



CITY COUNCIL REGULAR MEETING AGENDA PACKET

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

MAYOR

Marie Blankley

COUNCIL MEMBERS

Rebeca Armendariz

Dion Bracco

Tom Cline

Zach Hilton

Carol Marques

Fred Tovar

MONDAY, NOVEMBER 6, 2023 | 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.

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

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



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The agenda for this meeting is outlined as follows:

1. OPENING

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

2. CEREMONIAL ITEMS - Proclamations and Awards

- 2.1. Proclamation Proclaiming November 12 – 18, 2023 as United Against Hate Week**
- 2.2. Proclamation Proclaiming November 6, 2023 as Digital NEST Day**

3. PRESENTATIONS TO THE COUNCIL

- 3.1. Annual Presentation by the Open Government Commission**
- 3.2. Open Government Commission Presentation on Hybrid Meetings**

3.3. 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 to City Hall, 7351 Rosanna Street, Gilroy, CA 95020, by 1:00 pm on the meeting day. These comments, available at City Hall, will be shared with the Council and included in the meeting record. Late submissions will be shared as soon as possible. A 10-page limit applies to hard-copy materials, but electronic submissions are unlimited.

4. REPORTS OF COUNCIL MEMBERS

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

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

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

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

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

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

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

5. COUNCIL CORRESPONDENCE

6. FUTURE COUNCIL INITIATED AGENDA ITEMS

7. CONSENT CALENDAR

Consent Calendar items are routinely approved with one motion. For separate discussion, a Council member or public member must request its removal before the approval vote. If removed, it's discussed in its original order.

- 7.1. Approval of the Action Minutes of the October 16, 2023 City Council Regular Meeting**
- 7.2. Adoption of Revised City of Gilroy Records Management Policy and Compliance with the California Public Records Act (CPRA) Recodification Act (AB 473)**
- 7.3. Removal of Commissioner Kortney Hodge from Parks and Recreation Commission Pursuant to Gilroy City Charter Section 900**
- 7.4. Acceptance of an Assistance to Firefighters Grant in the Amount of \$66,583 for the Fire Department**
- 7.5. Approve the Second Amendment to the Agreement with InfoSend, Inc. for Utility Bill Printing, Mailing, and Online Payment Services**

8. BIDS AND PROPOSALS

9. PUBLIC HEARINGS

10. UNFINISHED BUSINESS

11. INTRODUCTION OF NEW BUSINESS

11.1. Introduction of an Ordinance Amending Chapters 17A and 24 of the Gilroy City Code in Compliance with the California Public Records Act (CPRA) Recodification Act (AB 473)

- 1. Staff Report: Thai Nam Pham, City Clerk
- 2. Public Comment
- 3. Possible Action:
 - 1. Motion to read the ordinance by title only and waive further reading of the ordinance; and
 - 2. Introduce an ordinance amending Chapters 17A and 24 of the Gilroy City Code.

11.2. Approval of Two (2) Mills Act Agreement Applications for Historic Properties Located at 286 Fifth Street and 7471 Hanna Street

- 1. Staff Report: Sharon Goei, Community Development Director
- 2. Public Comment
- 3. Possible Action:

Staff has analyzed the proposed project, and recommends that the City Council:

- a) Based on its independent analysis, find that approval of the Mills Act contracts are exempt from review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15331, pertaining to projects involving the maintenance, rehabilitation, restoration, preservation, or reconstruction of historical resources, and

where it can be seen with certainty that the Mills Act contracts would not result in a significant environmental effect; and

- b) Approve the Mills Act program request, and authorize the City Administrator to execute a Mills Act Agreement for the property located at 286 Fifth Street; and
- c) Approve the Mills Act program request and authorize the City Administrator to execute a Mills Act Agreement for the property located at 7471 Hanna Street.

11.3. Inclusionary Housing Introduction

- 1. Staff Report: Sharon Goei, Community Development Director
- 2. Public Comment
- 3. Possible Action:
Receive report.

12. CITY ADMINISTRATOR'S REPORTS

13. CITY ATTORNEY'S REPORTS

14. CLOSED SESSION

14.1. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION:

Government Code Section 54956.9(d)(1) and Gilroy City Code Section 17A.11(3)(b)

Name of cases: Law Foundation of Silicon Valley v. Superior Court, 6th District Court of Appeal Case No. H049554; and City of Gilroy v. Superior Court, 6th District Court of Appeal

Case No. H049552

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

Properties:10th Street Bridge: APNs 808- 19-007, 799-30-006, 799-30-007, 808-19-020, 808-50-999, Thomas Luchessa Bridge: APNs 808-21-025, 808-21-023, 808-21-021, 808-21-018, New Fire Station: APNs 808-18-003, 808-19-029

Negotiators: Jimmy Forbis, City Administrator; Other Party to

Negotiations: Glen Loma Corporation, John M. Filice, Jr.;

Negotiating Price and terms of payment regarding purchase, sale

15. ADJOURN TO OPEN SESSION

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

16. ADJOURNMENT

FUTURE MEETING DATES

November 2023

20 Regular Meeting - 6:00 p.m

December 2023

4 Regular Meeting - 6:00 p.m

11 Special Meeting - 6:00 p.m

18 ~~Regular Meeting - 6:00 p.m~~ **-CANCELED-**

January 2024

8 Regular Meeting - 6:00 p.m

22 Regular Meeting - 6:00 p.m

Meetings are webstreamed at gilroy.city/meetings.

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

2.1. Proclamation Proclaiming November 12 – 18, 2023 as United Against Hate Week

City of Gilroy Proclamation



WHEREAS, the United States is a nation of immigrants, whose strength comes from its diversity; and

WHEREAS, the Constitution enshrines equality on all individuals, regardless of race, gender, orientation, religion, or political views; and

WHEREAS, the City of Gilroy wishes to affirm its commitment to the well-being and safety of all its diverse communities, including Black, Indigenous and People of Color (BIPOC); Asian American Pacific Islander (AAPI); Lesbian, Gay, Bisexual, Transgender, Queer or Questioning Plus (LGBTQ+); and all others; and

WHEREAS, the City of Gilroy wishes to ensure that its BIPOC, AAPI, LGBTQ+, and other diverse communities are not alone and that they can speak out to help stop the spread of bigotry; and

WHEREAS, due to the history of violence against communities of Color, we must work together to create community-centered solutions that stop the violence in all communities; and

WHEREAS, the City of Gilroy stands together with our diverse communities and calls on all constituents and leaders to join us in condemning racist, homophobic, and harassing attacks against communities of Color, in all forms, and renewing our commitment to speak out against such attacks, defend and protect those targeted, and seek out and punish those who commit hate crimes against any members of our community.

NOW, THEREFORE, I, Marie Blankley, Mayor of the City of Gilroy, together with the Gilroy City Council, on this 6th day of November 2023, do hereby proclaim November 12 - 18, 2023, as

UNITED AGAINST HATE WEEK

Marie Blankley
Marie Blankley
MAYOR



Attested to by:

Thai Nam Pham
Thai Nam Pham
City Clerk

2.2. Proclamation Proclaiming November 6, 2023 as Digital NEST Day

City of Gilroy Proclamation



WHEREAS,

Digital NEST is a nonprofit organization that provides youth between the ages of 14 to 24 with the skills, resources, and network to build and launch successful careers in technology; and

WHEREAS,

Digital NEST gives Gilroy and our local community the tools to empower young people to reach their full potential. By providing them with access to technology training, internships, and job placement, Digital NEST is helping to create a more equitable and brighter future for all; and

WHEREAS,

Digital NEST is particularly important in Gilroy to help bridge equity gaps among our youth seeking access to careers in technology; and

WHEREAS,

Digital NEST's programs and services are free to all participants, making them accessible to youth from all walks of life; and

WHEREAS,

Digital NEST, since its inception in 2014 and together with its additional locations in Watsonville and Salinas, has placed over 140 of its youth participants in high-quality career-track jobs, internships, and/or college.

NOW, THEREFORE, I, Marie Blankley, Mayor of the City of Gilroy, together with the Gilroy City Council, do hereby proclaim November 6, 2023, as

Digital NEST Day

and invite the community to celebrate their contributions and successes and to reaffirm our commitment to supporting their mission.

Marie Blankley
Marie Blankley
MAYOR



Attested to by:

Thai Nam Pham
Thai Nam Pham
City Clerk

**7.1. Approval of the Action Minutes of the October 16, 2023 City Council
Regular Meeting**

City of Gilroy
City Council Regular Meeting Minutes
Monday, October 16, 2023 | 6:00 PM

1. OPENING

1.1. Call to Order

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

1.2. Pledge of Allegiance

Council Member Tovar led the Pledge of Allegiance.

1.3. Invocation

Rabbi Faith Joy Dantowitz led the Invocation.

1.4. City Clerk's Report on Posting the Agenda

City Clerk Pham reported on the Posting of the Agenda.

1.5. Roll Call

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

1.6. Orders of the Day

There were none.

1.7. Employee Introductions

Human Resources Director McPhillips introduced Angelica Harris, Human Resources Analyst.

2. CEREMONIAL ITEMS - Proclamations and Awards

There were none.

3. PRESENTATIONS TO THE COUNCIL

3.1. Annual Presentation by the Arts and Culture Commission

Arts and Culture Commission Chair Melanie Reynisson provided the annual presentation.

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

Mayor Blankley opened Public Comment.

The following members spoke on items that were not on the agenda.

Ron Kirkish expressed concerns about the rise of inappropriate comments during Zoom meetings in various cities, including Morgan Hill, and noted that the city's officials have decided to discontinue public speaking on Zoom meetings due to incidents of racism, anti-Semitism, and homophobia during their last meeting.

Robert Zepeda expressed a desire for local unity, touched on global conflicts like the one in Israel, criticized the media's influence on perceptions, and briefly mentioned three upcoming initiatives.

Jeff Orth expressed deep gratitude to the city council for their support in improving downtown, including lighting up trees, addressing the sound system, cleaning sidewalks, and creating a positive atmosphere for the community and visitors, highlighted by the successful recent beer crawl event.

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

4. **REPORTS OF COUNCIL MEMBERS**

Council Member Bracco had nothing to report.

Council Member Armendariz expressed appreciation for the Rabbi's comments and urged recognition of the Palestinian lives lost in the ongoing conflict in addition to Israeli casualties. She also shared her participation in a Silicon Valley Clean Energy review of energy-efficient home renovations.

Council Member Marques praised the Gilroy Gardens' Great Big BOO! Event, and reported on the Downtown Committee

Council Member Tovar reported on the Downtown Committee and his recent involvement in South County Heals Kick-Off! Event.

Mayor Blankley reported on SCRWA, Santa Clara Valley Water Joint Water Resources Committee, and VTA Board of Directors.

5. **COUNCIL CORRESPONDENCE**

There were none.

6. **FUTURE COUNCIL INITIATED AGENDA ITEMS**

Council Member Armendariz proposed agendizing a discussion on establishing a code of conduct for public speakers at city meetings, believing it would help manage meetings and address potential issues in both in-person and hybrid meetings, referencing incidents like Zoom bombing in other cities. The discussion was open to the council's input, and there was an agreement to consider it as part of future discussions on meetings and presentations; however, it did not receive majority support.

7. **CONSENT CALENDAR**

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

Motion: Adopt the Consent Calendar.

RESULT: Pass

MOVER: Fred Tovar, Council Member

SECONDER: Dion Bracco, Mayor Pro Tempore

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

ABSENT: Council Member Cline, Council Member Hilton

7.1. Approval of the Action Minutes of the October 2, 2023 City Council Regular Meeting

A motion was made to approve the minutes.

7.2. Acceptance of an Office of Traffic Safety Selective Traffic Enforcement Program Grant in the Amount of \$111,000 and Adoption of a Resolution of the City Council of the City of Gilroy Approving a Fiscal Year 2024 Budget Amendment

A motion was made to accept the Office of Traffic Selective Traffic Enforcement Program Grant and adopt a resolution.

Enactment No.: Resolution No.: 2023-59

7.3. Acceptance of an Office of Traffic Safety Traffic Records Improvement Program Grant for \$24,800 and Adoption of a Resolution of the City Council of the City of Gilroy Approving a Fiscal Year 2024 Budget Amendment

A motion was made to accept the Office of Traffic Selective Traffic Improvement Program Grant and adopt a resolution.

Enactment No.: Resolution No.: 2023-60

7.4. Acceptance of an Edward Byrne Memorial Justice Assistance Grant for \$19,822 for the Police Department and Adoption of a Resolution of the City Council of the City of Gilroy Approving a Fiscal Year 2024 Budget Amendment

A motion was made to accept the Edward Byrne Memorial Justice Assistance Grant and adopt a resolution.

Enactment No.: Resolution No.: 2023-61

7.5. Approval of a Notice of Acceptance of Completion for the Gilroy Sports Park Playground Surface Repair Project No. 23-PW-276 and Approval of a Final Contract Amount with Itech Solution of \$144,098.78

A motion was made to approve the Notice of Acceptance of Completion.

8. BIDS AND PROPOSALS

There were none.

9. PUBLIC HEARINGS

9.1. Public Hearing Regarding the Proposed Water and Wastewater Rate Increases

Finance Director Sangha provided staff presentation and responded to Council Member questions.

Mayor Blankley opened the Public Hearing at 6:48 PM.

The following members spoke in opposition to the item:

Aileene Edsinger
Andrew Didomenico
Matt Newton
Jon Vollertsen

There being no further speakers, Mayor Blankley closed the Public Hearing at 6:57 PM.

City Clerk Pham declared that there were 31 protest letters received after the closure of the Public Hearing.

Motion: Adopt as final the August 2023 Comprehensive Water and Wastewater Utility Rate Study Report prepared by NBS.

RESULT: Pass

MOVER: Dion Bracco, Mayor Pro Tempore

SECONDER: Marie Blankley, Mayor

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

NAYS: Council Member Tovar

ABSENT: Council Member Cline, Council Member Hilton

Motion: Adopt a resolution approving water and wastewater rate adjustments.

RESULT: Fail

MOVER: Dion Bracco, Mayor Pro Tempore

SECONDER: Marie Blankley, Mayor

AYES: Mayor Pro Tempore Bracco, Council Member Marques, Mayor Blankley

NAYS: Council Member Armendariz, Council Member Tovar

ABSENT: Council Member Cline, Council Member Hilton

Motion: Adopt the resolution approving the water and wastewater rate adjustments at 6% annually over five years.

RESULT: Pass

MOVER: Dion Bracco, Mayor Pro Tempore

SECONDER: Carol Marques, Council Member

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

ABSENT: Council Member Cline, Council Member Hilton

Enactment No.: Resolution No. 2023-62

10. UNFINISHED BUSINESS

10.1. Recommendations for Updates/Improvements to the Gilroy Garlic Festival Memorial at Christmas Hill Park

City Administrator Forbis provided staff presentation and responded to Council Member questions.

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

The Council directed staff to proceed with the actions for updates and improvements to the Gilroy Garlic Festival Memorial at Christmas Hill Park as described in the staff report.

11. INTRODUCTION OF NEW BUSINESS

11.1. Authorize the City Administrator to Enter into a Three-Year Service Agreement with the County of Santa Clara for Animal Sheltering Services for the Period of July 1, 2023, through June 30, 2026

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

Mayor Blankley opened Public Comment.

The following speakers spoke in favor of the item:

Karen Fortino
Kathy Hodgdon
Paula Myers
Sharon E. Girard
Michelle Rodriguez

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

Motion: Authorize the City Administrator to sign a three-year service agreement with the County of Santa Clara for Animal Sheltering Services from July 1, 2023, through June 30, 2026.

RESULT: Pass

MOVER: Marie Blankley, Mayor

SECONDER: Fred Tovar, Council Member

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

ABSENT: Council Member Cline, Council Member Hilton

11.2. Annual Review and Adoption of the City's Investment Policy

Finance Director Sangha provided staff presentation and responded to Council Member questions.

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

Motion: Adopt a resolution establishing the City's updated Investment Policy.

RESULT: Pass

MOVER: Carol Marques, Council Member

SECONDER: Fred Tovar, Council Member

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

ABSENT: Council Member Cline, Council Member Hilton

Enactment No.: Resolution No. 2023-63

12. CITY ADMINISTRATOR'S REPORTS

City Administrator Forbis provided the City Administrator's report.

13. CITY ATTORNEY'S REPORTS

There were none.

14. ADJOURNMENT

Mayor Blankley adjourned the meeting at 7:49 PM.

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

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

7.2. Adoption of Revised City of Gilroy Records Management Policy and Compliance with the California Public Records Act (CPRA) Recodification Act (AB 473)



City of Gilroy

STAFF REPORT

Agenda Item Title: Adoption of Revised City of Gilroy Records Management Policy and Compliance with CPRA Recodification Act (AB 473)

Meeting Date: November 6, 2023
 From: Jimmy Forbis, City Administrator
 Department: City Clerk
 Submitted By: Thai Nam Pham, City Clerk
 Prepared By: Thai Nam Pham, City Clerk

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

It is recommended that the City Council adopt a revised version of the City of Gilroy Records Management Policy.

EXECUTIVE SUMMARY

The City of Gilroy adopted the Records Management Policy on November 5, 2015, as part of the Council's 2015 strategic planning process. However, with the enactment of the CPRA Recodification Act (AB 473) by the state legislature in 2021, certain California Government Codes referenced in the 2015 policy require an update. The changes brought about by AB 473 were nonsubstantive and intended to reorganize the Public Records Act law without altering its underlying principles.

In light of these legislative changes, a revised policy has been prepared to address the outdated referenced Government Code and incorporate updates related to the City's Electronic Document Management System, Laserfiche, which was not in place at the time of the original policy. The attached revised policy ensures compliance with current regulations and supports the maintenance and preservation of all City records.

ANALYSIS

The revised City of Gilroy Records Management Policy addresses the necessary updates to the referenced California Government Codes and incorporates provisions regarding the use of Laserfiche as the City's Electronic Document Management System. These updates will enable City staff to effectively manage and preserve records in accordance with regulatory requirements.

ALTERNATIVES

The City Council may choose to modify or not to adopt the revised policy. If Council does choose to modify the policy, the proposed modifications should align with requirements and best practices.

FISCAL IMPACT/FUNDING SOURCE

There is no direct fiscal impact associated with the adoption of the revised policy. The policy updates are primarily administrative in nature and can be implemented within existing budgetary resources.

PUBLIC OUTREACH

No public outreach efforts were conducted specifically for this policy revision. However, this agenda item was included in the publicly posted agenda for this meeting. The revised policy aligns with best practices in records management and supports transparency and accountability in the City's operations.

NEXT STEPS

If the City Council adopts the revised City of Gilroy Records Management Policy, it will become the guiding document for all City staff in managing and preserving records. The City Clerk's Office will oversee the implementation and ensure staff members are informed about the policy's requirements and procedures.

Attachments:

1. Draft City of Gilroy Records Management Policy (Redline)
2. Draft City of Gilroy Records Management Policy (Clean)



~~City of Gilroy~~

~~Records Management Policy~~



City of Gilroy

Records Management Policy

Adopted MM/DD/YYYY

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DRAFT

Introduction

~~Records should be easily accessible~~Effective records management is vital for the City of Gilroy to ~~aid~~support staff in ~~completing their work~~, and ~~to facilitate~~ensure the efficient operation of the city. A sound records management system ~~provides many benefits to our municipality~~. Accessible records not only benefit our dedicated employees ~~but also uphold~~ the staff that uses it and the public who have a public's right to examine the City'sCity's records, ~~which document our rich history~~. This manual ~~is designed to assist city staff in the~~serves as a comprehensive guide, equipping City staff with the knowledge and tools necessary for effective records management of the City's records and to ensure for the preservation of our valuable records that document the history of the City.

In addition to the City'sCity's established ~~policies for~~ records management, ~~the City policies~~, it is ~~obligated to ensure~~imperative that it ~~is in compliance~~we comply with other local, state, and federal mandates ~~that provide direction regarding governing~~ records retention. These mandates provide essential guidance and direction to ensure proper handling and accessibility of records.

~~In 1968 the California State Legislature passed the~~

The California Public Records Act ("CPRA" or the "Act", Government Code §6250 et seq.), which was modeled after), passed by the California State Legislature in 1968 and amended over time, grants the public access to government information, following the model of the Federal Freedom of Information Act (FOIA), and details what government information is and is not available to the public. In general,). While most records created and held by the City are ~~subject~~generally open to public examination ~~by the public with the exception of~~, specific exemption categories. ~~These exist~~. Further details regarding these exemptions ~~are discussed in further detail~~can be found in this manual ~~and are outlined, as well as in the~~ California Government Code §6254 and relevant case law. ~~Theor its successor, along with relevant case law.~~

To promote transparency and public access, the City of Gilroy enacted legislation in 2008 entitled "the Gilroy Open Government Ordinance" (GCC §17.A which provides for more §17.A) in 2008. This local legislation enhances the public availability of records and ~~fewer~~reduces the number of exemption categories ~~than~~compared to FOIA and the CPRA.

~~In~~Within the State of California, the elected Secretary of State ~~is charged with~~assumes the responsibility of establishing ~~at the~~ Local Government Records Program ~~(CA GC§12236). The~~(CA GC§12236). This program ~~was~~, established in 1999 with the assistance of the City Clerk Association of California, ~~and is~~ overseen by the State Archives to ensure proper records management at the local level.

Locally

At the local level, the Gilroy City Council provides ~~direction~~guidance and adopts policies ~~regarding governing~~ the production, maintenance, preservation, and disposition of records. This guidance is ~~accomplished by~~reflected in the creation, implementation, and adherence to the City'sCity's Record Retention Schedule. The City's Retention Schedule is maintained and updated as necessary by the City Clerk, ~~which is created, implemented, and regularly updated by the City Clerk to meet evolving needs and legal requirements.~~

On November 2, 2015, the Gilroy Council adopted the City Records Management Policy, marking an important milestone in our commitment to effective records management.

Additionally, in 2021, the state legislature enacted the CPRA Recodification Act (AB 473). Effective January 1, 2023, this act renumbered and reorganized the CPRA into a new Division 614 of the Government Code, beginning at §7920.005. Importantly, AB 473 was intended to be entirely non-substantive in effect, with no substantial changes to the law relating to the inspection of public records. Every provision of this act shall be

applied to Division 614 and AB 73 in a manner consistent with the non-substantive intent of the act.

Modifications and Additions of This Manual

~~Because~~As records ~~involve activities that are constantly changing, retention requirements for records frequently require revision. Consequently management practices continually evolve,~~ this manual will ~~need~~require periodic modifications ~~or~~and additions to ~~be~~remain realistic and effective. ~~There may be some retention~~Retention periods and disposition requirements ~~that may change between major reviews of the manual over time, necessitating updates.~~ The Office of the City Clerk welcomes ~~all~~ comments and suggestions ~~concerning these types of~~ for necessary modifications and additions: to ensure the ongoing relevance of this manual.

Contact Us

For further information on any records management or preservation issues, please contact:

Office of the City Clerk ~~—(408) 846-0204~~ 7351 Rosanna Street Gilroy CA 95020
7351 Rosanna Street, Gilroy, CA 95020
(408) 846-0204

Chapter 1 - Establishing a Records Management System

Every day, the City of Gilroy ~~produces~~generates records that document the government's actions ~~of the government~~ and the community's history ~~of the community~~. It is the City's responsibility ~~of City~~ to effectively maintain and manage these records ~~and to ensure the continued~~, ensuring their preservation ~~of those records~~ as essential evidence ~~that has~~with enduring and permanent value.

Records management ~~is~~encompasses more than the retention, storage, and disposition of records; ~~it entails~~. It includes all ~~record-keeping-the~~ requirements and practices related to record-keeping that allow~~enable~~ an organization to establish and maintain control over information flow and administrative operations. ~~Complete~~A comprehensive records management ~~systems-controls~~system controls and manage~~manages~~ records throughout their life cycle, from ~~their~~ creation through active use, inactive storage, and final disposition. ~~Records retained~~Retaining records beyond their necessary duration can lead to an accumulation of documents, making management challenging and potentially hindering the organization's efficient operation, especially when many of these documents may no longer hold value ~~“just in case” may possibly extend the agency’s legal exposure in the event of adverse litigation or investigation.~~

Objectives of a Records Management System:

- Develop policies and procedures for records management;
- Conduct a survey or inventory of records in all formats;
- Utilize technology ~~to create, store~~for creating, storing, and ~~retrieve~~retrieving records;
- ~~Destroy~~Properly destroy records at the end of their retention period and document destruction;
- Store inactive records in a cost-effective and secure location;
- Identify and preserve vital records;
- Identify and preserve permanent records;
- Develop a disaster preparedness plan to protect and recover records;
- Implement filing and indexing systems.

Benefits of a Strong Records Management Program:

- Space savings;
- Reduced expenses for filing equipment;
- Increased efficiency ~~of in~~ information retrieval;
- Compliance with records retention requirements;
- Identification and protection of vital records;
- Control over ~~the~~ creation of new records;
- Identification of historical records.

Designating a Records Coordinator

Each department ~~may~~will need to identify a person who will ~~help to coordinate~~assist in coordinating the ~~department’s~~department's records program, and ~~who understands~~possess an understanding of the retention disposition of ~~the~~ department records. This person does not necessarily have to ~~behold~~ a ~~formal~~formally designated position ~~whose sole responsibility is~~solely responsible for records oversight. Often ~~this, it is a person~~ whosomeone to whom the Department Head can delegate decision ~~making~~ authority ~~to~~ over the ~~department’s~~department's records.

Record Inventories

A critical part of ~~An essential step in~~ establishing a ~~record~~records management system is to identify existing records. Agencies ~~need to know must be aware of~~ what records they have, ~~where they are kept~~their storage locations, the volume of records, and how they are ~~used~~utilized. Inventories are not ~~a list~~detailed lists of every single page or document. Instead ~~an inventory is done, they are conducted~~ at the record category level and should include:

- **Record category**—this ~~Category~~—This should ~~match~~align with the ~~City's~~City's Record Retention Schedule. During ~~an~~the inventory ~~a~~process, new record ~~category might~~categories may be identified and ~~need to be~~ added to the retention schedule.
- **What format**Format(s) is the record is kept in—~~it~~Record Kept In – It is important to note if the record ~~is~~exists in multiple ~~places and/or~~ formats or locations. For example, is the record ~~kept in~~stored as hard ~~copy~~copies in the file room and ~~kept~~ electronically on a computer drive. ~~Ultimately?~~ Ideally, records should not be ~~held in more than one location; however~~duplicated across multiple locations. However, during ~~an~~the inventory, it is ~~important to note where all records are so~~as crucial to identify all storage locations to avoid duplications.
- **The length**Length of retention~~Retention of the~~ records—~~it~~Records – It is important to be as specific as possible, ~~making sure to include~~including the purpose of the retention period.

Record inventories, when

When well-planned ~~need not~~, record inventories should take at most a few days or weeks of staff time to conduct. The City Clerk is available to prepare and assist staff within conducting record inventories and subsequently ~~creating~~establishing a ~~record~~records management system. It is recommended ~~that the inventory to~~ begin the inventory with active records and those ~~that are~~ unique to the department's function ~~of the department~~. This inventory should include all records ~~in the inventory~~, regardless of format or storage location. Once ~~these~~the categories are identified ~~it, they~~ should be described in ~~such a way so that a person who has no knowledge of that~~ even someone unfamiliar with the department or the City can easily understand ~~what is contained in the~~ content of each series.

See Appendix A for Sample Worksheet

For a sample worksheet, refer to **Appendix A.**

Chapter 2 - Filing & Storage Practices

When ~~discussing~~considering filing or ~~records~~, generally thoughts turn to paper files and paper filing systems; however, in ~~record-keeping~~, it is important to recognize that the City of Gilroy, filing and retention Gilroy's practices ~~are applicable~~apply to both electronic and hard-copy records. All ~~of the~~ principles applicable to the paper filing ~~system are~~systems also ~~important to an electronic filing system and should be applied the same~~. When ~~creating paper or~~ hold true for electronic filing systems the department should be mindful and create. When ~~establishing~~ a filing system ~~that is simple, easily accessible by~~, departments should aim for simplicity, easy accessibility for all staff, ~~used~~ department-wide use, and ~~well-managed~~effective management to ensure proper and timely disposition.

~~There are several different ways~~ Various methods can be used to establish a filing system: such as alphabetical, numerical, alphanumeric, ~~by~~ function-based, or series-driven. ~~There are~~ Each type has its pros and cons ~~to each type of filing system~~, and ~~no one~~ a solution ~~is appropriate~~should be found for citywide implementation. Regardless of ~~what type of the chosen~~ filing system a department uses, it is imperative that records are "must be filed" or kept/maintained in accordance ~~to~~with the City's/City's Record Retention Schedule. Contact the City Clerk for assistance in developing a filing system.

Choosing Files to Maintain

Maintaining filing systems, especially paper-based ones, can be very costly; ~~particularly paper filing systems as they require the purchase of~~, requiring expenses for filing supplies, space, and staff time ~~to establish, manage for establishment, management~~, and ~~retrieve/file materials~~. Record coordinators ~~should be mindful when retrieval~~. When determining which records ~~their departments are going to maintain~~. Coordinators, record coordinators should consider the following:

- Is this record listed on the City's record retention schedule? All records ~~maintained~~kept at the department level should be listed on the Citywide or department-specific portion of the ~~record~~ retention schedule.
- Does this record exist electronically? ~~Records that exist electronically should not be printed~~ Printing electronic records solely for the ~~sole~~ purpose of maintaining having a paper copy: is unnecessary.
- Is my department the office of record? If another department is responsible for maintaining a record, a department may ~~choose to temporarily~~ keep it ~~for a short time~~ in a working file, but ~~there is no need to maintain duplicates~~ should avoid duplicating files. For ~~example~~ instance, the Office of the City Clerk is serves as the office of record for city council minutes, resolutions, and ordinances. Departments do not need to keep/maintain these records in paper or electronic files ~~as the records~~ since they are easily accessible through ~~the~~ a Citywide Electronic Content Management System (ECMS ~~=~~), such as Laserfiche).

Selecting Storage Areas

When ~~deciding~~determining where files ~~are going to~~should be located, several ~~things~~factors should be considered:

- Is the file area easily accessible ~~by staff~~ and centrally located ~~to~~ for staff within the workgroup ~~that will be using the files?~~

Is

- Does the room ~~appropriate for records (i.e., space~~meet the requirements for ~~the cabinets to be opened and closed with~~storing records, such as ease of opening and closing cabinets, climate ~~controlled~~control (not damp or wet), ~~well lit~~proper lighting, and ~~free~~absence of ~~critters~~pests?
- Can the room be secured to ~~permit the storage of~~store sensitive or confidential records? ~~Can the~~Is access ~~be~~ restricted to prevent unauthorized removal and ensure the orderly return of files?

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Paper is very heavy and files can add up quickly. Shelving become heavy, and their numbers can accumulate rapidly. To prevent toppling or collapse, shelving and cabinets should be anchored to prevent toppling or collapse securely. Select shelving that can hold a total capable of supporting 50 pounds per square foot. The spacing between shelves should be spaced so that accommodate the easy placement and removal of record storage boxes can be easily placed and removed.

It is not ideal to store

Storing frequently accessed records in storage boxes is not ideal. Reserve the use of storage boxes for records at, or nearing, the end of their active period, or that are going into those intended for long-term storage. Boxes should be uniform, it is recommended that to use uniform boxes measuring 15"x10"x12", be used. Boxes that are larger are "x10"x12". Larger boxes can be more difficult to manage and move. Odd, while odd-sized or multiple-sized boxes do not stack well, and can cause a dangerous collapse may lead to hazardous collapses or damaged records.

Boxes should be filled, but not packed so tightly that records cannot be easily removed or inserted into the box or removed. When storing records in boxes, staff should be sure to leave room for any records that might need to be inserted into the box at a later date. potential future additions. Boxes should be clearly labeled with on both short ends, displaying the contents and disposition information on the outside of the box, on both short ends so that it is always showing. See Appendix B for Sample Box Label. Refer to Appendix B for a Sample Box Label.

Naming Conventions

When creating establishing a naming convention system, staff should consistently utilize the same use commonly understood words and terms for file naming, refraining from using avoiding abbreviations or jargon. The naming convention that is established designed for a paper filing system should also be designed so that it can be used usable in an electronic filing environment, and vice versa. Traditionally two components of Typically, a naming system are consists of the record category and date components. When departments issue assign project numbers, or permit numbers, or something similar where the year is used involved, the year should be represented as a four-digit date. For example a police report should be (e.g., 2011-0001, not 11-0001.) to ensure clarity. It is recommended that department's to use categories established in the Record Retention Schedule. Equally important is to Additionally, spell out all words, as to avoid different people will abbreviate the same words differently. There are some universal abbreviations by different individuals. Universal records management abbreviations can be used where applicable.

File System Index

When If a department chooses decides to use a filing system index the department, it should index what list the filed records are filed, and where they are filed. File their locations. The file location information can be as range from providing a high-level as listing the category description of the record category and the office of holding the files location, or as to providing specific details such as listing the room, file cabinet, and drawer where the file is kept. This index should be regularly updated as records are added or removed from the system and reviewed annually.

File Tracking

It is important essential to track files as they are temporarily leave the removed from filing cabinet, room, cabinets or are rooms or recalled from off-site storage. A sign Sign-out card cards can be used and inserted into the location from where the file was removed. Ataken. The sign-out card will show should include the date of the

removal and ~~who has~~the person responsible for the file. This ~~will maintain~~practice ensures the integrity of the system and ~~aid~~aids in the retrieval of ~~the record should it be~~records when needed.

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Disposition

In a paper filing system ~~it is helpful if the folder is,~~ folders can be set up with ~~a label~~labels indicating the date ~~that when~~ the ~~record is~~records become eligible for disposition, along with the naming convention. If ~~the a~~ folder contains records ~~that will have with~~ different disposition dates, ~~it this information~~ can be noted on the folder label. ~~This will alert~~It alerts staff that the folder ~~will need to be reviewed periodically~~requires periodic review for the proper disposition of items. For electronic records ~~held stored~~ in Laserfiche, ~~this the disposition~~ date is assigned ~~when upon entering~~ the record ~~is entered~~ into the system. If the department ~~is using uses~~ an electronic system other than Laserfiche, this information should be ~~added to~~included in the file title or ~~in the~~ metadata/properties ~~of the file~~.

It is important to remember that ~~not all records are meant to be retained indefinitely~~ just because ~~a record exists, it is not required, expected, or feasible that the record will live in perpetuity. they exist.~~ Filing systems ~~records need to~~must be reviewed annually, and ~~records should be~~ disposed of ~~in accordance with~~according to the records retention schedule. Permission ~~must be requested prior to the disposition should be obtained before disposing of~~ records, and the approval ~~paperwork~~documentation will ~~then serve as the history record of what occurred with the records disposition process.~~

Chapter 3 - Electronic Files

~~Departments within the~~The City of Gilroy ~~may utilize~~utilizes an electronic repository ~~to where departments can~~ store both permanent and ~~transitory~~temporary documents. All electronic records ~~are subject to~~must follow the retention schedule and ~~shall be disposed of in accordance with it. Once fully implemented, the~~accordingly. The City ~~will utilize~~utilizes Laserfiche as ~~the~~our official Trusted System for ~~the storage of storing~~ electronic records.

Retention of Original Documents:

California Government Code 34090 et. seq. permits the City to destroy some original documents after they have been ~~document~~-imaged and retained ~~in accordance with~~per the Secretary of ~~State's~~State's Uniform Statewide Standards. Laserfiche meets ~~the requirements of~~these standards and ~~will be~~is the City's Trusted System. However, ~~certain historical records, like those affecting property titles, court records, must be utilized as the~~retained in their original form, regardless of whether they have been imaged. ~~city's Trusted System once fully implemented. However, some records of historical nature that begin as hardcopy records must be retained in original form regardless if they have been document-imaged. This would include: records affecting the title to real property or liens thereon, court records, minutes, resolutions and ordinances of the legislative body, or of any city board or commission.~~

Electronic File Storage

While ~~in the previous chapter it was noted that the guiding principles of file management are pretty much the same~~similar for ~~both paper/hard copy and electronic files as they, there are for some differences to consider. When it comes to~~electronic files, ~~some differences still remain. Electronic files we should be treated~~treat them the same way as paper files ~~when considering~~regarding naming conventions, accessibility, retention, and disposition. Additionally, electronic files can ~~also be assigned~~have additional information ~~known as~~called metadata.

Metadata: According to the National Information Standard Organization, “

Metadata is structured information that describes, explains, locates, or ~~otherwise~~ makes it easier to retrieve, use, or manage an information resource.” Clear and ordered, as defined by the National Information Standard Organization. We should use clear and organized metadata should be used to categorize records stored in Laserfiche. This is calleddescriptive metadata used forhelps in basic identification through preset fields.

It is important to identify the most ~~likely material~~relevant information that would assist ~~a person~~someone searching for a record. The metadata requirements should ~~not be so complex or extensive that it is difficult~~be simple and manageable to maintain.

Example: —Contract with Valley Landscaping_

Type	:	Contract
Vendor Name	:	Valley Landscaping
Metadata	:	Agreement for landscape services at city-owned parks, facilities, and streetscape
Project #	:	Project # 12-RFP-PW-362

~~Metadata: Agreement for landscape services at city owned parks, facilities and streetscape
Project # 12-RFP-PW-362~~

File Formats

When selecting ~~the~~a format ~~that will be used~~ for document storage, there are **two** main considerations:

1. What electronic format is ~~permitted~~allowed for archival storage ~~of records~~ by the California Secretary of State?; *and*
2. What format is commonly used by staff and the public?

~~When selecting from the file formats permitted by the Secretary of State, it~~It is ~~important~~crucial to consider the accessibility of the ~~choose a~~ format to ensure it is something that is accessible and commonly understood. ~~Most importantly~~Additionally, the ~~format selected~~ format should be something that has ~~had~~have market longevity and proven migration examples.

~~Electronic to ensure the records can be invaluable, but they can also become obsolete or worse, unusable if the format they are stored in cannot continue to migrate to new and available versions~~remain usable over time.

Laserfiche ~~allows for storage of many different~~ supports various file formats, including ~~files originating in~~ Microsoft Office files, Portable Document Format and Format/A (PDF and PDF/A), and Rich Text Format (RTF).

Storage

There are a variety of ways to store electronic files and media:

- ~~On a local computer;~~
- ~~On the~~ **Local computer storage**: Storing files on individual computers is not recommended due to vulnerability and the risk of loss, theft, or damage.
- ~~City network drive~~: Storing files on the City network via a network drive folder;
- ~~CD/DVD or other removable drive;~~
- ~~Laserfiche (city Laserfiche server)~~
- Document storage on CD/DVD, removable drives, and/or a local staff computer is inadvisable. Records stored on these mediums are very vulnerable and often difficult, if not impossible, to restore if lost, stolen, or damaged. File storage on the City's Network via a shared or network drive does provide more provides better security and is backed up for disaster recovery, but still is not the optimal storage place. Network drives usually have specific or limited backup options. However, access, thereby preventing the easy to network drives is often restricted, making it challenging to access of city records. Additionally, records stored on network drives are rarely reviewed or, purged and are not, or automatically set to retention. ~~Ideally all of the City's electronic records would be stored in Laserfiche. The system provides security and redundancy as well as placing retention on the items stored in the system.~~
- **USB, CD/DVD**, or other removable drives: Storing records on removable drives is discouraged as they are vulnerable and difficult to restore if lost or damaged.
- **Laserfiche**: Ideally, all electronic records should be stored in Laserfiche. This system offers security, redundancy, and retention capabilities, ensuring the integrity and accessibility of city records.

Chapter 4 - Identifying Records

The simplest way to identify Under the California Public Records Act, a 'public record' is defined as any writing or recording that contains information related to the conduct of the public's business, regardless of its physical form or characteristics. This aligns with the City of Gilroy's understanding and interpretation. Records can include various forms such as video, audio files, and writings stored in computer systems used for conducting business.

Identifying records is a crucial step in effective records management. By consulting the City's Retention Schedule, staff can easily determine if a material isqualifies as a record-is to consult the City's Retention Schedule. If the material in question is identified listed on the schedule, staff is obligated to maintain the recordit must be maintained in accordance with the schedule. One of the most specified retention period. However, sometimes it can be challenging aspects of records management can be determiningto determine if a document or media is a record when it is not identifiedmentioned on the schedule. In these situations, such cases, staff should conductfollow the records test provided on the followingnext page to assist them in determininghelp make an initial finding regarding the record's status determination. If it is still unclear or if the material is clearly a record or if it is clear that the material is a record, but is not included on the schedule, staff should contactreach out to the City Clerk's Clerk's Office for additionalfurther assistance.

What is a Record?

Records areencompass any writing or recording that contains information related to the conduct of the public'sCity's business prepared, owned, used, or retained by the City, regardless of physical form or characteristics. "Regardless of its physical form" or characteristics. This means that records can include video, audio files, and writings stored in a computer systemsystems used to conductfor conducting business are also records.

SomeCertain records, because of their hold enduring administrative, fiscal, legal, or historical value, and should be permanently retained. These records require that special care and consideration be given to their in terms of storage conditions and enduringlong-term preservation. Examples of permanent records include meeting minutes from Brown Act governed bodies, resolutions, and ordinances. ThoseOn the other hand, records with short-term value should, upon reaching the end of the retention period, be destroyed once their retention period expires.

Non-Records

Even thoughWhile records includecover a broad spectrumwide range of recorded information, not all informationmaterials held by the City is a record. Examplesqualify as records. Here are examples of non-records include the following materials:

- Identical copies of documents maintainedstored in the same file;
- Extra copies of printed or processed materials;
- Superseded manuals and other directives (maintainedkept outside the office of record);
- Blank forms;
- Materials received from other agencies, peopleindividuals, or businesses that require no action;
- Catalogs, trade journals and other, publications, or papers received from government agencies, commercial firms, or private institutions that require no action and are not part of an actionactive case record.

Non-records do not require need to be scheduled for retention scheduling or undergo destruction authorization or reporting. To controlavoid excessive accumulation, it is necessary to keepretain only current, and useful materials and to destroy, promptly destroying non-records immediately after needs haveonce their purpose has been satisfiedfulfilled. Staff should take carebe careful not to filemix non-record materialmaterials with records when filing.

What is a Record?

1. Was the material mandated by statute or regulation?
2. Does the material support a financial or legal claim/obligation?
3. Is the material required to operate a City program or provide program support?
4. Was the material created or received during the conduct of City business?
5. Does the material document or facilitate:
 - The City's actions
 - Formulation of policies & decisions
 - City's directives
 - Board, committee meeting minutes
6. Does the material protect government and individual rights and interests?
7. Was the material filed, stored, or otherwise systematically maintained by the City?
8. Is the material appropriate for either permanent or temporary preservation by the City?
9. Does the material have administrative fiscal or legal value?

