Potential General Fund Revenue Opportunities

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Agenda

- 10 Year Fiscal Outlook & Trajectory
- Law, Potential Legislation & Risk Assessment
- Review of Revenue Opportunities (Pros & Cons)
- City Council Input for Next Steps
- Schedule of Deliverables

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Revenue Opportunities

- Operational and Strategic Priority Setting Session held on January 19 - 20
  - Staff presented the Ten-Year Forecast which reflected ongoing deficits
  - Budget Solutions to solve ongoing deficits include:
    - Expenditure reductions
    - Alternative Service Delivery
    - Increases to current revenue sources
    - Identify new revenue sources
  - City Council directed staff to pursue additional revenue opportunities

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Ten-Year Forecast Reflecting Cumulative Deficits

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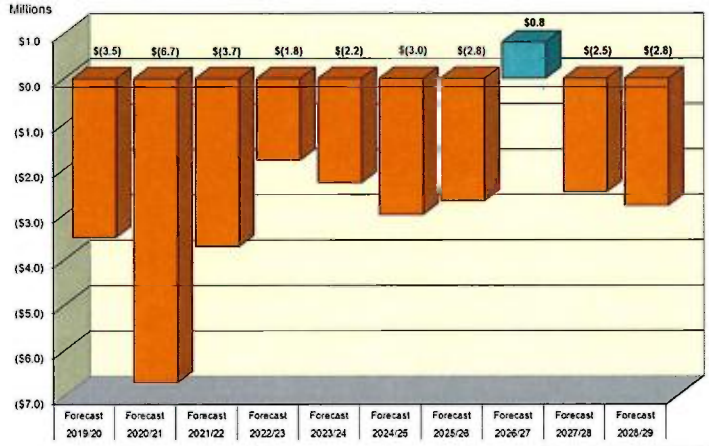
Ten-Year Forecast Reflecting Ongoing Deficits



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Law: Local Initiative Measures

Ballot Printing Specifications

- AB 195 (enacted 7/25/17): Existing law requires that ballots submitted to the voters as an initiative measure have printed on them a specified statement describing the nature of the proposed ordinance
  - This bill would extend these ballot requirements to **ANY** measure submitted to the voters that is proposed by a local governing body or submitted to the voters as an initiative or referendum measure
  - -- (b) If the proposed measure imposes a tax or raises the rate of a tax, the ballot shall include in the statement of the measure to be voted on **the amount of money to be raised annually and the rate and duration of the tax to be levied**.

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Law: Local Initiative Measures

Ballot Printing Specifications

- Infrastructure Parcel Tax community research was based on a non-compliant ballot measure question which directly impacts how voters will respond
- Data from the June and September 2017 community research is flawed and not reliable to shape policy decisions (particularly, under the context of November 2018 Ballot Measure)
- Infrastructure Parcel Tax presentation and Supplemental Report illustrate the difference between what was surveyed vs. compliance ballot measure question
- Even with a non-compliant questions, the survey data did not show over a two-thirds voter support

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November 2018 Ballot Measure

- **California Business Roundtable Initiative** (Proposed Tax Fairness, Transparency and Accountability Act (TFTAA) of 2018)
  1) Would change voting requirements for general taxes from simple majority (50% + 1) to two-thirds voter approval
  2) Expands the definition of a tax to include payments voluntarily made in exchange for a benefit received, which may cover local franchise fees

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November 2018 Ballot Measure

3) Creates additional requirements for the ballot language when a tax measure is put to the voters
4) With regard to fees, it restricts the ability of a local government to impose fees or charges (other than those subject to Prop 218)
5) **Would be retroactive to January 2018 which would void local tax measures passed in 2018 unless they complied with the ballot requirements of the measure**

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Risk Assessment

1) Very short time to position some revenue options for success
2) Some policy decisions have not been established by Council
3) Community engagement plan to be determined
4) July 5th – Important date to assess viability of ballot measures
5) In order to achieve success, revenue generating ballot measures must be measured for success within the context of :
   a. Legally compliant ballot language (AB 195)
   b. Within requirements of 2018 Ballot Measure (CA Business Roundtable Initiative), e.g., 66.6% support, etc.

