources checked above will be combined with observed evidence of utilities pursuant to Section 5.E.iv. to develop a view of the underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In addition, in some jurisdictions, 811 or other similar utility locate requests from surveyors may be ignored or result in an incomplete response, in which case the surveyor shall note on the plat or map how this affected the surveyor's assessment of the location of the utilities. Where additional or more detailed information is required, the client is advised that excavation may be necessary.

12. _____ As specified by the client, Governmental Agency survey-related requirements (e.g., HUD surveys, surveys for leases on Bureau of Land Management managed lands). The relevant survey requirements are to be provided by the client or client's designated representative.

13. _____ Names of adjoining owners according to current tax records. If more than one owner, identify the first owner's name listed in the tax records followed by "et al."

14. _____ As specified by the client, distance to the nearest intersecting street.

15. ___X___ Rectified orthophotography, photogrammetric mapping, remote sensing, airborne/mobile laser scanning and other similar products, tools or technologies as the basis for showing the location of certain features (excluding boundaries) where ground measurements are not otherwise necessary to locate those features to an appropriate and acceptable accuracy relative to a nearby boundary. The surveyor must (a) discuss the ramifications of such methodologies (e.g., the potential precision and completeness of the data gathered thereby) with the insurer, lender, and client prior to the performance of the survey, and (b) place a note on the face of the survey explaining the source, date, precision, and other relevant qualifications of any such data.

16. _____ Evidence of recent earth moving work, building construction, or building additions observed in the process of conducting the fieldwork.

17. _____ Proposed changes in street right of way lines, if such information is made available to the surveyor by the controlling jurisdiction. Evidence of recent street or sidewalk construction or repairs observed in the process of conducting the fieldwork.

18. _____ Pursuant to Sections 5 and 6 (and applicable selected Table A items, excluding Table A item 1), include as part of the survey any plottable offsite (i.e., appurtenant) easements disclosed in documents provided to or obtained by the surveyor.

19. _____ Professional liability insurance policy obtained by the surveyor in the minimum amount of \$_____ to be in effect throughout the contract term. Certificate of insurance to be furnished upon request, but this item shall not be addressed on the face of the plat or map.

20(a). X Stream Setback as described in the Santa Clara Valley Habitat Conservation

20(b). X

_____ Evidence of underground utilities only based on markings coordinated by the surveyor pursuant to a

Adopted by the American Land Title Association on October 1, 2020. More at: www.alta.org.
Adopted by the National Society of Professional Surveyors on October 30, 2020. More at: www.nsps.us.com.



DESIGN DEVELOPMENT 24, APRIL 2024