If you answered yes to any of the questions the material is most likely an official record. This could include but is not limited to:

- Decision Papers;
- Correspondence;
- Video or Audio Files;
- Reports;
- Publications

If you answered no to the questions the material is most likely a non-record. This could include but is not limited to:

- Materials that do not contribute to an understanding of the City's operations or decision making processes;
- Materials that have no substantial programmatic value;
- Extra copies of official records that are obtained elsewhere such as council staff reports.

WHAT IS A RECORD?

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If you answered **yes** to any of the questions, the material is most likely an official record. This could include but is not limited to:

- Decision Papers;
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8. Is the material appropriate for either permanent or temporary preservation by the City?
9. Does the material have administrative, fiscal, or legal value?

If you answered no to the questions, the material is most likely a non-record. This could include but is not limited to:

- Materials that do not contribute to an understanding of the City's operations or decision-making processes;
- Materials that have no substantial programmatic value;
- Extra copies of official records that are obtained elsewhere, such as council staff reports.

Chapter 5 - Access, Privacy, and Freedom of Information

The City of Gilroy ~~understands~~recognizes and supports the ~~public's need and more importantly their public's right~~ to access the majority of ~~the~~ records created and maintained by the City. ~~The City shall accept, review, and respond to all public record requests received, regardless of how they were submitted, by whom they are received from or the reason the request was submitted in~~In accordance with the California Public Record Request Act (CPRA, ~~California Government Code §6250 et seq.~~) and the Gilroy City Code (Open Government Ordinance GCC §17.A). ~~City staff will~~, the City accepts, reviews, and responds to all public record requests received, regardless of the submission method, source, or purpose of the request. City staff is available to assist in identifying responsive records by, describing the ~~City's~~City's records, ~~location of records and their locations~~, and providing suggestions ~~in order to avoid obstacles to~~to ensure unobstructed public access to records.

The City is obligated to respond to all requests within ~~twenty four (24) hours of receipt of a request, either to provide~~by providing the requested record or ~~to identify~~indicating that the record will be provided within ~~no more than ten (10) calendar days of receipt of the request, although~~. However, most requests can and should be fulfilled in ~~less time~~. There is ~~nothing in these laws that permit the City to hold a response for ten (10) days when a record is readily accessible.~~

It is a shorter timeframe. It's important to note that "a "response"" does not necessarily mean the immediate production of records. ~~For the purpose of a public record request a response may~~It can also be an email or a letter ~~advising the requester that~~informing the requester of the

availability of responsive records are available for review, stating that states that the City does not have any no records responsive to matching the request exist, or that the City is invoking theirthe right for a 10-14-day extension (GCC §17.A.25) should in cases of unusual circumstances exist.

What is a Public Record?

PerAs outlined in Chapter 4 and in accordance with the California Public Records Act (CA CG §6250 et seq.): A "public record" includes, a 'public record' encompasses any writing containingor recording that contains information relatingrelated to the City of Gilroy's conduct of the public'spublic business prepared, owned, used or retained by the City of Gilroy regardless of physical form or characteristics. Records are. This includes, but is not just printed or hand-written documents, they may belimited to, video recordings or, database information in a database. "Writing" means handwriting, typewriting, printing, photo-stating, photocopying, photographing, transmitting by electronic mail or facsimile, and every, and other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds or symbols or any combination thereof, and any record thereby created, regardless of the manner in which the record has been stored. Staff should always refer back to Chapter 4 for a comprehensive understanding of what constitutes a record and the importance of differentiating between records and non-records.

What-

Records are Exempt from Disclosure?

While the intent of the California Public Record Act isCPRA aims to protect the public'sensure public access to records, it also outlines whatexemptions for certain information is not covered by the Act and what informationthat the City is prohibited from releasing. The Act exempts certain records from disclosure in whole or in part, they are outlined in section 6254 of the Government Code and disclosing. These exemptions are defined in § 7927.5000 of the Government Code, as well as case law. This does not mean they are not public records or that disclosure is prohibited. TheIt's important to note that although the City may withhold thethese records, butit can choose to allow greater access if it wishes. (CA GC§ 6253(e)).desired. However, "selective" or "favored" access is prohibited; once it. Once a record is disclosed to one requester, the record isit becomes public for all. (CA GC§ 6254.5).

The Gilroy Open Government Ordinance limits many of the exemptions provided under the CPRA, providing more access to a number of types of records exempted under the California government code. Some categories of records exempt the Act itself (CA GC§§ 6254(a)-(z)), some by other laws (CA

GC§§6275-6276.48) and some by case law. Below is a partial listing of exemptions:

The Gilroy Open Government Ordinance extends access to several types of records that are exempted under the California Government Code. Exemptions can be categorized as exemptions provided under the CPRA itself, exemptions provided by other laws, and exemptions based on case law. Some examples of exemptions include employees' private papers unless they relate to public business, computer software developed by the City, records not yet in existence, attorney-client communications, certain home addresses, records concerning agency litigation, personnel, and medical files, police incident reports, and financial data submitted for licenses or permits. Staff who are still determining whether a record should be released, exempted, or redacted should consult with the City Clerk's Office or the City Attorney's Office for guidance. Below is a partial list of exemptions:

- Employees' private papers, unless they "relat[e] to the conduct of the public's business [and are] prepared, owned, used, or retained by the agency." (CA GC §~~6252(e)~~.7920.530, or its successor).
- Computer software "developed by a state or local agency ... includ[ing] computer mapping systems, computer programs, and computer graphic systems." (§§~~6254.9(a),(b)~~). (§ 7922.585, or its successor).
- Records not yet in existence: The CPRA covers only records that already exist, and an agency cannot be required to create a record, list, or compilation. "Rolling requests" for future-generated records are not permitted.
- Attorney-Client communications are confidential, including all communications between the City Attorneys, Department Heads, and staff (§§ 7927.705, 7927.205, 7930.110).
between the City Attorneys, Department Heads and staff. (§§ ~~6254(k)~~, 6254.25, 6276.04)
- Home Addresses in DMV, voter registration, gun license, public housing, local agency utility, and public employee records are exempt, as are addresses of certain crime victims. (§§~~6254(f)~~, ~~(§§7923.600, 7923.800~7923.805)~~, 7927.415~~6254.1, 6254.3, 6254.4, 6254.16, 6254.21)~~, 7928.300, 7924.000, 7927.410, 7928.205).
- Records concerning agency litigation are exempt, but only until the claim is resolved or settled. The complaint, claim, or records filed in court, records that pre-date the suit (e.g., reports about projects that eventually end in litigation), and final settlement records are public. (§§ ~~6254(b)~~, 7927.200, 7927.205~~6254.25~~; Register Div. of Freedom Newspapers, Inc. v. County of Orange, 158 Cal. App. 3d 893 (1984)).
- Personnel, medical and similar files are exempt only if disclosure would reveal intimate, private details. (§ ~~6254(e)~~.7927.700). Employment contracts are not exempt. (§ ~~6254.8~~7928.400).
- Police Incident reports, rap sheets and arrest records are exempt (Penal Code §§ 11075, 11105, 11105.1), but information in the "police blotter" (time and circumstances of calls to police; name and details of arrests, warrants, charges, hearing dates, etc.) must be disclosed unless disclosure would endanger an investigation or the life of an investigator. Investigative files may be withheld, even after an investigation is over. (CA GC § ~~6254(f)~~.7923.600-7923.625). Identifying data in police personnel files and misconduct complaints are exempt, but disclosure may be obtained using special procedures under Evidence Code ~~section~~§ 1043.

- Financial data submitted for licenses, certificates, or permits, or given in confidence to agencies that oversee insurance, securities, or banking firms; tax, welfare, and family/adoption/birth records are all exempt. ~~(§§ 6254(d),(k),(l), 6276~~(§§ 7929.000, 7927.705, 7928.000, 7930.005, or its successors).

Staff who are unsure whether a record should be released, exempted, or redacted should contact the City Clerk's Office or the City ~~Attorneys'~~Attorney's Office.

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Preparing a Response to a Records Request

~~In some instances, When responding to a response might be advising the requestor the records are available for their review, notification that the city does not hold any responsive records, or initiating request, staff shall provide a written response, such as an extension of the response period. Responses are generally done in writing (either mail or email), when possible. If or letter, unless the requestor cannot be reached in writing, staff in which case any telephone or in-person communication should make a note be noted on the request form of any telephone or in-person communication.~~

Once the responsive documents are collected, they must be reviewed to ensure that only records ~~permitted to be disclosed~~eligible for disclosure are released, and any necessary redactions and citations for withholding ~~have been~~are completed, ~~if required.~~ The staff ~~person member~~ assisting with the request will then notify the requestor when the records are available for review, or provide them ~~by email~~electronically or in person ~~accordance with, as specified in~~ the initial request. ~~Staff who are unsure if there are any uncertainties regarding whether~~ a record should be released, exempted, or redacted, staff should contact the City ~~Clerk~~Clerk's Office and/or the City ~~Attorney~~Attorney's Office for further guidance.

The

~~Both the~~ California Public Record Act and ~~the~~ Gilroy Open Government Ordinance ~~both describe state~~ that records should be provided in the format in which the City maintains them. ~~This does not mean however that~~ However, the City ~~cannot~~can offer a different format, ~~only that we but it~~ cannot require ~~at the~~ requestor to ~~take a record in accept~~ an alternative format. For example, if a record ~~only exists in~~only on paper, the City ~~wouldn't be able to~~cannot force the requestor to ~~take receive~~ the document via email if they ~~would prefer to come in and examine~~review the record in person, or purchase a photocopy.

The City ~~is~~is not ~~required~~obligated to create a record when a request is made. ~~For example a requestor may ask for a list of the address of all city buildings. If a list does not exist staff is not required to make a list. However, if there are records~~ However, if records containing the requested information are already in the City's possession ~~that contain the requested information (such as a map that marks each location, or property deeds), the records, they~~ must be provided. ~~There are very limited situations where creating~~ Creating a record may be appropriate. Consult with the ~~in very limited situations, and guidance should be sought from the City Clerk~~Clerk's Office to determine the best response if you are unsure course of action.

If ~~a request has been made for copies of records are requested,~~ staff may require ~~that~~ payment ~~is received~~ prior to making the copies. ~~In the~~ The response, ~~advise should include information about the requestor that the responsive records have been identified~~ responsive records, the total ~~cost of~~ reproduction cost, and the provision that copies will be made once payment ~~has been~~is received.

Fees

Requestors ~~may have the right to~~ review ~~the~~ requested records during regular business hours, ~~in~~under the presence of a ~~city~~City employee, in a ~~placemanner~~ that ~~will~~does not disrupt day-to-day operations. ~~Records may be duplicated.~~ Duplication of records may be allowed, and fees for duplication are listed ~~on~~in the City's Fee Schedule ~~and, which~~ should be paid prior to providing copies of records. ~~Duplication of~~However, the City will not duplicate official architectural, engineering, and building plans ~~will not be produced by the City until the City receives~~without written permission ~~to do so~~ from the licensed professional who prepared the plan(s), and the building owner, as required by California Health and Safety Code § 19851.

~~A requestor~~Requestors cannot be charged for ~~the~~ staff time ~~it takes to complete~~spent fulfilling a request, the cost of retrieving files from offsite storage, or ~~for~~ any incidental research fee.

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Chapter 6 — Disposition of Records

~~There are several distinct periods in the lifecycle of a record. They are commonly referred to as~~The proper disposition of records is an essential part of records management within the City of Gilroy. It involves the active period, inactive period, and final disposition period.~~The of records. During the active period will vary according to the record, but is generally characterized as a record that is used or referred to, records are frequently during the course of business and should be used and readily accessible. The inactive period follows when the record's regular use of the record declines or ends; however, but the record is still required needs to be heldretained. The final disposition period is generally the end of the record's life and a finalrecord's lifecycle, where a decision is made about the record. This can include the, such as scanning of a recordit for long-term electronic storage, or destruction of the recorddestroying it.~~

~~The proper~~Proper disposition of records is ~~important as it helps protect~~crucial for protecting vital and ~~historie~~historical records ~~and ensures, ensuring~~ compliance with regulatory retention requirements. ~~Proper record retention also helps improve the City's efficiency and manage, and managing~~ the costs of file maintenance, retrieval, and storage.

~~There are The City of Gilroy primarily utilizes two (2) main types of record dispositions utilized by the Citydisposition: imaging of records in order to purge existing hard copy records, copies and the destruction of non-historical records at the end of the specified retention period. Authorization must be obtainedPrior authorization from the City Department Head, Office of the City Clerk, and Office of the City Attorney prior tois required before any record destruction of records. This is achieved by the proptakes place. The completion of record management forms, is necessary to obtain this authorization. See Appendix C for copies of these forms, and below for further detail about processing requests.~~

Preservation of Permanent Records

~~A The City recognizes its fundamental obligation towards the preservation of local government is to care for its permanent records. TheIn accordance with California Government Code § 12168.7, the City advocates for the utilization of digital preservation methods through a compliant Electronic Document Management System (EDMS), Laserfiche. This modern approach ensures the integrity, authenticity, and accessibility of our records over time.~~

Digitally preserved records within Laserfiche negate the necessity for physical copies, as long as the digital copies are accurately scanned, verified, and stored within this trusted system as defined by the Government Code. This digital preservation approach extends to historical records such as resolutions, ordinances, and minutes of Brown Act-governed bodies, which can be securely and adequately preserved in digital format within Laserfiche.

However, should there be a compelling legal or historical necessity, the retention of original hard copies will be considered on a case-by-case basis, ensuring the City's compliance with all applicable laws and regulations concerning record preservation.

The City is committed to maintaining a modern, compliant, and efficient records management practice that have been identified as aligns with state guidelines and best practices, ensuring the long-term preservation and accessibility of its permanent require special handling and storage if they are to be preservedrecords.

Imaging of Records

As previously mentioned the California Government code does permit the City to destroy some original documents after they have been scanned in accordance with the code. When fully implemented, the Citywide Electronic Content Management System (Laserfiche) will meet the requirements of this code section. However, some records of historical nature, which began as hardcopy records, should be retained regardless if they have been scanned. This would include resolutions, ordinances, and minutes of Brown Act governed bodies.

Before ~~embarking on~~initiating a major project to scan records, staff should consult with the City Clerk's Office as they are prepared and have the expertise to evaluate your for evaluation of current records and assist you assistance in developing a plan to convert existing documents into electronic files, ~~and to migrate using the files to~~Citywide Electronic Content Management System, Laserfiche. ~~There are parameters surrounding~~The City Clerk's Office has the migration of records into Laserfiche and staff needs expertise to ensure that all of the conditions ~~have been for migration to Laserfiche are~~ met. ~~It is important to note that~~ Laserfiche is much more ~~than~~not just a repository for records. ~~This system was~~ but also selected for its offers robust workflow capabilities.

Records ideal for Laserfiche are ones is best suited for managing records that ~~may be~~exhibit one or more of the following characteristics:

- Used by many **Multi-Departmental Usage:** Records that are utilized by multiple departments or by many people in the same individuals within a single department;
- **Regular Access:** Permanent records, ~~particularly those~~ that are accessed regularly; frequently.
- **Long Retention Period:** Records ~~that have a~~mandated for long-term retention period;
- **Electronic Lifecycle:** Records that ~~start~~are created, managed, and ~~end~~stored in an electronic format; throughout their lifecycle.

- **Public records Demand: Records** that are frequently requested by the public;
- **Voluminous Series:** Record series that are ~~voluminous~~extensive in volume, making onsite storage impossible, ~~but that are accessed often creating impractical, yet require frequent access which would otherwise incur~~ offsite storage and retrieval fees.

~~Staff should not scan and store records on local or internal drives. These drives often do not provide the same searching, storage, or security features as Laserfiche. Most importantly By consolidating records with these drives are often not purged, creating a strain on the City's Information Technology infrastructure, and are often times not in characteristics into Laserfiche, we aim to optimize our records management processes, ensure compliance with retention schedules, and enhance accessibility while reducing storage and retrieval costs.~~

It is important to avoid scanning and storing records on local or internal drives, as they may lack necessary searching, storage, and security features. Storing records in this manner can strain the City's information technology infrastructure and may not comply with the City's Record Retention Schedule.

Destruction of Records

~~The records classification and retention periods in the The~~ Records Retention Schedule ~~constitute serves as the~~ legal authority for the retention and disposal of official records. ~~No Once~~ records ~~shall be destroyed until they~~ have met the minimum retention period listed specified in the schedule, and disposition has been approved by the Department Head, ~~the~~ City Clerk, and City Attorney, they can be destroyed.

~~The retention schedule prescribes the method of disposition (Records classified for destruction or secure destruction). Records requiring "destruction" may can be disposed of by through traditional recycling methods. Records requiring "classified for secure destruction" must be disposed of in a way that the record is no longer recognizable or usable by any means makes them unrecognizable and unusable, such as through shredding. Records that are destroyed shall either be done under the supervision of The destruction process should be supervised by a City employee or performed by an approved agency. Upon completion of the request for After obtaining authority to destroy obsolete records, the records may can be destroyed, and thea destruction inventory will should be maintained.~~

See Appendix C for Disposition Forms

Appendix C contains the Disposition Forms necessary for record disposition.

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Chapter 7 — City of Gilroy Retention Schedule

The City's City of Gilroy has a comprehensive Record Retention Schedule that establishes the retention periods for records and authorizes dispositions for many of the various administrative, fiscal, and legal records of the City. Retention periods are The schedule is based upon federal, state, and local mandates, business needs, and general knowledge as to how long records should be kept. Staff shall implement regarding the appropriate duration for record retention. Each department is responsible for implementing the schedule as it applies/pertains to their department's specific records. The schedule is subject to the following However, there are certain exceptions and limitations to be considered:

1. **Before retaining a record longer than** **Retaining Records:** Departments should only retain records within the specified retention period indicated in the schedule. If there is a need to retain a record for a longer duration, the department should contact the City Clerk for assistance. Records should not be maintained longer than the retention period indicated on the schedule. The unnecessary retention of Unnecessarily retaining records can be expensive/costly in terms of space and, filing equipment, and costly litigation or discovery/potential legal processes.
This-
2. **Litigation or Investigations:** The schedule does not authorize the destruction of records that could/may be deemed relevant to current/ongoing or pending litigation or investigations. Records that could potentially be involved in such matters should be preserved until the legal issues are resolved.

The City's Record Retention Schedule includes retention and disposition of information for records that are common to many/multiple departments are included in the Citywide Schedule. Records unique to particular City Departments are addressed in individual. Individual department schedules address records specific to each department. It is important to note that the City's Record Retention Schedule is a comprehensive list of the that covers both records subject to release under the California Public Records Act (CPRA) and records retained by the City. The Retention Schedule includes records that are releasable under the California Public Records Act (CPRA), as well as records that are exempt from the Act. While most of the records held by the City holds are releasable, some are not/may be exempt.

Maintenance of the City's Record Retention Schedule

As/Given the evolving nature of the way the City conducts City's business practices, it is ever-changing, we recognize/recognized that records, record types, and record retentions will need to be periodically updated. retention periods may require periodic updates. A comprehensive thorough review and overhaul and review of the schedule is planned every five years. However, minor revisions and additions may need to occur/be necessary in the interim. When thesesuch situations are identified/arise, staff should contact/notify the City Clerk, who will initiate the schedule revision process. Revisions are generally/typically submitted by staff at the department level, and are then/staff, reviewed by the City Clerk, and assessed by the City Attorney.

Utilization of the Record Retention Schedule

The retention-schedule/purpose of the Record Retention Schedule is intended to direct/guide City Staff on how long/staff regarding the appropriate length of time to hold City/retain records, and when and how to dispose of the the proper method for disposing of records after they/that have exceeded their lifecycle. On-the/The next page is/provides a sample of a record from the schedule, Schedule, along with category explanations of the categories used in the schedule.

	Record Name	
	Whenever possible records have been combined into a series of like items for example "Ceremonial Documents". In some cases, records are so unique that their record name stands alone such as "Building Permit".	
<i>Also Called:</i>	When records go by more than one name, the alternative names are listed here.	
<i>Function:</i>	In this section the purpose or function of the record is described.	
<i>Content:</i>	A series of records may be comprised of several document types, documents that most likely will be found in this series are listed.	
<i>Total Retention:</i>	This is the total amount of time that the City is required, either by federal, state, local statute, or internal policy.	
<i>Disposition:</i>	<u>Disposition refers to what will be done at the end of a records lifecycle; either: destroyed, destroyed securely, or transferred to The Center for Gilroy History off-site storage</u>	
<i>Statutory Reference:</i>	This section will be used to note any applicable government code related to the record's retention.	
<i>Location:</i>	Where the record is stored/can be found.	
<i>Note:</i>	Any other notes, exceptions, or special instructions relating to the record or record series are listed here.	
<i>Approval Date:</i>	This is the date that the specific record or record series was approved or updated.	

Calendar and Scheduling Records

Also Called: Appointment books, work schedules, planners, daily assignment sheets
Function: Records kept that document and facilitate the routine planning and scheduling of meetings, appointments, daily tasks, work assignments, shift assignments, vacation and/or day off schedules.
Content: May include, but not limited to weekly schedule sheets, work schedules, appointment logs, and work assignment memos.
Total Retention:- 2 years
Disposition:- Destroy
Statutory Reference: CA GC §34090
Note:
Approval Date: February 3, 2014

Example:

	<u>Calendar and Scheduling Records</u>
<u>Also Called:</u>	<u>Appointment books, work schedules, planners, daily assignment sheets</u>
<u>Function:</u>	<u>Records kept that document and facilitate the routine planning and scheduling of meetings, appointments, daily tasks, work assignments, shift assignments, vacation and/or day off schedules.</u>
<u>Content:</u>	<u>May include, but not limited to weekly schedule sheets, work schedules, appointment logs, and work assignment memos.</u>
<u>Total Retention:</u>	<u>2 years</u>
<u>Disposition:</u>	<u>Destroy</u>
<u>Statutory Reference:</u>	<u>CA GC §34090</u>
<u>Note:</u>	<u>None</u>
<u>Approval Date:</u>	<u>February 3, 2014</u>

Appendix A - Records Inventory

Conducting a Records Inventory

A records inventory is ~~the~~ a systematic ~~collection process~~ of gathering information for each file folder. ~~A within an organization. Conducting a thorough inventory helps in understanding the nature and volume of records held, which in turn aids in making informed decisions regarding their storage, retention, or destruction. This process can free up to two-thirds of significantly optimize storage space devoted to active, potentially enabling the relocation of lesser-used files. Typically, one-third of the files will be destroyed; one-third transferred to inactive storage, and one-third will remain in prime office space, and the destruction of records that have met their retention periods, based on the applicable laws and organizational policies. The process has also been designed to use the information you gather in many collected during the inventory process can be used in various ways. The information will be used in subsequent years for the following purposes, including:~~

- ~~Locate~~ Locating and ~~track~~ tracking old records stored in boxes or ~~other~~ inactive storage areas;
- ~~Find~~ Finding misfiled or lost file folders;
- ~~Identify~~ Identifying and ~~correct~~ correcting inconsistencies in ~~your~~ filing systems;
- ~~Electronic~~ Creating an electronic master index ~~(you can do for easy text searches to find the file you want);~~
 - ~~Create~~ Generating destruction lists ~~in future years by "cut & paste";~~
- ~~Create~~ and box labels ~~by "cut & paste";~~
- ~~Manage~~ Managing the location of records stored ~~in off-site locations;~~
- ~~Will assist in meeting~~ Meeting the requirements for an index of records under GCC 17A;
- ~~To use~~ Using in the event of a disaster ~~so that the most to locate and protect valuable records are located and protected;~~
- ~~The inventory will be utilized to update your~~ Updating the retention schedule, ~~and will to ensure the schedule covers comprehensive coverage of all of your records and will meet your needs.~~

~~Do NOT destroy~~ **Important Note: ORIGINAL** records should not be destroyed until the destruction approval has been signed. State law allows copies or drafts to be destroyed ~~"when no longer required".~~ Copies and drafts can be destroyed ~~as they are inventoried during the inventory process, provided the following conditions are met:~~

- ~~You are certain the record is a copy, or draft, and is not an original City record;~~
- ~~If the record contains any confidential data (e.g. citizen's, citizen's names, phone numbers, etc.), it must be securely destroyed of securely.~~

Inventory Worksheet

When conducting a records inventory, it is recommended ~~that you utilize the to use a standardized form below for a consistent to ensure consistency in accounting for the files on hand. Unlike the. This inventory for destruction, this inventory is meant to should be conducted down to at the file level and should contain include the exact precise location of the each record. Use whatever any available information is available to concisely clearly identify the record's location of the records. This may be the, such as room names of a room, a room number, a numbers, or geographical notation such as north or east. When inventorying a notations. For record room it is a good idea rooms, it's helpful to start by labeling the label file cabinets and then the drawers. For example the file:~~

File cabinet ~~you start with would be~~ FC1. ~~Then the drawers (starting at the top) would be~~
Drawers: a, b, c, etc.;

Files in file cabinet 1, drawer b would be expressed as: FC1-b.

STATE OF CALIFORNIA

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RECORDS INVENTORY WORKSHEET

STD, 70 (REV. 5-92)

PAGE	OF
------	----

DEPARTMENT

DIVISION/SECTION

ROOM NUMBER

PERSON RESPONSIBLE FOR RECORDS

ADDRESS

TELEPHONE NUMBER

RECORDS INVENTORY

[illegible]

(10) INVENTORY TAKEN BY (Signature)

DATE _____

(11) PROGRAM MANAGER (Signature)

DATE

STATE OF CALIFORNIA

Print

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RECORDS INVENTORY WORKSHEET

STD. 70 (REV. 5-92)

PAGE 1 OF 1

DEPARTMENT

DIVISION/SECTION

ROOM NUMBER

PERSON RESPONSIBLE FOR RECORDS

ADDRESS

TELEPHONE NUMBER

RECORDS INVENTORY

[illegible]

Appendix B - Box Label

When preparing records ~~to be stored~~for storage in record boxes, it is ~~essential~~important to ensure that ~~the~~ boxes are clearly labeled and organized ~~so that they can be easily accessed~~. ~~It is recommended that labels for easy access. The following guidelines should be followed:~~

- Labels should be applied to the short end of each box ~~so that the for easy review of~~ contents ~~can be easily reviewed. Records boxes.~~
- Boxes should be filled with records, but not packed so tightly that ~~records cannot be retrieved~~retrieval or ~~inserted into the box. insertion of records becomes difficult.~~
- A copy of the inventory should ~~also be placed inside the box on top of the records. Below is a sample box label. Minimally, the box should be labeled with the record description, date range, and the date the entire box is eligible for destruction.~~

Sample Box Label:

Department & Division:		Box #
Contents		
Record Category	Description/Note	Date Range
Inventoried By (Print Name)/Date:		Date Eligible for Destruction:

Example:

Department & Division: Facilities/Administration		Box # 4 of 13
Contents		
Record Category	Description/Note	Date Range
Correspondence	City Infrastructure Project (admin)	1/2013 – 12/2014
Inventoried By (Print Name)/Date: Tom Smith 4/5/2015		Date Box Eligible for Destruction: 12/2016

Appendix C – Records Disposition Authorization

~~REQUEST FOR AUTHORITY TO DESTROY OBSOLETE RECORDS~~

Request No. _____

This *Request for Authority to Destroy Obsolete Records* is made pursuant to the:

~~Gilroy Records Retention Guidelines adopted February 3, 2014, by City Council Resolution No. 2014-11~~

I hereby request destruction of the records identified on the “Destruction of Obsolete Records Inventory,” attached hereto as Exhibit “A.” The records identified on Exhibit “A” will be referred to as “Obsolete Records.” I have reviewed the Obsolete Records and hereby certify that the “record series numbers,” “office of record/title & content of record”, and “dates of records”, identified on Exhibit “A” attached hereto, accurately and completely describe the Obsolete Records.

I hereby certify that, based upon the Records Retention Guidelines, the City is no longer required to retain these Obsolete Records.

Staff Member/Records Manager _____ Date _____

Approved by: _____
Department Head

I hereby certify that I have reviewed the Request for Destruction of Obsolete Records Inventory (Exhibit “A”); and, to my knowledge, the Obsolete Records Inventory does not identify any records which the City is required to retain in accordance with the City Records Retention Guidelines.

Subject to the consent by the City Attorney as provided with the adoption of Resolution 2014-11, I hereby consent to destruction of the Obsolete Records. Based upon the types of documents included in the Obsolete Records Inventory, the method of destruction shall be:

Shredding _____, Recycling _____, RME Destruction _____ [to be inserted by City Clerk]

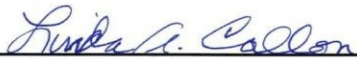
I hereby consent to destruction of the Obsolete Records

City Clerk _____ Date _____

**CITY ATTORNEY CONSENT TO DESTROY OBSOLETE RECORDS PURSUANT TO
GOVERNMENT CODE 34090, ET SEQ.**

This *Consent for Authority to Destroy Obsolete Records* is made for those records described in the City of Gilroy Records Retention Schedule ("Schedule") adopted February 3, 2014, by City Council Resolution No. 2014- 11 (Exhibit "A").

This Consent is given pursuant to Government Code 34090, which requires the City Attorney's consent to destruction of City records. This Consent governs those records listed in the Schedule, the destruction of which is requested and presented to the City Clerk. The request must be certified by the Department Head that the specific records to be destroyed have been held for the statutory retention periods and are no longer required by law to be retained.



Linda A. Callon, City Attorney

February 3, 2014

4832-1273-9096v1
LAC104706083

[illegible]

Inventory completed by _____
Date _____

REQUEST FOR AUTHORITY TO DESTROY OBSOLETE RECORDS

Request No. : _____

This *Request for Authority to Destroy Obsolete Records* is made pursuant to the Gilroy Records Retention Guideline adopted on January 24, 2020, by City Council **Resolution No. 2020-08**.

I hereby request the destruction of the records identified on the ***Destruction of Obsolete Records Inventory***, attached hereto as **Exhibit A**. The records identified in Exhibit A will be referred to as "Obsolete Records." I have reviewed the Obsolete Records and hereby certify that the "record series numbers," "office of record/title & content of the record," and "dates of records," identified on Exhibit A attached hereto, accurately and completely describe the Obsolete Records.

I hereby certify that, based upon the Records Retention Guidelines, the City is no longer required to retain these Obsolete Records.

Staff Member / Records Manager

Date

I hereby certify that I have reviewed the Request for Destruction of Obsolete Records Inventory (**Exhibit A**), and to my knowledge, the Obsolete Records Inventory does not identify any records that the City is required to retain in accordance with the Records Retention Guidelines. I hereby request the destruction of the Obsolete Records.

Department Head

Date

I hereby certify that I have reviewed the Request for Destruction of Obsolete Records Inventory (**Exhibit A**), and, to my knowledge, the Obsolete Records Inventory does not identify any records that the City is required to retain in accordance with the City Records Retention Guidelines.

Subject to the consent by the City Attorney as provided with the adoption of **Resolution 2014-11**, I hereby consent to the destruction of the Obsolete Records. Based upon the types of documents included in the Obsolete Records Inventory, the method of destruction shall be:

☐ Shredding

☐ Recycling

☐ RME Destruction
[to be inserted by City Clerk]

I hereby consent to the destruction of the Obsolete Records

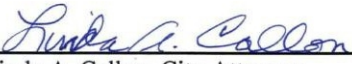
City Clerk

Date

**CITY ATTORNEY CONSENT TO DESTROY OBSOLETE RECORDS PURSUANT TO
GOVERNMENT CODE 34090, ET SEQ.**

This *Consent for Authority to Destroy Obsolete Records* is made for those records described in the City of Gilroy Records Retention Schedule ("Schedule") adopted February 3, 2014, by City Council Resolution No. 2014- 11 (Exhibit "A").

This Consent is given pursuant to Government Code 34090, which requires the City Attorney's consent to destruction of City records. This Consent governs those records listed in the Schedule, the destruction of which is requested and presented to the City Clerk. The request must be certified by the Department Head that the specific records to be destroyed have been held for the statutory retention periods and are no longer required by law to be retained.



Linda A. Callon, City Attorney

February 3, 2014

4832-1273-9096v1
LAC104706083

DESTRUCTION OF OBSOLETE RECORDS INVENTORY

[illegible]

Inventory Completed By : _____

Date : _____



City of Gilroy

Records Management Policy

Adopted MM/DD/YYYY

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Introduction

Effective records management is vital for the City of Gilroy to support staff in their work and ensure the efficient operation of our municipality. Accessible records not only benefit our dedicated employees but also uphold the public's right to examine the City's records, which document our rich history. This manual serves as a comprehensive guide, equipping City staff with the knowledge and tools necessary for effective records management and the preservation of our valuable records.

In addition to the City's established records management policies, it is imperative that we comply with other local, state, and federal mandates governing records retention. These mandates provide essential guidance and direction to ensure proper handling and accessibility of records.

The California Public Records Act (CPRA), passed by the California State Legislature in 1968 and amended over time, grants the public access to government information, following the model of the Federal Freedom of Information Act (FOIA). While most records created and held by the City are generally open to public examination, specific exemption categories exist. Further details regarding these exemptions can be found in this manual, as well as in the California Government Code or its successor, along with relevant case law.

To promote transparency and public access, the City of Gilroy enacted the Gilroy Open Government Ordinance (GCC §17.A) in 2008. This local legislation enhances the public availability of records and reduces the number of exemption categories compared to FOIA and the CPRA.

Within the State of California, the elected Secretary of State assumes the responsibility of establishing the Local Government Records Program (CA GC§12236). This program, established in 1999 with the assistance of the City Clerk Association of California, is overseen by the State Archives to ensure proper records management at the local level.

At the local level, the Gilroy City Council provides guidance and adopts policies governing the production, maintenance, preservation, and disposition of records. This guidance is reflected in the City's Record Retention Schedule, which is created, implemented, and regularly updated by the City Clerk to meet evolving needs and legal requirements.

On November 2, 2015, the Gilroy Council adopted the City Records Management Policy, marking an important milestone in our commitment to effective records management.

Additionally, in 2021, the state legislature enacted the CPRA Recodification Act (AB 473). Effective January 1, 2023, this act renumbered and reorganized the CPRA into a new Division 614 of the Government Code, beginning at §7920.005. Importantly, AB 473 was intended to be entirely non-substantive in effect, with no substantial changes to the law relating to the inspection of public records. Every provision of this act shall be applied to Division 614 and AB 73 in a manner consistent with the non-substantive intent of the act.

Modifications and Additions of This Manual

As records management practices continually evolve, this manual will require periodic modifications and additions to remain realistic and effective. Retention periods and disposition requirements may change over time, necessitating updates. The Office of the City Clerk welcomes comments and suggestions for necessary modifications and additions to ensure the ongoing relevance of this manual.

Contact Us

For further information on any records management or preservation issues, please contact:

Office of the City Clerk
7351 Rosanna Street, Gilroy, CA 95020
(408) 846-0204

Chapter 1 - Establishing a Records Management System

Every day, the City of Gilroy generates records that document the government's actions and the community's history. It is the City's responsibility to effectively maintain and manage these records, ensuring their preservation as essential evidence with enduring and permanent value.

Records management encompasses more than the retention, storage, and disposition of records. It includes all the requirements and practices related to record-keeping that enable an organization to establish and maintain control over information flow and administrative operations. A comprehensive records management system controls and manages records throughout their life cycle, from creation through active use, inactive storage, and final disposition. Retaining records beyond their necessary duration can lead to an accumulation of documents, making management challenging and potentially hindering the organization's efficient operation, especially when many of these documents may no longer hold value.

Objectives of a Records Management System:

- Develop policies and procedures for records management.
- Conduct a survey or inventory of records in all formats.
- Utilize technology for creating, storing, and retrieving records.
- Properly destroy records at the end of their retention period and document destruction.
- Store inactive records in a cost-effective and secure location.
- Identify and preserve vital records.
- Identify and preserve permanent records.
- Develop a disaster preparedness plan to protect and recover records.
- Implement filing and indexing systems.

Benefits of a Strong Records Management Program:

- Space savings.
- Reduced expenses for filing equipment.
- Increased efficiency in information retrieval.
- Compliance with records retention requirements.
- Identification and protection of vital records.
- Control over the creation of new records.
- Identification of historical records.

Designating a Records Coordinator

Each department will need to identify a person who will assist in coordinating the department's records program and possess an understanding of the retention disposition of department records. This person does not necessarily have to hold a formally designated position solely responsible for records oversight. Often, it is someone to whom the Department Head can delegate decision-making authority over the department's records.

Record Inventories

An essential step in establishing a records management system is to identify existing records. Agencies must be aware of what records they have, their storage locations, the volume of records, and how they are utilized. Inventories are not detailed lists of every single page or document. Instead, they are conducted at the record category level and should include:

- **Record Category** –This should align with the City's Record Retention Schedule. During the inventory process, new record categories may be identified and added to the retention schedule.
- **What Format(s) is the Record Kept In** – It is important to note if the record exists in multiple formats or locations. For example, is the record stored as hard copies in the file room and electronically on a computer drive? Ideally, records should not be duplicated across multiple locations. However, during the inventory,

it is crucial to identify all storage locations to avoid duplications.

- **The Length of Retention of the Records** – It is important to be as specific as possible, including the purpose of the retention period.

When well-planned, record inventories should take at most a few days or weeks of staff time to conduct. The City Clerk is available to prepare and assist staff in conducting record inventories and subsequently establishing a records management system. It is recommended to begin the inventory with active records and those unique to the department's function. This inventory should include all records, regardless of format or storage location. Once the categories are identified, they should be described in a way that even someone unfamiliar with the department or the City can easily understand the content of each series.

For a sample worksheet, refer to **Appendix A**.

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Chapter 2 - Filing & Storage Practices

When considering filing or record-keeping, it is important to recognize that the City of Gilroy's practices apply to both electronic and hard-copy records. All principles applicable to paper filing systems also hold true for electronic filing systems. When establishing a filing system, departments should aim for simplicity, easy accessibility for all staff, department-wide use, and effective management to ensure proper and timely disposition.

Various methods can be used to establish a filing system, such as alphabetical, numerical, alphanumeric, function-based, or series-driven. Each type has its pros and cons, and a solution should be found for citywide implementation. Regardless of the chosen filing system, records must be "filed" or maintained in accordance with the City's Record Retention Schedule. Contact the City Clerk for assistance in developing a filing system.

Choosing Files to Maintain

Maintaining filing systems, especially paper-based ones, can be costly, requiring expenses for filing supplies, space, and staff time for establishment, management, and retrieval. When determining which records to maintain, record coordinators should consider the following:

- **Is this record listed on the City's record retention schedule?** All records kept at the department level should be listed on the Citywide or department-specific portion of the retention schedule.
- **Does this record exist electronically?** Printing electronic records solely for the purpose of having a paper copy is unnecessary.
- **Is my department the office of record?** If another department is responsible for maintaining a record, a department may temporarily keep it in a working file but should avoid duplicating files. For instance, the Office of the City Clerk serves as the office of record for city council minutes, resolutions, and ordinances. Departments do not need to maintain these records in paper or electronic files since they are easily accessible through a Citywide Electronic Content Management System (ECMS), such as Laserfiche.

Selecting Storage Areas

When determining where files should be located, several factors should be considered:

- Is the file area easily accessible and centrally located for staff within the workgroup using the files?
- Does the room meet the requirements for storing records, such as ease of opening and closing cabinets, climate control (not damp or wet), proper lighting, and absence of pests?
- Can the room be secured to store sensitive or confidential records? Is access restricted to prevent unauthorized removal and ensure the orderly return of files?

Paper files can become heavy, and their numbers can accumulate rapidly. To prevent toppling or collapse, shelving and cabinets should be anchored securely. Select shelving capable of supporting 50 pounds per square foot. The spacing between shelves should accommodate the easy placement and removal of record storage boxes.

Storing frequently accessed records in storage boxes is not ideal. Reserve the use of storage boxes for records nearing the end of their active period or those intended for long-term storage. It is recommended to use uniform boxes measuring 15"x10"x12". Larger boxes can be more difficult to manage and move, while odd-sized or multiple-sized boxes do not stack well and may lead to hazardous collapses or damaged records.

Boxes should be filled but not packed so tightly that records cannot be easily inserted or removed. When storing records in boxes, staff should leave room for potential future additions. Boxes should be clearly labeled on both short ends, displaying the contents and disposition information. Refer to Appendix B for a Sample Box Label.

Naming Conventions

When establishing a naming convention system, staff should consistently use commonly understood words and terms for file naming, avoiding abbreviations or jargon. The naming convention designed for a paper filing system should also be usable in an electronic filing environment and vice versa. Typically, a naming system consists of the record category and date components. When departments assign project numbers or permit numbers where the year is involved, the year should be represented as a four-digit date (e.g., 2011-0001, not 11-0001) to ensure clarity. It is recommended to use categories established in the Record Retention Schedule. Additionally, spell out all words to avoid different abbreviations by different individuals. Universal records management abbreviations can be used where applicable.

File System Index

If a department decides to use a filing system index, it should list the filed records and their locations. The file location information can range from providing a high-level description of the record category and the office holding the files to providing specific details such as the room, file cabinet, and drawer. This index should be regularly updated as records are added or removed from the system and reviewed annually.

File Tracking

It is essential to track files as they are temporarily removed from filing cabinets or rooms or recalled from off-site storage. Sign-out cards can be used and inserted into the location from where the file was taken. The sign-out card should include the date of removal and the person responsible for the file. This practice ensures the integrity of the system and aids in the retrieval of records when needed.

Disposition

In a paper filing system, folders can be set up with labels indicating the date when the records become eligible for disposition, along with the naming convention. If a folder contains records with different disposition dates, this information can be noted on the folder label. It alerts staff that the folder requires periodic review for the proper disposition of items. For electronic records stored in Laserfiche, the disposition date is assigned upon entering the record into the system. If the department uses an electronic system other than Laserfiche, this information should be included in the file title or metadata/properties.

It is important to remember that not all records are meant to be retained indefinitely just because they exist. Filing systems must be reviewed annually, and records should be disposed of according to the records retention schedule. Permission should be obtained before disposing of records, and the approval documentation will serve as the record of the disposition process.

Chapter 3 - Electronic Files

The City of Gilroy utilizes an electronic repository where departments can store both permanent and temporary documents. All electronic records must follow the retention schedule and be disposed of accordingly. The City utilizes Laserfiche as our official Trusted System for storing electronic records.

Retention of Original Documents:

California Government Code 34090 et. seq. permits the City to destroy some original documents after they have been imaged and retained per the Secretary of State's Uniform Statewide Standards. Laserfiche meets these standards and is the City's Trusted System. However, certain historical records, like those affecting property titles, court records, must be retained in their original form, regardless of whether they have been imaged.

Electronic File Storage

While the principles of file management are similar for both paper and electronic files, there are some differences to consider. When it comes to electronic files, we should treat them the same way as paper files regarding naming conventions, accessibility, retention, and disposition. Additionally, electronic files can have additional information called metadata.

Metadata:

Metadata is structured information that describes, explains, locates, or makes it easier to retrieve, use, or manage an information resource, as defined by the National Information Standard Organization. We should use clear and organized metadata to categorize records stored in Laserfiche. This descriptive metadata helps in basic identification through preset fields.