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Review of Potential Revenues

1) Increase in Transient Occupancy Tax (TOT) rate
2) Increase in the Documentary Transfer Tax
3) Establishment of a Utility User Tax (UUT)
4) Establishment of a Cannabis Tax
5) Establishment of an Infrastructure Parcel Tax

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Transient Occupancy Tax (TOT)

- TOT (aka "hotel tax") is charged to hotel guests and short-term rentals
- Current revenue is approximately $21 million
- Revenue is used for general local government purposes (Police, Fire, Parks and Recreation, Libraries, etc.)
- Volatile revenue source – sensitive to economic trends
- Currently 37 business pay TOT (including online rentals)
    - 9 hotels located in the CFD provide 75% of the TOT revenue

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Transient Occupancy Tax (TOT)

- City of Santa Clara's current TOT rate is 9.5% which is one of the lowest in the County
- Each 1% increase would generate an additional $2 million
- Assessment of 2 – 3% increase could be studied, leaving Santa Clara's rate well within the range.

Transient Occupancy Tax by City	
City	Rate
Gilroy	9.0%
Santa Clara	**9.5%**
Morgan Hill	10.0%
Saratoga	10.0%
Fremont	10.0%
Milpitas	10.0%
Mountain View	10.0%
San Jose	10.0%
Sunnyvale	10.5%
Los Altos	11.0%
Campbell	12.0%
Cupertino	12.0%
Los Gatos	12.0%
Palo Alto	14.0%

Note: Sunnyvale is considering a 2% increase

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Transient Occupancy Tax (TOT)

- Additional Community Facilities District (CFD) tax of 2%
  - Pledged to finance the Stadium project
  - Debt is not an obligation or debt of the City
  - CFD was established in 2014 and expires in 2054
  - If TOT increases by 1%, the funding amount that would go to the Stadium Authority (once the debt is repaid) will be reduced proportionately
  - 9 hotels located in the CFD
    - Hotel guests pay 11.5% TOT rate in the CFD area

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Documentary Transfer Tax

- Documentary Transfer Tax is a tax imposed on the transfer of the title of real property from one person (or entity) to another within the jurisdiction
- Based on the property's sale price
- Violate revenue source –sensitive to economic trends
- Current County Transfer Tax is $1.10 for each $1,000 sale amount
  - City receives $0.55 and the County receives the remaining $0.55
  - Increase in this tax would go to the City but the entire $1.10 would stay with the County

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Documentary Transfer Tax

- Current revenue of approximately $2 million
- Increase in the tax of $1.10 (for a total tax of $2.20 for each $1,000) would result in an increase in revenue of an additional $2 million
- For a property that sold for $1.5 million the Documentary Transfer Tax would increase from $1,595 to $3,190
- This would further impact the already high cost of purchasing property within the City
- Stakeholder engagement is required, and takes time, for this initiative to be successful

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Utility User Tax (UUT)

- Utility User Tax is a common tax imposed by a City on the consumption of utility services
- The rate and use is determined by the City
- Tax is levied on the utility customer
- The City does not currently have a UUT
- UUT rates vary in the area from 1% to 11%
  - The most common rate is 5%
  - The average UUT in Santa Clara County is 3.7%

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Utility User Tax (UUT)

- Seven local Cities charge some form of UUT:
  - Cupertino
  - Gilroy
  - Los Altos
  - Mountain View
  - Palo Alto
  - San Jose
  - Sunnyvale

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Utility User Tax (UUT)

- A UUT could address both the Infrastructure needs and preserve City services
  - Estimated debt service on a $200 million infrastructure measure would be $12.5 million to $14.1 million (depending on the interest rate environment)
- A 1% UUT would generate an estimated $7 million
- A 3% UUT would generate approximately $20.6 million that could be used to fund debt service payments and provide additional funding for City services
- Impact would be to all of the City's utility customers
- Significant stakeholder engagement is required, and takes time, for this initiative to be successful

