

# GENERAL FUND REVENUE DESCRIPTIONS

## PROPERTY TAX

On June 6, 1978, California voters approved Proposition 13 ("Proposition 13"), which added Article XIII A to the State Constitution and placed restrictions on the valuation of real property and on the imposition of ad valorem property tax. Under current law, all taxable real and personal property is subject to a tax rate of one percent of the assessed value. (In June 1986, California voters approved a Constitutional Amendment, which provides for an exception to the one-percent limitation. The Amendment allows local governments and school districts to raise property taxes above one percent to finance general obligation bond sales. A tax increase can only occur if two-thirds of those voting in a local election approve the issuance of bonds.) The assessed value of real property that has not changed ownership adjusts by the change in the California Consumer Price Index up to a maximum of two percent per year. Property which changes ownership, property which is substantially altered, newly-constructed property, State-assessed property, and personal property are assessed at the full market value in the first year and subject to the two percent cap, thereafter.

In 1979, in order to mitigate the loss of property tax revenues after approval of Proposition 13, the State legislature approved Assembly Bill 8 (AB 8). This action was approved to provide a permanent method for allocating the proceeds from the one percent property tax rate, by allocating revenues back to local governments based on their historic shares of property tax revenues. AB 8 shifted approximately \$772 million of school district property tax revenue to local governments and backfilled schools' lost revenue with subsidies from the State General Fund. Actions taken by the State in order to balance the 1992-1993 and 1993-1994 State budgets partially reversed the AB 8 formula. The 1992-1993 action reduced the City's Property Tax proceeds by nine percent, and shifted this funding to schools in order to reduce the amount of State backfill required. As part of the State's 1993-1994 Budget, the AB 8 formula was again altered requiring another ongoing shift in City Property Tax revenue to K-12 schools and community colleges.

In November 1993, the City Council elected to participate in the Teeter Plan, which is an alternative method for County property tax apportionment. Under this alternative method authorized by the State legislature in 1949, the County apportions property tax on the basis of the levy without regard for delinquencies. With the adoption of the Teeter Plan in 1993-1994, the City received a one-time buy out of all current, secured property tax delinquencies as of June 30, 1993, which totaled \$3.5 million. Under this system, the City's current secured tax payments are increased for amounts that typically were delinquent and flowed to the secured redemption roll, but the City gave up all future penalties and interest revenue derived from the delinquencies.

In 2004-2005, the State budget included a permanent reduction of the Motor Vehicle In-Lieu (MVLIF) tax rate from 2% to 0.65% (its current effective rate). As part of the State budget action, the loss of MVLIF was approved to be replaced with a like amount of property tax revenue, on a dollar-for-dollar basis, and will now grow based on assessed valuations.

# GENERAL FUND REVENUE DESCRIPTIONS

## SALES AND USE TAX

The Sales Tax is an excise tax imposed on retailers for the privilege of selling tangible personal property. The Use Tax is an excise tax imposed on a person for the storage, use, or other consumption of tangible personal property purchased from any retailer. The proceeds of sales and use taxes imposed within the boundaries of San José are distributed by the State to various agencies, with the City of San José receiving one percent.

The current distribution of the sales tax proceeds is outlined below, which includes an additional voter approved 1/8 cent increase enacted by the Santa Clara Valley Transportation Authority (VTA) on July 1, 2012 (limited to 30 years) to provide operating and maintenance expenses and capital reserve contribution for the Silicon Valley Rapid Transit Project Extension.

Agency	Distribution Percentage
State of California	5.50%
City of San José*	1.00%
Santa Clara County	0.75%
Santa Clara Valley Transportation Authority	0.625%
Public Safety Fund (Proposition 172)	<u>0.50%</u>
<b>Total Sales Tax</b>	<b>8.375%</b>

Major items, such as services, are exempt from the tax code. As part of a 1991-1992 legislative action, tax exemptions were removed from candy and snack foods, bottled water, newspapers and periodicals, and fuel and petroleum products sold to certain carriers. The removal of these exemptions became effective July 1991. On November 3, 1992, however, the voters approved Proposition 163, which partially repealed the prior action, re-establishing the exemption for snack food, candy, and bottled water effective December 1, 1992.