It is important to identify the most relevant information that would assist someone searching for a record. The metadata requirements should be simple and manageable to maintain.

Example:

Type	:	Contract
Vendor Name	:	Valley Landscaping
Metadata	:	Agreement for landscape services at city-owned parks, facilities, and streetscape
Project #	:	Project # 12-RFP-PW-362

File Formats

When selecting a format for document storage, there are **two** main considerations:

1. What electronic format is allowed for archival storage by the California Secretary of State?; *and*
2. What format is commonly used by staff and the public?

It is crucial to choose a format that is accessible and commonly understood. Additionally, the selected format should have market longevity and proven migration examples to ensure the records remain usable over time.

Laserfiche supports various file formats, including Microsoft Office files, Portable Document Format and Format/A (PDF and PDF/A), and Rich Text Format (RTF).

Storage

There are a variety of ways to store electronic files and media:

- **Local computer storage:** Storing files on individual computers is not recommended due to vulnerability and the risk of loss, theft, or damage.

- **City network drive:** Storing files on the City network via a network drive folder provides better security and backup options. However, access to network drives is often restricted, making it challenging to access city records. Additionally, records stored on network drives are rarely reviewed, purged, or automatically set to retention.
- **USB, CD/DVD,** or other removable drives: Storing records on removable drives is discouraged as they are vulnerable and difficult to restore if lost or damaged.
- **Laserfiche:** Ideally, all electronic records should be stored in Laserfiche. This system offers security, redundancy, and retention capabilities, ensuring the integrity and accessibility of city records.

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Chapter 4 - Identifying Records

Under the California Public Records Act, a 'public record' is defined as any writing or recording that contains information related to the conduct of the public's business, regardless of its physical form or characteristics. This aligns with the City of Gilroy's understanding and interpretation. Records can include various forms such as video, audio files, and writings stored in computer systems used for conducting business.

Identifying records is a crucial step in effective records management. By consulting the City's Retention Schedule, staff can easily determine if a material qualifies as a record. If the material is listed on the schedule, it must be maintained in accordance with the specified retention period. However, sometimes it can be challenging to determine if a document or media is a record when it is not mentioned on the schedule. In such cases, staff should follow the records test provided on the next page to help make an initial determination. If it is still unclear or if the material is clearly a record but not included on the schedule, staff should reach out to the City Clerk's Office for further assistance.

What is a Record?

Records encompass any writing or recording that contains information related to the City's business, regardless of its physical form or characteristics. This means that records can include video, audio files, and writings stored in computer systems used for conducting business.

Certain records hold enduring administrative, fiscal, legal, or historical value and should be permanently retained. These records require special care and consideration in terms of storage conditions and long-term preservation. Examples of permanent records include meeting minutes from Brown Act-governed bodies, resolutions, and ordinances. On the other hand, records with short-term value should be destroyed once their retention period expires.

Non-Records

While records cover a wide range of recorded information, not all materials held by the City qualify as records. Here are examples of non-records:

- Identical copies of documents stored in the same file.
- Extra copies of printed or processed materials.
- Superseded manuals and directives (kept outside the office of record).
- Blank forms.
- Materials received from other agencies, individuals, or businesses that require no action.
- Catalogs, trade journals, publications, or papers received from government agencies, commercial firms, or private institutions that require no action and are not part of an active case record.

Non-records do not need to be scheduled for retention or undergo destruction authorization or reporting. To avoid excessive accumulation, it is necessary to retain only current and useful materials, promptly destroying non-records once their purpose has been fulfilled. Staff should be careful not to mix non-record materials with records when filing.

WHAT IS A RECORD?

1. Was the material mandated by statute or regulation?
2. Does the material support a financial or legal claim/obligation?
3. Is the material required to operate a City program or provide program support?
4. Was the material created or received during the conduct of City business?
5. Does the material document or facilitate:
 - The City's actions
 - Formulation of policies & decisions City's directives
 - Board and committee meeting minutes
6. Does the material protect government and individual rights and interests?
7. Was the material filed, stored, or otherwise systematically maintained by the City?
8. Is the material appropriate for either permanent or temporary preservation by the City?
9. Does the material have administrative, fiscal, or legal value?

If you answered **yes** to any of the questions, the material is most likely an official record. This could include but is not limited to:

- Decision Papers;
- Correspondence;
- Video or Audio Files;
- Reports;
- Publications

If you answered no to the questions, the material is most likely a non-record. This could include but is not limited to:

- Materials that do not contribute to an understanding of the City's operations or decision-making processes;
- Materials that have no substantial programmatic value;
- Extra copies of official records that are obtained elsewhere, such as council staff reports.

Chapter 5 - Access, Privacy, and Freedom of Information

The City of Gilroy recognizes and supports the public's **right** to access the majority of records created and maintained by the City. In accordance with the California Public Record Request Act (CPRA) and the Gilroy City Code (Open Government Ordinance [GCC §17.A](#)), the City accepts, reviews, and responds to all public record requests received, regardless of the submission method, source, or purpose of the request. City staff is available to assist in identifying responsive records, describing the City's records and their locations, and providing suggestions to ensure unobstructed public access to records.

The City is obligated to respond to all requests within 24 hours of receipt, either by providing the requested record or indicating that the record will be provided within ten calendar days. However, most requests can and should be fulfilled in a shorter timeframe. It's important to note that a "response" does not necessarily mean the immediate production of records. It can also be an email or letter informing the requester of the availability of responsive records, stating that no records matching the request exist, or invoking the right for a 14-day extension in cases of unusual circumstances.

As outlined in Chapter 4 and in accordance with the California Public Records Act, a 'public record' encompasses any writing or recording that contains information related to the City of Gilroy's conduct of public business. This includes, but is not limited to, video recordings, database information, and other means of recording communication or representation. Staff should always refer back to Chapter 4 for a comprehensive understanding of what constitutes a record and the importance of differentiating between records and non-records.

Records Exempt from Disclosure

While the CPRA aims to ensure public access to records, it also outlines exemptions for certain information that the City is prohibited from disclosing. These exemptions are defined in § 7927.5000 of the Government Code, as well as case law. It's important to note that although the City may withhold these records, it can choose to allow greater access if desired. However, "selective" or "favored" access is prohibited. Once a record is disclosed to one requester, it becomes public for all.

The Gilroy Open Government Ordinance extends access to several types of records that are exempted under the California Government Code. Exemptions can be categorized as exemptions provided under the CPRA itself, exemptions provided by other laws, and exemptions based on case law. Some examples of exemptions include employees' private papers unless they relate to public business, computer software developed by the City, records not yet in existence, attorney-client communications, certain home addresses, records concerning agency litigation, personnel, and medical files, police incident reports, and financial data submitted for licenses or permits. Staff who are still determining whether a record should be released, exempted, or redacted should consult with the City Clerk's Office or the City Attorney's Office for guidance. Below is a partial list of exemptions:

- Employees' private papers, unless they "relat[e] to the conduct of the public's business [and are] prepared, owned, used, or retained by the agency." ([CA GC §7920.530](#), or its successor).
- Computer software "developed by a state or local agency ... includ[ing] computer mapping systems, computer programs, and computer graphic systems." ([§ 7922.585](#), or its successor).
- Records not yet in existence: The CPRA covers only records that already exist, and an agency cannot be required to create a record, list, or compilation. "Rolling requests" for future-generated records are not permitted.
- Attorney-Client communications are confidential, including all communications between the City Attorneys, Department Heads, and staff ([§§ 7927.705, 7927.205, 7930.110](#)).
- Home Addresses in DMV, voter registration, gun license, public housing, local agency utility, and public employee records are exempt, as are addresses of certain crime victims. ([§§7923.600, 7923.800~7923.805, 7927.415, 7928.300, 7924.000, 7927.410, 7928.205](#)).

- Records concerning agency litigation are exempt, but only until the claim is resolved or settled. The complaint, claim, or records filed in court, records that pre-date the suit (e.g., reports about projects that eventually end in litigation), and final settlement records are public. (§§ 7927.200, 7927.205; Register Div. of Freedom Newspapers, Inc. v. County of Orange, 158 Cal. App. 3d 893 (1984)).
- Personnel, medical and similar files are exempt only if disclosure would reveal intimate, private details. (§ 7927.700). Employment contracts are not exempt. (§ 7928.400).
- Police Incident reports, rap sheets and arrest records are exempt (Penal Code §§ 111075, 11105, 11105.1), but information in the “police blotter” (time and circumstances of calls to police; name and details of arrests, warrants, charges, hearing dates, etc.) must be disclosed unless disclosure would endanger an investigation or the life of an investigator. Investigative files may be withheld, even after an investigation is over. (CA GC § 7923.600-7923.625). Identifying data in police personnel files and misconduct complaints are exempt, but disclosure may be obtained using special procedures under Evidence Code § 1043.
- Financial data submitted for licenses, certificates, or permits, or given in confidence to agencies that oversee insurance, securities, or banking firms; tax, welfare, and family/adoption/birth records are all exempt. (§§ 7929.000, 7927.705, 7928.000, 7930.005, or its successors).

Staff who are unsure whether a record should be released, exempted, or redacted should contact the City Clerk’s Office or the City Attorney’s Office.

Preparing a Response to a Records Request

When responding to a records request, staff shall provide a written response, such as an email or letter, unless the requestor cannot be reached in writing, in which case any telephone or in-person communication should be noted on the request form. Once the responsive documents are collected, they must be reviewed to ensure that only records eligible for disclosure are released, and any necessary redactions and citations for withholding are completed. The staff member assisting with the request will then notify the requestor when the records are available for review, or provide them electronically or in person, as specified in the initial request. If there are any uncertainties regarding whether a record should be released, exempted, or redacted, staff should contact the City Clerk’s Office and/or the City Attorney’s Office for further guidance.

Both the California Public Record Act and the Gilroy Open Government Ordinance state that records should be provided in the format in which the City maintains them. However, the City can offer a different format, but it cannot require the requestor to accept an alternative format. For example, if a record exists only on paper, the City cannot force the requestor to receive the document via email if they prefer to review the record in person or purchase a photocopy.

The City is not obligated to create a record when a request is made. However, if records containing the requested information are already in the City’s possession, they must be provided. **Creating a record may be appropriate in very limited situations, and guidance should be sought from the City Clerk’s Office to determine the best course of action.**

If copies of records are requested, staff may require payment prior to making the copies. The response should include information about the identified responsive records, the total reproduction cost, and the provision that copies will be made once payment is received.

Fees

Requestors have the right to review requested records during regular business hours, under the presence of a City employee, in a manner that does not disrupt day-to-day operations. Duplication of records may be allowed, and fees for duplication are listed in the City's Fee Schedule, which should be paid prior to providing copies of records. However, the City will not duplicate official architectural, engineering, and building plans without written permission from the licensed professional who prepared the plan(s) and the building owner, as required by California Health and Safety Code § 19851.

Requestors cannot be charged for staff time spent fulfilling a request, the cost of retrieving files from offsite storage, or any incidental research fee.

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Chapter 6-- Disposition of Records

The proper disposition of records is an essential part of records management within the City of Gilroy. It involves the active period, inactive period, and final disposition period of records. During the active period, records are frequently used and readily accessible. The inactive period follows when the regular use of the record declines or ends, but the record still needs to be retained. The final disposition period is the end of the record's lifecycle, where a decision is made about the record, such as scanning it for long-term electronic storage or destroying it.

Proper disposition of records is crucial for protecting vital and historical records, ensuring compliance with regulatory retention requirements, and managing the costs of file maintenance, retrieval, and storage. The City of Gilroy primarily utilizes two types of record disposition: imaging of records to purge existing hard copies and the destruction of non-historical records at the end of the specified retention period. Prior authorization from the City Department Head, Office of the City Clerk, and Office of the City Attorney is required before any record destruction takes place. The completion of record management forms is necessary to obtain this authorization. See Appendix C for copies of these forms and below for further detail about processing requests.

Preservation of Permanent Records

The City recognizes its fundamental obligation towards the preservation of its permanent records. In accordance with California Government Code § 12168.7, the City advocates for the utilization of digital preservation methods through a compliant Electronic Document Management System (EDMS), Laserfiche. This modern approach ensures the integrity, authenticity, and accessibility of our records over time.

Digitally preserved records within Laserfiche negate the necessity for physical copies, as long as the digital copies are accurately scanned, verified, and stored within this trusted system as defined by the Government Code. This digital preservation approach extends to historical records such as resolutions, ordinances, and minutes of Brown Act-governed bodies, which can be securely and adequately preserved in digital format within Laserfiche.

However, should there be a compelling legal or historical necessity, the retention of original hard copies will be considered on a case-by-case basis, ensuring the City's compliance with all applicable laws and regulations concerning record preservation.

The City is committed to maintaining a modern, compliant, and efficient records management practice that aligns with state guidelines and best practices, ensuring the long-term preservation and accessibility of its permanent records.

Imaging of Records

Before initiating a major project to scan records, staff should consult with the City Clerk's Office for evaluation of current records and assistance in developing a plan to convert existing documents into electronic files using the Citywide Electronic Content Management System, Laserfiche. The City Clerk's Office has the expertise to ensure that all conditions for migration to Laserfiche are met. Laserfiche is not just a repository for records but also offers robust workflow capabilities.

Laserfiche is best suited for managing records that exhibit one or more of the following characteristics:

- **Multi-Departmental Usage:** Records that are utilized by multiple departments or by many individuals within a single department.
- **Regular Access:** Permanent records that are accessed frequently.
- **Long Retention Period:** Records mandated for long-term retention.
- **Electronic Lifecycle:** Records that are created, managed, and stored in an electronic format throughout their lifecycle.
- **Public Demand:** Records that are frequently requested by the public.
- **Voluminous Series:** Record series that are extensive in volume, making onsite storage impractical,

yet require frequent access which would otherwise incur offsite storage and retrieval fees.

By consolidating records with these characteristics into Laserfiche, we aim to optimize our records management processes, ensure compliance with retention schedules, and enhance accessibility while reducing storage and retrieval costs.

It is important to avoid scanning and storing records on local or internal drives, as they may lack necessary searching, storage, and security features. Storing records in this manner can strain the City's information technology infrastructure and may not comply with the City's Record Retention Schedule.

Destruction of Records

The Records Retention Schedule serves as the legal authority for the retention and disposal of official records. Once records have met the minimum retention period specified in the schedule, and disposition has been approved by the Department Head, City Clerk, and City Attorney, they can be destroyed.

Records classified for destruction can be disposed of through traditional recycling methods. Records classified for secure destruction must be disposed of in a way that makes them unrecognizable and unusable, such as through shredding. The destruction process should be supervised by a City employee or performed by an approved agency. After obtaining authority to destroy obsolete records, the records can be destroyed, and a destruction inventory should be maintained.

Appendix C contains the Disposition Forms necessary for record disposition.

Chapter 7-- City of Gilroy Retention Schedule

The City of Gilroy has a comprehensive Record Retention Schedule that establishes the retention periods for various administrative, fiscal, and legal records of the City. The schedule is based on federal, state, and local mandates, business needs, and general knowledge regarding the appropriate duration for record retention. Each department is responsible for implementing the schedule as it pertains to their specific records. However, there are certain exceptions and limitations to be considered:

1. **Retaining Records:** Departments should only retain records within the specified retention period indicated in the schedule. If there is a need to retain a record for a longer duration, the department should contact the City Clerk for assistance. Unnecessarily retaining records can be costly in terms of space, filing equipment, and potential legal processes.
2. **Litigation or Investigations:** The schedule does not authorize the destruction of records that may be relevant to ongoing or pending litigation or investigations. Records that could potentially be involved in such matters should be preserved until the legal issues are resolved.

The City's Record Retention Schedule includes retention and disposition information for records that are common to multiple departments. Individual department schedules address records specific to each department. It is important to note that the City's Record Retention Schedule is a comprehensive list that covers both records subject to release under the California Public Records Act (CPRA) and records exempt from the Act. While most records held by the City are releasable, some may be exempt.

Maintenance of the City's Record Retention Schedule

Given the evolving nature of the City's business practices, it is recognized that records, record types, and retention periods may require periodic updates. A thorough review and overhaul of the schedule is planned every five years. However, minor revisions and additions may be necessary in the interim. When such situations arise, staff should notify the City Clerk, who will initiate the schedule revision process. Revisions are typically submitted by department staff, reviewed by the City Clerk, and assessed by the City Attorney.

Utilization of the Record Retention Schedule

The purpose of the Record Retention Schedule is to guide City staff regarding the appropriate length of time to retain records and the proper method for disposing of records that have exceeded their lifecycle. The next page provides a sample record from the Schedule, along with explanations of the categories used in the schedule.

	Record Name Whenever possible records have been combined into a series of like items for example "Ceremonial Documents". In some cases, records are so unique that their record name stands alone such as "Building Permit".
<i>Also Called:</i>	When records go by more than one name, the alternative names are listed here.
<i>Function:</i>	In this section the purpose or function of the record is described.
<i>Content:</i>	A series of records may be comprised of several document types, documents that most likely will be found in this series are listed.
<i>Total Retention:</i>	This is the total amount of time that the City is required, either by federal, state, local statute, or internal policy.
<i>Disposition:</i>	Disposition refers to what will be done at the end of a records lifecycle; either: destroyed, destroyed securely, or transferred to off-site storage
<i>Statutory Reference:</i>	This section will be used to note any applicable government code related to the record's retention.
<i>Location:</i>	Where the record is stored/can be found.
<i>Note:</i>	Any other notes, exceptions, or special instructions relating to the record or record series are listed here.
<i>Approval Date:</i>	This is the date that the specific record or record series was approved or updated.

Example:

	Calendar and Scheduling Records
<i>Also Called:</i>	Appointment books, work schedules, planners, daily assignment sheets
<i>Function:</i>	Records kept that document and facilitate the routine planning and scheduling of meetings, appointments, daily tasks, work assignments, shift assignments, vacation and/or day off schedules.
<i>Content:</i>	May include, but not limited to weekly schedule sheets, work schedules, appointment logs, and work assignment memos.
<i>Total Retention:</i>	2 years
<i>Disposition:</i>	Destroy
<i>Statutory Reference:</i>	CA GC §34090
<i>Note:</i>	None
<i>Approval Date:</i>	February 3, 2014

Appendix A - Records Inventory

Conducting a Records Inventory

A records inventory is a systematic process of gathering information for each file folder within an organization. Conducting a thorough inventory helps in understanding the nature and volume of records held, which in turn aids in making informed decisions regarding their storage, retention, or destruction. This process can significantly optimize storage space, potentially enabling the relocation of lesser-used files to inactive storage and the destruction of records that have met their retention periods, based on the applicable laws and organizational policies. The information collected during the inventory process can be used in various ways in subsequent years, including:

- Locating and tracking old records stored in boxes or inactive storage areas.
- Finding misfiled or lost file folders.
- Identifying and correcting inconsistencies in filing systems.
- Creating an electronic master index for easy text searches.
- Generating destruction lists and box labels.
- Managing the location of records stored off-site.
- Meeting the requirements for an index of records under GCC 17A.
- Using in the event of a disaster to locate and protect valuable records.
- Updating the retention schedule to ensure comprehensive coverage of all records.

Important Note: ORIGINAL records should not be destroyed until the destruction approval has been signed. State law allows copies or drafts to be destroyed "when no longer required." Copies and drafts can be destroyed during the inventory process, provided the following conditions are met:

- You are certain the record is a copy or draft and not an original City record.
- If the record contains any confidential data (e.g., citizen's names, phone numbers), it must be securely destroyed.

Inventory Worksheet

When conducting a records inventory, it is recommended to use a standardized form to ensure consistency in accounting for the files. This inventory should be conducted at the file level and include the precise location of each record. Use any available information to clearly identify the record's location, such as room names, room numbers, or geographical notations. For record rooms, it's helpful to label file cabinets and drawers. For example:

File cabinet: FC1

Drawers: a, b, c, etc.

Files in file cabinet 1, drawer b would be expressed as: FC1-b.

STATE OF CALIFORNIA

Print

Clear

RECORDS INVENTORY WORKSHEET

STD. 70 (REV. 5-92)

PAGE 1 OF 1

DEPARTMENT

DIVISION/SECTION

ROOM NUMBER

PERSON RESPONSIBLE FOR RECORDS

ADDRESS

TELEPHONE NUMBER

RECORDS INVENTORY

[illegible]

Appendix B - Box Label

When preparing records for storage in record boxes, it is important to ensure that the boxes are clearly labeled and organized for easy access. The following guidelines should be followed:

- Labels should be applied to the short end of each box for easy review of contents.
- Boxes should be filled with records, but not packed so tightly that retrieval or insertion of records becomes difficult.
- A copy of the inventory should be placed inside the box on top of the records.

Sample Box Label:

Department & Division:		Box #
Contents		
Record Category	Description/Note	Date Range
Inventoried By (Print Name)/Date:		Date Eligible for Destruction:

Example:

Department & Division: Facilities/Administration		Box # 4 of 13
Contents		
Record Category	Description/Note	Date Range
Correspondence	City Infrastructure Project (admin)	1/2013 – 12/2014
Inventoried By (Print Name)/Date: Tom Smith 4/5/2015		Date Box Eligible for Destruction: 12/2016

Appendix C – Records Disposition Authorization

REQUEST FOR AUTHORITY TO DESTROY OBSOLETE RECORDS

Request No. : _____

This *Request for Authority to Destroy Obsolete Records* is made pursuant to the Gilroy Records Retention Guideline adopted on January 24, 2020, by City Council **Resolution No. 2020-08**.

I hereby request the destruction of the records identified on the ***Destruction of Obsolete Records Inventory***, attached hereto as **Exhibit A**. The records identified in Exhibit A will be referred to as "Obsolete Records." I have reviewed the Obsolete Records and hereby certify that the "record series numbers," "office of record/title & content of the record," and "dates of records," identified on Exhibit A attached hereto, accurately and completely describe the Obsolete Records.

I hereby certify that, based upon the Records Retention Guidelines, the City is no longer required to retain these Obsolete Records.

Staff Member / Records Manager

Date

I hereby certify that I have reviewed the Request for Destruction of Obsolete Records Inventory (**Exhibit A**), and to my knowledge, the Obsolete Records Inventory does not identify any records that the City is required to retain in accordance with the Records Retention Guidelines. I hereby request the destruction of the Obsolete Records.

Department Head

Date

I hereby certify that I have reviewed the Request for Destruction of Obsolete Records Inventory (**Exhibit A**), and, to my knowledge, the Obsolete Records Inventory does not identify any records that the City is required to retain in accordance with the City Records Retention Guidelines.

Subject to the consent by the City Attorney as provided with the adoption of **Resolution 2014-11**, I hereby consent to the destruction of the Obsolete Records. Based upon the types of documents included in the Obsolete Records Inventory, the method of destruction shall be:

☐ Shredding

☐ Recycling

☐ RME Destruction
[to be inserted by City Clerk]

I hereby consent to the destruction of the Obsolete Records

City Clerk

Date

**CITY ATTORNEY CONSENT TO DESTROY OBSOLETE RECORDS PURSUANT TO
GOVERNMENT CODE 34090, ET SEQ.**

This *Consent for Authority to Destroy Obsolete Records* is made for those records described in the City of Gilroy Records Retention Schedule ("Schedule") adopted February 3, 2014, by City Council Resolution No. 2014- 11 (Exhibit "A").

This Consent is given pursuant to Government Code 34090, which requires the City Attorney's consent to destruction of City records. This Consent governs those records listed in the Schedule, the destruction of which is requested and presented to the City Clerk. The request must be certified by the Department Head that the specific records to be destroyed have been held for the statutory retention periods and are no longer required by law to be retained.



Linda A. Callon, City Attorney

February 3, 2014

4832-1273-9096v1
LACI04706083

[illegible]

Date : _____

**7.3. Removal of Commissioner Kortney Hodge from Parks and Recreation
Commission Pursuant to Gilroy City Charter Section 900**



City of Gilroy

STAFF REPORT

Agenda Item Title: Removal of Commissioner Kortney Hodge from Parks and Recreation Commission Pursuant to Gilroy City Charter Section 900

Meeting Date: November 6, 2023
 From: Jimmy Forbis, City Administrator
 Department: City Clerk
 Submitted By: Thai Nam Pham, City Clerk
 Prepared By: Thai Nam Pham, City Clerk

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

Staff recommends that the Council terminate Commissioner Kortney Hodge's term on the Parks and Recreation Commission effective immediately due to lack of attendance and declare the seat vacant pursuant to Section 900 of the City of Gilroy City Charter.

BACKGROUND

The Gilroy City Council appoints Gilroy Parks and Recreation Commissioners. Section 900 of the Gilroy City Charter stipulates that if a member of a board or commission is absent from three (3) consecutive regular meetings without the board or commission's permission, their office shall become vacant and shall be so declared by the Council.

On October 17, 2023, Commissioner Hodge missed her third consecutive regular meeting, having previously been absent on July 18th and September 19th, with no regular meetings scheduled for August. The Commission did not authorize these absences.

NEXT STEPS

Should the Council approve the declaration of vacancy at tonight's City Council Meeting, staff will immediately initiate the recruitment process to fill the vacant Parks and Recreation Commission seat. The newly appointed commissioner will serve a term ending on December 31, 2027, as the current seat expires at the end of this year. Interviews with potential candidates will be conducted during the City Council Special Meeting on December 11th, with the appointment scheduled to be made at the regular meeting on January 8, 2024.

7.4. Acceptance of an Assistance to Firefighters Grant in the Amount of \$66,583 for the Fire Department



City of Gilroy

STAFF REPORT

Agenda Item Title: Acceptance of an Assistance to Firefighters Grant in the Amount of \$66,583 for the Fire Department

Meeting Date: November 6, 2023

From: Jimmy Forbis, City Administrator

Department: Fire

Submitted By: Jim Wyatt, Fire Chief

Prepared By: Jennifer Fortino, Management Analyst

STRATEGIC PLAN GOALS

Maintain and Improve City Infrastructure

RECOMMENDATION

1. Accept the Assistance to Firefighters Grant for \$66,583; and
2. Authorize the City Administrator to execute all grant agreements and related documents.

EXECUTIVE SUMMARY

The Federal Emergency Management Agency (FEMA) released a request for grant applications for the "Assistance to Firefighters Grant" (AFG) Program in January 2023. The purpose of this grant is to fund critically needed resources to equip and train emergency personnel, enhance efficiencies, and support community resilience. The Gilroy Fire Department (GFD) applied for and received an AFG Program grant in the amount of \$66,583 to replace a soon-to-be nonoperational air compressor.

BACKGROUND

The FEMA AFG Program is a FEMA grant program that awards federal funding to eligible state, local, tribal, territorial, non-profits, individuals, and institutions of higher learning. The AFG Program provides direct financial assistance to qualified fire departments, emergency medical service (EMS) organizations, and State Fire Training Academies (SFTAs) to train and equip emergency responders with up-to-date critical life-saving training and equipment.

Acceptance of an Assistance to Firefighters Grant in the Amount of \$66,583 for the Fire Department

In September 2023, GFD was notified that the Department was selected to receive an AFG Program grant in the amount of \$66,583 to purchase a new air compressor. Air compressors are vital pieces of equipment that provide air to the Self-Contained Breathing Apparatus (SCBA) equipment that firefighters use while responding to fires and other emergencies.

As a condition of accepting the AFG Program grant, GFD is required to provide a 10% cost share. The Department must also participate in an Environmental and Historic Preservation (EHP) review and obtain City Council approval prior to the final acceptance and purchase of the equipment. Once the Council approves the acceptance of the grant, GFD will have 24 months to complete the equipment purchase.

ANALYSIS

GFD currently has two (2) air compressors for the Department's four (4) fire stations. One compressor was bought in 2004 and is still within warranty and meets National Fire Protection Association (NFPA) standards. However, the second compressor was installed in 1986 and is out of warranty, parts for it are obsolete, and it does not meet current NFPA standards. This air compressor is incompatible with newer SCBAs, including the SCBAs GFD is in the process of purchasing.

Additionally, the current California Division of Occupational Safety and Health (better known as CAL OSHA) permit for the 1986 air compressor expires in January 2024. CAL OSHA will no longer certify and permit this compressor after January 2024, thereby rendering the compressor nonoperational. Approval of the grant will allow us to replace the air compressor prior to it becoming nonoperational.

Replacing this air compressor is essential to the health and safety of the Department's firefighters. The new air compressor provides Carbon Monoxide (CO) and Hydrogen Sulfide (H₂S) monitoring with an audible alarm that monitors the air being filled in the SCBAs. The 1986 air compressor does not have this feature, therefore putting the Department's firefighters at risk of breathing toxic air from their SCBAs while they are fighting fires.

ALTERNATIVES

The City Council may reject the acceptance of the AFG Program grant in the amount of \$66,583. However, staff does not recommend this option as it would require the Department to absorb the cost within their existing General Fund budget. Staff would be forced to delay the purchase of other vital emergency response equipment to purchase the air compressor.

FISCAL IMPACT/FUNDING SOURCE

Acceptance of this grant requires a City contribution of \$6,658.34 from the current FY24 budget within the Fire Operation Division in the General Fund (1003510).

Acceptance of an Assistance to Firefighters Grant in the Amount of \$66,583 for the Fire Department

NEXT STEPS

Upon Council approval and completing the EHP review, staff will finalize the purchase. All steps involved in the grant process will be completed within the grant's 24-month performance period.

**7.5. Approve the Second Amendment to the Agreement with InfoSend, Inc.
for Utility Bill Printing, Mailing, and Online Payment Services**



City of Gilroy

STAFF REPORT

Agenda Item Title: **Approve the Second Amendment to the Agreement with InfoSend, Inc. for Utility Bill Printing, Mailing, and Online Payment Services**

Meeting Date: November 6, 2023
 From: Jimmy Forbis, City Administrator
 Department: Finance
 Submitted By: Harjot Sangha, Finance Director
 Prepared By: Harjot Sangha, Finance Director

STRATEGIC PLAN GOALS

Develop a Financially Resilient Organization

RECOMMENDATION

Approve the second amendment to the agreement with InfoSend, Inc. (InfoSend).

ANALYSIS

The City of Gilroy currently bills for water and wastewater utility services to approximately 15,000 customers on a monthly basis. While the bills are prepared in-house by City staff, the printing, mailing, and online bill payment services are provided by a third-party processor, InfoSend.

Of the approximately 15,000 customers, about 9,800 are receiving a printed copy of the regular utility bill via mail each month, with the remainder electing to receive their bill via email. In addition, InfoSend also prints and mails approximately 3,000 of final, delinquent, or shut-off notices each month. The City expends approximately \$93,000 annually on print and mail services with InfoSend. No changes are recommended to the print and mail services scope with this amendment.

Approximately 10,800 customers, or about 72% of the 15,000 total customers, are enrolled in the City's online portal hosted by InfoSend. Approximately 9,600 customers, or about 64% of the 15,000 total customers, are currently utilizing the City's online portal

Approve the Second Amendment to the Agreement with InfoSend, Inc. for Utility Bill Printing, Mailing, and Online Payment Services

to make utility bill payments on a monthly basis, with the remainder utilizing their personal bank's BillPay feature, mailing checks, or making in-person cash or check payments. In total, the City annually expends approximately \$153,000 for online utility payment services, including portal management, credit card interchange, and processor fees.

In 2020, the City Council directed staff to pass the payment (credit card and e-check/ACH) processing fees on to the customers who utilize the services. This change was instituted to address the inequity created when the City absorbs the fees for a customer paying a fee (or tax in the case of business license or transient occupancy tax) via debit/credit card vs. a customer paying the same fee via cash or check. The use of debit/credit cards as a payment method has increased significantly over the years, and passing such transaction fees on to the users of the service is now standard practice in the industry. The City has been absorbing these fees, and implementing the new fee model had to be deferred until both the City's Enterprise Resource Planning (ERP) and Land Management Systems (LMS) were live and operational. Both systems have been fully implemented, and the City transitioned to the new fee model for non-utility payments in August 2023 and is now ready to transition the utility payments to the new model as well. An amendment to the agreement with InfoSend is necessary to transition to the new fee model for online utility payments. Under the new fee model, all credit card transactions will be assessed a 2.9% fee, and e-check transactions will be assessed a \$1.00 fee. The utility credit card payment fee is the same as currently being assessed for non-utility payments. The fee for e-check for utility payments is slightly lower than currently assessed for non-utility e-check payments by \$0.50. By transitioning to this new model, the costs of online utility payment services will be borne by users, and the City will no longer absorb the fees for the online payment services. The fees will be assessed and collected by InfoSend and their merchant processor. The City will not retain any portion of these fees. Payments can continue to be made by cash or check without a fee.

Staff recommends the transition be made in January 2024 to allow adequate time for notification to the utility customers of the change, especially those that are enrolled in autopay, and provide an opportunity for customers to switch from their current credit card option to the cheaper e-check option if they wish to do so. There will be no impact on the customers enrolled in auto-pay other than they will see a fee added based on their selected auto-pay payment method (credit card or e-check). The communication will begin with mailing the November bill statements and via the City's existing communication channels, including Email Express, social media, etc.

ALTERNATIVES

The City Council could elect not to approve the second amendment to the agreement with InfoSend. This would be inconsistent with the previous direction and the current fee model for non-utility payments made via credit cards and e-check/ACH methods. Staff does not recommend this option.

Approve the Second Amendment to the Agreement with InfoSend, Inc. for Utility Bill Printing, Mailing, and Online Payment Services

FISCAL IMPACT/FUNDING SOURCE

The online payment fee model change will reduce the City's expenditures by an estimated \$153,000 annually as the City will no longer absorb the related costs. The InfoSend services are funded by the Water Fund (705) and the Wastewater Fund (700).

PUBLIC OUTREACH

Pending Council approval, staff will notify all utility customers and plan for a transition in January 2024. The communication will begin with mailing the upcoming November bill statements and via the City's existing communication channels, including Email Express, social media, etc.

Attachments:

1. Second Amendment to the Agreement
2. First Amendment to the Agreement
3. Original Agreement

**SECOND AMENDMENT TO THE AGREEMENT FOR SERVICES BETWEEN THE CITY
OF GILROY AND INFOSEND, INC.**

WHEREAS, the City of Gilroy, a municipal corporation (“City”), and InfoSend, Inc. (“CONTRACTOR”) entered into that certain agreement entitled Agreement for Services, effective on March 1, 2012, hereinafter referred to as “Original Agreement”; and entered into that certain First Amendment to the Agreement for Services made as of April 8, 2019, and

WHEREAS, City and Infosend, Inc. have determined it is in their mutual interest to amend certain terms of the Original Agreement.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

1. The first paragraph of Article 1 (Term of Agreement) of the Original Agreement shall be amended to read as follows:

"This Agreement will become effective on March 1, 2012, and will continue in effect through December 31, 2025, with automatic subsequent “Renewal Periods” of 12 months unless terminated in accordance with the provisions of Article 7 of this Agreement."

2. Article 4, Section A (Consideration) of the Original Agreement shall be amended to read as follows:

“In consideration for the services to be performed by CONTRACTOR, CITY agrees to pay CONTRACTOR the amounts set for in Exhibit “D” (“Payment Schedule”). Compensation and rates outlined in Exhibit “D” pertain to monthly service fees and professional fees.”

3. Exhibit B (“Scope of Services”) of the Original Agreement is hereby replaced with the attached Exhibit B.

4. Exhibit D (“Payment Schedule”) of the Original Agreement is hereby replaced with the attached Exhibit D.

5. This Second Amendment to the Agreement for Services is entered into as of November 6, 2023, and shall be effective January 1, 2024.

Except as expressly modified herein, all of the provisions of the Original Agreement and the First Amendment shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement or the First Amendment and this Amendment, the terms of this Amendment shall control.

3. 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.

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

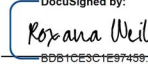
By: _____
[signature]
Jimmy Forbis
[employee name]
City Administrator
[title/department]

Date: _____

Approved as to Form

City Attorney

CONTRACTOR

By:  _____
[signature]
Roxana Weil
[name]
Executive Vice President
[title]

Date: 10/30/2023

ATTEST:

City Clerk

EXHIBIT “B”
SCOPE OF SERVICES

This Exhibit B provides the Scope of Services which CONTRACTOR (referred to herein as “InfoSend”), shall deliver to CITY to permit the Users to use the products and services to view and pay their bills under this Agreement. The Scope of Services include both Primary Services and Professional Services as described and subject to the limitations herein. To the extent that any term is not expressly defined herein, it shall have the meaning set forth in the Agreement.

I. INFOSEND’S PRIMARY SERVICES UNDER THIS AGREEMENT

☒	Data Processing, Printing and Mailing Service (“DPPM Service”): During the term of this Agreement, InfoSend will provide data processing, printing and mailing services. The Service consists of processing data, printing documents, mail preparation, applying postage (where applicable) and sending via the United States Postal Service. Document types include but are not limited to bills, postcards and letters.
☒	eBusiness Services (the “eBusiness Services”): During the term of this Agreement InfoSend will provide eBusiness Services. These services can include presenting bills online and/or accepting and reporting payment transaction information to facilitate ACH and/or credit card payments via web, Interactive-Voice-Response (IVR), SMS, or Bank Billpay (e-Lockbox).

Section 1. Data Processing, Printing and Mailing (DPPM) Service Description

A. Data Transfer and Processing

- CITY to transmit data to InfoSend in an agreed upon format. Should CITY make changes to data file format after initial setup is complete, it agrees to pay for the professional services required to accommodate the new file format. See Exhibit C – Professional Services – for information on initial setup and ongoing programming changes.
- CITY will monitor transfer confirmation emails to ensure InfoSend is in receipt of the data. CITY acknowledges that InfoSend will not be responsible or liable for any transferred data which does not result in a confirmation receipt to CITY.
- A File Transfer Report will be emailed to the CITY representatives who have opted-in to this email. A copy of this report is also available to download from the InfoSend website.
- CITY will have access to an online Job Tracking application that shows the progress of each file as it is processed and becomes a batch of documents to be printed and mailed. CITY can see both the original input file name and the InfoSend-assigned “Job Code”.
- InfoSend will process the mailing addresses and perform the following functions:
 - Apply CASS-certified address validation
 - Comply with USPS requirements to obtain pre-sort automation rates for qualified CITY mail pieces
 - Stay current with all USPS regulations required to mail presorted first-class mail
- InfoSend will optionally provide proofs of the final print-ready PDF files to CITY to be reviewed and approved before printing begins (if requested).

B. Document Printing and Mailing

- Batches are printed by InfoSend using a high-speed production process onto the agreed upon forms.
- Printed documents are put through a quality control process and then released to the mailing department to be inserted into outgoing envelope. A return envelope and any applicable inserts are included as defined by CITY workflow.
- After a batch of mail is completed in InfoSend’s system it will be marked as such in the online Job Tracker and a Process Confirmation Report will be emailed to the CITY representatives who have opted-in to this email. A copy of this report is also available to download from the InfoSend website.

Section 2. eBusiness Service Description

A. General System Description

- Mobile-Ready Customer Engagement: all products are mobile compatible out of the box, with no app store downloads required of customers. Powered by InfoSend's CCM platform, customer specific messaging and payment reminders are delivered electronically.

- Multi-Channel Payment Collection: InfoSend's payment platform will consolidate web, telephone, SMS, CSR, in-person EMV and bank payments into a single lockbox file.
- One-Time and Automatic Payments: allow customers to quickly make a one-time payment, as well as sign up to have their payment account auto debited with each billing cycle.
- Bill Notification and Presentment: notify customers via email when a new bill is available, and securely deliver exact replica of printed document to customers inbox.
- Interactive Voice Response (IVR): accept customer payments via automated phone service with InfoSend-hosted phone number, enabling CITY phone systems to redirect customers with ease.
- SMS Text-to-Pay: enrolled customers may opt in to receive text notifications of new bills, and reply to have the registered payment method drafted for the amount due, speeding up the time to payment.
- Bank Payments (MasterCard RPPS): InfoSend can collect payments made via the customer bank and include them within the lockbox file.
- PCI-Compliant Cloud Based Solution: electronic billing and payment related products hosted in the cloud by InfoSend in a secure PCI-Level 1 compliant environment.

B. Data Transfer and Processing

- CITY to transmit data to InfoSend in an agreed upon format, using the Data Transfer and Processing workflow described in Section 1.
- CITY acknowledges that InfoSend will not be responsible or liable for any transferred data which does not result in a confirmation receipt to CITY.
- If the CITY is not using InfoSend's DPPM Service, USPS address workflow will not be applied.
- Data loaded into the eBusiness system is used to facilitate accurate payments via Web, IVR, SMS or Bank BillPay.

C. Customer Enrollment and Bill Notification

- Data loaded into the system will be used to facilitate customer enrollment, using two pieces of information specific to the customer bill.
- For enrolled customers, system will send a notification of the new bill available via email.
- For enrolled customers who have opted in, system will send an SMS alert.
- For customers using the IVR system, bill information will be dictated by text to voice.
- For customers paying via Bank BillPay, the account number can be validated by the system prior to accepting payment.
- The system is configured to display a PDF replica of the bill image.

D. Customer Payment and Reporting

- Customers can make payment via Web, SMS, IVR or Bank BillPay, depending on channels which CITY has requested InfoSend setup.
- Payments can be configured to allow Users to pay by bank account and/or credit/debit card.
- All payments will be reported in a standard daily "lockbox" file.

II. INFOSEND'S PROFESSIONAL SERVICES UNDER THIS AGREEMENT

InfoSend's Professional Services are the technical services that are required to perform the initial setup of InfoSend's Primary Services as described herein in this Exhibit B and the technical services required to make changes to these Primary Services after the initial setup is complete. Once any Primary Service is live and operational Professional Services will not be required unless CITY requests a change or makes changes to its data file format or business rules which necessitates a change to InfoSend's system configuration or programming. Examples of InfoSend Professional Services:

- Project requirements gathering and analysis hours
- Project management and/or consulting hours
- Software development and system configuration hours related to the processing of CITY's data
- Software development and system configuration hours related to document design, web portal setup, business rule configuration, or any other applicable technical services
- Application testing and deployment hours

EXHIBIT "D"
PAYMENT SCHEDULE

This Exhibit D provides the Fees which InfoSend shall bill to CITY in exchange for Services and explanation for fees which CONTRACTOR (referred to herein as "InfoSend") will bill to CITY in exchange for the services provided under this Agreement. To the extent that any term is not expressly defined herein, it shall have the meaning set forth in the Agreement.

InfoSend will invoice CITY monthly and CITY will pay InfoSend the fees for Primary Services and Professional Services, as needed, described and/or computed herein (the "Fees"). CITY's payment of these invoices is due upon receipt in U.S. dollars and shall be paid NET 30 unless otherwise expressly agreed to by CONTRACTOR. Should CITY dispute any invoices, it must do so within ninety (90) days of the invoice date.

Section 1. Price Escalations to InfoSend Fees

InfoSend reserves the right to increase InfoSend Fees on an annual basis starting with the first anniversary of the Effective Date to account for increases in the cost of materials, labor, and other overhead. The CITY will be notified, in writing, at least thirty (30) days prior to such price increase. An amendment to the Agreement will not be required if the Fees are changed, unless other terms or conditions of the Agreement have changed. Postage fees can change at any time per USPS regulations and do not require an amendment to the Agreement.