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Cannabis Tax

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Upcoming Dates

- Community Meetings: **May 30th and June 14th**
- Health & Safety Ordinance and Resolutions – First Reading: **June 26th**
- Community Feedback on tax: **July 5th**
- Consideration of new tax and tax structure: **July 10th**
- Land Use Ordinance and CEQA – **August 2018** (Planning Commission) and **September 2018** (City Council)
- Regulatory Fees: **September 2018**
- Cash Management Policy: **September 2018**

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Cannabis Tax - Background

- January 2018 - Council held study session
  - launched a work plan to create a policy framework to create a new tax structure
- February 2018 - Education and community outreach efforts
- March 2018 - City Staff toured 2 licensed and established cannabis businesses in San Jose
- Begin drafting regulations for the Santa Clara

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Regulatory Ordinances

- Compliant with State law
- Appropriate regulations for the City of Santa Clara and its residents – Health & Safety and Zoning
- Cannabis business sustainability
- Ordinance includes macro level structure
  - Resolutions for adjusting process details as needed

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Policy Considerations

- **Allowable Uses:**
  - Retail (including delivery)
  - Cultivation
  - Manufacturing
  - Transportation
  - Distribution
  - Testing

Staff recommends that outdoor cultivation and volatile processing be banned but allow for indoor cultivation and non-volatile processing

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Policy Considerations

- **Number of locations:** Allow a maximum of three commercial cannabis locations within certain zoning designations in the City, with multiple license types allowed at each location
- **Operation:** As observed in facilities located in San Jose, each approved location could request and secure multiple license types depending on the nature of the business operation.
- **Contingent upon the passage of a cannabis tax measure.**

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Policy Considerations

- Most agencies implement both regulatory fees and balloted taxes
- Regulatory Fees generate Reimbursement Revenue public agencies for actual costs of regulation **of legally permitted activity. Non-permitted activity is absorbed by municipality.**
- Taxes generate New Revenue

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Unique Elements of a Local Cannabis Tax

- Revenue maximization versus
  - Black Market suppression and
  - Competition from nearby municipalities
- Tax is only paid by cannabis buyers
- Cannabis taxes are often supported by both cannabis proponents and opponents
- Cash management policy for collection of fees to be developed

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Taxes – Balloting Strategy Overview

- New "General Fund" revenue source
- Voter Approval is required:
  - Special Tax (66.6% threshold)
  - General tax (currently 50% threshold – TFTTA impact)
- Timing and Elections

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Strategy Overview

- Bundling regulations and taxes – pros and cons
- Nov 2017 example:

Cannabis – Local Excise Taxes

Voters in ten cities approved higher taxes on marijuana activities.

Cannabis Taxes - Majority Vote General Use

Agency Nam	County		Rate	YES%	NO%	
Rio Dell	Humboldt	Measure X	10%grossRcpts + $5/sf	82.2%	17.8%	PASS
Modesto	Stanislaus	Measure T	10%grossRcpts	82.2%	17.8%	PASS
Cotati	Sonoma	Measure G	8%grossRcpts + $25/sf	78.9%	21.1%	PASS
Pacifica	San Mateo	Measure G	10%grossRcpts	78.6%	21.4%	PASS
Palm Springs	Riverside	Measure E	15%grossRcpts + $10/sf	78.5%	21.5%	PASS
Woodlake	Tulare	Measure S	10%grossRcpts + $25/sf	71.1%	28.9%	PASS
Farmersville	Tulare	Measure Q	10%grossRcpts + $25/sf	66.2%	33.8%	PASS

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Taxation - Methodologies to Consider

- Cultivation
  - Gross receipts
    - Pro: Straightforward
    - Pro: Tax revenue scales with sales
    - Con: Increased administrative overhead
    - Con: Less predictability

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Taxation – Other Methodologies to Consider

- Cultivation - Square footage
  - Pro: Most predictable revenue
  - Pro: Tax Revenue protected against crop loss
  - Pro: Less administration
  - Con: Flat Revenue
- Hybrid
- Optimal Rates
- Plan for crop loss, etc.
- Often times, all other cannabis activities are taxed at an established rate of X% of gross receipt (not to exceed X%)

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Local Taxes in Place

- Campbell- Initial rate of 7% and a maximum rate of 15% of the gross receipts of the cannabis business
- Sacramento - 4% of gross receipts
- Oakland- 5% of gross receipts
- Richmond- 5% of gross receipts
- San Leandro - 6% of gross receipts until June 30, 2019 and increasing to 7% on July 1, 2019 and 8% on July 1, 2021 on cannabis business tax
- San Jose- 10% of gross receipts

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Taxes – Revenue Generation

- As a general rule of thumb, municipalities may expect to generate $10 to $20 per capita on an annual basis. Applying this factor to Santa Clara, a local cannabis tax measure may generate **$1.2 to $2.4 million annually**.