On November 2, 1993, Proposition 172 was approved allowing for the permanent extension of the half-cent state sales tax that was originally imposed on July 15, 1991, and was to sunset on June 30, 1993. (On July 1, 1993, a six month extension of the tax was granted by the State in order to provide a source of one-time funding for cities and counties to partially offset 1993-1994 ongoing property tax reductions.) The passage of the Proposition 172 legislation, effective January 1, 1994, required that the proceeds from the half-cent tax be diverted from the State to counties and cities on an ongoing basis for funding public safety programs.

The local Sales and Use Tax is collected and administered by the State Board of Equalization and is authorized by the Uniform Local Sales and Use Tax Law and the Bradley-Burns Uniform Local Sales and Use Tax Law.

\* Note: As part of the Proposition 57 State fiscal recovery funding mechanism (passed by the voters in March 2004), starting July 1, 2004, 0.25% of the City's one percent Bradley-Burns sales tax has been temporarily suspended and replaced dollar-for-dollar with property tax revenue (primarily Educational Revenue Augmentation Funds). This action is to last only for the life of the bonds (currently estimated at five to ten years). The City will, however, continue to record the replacement property tax revenues as sales tax receipts because the growth formula for these receipts is tied to sales tax and because this action is considered to be temporary.

## GENERAL FUND REVENUE DESCRIPTIONS

### TRANSIENT OCCUPANCY TAX

The Transient Occupancy Tax is assessed as a percentage of the rental price for transient lodging charged when the period of occupancy is 30 days or less. The tax rate is currently ten percent, six percent of which is placed in the Transient Occupancy Tax Fund and four percent of which is deposited in the General Fund. The tax is authorized by Title 4 of the Municipal Code, Section 4.74, Ordinance number 21931.

The expenditure of the Transient Occupancy Tax Fund portion of the revenues (six percent of room rent) is restricted by Ordinance number 20563 to the following uses:

- 1) Funding for the Convention and Visitors Bureau (approximately 25%).
- 2) Funding for the cultural grant program and fine arts division programs, including expenses of the fine arts division (approximately 25%).
- 3) Funding for convention facilities operations and maintenance in the Convention and Cultural Affairs Fund (approximately 50%).

The General Fund portion of the Transient Occupancy Tax was enacted as a general tax..

### FRANCHISE FEES

The City collects compensation from Pacific Gas and Electric Company (PG&E) for the use of City streets in the distribution of natural gas and electricity. PG&E is assessed two percent of the gross receipts representing its sale of electricity and natural gas for a calendar year within the City limits. The taxes are authorized by Title 15 of the Municipal Code, Chapter 15.32, and no authorized exemptions exist.

On February 9, 2010, the City Council approved ordinances amending the franchises with PG&E for the sale of natural gas and the sale of electricity. These amendments added a franchise fee surcharge of 0.3%, resulting in a total franchise fee remitted to the City of 2.3% of gross receipts from the sale of gas and electricity in the City through 2021. The 0.3% surcharge was approved by the California Public Utilities Commission (CPUC) effective May 5, 2010. Implementation of the surcharge began in September 2010.

From the sale of nitrogen gas, the City collects an annual fee of \$0.119/linear foot of gas-carrying pipe installed within public streets. In addition, each customer is required to pay an annual per connection fee of \$118.76 multiplied by the inside diameter of pipe expressed in inches at the property line. A minimum of \$1,000 total franchise fees per calendar year is required. The fee is authorized by City Ordinance number 20822, and there are no authorized exemptions.