Additionally, if CITY uses DPPM Services, InfoSend reserves the right to increase paper, form, and envelope fees as needed, with thirty (30) days' written notice to CITY, in the event of extraordinary increases to the cost of paper.

InfoSend pricing is predicated on CITY representations of CITY and CITY User transactional usage. Should CITY's actual continuous volume and/or recurring frequency deviate by more than thirty percent (30%) from what CITY has represented to InfoSend in Section 2 below, then InfoSend reserves the right to invalidate the Fees listed in this Agreement. Should this situation arise then InfoSend will notify CITY immediately and negotiate with CITY in good faith to pass on any increased costs to CITY, in accordance with actual CITY and CITY User transactional usage. Should InfoSend and CITY fail to agree upon updated Fees, InfoSend reserves the right to terminate this Agreement with one hundred and eighty (180) days' notice.

Section 2. CITY Representations

CITY Volume Assumptions	
<u>Customers Contacted or Billed Monthly</u>	
-Printed – approx. 12,200 monthly	
-Electronic – approx. 10,800 enrolled users	
-ACH payments per month: average 4500	
-Average ACH payment: \$130.00	
-CC payments per month: average 5100	
-Average CC payment: \$145.00	

Section 3. DPPM Fees:

Printing and Mailing Service	
Data Processing, Printing & Mailing Fee per page with up to 4/1 ink	\$0.0654
USPS Postage	Pass-through A postage deposit will be required prior to starting service.
Print Color Options (colors per side) *	\$0.0704 for 4/4 printing
Excess Pages Handwork Surcharge (per mail piece)	\$0.35
Address Updates – per "hit" (address that gets updated)	\$0.40 NCOA \$0.40 ACS

*Prices assume normal ink/toner coverage for business documents. Flood coating the entire page in color or other types of extremely high coverage designs may cost more or not be technically feasible. Extremely high coverage designs can cause content to bleed through to the other side of the page or to cause the page to curl too much to work properly with high-speed mail inserting equipment.

Materials	
Standard 8.5" x 11" Paper Stock (per sheet)	\$0.0329
Standard Double Window Outgoing #10 Envelope	\$0.0296
Standard Single Window Return #9 Envelope	\$0.0253
Outgoing Flat Envelope – used for mail pieces with excess pages	\$0.19

Insert Services	
InfoSend Produced	Quoted based on specification
Envelope Messaging (Snipes)	Quoted based on specification
Electronic Inserts	\$0.01 per insert
Inserting Fee	\$0.01 per insert
Fee to insert an InfoSend produced or CITY provided marketing or informational insert. CITY provided (drop-shipped) inserts must be professionally packaged and ready for usage. If folding is required then additional fees apply based on folding requirements. Minimum fee is \$0.01 per insert for folding. If inserts are not professionally packaged and damaged in shipment or require additional labor to prepare for inserting then additional fees can apply. Per item fee assumes the insert will be included in all mail pieces. Selective inserting is available but requirements must be reviewed on a case by case basis to determine if additional fees will apply for setup and handling.	

Optional Document Services	
Professional Services Rate (per hour)	\$150.00
Returned Mail Handling	\$0.45 per reported returned mail piece
Remit Tracking	\$100 monthly support fee

Section 3.1. Custom Forms/Envelopes

If CITY has selected the Printing and Mailing Service and at any time requests that InfoSend Fees include the cost of custom CITY-specific materials (either in this Agreement or since its execution), then CITY understands and accepts that these materials will be purchased in bulk to achieve the lowest possible per-unit cost. CITY agrees to purchase any remaining supplies of requested custom materials (normally forms or envelopes) if CITY stops using InfoSend's Service for any reason. CITY agrees to purchase the remaining supply of custom forms/envelopes upon CITY's request to change the custom forms/envelopes before the supply has been depleted.

Section 3.2. USPS Postage Rates

Postage rates are determined by the United States Postal Service. All postage rate changes are determined directly by USPS and are independent of any InfoSend service or materials fees. In no event shall any change in the postage rates affect the InfoSend service or materials fees. The CITY will be invoiced the amount of excess for overweight and foreign mail.

Section 3.3. Postage Deposit

InfoSend purchases the postage needed to mail CITY documents on the day of mailing. The postage charges are later invoiced to CITY based on the CITY's payment terms. InfoSend requires CITY to submit a postage deposit prior to the first mailing to facilitate the payment terms. This amount will remain in deposit for the duration of the Agreement. Upon Agreement expiration or termination CITY must pay in full any outstanding invoices from InfoSend for payables created under this Agreement; the postage deposit will be refunded within fifteen (15) days of the date that the last open invoice is paid.

The postage deposit amount is calculated by multiplying the estimated number of mail pieces per month by the current 5-Digit pre-sorted first class postage rate.

The postage deposit is subject to ongoing review and may be adjusted at any time to account for changes to CITY average mailing volume or changes to USPS postage rates with at least thirty (30) days' written notice to CITY. The current postage deposit on hand is \$10,010.

Section 4. eBusiness Service Fees

Multi-Channel Payments	
Bank Account (ACH)	\$1.00 customer service fee
Credit Card (CC)	2.9% customer service fee

Above fees cover payment initiation through all channels hosted by InfoSend. All Payment Processing fees will be assessed by a registered ISO of TSYS and included in a merchant statement. All pricing is based on "CITY Volume Assumptions" listed and excludes applicable sales tax.

InfoSend reserves the right to revise pricing at ANY time due to increase in average ticket amount, or if the credit card issuing companies raise interchange fees beyond what they are today. If the average payment processing fees for your customer base goes above 2.9%, then the fee charged to your customers will need to be immediately increased.

InfoSend is not responsible for either of the above scenarios having to change due to credit card issuer rules and regulations. In this case, InfoSend will negotiate a new pricing configuration in good faith to ensure compliance with credit card rules and regulations.

Online BillPay Platform	
Online BillPay Setup Fee	Already Live
Monthly Maintenance	\$0.00
eBill Load Fee	\$0.00
Per Enrolled Customer Fee	\$0.00

Section 5. CITY Go-Live and Fees

InfoSend will provide CITY with a Demo instance of the System to approve configuration and simulation of Services. Upon CITY approval of the Demo instance of the System and sample outputs from Services, InfoSend will create a copy of Demo System in Production for completion of final User Acceptance Testing (UAT). CITY will be given the UAT Period to complete internal testing prior to initiating Go-Live. All Setup and recurring Monthly Fees will become due upon the sooner of (a) CITY Go-Live with the application or (b) 60 days from InfoSend delivery of Production System for UAT.

Section 6. Professional Services Fee and Process for Approval and Payment of Fee

The current Professional Services Fee is \$150.00 per hour. InfoSend Professional Services Fees can be adjusted once every twelve (12) months to account for increases to the cost of providing these services. InfoSend reserves the right to increase Professional Services Fees on an annual basis, starting with the first anniversary of the Agreement date, if needed. The CITY will be notified, in writing, at least thirty (30) days prior to such price increase. An amendment to the Agreement will not be required if the Professional Services Fees are changed, unless the terms or conditions of the Agreement have changed.

In the event that a project will incur billable Professional Services hours, CITY will be informed before work begins. InfoSend and CITY will execute a Statement of Work for the project that CITY wants InfoSend to undertake. The payment terms for the project depend on the size and scope of the project. The Statement of Work can include payment terms that are different than the terms listed in this Agreement for InfoSend Fees, otherwise these terms will apply and the project fees will be invoiced upon project completion. Small projects that incur less than five (5) hours of Professional Services can be initiated without a Statement of Work if CITY accepts and executes a Programming Quote for this work.

Any project that will take more than five (5) hours of Professional Services work will require both parties to execute a formal Statement of Work. Depending on the nature of the work required, InfoSend will provide one of the following quotation methods:

Any project that will take more than five (5) hours of Professional Services work will require both parties to execute a formal Statement of Work. Depending on the nature of the work required, InfoSend will provide one of the following quotation methods:

- **Fixed Quote** – a fixed project cost will be set. InfoSend may elect to waive this cost in some circumstances. CITY understands and accepts that it must accept the terms and conditions of the Statement of Work for the project and that changes made to the project requirements, data file structure, etc., after the Statement of Work and any amendments to it have been finalized will require CITY to pay for these changes on a Time and Materials basis. CITY will be notified immediately if this scenario arises and will be given an option to keep the original project specifications to keep the fixed quote in place.
- **Time and Materials Quote** – should it not be possible to provide a fixed quote due to the nature of a CITY's requested project, then InfoSend will provide an estimated number of hours to complete the project and bill the hours on a Time and Materials basis. The Statement of Work will include the terms and conditions for these project types and CITY will be invoiced weekly for the hours spent on the project.

FIRST AMENDMENT TO THE AGREEMENT FOR SERVICES BETWEEN THE CITY OF GILROY AND INFOSEND, INC.

This First Amendment to the Agreement for Services ("First Amendment") is made and entered into as of April 8, 2019 ("Effective Date"), by and between the City of Gilroy, a California municipal corporation ("CITY"), and InfoSend, Inc. ("CONTRACTOR").

RECITALS

WHEREAS, CITY and CONTRACTOR are parties to that certain Agreement for Services, effective on March 1, 2012, hereinafter referred to as "Original Agreement"; and

WHEREAS, CITY and CONTRACTOR have determined it is in their mutual interest to amend certain terms of the Original Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth below and for other valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. Article 1 ("Term of Agreement") of the Original Agreement shall be amended to read as follows:

"This Agreement will become effective on March 1, 2012 and will continue in effect through January 2, 2022, with automatic subsequent "Renewal Periods" of 12 months unless terminated in accordance with the provisions of Article 7 of this Agreement."

2. Article 4, Section A ("Consideration") of the Original Agreement shall be amended to read as follows:

"In consideration for the services to be performed by CONTRACTOR, CITY agrees to pay CONTRACTOR the amounts set forth in **Exhibit "D"** ("Payment Schedule"). In no event however shall the total compensation paid to CONTRACTOR exceed \$3,499.00. Additional compensation as outlined in Exhibit "D" pertains to monthly service fees and professional fees which will not exceed the stated amounts provided."

3. The third sentence in Article 4, Section ("Consideration") of the Original Agreement shall be amended to read as follows:

"If CITY objects to all or any portion of any invoice, CITY shall notify CONTRACTOR of the objection within ninety (90) days from receipt of the invoice, give reasons for the objection, and pay that portion of the invoice not in dispute."

4. The first paragraph ("Professional Liability") of Article 5, Section C ("Indemnification of Liability, Duty to Defend") of the Original Agreement shall be amended to add the following language:

"CONTRACTOR shall not be responsible for actions, omissions or delays in services provided pursuant to this Agreement, resulting from erroneous, late or incomplete data and/or instructions from CITY. No damages shall be assessed against CONTRACTOR when any delay or breach on CONTRACTOR's part is caused by failure of CITY to perform responsibilities to any third parties related to this Agreement or any other reason beyond the

control of CONTRACTOR, including, without limitation, failures or limitations on the availability of third-party telecommunications or other transmission facilities.

This **Article 5.C** states the entire liability of CONTRACTOR with respect to infringement by any deliverable of CONTRACTOR or resulting from the performance of services under this Agreement by CONTRACTOR.”

5. The second paragraph (“Other Liability”) of Article 5, Section C (“Indemnification of Liability, Duty to Defend”) of the Original Agreement shall be removed in its entirety and hereby replaced with the following language:

“As to all other liability, to the fullest extent permitted by law, CONTRACTOR shall defend, indemnify, and hold harmless, through counsel approved by CITY (which approval will not be unreasonably withheld), CITY, its officers, officials, representatives, agents, employees, and volunteers, against any and all suits, damages, costs, fees, claims, demands, causes of action, losses, liabilities, and expenses, including attorneys’ fees, that arise out of, pertain to, or relate to any alleged or actual acts, errors, omissions, or willful misconduct of CONTRACTOR or CONTRACTOR’s officers, assistants, subcontractors, employees, or agents in connection with performance of CONTRACTOR’s obligations under this Agreement other than those arising from or related to the services to be performed under this Agreement, including all claims related to the injury or death of any person, or damage to any property, however caused, regardless of any negligence of CITY, except that CITY shall indemnify CONTRACTOR against any and all suits, damages, costs, fees, claims, demands, causes of action, losses, liabilities, and expenses, including attorneys’ fees, that arise out of, pertain to, or relate to the sole or active negligence of CITY, its officers, officials, representatives, agents, employees, or volunteers, related to the CITY’s transmittal of any authorized transaction or file through or CITY’s misuse of CONTRACTOR’s system or services provided under this Agreement.”

6. Article 5, Section C (“Indemnification of Liability, Duty to Defend”) of the Original Agreement shall be amended to add a third paragraph containing the following language:

“(3) Limitation of Liability

In no event shall either party be liable to the other for any indirect, punitive, special, exemplary, incidental, consequential (including loss of data, revenue, profits, use or other economic advantage) arising out of, or in any way connected with the services to be provided under this Agreement, even if the party from which damages are being sought have been previously advised of the possibility of such damages.

CONTRACTOR’s aggregate liability shall not exceed the amounts actually paid by and/or due from CITY in the ninety (90) day period immediately preceding the event giving rise to such claim.”

7. Article 6 (“Obligations of City”) of the Original Agreement shall be amended to add Section C containing the following language:

“C. Compliance with the Law

CITY represents and warrants that it has the legal power and authority to enter into this Agreement. CITY further warrants that it will comply with all laws, regulations, and

compliance requirements applicable to CITY's and CITY's utilities customers (the "Users") activities covered by this Agreement."

8. Article 7, Section C ("Termination for Failure to Make Agreed-Upon Payments") of the Original Agreement shall be amended to add the following language:

"CITY's failure to pay any undisputed invoices within ninety (90) days of the date due may constitute such default under this Agreement."

9. Article 7 ("Termination of Agreement") of the Original Agreement shall be amended to add Section E containing the following language:

"E. Force Majorure

Neither party shall be liable, or deemed to be in default, to the other for any failure or delay in performing an obligation under this Agreement to the extent that its performance is delayed, impaired or rendered impossible by an event beyond its control, such as natural disasters, war, terrorist acts, riots, labor strikes, civil disturbances, extra-ordinary losses of utilities (including telecommunications services), computer "hacker" attacks on internet infrastructure, regulatory restrictions, change in law or regulation or other acts of government authority, including civil and military authorities and courts, fuel or energy shortages, transportation stoppages or slowdowns, the inability to procure parts or raw materials, and/or acts or omissions of common carrier. These causes will not excuse CITY from paying accrued payables due to CONTRACTOR through any available lawful means acceptable to CONTRACTOR."

10. Article 8 ("General Provisions") of the Original Agreement shall be amended to add Section M containing the following language:

"M. Exhibits Incorporated

All exhibits referred to in this Agreement and attached to it are hereby incorporated by reference. In the event there is a conflict between the terms of this Agreement and any of the terms of any exhibit to this Agreement, the terms of this Agreement shall control.

11. Article 8 ("General Provisions") of the Original Agreement shall be amended to add Section N containing the following language:

"N. Survival Clause

All of the terms of this Agreement which by their nature extend beyond the expiration or termination of the Agreement, including but not limited to indemnification obligations, confidentiality obligations and limitations of liability, shall survive expiration or termination of the Agreement and remain in full force and effect."

12. Exhibit "A" ("Specific Provisions") of the Original Agreement shall be removed in its entirety and hereby replaced with the attached Exhibit "A".

13. Exhibit "B" ("Scope of Services") of the Original Agreement shall be removed in its entirety and hereby replaced with the attached Exhibit "B".

14. Exhibit "C" ("Milestone Schedule") of the Original Agreement shall be removed in its entirety and hereby replaced with the attached Exhibit "C".
15. Exhibit "D" ("Payment Schedule") of the Original Agreement shall be removed in its entirety and hereby replaced with the attached Exhibit "D".
16. 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.
17. 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.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed as of the dates set forth beside their signatures below.

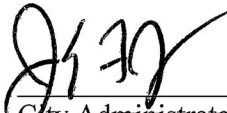
CITY:

CONTRACTOR:

CITY OF GILROY

INFOSEND, INC.

By:


City Administrator Jimmy Forbis
Finance Director

By:


Name: RUSS REZAI
Title: President

Social Security or Taxpayer

Identification Number: 33-0748516

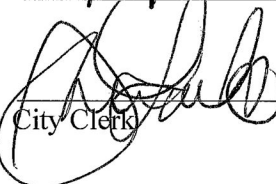
Date:

5/15/19

Date:

3/27/19

By:


City Clerk

Approved as to Form

By:

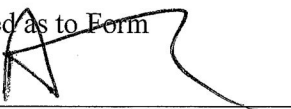

City Attorney

EXHIBIT A

SPECIFIC PROVISIONS

I. PROJECT MANAGER

CONTRACTOR shall provide the services indicated on the attached **Exhibit B**, Scope of Services ("Services"). (All exhibits referenced are incorporated herein by reference.) To accomplish that end, CONTRACTOR agrees to assign its Director of CITY Services who will act in the capacity of Project Manager, and who will personally direct such Services.

Except as may be specified elsewhere in this Agreement, CONTRACTOR shall furnish all technical and professional services including labor, material, equipment, transportation, supervision, and expertise to perform all operations necessary and required to complete the Services in accordance with the terms of this Agreement.

II. NOTICE TO PROCEED/COMPLETION OF SERVICE

A. NOTICE TO PROCEED

CONTRACTOR shall commence the Services upon CITY'S delivery to CONTRACTOR a written "Notice to Proceed." The Notice to Proceed shall be in the form of a written communication from designated CITY contact person(s). The Notice to Proceed may be in the form of e-mail, fax or letter authorizing commencement of the Services. For purposes of this Agreement, Carmen Medrano will be the designated CITY contact person(s). The Notice to Proceed shall be deemed to have been delivered upon actual receipt by CONTRACTOR or if otherwise delivered as provided in the **Section V.H.** ("Notices") of this **Exhibit A**.

B. COMPLETION OF SERVICES

When CITY determines that CONTRACTOR has completed all of the Services in accordance with the terms of this Agreement, CITY shall give CONTRACTOR a written Notice of Final Acceptance, and CONTRACTOR shall not incur any further costs hereunder. CONTRACTOR may request this Notice of Final Acceptance when, in its opinion, it has completed all of the Services as required by the terms of this Agreement and, if so requested, CITY will make a determination of completion within two (2) weeks of such request, or if CITY determines that CONTRACTOR has not completed all of such Services as required by this Agreement, CITY will so inform CONTRACTOR within this two (2) week period.

III. PAYMENT OF FEES AND DIRECT EXPENSES

Payments shall be made to CONTRACTOR as provided for in **Article 4** of this Agreement.

Direct expenses are charges and fees not included in **Exhibit B**. CITY will only be obligated to pay for those direct expenses that have been previously approved in writing by CITY. CONTRACTOR will obtain written approval from CITY prior to incurring or billing for direct expenses.

Copies of pertinent financial records, including invoices, will be included with the submission of billing(s) for all direct expenses.

The recurring nature of CONTRACTOR's Services result in a rapid rise in financial loss to CONTRACTOR if CITY's accounts payable process is delayed, particularly when CONTRACTOR is invoicing CITY for postage charges. Therefore, in the event that undisputed invoices remain unpaid for over sixty (60) days from due date, unless otherwise expressly agreed to by CONTRACTOR in writing, CONTRACTOR reserves the right to suspend Services until payments are brought current. CONTRACTOR's accounting staff monitors CITY debt regularly, and will notify CITY in writing before Services are suspended. Should a hold be instated, it will immediately be removed once payment is received.

CONTRACTOR may elect to charge CITY interest on all undisputed invoices that remain unpaid for over sixty (60) days from due date at a rate of 1.5% per month, and any collection costs incurred by CONTRACTOR (including attorneys' fees).

IV. OTHER PROVISIONS

A. STANDARD OF WORKMANSHIP

CONTRACTOR represents and warrants that it has the qualifications, skills, and licenses necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and CITY expressly relies upon CONTRACTOR'S representations and warranties regarding its skills, qualifications and licenses. CONTRACTOR shall perform all Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California.

Any plans, designs, specifications, estimates, calculations, reports and other documents furnished under this Agreement shall be of a quality acceptable to CITY. The minimum criteria for acceptance will be a product of neat appearance, well-organized, technically and grammatically correct, checked and having the maker and checker identified. The minimum standard of appearance, organization and content of the drawings will be that used by CITY for similar purposes.

CONTRACTOR represents and warrants that the Services will materially perform the functions that the CITY has selected under normal use and circumstances and that CONTRACTOR shall use commercially reasonable measures to protect CITY's data in accordance with **Section V.D. of this Exhibit "A"** to the extent that it retains such data in the operation of the Services. Provided that CITY gives CONTRACTOR written notice of failure to meet the foregoing warranty within sixty (60) days following delivery of any Services, or as otherwise specified in a Statement of Work ("SOW"), CONTRACTOR warrants that it will use commercially reasonable efforts to correct any Services that fail to comply with the foregoing warranty. If there is no notice by CITY within sixty (60) days following delivery of any Services, or as otherwise specified in a SOW it shall be deemed that CITY has accepted the Services.

Except as expressly set forth above, CONTRACTOR disclaims all other representations or warranties, express or implied, made to CITY or any other party, including without limitation, any warranties regarding quality, suitability, merchantability, fitness, for a particular purpose or

otherwise of any services or any good provided incidental to the Services provided under this Agreement, to the extent permitted by applicable law.

CONTRACTOR and its licensors and payment processors do not represent or warrant that (i) the use of the Services will be uninterrupted or error-free, or operate in combination with any other hardware, software, system or data; or (ii) the Services will not delay in processing or paying. Service may be subject to the limitations, delays, and other problems inherent in the use of the Internet and electronic communications. CONTRACTOR is not responsible for any delays, delivery failures, or other damage resulting from such problems.”

B. RESPONSIBILITY OF CONTRACTOR

CONTRACTOR shall be responsible for the professional quality, technical accuracy, and the coordination of the Services furnished by it under this Agreement. CONTRACTOR shall not be responsible for the accuracy of any project or technical information provided by the CITY. The CITY’S review, acceptance or payment for any of the Services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and CONTRACTOR shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONTRACTOR’S negligent performance of any of the services furnished under this Agreement.

C. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR

CITY, through its authorized employees, representatives or agents, shall have the right, at any and all reasonable times, to audit the books and records (including, but not limited to, invoices, vouchers, canceled checks, time cards, etc.) of CONTRACTOR for the purpose of verifying any and all charges made by CONTRACTOR in connection with this Agreement. CONTRACTOR shall maintain for a minimum period of three (3) years (from the date of final payment to CONTRACTOR), or for any longer period required by law, sufficient books and records in accordance with standard California accounting practices to establish the correctness of all charges submitted to CITY by CONTRACTOR, all of which shall be made available to CITY at the CITY’S offices within five (5) business days after CITY’S request.

D. PRIVACY AND SECURITY

(1) CONFIDENTIALITY OF MATERIAL

All ideas, memoranda, specifications, plans, manufacturing procedures, data (including, but not limited to, computer data and source code), drawings, descriptions, documents, discussions or other information developed or received by or for CONTRACTOR and all other written and oral information developed or received by or for CONTRACTOR and all other written and oral information submitted to CONTRACTOR in connection with the performance of this Agreement shall be held confidential by CONTRACTOR and shall not, without the prior written consent of CITY, be used for any purposes other than the performance of the Services, nor be disclosed to an entity not connected with the performance of the such Services. Nothing furnished to CONTRACTOR which is otherwise known to CONTRACTOR or is or becomes generally known to the related industry (other than that which becomes generally known as the result of CONTRACTOR’S disclosure thereof) will be deemed confidential. CONTRACTOR shall not

use CITY'S name or insignia, or distribute publicity pertaining to the services rendered under this Agreement in any magazine, trade paper, newspaper or other medium without the express written consent of CITY.

To the fullest extent permitted by law, including without limitation the California Public Records Act (Gov't Code § 6250 et seq.), CITY shall not disclose to any third party or use for any purpose inconsistent with this Agreement any confidential or proprietary non-public information it obtains during the term of this Agreement about CONTRACTOR's business, operations, financial condition, technology, systems, products, services, suppliers, CITYs or prospective CITYs, marketing data, plans, pricing, and models, or personnel, unless required by applicable law. CITY will ensure that its employees and agents similarly abide by the requirements hereof. CITY will immediately notify CONTRACTOR upon becoming aware of any such violation by such employees or authorized representatives.

(2) REGULATORY COMPLIANCE

CONTRACTOR will maintain compliance with required Payment Card Industry (PCI) Data Security Standards and Cardholder Information Security Standards, applicable rules and regulations of the Health Insurance Portability and Accountability Act (HIPAA), and applicable sections of the Gramm-Leach-Bliley Act of 1999.

(3) DATA AND HUMAN RESOURCES SECURITY

CONTRACTOR takes great care in both data and human resources security. CONTRACTOR's company policy requires all new employees to pass a background check and a drug-screening test, both performed by outside companies. These practices will remain in place for the duration of the Term of this Agreement.

E. NO PLEDGING OF CITY'S CREDIT

Under no circumstances shall CONTRACTOR have the authority or power to pledge the credit of CITY or incur any obligation in the name of CITY.

F. PROPRIETARY RIGHTS

(1) LICENSE GRANT AND RESTRICTIONS BY CONTRACTOR

CONTRACTOR agrees to provide to CITY the right to use software and the provision of Services, but in all cases only in full and complete compliance with all of the terms and conditions of this Agreement. Subject to the terms of this Agreement, CONTRACTOR hereby grants, and CITY hereby accepts, for the Term of this Agreement, as provided in Article 1 of this Agreement, a non-exclusive, non-transferable license to access and use and to permit the Users to access and use CONTRACTOR's system provided under this Agreement (the "System") via the Internet.

City hereby agrees not to: (i) reproduce, download, modify, create derivative works from, distribute, or attempt to reverse engineer, decompile, disassemble, or access the source or object code for, the System; (ii) use the System, or any component thereof, in any manner contrary to

applicable laws or government regulations; or (iii) otherwise affect, attempt to enable the authorized use (with or without User ID and/or password) of the System.

(2) OWNERSHIP OF MATERIAL BY CITY

Subject to **Subsection (1) of Section V.F. of this Exhibit "A"**, all material including, without limitation, non-source or data code computer information, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports and other material developed, collected, prepared (or caused to be prepared) under this Agreement shall be the property of CITY, but CONTRACTOR may retain and use copies thereof subject to **Section V.D. of this Exhibit "A"**.

CITY shall not be limited in any way in its use of said material at any time for any work, whether or not associated with the Services rendered under this Agreement. However, CONTRACTOR will not be responsible for, and CITY will indemnify CONTRACTOR from, damages resulting from the use of said material for work other than for the Services, including, without limitation, the release of this material to third parties for work other than on the Services rendered under this Agreement, in accordance with **Article 5.C.** of this Agreement.

G. NO THIRD PARTY BENEFICIARY

This Agreement shall not be construed or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties will have any claim or right of action hereunder for any cause whatsoever.

H. NOTICES

Notices are to be sent as follows:

CITY:

Jimmy Forbis
City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020

CONTRACTOR:

Infosend Inc.
C/O Russ Rezai
4240 E. La Palma
Anaheim, CA 92807

I. FEDERAL FUNDING REQUIREMENTS

- ☐ If the box to the left of this sentence is checked, this Agreement involves federal funding and the requirements of this **Section V.I.** apply.
- ☒ If the box to the left of this sentence is checked, this Agreement does not involve federal funding and the requirements of this **Section V.I.** do not apply.

1. DBE Program

CONTRACTOR shall comply with the requirements of Title 49, Part 26, Code of Federal Regulations (49 CFR 26) and the City-adopted Disadvantaged Business Enterprise programs.

2. Cost Principles

Federal Acquisition Regulations in Title 48, CFR 31, shall be used to determine the allowable cost for individual items.

3. Covenant against Contingent Fees

The CONTRACTOR warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the CONTRACTOR, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the Local Agency shall have the right to annul this Agreement without liability or, at its discretion, to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

EXHIBIT B**SCOPE OF SERVICES**

This Exhibit B provides the Scope of Services which CONTRACTOR (referred to herein as “InfoSend”) shall deliver to CITY to permit the Users to use the products and services to view and pay their bills under this Agreement. The Scope of Services include both Primary Services and Professional Services as described and subject to the limitations herein. To the extent that any term is not expressly defined herein, it shall have the meaning set forth in the Agreement.

I. INFOSEND’S PRIMARY SERVICES UNDER THIS AGREEMENT

☒	Data Processing, Printing and Mailing Service (“DPPM Service”): During the Term of this Agreement, InfoSend will provide data processing, printing and mailing services. The Service consists of processing data, printing documents, mail preparation, applying postage (where applicable) and sending via the United States Postal Service. Document types include but are not limited to bills, postcards and letters.
☒	eBusiness Services (the “eBusiness Services”): During the Term of this Agreement InfoSend will provide eBusiness Services. These services can include presenting bills online and/or accepting and reporting payment transaction information to facilitate ACH and/or credit card payments via web, Interactive-Voice-Response (IVR), SMS, or Bank Billpay (e-Lockbox).

Section 1. Data Processing, Printing and Mailing (DPPM) Service Description**A. Data Transfer and Processing**

- CITY to transmit data to InfoSend in an agreed upon format. Should CITY make changes to data file format after initial setup is complete, it agrees to pay for the professional services required to accommodate the new file format. See Exhibit C – Professional Services – for information on initial setup and ongoing programming changes.
- A File Transfer Report will be emailed to the CITY representatives who have opted-in to this email. A copy of this report is also available to download from the InfoSend website.
- CITY will have access to an online Job Tracking application that shows the progress of each file as it is processed and becomes a batch of documents to be printed and mailed. CITY can see both the original input file name and the InfoSend-assigned “Job Code”.
- InfoSend will process the mailing addresses and perform the following functions:
 - Apply CASS-certified address validation
 - Comply with USPS requirements to obtain pre-sort automation rates for qualified CITY mail pieces
 - Stay current with all USPS regulations required to mail presorted first-class mail
- InfoSend will optionally provide proofs of the final print-ready PDF files to CITY to be reviewed and approved before printing begins (if requested).

B. Document Printing and Mailing

- Batches are printed by InfoSend using a high-speed production process onto the agreed upon forms.
- Printed documents are put through a quality control process and then released to the mailing department to be inserted into outgoing envelope. A return envelope and any applicable inserts are included as defined by CITY's workflow.
- After a batch of mail is completed in InfoSend's system it will be marked as such in the online Job Tracker and a Process Confirmation Report will be emailed to the CITY representatives who have opted-in to this email. A copy of this report is also available to download from the InfoSend website.

Section 2. eBusiness Service Description

A. General System Description

- Mobile-Ready Customer Engagement: all products are mobile compatible out of the box, with no app store downloads required of customers. Powered by InfoSend's CCM platform, customer specific messaging and payment reminders are delivered electronically.
- Multi-Channel Payment Collection: InfoSend's payment platform will consolidate web, telephone, SMS, CSR, in-person EMV and bank payments into a single lockbox file.
- One-Time and Automatic Payments: allow customers to quickly make a one-time payment, as well as sign up to have their payment account auto debited with each billing cycle.
- Bill Notification and Presentment: notify customers via email when a new bill is available, and securely deliver exact replica of printed document to customers inbox or show online via the secure portal.
- Interactive Voice Response (IVR): accept customer payments via automated phone service with InfoSend-hosted phone number, enabling CITY phone systems to redirect customers with ease.
- SMS Text-to-Pay: enrolled customers may opt in to receive text notifications of new bills, and reply to have the registered payment method drafted for the amount due, speeding up the time to payment.
- Bank Payments (MasterCard RPPS): InfoSend can collect payments made via the customer bank and include them within the lockbox file.
- PCI-Compliant Cloud Based Solution: electronic billing and payment related products hosted in the cloud by InfoSend in a secure PCI-Level 1 compliant environment.

B. Data Transfer and Processing

- CITY to transmit data to InfoSend in an agreed upon format, using the Data Transfer and Processing workflow described in Section 1.
- If the CITY is not using InfoSend's DPPM Service, USPS address workflow will not be applied.
- Data loaded into the eBusiness system is used to facilitate accurate payments via Web, IVR, SMS or Bank BillPay.

C. Customer Enrollment and Bill Notification

- Data loaded into the system will be used to facilitate customer enrollment, using two pieces of information specific to the customer bill.

- For enrolled customers, system will send a notification of the new bill available via email.
- For enrolled customers who have opted in, system will send an SMS alert.
- For customers using the IVR system, bill information will be dictated by text to voice.
- For customers paying via Bank BillPay, the account number can be validated by the system prior to accepting payment.
- The system may optionally be configured to display a PDF replica of the bill image.

D. Customer Payment and Reporting

- Customers can make payment via Web, SMS, IVR or Bank BillPay, depending on channels which CITY has requested InfoSend setup.
- Payments can be configured to allow Users to pay by bank account and/or credit/debit card.
- All payments will be reported in a standard daily "lockbox" file.

Section 3. Implementation and Support Description

A. Implementation

- Dedicated Account Manager acts as primary contact and project manager, coordinating all internal setup activities with InfoSend programming and operations staff.
- All setup and training performed virtually, using phone, email, and web-based tools for issue tracking and screen sharing.
- All communications, documentation and test files tracked and stored securely within the InfoSend CRM system, allowing other InfoSend personnel to contribute or take ownership of the project.
- During programming, InfoSend's Data Processing platform is configured to automate CITY-specific Quality Assurance (QA) during processing.
- Parallel Testing is run prior to go-live, ensuring all aspects of the application are validated before launch.
- Go-Live includes an "all-hands" approach, with all key InfoSend managers required to review the launch day activity and sign off before application output is final.

B. Support

- Dedicated Account Manager from implementation also assigned to monitor and provide support.
- Dedicated Support Staff for reviewing and responding to incoming issues.
- Multiple communication channels available for CITY preference: web support ticketing tool, email, and phone.
- Proactive support initiated by InfoSend staff when CITY data issues are detected by InfoSend Quality Control processes.
- Issues tracked via InfoSend CRM tool, ensuring full resolution before the ticket can be closed.

II. INFOSEND'S PROFESSIONAL SERVICES UNDER THIS AGREEMENT

InfoSend's Professional Services are the technical services that are required to perform the initial setup of InfoSend's Primary Services as described herein in this Exhibit B and the technical services required to make changes to these Primary Services after the initial setup is complete.

Once any Primary Service is live and operational Professional Services will not be required unless the CITY requests a change or makes changes to its data file format or business rules which necessitates a change to InfoSend's system configuration or programming.

Examples of InfoSend's Professional Services:

- Project requirements gathering and analysis hours
- Project management and/or consulting hours
- Software development and system configuration hours related to the processing of CITY's data
- Software development and system configuration hours related to document design, web portal setup, business rule configuration, or any other applicable technical services
- Application testing and deployment hours

EXHIBIT C
MILESTONE SCHEDULE

Key milestones are established at kickoff of implementation of Scope of Services as described in **Exhibit “B”**, and are tracked and reported throughout the project.

EXHIBIT D

PAYMENT SCHEDULE

This Exhibit D provides the invoice schedule and explanation for fees which CONTRACTOR (referred to herein as “InfoSend”) will bill to CITY in exchange for the services provided under this Agreement. To the extent that any term is not expressly defined herein, it shall have the meaning set forth in the Agreement.

InfoSend will invoice CITY monthly and CITY will pay InfoSend the fees for Primary Services and Professional Services, as needed, described and/or computed herein (the “Fees”). CITY’s payment of these invoices is due upon receipt in U.S. dollars and shall be paid NET 30 unless otherwise expressly agreed to by CONTRACTOR. Should CITY dispute any invoices, it must do so within ninety (90) days of the invoice date.

Section 1. Price Escalations to InfoSend Fees

InfoSend Fees can be adjusted once every twelve (12) months to account for increases in the cost of materials, labor, and other overhead costs. InfoSend reserves the right to increase InfoSend Fees on a yearly basis (starting with the first anniversary of the Agreement date). The CITY will be notified, in writing, at least thirty (30) days prior to such price increase. An amendment to the Agreement will not be required if the Fees are changed, unless the terms or conditions of the Agreement have otherwise changed. Postage fees can change at any time per USPS regulations and do not require an amendment to the Agreement.

In addition to this, if CITY uses the Printing and Mailing Service, it accepts that InfoSend reserves the right to pass on any extraordinarily high increases to the cost of forms or envelopes at any time. The CITY will be notified, in writing, at least thirty (30) days prior to such price increase.

InfoSend pricing is predicated on CITY representations of CITY and CITY User transactional usage. Should CITY’s actual continuous volume and/or recurring frequency deviate by more than thirty percent (30%) from what CITY has represented to InfoSend in Section 2 below, then InfoSend reserves the right to invalidate the Fees listed in this Agreement. Should this rare situation arise then InfoSend will notify CITY immediately and negotiate with CITY in good faith to pass on any increased costs to CITY, in line with actual CITY and CITY User transactional usage. As defined in Section 5.2(iv) of the Agreement, should InfoSend and CITY fail to agree upon updated Fees, InfoSend reserves the right to terminate this Agreement with one hundred eighty (180) days’ notice.

Section 2. Initial Setup Cost: InfoSend Primary Services

The Initial Setup cost for the InfoSend Primary Services described in **Exhibit “B”** have been provided using a Fixed Quote process, explained in Section 2 below. CITY understands and agrees to these terms, and to the project-specific terms and conditions that will be provided in the Statement of Work that will be created to capture CITY’s specific requirements and data types.

Section 3. Professional Services Fee and Process for Approval and Payment of Fee

The Professional Services Fee Rates as previously contracted shall remain in effect.

In the event that a project will incur billable Professional Services hours, CITY shall be informed before work begins. InfoSend and CITY will execute a Statement of Work for project that CITY wants InfoSend to undertake. The payment terms for the project depend on the size and scope of the

project. The Statement of Work can include payment terms that are different than the terms listed in this **Exhibit “D”**, otherwise these terms will apply and the project fees will be invoiced upon project completion. Small projects that incur less than five (5) hours of Professional Services can be initiated without a Statement of Work if CITY accepts and executes a Programming Quote for this work.

Any project that will take more than five (5) hours of Professional Services work will require both parties to execute a formal Statement of Work. Depending on the nature of the work required, InfoSend will provide one of the following quotation methods:

- **Fixed Quote** – a fixed project cost will be set. InfoSend may elect to waive this cost in some circumstances. CITY understands and accepts that it must accept the terms and conditions of the Statement of Work for the project and that changes made to the project requirements, data file structure, etc., after the Statement of Work and any amendments to it have been finalized will require CITY to pay for these changes on a Time and Materials basis. CITY will be notified immediately if this scenario arises and will be given an option to keep the original project specifications to keep the fixed quote in place.
- **Time and Materials quote** – should it not be possible to provide a fixed quote due to the nature of a CITY’s requested project, then InfoSend will provide an estimated number of hours to complete the project and bill the hours on a Time and Materials basis. The Statement of Work will include the terms and conditions for these project types and CITY will be invoiced weekly for the hours spent on the project.

Section 4. CITY Representations

CITY Volume Assumptions	
<u>Customers Contacted or Billed Monthly</u>	
-Approximately 21,645 documents per month (statements + past due)	
<u>Number of Batches Monthly</u>	
-10 or less (average of 3-4)	
<u>Average Customer Payments Per Month</u>	
-5800	

Section 5. DPPM Fees:

DPPM Rates as previously contracted and amended shall remain in effect.

Document Production Summary	
Bill Printing	\$0.137 per document
One Page with Return Envelope	

Finished mail pieces are delivered to the USPS **within one (1) business day**. If samples (proofs) are requested then the mailing will be completed within one day of sample approval. File upload deadline for next-day mailing is 3:00PM local time at the production facility designated for your account. If samples are required then they must be approved by 5:30PM local time for the file to be mailed by the next business day.

The below provides the components of the summary price given above. All pricing is based on "CITY Volume Assumptions" listed above and excludes applicable sales tax.

Data Processing	
Setup Fee – Data Only Input Files	Waived
Data Processing Fee (per document)	\$0.02

Printing and Mailing Service	
Bill Print Fee per Page	\$0.035
USPS Postage	Pass-through A postage deposit will be required prior to starting service.
Address Updates	\$0.40 NCOA \$0.40 ACS

Materials	
8.5x 11 Form Paper Stock (per sheet)	\$0.03
Outgoing #10 Envelope	\$0.028
Return #9 Envelope	\$0.024

Optional Document Services	
Drop Shipped Inserts (Note: InfoSend Produced Inserts are priced on request)	\$0.01 per insert
Electronic Inserts	\$0.015
Professional Services Rate (per hour)	\$150
Print Image Archiving (Per Document Image), with included USPS mail tracking	\$0.005 - For 6 Months of Retention

Fee Explanations

Data Processing

- **Setup Fee - Data Only Input:** requires the CITY provide a flat data extract, InfoSend creates, hosts and maintains an application to generate documents. Existing document design is copied.
- **Data Processing Fee:** per document image that is processed by the InfoSend system for output.

Printing and Mailing Service

- **Print Fee:** price includes black plus **blue, green or red** simplex printing of variable data and form elements on the front of the page onto white form with a perforation.
- **Postage:** CITYs are invoiced for the exact postage used. Leveraging InfoSend's USPS compliance and expertise, CITYs are provided the lowest possible USPS automated rates when CITY batches qualify.

- **Address Updates – NCOALink or ACS:** per reported update. InfoSend electronically reports the addresses it received in your data that need to be updated because the customer filed a Change of Address Report with the USPS. Cost is per update.

Materials

- **Paper Stock:** white paper stock with or without perforation. Paper is 8.5x11” and 24lb. Price includes all inventory costs. A larger 8.5x14” format is available at a higher material cost and higher printing cost.
- **Outgoing #10 Envelope:** #10 InfoSend Standard Double Window Outgoing Envelope. Includes security tint printed on the inside of the paper stock and clear film that prevent the contents of the envelope from being viewed. Sourced with sustainably logged paper (SFI).
- **Return #9 Envelope:** #9 InfoSend Standard Single Window Return Envelope. Includes the same security tint and SFI paper as the #10.

Optional Document Services

- **Drop Shipped Inserts:** CITYs can print and fold inserts and ship them to InfoSend to be included with InfoSend produced mail. Additional fee applies if insert arrives at InfoSend but requires folding prior to insertion. Setup fees may apply for programming selective inserting. InfoSend-printed inserts are quoted upon request.
- **Print Image Archiving:** fee per document to process, index, and store a document as a PDF for a set number of months. PDFs are securely accessed using an InfoSend website application. Third party applications can also access the PDFs via a lightweight API with no cost. Setup fees may apply depending on configuration needs.
- **Electronic Inserts:** fee per digital image of a physically produced insert included in the PDF copy of a document. Ensures that CITY representatives and CITY customers can get the same information in the electronic bill as would go out physically.
- **Professional Services Fee:** per hour and performed only upon request for customizations made to processing program or document format after go-live. Work is only started after receiving CITY approval of a formal quote.