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Infrastructure Parcel Tax

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Background

- Infrastructure Study Sessions in 2017 and 2018
- February 20 Study Session - International Swim Center and Community Recreation Center
  - Current Schematic Design not Affordable ($250-$300 Million)
  - Limited Funding Options
  - New Tax Measure Needed
- Preliminary Polling – Not enough support for ISC/CRC - More Comprehensive
  - Property Tax at $20-$25 per $100,000

Growth Rate of Assessed Value	Total Property Tax Revenue (Life)	Total Property Tax Revenue (2018 $)	Principal Financing Capacity
4%	$495M	$303M	$202M

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Legally Required: Ballot Language Elements

- **Question Did Not Meet the Requirements of AB195 – 79 words**
  Shall the City of Santa Clara protect, maintain and repair local parks and playgrounds; perform essential maintenance; keep park restrooms clean, improve access to open space; improve the City creek trails; use more recycled water for irrigation; build an energy efficient community recreation and swim center that accommodates early childhood education and afterschool programs, funded by raising up to $400 million in bonds and private contributions and requiring citizen oversight, annual audits and no money spent on administrator salaries?

- **To Meet AB195 Requirements (Example Below) – 73 words**
  "Shall Santa Clara maintain and repair local parks and playgrounds; improve access to open space; build an energy-efficient community recreation and swim center, funded by raising ***$400 million in bonds, for which $202 million will be used for principal financing capacity, at $12.1 million/year over 33 years, by imposing a parcel tax of $25 for each $100,000 in assessed land value****, requiring citizen oversight and audits without money spent on administrator salaries?"*

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Legally Required: Ballot Language Elements

- When evaluated against Potential Legislation and Voter requirements, the Infrastructure Parcel Tax will not pass (66.6% required):
  - Survey question overpromised ($400M vs $200M actual for projects, proposed project types, etc.)
  - Only **38% Definitely Yes**, 32% Probably Yes, and 9% Lean Yes
  - With a compliant survey question, a minimum increase of **28.6%** of voters must shift from Probably or Leaning to **Definitely Yes**
- Ballot measure questions must: (1) Only be 75 words or less and (2) Ballot shall include in the statement of the measure to be voted on **the amount of money to be raised annually and the rate and duration of the tax to be levied**.

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April 24 Study Session

- Discuss a More Comprehensive Measure and a "Right-Size" ISC/CRC
- Comprehensive Needs and Funding Presentation
  - Public Works, Water and Sewer, Parks and Recreation
  - Infrastructure needs in the hundreds of millions
  - What could be included in a comprehensive measure
- What are the City Priorities?
- $200 million Budget – Principal Financing Capacity

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April 24 Discussion

- Transportation and Pavement Has Multiple Funding Sources
- Water and Sewer – User Rates and Developer Fees
- Most Building Projects - Separate Financing Strategy
  - Fire stations and libraries – Less funding needed
- Storm System/Flood Protection
  - Approximately $300 million in need
  - Approximately $20-$30 million for priority projects
- Parks
  - $150 million need for existing parks
  - $30 million needed for CityPlace
- ISC and CRC
  - CRC in good condition – Addition instead of demolition?
  - ISC needs to be replaced - $50-$70 million to replace in kind

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Project Options

- Information Needed for Additional Community Opinion Research
- Staff Developed Two Project Lists
  - Based on needs, priorities and funding
  - Community benefit and support
- Goal is Not to Finalize Lists but to Inform the Opinion Research
- Two Project Categories
  - Parks and Recreation
  - Safety