# GENERAL FUND REVENUE DESCRIPTIONS

## FRANCHISE FEES

On July 1, 1996, commercial solid waste collection franchise fees (CSW) were converted to a volume basis. This revision amended the previous structure (which had been in effect since January 1, 1995) that assessed a franchise fee equal to 28.28% of gross receipts in excess of \$250,000. With that change, fees were set at \$1.64 per cubic yard per collection for cubic yards in excess of 43,000 (the cubic yard basis is tripled if the waste has been compacted) in a fiscal year, and were assessed on any commercial business engaged in the collection, transportation, or disposal of garbage and/or rubbish (solid waste) accumulated or generated in the City of San José. In December 1997, the City Council increased the rate to \$2.41 effective on January 1, 1998. In 1999-2000, this fee was increased to \$2.84 per cubic yard. In 2002-2003, a three year gradual shift in the revenue distribution between the CSW and AB 939 fees (also known as the "commercial source reduction and recycling fee" collected and deposited in the Integrated Waste Management Fund) was approved, that increased the amount collected for CSW to \$3.34 per cubic yard in 2004-2005. In 2005-2006, the City Council increased the fee by 4.5% (\$0.15 per cubic yard) to \$3.49 per cubic yard. In 2006-2007, an additional 5% increase was approved by the City Council, which brings the fee to \$3.67 per cubic yard. In 2009-2010, the elimination of the fee exclusion for the first 20,000 cubic yards hauled in the fiscal year was approved. On October 19, 2010, the City Council amended the CSW to a fee for franchises based on geographic collection districts rather than volume. The new fee of \$5 million per year for each of two geographic collection districts plus a supplemental fee of \$1.0 million for the right to conduct CSW services in both the North District and the South District is anticipated to become effective July 1, 2012, and is subject to an annual consumer price index (CPI) adjustment. The CSW is authorized by Title 9 of the Municipal Code, Chapter 9.08.

The City collects a Franchise Fee from any company that provides cable television (Ordinance number 22128). The current fee is five percent of gross receipts derived from subscriptions. Excluded from the gross receipts are amounts derived from installation, late charges, advertising, taxes, line extensions, and returned check charges.

The Water Franchise Fee was established in 1995-1996 (effective July 27, 1995, Title 15 of the Municipal Code, Section 15.40). The assessment of the fee is allowable under State law, which asserts that a city can collect a franchise fee from a water utility company for laying pipelines and operating them in public right-of-ways. The fee is equal to the greater of either: 1) two percent of the utility's gross annual receipts arising from the use, operation, or possession of facilities located in public streets within the City limits established on or after October 10, 1911, or 2) one percent of all gross receipts derived from the sale of water within the City limits. Those portions of the water company's system that are established in private right-of-ways or utility easements granted by private developers are exempted from the franchise fee assessment. It should be noted that the City is not assessing a Water Franchise Fee on the San Jose Water Company due to a Santa Clara Superior Court ruling that states San José cannot impose a franchise fee on that company.

# GENERAL FUND REVENUE DESCRIPTIONS

## UTILITY TAX

The Utility Tax is charged to all users of a given utility (electricity, gas, water, and telephone) other than the corporation providing the utility (e.g., a utility company's consumption of all utilities used in the production or supply of their service is not taxed). For the electricity, gas, and water categories, consumers pay 5% of their utility charges to the utility company that acts as a collection agent for the City. For the telephone utility tax, consumers pay 4.5% on all intrastate, interstate, and international communication services regardless of the technology used to provide such services. Private communication services, voice mail, paging, and text messaging are treated the same as traditional telephone services. In November 2008, voters approved Measure K that reduced the telephone utility rate from 5% to 4.5% and broadened the base for the tax and the definition of technologies covered by the tax. The tax is not applicable to State, County, or City agencies. Also, per State regulations, insurance companies and banks are exempted from the tax. This tax is authorized by Title 4 of the Municipal Code, Section 4.68.

## TELEPHONE LINE TAX

In November 2008, voters approved Measure J that replaced the Emergency Communication System Support (ECSS) Fee with a tax in an amount that is 10% less than the ECSS Fee. The tax amount is \$1.57 per telephone line per month and \$11.82 per commercial type trunk line. The City ceased collecting the fee and began collecting the tax by April 1, 2009. The tax is collected from telephone users on their telephone bills. Exemptions to the tax include low-income seniors and disabled persons who receive lifeline telephone service.