Section 5.1. Custom Forms/Envelopes

If CITY has selected the Printing and Mailing Service and at any time requests that InfoSend Fees include the cost of custom CITY-specific materials (either in this Agreement or since its execution), then CITY understands and accepts that these materials will be purchased in bulk to achieve the lowest possible per-unit cost. CITY agrees to purchase any remaining supplies of requested custom materials (normally forms or envelopes) if CITY stops using InfoSend’s Service for any reason. CITY agrees to purchase the remaining supply of custom forms/envelopes upon CITY’s request to change the custom forms/envelopes before the supply has been depleted.

Section 5.2. USPS Postage Rates

Postage rates are determined by the United States Postal Service. All postage rate changes are determined directly by USPS and are independent of any InfoSend service or materials fees. In no event shall any change in the postage rates affect the InfoSend service or materials fees. The CITY will be invoiced the amount of excess for overweight and foreign mail.

Section 5.3. Postage Deposit

InfoSend purchases the postage needed to mail CITY documents on the day of mailing. The postage charges are later invoiced to CITY based on the CITY’s payment terms. InfoSend requires CITY to submit a postage deposit prior to the first mailing to facilitate the payment terms. This amount will remain in deposit for the duration of the Agreement. Upon Agreement expiration or termination CITY must pay in full any outstanding invoices from InfoSend for payables created under this

Agreement; the postage deposit will be refunded within fifteen (15) days of the date that the last open invoice is paid.

The postage deposit is subject to an annual review and may be adjusted to account for changes to CITY average mailing volume or changes to USPS postage rates. There will be no more than one adjustment requested per year, if at all.

The postage deposit amount is calculated by multiplying the estimated number of mail pieces per month by the current 5-Digit pre-sorted first class postage rate. The postage deposit amount due for your account is:

Postage deposit as previously received from CITY shall remain in effect.

Section 6. eBusiness Service Fees:

InfoSend Electronic Payments and Presentment Pricing

Payments	
Bank Account (ACH)	\$0.40 per payment
Credit Card (CC) Interchange: Pass-through Includes: Visa, Mastercard	\$0.40 per payment

All Payment Processing fees will be assessed by Global Payments and included in a merchant statement. All pricing is based on "CITY Volume Assumptions" listed and excludes applicable sales tax.

Online BillPay Platform	
Online BillPay Setup Fee	Waived
Monthly Maintenance	\$225
Per eBill Loaded	\$0.03
Per Enrolled Customer Fee	\$0.08

IVR Platform (Optional)	
IVR Setup Fee	\$2,000
Second Language Recording Setup Fee (Optional)	\$550
Monthly Maintenance	\$225
IVR Per Minute Fee	\$0.12

SMS Platform (Optional)	
SMS Setup Fee	Waived
Monthly Maintenance	Waived

SMS Per Text Fee	\$0.03
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Monthly Payment Fees	
ACH Return Fee	\$5.00
Chargeback Fee	\$20
Monthly Minimum	\$600

eLockbox Fees	
eLockbox Setup Fee	\$1,499
Per Bank Payment Fee	\$0.20
Per Reversal (Optional)	\$3.00

Section 7. Implementation Project Cost Subsidization:

InfoSend's internal costs to complete the project is higher than the Setup fees given. InfoSend has subsidized these fees by factoring in years of service given the term of the agreement. Should CITY cancel the project or terminate the Agreement at its convenience less than two (2) years from the Agreement date then it must pay according to the below.

- **EBPP Setup Fee:** 50% of Setup fees quoted.

AGREEMENT FOR SERVICES

This AGREEMENT made this 21st day of February, between:

CITY: City of Gilroy, having a principal place of business at
7351 Rosanna Street, Gilroy, California

and CONTRACTOR: InfoSend, Inc., having a principal place of business at
4240 E. La Palma Ave., Anaheim, CA 92807.

ARTICLE 1. TERM OF AGREEMENT

The Initial Term of this Agreement will become effective on 3/01/2012 and will continue in effect through a period of 36 months (3/01/2015), with automatic subsequent “Renewal Periods” of 12 months unless terminated in accordance with the provisions of **Article 7** of this Agreement.

ARTICLE 2. INDEPENDENT CONTRACTOR STATUS

It is the express intention of the parties that CONTRACTOR is an independent contractor and not an employee, agent, joint venturer or partner of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONTRACTOR or any employee or agent of CONTRACTOR. Both parties acknowledge that CONTRACTOR is not an employee for state or federal tax purposes. CONTRACTOR shall not be entitled to any of the rights or benefits afforded to CITY’S employees, including, without limitation, disability or unemployment insurance, workers’ compensation, medical insurance, sick leave, retirement benefits or any other employment benefits. CONTRACTOR shall retain the right to perform services for others during the term of this Agreement.

ARTICLE 3. SERVICES TO BE PERFORMED BY CONTRACTOR

A. Specific Services

CONTRACTOR agrees to: Perform the services as outlined in **Exhibit “A”** (“Specific Provisions”) and **Exhibit “B”** (“Scope of Services”), within the time periods described in **Exhibit “C”** (“Milestone Schedule”).

B. Method of Performing Services

CONTRACTOR shall determine the method, details and means of performing the above-described services. CITY shall have no right to, and shall not, control the manner or determine the method of accomplishing CONTRACTOR’S services.

C. Employment of Assistants

CONTRACTOR may, at the CONTRACTOR'S own expense, employ such assistants as CONTRACTOR deems necessary to perform the services required of CONTRACTOR by this Agreement, subject to the prohibition against assignment and subcontracting contained in **Article 5** below. CITY may not control, direct, or supervise CONTRACTOR'S assistants in the performance of those services. CONTRACTOR assumes full and sole responsibility for the payment of all compensation and expenses of these assistants and for all state and federal income tax, unemployment insurance, Social Security, disability insurance and other applicable withholding.

D. Place of Work

CONTRACTOR shall perform the services required by this Agreement at any place or location and at such times as CONTRACTOR shall determine is necessary to properly and timely perform CONTRACTOR'S services.

ARTICLE 4. COMPENSATION

A. Consideration

In consideration for the services to be performed by CONTRACTOR, CITY agrees to pay CONTRACTOR the amounts set forth in **Exhibit "D"** ("Payment Schedule"). In no event however shall the total compensation for initial setup costs paid to CONTRACTOR exceed \$5,495.00. Additional compensation as outlined in Exhibit "D" pertains to monthly service fees and professional services fees which will not exceed the stated amounts provided.

B. Invoices

CONTRACTOR shall submit invoices for all services rendered.

C. Payment

Payment shall be due according to the payment schedule set forth in **Exhibit "D"**. No payment will be made unless CONTRACTOR has first provided City with a written receipt of invoice describing the work performed and any approved direct expenses (as provided for in **Exhibit "A", Section IV**) incurred during the preceding period. If CITY objects to all or any portion of any invoice, CITY shall notify CONTRACTOR of the objection within thirty (30) days from receipt of the invoice, give reasons for the objection, and pay that portion of the invoice not in dispute. It shall not constitute a default or breach of this Agreement for CITY not to pay any invoiced amounts to which it has objected until the objection has been resolved by mutual agreement of the parties.

D. Expenses

CONTRACTOR shall be responsible for all costs and expenses incident to the performance of services for CITY, including but not limited to, all costs of equipment used or provided by CONTRACTOR, all fees, fines, licenses, bonds or taxes required of or imposed against CONTRACTOR and all other of CONTRACTOR'S costs of doing business. CITY shall not be responsible for any expenses incurred by CONTRACTOR in performing services for CITY, except for those expenses constituting "direct expenses" referenced on **Exhibit "A."**

ARTICLE 5. OBLIGATIONS OF CONTRACTOR

A. Tools and Instrumentalities

CONTRACTOR shall supply all tools and instrumentalities required to perform the services under this Agreement at its sole cost and expense. CONTRACTOR is not required to purchase or rent any tools, equipment or services from CITY.

B. Workers' Compensation

CONTRACTOR agrees to provide workers' compensation insurance for CONTRACTOR'S employees and agents and agrees to hold harmless, defend with counsel acceptable to CITY and indemnify CITY, its officers, representatives, agents and employees from and against any and all claims, suits, damages, costs, fees, demands, causes of action, losses, liabilities and expenses, including without limitation reasonable attorneys' fees, arising out of any injury, disability, or death of any of CONTRACTOR'S employees.

C. Indemnification of Liability, Duty to Defend

(1) Professional Liability

To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless CITY, its officers, representatives, agents and employees against any and all suits, damages, costs, fees, claims, demands, causes of action, losses, liabilities and expenses, including without limitation reasonable attorneys' fees, to the extent caused by any willful or negligent acts, errors or omissions of CONTRACTOR or CONTRACTOR'S assistants, employees or agents, including all claims relating to the injury or death of any person or damage to any property, arising from or related to the services to be performed under this Agreement.

(2) Other Liability

To the fullest extent permitted by law, CONTRACTOR shall defend through counsel approved by CITY indemnify and hold harmless CITY, its officers, representatives, agents and employees against any and all suits, damages, costs, fees, claims, demands, causes of action, losses, liabilities and expenses, including without limitation reasonable attorneys' fees, to the extent arising out of or caused by any act or omission of CONTRACTOR or CONTRACTOR'S assistants, employees or agents, including all claims relating to the injury or death of any person or damage to any property, other than those arising from or related to the services to be performed under this Agreement.

D. Insurance

In addition to any other obligations under this Agreement, CONTRACTOR shall, at no cost to CITY, obtain and maintain throughout the term of this Agreement: (a) Commercial Liability Insurance, including coverage for owned and non-owned automobiles, with a minimum combined single limit coverage of \$1,000,000 per occurrence for all damages due to bodily injury, sickness or disease, or death to any person, and damage to property, including the loss of use thereof; and (b) Professional Liability Insurance (Errors & Omissions) with a minimum coverage of \$1,000,000 per occurrence and aggregate. As a condition precedent to CITY'S obligations under this Agreement, CONTRACTOR shall furnish evidence of such coverage (naming CITY, its officers and employees as additional insureds on the Comprehensive Liability insurance policy referred to in (a) immediately above) and requiring thirty (30) days written notice of policy lapse or cancellation, or of a material change in policy terms.

E. Assignment

Notwithstanding any other provision of this Agreement, neither this Agreement nor any duties or obligations of CONTRACTOR under this Agreement may be assigned or subcontracted by CONTRACTOR without the prior written consent of CITY, which CITY may withhold in its sole and absolute discretion.

F. State and Federal Taxes

As CONTRACTOR is not CITY'S employee, CONTRACTOR shall be responsible for paying all required state and federal taxes. Without limiting the foregoing, CONTRACTOR acknowledges and agrees that:

- CITY will not withhold FICA (Social Security) from CONTRACTOR'S payments;
- CITY will not make state or federal unemployment insurance contributions on CONTRACTOR'S behalf;
- CITY will not withhold state or federal income tax from payment to CONTRACTOR;
- CITY will not make disability insurance contributions on behalf of CONTRACTOR;
- CITY will not obtain workers' compensation insurance on behalf of CONTRACTOR.

ARTICLE 6. OBLIGATIONS OF CITY**A. Cooperation of City**

CITY agrees to respond to all reasonable requests of CONTRACTOR and provide access, at reasonable times following receipt by CITY of reasonable notice, to all documents reasonably necessary to the performance of CONTRACTOR'S duties under this Agreement.

B. Assignment

CITY may assign this Agreement or any duties or obligations thereunder to a successor governmental entity without the consent of CONTRACTOR. Such assignment shall not release CONTRACTOR from any of CONTRACTOR'S duties or obligations under this Agreement.

ARTICLE 7. TERMINATION OF AGREEMENT**A. Sale of CONTRACTOR's Business/ Death of CONTRACTOR.**

CONTRACTOR shall notify CITY of the proposed sale of CONTRACTOR's business no later than thirty (30) days prior to any such sale. CITY shall have the option of terminating this Agreement within thirty (30) days after receiving such notice of sale. Any such CITY termination pursuant to this **Article 7.A** shall be in writing and sent to the address for notices to CONTRACTOR set forth in **Exhibit A, Subsection V.H.**, no later than thirty (30) days after CITY's receipt of such notice of sale.

If CONTRACTOR is an individual, this Agreement shall be deemed automatically terminated upon death of CONTRACTOR.

B. Termination by City for Default of CONTRACTOR

Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, CITY, at CITY'S option, may terminate this Agreement by giving written notification to CONTRACTOR. For the purposes of this section, material breach of this Agreement shall include, but not be limited to the following:

1. CONTRACTOR'S failure to professionally and/or timely perform any of the services contemplated by this Agreement.
2. CONTRACTOR'S breach of any of its representations, warranties or covenants contained in this Agreement.

CONTRACTOR shall be entitled to payment only for work completed in accordance with the terms of this Agreement through the date of the termination notice, as reasonably determined by CITY, provided that such payment shall not exceed the amounts set forth in this Agreement for the tasks described on Exhibit C" which have been fully, competently and timely rendered by CONTRACTOR. Notwithstanding the foregoing, if CITY terminates this Agreement due to CONTRACTOR'S default in the performance of this Agreement or material breach by CONTRACTOR of any of its provisions, then in addition to any other rights and remedies CITY may have, CONTRACTOR shall reimburse CITY, within ten (10) days after demand, for any and all costs and expenses incurred by CITY in order to complete the tasks constituting the scope of work as described in this Agreement, to the extent such costs and expenses exceed the amounts CITY would have been obligated to pay CONTRACTOR for the performance of that task pursuant to this Agreement.

C. Termination for Failure to Make Agreed-Upon Payments

Should CITY fail to pay CONTRACTOR all or any part of the compensation set forth in Article 4 of this Agreement on the date due, then if and only if such nonpayment constitutes a default under this Agreement, CONTRACTOR, at the CONTRACTOR'S option, may terminate this Agreement if such default is not remedied by CITY within thirty (30) days after demand for such payment is given by CONTRACTOR to CITY.

D. Transition after Termination

Upon termination, CONTRACTOR shall immediately stop work, unless cessation could potentially cause any damage or harm to person or property, in which case CONTRACTOR shall cease such work as soon as it is safe to do so. CONTRACTOR shall incur no further expenses in connection with this Agreement. CONTRACTOR shall promptly deliver to CITY all work done toward completion of the services required hereunder, and shall act in such a manner as to facilitate any the assumption of CONTRACTOR's duties by any new CONTRACTOR hired by the CITY to complete such services.

ARTICLE 8. GENERAL PROVISIONS**A. Amendment & Modification**

No amendments, modifications, alterations or changes to the terms of this Agreement shall be effective unless and until made in a writing signed by both parties hereto.

B. Americans with Disabilities Act of 1990

Throughout the term of this Agreement, the CONTRACTOR shall comply fully with all applicable provisions of the Americans with Disabilities Act of 1990 ("the Act") in its current form and as it may be amended from time to time. CONTRACTOR shall also require such compliance of all subcontractors performing work under this Agreement, subject to the prohibition against assignment and subcontracting contained in Article 5 above. The CONTRACTOR shall defend with counsel acceptable to CITY, indemnify and hold harmless the CITY OF GILROY, its officers, employees, agents and representatives from and against all suits, claims, demands, damages, costs, causes of action, losses, liabilities, expenses and fees, including without limitation reasonable attorneys' fees, that may arise out of any violations of the Act by the CONTRACTOR, its subcontractors, or the officers, employees, agents or representatives of either.

C. Attorneys' Fees

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled.

D. Captions

The captions and headings of the various sections, paragraphs and subparagraphs of the Agreement are for convenience only and shall not be considered nor referred to for resolving questions of interpretation.

E. Compliance with Laws

The CONTRACTOR shall keep itself informed of all State and National laws and all municipal ordinances and regulations of the CITY which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Without limiting the foregoing, CONTRACTOR agrees to observe the provisions of the Municipal Code of the CITY OF GILROY, obligating every contractor or subcontractor under a contract or subcontract to the CITY OF GILROY for public works or for goods or services to refrain from discriminatory employment or subcontracting practices on the basis of the race, color, sex, religious creed, national origin, ancestry of any employee, applicant for employment, or any potential subcontractor.

F. Conflict of Interest

CONTRACTOR certifies that to the best of its knowledge, no CITY employee or officer of any public agency interested in this Agreement has any pecuniary interest in the business of CONTRACTOR and that no person associated with CONTRACTOR has any interest that would constitute a conflict of interest in any manner or degree as to the execution or performance of this Agreement.

G. Entire Agreement

This Agreement supersedes any and all prior agreements, whether oral or written, between the parties hereto with respect to the rendering of services by CONTRACTOR for CITY and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

No other agreements or conversation with any officer, agent or employee of CITY prior to execution of this Agreement shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Such other agreements or conversations shall be considered as unofficial information and in no way binding upon CITY.

H. Governing Law

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

I. Notices

Any notice to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing in **Exhibit "A", Section V.H.** but each party may change the address by written notice in accordance with this paragraph. Notices delivered personally will be deemed delivered as of actual receipt; mailed notices will be deemed delivered as of three (3) days after mailing.

J. Partial Invalidity

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

K. Time of the Essence

All dates and times referred to in this Agreement are of the essence.

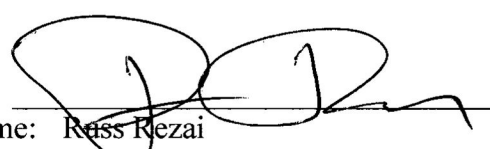
L. Waiver

CONTRACTOR agrees that waiver by CITY of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

Executed at Gilroy, California, on the date and year first above written.

CONTRACTOR:

InfoSend, Inc.

By: 
Name: Russ Rezai
Title: COO

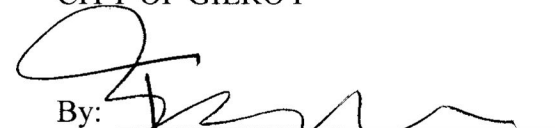
Social Security or Taxpayer
Identification Number 33-0748516

Approved as to Form


City Attorney Andy Faber

CITY:

CITY OF GILROY

By: 
Name: Tom Haglund
Title: City Administrator

ATTEST:

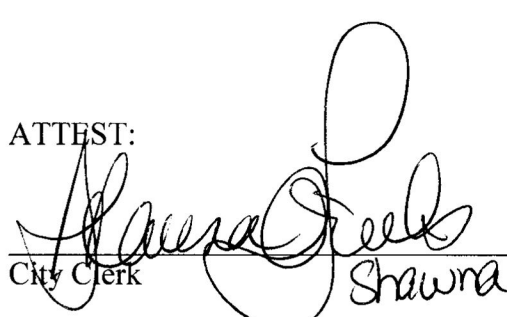

City Clerk Shawna Freels

EXHIBIT "A"

SPECIFIC PROVISIONS

I. PROJECT MANAGER

CONTRACTOR shall provide the services indicated on the attached **Exhibit "B"**, Scope of Services ("Services"). (All exhibits referenced are incorporated herein by reference.) To accomplish that end, CONTRACTOR agrees to assign Matt Schmidt, who will act in the capacity of Project Manager, and who will personally direct such Services.

Except as may be specified elsewhere in this Agreement, CONTRACTOR shall furnish all technical and professional services including labor, material, equipment, transportation, supervision and expertise to perform all operations necessary and required to complete the Services in accordance with the terms of this Agreement.

II. NOTICE TO PROCEED/COMPLETION OF SERVICE

A. NOTICE TO PROCEED

CONTRACTOR shall commence the Services upon delivery to CONTRACTOR of a written "Notice to Proceed", which Notice to Proceed shall be in the form of a written communication from designated City contact person(s). Notice to Proceed may be in the form of e-mail, fax or letter authorizing commencement of the Services. For purposes of this Agreement, Carmen Medrano shall be the designated City contact person(s). Notice to Proceed shall be deemed to have been delivered upon actual receipt by CONTRACTOR or if otherwise delivered as provided in the **Section V.H.** ("Notices") of this **Exhibit "A"**.

B. COMPLETION OF SERVICES

When CITY determines that CONTRACTOR has completed all of the Services in accordance with the terms of this Agreement, CITY shall give CONTRACTOR written Notice of Final Acceptance, and CONTRACTOR shall not incur any further costs hereunder. CONTRACTOR may request this determination of completion when, in its opinion, it has completed all of the Services as required by the terms of this Agreement and, if so requested, CITY shall make this determination within two (2) weeks of such request, or if CITY determines that CONTRACTOR has not completed all of such Services as required by this Agreement, CITY shall so inform CONTRACTOR within this two (2) week period.

III. PROGRESS SCHEDULE

The schedule for performance and completion of the Services will be as set forth in the attached **Exhibit "C"**.

IV. PAYMENT OF FEES AND DIRECT EXPENSES

Payments shall be made to CONTRACTOR as provided for in **Article 4** of this Agreement.

Direct expenses are charges and fees not included in **Exhibit "B"**. CITY shall be obligated to pay only for those direct expenses which have been previously approved in writing by CITY. CONTRACTOR shall obtain written approval from CITY prior to incurring or billing of direct expenses.

Copies of pertinent financial records, including invoices, will be included with the submission of billing(s) for all direct expenses.

V. OTHER PROVISIONS

A. STANDARD OF WORKMANSHIP

CONTRACTOR represents and warrants that it has the qualifications, skills and licenses necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and CITY expressly relies upon CONTRACTOR'S representations and warranties regarding its skills, qualifications and licenses. CONTRACTOR shall perform such Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California.

Any plans, designs, specifications, estimates, calculations, reports and other documents furnished under this Agreement shall be of a quality acceptable to CITY. The minimum criteria for acceptance shall be a product of neat appearance, well-organized, technically and grammatically correct, checked and having the maker and checker identified. The minimum standard of appearance, organization and content of the drawings shall be that used by CITY for similar purposes.

B. RESPONSIBILITY OF CONTRACTOR

CONTRACTOR shall be responsible for the professional quality, technical accuracy, and the coordination of the Services furnished by it under this Agreement. CONTRACTOR shall not be responsible for the accuracy of any project or technical information provided by the CITY. The CITY'S review, acceptance or payment for any of the Services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and CONTRACTOR shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONTRACTOR'S negligent performance of any of the services furnished under this Agreement.

C. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR

CITY, through its authorized employees, representatives or agents, shall have the right, at any and all reasonable times, to audit the books and records (including, but not limited to, invoices, vouchers, canceled checks, time cards, etc.) of CONTRACTOR for the purpose of verifying any and all charges made by CONTRACTOR in connection with this Agreement. CONTRACTOR shall maintain for a minimum period of three (3) years (from the date of final payment to

CONTRACTOR), or for any longer period required by law, sufficient books and records in accordance with standard California accounting practices to establish the correctness of all charges submitted to CITY by CONTRACTOR, all of which shall be made available to CITY at the CITY's offices within five (5) business days after CITY's request.

D. CONFIDENTIALITY OF MATERIAL

All ideas, memoranda, specifications, plans, manufacturing procedures, data (including, but not limited to, computer data and source code), drawings, descriptions, documents, discussions or other information developed or received by or for CONTRACTOR and all other written and oral information developed or received by or for CONTRACTOR and all other written and oral information submitted to CONTRACTOR in connection with the performance of this Agreement shall be held confidential by CONTRACTOR and shall not, without the prior written consent of CITY, be used for any purposes other than the performance of the Services, nor be disclosed to an entity not connected with the performance of the such Services. Nothing furnished to CONTRACTOR which is otherwise known to CONTRACTOR or is or becomes generally known to the related industry (other than that which becomes generally known as the result of CONTRACTOR'S disclosure thereof) shall be deemed confidential. CONTRACTOR shall not use CITY'S name or insignia, or distribute publicity pertaining to the services rendered under this Agreement in any magazine, trade paper, newspaper or other medium without the express written consent of CITY.

E. NO PLEDGING OF CITY'S CREDIT.

Under no circumstances shall CONTRACTOR have the authority or power to pledge the credit of CITY or incur any obligation in the name of CITY.

F. OWNERSHIP OF MATERIAL.

All material including, but not limited to, computer information, data and source code, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports and other material developed, collected, prepared (or caused to be prepared) under this Agreement shall be the property of CITY, but CONTRACTOR may retain and use copies thereof subject to **Section V.D** of this **Exhibit "A"**.

CITY shall not be limited in any way in its use of said material at any time for any work, whether or not associated with the City project for which the Services are performed. However, CONTRACTOR shall not be responsible for, and City shall indemnify CONTRACTOR from, damages resulting from the use of said material for work other than PROJECT, including, but not limited to, the release of this material to third parties for work other than on PROJECT.

G. NO THIRD PARTY BENEFICIARY.

This Agreement shall not be construed or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any claim or right of action hereunder for any cause whatsoever.

H. NOTICES.

Notices are to be sent as follows:

CITY: Attn.: Barbara Voss, Assistant Finance Director
City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020

CONTRACTOR: InfoSend, Inc.
Attn.: Client Services
4240 E. La Palma Ave.
Anaheim, CA 92807

I. FEDERAL FUNDING REQUIREMENTS.

- ☐ If the box to the left of this sentence is checked, this Agreement involves federal funding and the requirements of this **Section V.J.** apply.
- X☐ If the box to the left of this sentence is checked, this Agreement does not involve federal funding and the requirements of this **Section V.J.** do not apply.

1. DBE Program

CONTRACTOR shall comply with the requirements of Title 49, Part 26, Code of Federal Regulations (49 CFR 26) and the City-adopted Disadvantaged Business Enterprise programs.

2. Cost Principles

Federal Acquisition Regulations in Title 48, CFR 31, shall be used to determine the allowable cost for individual items.

3. Covenant against Contingent Fees

The CONTRACTOR warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the CONTRACTOR, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, the Local Agency shall have the right to annul this Agreement without liability or, at its discretion, to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

EXHIBIT “B”**SCOPE OF SERVICES**

A. CONTRACTOR shall provide the following services as further described in, and at the rates and prices set forth in, Exhibit “D”, which is attached to this Agreement and incorporated herein:

SERVICE	COST
Online BillPay (EBPP) Initial Setup	\$4,495.00
Data Processing and Document Creation – per page Processed	\$0.00
Option 1: All Bills Presented Package	\$400.00/month, plus \$0.08 per enrolled customer
CSRPAY Initial Setup	\$250.00
Monthly Support for Online BillPay	\$200.00/month
CSRPAY Service Payment Initiation & PCI Compliance Monthly Support	\$.05 per payment \$25.00/month

B. Upon the CITY’s written request, CONTRACTOR shall provide all other optional services described in Exhibit “D” at the rates stated therein.

EXHIBIT “C”

MILESTONE SCHEDULE

Anticipated Implementation Timeline of 14-16 Weeks.

EXHIBIT "D"

Pricing: Initial Setup Costs

InfoSend's Fees – Initial Setup Costs			
Implementation, professional services, and optional services fees.			
Professional Services Fees	Online BillPay (EBPP) Initial Setup Cost: \$4,495.00 One time fee - cost for implementing standard offering. The above pricing includes: ▪ InfoSend standard reports including a standard payment posting file. A custom payment-posting file costs an additional \$750. ▪ Payment integration to Citizens Business Bank. Integration to a new bank/payment processor is not included and raises costs significantly (when available).		
	Optional CSRPAY Initial Setup Cost: \$250.00 One time fee - cost for project implementation. This is an optional service that can be used in conjunction with Online BillPay or Online ePay. Please note that Clients must sign off on requirements documents (Statement of Work, project plan, etc.) before programming and system configuration can begin. Client can be charged additional fees and/or have the project go-live date delayed if requirements are changed after they have been finalized and signed off.		
	Professional Services Fee Per hour and performed only upon request. For customizations made to your Online BillPay configuration after go-live . Work is only started after receiving your approval of a formal quote.	Per Hour	\$150.00

Pricing: Monthly Service Fees

InfoSend's Fees – Online BillPay (EBPP) Service			
This pricing is based on an estimated number of bills that are created and sent out each month equal to 13,000 – 15,000 Bills Per Month.			
The individual prices shown in the table below apply only to the turnkey Online BillPay Service. Pricing assumes the acceptance and use of one of InfoSend's preferred payment partners.			
Base Services	Data Processing and Document Creation - per Page Processed Includes the processing of your custom data. Each time a billing file is received our system will look for new customers to add to the eBusiness database (to facilitate enrollment). The system will process your data and create PDF versions of your bills.	Per page	Waived

Option 1: All Bills Presented Package: Presentment and Storage of all invoices –12-16 months of Bill Retention for all bills and customers	\$400/mth to load every invoice each month plus \$0.08 per enrolled customer, both per month. The enrolled fee is charged only once per month regardless of how many times a customer views it or logs on during the month. This charge includes the first 1,000 enrollees per month.	Per bill presented. All invoices will be presented or made available each month. Customers will be able to view and pay their current bill immediately after enrolling for the service. Historical invoices & payment history will be available to customer for 18 months, this will build over the initial 18 months of service. This gives the benefit that when a customer enrolls, their invoice(s) will be available to them immediately. Includes basic email alerts – for example email notifying a customer when an invoice is available to be viewed (or the invoice itself can be put in this email). Invoices available will be those reflected since the go live date of the service. Back loading of historical bills can be done and priced based on further discussion. This also has the advantage of making all invoices available to CSR's through the CSR tool for viewing during customer calls, CSR payment functions, CSR enrollment and recover password functions and other features.
Monthly Support Fee Per month fee to support the Online BillPay service.	Per Month	\$200.00

InfoSend's Fees – Optional CSRPAY Service Module Pricing assumes the acceptance and use of one of InfoSend's preferred payment partners.		
Payment Initiation & PCI Compliance Fee Per payment initiated to one of InfoSend's preferred payment partners. This is for all payment initiations for ACH, credit card, auto pay, same day or scheduled payments made through the system. Processing costs will be covered under separate contract directly with processor.	Per Payment	\$0.05
Monthly Support Fee Per month fee to support the Online ePAY service.	Per Month	\$25.00

Cost of Print & Mail Service

With a new 4 year agreement for both EBPP AND Print & Mail services, InfoSend will offer to lower Gilroy's print pricing to the following pricing, a significant price reduction.

InfoSend's Fees – Print & Mail Services		
Transaction Fees – Utility Bills on non-recycled materials	\$0.118*	Per document fee includes file transfer, processing, #9 single window return envelope, #10 double window outgoing envelope, and handling of a single-page bill. Includes current custom color preprinted form with static backer already in use by Gilroy. Many other providers do not offer a custom form such as the one we already provide to Gilroy. No minimum run fees. Sales tax inclusive (all inclusive materials paid for).
Additional Pages	\$0.07* ea.	for each additional page of a multi-page bill.
Setup Fee	\$0.00	One time fee waived.
Professional Services		
Programming Fee	\$150.00	Per hour. For customizations made to document processing program after go-live . Examples: you change export file format 12 months after go-live.

***Postage not included. Current 5-Digit Presort rate is \$0.35 (this is the new, best USPS rate as of 1-22-12) and as handled currently, InfoSend will manage Gilroy's bill mailing to minimize postage costs.**

Optional Services		
Electronic Address Updates – NCOALink or ACS	\$0.40 ea. Occurrence	Per reported change. InfoSend electronically reports the addresses it received in your data that need to be updated because the customer filed a Change of Address Report with the USPS.
Drop-Shipped Inserts 1/3 page inserts or pre-folded 8 ½ x 11 inserts	\$0.01	Clients can print and fold inserts and ship them to InfoSend to be mailed with the statements. If folding is required add another \$0.01 to the fee. InfoSend-printed inserts are quoted upon request. No additional cost to selectively insert the #9 return envelope, leaving it out of direct deposit or auto pay customers.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/29/2012

PRODUCER (562) 493-3521 FAX: (562) 430-5300
 Alandale Insurance Agency
 11022 Winners Circle, Ste. 100

Los Alamitos CA 90720

INSURED
 INFO SEND, INC.
 4240 E LA PALMA AVE

ANAHEIM CA 92807

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Sentinel Insurance Company

11000

INSURER B: Hartford Underwriters Ins Co

30104

INSURER C: Twin City Fire Ins Co

002235

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	X	GENERAL LIABILITY	72SBAZB7916	2/24/2012	2/24/2013	EACH OCCURRENCE	\$ 1,000,000
		☒ COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
		☐ CLAIMS MADE ☒ OCCUR				MED EXP (Any one person)	\$ 10,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMP/OP AGG	\$ 2,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER:					
		☒ POLICY ☐ PRO-JECT ☐ LOC					
B		AUTOMOBILE LIABILITY	72UECPE3966	2/18/2012	2/18/2013	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
		☐ ANY AUTO					
		☐ ALL OWNED AUTOS					
		☒ SCHEDULED AUTOS				BODILY INJURY (Per person)	\$
		☒ HIRED AUTOS				BODILY INJURY (Per accident)	\$
		☒ NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident)	\$
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
		☐ ANY AUTO				OTHER THAN EA ACC	\$
						AUTO ONLY: AGG	\$
A		EXCESS / UMBRELLA LIABILITY	72SBAZB7916	2/24/2012	2/24/2013	EACH OCCURRENCE	\$ 5,000,000
		☒ OCCUR ☐ CLAIMS MADE				AGGREGATE	\$ 5,000,000
		☐ DEDUCTIBLE					\$
		☒ RETENTION \$ 10,000					\$
							\$
							\$
C		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	72WECLU6992	2/1/2012	2/1/2013	☒ WC STATUTORY LIMITS ☐ OTH-ER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)				E.L. EACH ACCIDENT	\$ 1,000,000
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
OTHER							

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

City of Gilroy and its officers, officials and employees are named as additional insured as their interest may appear and coverage is primary/non contributory when required by contract per attached end. #SS0008. *10 days notice of cancellation for nonpayment of premium

CERTIFICATE HOLDER

City of Gilroy
 7351 Rosanna Street
 Gilroy, CA 95020

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL *30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Stacy Marshall/STACYM

BUSINESS LIABILITY COVERAGE FORM

This Paragraph f. applies separately to you and any additional insured.

3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

6. Representations**a. When You Accept This Policy**

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. – Coverages.

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. – Coverages.

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/29/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Jones and Company Insurance Agency, Inc. 505 S Villa Real Suite 115 Anaheim Hills, CA 92807 License #: 0E39020	CONTACT NAME:	Derek C. Jones	
		PHONE (A/C, No, Ext):	(714)453-2220	FAX (A/C, No):
		E-MAIL ADDRESS:	derek@dontriskit.com	
INSURED	INFOSEND, INC. 4240 E. LA PALMA AVE ANAHEIM, CA 92807	INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A:	Axis Surplus Ins Co	26620
		INSURER B:	Axis Surplus Ins Co	26620
		INSURER C:		
		INSURER D:		
		INSURER E:		
		INSURER F:		

COVERAGES

CERTIFICATE NUMBER: 00000471-0

REVISION NUMBER: 13

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG
	☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	AUTOMOBILE LIABILITY						ANY AUTO ALL OWNED AUTOS HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS
	☐ UMBRELLA LIAB ☐ EXCESS LIAB ☐ DED ☐ RETENTION \$						OCCUR CLAIMS-MADE EACH OCCURRENCE AGGREGATE
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT
A	ERRORS AND OMISSIONS	N	N	MCN000009971101	12/01/2011	12/01/2012	EACH OCCURRENCE
B	ERRORS AND OMISSIONS	N	N	MCN000009971101	12/01/2011	12/01/2012	AGGREGATE LIMIT
							1,000,000
							1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER WILL RECEIVE 10 DAYS NOTICE OF CANCELLATION FOR NON-PAYMENT OF PREMIUM AND 30 DAYS NOTICE OF CANCELLATION FOR POLICY CANCELLATION.

CERTIFICATE HOLDER

CANCELLATION

CITY OF GILROY 7351 ROSANNA ST GILROY, CA 95020	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Derek C. Jones</i> (DCJ)

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CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
 2/29/2012

 PRODUCER (562) 493-3521 FAX: (562) 430-5300
 Alandale Insurance Agency
 11022 Winners Circle, Ste. 100

Los Alamitos CA 90720

 INSURED
 INFO SEND, INC.
 4240 E LA PALMA AVE

ANAHEIM CA 92807

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INSURERS AFFORDING COVERAGE
NAIC #

INSURER A: Sentinel Insurance Company	11000
INSURER B: Hartford Underwriters Ins Co	30104
INSURER C: Twin City Fire Ins Co	002235
INSURER D:	
INSURER E:	

COVERAGES

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INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	X	GENERAL LIABILITY	72SBAZB7916	2/24/2012	2/24/2013	EACH OCCURRENCE \$ 1,000,000
		☒ COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
		☐ CLAIMS MADE ☒ OCCUR				MED EXP (Any one person) \$ 10,000
						PERSONAL & ADV INJURY \$ 1,000,000
						GENERAL AGGREGATE \$ 2,000,000
		GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COM/OP AGG \$ 2,000,000
		☒ POLICY ☐ PRO-JECT ☐ LOC				
B		AUTOMOBILE LIABILITY	72UECPB3966	2/18/2012	2/18/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
		☐ ANY AUTO				
		☐ ALL OWNED AUTOS				
		☒ SCHEDULED AUTOS				BODILY INJURY (Per person) \$
		☒ HIRED AUTOS				BODILY INJURY (Per accident) \$
		☒ NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
		☐ ANY AUTO				OTHER THAN EA ACC \$
						AUTO ONLY: AGG \$
A		EXCESS / UMBRELLA LIABILITY	72SBAZB7916	2/24/2012	2/24/2013	EACH OCCURRENCE \$ 5,000,000
		☒ OCCUR ☐ CLAIMS MADE				AGGREGATE \$ 5,000,000
		☐ DEDUCTIBLE				\$
		☒ RETENTION \$ 10,000				\$
						\$
C		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	72WECLU6992	2/1/2012	2/1/2013	☒ WC STATUTORY LIMITS ☐ OTH-ER
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)				E.L. EACH ACCIDENT \$ 1,000,000
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
		OTHER				E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

City of Gilroy and its officers, officials and employees are named as additional insured as their interest may appear and coverage is primary/non contributory when required by contract per attached end. #SS0008. *10 days notice of cancellation for nonpayment of premium

CERTIFICATE HOLDER

 City of Gilroy
 7351 Rosanna Street
 Gilroy, CA 95020

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL *30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Stacy Marshall/STACYM

 ACORD 25 (2009/01)
 INS025 (200901)

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72SBAZB7916

BUSINESS LIABILITY COVERAGE FORM

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In the performance of your ongoing operations for the additional insured(s); or
- (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect, to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper;

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

72SBAZB7916

BUSINESS LIABILITY COVERAGE FORM

This Paragraph f. applies separately to you and any additional insured.

3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. – Coverages.

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. – Coverages.

72SBAZB7916

(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

BUSINESS LIABILITY COVERAGE FORM

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



Select Customer Insurance Center
3600 WISEMAN BLVD.

SAN ANTONIO TX 78251
Policyholder, please call us at: (866) 467-8730
Agent, please call us at: (800) 447-7649

**INSURANCE ENDORSEMENT
ATTACHED**

***** PLEASE REVIEW THE CHANGE *****

Enclosed is an endorsement for your business insurance policy. Please review it at your convenience. If you have questions or need to make further changes:

Policyholder, please call us at: (866) 467-8730

Agent, please call us at: (800) 447-7649 between 7 A.M. and 7 P.M. CENTRAL TIME.

The premium billing will be mailed to you separately. You can expect to receive it soon.

Thank you for allowing us to service your business needs.

ALANDALE INSURANCE AGENCY/PHS

THE HARTFORD SELECT CUSTOMER INSURANCE CENTER

The Hartford Insurance Group
Hartford Fire Insurance Company and its Affiliates
Hartford Plaza, Hartford, Connecticut 06115

49405

*0100072ZB79160213





THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

POLICY CHANGE

This endorsement changes the policy effective on the Inception Date of the policy unless another date is indicated below:

Policy Number: 72 SBA ZB7916 DX

COPY

Named Insured and Mailing Address: INFO SEND, INC. CMCS, INC.

4240 E LA PALMA AVE
ANAHEIM CA 92807

Policy Change Effective Date: 03/01/12

**Effective hour is the same as stated in the
Declarations Page of the Policy.**

Policy Change Number: 001

Agent Name: ALANDALE INSURANCE AGENCY/PHS

Code: 181902

POLICY CHANGES:

SENTINEL INSURANCE COMPANY, LIMITED

ANY CHANGES IN YOUR PREMIUM WILL BE REFLECTED IN YOUR NEXT BILLING
STATEMENT. IF YOU ARE ENROLLED IN REPETITIVE EFT DRAWS FROM YOUR BANK
ACCOUNT, CHANGES IN PREMIUM WILL CHANGE FUTURE DRAW AMOUNTS.

THIS IS NOT A BILL.

NO PREMIUM DUE AS OF POLICY CHANGE EFFECTIVE DATE

FORM NUMBERS OF ENDORSEMENTS REVISED AT ENDORSEMENT ISSUE:

IH12001185 ADDITIONAL INSURED - PERSON-ORGANIZATION

PRO RATA FACTOR: 0.986

THIS ENDORSEMENT DOES NOT CHANGE THE POLICY EXCEPT AS SHOWN.