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Parks and Recreation

- ISC/CRC
  - Relocate to Kiely
  - Maintain CRC but improve it
- Park Improvements
  - $150M need
  - Focus on critical or poor Condition facilities (Kitchell Report)
- Trails
- CityPlace Park
- Library Expansion
  - Needs Analysis has not been completed
  - $1000 per S.F. of expansion

Safety Projects

- Fire Station Upgrades
  - Reconstruction of Fire Station 5 –
    - Relocate ladder truck – improve operations
  - Improvements to Fire Stations 1,7, and 9
- Storm System Flood Protection
  - $20-$30 million in priority projects

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Key Decisions

- How Much Funding Dedicated to ISC/CRC
- What Type of Projects Should Be Included
- Two Project Options for Council Perspective
- Project Delivery Concerns Context
  - Budget Constraints
  - Staff capacity
  - Number of projects
  - Other Capital priorities

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Option 1

Recreation	Cost	Notes
ISC/CRC	$80	Construct new ISC. Upgrade existing CRC with aesthetic improvements. Incorporate new ISC buildings into CRC to maximize space and operations. Any additional funds (such as donations) would be added to project budget for additional amenities.
Parks and Trails	$50	Develop projects based on sites that are currently considered critical or poor.
CityPlace Park	$10	Develop a $15 million project ($5.0 million in development funds). Leave certain areas of the 30 acres "as-is" until additional funds are identified
Library	$16	Explore addition to the back area and expand Central library or expand Northside Library - (up to 16,000 SF Addition)
Safety		
Fire Station	$22	Reconstruct Fire Station 5 ($10 million) and upgrade (HVAC, roof, plumbing, bathrooms, etc.) fire station 7, 9, and 1 ($4 million each)
Flood Protection	$22	Reconstruct 2 year flood pipes and pump stations

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Option 2

Recreation	Cost	Notes
ISC/CRC	$100	Construct new ISC. Upgrade existing CRC with aesthetic improvements and addition. Incorporate new ISC buildings into CRC to maximize space and operations. Any additional funds (such as donations) would be added to project budget for additional amenities.
Parks and Trails	$45	Develop projects based on sites that are currently considered critical or poor.
CityPlace Park	$5	Develop a $10 million project ($5.0 million in development funds). Leave certain areas of the 30 acres "as-is" until additional funds are identified
Library	$10	Explore addition to the back area and expand Central library or expand Northside Library - (up to 10,000 SF Addition)
Safety		
Fire Station	$20	Reconstruct Fire Station 5 ($10 million) and upgrade (HVAC, roof, plumbing, bathrooms, etc.) fire station 7, 9, and 1 ($3 million each)
Flood Protection	$20	Reconstruct 2 year flood pipes and pump stations

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Next Steps

- Receive direction on which revenue opportunities that the Council would like to pursue
  - For Infrastructure provide a project option or project type
- Start positioning for the upcoming election
  - Public outreach/engagement
    - Hiring of a Consultant
  - Community research and engagement
    - Focus groups and community meetings
  - Drafting regulatory Ordinances (if applicable)
  - Preparing any licensing procedures (if applicable)

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Schedule & Deliverables

- Present Initial Community Research to the City Council on July 5th , including results of scientific focus group results.
- July 11/12, Conduct Community Engagement Meetings to inform of community research results and solicit input
- Present Ballot Language to the City Council on July 17th and seek Council action on placement of ballot language for the November 2018 Election
  - **Note**: Ballot language placement has to be approved by **August 10, 2018**
- Complete Ballot Measure Requirements (Impartial Analysis, etc).
- Develop and implement Information and Education Strategy

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Recommendations

November General Election – Revenue Options

- Provide direction on the Potential General Fund Revenue Opportunities
- Authorize the City Manager to enter into contracts to conduct the required community research and outreach
- Approve the appropriation of $250,000 for a community outreach consultant

Infrastructure Parcel Tax, Specifically

- Select a Project Option or Project Type for the Infrastructure Parcel Tax
- Approve the appropriation of $300,000 for a amendment with PFAL if the City Council wants to proceed with the Infrastructure Parcel Tax

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