Form SS 12 11 04 05 T

Process Date: 03/07/12

Page 001

Policy Effective Date: 02/24/12

Policy Expiration Date: 02/24/13

UW COPY

49406

*0100072ZB79160213



POLICY NUMBER: 72 SBA ZB7916



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - PERSON-ORGANIZATION

THE CORONA DEPARTMENT OF WATER AND POWER
755 CORPORATION YARDWAY
CORONA, CA 92880

THE CITY OF ORANGE
300 EAST CHAPMAN AVE.
ORANGE, CA 92866

THE CITY OF EL SEGUNDO
CITY CLERK ATTN: BUSINESS SERVICES DIVISION
350 MAIN ST. ROOM #5
EL SUGUNDO CA 90245

THE CITY OF EL CAJON, ITS ELECTED AND APPOINTED OFFICIALS, OFFICERS,
EMPLOYEES, AND VOLUNTEERS
ATTN: PURCHASING DIVISION
200 CIVIC CENTER WAY
EL CAJON, CA 92020

CITY OF GILROY& ITS OFFICERS, OFFICIALS AND EMPLOYEES
7351 ROSANNA ST.
GILROY, CA 95020



CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
 2/15/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Alandale Insurance Agency 11022 Winners Circle, Ste. 100 Los Alamitos CA 90720 INSURED INFO SEND, INC. 4240 E LA PALMA AVE ANAHEIM CA 92807	CONTACT NAME: Stacy Marshall PHONE (A/C No. Ext.): (562) 493-3521 FAX (A/C No.): (562) 430-5300 E-MAIL ADDRESS: stacy@alandale.com <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A: Sentinel Insurance Company LTD</td> <td>11000</td> </tr> <tr> <td>INSURER B: Hartford Insurance Co.</td> <td>00914</td> </tr> <tr> <td>INSURER C: Landmark American Insurance Co</td> <td>33138</td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Sentinel Insurance Company LTD	11000	INSURER B: Hartford Insurance Co.	00914	INSURER C: Landmark American Insurance Co	33138	INSURER D:		INSURER E:		INSURER F:	
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INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES

CERTIFICATE NUMBER: Master 13-14

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			72SBAZB7916	2/24/2013	2/24/2014	EACH OCCURRENCE \$ 1,000,000
	☒ COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	☐ CLAIMS-MADE ☒ OCCUR	X					MED EXP (Any one person) \$ 10,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY \$ 1,000,000
	☒ POLICY ☐ PRO-JECT ☐ LOC						GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY			72UECFE3966	2/18/2013	2/18/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	☐ ANY AUTO						BODILY INJURY (Per person) \$
	☐ ALL OWNED AUTOS ☒ SCHEDULED AUTOS	X					BODILY INJURY (Per accident) \$
	☒ HIRED AUTOS ☒ NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident) \$
							Medical payments \$ 5,000
A	☒ UMBRELLA LIAB			72SBAZB7916	2/24/2013	2/24/2014	EACH OCCURRENCE \$ 5,000,000
	☐ EXCESS LIAB						AGGREGATE \$ 5,000,000
	☐ DED ☐ RETENTION \$						
	☐ OCCUR ☐ CLAIMS-MADE	X					
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			72WECLU6992	2/1/2013	2/1/2014	☒ WC STATUTORY LIMITS ☐ OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Employee Dishonesty			72SBAZB7916	2/24/2013	2/24/2014	Limit \$25,000
C	Errors & Omissions			LCY819845	12/1/2012	12/1/2013	Limit/Ded \$5,000 \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

City of Gilroy and its officers, officials and employees are named as additional insured as their interest may appear and coverage is primary/non contributory when required by contract per attached end. #SS0008. *10 days notice of cancellation for nonpayment of premium

CERTIFICATE HOLDER

CANCELLATION

 City of Gilroy
 7351 Rosanna Street
 Gilroy, CA 95020

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Stacy Marshall/STACYM

72SBAZB7916

BUSINESS LIABILITY COVERAGE FORM

This Paragraph f. applies separately to you and any additional insured.

3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. – Coverages.

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. – Coverages.

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(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

BUSINESS LIABILITY COVERAGE FORM

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1)** The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2)** The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

72SBAZB7916

BUSINESS LIABILITY COVERAGE FORM

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In the performance of your ongoing operations for the additional insured(s); or
- (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper;

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/29/2012

PRODUCER (562) 493-3521 FAX: (562) 430-5300

Alandale Insurance Agency

11022 Winners Circle, Ste. 100

Los Alamitos

CA 90720

INSURED

INFO SEND, INC.

4240 E LA PALMA AVE

ANAHEIM

CA 92807

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

Los Alamitos CA 90720

INSURED

INFO SEND, INC.

4240 E LA PALMA AVE

ANAHEIM

CA 92807

INSURERS AFFORDING COVERAGE

NAIC #

INSURER A: Sentinel Insurance Company

11000

INSURER B: Hartford Underwriters Ins Co

30104

INSURER C: Twin City Fire Ins Co

002235

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A		GENERAL LIABILITY	72SBAZB7916	2/24/2012	2/24/2013	EACH OCCURRENCE	\$ 1,000,000
		☒ COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
		☐ CLAIMS MADE ☒ OCCUR				MED EXP (Any one person)	\$ 10,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMP/OP AGG	\$ 2,000,000
B		AUTOMOBILE LIABILITY	72UECPE3966	2/18/2012	2/18/2013	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
		☐ ANY AUTO				BODILY INJURY (Per person)	\$
		☐ ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
		☒ SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$
		☒ HIRED AUTOS					
		☒ NON-OWNED AUTOS					
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
		☐ ANY AUTO				OTHER THAN EA ACC	\$
						AUTO ONLY: AGG	\$
A		EXCESS / UMBRELLA LIABILITY	72SBAZB7916	2/24/2012	2/24/2013	EACH OCCURRENCE	\$ 5,000,000
		☒ OCCUR ☐ CLAIMS MADE				AGGREGATE	\$ 5,000,000
							\$
		☐ DEDUCTIBLE					\$
		☒ RETENTION \$ 10,000					\$
C		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	72WBCLU6992	2/1/2012	2/1/2013	☒ WC STATUTORY LIMITS ☐ OTHER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)				E.L. EACH ACCIDENT	\$ 1,000,000
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate holder and its officers, officials and employees are named as additional insured as their interest may appear and coverage is primary/non contributory when required by contract per attached end. #SS0008. *10 days notice of cancellation for nonpayment of premium

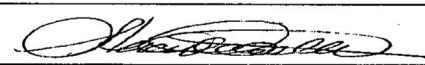
CERTIFICATE HOLDER

City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL *30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Stacy Marshall/STACYM 

ACORD 25 (2009/01)

INS025 (200901)

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The ACORD name and logo are registered marks of ACORD

72SBAZB7916

BUSINESS LIABILITY COVERAGE FORM

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

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(1) In the performance of your ongoing operations for the additional insured(s); or

(2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

10. Additional Insured – Co-Owner Of Insured Premises

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The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

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- (3) Billboard;
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c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

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5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

72SBAZB7916

BUSINESS LIABILITY COVERAGE FORM

This Paragraph f. applies separately to you and any additional insured.

3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. – Coverages.

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. – Coverages.

72SBAZB7916

(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

BUSINESS LIABILITY COVERAGE FORM

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1)** The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2)** The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

**CERTIFICATE OF LIABILITY INSURANCE**DATE (MM/DD/YYYY)
2/29/2012PRODUCER (562) 493-3521 FAX: (562) 430-5300
Alandale Insurance Agency
11022 Winners Circle, Ste. 100

Los Alamitos CA 90720

INSURED

INFO SEND, INC.
4240 E LA PALMA AVE

ANAHEIM CA 92807

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC

INSURER A: Sentinel Insurance Company

11000

INSURER B: Hartford Underwriters Ins Co

30104

INSURER C: Twin City Fire Ins Co

002235

INSURER D: Landmark American Ins. Co

33138

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	X	GENERAL LIABILITY	72SBAZB7916	2/24/2012	2/24/2013	EACH OCCURRENCE \$ 1,000,000
		☒ COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
		☐ CLAIMS MADE ☒ OCCUR				MED EXP (Any one person) \$ 10,000
		GEN'L AGGREGATE LIMIT APPLIES PER:				PERSONAL & ADV INJURY \$ 1,000,000
		☒ POLICY ☐ PRO-JECT ☐ LOC				GENERAL AGGREGATE \$ 2,000,000
						PRODUCTS - COMP/OP AGG \$ 2,000,000
B	X	AUTOMOBILE LIABILITY	72UECPE3966	2/18/2012	2/18/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
		☐ ANY AUTO				BODILY INJURY (Per person) \$
		☒ ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
		☒ SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
		☒ HIRED AUTOS				
		☒ NON-OWNED AUTOS				
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
		☐ ANY AUTO				OTHER THAN AUTO ONLY: EA ACC \$
						AGG \$
A		EXCESS / UMBRELLA LIABILITY	72SBAZB7916	2/24/2012	2/24/2013	EACH OCCURRENCE \$ 5,000,000
		☒ OCCUR ☐ CLAIMS MADE				AGGREGATE \$ 5,000,000
		DEDUCTIBLE				\$
		☒ RETENTION \$ 10,000				\$
C		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				☒ WC STATU-TORY LIMITS ☐ OTH-ER
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y/N	72WECLU6992	2/1/2012	2/1/2013	E.L. EACH ACCIDENT \$ 1,000,000
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
						E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A		OTHER Employee Dishonesty	72SBAZB7916	2/24/2012	2/24/2013	Limit \$25,000
D		Errors & Omissions	LCY819845	12/1/2012	12/1/2013	Limit \$1,000,000
						Deductible \$5,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

City of Gilroy and its officers, officials and employees are named as additional insured as their interest may appear and coverage is primary/non contributory when required by contract per attached end. #SS0008. *10 days notice of cancellation for nonpayment of premium

CERTIFICATE HOLDER

City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL *30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Stacy Marshall/STACYM

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/15/2013

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IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Alandale Insurance Agency 11022 Winners Circle, Ste. 100 Los Alamitos CA 90720		CONTACT NAME: Stacy Marshall PHONE (A/C No. Ext): (562) 493-3521 FAX (A/C No): (562) 430-5300 E-MAIL ADDRESS: stacy@alandale.com																						
INSURED INFO SEND, INC. 4240 E LA PALMA AVE ANAHEIM CA 92807		<table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A:</td><td>Sentinel Insurance Company LTD</td><td>11000</td></tr><tr><td>INSURER B:</td><td>Twin City Fire Ins. Co</td><td>29459</td></tr><tr><td>INSURER C:</td><td>Landmark American Insurance Co</td><td>33138</td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></tbody></table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Sentinel Insurance Company LTD	11000	INSURER B:	Twin City Fire Ins. Co	29459	INSURER C:	Landmark American Insurance Co	33138	INSURER D:			INSURER E:			INSURER F:		
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COVERAGES

CERTIFICATE NUMBER: Master 13-14

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY						EACH OCCURRENCE \$ 1,000,000
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	☐ CLAIMS-MADE ☒ OCCUR	X		72SBAZB7916	2/24/2013	2/24/2014	MED EXP (Any one person) \$ 10,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG \$ 2,000,000
	☒ POLICY ☐ PRO-JECT ☐ LOC						\$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	☐ ANY AUTO						BODILY INJURY (Per person) \$
	☐ ALL OWNED AUTOS	☒ SCHEDULED AUTOS	X	72UECPE3966	2/18/2013	2/18/2014	BODILY INJURY (Per accident) \$
	☒ HIRED AUTOS	☒ NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident) \$
							Medical payments \$ 5,000
A	☒ UMBRELLA LIAB		X				EACH OCCURRENCE \$ 5,000,000
	☐ EXCESS LIAB						AGGREGATE \$ 5,000,000
	☐ DED ☐ RETENTION \$			72SBAZB7916	2/24/2013	2/24/2014	\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						☒ WC STATUTORY LIMITS ☐ OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N					E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below	☒ Y ☐ N	N/A	72WECLU6992	2/1/2013	2/1/2014	E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Employee Dishonesty			72SBAZB7916	2/24/2013	2/24/2014	Limit \$25,000
C	Errors & Omissions			LCY822602	12/1/2013	12/1/2014	Limit/Ded \$5,000 \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

City of Gilroy and its officers, officials and employees are named as additional insured as their interest may appear and coverage is primary/non contributory when required by contract per attached end. #SS0008. *10 days notice of cancellation for nonpayment of premium

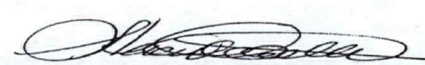
CERTIFICATE HOLDER

CANCELLATION

City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Stacy Marshall/STACYM 

**11.1. Introduction of an Ordinance Amending Chapters 17A and 24 of the
Gilroy City Code in Compliance with the California Public Records Act
(CPRA) Recodification Act (AB 473)**

1. Staff Report:
2. Public Comment
3. Possible Action:
 1. Motion to read the ordinance by title only and waive further reading of the ordinance; and
 2. Introduce an ordinance amending Chapters 17A and 24 of the Gilroy City Code.



City of Gilroy

STAFF REPORT

Agenda Item Title: Introduction of an Ordinance Amending Chapters 17A and 24 of the Gilroy City Code in Compliance with the California Public Records Act (CPRA) Recodification Act (AB 473)

Meeting Date: November 6, 2023
 From: Jimmy Forbis, City Administrator
 Department: City Clerk
 Submitted By: Thai Nam Pham, City Clerk
 Prepared By: Thai Nam Pham, City Clerk

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

1. Motion to read the ordinance by title only and waive further reading of the ordinance; and
2. Introduce an ordinance amending Chapters 17A and 24 of the Gilroy City Code.

EXECUTIVE SUMMARY

This staff report presents an ordinance for City Council consideration and approval, aiming to bring Chapters 17A and 24 of the Gilroy City Code in line with recent legislative changes affecting the California Public Records Act (CPRA) by updating references to the CPRA codes.

BACKGROUND

The CPRA Recodification Act (AB 473), enacted by the California state legislature in 2021, led to a comprehensive renumbering and reorganization of the Public Records Act within a new Government Code division, starting at section 7920.0005. Consequently, an essential step is required to ensure that the Gilroy City Code accurately reflects these new CPRA codes.

ANALYSIS

The proposed ordinance entails amendments to two chapters of the Gilroy City Code, specifically Chapters 17A and 24, in response to recent legislative changes concerning the California Public Records Act (CPRA).

Amendment to Chapter 17A, titled "Public Meetings and Public Records"

This amendment primarily revolves around updating references within Chapter 17A to align with the newly reorganized CPRA codes. These changes, as outlined in detail in Exhibit 'A,' are essential to ensure the City's adherence to the CPRA in light of the legislative reconfiguration.

Amendment to Chapter 24, titled "Television Antennas"

Similar to Chapter 17A, Chapter 24 will undergo revisions to incorporate the updated CPRA references. The specific adjustments are explained in Exhibit 'B.'

Incorporation of Future Changes

To safeguard continued compliance with evolving state laws, an important aspect of this ordinance is the inclusion of the phrase "or its successor" after references to CPRA codes in both Chapter 17A and Chapter 24. This forward-looking provision ensures that the City Code remains adaptable to future CPRA developments.

ALTERNATIVES

The proposed ordinance primarily involves ministerial changes necessitated by recent legislative modifications to the CPRA. Council could choose to not adopt the recommended changes; however, this would render Gilroy out of compliance with State law.

FISCAL IMPACT/FUNDING SOURCE

There are no immediate fiscal impacts associated with the adoption of the proposed ordinance. Any costs related to updates or publication will be absorbed within the existing budget.

PUBLIC OUTREACH

Public outreach efforts were conducted regarding the proposed amendment. The outreach activities included:

1. Publication in the Gilroy Dispatch: On October 27, 2023, the proposed amendment was published in the Gilroy Dispatch
2. City's Website: The proposed amendment was also posted on the City's official website, accessible to the general public.

Introduction of an Ordinance Amending Chapters 17A and 24 of the Gilroy City Code in Compliance with the California Public Records Act (CPRA) Recodification Act (AB 473)

NEXT STEPS

Should Council approve the introduction of the proposed ordinance, Council will need to adopt the ordinance at its regular meeting on November 20, 2023. Once adopted, staff will update the Gilroy City Code.

Attachments:

1. Proposed Ordinance
2. Exhibit 'A': Proposed amendment language for Chapter 17A
3. Exhibit 'B': Proposed amendment language for Chapter 24

ORDINANCE 2023-XX**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GILROY AMENDING CHAPTER 17A, PUBLIC MEETINGS AND PUBLIC RECORDS, AND CHAPTER 24, TELEVISION ANTENNAS, TO THE GILROY CITY CODE TO UPDATE THE REFERENCED CALIFORNIA PUBLIC RECORDS ACT**

WHEREAS, the California state legislature enacted the CPRA (California Public Records Act) Recodification Act (AB 473) in 2021, resulting in the renumbering and reorganization of the Public Records Act in a new Division 614 of the Government Code, starting at section 7920.0005; and

WHEREAS, the current Gilroy City Code references outdated Government Codes related to Public Information and Public Records due to the legislative changes; and

WHEREAS, it is necessary to amend Chapters 17A and 24 of the Gilroy City Code to update the referenced California Public Records Act Code and ensure ongoing compliance with state laws.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GILROY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I: Incorporation of Recitals

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

SECTION II: Amendment to Chapter 17A

Chapter 17A, Public Meetings and Public Records, of the Gilroy City Code, shall be amended as provided in **Exhibit 'A'**.

SECTION III: Amendment to Chapter 24

Chapter 24, Television Antennas, of the Gilroy City Code, shall be amended as provided as **Exhibit 'B'**.

SECTION IV: Incorporation of Future Changes

For each referenced California Public Records Act Code in Chapters 17A and 24, the language "or its successor" shall be added after the reference.

SECTION V: Severability

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Gilroy hereby declares that it would have passed and adopted this ordinance and each section, subsection, sentence, clause, or phrase hereof, irrespective of the fact that any one or

more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION VI: Effective Date

This Ordinance shall take effect thirty (30) days after its adoption. The City Clerk is hereby directed to publish this Ordinance or a summary thereof pursuant to Government Code Section 36933.

PASSED AND ADOPTED by the City Council of the City of Gilroy at a regular meeting duly held on the ____ day of ____ 2023 by the following roll call vote:

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

APPROVED:

Marie Blankley, Mayor

ATTEST:

Thai Nam Pham, City Clerk

Attachments:

1. Exhibit 'A': Proposed amendment language for Chapter 17A
2. Exhibit 'B': Proposed amendment language for Chapter 24

ARTICLE III. PUBLIC INFORMATION AND PUBLIC RECORDS

17A.19 Definitions.

Whenever in this chapter the following words or phrases are used, they shall mean:

“Public information” shall mean the content of public records as defined in the California Public Records Act (Government Code Section ~~6252~~7920.000, or its successor), whether provided in documentary form or in an oral communication.

“Public information” shall not include computer software developed by the City of Gilroy as defined in the California Public Records Act (Government Code Section ~~6254.9~~7922.585, or its successor). (Ord. No. 2008-11, 11-17-08)

17A.20 Process for gaining access to public records—Administrative appeals.

(a) Every department head who has custody of any public record or public information as defined herein or who manages, directly or indirectly, subordinate employees within that department that have custody of any public record or public information as defined herein, or that department head's designated representative under section 17A.22(a) (hereinafter referred to as "a department head") shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one (1) copy thereof upon payment of a reasonable copying charge as may be set from time to time by the city council.

(b) A department head shall, as soon as possible and within ten (10) calendar days following receipt of a request for inspection or copy of a public record, comply with such request unless the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with legal counsel warrants an extension of ten (10) calendar days as provided in Government Code Section ~~6253(e)~~7922.535, or its successor. Such request may be delivered to the office of the department head by the requester orally or in writing by fax, postal delivery, or email. If the department head believes the record or information requested is not a public record or is exempt, the department head shall justify withholding any record by demonstrating, in writing, as soon as possible and within ten (10) calendar days following receipt of a request, or following the extension of ten (10) calendar days as provided in Government Code Section ~~6253(e)~~7922.535, or its successor, that the record in question is exempt under express provisions of this chapter.

(c) A department head shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the department head, whether or not the contents of those records are exempt from disclosure, and shall, when requested to do so, provide in writing within ten (10) calendar days following receipt of a request a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under subsection (b) of this section. A department head, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.

(d) If the department head refuses, fails to comply, or incompletely complies with a request described in subsection (b) of this section, the person making the request may, within forty-five (45) calendar days of the department head's response or the expiration of the department head's period to respond if no response is provided, petition the city administrator in writing, and in the form required by the open government commission, for a determination whether the record requested is public. The city administrator shall inform the petitioner, as soon as possible and within thirty (30) calendar days of the petition, of the city administrator's determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination by the city administrator that the record is public, the city administrator shall immediately order the department head to comply with the person's request. If the department head refuses or fails to comply with any such order within five (5) days, the city administrator shall notify the city attorney who shall take whatever measures deemed necessary and appropriate to ensure compliance with the provisions of this chapter.

(e) If a petition to the city administrator under subsection (d) of this section is denied or not acted upon by the city administrator, the person making the request may, within forty-five (45) calendar days of the city administrator's denial or the expiration of the city administrator's thirty (30) day period to act upon the petition, petition the open government commission for a determination whether the record requested is public. The open government commission shall inform the petitioner, as soon as possible and within two (2) days after its next meeting but in no case later than forty-five (45) days from when a petition in writing is received, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination that the record is public, the open government commission shall advise the city council as to whether the record should be public. The city council and the city attorney's office shall provide sufficient resources to allow the open government commission to fulfill its duties under this provision. Where requested by the petition, the open government commission may conduct a public hearing concerning the records request denial. An authorized representative of the department head shall attend any hearing and explain the basis for its decision to withhold the record requested.

(f) The administrative remedy provided under this chapter shall in no way limit the availability of other administrative remedies provided to any person with respect to any officer or employee of any agency, executive office, department or task force; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a department head refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, the superior court of California shall retain jurisdiction to order compliance.

(g) In any court proceeding pursuant to this chapter there shall be a presumption that the record sought is public, and the burden shall be upon the department head to prove with specificity the exemption which applies.

(h) At least once a year, and as otherwise requested by the open government commission, the city administrator shall prepare a tally and report of every petition brought before it for access to records since the time of its last tally and report. The report shall at least identify for each petition the record or records sought, the department head of those records, the ruling of the city administrator, whether any ruling was overturned by a court and whether orders given to department heads of public records were followed. The report shall also summarize any court actions related to any petitions during that period. At the request of the open government commission, the report shall also include copies of all rulings made by the city administrator and all opinions issued.

(i) The Gilroy city attorney's office shall act to protect and secure the rights of the people of Gilroy to access public information and public meetings. The city attorney or its designee will monitor the handling of public records when any elected public official or the city administrator leaves office and moves materials from the office. All elected officials and the city administrator shall surrender all public records in their possession to the city attorney or its designee at the time of leaving office.

(j) Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code Section ~~6250-7920.000, or its successor~~, et seq.) to the extent not addressed by this chapter and in accordance with the enhanced disclosure requirements provided in this chapter.

(k) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and inseparably intertwined with information not subject to disclosure under this chapter. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

(l) *Repealed by Ord. 2014-03.* (Ord. No. 2008-11, 11-17-08; Ord. No. 2014-03, § 1, 4-7-14; Ord. No. 2017-03, §§ 1, 2, 3-6-17)

17A.21 Policy regarding use of computer systems.

It is the policy of the city of Gilroy to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public under this section. To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall program and design such systems to ensure convenient, efficient, and economical public access to records and shall make public records easily accessible over public networks, including but not limited to the Internet. (Ord. No. 2008-11, 11-17-08)

17A.22 Release of oral public information.

Release of oral public information shall be accomplished as follows:

- (1) Every department head shall designate a person or persons knowledgeable about the affairs of the department to provide information, including oral information, to the public about the department's operations, plans, policies and positions (referred to herein as "a department head"). The department head may designate himself or herself for this assignment, but in any event shall arrange that an alternate or alternates be available for this function during the absence or unavailability of the person assigned primary responsibility. A list of every city department and every designated and alternate department head for public record inspection purposes, along with those employees' business addresses, telephone numbers and email addresses, shall be available for inspection and copying at the office of the city clerk and shall be kept and regularly maintained on the city's website.
- (2) The role of the person or persons so designated shall be to provide information on as timely and responsive a basis as possible to those members of the public who are not requesting information from a specific person. This section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of the employee's operational duties and confined to accurate information not confidential by law.
- (3) If it would take an employee more than fifteen (15) minutes to obtain the information responsive to an inquiry or inquiries from a member of the public, the employee shall notify the requester of the procedures for obtaining records under this chapter.
- (4) Public employees shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while on duty, so long as the opinion (a) is not represented as that of the department and does not misrepresent the department position; and (b) does not disrupt coworker relations, impair discipline or control by superiors, erode a close working relationship premised on personal loyalty and confidentiality, interfere with the employee's performance of that employee's duties or obstruct the routine operation of the office in a manner that outweighs the employee's interests in expressing that opinion. In adopting this section, the city council intends merely to restate and affirm court decisions recognizing the First Amendment rights enjoyed by public employees. Nothing in this section shall be construed to provide rights to city employees beyond those recognized by courts, now or in the future, under the First Amendment, or to create any new private cause of action or defense to disciplinary action.
- (5) Notwithstanding any other provisions of this chapter, public employees shall not be discouraged from or disciplined for disclosing any information that is public information or a public record to any journalist or any member of the public. (Ord. No. 2008-11, 11-17-08)

17A.23 Public review file—Policy body communications.

The city clerk or the designated secretary of a particular policy body shall maintain a file, accessible to any person during normal office hours, containing a copy of any letter, memorandum or other communication which the clerk has distributed to or received from a quorum of the policy body concerning a matter calendared by the body within the previous thirty (30) days or likely to be calendared within the next thirty (30) days, irrespective of subject matter, origin or recipient, except commercial solicitations, periodical publications or communications exempt from disclosure under the California Public Records Act (Government Code Section ~~6250-7920.000~~, or its successor et seq.) and not deemed disclosable under section 17A.24. (Ord. No. 2008-11, 11-17-08)

17A.24 Public information that must be disclosed.

Notwithstanding a department's legal discretion to withhold certain information under the California Public Records Act, the following policies shall govern specific types of documents and information and shall provide enhanced rights of public access to information and records:

(1) Drafts and Memoranda. No preliminary draft or memorandum shall be exempt from disclosure under Government Code Section ~~6254(a)~~7927.500, or its successor, if it is kept in the normal course of business. For purpose of this chapter, "normal course of business" means in the inherent nature of the city's business in question, and in the method systematically employed for the conduct of the task in question. Preliminary drafts and memoranda concerning contracts, memoranda of understanding, or other matters subject to negotiation or pending council approval shall not be subject to disclosure pursuant to this provision until final action has been taken.

(2) Litigation Material. Notwithstanding any exemptions otherwise provided by law, the following are public records subject to disclosure under this chapter:

- a. A pre-litigation claim against the city (excluding any investigative reports);
- b. A record previously received or created by a department in the ordinary course of business that was not attorney/client privileged or attorney-work product when it was previously received or created.

(3) Contracts, Bids and Proposals.

a. All initial city requests for proposals ("RFPs") shall be kept in a central repository and shall be made available for public inspection. In addition, RFPs shall be placed on the city's website for a period from the date the RFP was issued to the date that the RFP is due.

b. Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit. All bidders and contractors shall be advised that information provided which is covered by this section will be made available to the public upon request. Immediately after any review or evaluation or rating of responses to an RFP has been completed, evaluation forms and score sheets and any other documents used by persons in the RFP evaluation or contractor selection process shall be available for public inspection. The individual ratings, comments, and score sheets or comments on related documents shall be made immediately available after the review or evaluation of an RFP has been completed.

(4) Budgets and Other Financial Information. Budgets, whether tentative, proposed or adopted, for the city or any of its departments, programs, projects or other categories, and all bills, claims, invoices, vouchers or other records of payment obligations as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social or other services whose records are confidential by law, shall not be exempt from disclosure.

(5) Appraisals, offers and counteroffers relating to the city's purchase of real property are exempt until an agreement is executed.

(6) *Repealed by Ords. 2019-04 and 2019-05.*

(7) Neither the city nor any officer, employee, or agent thereof may assert an exemption for withholding for any document or information based on a deliberative process exemption, either as provided by California Public Records Act Section ~~6255-7922~~, or its successor, or any other provision of law that does not prohibit disclosure.

(8) *Repealed by Ords. 2019-04 and 2019-05.* (Ord. No. 2008-11, 11-17-08; Ord. No. 2018-03, § 1, 1-22-18; Ord. No. 2019-04, 2-11-19; Ord. No. 2019-05, § 1, 2-25-19)

17A.25 Immediacy of response.

Notwithstanding the ten (10) calendar day period for response to a request permitted in Government Code Section ~~6253~~7922.525, or its successor, a request for a public record described in any nonexempt category which is received by a department head shall be satisfied no later than the close of business on the day following the request unless the department head advises the requester in writing that the request will be answered by a specific future date. The statutory deadlines are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request. If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with legal counsel warrants an extension of ten (10) calendar days as provided in Government Code Section ~~6253(e)~~7922.535, or its successor, the requester shall be noticed as required within ten (10) business days of the request. Nothing in this section shall prohibit the requester and department head or his/her designee from agreeing to a longer time than provided for herein for the provision of requested records. Any such mutual agreement shall be in writing and signed by the requester. (Ord. No. 2014-03, § 1, 4-7-14)

17A.26 Withholding kept to a minimum.

Information that is exempt from disclosure shall be masked, deleted or otherwise segregated so that the nonexempt portion of a requested record may be released and keyed by footnote or other clear reference to the appropriate justification for withholding required by section 17A.27. (Ord. No. 2008-11, 11-17-08)

17A.27 Justification of withholding.

Any withholding of information shall be justified, in writing, as follows:

- (1) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this chapter, shall cite that authority.
- (2) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.
- (3) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.
- (4) When a record being requested contains information most of which is exempt from disclosure under the California Public Records Act and this section, the department head shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.
(Ord. No. 2008-11, 11-17-08)

17A.28 Public records that must be disclosed.

The following policies shall govern specific types of documents and information and shall provide enhanced rights of public access to information and access:

(1) Notwithstanding Government Code Section ~~6254(e)~~7922.535, or its successor, the following information shall be considered a public record and shall be made available for review upon request by any person, business or association: A listing of gross earnings by name and job title, including base salaries and other compensation. Other compensation shall include allowances, overtime, and deferred compensation, leave cash-out payments and the percentage of base salaries that the city pays as the employer's CalPERS contribution. (Ord. No. 2008-11, 11-17-08)

17A.29 Fees for duplication.

- (a) No fee shall be charged for making public records available for review.
- (b) For documents routinely produced in multiple copies for distribution, e.g., meeting agendas and related materials, a fee as may be set from time to time by the city council may be charged, plus any postage costs.
- (c) For documents assembled and copied to the order of the requester, a fee as may be set from time to time by the city council may be charged, plus any postage.
- (d) Copies of video recorded meetings shall be provided to the public upon request for the actual cost of materials (i.e., videotape) per meeting. Audiotapes of audiotaped meetings shall be provided upon public request for the actual cost of the tape by the policy body whose meeting was recorded. The city council shall from time to time approve a fee schedule determining these costs. (Ord. No. 2008-11, 11-17-08)

17A.30 Index to records.

The city shall maintain a public records index that identifies the types of information and documents maintained by the city and its departments, agencies, task forces, commissions, and elected officers. The index shall be for the use of city officials, staff and the general public, and shall be organized to permit a general understanding of the types of information maintained, by which officials and departments, for which purposes and for what periods of retention, and under what manner of organization for accessing, e.g., by reference to a name, a date, a proceeding or project, or some other referencing system. The index need not be in such detail as to identify files or records concerning a specific person, transaction or other event, but shall clearly indicate where and how records of that type are kept. The city clerk shall be responsible for the preparation of this records index. Each department, agency, commission and public official shall cooperate with the city clerk to identify the types of records it maintains, including those documents created by the entity and those documents received in the ordinary course of business and the types of requests that are regularly received. Each department, agency, commission and public official is encouraged to solicit and encourage public participation to develop a meaningful records index. The index shall clearly and meaningfully describe, with as much specificity as practicable, the individual types of records that are prepared or maintained by each department, agency, commission or public official of the city. The index shall be sufficient to aid the public in making an inquiry or a request to inspect. Any changes in the department, agency, commission or public official's practices or procedures affecting the accuracy of the information provided to the city clerk shall be recorded by the city clerk on a periodic basis so as to maintain the integrity and accuracy of the index. The index shall be continuously maintained on the city's website and made available at the Gilroy Library. (Ord. No. 2014-03, § 1, 4-7-14)

17A.31 Records survive transition of officials.

All documents prepared, received, or maintained by the head of any department are the property of the city of Gilroy. The originals of these documents shall be maintained consistent with the records retention policies of the city of Gilroy. The city administrator shall monitor the transition of the above public officials to ensure that public documents are not unlawfully removed or destroyed during the transition. (Ord. No. 2008-11, 11-17-08)

17A.32 Internet access/World Wide Web minimum standards.

The city of Gilroy shall maintain on a World Wide Web site, or on a comparable, readily accessible location on the Internet, information that it is required to make publicly available. Each department is encouraged to make publicly available through the city's website as much information and as many documents as possible concerning its activities. These include but are not limited to campaign report forms, statements of economic interest, operating and capital budgets, meeting agenda, meeting minutes, public notices and, when feasible, staff meeting reports. Within twelve (12) months after enactment of this provision, each department shall post on the city's website all meeting notices required under this chapter, all agendas and the minutes of all previous meetings of its policy bodies from that point in time forward. Notices and agendas shall be posted no later than the time that the department otherwise distributes this information to the public, allowing reasonable time for posting.

Minutes of meetings shall be posted as soon as possible, but in any event within one (1) week after they have been approved. The city shall make reasonable efforts to ensure that its website is regularly reviewed for timeliness and updated on at least a weekly basis. The city shall also make available on its website, or on a comparable, readily accessible location on the Internet, a current copy of the city code.

The city shall also webcast all city council and planning commission meetings and archive the webcasts of such meetings for at least ten (10) years. (Ord. No. 2008-11, 11-17-08)

17A.33 Correspondence and records shall be maintained.

(a) The city administrator shall for a reasonable period maintain, preserve, and archive documents and correspondence, including but not limited to letters, emails, drafts, memoranda, invoices, reports and proposals that pertain to or are within the subject matter jurisdiction of the official's duties (as defined by the open government commission) and shall disclose all such records in accordance with this chapter.

(b) Any email that is created or received in connection with the transaction of public business and which (1) the department or office retains as evidence of its activities, or (2) relates to the legal or financial rights of the city or of persons directly affected by the activities of the city is a public record. The standard for determining if email is a public record that must be retained is identical to the standard that applies to any document. See California Government Code Section ~~6252(e)~~7920.530, or its successor. If an email must be retained, it should be printed out and the hard copy retained in the appropriate file unless the department or office can reliably retain and retrieve all email in electronic format. (Ord. No. 2008-11, 11-17-08)

17A.34 Review of FPPC statement of economic interests.

(a) During the annual filing period as required by California Code Section 87500, the city clerk as filing officer shall conduct a prima facie review of all FPPC statement of economic interests filings of all officials required to file under California Government Code Section 87200, and all designated employees required to file under the city's conflict of interest code. The city administrator shall review the filing submitted by the city clerk.

(b) Not later than April 15th of each year, the city clerk shall publish all statement of economic interests filings onto the city's official website. The city clerk shall also maintain on the city's website all prior years' filings of sitting city council members, the mayor, the city administrator, and the city attorney and members of the planning commission so that these required disclosures are readily available to the public for inspection. (Ord. No. 2014-03, § 1, 4-7-14)

ARTICLE IV. OPEN GOVERNMENT COMMISSION

17A.35 The open government commission.

(a) There is hereby established a commission to be known as the “open government commission.” From on or about January 2013 through December 31, 2013, the open government commission shall consist of two (2) city council members appointed by the city council and three (3) members of the public appointed by the city council. From January 2014, the open government commission shall consist of five (5) members of the public appointed by the city council, and all of the seats on the open government commission designated for city council members shall terminate. The city attorney shall serve as legal advisor to the commission.

(b) From on or about January 2016, the term of each newly appointed member sitting on the open government commission shall be four (4) years, unless earlier removed by the city council. Those members appointed to two (2) year terms in January 2013 shall have terms extended to January 2016, and those members appointed to two (2) year terms in January 2014 shall have their terms extended to January 2018. No person shall serve more than two (2) consecutive full terms on the commission. In the event of such removal or in the event a vacancy otherwise occurs during the term of office of any appointive member, a successor shall be appointed for the unexpired term of the office vacated in a manner similar to that described herein for the initial members. The commission shall elect a chair from among its appointive members. The term of office as chair shall be one (1) year. Members of the commission shall serve without compensation.

(c) The commission shall advise the city council and provide information to other city departments on appropriate ways in which to implement this chapter. The commission shall develop appropriate goals to ensure practical and timely implementation of this chapter. The commission shall propose to the city council amendments to this chapter. The commission shall report to the city council at least once annually on any practical or policy problems encountered in the administration of this chapter. The commission shall receive and review regular quarterly reports on requests for public information. Such reports shall not identify the requester or any information confidential by law.

(d) The open government commission shall recommend to the city council an administrative process for the review and enforcement of this chapter. No such administrative process shall preclude, delay or in any way limit a person's remedies under the Brown Act or the California Public Records Act.

(e) In addition to the powers specified above, the commission shall possess such powers as the city council may confer upon it by ordinance or as the people of Gilroy shall confer upon it by initiative. (Ord. No. 2012-12 § 1, 10-1-12; Ord. No. 2014-09, § 1, 8-4-14)

17A.36 Responsibility for administration.

The city administrator shall administer and coordinate the implementation of the provisions of this chapter. The city clerk shall provide and perform administrative duties for the commission and assist any person in gaining access to public meetings or public information. The city administrator shall provide the commission's staff person with whatever facilities and equipment are necessary to perform said duties as budgeted by the city council. (Ord. No. 2008-11, 11-17-08)

17A.37 Department head declaration and training.

All city department heads and all management employees, all policy body members, and all employees and officials who are required to file a statement of economic interests required by Government Code Section 87200 and the city's conflict of interest code shall sign an affidavit or declaration stating under penalty of perjury that they have read the open government ordinance and have taken training on the open government ordinance within the first sixty (60) days of appointment or election. Training shall be taken each two (2) years thereafter. The affidavit or declarations shall be maintained by the city clerk and shall be available as a public record. Training shall be provided by the city attorney's office. (Ord. No. 2014-03, § 1, 4-7-14)

17A.38 Willful refusal shall be official misconduct.

The willful refusal of any elected official, department head, or other managerial city employee to discharge any duties imposed by this chapter, the Brown Act or the Public Records Act shall be deemed official misconduct. (Ord. No. 2008-11, 11-17-08)

17A.39 Enforcement provisions.

(a) Any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce that person's right to inspect or to receive a copy of any public record or class of public records under this chapter or to enforce that person's right to attend any meeting required under this chapter to be open, or to compel such meeting to be open.

(b) A court shall award costs and reasonable attorneys' fees to the plaintiff who is the prevailing party in an action brought to enforce this chapter.

(c) If a court finds that an action filed pursuant to this section is frivolous, the city may assert its rights to be paid its reasonable attorneys' fees and costs.

(d) Any person may institute proceedings for enforcement and penalties under this chapter in any court of competent jurisdiction if enforcement action is not taken by a city or state official fifty (50) days after a complaint is filed.
(Ord. No. 2008-11, 11-17-08)

17A.40 Chapter supersedes other local laws—Applies to all ordinances with open government application.

The provisions of this chapter supersede other local laws. Whenever a conflict in local law is identified, the requirement which would result in greater or more expedited public access to public information shall apply. The provisions of this chapter shall apply to all applicable and relevant provisions of the Gilroy City Code. (Ord. No. 2008-11, 11-17-08)

17A.41 Severability.

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances. (Ord. No. 2008-11, 11-17-08)

24.27 Operation and reporting provisions.

(a) Open Books and Records.

(1) Inspection. The city shall have the right upon thirty (30) days advance written notice to inspect and copy at any time during normal business hours all books and records reasonably necessary to monitor compliance with the terms of this ordinance, a franchise agreement, or applicable law; or reasonably necessary for the exercise of any right or duty of the city under the same. This right includes the right to inspect not only the books and records of a franchisee, but any such books and records held by an affiliate regardless of who holds them, a cable operator of the cable system, or any contractor, subcontractor or any person holding any form of management contract for the cable system. Each franchisee shall be responsible for collecting the information and producing it. For purposes of this article, the terms “books and records” shall be read expansively to include information in whatever format stored. Books and records requested shall be produced to the city at City Hall, except by agreement or pursuant to subsection 24.27(e) and subject to subsection 24.27(a)(2). Books and records shall be maintained in accordance with generally accepted accounting principles.

(2) Proprietary Information. Access to a franchisee’s books and records shall not be denied by the franchisee on the basis that said books and records contain proprietary information. However, all proprietary information received by the city from a franchisee and clearly marked as such shall not be publicly disclosed insofar as permitted by the California Public Records Act, Government Code 62547927, et seq., *or its successor*, and other applicable law. The city will notify franchisee if any third party seeks release of any document marked confidential and the city will withhold release for the maximum period permitted by law to provide the franchisee the opportunity to seek court protection against the release of the requested documents.

(3) Public Inspection. The franchisee shall maintain a file of records open to public inspection in accordance with applicable FCC rules and regulations.

(b) Production of Documents upon Request.

(1) Agency Reports. Upon request, and except as provided under subsection 24.27(c), a franchisee shall file with the city all reports required by the FCC including, without limitation, any proof of performance tests and results, Equal Employment Opportunity (“EEO”) reports, and all petitions, applications, and communications of all types directly related to the cable system, or a group of cable systems of which the franchisee’s cable system is a part, submitted or received by the franchisee, an affiliate, or any other person on the behalf of the franchisee, either to or from the FCC, the Security and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction over any matter affecting operation of the franchisee’s cable system. Provided that, nothing herein requires the franchisee to produce regulatory or court filings that are treated by the agency or court as confidential, such as Hart-Scott-Rodino Act filings. Nothing in this subsection 24.27(b)(1) affects any rights the city may have to obtain books and records under subsection 24.27(a).

(2) Automatic Delivery of Certain Documents. Franchisee shall also deliver to the city the following:

- a. Notices of deficiency or forfeiture related to the operation of the cable system; and
- b. Copies of any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by the franchisee or by any partnership or corporation that owns or controls the franchisee directly or indirectly. This material shall be submitted to the city at the time it is filed or within ten (10) days of the date it is received.

(c) Reports.

(1) Quarterly Reports. Within forty-five (45) days of the end of each calendar quarter, a franchisee shall submit a report to the city containing the following information:

- a. The number of service calls (calls requiring a truck roll) received by type during the prior quarter, and the percentage of service calls compared to the subscriber base by type of complaint; and
- b. The number and type of outages known by the franchisee for the prior quarter, identifying separately the following: each planned outage, the time it occurred, its duration, and the estimated area and number of subscribers affected; each known unplanned outage, the time it occurred, its estimated duration and the estimated area and the number of subscribers affected, and if known, the cause; the total estimated hours of known outages as a percentage of total hours of cable system operation. An outage is a loss of sound or video on any signal, or a significant deterioration of any signal affecting two (2) or more subscribers; and other information a franchisee is required to submit to the city on a quarterly basis pursuant to this article.

(2) Annual Reports. No later than ninety (90) days after the end of its fiscal year, a franchisee shall submit a written report to the city administrator in a form directed by the city administrator, which shall include:

- a. A summary of the previous year's activities in the development of the cable system, including but not limited to descriptions of services begun or discontinued, the number of subscribers gained or lost for each category of service;
- b. A summary of complaints for which records are required under subsection 24.27(d)(1), identifying both the number and nature of the complaints received and an explanation of their dispositions;
- c. A balance sheet as of the last day of the fiscal year and the related statement of revenues, expenses and charges in retained earnings, and statement of cash flows for the year then ended, all of which shall be fully audited or shall be certified;
- d. An ownership report, indicating all persons who at the time of the filing control or own an interest in the franchisee of ten (10) percent or more
- e. A list of officers and members of the board of directors of the franchisee and any affiliates directly involved in the operation or the maintenance of the cable system;
- f. An organizational chart showing all corporations or partnerships with more than a ten (10) percent interest ownership in the franchisee, and the nature of that ownership interest (limited partner, general partner, preferred shareholder, etc.); and showing the same information for each corporation or partnership that holds such an interest in the corporations or partnerships so identified and so on until the ultimate corporate and partnership interests are identified;
- g. An annual report of each entity identified in subsection 24.27(c)(2)d. which issues an annual report;
- h. A report on the cable system's technical tests and measurements;
- i. A complete report on its plant, which shall state the physical miles of plant construction and plant in operation during the fiscal year, including any revisions to the cable system "as built" maps filed with the city, and which shall report the results of appropriate electronic measurements conducted in conformance with applicable law;
- j. A proposed schedule of plant construction for the upcoming fiscal year; and
- k. Such other information as the city administrator or the city council may direct. If, as of January first of any year, the information required by subsections 24.27(c)(2)d.—f. is the same as was reported to the city in the prior year, the franchisee need only so state.

(3) Presentation of Report. The annual report shall be presented at a regular public meeting of the city council to be held no earlier than ten (10) days following submission of the report.

(4) Special Reports. Upon the city's request, each franchisee shall submit construction reports and make available for review updated as-built system design maps for its cable system for any construction undertaken during the term of the franchise. The maps shall be developed on the basis of post-construction inspection by

the franchisee and construction personnel to assess compliance with system design. Any material departures from design must be indicated.

(5) General Reports. Each franchisee shall prepare and furnish to the city, at the times and in the form prescribed by the city, such reports with respect to its operation, affairs, transactions or property, as may be reasonably necessary or appropriate to the performance of any of the rights, functions or duties of the city in connection with this article or a franchise agreement.

(d) Records Required. A franchisee shall at all times maintain:

(1) Complaints. Records of all complaints received with information sufficient to allow the franchisee to prepare the reports required in this section 24.27. The term “complaints” as used herein and throughout this article refers to complaints about any aspect of the cable system or franchisee’s operations, including, without limitation, complaints requiring service calls, and complaints about employee courtesy, billing, prices, programming, outages and signal quality;

(2) Plans. A full and complete set of plans, records, and “as built” maps showing the exact location of all system equipment installed or in use in the city, including subscriber service drops;

(3) Outages. Records of outages, indicating date, duration, area, and the estimated number of subscribers affected, type of outage, and cause;

(4) Service Calls. Records of service calls for repair and maintenance indicating the date and time service was required, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was solved;

(5) Installations. Records of installation/reconnection and requests for service extension, indicating date of request, date of acknowledgment, and the date and time service was extended; and

(6) Public File. A public file showing its plan and timetable for construction of the cable system.

(e) Voluminous Materials. If any books, records, plans, or other documents requested under this article are too voluminous, or for security reasons cannot be copied and moved, then a franchisee may request that the inspection take place at some other location, provided that (i) the franchisee must make necessary arrangements for copying documents selected by the city after review; and (ii) the franchisee must pay all travel and copying expenses incurred by the city in inspecting those documents or having those documents inspected by its designee.

(f) Retention of Records; Relation to Privacy Rights. Franchisee shall ensure that it is able to provide the city all information which must be provided or may be requested under this article or a franchise agreement, including providing appropriate subscriber privacy notices. Nothing in this section shall be read to require a franchisee to violate 47 U.S.C. 551. Franchisee shall be responsible for preserving the confidentiality of any data that federal law prevents it from providing to the city. Records shall be kept for at least five (5) years. (Ord. No. 97-1, 1-6-97)

11.2.Approval of Two (2) Mills Act Agreement Applications for Historic Properties Located at 286 Fifth Street and 7471 Hanna Street

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

Staff has analyzed the proposed project, and recommends that the City Council:

Based on its independent analysis, find that approval of the Mills Act contracts are exempt from review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15331, pertaining to projects involving the maintenance, rehabilitation, restoration, preservation, or reconstruction of historical resources, and where it can be seen with certainty that the Mills Act contracts would not result in a significant environmental effect;

Approve the Mills Act program request and authorize the City Administrator to execute a Mills Act Agreement for the property located at 286 Fifth Street;

Approve the Mills Act program request and authorize the City Administrator to execute a Mills Act Agreement for the property located at 7471 Hanna Street.



City of Gilroy

STAFF REPORT

Agenda Item Title: **Approval of Two (2) Mills Act Agreement Applications for Historic Properties Located at 286 Fifth Street and 7471 Hanna Street**

Meeting Date: November 6, 2023

From: Jimmy Forbis, City Administrator

Department: Community Development

Submitted By: Sharon Goei, Community Development Director

Prepared By: Cindy McCormick, Customer Service Manager

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

Staff has analyzed the proposed project, and recommends that the City Council:

- a) Based on its independent analysis, find that approval of the Mills Act contracts are exempt from review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15331, pertaining to projects involving the maintenance, rehabilitation, restoration, preservation, or reconstruction of historical resources, and where it can be seen with certainty that the Mills Act contracts would not result in a significant environmental effect;
- b) Approve the Mills Act program request, and authorize the City Administrator to execute a Mills Act Agreement for the property located at 286 Fifth Street;
- c) Approve the Mills Act program request, and authorize the City Administrator to execute a Mills Act Agreement for the property located at 7471 Hanna Street.

EXECUTIVE SUMMARY

The City of Gilroy adopted the Mills Act Agreement Policy in 1997 to foster and encourage the preservation, maintenance, rehabilitation, and restoration of historic properties. Owner-occupied family residences and income-producing commercial

properties may qualify for the Mills Act program. If granted, the Mills Act Agreement(s) can provide a property owner tax relief in exchange for a commitment to restore and retain the architectural integrity of the historic property. The tax benefit runs with the property and could potentially be indefinite since the Mills Act Agreement auto-renews each year until a non-renewal notice is filed.

The City of Gilroy received two applications for the Mills Act Program for the 2023 calendar year. The first application is for a single-family home located at 286 Fifth Street. The second application is for a single-family home located at 7471 Hanna Street. Both properties are currently listed, and recommended to remain, on the City's Historic Resource Inventory. Mills Act properties must be on a local, state, or national register of historic places.

BACKGROUND

Environmental Determination: Execution of a Mills Act Agreement is categorically exempt under Section 15331, Class 31 of the California Environment Quality Act (CEQA), pertaining to projects involving the maintenance, rehabilitation, restoration, preservation, or reconstruction of historical resources.

Mills Act Legislation: In 1976, California voters passed Proposition 7 to provide property tax relief to encourage the preservation of qualifying historical properties. The legislature subsequently passed an enabling statute commonly referred to as the Mills Act, which grants participating local governments (cities and counties) the authority to enter into contracts with owners of qualified historic properties that actively participate in the restoration and maintenance of their historic properties in exchange for receiving property tax relief.

City of Gilroy Mills Act Program: The Mills Act Agreement Policy, adopted by the City Council in 1997, sets forth the minimum requirements for a Mills Act Agreement (Attachment 1). Mills Act Agreements can be authorized for both owner-occupied homes and income-producing properties (including commercial properties). Entering into an agreement is completely voluntary for both the owner and the City. The City recognizes that the reduction in property taxes will act as a monetary incentive to acquire, maintain, and restore historic property; however, it is also important to review Mills Act requests holistically, to ensure that the number of approved agreements is fiscally responsible. Therefore, applications are only accepted and reviewed by the City Council once in a calendar year. The City has entered into 19 Mills Act Agreements since 2001 (see attachment). The last approval was in 2020, when the City Council approved two (2) Mills Act applications.

Length of Agreement: Mills Act Agreements must be entered into for a minimum term of ten years. Each year thereafter, the 10-year agreement will automatically renew for another year, unless a notice of non-renewal is issued. The effect of non-renewal is to terminate the agreement at the end of the ten-year term following the date of non-renewal. Either the property owner or the City may opt to not renew the Mills Act Agreement. Agreements may be entered into at any time; however, the Agreement

must be recorded by the County no later than the end of December to qualify for the following tax year. New valuations do not take effect until March of the following year. The tax benefit runs with the property and is potentially indefinite since the Mills Act Agreement auto-renews each year until a non-renewal notice is filed. In the event the property is sold, the new property owner is subject to the same conditions and restrictions placed on the original property owner.

Preservation of Property: Under the terms of a Mills Act Agreement, the property owner is obligated to preserve and prevent deterioration of the property in keeping with the Secretary of Interior Standards. The owner is also required to: 1) update the ten (10) year schedule of potential repair, maintenance and improvement measures every five (5) years; and 2) allow reasonable periodic examination, by prior appointment, of the interior and exterior of the Historic Property by representatives of the Santa Clara County Assessor, State Department of Parks and Recreation, State Board of Equalization, and/or the City, as may be necessary to determine owner compliance with the terms and provisions of the Agreement.

While the agreement must include the mandatory provisions of state law, the City may also require any appropriate conditions necessary to protect the City's interest. For example, the City could require annual reports due in July of each year (the same time as the annual application deadline), outlining the owner's progress made towards satisfying the 10-year improvement plan.

Noncompliance with Agreement: If a property owner fails to comply with the terms of a Mills Act Agreement, the City may either bring legal action against the owner to require compliance or cancel the agreement. If an agreement is canceled pursuant to Government Code Sections 50284 to 50286, the owner shall pay a cancellation fee equal to 12.5% of the current fair market value of the property, as determined by the County Assessor.

Property Tax Reduction: The City of Gilroy normally receives approximately 9.7%¹ of the total property taxes collected on a property. All recipients of the property tax (e.g., County, City, schools) will receive a reduced amount, in proportion to the amount of taxes they would normally receive.

The amount of property tax reduction varies from property to property and depends on the location of the property and the size of the structure(s). Furthermore, properties that have been under the same ownership for a long time may derive less tax benefit from the Mills Act than more recently sold properties, since new transactions often have a higher "base" assessment under Proposition (Prop) 13. Under Prop 13, all real property has an established base year value, a restricted rate of increase on assessments of no greater than 2% each year, and a limit on property taxes to 1% of the assessed value (plus additional voter-approved taxes).

¹ A complete list of distributions is publicly available on the County Assessor's page. Approximately 47.56% of the property taxes are distributed to the Gilroy Unified School District, and approximately 13.8% goes to Santa Clara County.

Staff has recently requested property tax data for the 19 properties currently under a Mills Act Agreement in the City of Gilroy. The data shows that the Mills Act assessment varies from property to property, ranging from 0% to 83% lower than the base assessment value (see Attachment 2). While rare, it does occasionally happen that a Mills Act assessment value is higher than the base assessment, in which case, the lower base assessment is used to calculate property taxes. For example, 7560 Monterey Road (approved for the Mills Act in 2002) is a commercial property that was sold as an unreinforced masonry (URM) building in 2016 and has since been retrofitted; significantly increasing its current income potential which is used to calculate the Mills Act value. 7511 Carmel Street (approved for the Mills Act in 2020) was sold in 2014 and therefore has lower property taxes under Prop 13 than it does under the Mills Act.

The amount of the reduction in assessed value is determined by the County Assessor's Office based on statutory guidelines, approved by the California Board of Equalization. The Revenue and Taxation Code (RTC) prohibits the Assessor from using comparable property sales data to value a Mills Act property. Instead, the Assessor must annually value a Mills Act property using an income approach that follows specific RTC provisions: the income to be capitalized (fair rent or gross income less allowed expenditures); the capitalization rate² (prescribed by statute); the capitalization technique (prescribed by statute), and the property's taxable value on each lien date.

ANALYSIS

Mills Act applications are submitted in July of each year and are reviewed to determine if they are eligible for consideration by the City Council. Mills Act properties must be on a local, state, or national register of historic places. In 2018, the City of Gilroy's historic consultant conducted a city-wide survey of all properties over 45 years of age (built in 1974 or earlier at the time) to determine which properties would be eligible to remain on, or be added to, the City's Historic Resource Inventory.

The City of Gilroy received two applications in July 2023 for the Mills Act Program. The first application is for a single-family home located at 286 Fifth Street. The second application is for a single-family home located at 7471 Hanna Street. Both properties are currently listed, and recommended to remain, on the City's Historic Resource Inventory.

² The capitalization rate is different for an owner-occupied single-family residence versus an income producing commercial property.

286 Fifth Street



Property Description: The property located at 286 Fifth Street includes a single-family residence and a detached garage, both constructed in 1922. The home was designed in the Spanish Colonial Revival-style. According to the 2018 survey of this property, the residence retains adequate integrity to be recognizable to its original style and retains some of the style's character defining features including: symmetrical facade with rectangular massing, sunrooms on both sides, two-stories in height, medium pitch side-gable roof with narrow eaves with dormer windows, wood clapboard, accentuated front door with decorative crown supported by columns, multi-lite windows, classical columns, and window shutters.

While the building is not eligible for state or national listing, the property is listed locally as historic and therefore eligible for the Mills Act. Additional information can be found on the attached California Department of Parks and Recreation (DPR) form.

Property Tax Data: According to the property tax records submitted by the applicant, the total taxes for the 2022-2023 tax year were \$12,262.74. Given that 9.7% of the

property taxes are distributed to the City of Gilroy, the loss of tax revenue to the City, under a Mills Act Agreement, would likely be less than \$1,190.00 for the 2024 tax year, even if the owner realized a 100% reduction in their property taxes.

Based on recent records for other Mills Act properties in Gilroy, it is estimated the property owner could save approximately \$6,131 to \$9,810 (50-80%³) on their next property tax bill. Over the course of 10 years, the estimated savings is approximately \$61,310 to \$98,100, subject to any property tax valuation changes.

10-Year Restoration/Maintenance Plan: The current property owner has proposed a property improvement plan that lists several improvements, along with the approximate cost, broken down by year. Although the estimated improvements have been broken down by year, the property owner has the flexibility to modify the year of the actual improvement so long as the total tax savings are reinvested in the property. The total estimated improvement costs (\$238,800) exceed the estimated tax savings (~\$98,100) that the homeowner could receive over the 10-year period.

Wrap-around fence repair and painting (\$2,800) Landscape garden design and maintenance; Magnolia tree healing (\$4,200) Fix tool room roof (leaks) (\$7,400)	\$14,400
Re-erect falling dividing wall with neighbor (\$5,500) Add gutters (\$12,000)	\$17,500
Fix detached game room (\$15,000) Paint and fix garage (\$3,400)	\$18,400
Façade washing and outdoor paint repair (\$3,100) Pavers repair and maintenance (level uneven surfaces, replace broken paver bricks, cement and glue pavers) (\$7,300) Update heating system (\$30,000)	\$40,400
Fix stairs (rails are wobbly and a step is broken) (\$6,500) Fix and strengthen gazebo (\$5,500)	\$12,000
Fix downstairs windows (they do not open) (\$45,000) Chimney repair, cleaning and painting (\$3,000)	\$48,000
Fix upstairs windows (they do not open) (\$25,000) Façade washing and outdoor paint repair (3,100)	\$28,100
Re-paint indoor walls and doors (\$15,000) Downstairs hardwood floors repair and maintenance (\$12,000)	\$27,000
Upstairs hardwood floors repair and maintenance (\$11,000) Garden maintenance (\$2,000)	\$13,000
Outdoors house painting (\$20,000)	\$20,000
Total estimated investment:	\$238,800

³ The property was purchased in 2021 and would likely see a higher tax deduction than a property with a lower Prop-13 tax assessment.

7471 Hanna Street



Property Description: The property located at 7471 Hanna Street includes a single-family residence and a detached garage, both constructed in 1926. The home was designed in the Spanish Colonial Revival-style. According to the 2018 survey of this property, the residence retains adequate integrity to be recognizable to its original style and retains some of the style's character defining features including: simple rectangular massing, one-story in height, asymmetrical facade, low pitched roof, painted stucco exterior walls in natural colors, walls extend into parapet without a break, fenestration irregularly placed and recessed, tall, narrow, multi-lite metal casement windows, and decorative arched stucco work over windows. While the property's simplistic interpretation of the Spanish Colonial Revival-style prevents it from rising to the level of significance required for state or national listing, the property is listed locally as historic and therefore eligible for the Mills Act. Additional information can be found on the attached DPR form⁴.

⁴ The Department of Parks and Recreation (DPR) 523 series of forms are used for recording and evaluating resources and for nominating properties as [California Historical Landmarks](#), [California Points of Historical Interest](#), and to the [California Register of Historical Resources](#).

Property Tax Data: According to the property tax records submitted by the applicant, the total taxes for the 2022-2023 tax year were \$4,525.34. Given that 9.7% of the property taxes are distributed to the City of Gilroy, the loss of tax revenue to the City, under a Mills Act Agreement, would likely be less than \$440.00 for the 2024 tax year, even if the owner realized a 100% reduction in their property taxes.

Based on recent records for other Mills Act properties in Gilroy, it is estimated the property owner could save approximately \$2,262 to \$3,620 (50-80%⁵) on their next property tax bill. Over the course of 10 years, the estimated savings is approximately \$22,620 to \$36,200, subject to any property tax valuation changes.

10-Year Restoration/Maintenance Plan: The current property owner has proposed a property improvement plan that lists several improvements, along with the approximate cost. The total estimated improvement costs (\$79,200) exceed the estimated tax savings (~\$36,200) that the homeowner could receive over the 10-year period. Although the property owner has not listed an estimated year for each improvement, she understands that the tax savings each year must be reinvested into the property prior to the end of the tax year. As illustrated in the attachments, the property owner has also already invested approximately \$69,000 towards the home (not including interior cosmetic improvements) since purchasing the property in 2022, exceeding her estimated tax savings.

Repair and reattach side entry portico	\$3,500
Restore garage doors	\$8,000
Garage framing repairs	\$12,000
Restore and reglaze 38 windows	\$29,000
Restore window screens and screen doors	\$5,200
Foundation brace and bolt	\$20,000
Repair front concrete walkway	\$1,500
Total estimated investment:	\$79,200

Conclusion

Staff recommends that the City Council approve both Mills Act requests with the condition that the property owners each enter into a Mills Act Agreement with the City. Staff's recommendation is based on the following reasons:

- A. Both properties are listed on Gilroy's Historic Resource Inventory;
- B. The proposed Mills Act requests are consistent with General Plan policies NCR 5.4 (Historic Preservation), NCR 5.7 (Mills Act Contracts), and NCR 5.8 (Historic

⁵ The property was purchased in 2022 and would likely see a higher tax deduction than a property with a lower Prop-13 tax assessment.

Character) in that granting a Mills Act request will ensure that the historic buildings are preserved and maintained for the term of each agreement;

- C. The proposed ten-year improvement plan is consistent with the intent and requirements of the City's Mills Act Agreement Policy; and
- D. Allowing each property to enter into a Mills Act Agreement would not jeopardize the health of the City's General Fund, since the City receives less than 10 percent of the property taxes collected.

ALTERNATIVES

The City Council could decide not to approve the Mills Act Agreement(s) for one or both applicants, in which case the applicant(s) would not receive tax savings to help offset the cost of preserving their historic home(s), and the City would not realize a reduction in property tax revenue for the subject property(ies).

FISCAL IMPACT/FUNDING SOURCE

The actual loss of property tax revenue cannot be determined until after each property owner receives a Mills Act reassessment from the County Assessor's Office. However, the loss of property tax revenue is estimated to be less than \$1,630 (\$440 + \$1,190) for the 2024 tax year for both properties. Furthermore, the public benefit of maintaining the historic buildings for the term of each agreement may outweigh the potential loss of tax revenue to the City.

The City charges an application fee (currently \$2,201) to recover City costs related to processing the application and maintaining the Mills Act Agreement (e.g., legal costs to produce the document; staff costs to inspect and monitor the property).

PUBLIC OUTREACH

The City Council public hearing packets are available through the City's webpage. No public comments have been received on the proposed Mills Act applications.

NEXT STEPS

If the City Council approves either request, the City Attorney will prepare a Mills Act Agreement for the subject property(ies). The proposed improvements will be documented in each Mills Act Agreement and will need to comply with the Secretary of the Interior's standards for the treatment of historical resources. The City Administrator and City Clerk will sign and notarize each agreement. Once the property owner and the City execute the agreement, it will be recorded with the Santa Clara County Clerk Recorder's Office and the County Assessor's Office will recalculate the property taxes. City staff will monitor each property for conformance with the agreement on an ongoing basis.

Approval of Two (2) Mills Act Agreement Applications for Historic Properties Located at 286 Fifth Street and 7471 Hanna Street

Attachments:

1. Mills Act Agreement Policy
2. Mills Act Property Tax Assessment Data
3. 286 Fifth Street Historic Site Survey (DPR form)
4. 286 Fifth Street Application, Photos, and 10-Year Restoration/Maintenance Plan (MA 23-01)
5. 7471 Hanna Street Historic Site Survey (DPR form)
6. 7471 Hanna Street Application, Photos, and 10-Year Restoration/Maintenance Plan (MA 23-02)
7. Mills Act Agreement Template

MILLS ACT AGREEMENT POLICY

Adopted February 1997

PURPOSE

It is the policy of the City of Gilroy to foster and encourage the preservation, maintenance, rehabilitation, and restoration of historic properties. The City recognizes that the reduction in property taxes provided by the Mills Act will act as a monetary incentive to acquire, maintain, and restore historic property.

The minimum requirements for a Mills Act agreement shall include:

1. A minimum contract term of ten (10) years, which will be automatically renewed on an annual basis. This contract will be recorded against title to the property, and shall run with the land.
2. The owner shall maintain the historic property in accordance with the Secretary of the Interior's Standards for Rehabilitation (attached).
3. The owner must allow reasonable periodic examination of the historic site, if a request is made and by prior appointment, by representatives of the City, County Assessor, State Department of Parks and Recreation, and State Board of Equalization.
4. The City may cancel the agreement following a duly noticed public hearing if it is determined that the owner breached any mandatory conditions of the contract.
5. The owner shall pay legal fees and staff costs related to the preparation and maintenance of a Mills Act contract.
6. The owner must not obstruct the public's ability to view the exterior of the structure from the public right-of-way (e.g. by placing trees, bushes and fences in a location which obscures the view of the exterior of the structure).
7. The owner shall submit a ten-year plan of proposed improvements to the property. This plan shall be revised every five years, and each revision shall document improvements that have been completed.
8. Improvements made to properties in Mills Act contracts shall include infrastructure and structural improvements, and building maintenance, rather than interior cosmetic improvements.
9. Noncompliance with the provisions of a Mills Act contract will result in either legal action against the owner, or contract cancellation. If the contract is cancelled, the owner must pay a penalty of 12½ percent of the market value of the property at the time of cancellation.
10. To be eligible for a Mills Act contract, a property must be designated with a 3, 4 or 5 on the City's Historic Preservation Study.

EXHIBIT A

Mills Act Base Year	APN	Address	2023 Factored Base Year Value	2023 Mills Act Value	Reassessed Value Decrease	Percent of Decrease
2002	799-19-011	7544 PRINCEVALLE ST	\$ 627,455	\$ 281,400	\$ 346,055	55%
2002	799-19-026	555 5TH ST	\$ 420,351	\$ 182,900	\$ 237,451	56%
2003	799-07-031	7405 EIGLEBERRY ST	\$ 766,746	\$ 295,300	\$ 471,446	61%
2003	799-19-015	7590 PRINCEVALLE ST	\$ 1,490,831	\$ 252,000	\$ 1,238,831	83%
2003	841-05-060	7560 MONTEREY RD	\$ 739,583	\$ 739,583	\$ -	0%
2005	799-02-028	7711 ROSANNA ST	\$ 619,045	\$ 161,300	\$ 457,745	74%
2006	799-19-027	575 5TH ST	\$ 716,769	\$ 155,000	\$ 561,769	78%
2006	799-19-064	391 5TH ST	\$ 850,938	\$ 234,800	\$ 616,138	72%
2007	799-02-033	7730 HANNA ST	\$ 1,031,100	\$ 274,900	\$ 756,200	73%
2007	799-03-047	7797 MONTEREY ST	\$ 937,835	\$ 302,600	\$ 635,235	68%
2007	799-05-030	7631 HANNA ST	\$ 649,782	\$ 160,400	\$ 489,382	75%
2007	799-18-002	546 5TH ST	\$ 355,068	\$ 153,800	\$ 201,268	57%
2009	799-19-040	7551 HANNA ST	\$ 615,518	\$ 208,200	\$ 407,318	66%
2009	799-06-007	7541 CHURCH ST	\$ 609,152	\$ 222,100	\$ 387,052	64%
2013	799-02-024	7751 ROSANNA ST	\$ 229,610	\$ 106,300	\$ 123,310	54%
2017	799-06-024	7539 EIGLEBERRY ST	\$ 589,132	\$ 278,000	\$ 311,132	53%
2019	841-06-040	222 MARTIN ST	\$ 745,862	\$ 311,100	\$ 434,762	58%
2020	799-19-008	7363 Monterey	\$ 651,100	\$ 186,100	\$ 465,000	71%
2020	799-08-037	7511 Carmel Street	\$ 1,608,300	\$ 1,608,300	\$ -	0%
						59% Average (all)
						66% Average (omit outliers)

State of California & The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # P-43-003624
HRI # _____
Trinomial _____
NRHP Status Code 5S1
Other Listings _____
Review Code _____ Reviewer _____ Date _____

Page 1 of 4

*Resource Name or #: (Assigned by recorder) 286 5th St

P1. Other Identifier: _____

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County Santa Clara and (P2c, P2e, and P2b or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad Gilroy Date 1955 (1994 ed.) T 11S; R 04E; _____ of _____ of Sec 06; MD B.M.

c. Address 286 5th St City Gilroy Zip 95020-5706

d. UTM: (Give more than one for large and/or linear resources) Zone 11N, 626991.35 mE/ 4096619.35 mN

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, decimal degrees, etc., as appropriate)

APN: 79907020; Elevation: 62 m amsl.; Lat/Long: (37.007164335643, -121.57265422937).

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

The subject property is a Colonial Revival-style, single-family residence with a detached garage built in 1922. The 2-story building has horizontal wood board siding and a side gable roof covered with wood shingles with three front gable dormer windows. The northwest (main) elevation features casement wood frame windows and a wood paneled, front door, with a fanlight transom window, positioned centered. Flanking either side of the main elevation are two sunrooms. The subject property has an exterior end chimney made of brick. The subject property has a stoop porch below a front gable roof with four Doric columns. The subject property has 1 outbuilding (gazebo). No alterations were observed.

*P3b. Resource Attributes: (List attributes and codes) HP2. Single family property, HP4. Ancillary building

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects.)

*P4. Resources Present: ☒ Building

☐ Structure ☐ Object ☐ Site ☐ District

☐ Element of District ☐ Other (Isolates, etc.)

P5b. Description of Photo: (view, date, accession #) E, September 30, 2018
4:09 PM, 3283.jpg

*P6. Date Constructed/Age and Source:

☒ Historic ☐ Prehistoric ☐ Both

1922 (Santa Clara County Assessor)

*P7. Owner and Address:

Sanchez Segundo Trustee

286 5th St

Gilroy CA 95020-5706

*P8. Recorded by: (Name, affiliation, and address)

Sarah Corder

Dudek

725 Front Street, Suite 400

Santa Cruz, CA 95060

*P9. Date Recorded: 09/30/2018

*P10. Survey Type: (Describe)

Intensive Pedestrian



*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

Dudek 2020. City of Gilroy Historic Context Statement and Historic Resources Inventory Update.

*Attachments: ☐ NONE ☒ Location Map ☒ Continuation Sheet ☒ Building, Structure, and Object Record

☐ Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record

☐ Artifact Record ☐ Photograph Record ☐ Other (List):

State of California ♦ The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
LOCATION MAP

Primary # P-43-003624

HRI # _____

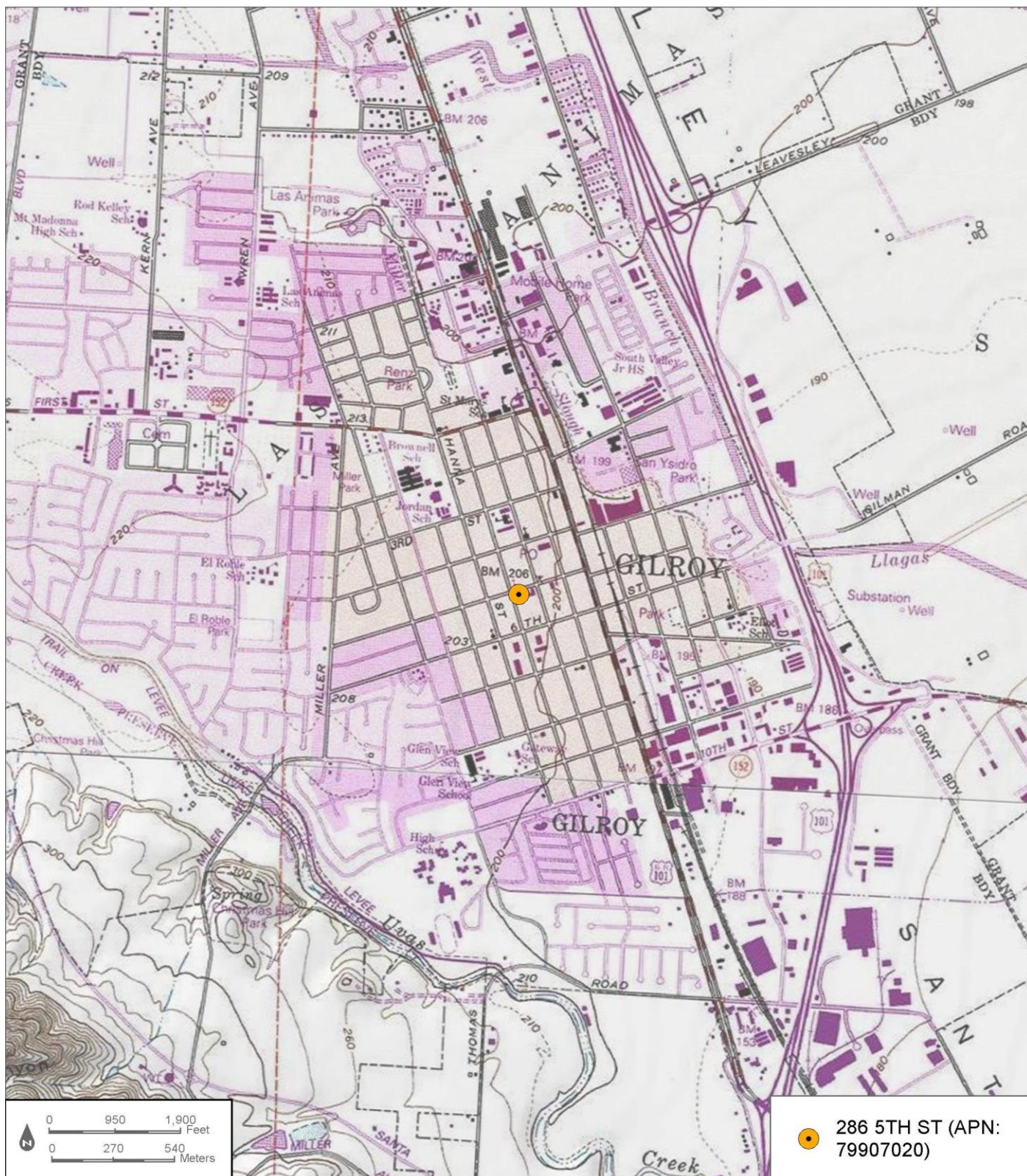
Trinomial _____

Page 2 of 4 *Resource Name or #: (Assigned by recorder) 286 5th St

*Map Name: Gilroy, California

*Scale: 1:24,000

*Date of map: 1955 (1994 ed.)



State of California ♦ The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Name or #: (Assigned by recorder) 286 5th St *NRHP Status Code 5S1

Page 3 of 4

B1. Historic Name: _____
B2. Common Name: _____
B3. Original Use: Single family residence B4. Present Use: Single family residence
*B5. Architectural Style: Colonial Revival
*B6. Construction History: (Construction date, alterations, and date of alterations)
The subject property was constructed in 1922 (Santa Clara County Assessor). No alterations were observed.
*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: _____ Original Location: _____
*B8. Related Features: _____

B9a. Architect: _____ b. Builder: _____

*B10. Significance: Theme Residential Development Area Gilroy
Period of Significance (1870-1948) Property Type Single-family residential Applicable Criteria NRHP: n/a
Local: 1,3

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)
This single-family residence was designed in the Colonial Revival style and constructed within the original downtown grid. The residence retains adequate integrity to be recognizable to its original style and retains some of the style's character defining features including: symmetrical facade with rectangular massing, sunrooms on both sides, two-stories in height, medium pitch side-gable roof with narrow eaves with dormer windows, wood clapboard, accentuated front door with decorative crown supported by columns, multi-lite windows, classical columns, and window shutters. Residential development in Gilroy in the late nineteenth and early twentieth century was characterized by expansion into the previously undeveloped sections of the initial Gilroy city grid. Many private residences were constructed during this period, aided by the prospect of piped utilities like natural gas, water, and electricity. Based on the date of construction for the subject property and its requisite integrity to its original period of construction, it is recommended eligible for the Gilroy HRI for its association with Gilroy's pattern of early (see continuation sheet)

B11. Additional Resource Attributes: (List attributes and codes) _____

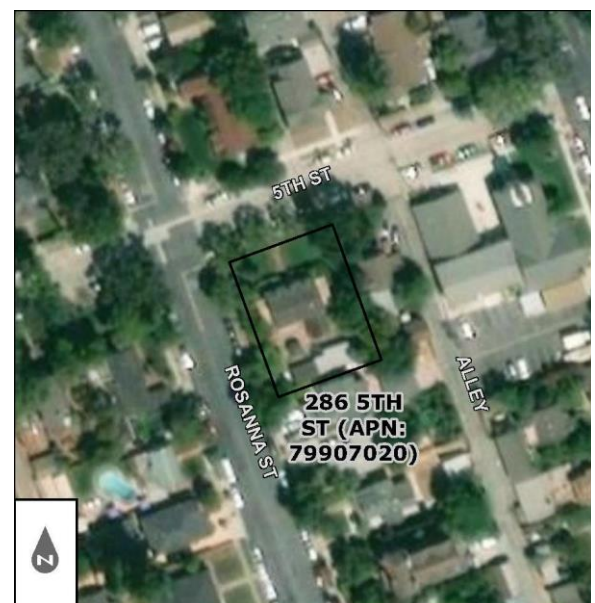
*B12. References: _____

B13. Remarks: _____

*B14. Evaluator: Nicole Frank, MSHP

*Date of Evaluation: November 12, 2019

(This space reserved for official comments.)



State of California ♡ The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Primary# P-43-003624

HRI #

Trinomial

CONTINUATION SHEET

Property Name: 286 5th St

Page 4 of 4

B10. Significance Narrative: residential development in the original city grid under City of Gilroy Criterion 1. Archival research failed to indicate direct associations with any persons significant in our past, therefore the property does not rise to the level of significance required under the City of Gilroy Criterion 2. Given the economic diversity of Gilroy, architectural styles during this period range greatly from ornate Queen Anne mansions designed by noted architects, to period revival style residences, to simple unadorned cottages and bungalows. Many residences constructed during this time period reflect the core architectural development of the City and serve as important representations of popular late nineteenth and early twentieth century architectural styles. The subject property serves as an intact representation of the Colonial Revival style of architecture and retains the following character defining features: symmetrical facade with rectangular massing, sunrooms on both sides, two-stories in height, medium pitch side-gable roof with narrow eaves with dormer windows, wood clapboard, accentuated front door with decorative crown supported by columns, multi-lite windows, classical columns, and window shutters.

Therefore, the subject property is recommended eligible under City of Gilroy Criterion 3 for its representation of the Colonial Revival style of architecture. Finally, the subject property is not known to be the work of a notable builder, designer, or architect. As such, the subject property does not rise to the level of significance required under the City of Gilroy Criterion 4. Therefore, the subject property appears eligible for the City's HRI as an individual property under Criteria 1 and 3.



City of Gilroy
 COMMUNITY DEVELOPMENT DEPARTMENT
 PLANNING DIVISION
 7351 Rosanna Street, Gilroy CA 95020
 (408) 846-0440, main • (408) 846-0429, fax
 www.cityofgilroy.org/planning

File # _____

Encompass # _____

PLANNING APPLICATION

If you require accommodations or assistance to complete this application, due to a disability as defined by the Americans with Disabilities Act, please notify City staff.

1. TYPE OF APPLICATION

- | | | |
|---|---|--|
| ☐ Annexation | ☐ Home Occupation Appeal | ☐ Reasonable Accommodation |
| ☐ Architectural/Site Remodel | ☐ Minor Deviation | ☐ Tentative Map |
| ☐ Architectural/Site Review | ☐ Minor Modification | ☐ Time Extension |
| ☐ Conditional Use Permit | ☐ Performance Agreement Review | ☐ Urban Service Area Amendment |
| ☐ Development Agreement | ☐ Planned Unit Development | ☐ Variance |
| ☐ General Plan Amendment | ☐ RDO Competition | ☐ Zoning Amendment/Zone Change (circle) |
| | ☐ RDO Housing Exemption | ☐ Other: <u>Mills Act</u> |

2. SUBJECT PROPERTY INFORMATION

Address/Location 286 5th Street APN(s) 799-07-020
 Size (SF/acre) 3,108 Existing Use(s) Residential
 Zoning R3 General Plan _____ Is property under Williamson Act Contract? Yes ☐ No ☒

3. DEVELOPMENT PROPOSAL INFORMATION (attach additional pages if needed)

Detailed project description Restoration and Preservation of historic Lester House (Sig Sanchez house)

Retail Square Footage _____ Office Square Footage _____ Industrial Square Footage _____

Total # market-rate units: _____ Single Family 1 Condominium/Townhouse _____ Apartments _____

Total # affordable units: _____ Single Family _____ Condominium/Townhouse _____ Apartments _____

Is the property a Historic Site? Yes ☐ No ☐ Is the site located in a Historic District? Yes ☒ No ☐

Does this proposal include a RDO (Residential Development Ordinance) request under Gilroy City Code Section 30.50.60(b)(2)(j) or (l)? If so, please clarify the category and number of RDO units requested:

4. PROPERTY OWNER INFORMATION (Signature required unless lawful power of attorney provided.)

Name/Title Carlos Ceballos E-mail _____
 Address 286 5th Street
 Home/Office Phone _____ Cell Phone _____

I hereby certify that I am the owner of record of the subject property(ies) described in this application and that I consent to the filing of the action requested herein. All property owners of record must sign the application.

Owner Signature* _____ Date 7/11/2023

(For multiple property owners, use additional signature blocks, below.)

*Original (wet) signatures required throughout this application form. Copies will not be accepted.

Revised 7/10/2019

5. APPLICANT AND DESIGNATED AGENT (Attorney-in-Fact) Designation is required for all applications.

I, Carlos Ceballos (Property Owner), hereby designate Karolina Romero (agent) as the Applicant and Attorney-in-Fact for the Property Owner for all purposes of processing this application with the City of Gilroy. As the Attorney-in-Fact, this primary contact person serves as the designated agent responsible for project negotiations with the City, and will coordinate all information with the applicant team.

Owner Signature* [Redacted]

(For multiple property owners, use additional signature blocks, below)

Applicant Primary Contact/Designated Agent (Attorney-in-Fact)

Name/Title Karolina RomeroE-mail [Redacted]Address 286 5th StreetHome/Office Phone [Redacted]Cell Phone [Redacted]Signature* [Redacted]Date 7/11/2023**6. REIMBURSEMENT ACKNOWLEDGEMENT AND AGREEMENT**

I, Carlos Ceballos, the undersigned hereby authorize the City of Gilroy to process the above-referenced permit application(s) in accordance with fees established by the City Council, which are amended from time to time. I am depositing an initial amount of \$ 5,110.40 to pay for City staff review, coordination and processing costs, including necessary technical, consultant and/or attorney services. In making this deposit, I acknowledge and understand that the deposit may only cover a portion of the total processing costs. Actual costs for staff time are based on hourly rates, which I understand are in the most current fee schedule. I also understand that these costs apply even if the application is withdrawn, not approved, or abandoned pursuant to Gilroy City Code Section 30.51.10(e). I acknowledge and agree to the following terms and conditions expected for full reimbursement, as follows:

- Staff time includes (but is not limited to) time spent by all City of Gilroy staff members, the City Attorney and/or their consultants necessary to process and enforce land use entitlements associated with the Subject Property, identified above.
- I am responsible for all charges associated with processing the land use applications requested. If final costs or processing costs exceed the available deposit, I will receive notification of additional funding, which is payable upon receipt of such notice or invoice, for continued permit processing.
- If I fail to pay invoices within 30 days of billing, the City may either stop processing my permit application(s), or after conducting a hearing, deny my permit request altogether.
- Fees are due and payable within 30 days of notification and/or invoicing, and payment of fees must be current prior to scheduling a hearing or decision.

Owner (signature)* [Redacted]Date 7/11/2023Owner (print name) Carlos Ceballos

Title (if any) _____

7. Hazardous Waste and Substances Statement (Required by Section 65962.5(f) of the CA Government Code)

Prior to accepting any application for a development project, the City of Gilroy must receive, from the applicant, a signed statement indicating whether or not the project site is identified on the State of California Hazardous Waste and Substances Sites List. This list identifies known sites that have been subject to releases of hazardous chemicals, and is available at <http://www.calepa.ca.gov/SiteCleanup/CorteseList/>. Check the appropriate box, below, and provide any applicable information. I, the undersigned, have consulted the CalEPA lists and can state the development project and any alternatives proposed in this application:

- ☒ is/are NOT contained on the lists compiled pursuant to Government Code Section 65962.5.
☐ is/are contained on the lists compiled pursuant to Government Code Section 65962.5.
 If yes, provide Regulatory Identification Number _____ Date of List: _____

Owner (signature)* [Redacted]Date 7/11/2023Owner (print name) Carlos Ceballos

Title (if any) _____

8. Additional Property Owners (To be completed by each property owner of record.)

Assessor's Parcel Number(s) _____

Name _____

Address _____

Office Phone _____ Cell Phone _____

I hereby certify that I am the owner of record of the subject property(ies) described in this application and that I consent to the filing of the action requested herein.

Signature* _____ Date _____

Assessor's Parcel Number(s) _____

Name _____

Address _____

Office Phone _____ Cell Phone _____

I hereby certify that I am the owner of record of the subject property(ies) described in this application and that I consent to the filing of the action requested herein.

Signature* _____ Date _____

Assessor's Parcel Number(s) _____

Name _____ E-mail _____

Address _____

Office Phone _____ Cell Phone _____

I hereby certify that I am the owner of record of the subject property(ies) described in this application and that I consent to the filing of the action requested herein.

Signature* _____ Date 12345

Assessor's Parcel Number(s) _____

Name _____ E-mail _____

Address _____

Office Phone _____ Cell Phone _____

I hereby certify that I am the owner of record of the subject property(ies) described in this application and that I consent to the filing of the action requested herein.

Signature* _____ Date _____

PLANNING DIVISION USE ONLY

Date Filed: _____ Fees: _____ Received by: _____

Notes/Comments _____

INDEMNIFICATION AGREEMENT FOR DEVELOPMENT APPLICATIONS

Applicant submitted an application to the City of Gilroy Planning Division on _____, 20____ for the following development approval(s): _____

_____ (the "Project"). For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Applicant hereby expressly agrees in connection with the processing of Applicant's Project application(s) to each and every one of the following terms and conditions:

1. Applicant agrees, as part of and in connection with each and any of the application(s), to defend, indemnify, and hold harmless the City of Gilroy ("City") and its officers, contractors, consultants, attorneys, employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as "proceeding") brought against City or its officers, contractors, consultants, attorneys, employees, or agents to challenge, attack, set aside, void, or annul:
 - a. Any approvals issued in connection with any of the above described application(s) by City; and/or
 - b. Any action taken to provide related environmental clearance under the California Environmental Quality Act of 1970, as amended ("CEQA") by City's advisory agencies, boards or commissions; appeals boards or commissions; Planning Commission, or City Council.

Applicant's indemnification is intended to include, but not be limited to, damages, fees and/or costs awarded against or incurred by City, if any, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by Applicant, City, and/or parties initiating or involved in such proceeding.

2. Applicant agrees to indemnify City for all of City's costs, fees, and damages incurred in enforcing the indemnification provisions of this Agreement.
3. Applicant agrees to defend, indemnify and hold harmless City, its officers, contractors, consultants, attorneys, employees and agents from and for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as an environmental impact report, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if Applicant desires to pursue such City approvals and/or clearances, after initiation of the proceeding and that are conditioned on the approval of these documents.
4. In the event that Applicant is required to defend City in connection with such proceeding, City shall have and retain the right to approve:
 - a. The counsel to so defend City; and
 - b. All significant decisions concerning the manner in which the defense is conducted; and
 - c. Any and all settlements, which approval shall not be unreasonably withheld.

City shall also have and retain the right to not participate in the defense, except that City agrees to reasonably cooperate with Applicant in the defense of the proceeding. If City chooses to have counsel of its own defend any proceeding where Applicant has already retained counsel to defend City in such matters, the fees and expenses of the additional counsel selected by City shall be paid by City. Notwithstanding the immediately preceding sentence, if City's Attorney's Office participates in the defense, all City Attorney fees and costs shall be paid by Applicant.

5. Applicant's defense and indemnification of City set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the proceeding.

After review and consideration of all of the foregoing terms and conditions, Applicant, by its signature below, hereby agrees to be bound by and to fully and timely comply with all of the foregoing terms and conditions.

Owner Name: _____

By: _____
(Signature*)

Carlos Ceballos
(Print Name)

286 5th Street
(Street Address)

Gilroy 95020
(City and ZIP)

Date: 7/11/2023

Its: _____
(Title, if any)

cell phone: _____

e-mail: _____

286 5th Street Gilroy, CA

Ten-year plan of proposed improvements to the property with cost estimates

Year 1: (\$14,400)

Wrap-around fence repair and painting (\$2,800)
Landscape garden design and maintenance; Magnolia tree healing (\$4,200)
Fix tool room roof (leaks) (\$7,400)

Year 2: (\$17,500)

Re-erect falling dividing wall with neighbor (\$5,500)
Add gutters (\$12,000)

Year 3: (\$18,400)

Fix detached game room (\$15,000)
Paint and fix garage (\$3,400)

Year 4: (\$40,400)

Facade washing and outdoor paint repair (\$3,100)
Pavers repair and maintenance (level uneven surfaces, replace broken paver bricks, cement and glue pavers) (\$7,300)
Update heating system (\$30,000)

Year 5: (\$12,000)

Fix stairs (rails are wobbly and s step is broken) (\$6,500)
Fix and Strengthen Gazebo (\$5,500)

Year 6: (\$48,000)

Fix downstairs windows (They do not open) (\$45,000)
Chimney repair, cleaning and painting (\$3,000)

Year 7: (\$28,100)

Fix upstairs windows (They do not open) (\$25,000)
Facade washing and outdoor paint repair (3,100)

Year 8: (\$27,000)

Re-paint indoor walls and doors (\$15,000)

Downstairs hardwood floors repair and maintenance (\$12,000)

Year 9: (\$13,000)

Upstairs hardwood floors repair and maintenance (\$11,000)

Garden maintenance (\$2,000)

Year 10: (\$20,000)

Outdoors house Painting (\$20,000)







































State of California & The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
PRIMARY RECORD

Primary # _____
HRI # _____
Trinomial _____
NRHP Status Code 5S1

Other Listings _____
Review Code _____ Reviewer _____ Date _____

Page 1 of 4

*Resource Name or #: (Assigned by recorder) 7471 Hanna St

P1. Other Identifier: _____

*P2. Location: ☐ Not for Publication ☒ Unrestricted

*a. County Santa Clara and (P2c, P2e, and P2b or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad Gilroy Date 1955 (1994 ed.) T 11S; R 04E; _____ of _____ of Sec 06; MD B.M.

c. Address 7471 Hanna St City Gilroy Zip 95020-5723

d. UTM: (Give more than one for large and/or linear resources) Zone 11N, 626839.72 mE/ 4096532.1 mN

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, decimal degrees, etc., as appropriate)

APN: 79918026; Elevation: 63 m amsl.; Lat/Long: (37.00639852966, -121.57437273615).

*P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

The subject property is a Spanish Colonial Revival-style, single-family residence with a detached garage built in 1926. The 1-story building has stucco siding and a crenelated parapet roof, which was not visible during the survey. The northeast (main) elevation features casement windows and multiple entry points displaying as wood and glazed doors. The subject property has an exterior end chimney clad in stone. The subject property has a stoop porch. No observed alterations.

*P3b. Resource Attributes: (List attributes and codes) HP2. Single family property, HP4. Ancillary building

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects.)

*P4. Resources Present: ☒ Building

☐ Structure ☐ Object ☐ Site ☐ District

☐ Element of District ☐ Other (Isolates, etc.)

P5b. Description of Photo: (view, date, accession #) S, September 30, 2018

6:09 PM, 3313.jpg

*P6. Date Constructed/Age and Source:

☒ Historic ☐ Prehistoric ☐ Both

1926 (Santa Clara County Assessor)

*P7. Owner and Address:

Wentworth Esther C Trustee & Et Al
Thoma Melinda W Trustee

8581 Amanda Ave

Gilroy CA 95020-4043

*P8. Recorded by: (Name, affiliation, and address)

Sarah Corder

Dudek

725 Front Street, Suite 400

Santa Cruz, CA 95060

*P9. Date Recorded: 09/30/2018

*P10. Survey Type: (Describe)

Intensive Pedestrian



*P11. Report Citation: (Cite survey report and other sources, or enter "none.")

Dudek 2020. City of Gilroy Historic Context Statement and Historic Resources Inventory Update.

*Attachments: ☐ NONE ☒ Location Map ☒ Continuation Sheet ☒ Building, Structure, and Object Record

☐ Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record

☐ Artifact Record ☐ Photograph Record ☐ Other (List):

State of California ♦ The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
LOCATION MAP

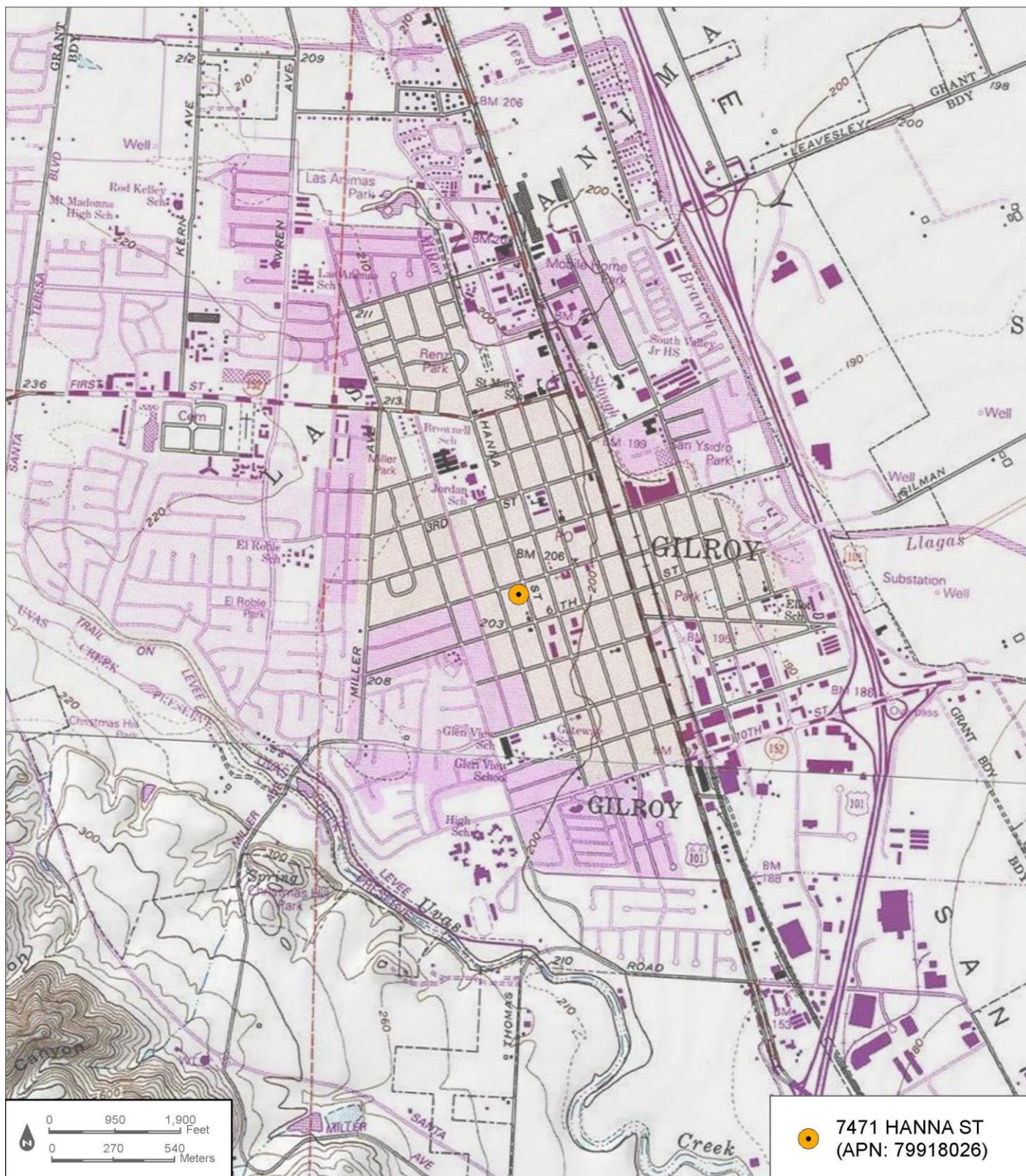
Primary # _____
HRI # _____
Trinomial _____

Page 2 of 4 *Resource Name or #: (Assigned by recorder) 7471 Hanna St

*Map Name: Gilroy, California

*Scale: 1:24,000

*Date of map: 1955 (1994 ed.)



State of California ♦ The Resources Agency
DEPARTMENT OF PARKS AND RECREATION
BUILDING, STRUCTURE, AND OBJECT RECORD

*Resource Name or #: (Assigned by recorder) 7471 Hanna St *NRHP Status Code 5S1

Page 3 of 4

B1. Historic Name: _____
B2. Common Name: _____
B3. Original Use: Single family residence B4. Present Use: Single family residence
*B5. Architectural Style: Spanish Colonial Revival

*B6. Construction History: (Construction date, alterations, and date of alterations)

The subject property was constructed in 1926 (Santa Clara County Assessor). No observed alterations

*B7. Moved? ☒ No ☐ Yes ☐ Unknown Date: _____ Original Location: _____

*B8. Related Features: _____

B9a. Architect: _____ b. Builder: _____

*B10. Significance: Theme Residential Development Area Gilroy

NRHP: n/a

CRHR: n/a

Single-family
Period of Significance 1870-1948 Property Type residential Applicable Criteria Local: 1,3

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity.)

This single-family residence was designed in the Spanish Colonial Revival style and constructed within the original downtown grid. The residence retains adequate integrity to be recognizable to its original style and retains some of the style's character defining features including: simple rectangular massing, one-story in height, asymmetrical facade, low pitched roof, painted stucco exterior walls in natural colors, walls extend into parapet without a break, fenestration irregularly placed and recessed, tall, narrow, multi-lite metal casement windows, and decorative arched stucco work over windows.

Residential development in Gilroy in the late nineteenth and early twentieth century was characterized by expansion into the previously undeveloped sections of the initial Gilroy city grid. Many private residences were constructed during this period, aided by the prospect of piped utilities like natural gas, water, and electricity. Based on the date of construction for the subject property and its requisite integrity to its original period of construction, (see continuation sheet)

B11. Additional Resource Attributes: (List attributes and codes) _____

*B12. References: _____

B13. Remarks: _____

*B14. Evaluator: Nicole Frank, MSHF

*Date of Evaluation: November 13, 2019

(This space reserved for official comments.)



State of California The Resources Agency DEPARTMENT OF PARKS AND RECREATION CONTINUATION SHEET Property Name: <u>7471 Hanna St</u> Page <u>4</u> of <u>4</u>	Primary# _____ HRI # _____ Trinomial _____
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B10. Significance Narrative: it is recommended eligible for the Gilroy HRI for its association with Gilroy's pattern of early residential development in the original city grid under City of Gilroy Criterion 1. Archival research failed to indicate direct associations with any persons significant in our past, therefore the property does not rise to the level of significance required under the City of Gilroy Criterion 2. Given the economic diversity of Gilroy, architectural styles during this period range greatly from ornate Queen Anne mansions designed by noted architects, to period revival style residences, to simple unadorned cottages and bungalows. Many residences constructed during this time period reflect the core architectural development of the City and serve as important representations of popular late nineteenth and early twentieth century architectural styles. The subject property serves as an intact representation of the Spanish Colonial Revival style of architecture and retains the following character defining features: simple rectangular massing, one-story in height, asymmetrical facade, low pitched roof, painted stucco exterior walls in natural colors, walls extend into parapet without a break, fenestration irregularly placed and recessed, tall, narrow, multi-lite metal casement windows, and decorative arched stucco work over windows. Therefore, the subject property is recommended eligible under City of Gilroy Criterion 3 for its representation of the Spanish Colonial Revival style of architecture. Finally, the subject property is not known to be the work of a notable builder, designer, or architect. As such, the subject property does not rise to the level of significance required under the City of Gilroy Criterion 4. Therefore, the subject property appears eligible for the City's HRI as an individual property under Criteria 1 and 3.

However, the property's simplistic interpretation of a style prevents it from rising to the level of significance required for listing in the NRHP or CRHR. Therefore, the subject property appears not eligible for the NRHP or CRHR.



City of Gilroy
 COMMUNITY DEVELOPMENT DEPARTMENT
 PLANNING DIVISION
 7351 Rosanna Street, Gilroy CA 95020
 (408) 846-0440, main • (408) 846-0429, fax
 www.cityofgilroy.org/planning

File # _____

Encompass # _____

PLANNING APPLICATION

If you require accommodations or assistance to complete this application, due to a disability as defined by the Americans with Disabilities Act, please notify City staff.

1. TYPE OF APPLICATION

- | | | |
|---|---|--|
| ☐ Annexation | ☐ Home Occupation Appeal | ☐ Reasonable Accommodation |
| ☐ Architectural/Site Remodel | ☐ Minor Deviation | ☐ Tentative Map |
| ☐ Architectural/Site Review | ☐ Minor Modification | ☐ Time Extension |
| ☐ Conditional Use Permit | ☐ Performance Agreement Review | ☐ Urban Service Area Amendment |
| ☐ Development Agreement | ☐ Planned Unit Development | ☐ Variance |
| ☐ General Plan Amendment | ☐ RDO Competition | ☐ Zoning Amendment/Zone Change (circle) |
| | ☐ RDO Housing Exemption | ☐ Other: <u>MILLS ACT</u> |

2. SUBJECT PROPERTY INFORMATION

Address/Location 7471 Hanna Street APN(s) 799-18-026
 Size (SF/acres) 7280 sf. Existing Use(s) Residence
 Zoning R1 General Plan Low Density Is property under Williamson Act Contract? Yes ☐ No ☒

3. DEVELOPMENT PROPOSAL INFORMATION (attach additional pages if needed)

Detailed project description Restore and keep original

Retail Square Footage _____ Office Square Footage _____ Industrial Square Footage _____

Total # market-rate units: _____ Single Family ☒ Condominium/Townhouse _____ Apartments _____

Total # affordable units: _____ Single Family _____ Condominium/Townhouse _____ Apartments _____

Is the property a Historic Site? Yes ☒ No ☐ Is the site located in a Historic District? Yes ☒ No ☒

Does this proposal include a RDO (Residential Development Ordinance) request under Gilroy City Code Section 30.50.60(b)(2)(j) or (l)? If so, please clarify the category and number of RDO units requested:

4. PROPERTY OWNER INFORMATION (Signature required unless lawful power of attorney provided.)

Name/Title Carla Siboldi E-mail _____

Address 7471 Hanna St. Gilroy CA 95020

Home/Office Phone _____ Cell Phone _____

I hereby certify that I am the owner of record of the subject property(ies) described in this application and that I consent to the filing of the action requested herein. All property owners of record must sign the application.

Owner Signature* _____ Date 7-11-23

(For multiple property owners, use additional signature blocks, below.)

*Original (wet) signatures required throughout this application form. Copies will not be accepted.

41. Preliminary Title Report - Old R ... ic Title Company, Jamie Buchanan.pdf

DocuSign Envelope ID: F1A790EF-6472-4212-B7D1-7F06D154BF84

ORDER NO. : 0621016185

EXHIBIT A

The land referred to is situated in the County of Santa Clara, City of Gilroy, State of California, and is described as follows:

All of Lot 3 in Block 1 North Range 5 West, as shown upon that certain Map entitled "Miller and Lux Western Addition to the City of Gilroy, Santa Clara County, California" which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on October 25, 1920 in

APN: 799-18-026

5. APPLICANT AND DESIGNATED AGENT (Attorney-in-Fact) Designation is required for all applications.

I, _____ (Property Owner), hereby designate _____ (agent) as the Applicant and Attorney-in-Fact for the Property Owner for all purposes of processing this application with the City of Gilroy. As the Attorney-in-Fact, this primary contact person serves as the designated agent responsible for project negotiations with the City, and will coordinate all information with the applicant team.

Owner Signature* _____
(For multiple property owners, use additional signature blocks, below.)

Applicant Primary Contact/Designated Agent (Attorney-in-Fact)

Name/Title _____ E-mail _____

Address _____

Home/Office Phone _____ Cell Phone _____

Signature* _____ Date _____

6. REIMBURSEMENT ACKNOWLEDGEMENT AND AGREEMENT

I, Carla Siboldi, the undersigned hereby authorize the City of Gilroy to process the above-referenced permit application(s) in accordance with fees established by the City Council, which are amended from time to time. I am depositing an initial amount of \$ _____ to pay for City staff review, coordination and processing costs, including necessary technical, consultant and/or attorney services. In making this deposit, I acknowledge and understand that the deposit may only cover a portion of the total processing costs. Actual costs for staff time are based on hourly rates, which I understand are in the most current fee schedule. I also understand that these costs apply even if the application is withdrawn, not approved, or abandoned pursuant to Gilroy City Code Section 30.51.10(e). I acknowledge and agree to the following terms and conditions expected for full reimbursement, as follows:

- Staff time includes (but is not limited to) time spent by all City of Gilroy staff members, the City Attorney and/or their consultants necessary to process and enforce land use entitlements associated with the Subject Property, identified above.
- I am responsible for all charges associated with processing the land use applications requested. If final costs or processing costs exceed the available deposit, I will receive notification of additional funding, which is payable upon receipt of such notice or invoice, for continued permit processing.
- If I fail to pay invoices within 30 days of billing, the City may either stop processing my permit application(s), or after conducting a hearing, deny my permit request altogether.
- Fees are due and payable within 30 days of notification and/or invoicing, and payment of fees must be current prior to scheduling a hearing or decision.

Owner (signature)* _____ Date 7.11.23

Owner (print name) Carla Siboldi Title (if any) _____

7. Hazardous Waste and Substances Statement (Required by Section 65962.5(f) of the CA Government Code)

Prior to accepting any application for a development project, the City of Gilroy must receive, from the applicant, a signed statement indicating whether or not the project site is identified on the State of California Hazardous Waste and Substances Sites List. This list identifies known sites that have been subject to releases of hazardous chemicals, and is available at <http://www.calepa.ca.gov/SiteCleanup/CorteseList/>. Check the appropriate box, below, and provide any applicable information. I, the undersigned, have consulted the CalEPA lists and can state the development project and any alternatives proposed in this application:

☒ is/are NOT contained on the lists compiled pursuant to Government Code Section 65962.5.

☐ is/are contained on the lists compiled pursuant to Government Code Section 65962.5.

If yes, provide Regulatory Identification Number _____ Date of List: _____

Owner (signature)* _____ Date 7.11.23

Owner (print name) Carla Siboldi Title (if any) _____

8. Additional Property Owners (To be completed by each property owner of record.)

Assessor's Parcel Number(s) 799-18-026

Name Carla Siboldi

Address 7471 Hanna St Gilroy CA 95020

Office Phone _____

Cell Phone [REDACTED]

I hereby certify that I am the owner of record of the subject property(ies) described in this application and that I consent to the filing of the action requested herein.

Signature* [REDACTED]

Date 7.11.23

Assessor's Parcel Number(s) _____

Name _____

Address _____

Office Phone _____

Cell Phone _____

I hereby certify that I am the owner of record of the subject property(ies) described in this application and that I consent to the filing of the action requested herein.

Signature* _____

Date _____

Assessor's Parcel Number(s) _____

Name _____

E-mail _____

Address _____

Office Phone _____

Cell Phone _____

I hereby certify that I am the owner of record of the subject property(ies) described in this application and that I consent to the filing of the action requested herein.

Signature* _____

Date 12345

Assessor's Parcel Number(s) _____

Name _____

E-mail _____

Address _____

Office Phone _____

Cell Phone _____

I hereby certify that I am the owner of record of the subject property(ies) described in this application and that I consent to the filing of the action requested herein.

Signature* _____

Date 2.10

PLANNING DIVISION USE ONLY

Date Filed: _____

Fees: _____

Received by: _____

Notes/Comments _____

INDEMNIFICATION AGREEMENT FOR DEVELOPMENT APPLICATIONS

Applicant submitted an application to the City of Gilroy Planning Division on 7.11, 2023 for the following development approval(s): Mills Act

(the "Project"). For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Applicant hereby expressly agrees in connection with the processing of Applicant's Project application(s) to each and every one of the following terms and conditions:

1. Applicant agrees, as part of and in connection with each and any of the application(s), to defend, indemnify, and hold harmless the City of Gilroy ("City") and its officers, contractors, consultants, attorneys, employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as "proceeding") brought against City or its officers, contractors, consultants, attorneys, employees, or agents to challenge, attack, set aside, void, or annul:
 - a. Any approvals issued in connection with any of the above described application(s) by City; and/or
 - b. Any action taken to provide related environmental clearance under the California Environmental Quality Act of 1970, as amended ("CEQA") by City's advisory agencies, boards or commissions; appeals boards or commissions; Planning Commission, or City Council.

Applicant's indemnification is intended to include, but not be limited to, damages, fees and/or costs awarded against or incurred by City, if any, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by Applicant, City, and/or parties initiating or involved in such proceeding.

2. Applicant agrees to indemnify City for all of City's costs, fees, and damages incurred in enforcing the indemnification provisions of this Agreement.
3. Applicant agrees to defend, indemnify and hold harmless City, its officers, contractors, consultants, attorneys, employees and agents from and for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as an environmental impact report, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if Applicant desires to pursue such City approvals and/or clearances, after initiation of the proceeding and that are conditioned on the approval of these documents.
4. In the event that Applicant is required to defend City in connection with such proceeding, City shall have and retain the right to approve:
 - a. The counsel to so defend City; and
 - b. All significant decisions concerning the manner in which the defense is conducted; and
 - c. Any and all settlements, which approval shall not be unreasonably withheld.

City shall also have and retain the right to not participate in the defense, except that City agrees to reasonably cooperate with Applicant in the defense of the proceeding. If City chooses to have counsel of its own defend any proceeding where Applicant has already retained counsel to defend City in such matters, the fees and expenses of the additional counsel selected by City shall be paid by City. Notwithstanding the immediately preceding sentence, if City's Attorney's Office participates in the defense, all City Attorney fees and costs shall be paid by Applicant.

5. Applicant's defense and indemnification of City set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the proceeding.

After review and consideration of all of the foregoing terms and conditions, Applicant, by its signature below, hereby agrees to be bound by and to fully and timely comply with all of the foregoing terms and conditions.

Owner Name:

By:

(Signature*)

Date:

7.11.23

(Print Name)

Carla Siboldi

Its:

(Title, if any)

(Street Address)

7471 Hanna St

cell phone:

(City and ZIP)

Gilroy, CA 95020

e-mail:











MILLS ACT PROGRAM TEN-YEAR REHABILITATION PLAN

7471 Hanna Street City of Gilroy



Proposed Project

Project 1 Replace Roof : completed on March 9, 2023. Paid \$23,500. Invoice submitted.

Project 2 Repair cracked stucco and paint exterior : completed by Bright View Painting on, March 7, 2023. Paid \$4,500.00. Invoice submitted.

Project 3 Repair damage to interior walls and ceilings Completed by Tim Lantz on 5/1/23. Paid \$3985.00, cancelled check submitted (I misplaced the invoice, will submit later). Repair to cracks in ceilings and walls and interior paint, completed by Bright View Painting on 5/1/23 Paid \$6500.00 cancelled check submitted, 1500.00 in extra charges differ from original invoice submitted.

- Project 4 Repair deteriorated and rotted wooden window/door trim and repaint. Remove lead paint in the process. Completed by Bright View Painting on 7/14/23. Paid \$8,000.00. Invoice Submitted. Repair of some windows completed by Tim Lantz on 1/21/23. Paid 1,480.00 invoice and cancelled check submitted.
- Project 5 Replace furnace. Completed by Afed Air on 5/30/23. Paid \$15,800.00. Invoice submitted
- Project 6 Restore original windows. Worked on by Tim Lantz Paid \$1,554.47 + 1,470.00 on 6/6/23 and 4/18/23. Invoices submitted.
- Project 7 Clean and seal hardwood floors and replace damaged boards with like material. Damaged boards completed by Tim Lantz. Paid \$1,075.00 on 3/20/23. Invoice submitted.
- Project 8 Replace and upgrade electrical panel. Completed by California Power and Light on 12/13/22. Paid \$4,500.00. Invoice submitted.
- Project 9 Restore plumbing as needed. Estimate to complete.
- Project 10 Restore original garage doors. Continue to restore windows. Estimate to complete.
- Project 11 Driveway repair and trim trees as needed. Plant California native species. Estimate to complete.
- Project 12 Replace broken glass with historic glass to match existing on house and garage, Estimate to complete.
- Project 13 Line fireplace and install spark arrestor. Estimate to complete \$7,980.00 Estimate given by Chimney Clean Company of San Jose. Estimate submitted.
- Project 14 Replace water heater. Estimate to complete.
- Project 15 Restore side overhang. Estimate to complete.
- Project 16 Bolt to the foundation. Estimate to complete.

Tim Lantz, General Contractor
2200 Southside Road
Hollister, CA 95023
408.722.7337
831.637.8987
circaant@ihollister.net

9/18/23

Carla Siboldi
7471 Hanna Street
Gilroy, CA 95020

Dear Carla,

The following is an estimate (not a bid) for various repairs to the residence and garage located at 7471 Hanna Street, Gilroy, CA, for Carla Siboldi. The estimates may change due to economic variables and new site discoveries.

1. Repair and reattach side entry portico. \$3,500
 2. Restore garage doors. \$8,000
 3. Garage framing repairs. \$12,000
 4. Restore and reglaze 38 windows. \$29,000
 5. Restore window screens and screen doors..\$5,200
 6. Foundation brace and bolt. \$20,000
 7. Repair front concrete walkway \$1,500. Repairs to inaccessible rear concrete not available at this time.
- Sincerely,

Tim Lantz

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
City of Gilroy
7351 Rosanna Street
Gilroy, California 95020

SPACE ABOVE THIS LINE FOR
RECORDER'S USE

RECORDING REQUESTED PURSUANT
TO GOVERNMENT CODE SECTIONS
6103 and 27383

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2023, by and between the CITY OF GILROY, a municipal corporation (“City”) and _____ (collectively, “Owner”).

RECITALS

A. California Government Code section 50280, et seq. authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance;

B. Owner holds fee title in and to that certain real property, together with associated structures and improvements thereon, generally located at the street address [REDACTED], Gilroy, California 95020 (the “Historic Property”). A legal description of the Historic Property is attached hereto, marked as Exhibit “A” and is incorporated herein by this reference;

C. On August 17, 2020 the City Council of the City of Gilroy (“City Council”) adopted Resolution No. 2020-53 accepting the Historic Resource Inventory update, which identified the Historic Property as a historic resource in the City of Gilroy. The Historic Property is a qualified historical property pursuant to California Government Code section 50280.1; and

D. City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the Provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

Agreement

NOW THEREFORE, City and Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on 2023 ("Effective Date") and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the Effective Date, such initial term will automatically be extended as provided in paragraph 2, below.

2. Renewal. On each anniversary of the Effective Date (hereinafter referred to as the "Renewal Date"), an additional one year term shall automatically be added to the term of this Agreement unless a notice of nonrenewal ("Notice of Nonrenewal") is served as provided herein. If either Owner or City desires in any year not to renew this Agreement for an additional one year term, Owner or City shall serve a written Notice of Nonrenewal upon the other party in advance of the Renewal Date. Such Notice of Nonrenewal shall be effective if served by Owner upon City at least ninety (90) days prior to the Renewal Date, or if served by City upon Owner, such Notice of Nonrenewal shall be effective if served upon Owner at least sixty (60) days prior to the Renewal Date. If either City or Owner timely serves a Notice of Nonrenewal in any year, this Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal date of this Agreement, whichever may apply.

2.1 Owner Protest of City Nonrenewal. Within fifteen (15) days after receipt by Owner of a Notice of Nonrenewal from City, Owner may make and file a written protest of the Notice of Nonrenewal. Upon receipt of such protest the City Council shall set a hearing prior to the expiration of the Renewal Date of this Agreement. Owner may furnish the City Council with any information which the Owner deems relevant, and within ten (10) days after demand shall furnish the City Council with any information the City Council may require. The City Council may, at any time prior to the Renewal Date of this Agreement, but without obligation to do so, withdraw its Notice of Nonrenewal.

3. Assessment of Valuation. The parties acknowledge that Owner, in consideration for abiding by the terms of this Agreement, shall be entitled to apply for a reassessment evaluation of the Historic Property pursuant to the provisions of Sections 439 et. seq. of the California Revenue and Taxation Code. Owner acknowledges that tax relief afforded to the Owner pursuant to Chapter 3, Part 2, of Division 1 of the California Revenue and Taxation Code may require negotiation with the Santa Clara County Assessor's Office.

4. Standards for Historical Property. Owner shall preserve, repair and maintain the Historic Property and its Character Defining Features (defined below) as a qualified historic property, in no less than equal to the condition of the Historic Property on the Effective Date. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation and Restoration, the State Historical Building Code, and all applicable historic resource requirements within the City's Zoning Ordinance and adopted policies, as the same may be amended from

time to time, and in accordance with the attached ten year schedule of home repair, maintenance and improvement measures prepared by Owner and approved by the City Council, attached hereto as Exhibit "B." Commencing on the fifth anniversary of the Effective Date, and continuing every five (5) years thereafter during the term of this Agreement, Owner shall submit to City an updated ten (10) year schedule of potential home repair, maintenance and improvement measures for the upcoming ten (10) year period, which schedule shall also document all repairs, maintenance, and improvements which have been completed since the Effective Date. Character Defining Features means all historic or other architecturally significant aspects of the Historic Property, including without limitation, the general architectural form, style, materials, design, scale, details, mass, roof line, porch, exterior vegetation and other aspects of the appearance of the exterior and interior of the Historic Property. The Secretary of Interior's Standards for Rehabilitation and Restoration currently in effect (attached hereto and marked as Exhibit "C") shall be incorporated herein by reference and constitute the minimum standards and conditions for the rehabilitation and restoration of the Historic Property. All standards referred to in this Section 4 shall apply to the Historic Property throughout the term of this Agreement. Owner shall not obstruct or obscure the public's ability to view the exterior of the Historic Property from the public right-of-way. Such prohibition shall include, without limitation, a prohibition against the placing of trees, bushes or fences in a location which substantially obscures or obstructs the view from the public right-of-way of the exterior of the Historic Property.

5. Periodic Examinations. Owner shall allow reasonable periodic examination, by prior appointment, of the interior and exterior of the Historic Property by representatives of the Santa Clara County Assessor, State Department of Parks and Recreation, State Board of Equalization, and/or the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

6. Provision of Information of Compliance. Within ten (10) days after request by City, Owner shall furnish City with any and all information requested by the City from time to time which City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.

7. Cancellation. City, following a duly noticed public hearing, as set forth in California Government Code Sections 50285, et seq., may cancel this Agreement if it determines that Owner breached any of the provisions of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historic property and such breach is not cured by Owner within thirty (30) days after City gives Owner notice that a breach has occurred. City may also cancel this Agreement if it determines that the Owner has failed to maintain, preserve, restore or rehabilitate the Historic Property in accordance with the terms of this Agreement and such breach is not cured by Owner within thirty (30) days after City gives Owner notice that a breach has occurred. If this Agreement is canceled because of failure of the Owner to maintain, preserve, restore and rehabilitate the Historic Property as specified above, the Owner shall pay a cancellation fee to the State Controller as set forth in Government Code Section 50286 as the same may be amended or replaced from time to time.

8. Destruction. Notwithstanding any provision of this Agreement to the contrary, the Owner may cancel this Agreement without payment of the cancellation fee set forth in Section 7, if the existing single-family residence (the "Structure") on the Historic Property is damaged by fire, earthquake, or other Act of God or accidental cause to the extent (1) the then fair market value of said Structure is reduced by fifty-one percent (51%) or more; or (2) fifty-one percent (51%) or more of said Structure's floor area is destroyed or irreparably damaged; or (3) fifty-one percent (51%) or more of the Structure's Character Defining Features are destroyed or irreparably damaged; or (4) that the cost to the Owner (less any insurance proceeds payable in connection with such damage) to restore the Structure to its prior condition would exceed Ten Thousand Dollars (\$10,000). If the Owner desires to cancel this Agreement under this Section 8, written notice shall be given to the City within ninety (90) days after such damage or destruction occurs.

If the Owner desires to cancel this Agreement due to the circumstances outlined in this Section 8, either party may request a hearing before the City Council to determine (a) the extent of diminution of value, (b) the extent of the damage or destruction to the floor area of the Structure, and/or (c) extent of damage or destruction to the Character Defining Features of the Structure. The City Council may refer any matter relating to (c) to the City's Planning Commission for its findings and recommendations.

If Owner does not cancel this Agreement pursuant to this Section within ninety (90) days after damage or destruction occurs, or the damage or destruction does not exceed the thresholds set forth in the first paragraph of this Section, Owner shall have a reasonable time, not to exceed four (4) months, in which to restore the structure to not less than the condition existing prior to such damage or destruction.

9. Enforcement of Agreement. City may specifically enforce, or enjoin the breach of, the terms of this Agreement, if Owner fails to cure any default under this Agreement within thirty (30) days after City gives Owner notice that Owner has breached any of Owner's obligations under this Agreement. If Owner's breach is not corrected to the reasonable satisfaction of the City within thirty (30) days after the notice of breach is given to Owner, then City may, without further notice, declare a default under the terms of this Agreement and bring any action necessary to specifically enforce the obligations of Owner or enjoin any breach under this Agreement, including, but not limited to, bringing an action for injunctive relief against the Owner or such other relief as City may deem appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement upon a default by Owner. All other remedies at law or in equity which are not otherwise provided for in this Agreement shall be available to the City to pursue if there is a default of this Agreement by Owner. No waiver by City of any breach or default under this Agreement by Owner shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

10. Binding Effect of Agreement; Covenants Running With the Land. The Owner hereby subjects the Historic Property to the covenants, reservations and restrictions as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants,

reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument. City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that the value of the Owner's legal interest in the Historic Property may be affected thereby. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

11. Cost Reimbursement. Owner shall, within ten (10) days after demand, reimburse City for all reasonable legal fees and costs and all staff time and costs incurred by City in connection with the preparation and review of this Agreement and the administration of the Agreement during the term of this Agreement.

12. Notice. Any notice required to be given by the terms of this Agreement shall be in writing and sent by personal delivery or by United States registered or certified mail, postage prepaid, return receipt requested, addressed as set forth in this Section 12 below at any other address as may be later specified by the parties hereto by notice given in the manner required by this Section 12.

To City:

City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020
Attn: City Administrator

To Owner:

[Redacted Address]

Gilroy CA 95020

Mailed notices shall be deemed delivered three (3) days after the date of posting by the United States Post Office.

13. Notice to Office of Historic Preservation. Owner shall provide written notice of this Agreement and shall provide a copy of this Agreement to the Office of Historic Preservation of the Department of Parks and Recreation of the State of California within six (6) months following the Effective Date.

14. Effect of Agreement. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto or any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties to be considered joint venturers or members of any joint enterprise.

15. Indemnity of City. Owner shall protect, defend, indemnify, and hold City and its elected officials, officers, agents and employees harmless from liability for claims, losses, proceedings, damages, causes of action, liabilities, costs or expense, including reasonable attorneys' fees, which may arise directly or indirectly from the negligence, willful misconduct or breach of this Agreement by Owner or Owner's contractors, subcontractors, agents, employees or other persons acting on Owner's behalf in connection with the Historic Property, or which arise directly or indirectly in connection with Owner's activities in connection with the Historic Property. This Section 15 applies, without limitation, to all damages and claims for damages suffered, or alleged to have been suffered regardless of whether or not the City prepared, supplied or approved any plans, specifications or other documents for the Historic Property.

16. Binding Upon Successors. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties named herein, their heirs, successors, legal representatives, and assigns and all persons acquiring any part or portion of the Historic Property, whether voluntarily or involuntarily, by operation of law or in any manner whatsoever.

17. Legal Costs. If legal proceedings are brought by Owner or City to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorneys' fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

18. Severability. If any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

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

20. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, City shall cause this Agreement to be recorded in the Office of the County Recorder of the County of Santa Clara, California.

21. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by all of the parties hereto.

22. Captions. Section headings and captions of this Agreement are for convenience of reference only and shall not be considered in the interpretation of any of the provisions of this Agreement.

OWNER:

Dated: _____, 2023

By: _____

Name _____

Dated: _____, 2023

By: _____

Name _____

CITY:

Dated: _____, 2023

CITY OF GILROY, a municipal corporation

By: _____

Name: Jimmy Forbis

Its: City Administrator

Attest:

By: _____

Name: Thai Pham

Its: City Clerk

Approved as to Form:

By: _____

Name: Andrew Faber

Its: City Attorney

INSERT NOTARY

EXHIBIT “A”

LEGAL DESCRIPTION

That certain parcel of land in the City of Gilroy, County of Santa Clara, California, more particularly described as follows:

[Attached]

EXHIBIT “B”
SCHEDULE OF IMPROVEMENTS
[Attached]

EXHIBIT “C”

**SECRETARY OF THE INTERIOR’S STANDARDS FOR
REHABILITATION AND RESTORATION**

Rehabilitation:

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Restoration:

1. A property will be used as it was historically or be given a new use that interprets the property's restoration period.
2. Materials and features from the restoration period will be retained and preserved. The removal of materials or alterations of features, spaces and spatial relationships that characterize the period will not be undertaken.
3. Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.
4. Materials, features, spaces and finishes that characterize other historical periods will be documented prior to their alteration or removal.
5. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
6. Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.
7. Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.
8. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
9. Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
10. Designs that were never executed historically will not be constructed.

11.3. Inclusionary Housing Introduction

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

Receive report.



City of Gilroy

STAFF REPORT

Agenda Item Title: Inclusionary Housing Introduction

Meeting Date: November 6, 2023

From: Jimmy Forbis, City Administrator

Department: Community Development

Submitted By: Sharon Goei, Community Development Director

Prepared By: Cindy McCormick, Customer Service Manager

STRATEGIC PLAN GOALS

Promote Safe Affordable Housing for All

RECOMMENDATION

Receive report.

BACKGROUND

The City of Gilroy does not currently have a city-wide Inclusionary Housing Policy/Ordinance. While the City does require new planned developments in the City's Neighborhood District zone to restrict 15% of units as affordable, this policy has limited applicability since the only new developments that it would apply to would need to be annexed into the City.

Gilroy's Regional Housing Needs Allocation (RHNA) for the 2023 – 2031 planning cycle is 1,773 units, including 669 very-low income, 385 low-income, 200 moderate income, and 519 above-moderate income units. Notably, 37.7% of the 2023 - 2031 RHNA is in the very low-income category. While the City has been successful in producing low-income units through tax-credit projects, the development community rarely proposes very-low or moderate-income units that count towards the City's RHNA.

The City of Gilroy's 2023 – 2031 *Housing Element* includes a program to develop an Inclusionary Housing Policy/Ordinance with an in-lieu of housing fee option for projects that meet identified thresholds. The goal of the policy/ordinance is to develop housing incentives and appropriate inclusionary requirements that will help facilitate moderate,

very low, and extremely low affordable housing without significantly constraining housing production.

In April 2023, the City issued a Request for Proposals for the development of an Inclusionary Housing framework. The City received four (4) proposals and chose the consultant that scored the highest amongst a panel of four City staff members. ECONorthwest illustrated a strong economic background and experience in understanding housing markets, barriers to affordable housing, and the impacts of inclusionary housing policies on the financial feasibility of new developments.

ANALYSIS

On November 6, 2023, the consultant will provide the City Council with a brief synopsis of the City's affordable housing needs, identify example policies from other cities in the region, summarize the legal context of inclusionary housing, and introduce the concept of inclusionary housing feasibility. Finally, the consultant will describe the process and milestones for completing the inclusionary housing feasibility study and recommendations.

FISCAL IMPACT/FUNDING SOURCE

On June 1, 2023, the City of Gilroy entered into a contract with ECONorthwest for \$77,133 and is funded by the General Fund (100).

PUBLIC OUTREACH

City staff has created a website to share with the community and keep the community updated on the efforts on inclusionary housing: gilroy.city/AHP.

Both the November 6th City Council meeting and the November 7th community meeting were advertised through the City's social media outlets, including the weekly newsletter. Flyers inviting the public to the November 7th community meeting were posted at City Hall, the Gilroy Library, and the Senior Center and emailed to the City's service providers.

NEXT STEPS

The next steps include holding a community workshop for the public on November 7, 2023, at 6:00 pp.m. in the Council Chambers and completing an Existing Conditions Memo and a Policy Review Memo to establish the existing market and regulatory context to guide policy formation. The consultant and City staff will present initial recommendations to the Council in early 2024, incorporate feedback from the Council into a draft policy, and set a goal for adoption in spring 2024.