## BUSINESS TAX

The **General Business Tax** is assessed according to the following schedule:

<b>Category</b>	<b>Annual Tax</b>
1 – 8 Employees	\$150
9 – 1,388 Employees	\$150 plus \$18 per Employee
1,389 and over Employees	\$25,000

In addition to the rates listed above, City Ordinance number 21518 specifies the assessment of taxes by grouping taxed businesses (each at a different rate) in the following categories: Rental or Lease of Residential or Non-Residential property, Mobile Home Parks, and Water Companies. Rented or leased properties (if three or more residential rental units) are subject to the \$150 minimum tax, but are also assessed \$5/rental unit over 30 units for residential properties and \$0.01 per square foot in excess of 15,000 square feet for non-residential properties. Taxes for both residential and non-residential properties are limited to a maximum of \$5,000. Mobile home parks are treated as

# GENERAL FUND REVENUE DESCRIPTIONS

## BUSINESS TAX

residential properties. Water companies are assessed by a schedule that assigns an amount (from \$200 to \$20,000) depending on the number of active metered connections. In November 1996, the rates were increased to reflect an annual inflation factor as part of the New Realities Task Force recommendations contingent on voter approval. Because the voters did not approve the continuation of the increase in November 1998, the rates (as reflected) were returned to the levels prior to November 1996.

There are several exclusions (by federal or State regulations) or exemptions (by the City Council) from the General Business Tax. The major types of exempt organizations include banks and insurance companies, charitable and non-profit organizations, and interstate commerce. On June 8, 1993, the City Council deleted the sunset provision of a business tax exemption for certain artists and craftpersons selling their wares at one location. The Business Tax is authorized by Title 4 of the Municipal Code, Chapter 4.76.

On May 26, 1987, the City Council enacted a new **Disposal Facility Tax** which became effective July 1, 1987. The rate structure is based on the weight of solid waste disposed. On July 1, 1992, the City Council increased the Disposal Facility Tax from \$3.00 per ton of disposed waste to \$13.00 per ton. This tax is assessed on landfills located in the City of San José. Beginning 2002-2003, waste previously classified as alternate daily cover was made subject to the Disposal Facility Tax. After a legal challenge, the City reinstated the alternate daily cover exemption in August 2005.

During 1991-1992, Council approved the establishment of a Cardroom Ordinance which contained the provision of a **Cardroom Business Tax** to tax gross receipts from cardrooms located in the City. On June 9, 1992, the City Council approved an ordinance amending the San José Municipal Code, increasing the tax rate schedule and expanding the permissible games authorized. A gross receipt monthly tax schedule was established with taxes ranging from 1% to 13% of gross receipts. In 1993-1994, Council approved a revision to the Cardroom Ordinance, instituting a flat 13% gross receipts tax for all cardrooms located in the City with annual gross revenues in excess of \$10,000. In June 2010, voters approved a ballot measure that increased the tax rate from 13% to 15% and increased the maximum number of card tables from 80 to 98.

On November 2, 2010, San José voters approved Ballot Measure U, which allows the City to tax all marijuana businesses (medical and non-medical; legal and illegal) at a rate of up to 10% of gross receipts. On December 13, 2010, the City Council approved Ordinance number 28867 which sets the **Marijuana Business Tax** at 7%. Details of the Marijuana Business Tax are provided in Municipal Code Chapter 4.66. The Marijuana Business Tax became effective on March 1, 2011.

## LICENSES AND PERMITS

The City requires payment for the issuance of Building Permits, Fire Permits, and miscellaneous health and safety-related licenses and permits. For most licenses and permits, the various fees

# GENERAL FUND REVENUE DESCRIPTIONS

## LICENSES AND PERMITS

charged by a given department are based on full recovery of the estimated costs for providing each service. For example, the City requires fire safety inspections of all commercial property. The fee provides for inspection charges and a number of special charges. Authorized exceptions include the addition and/or alteration of under 20 sprinkler heads and the installation of portable fire extinguishers. The fee is authorized by Title 17 of the Municipal Code, Chapter 17.12. Where appropriate, license and permit fees take into consideration approved exceptions to the City Council's full cost recovery policy, as well as applicable State laws. Specific prices and rates are determined by ordinance and each of the charges is fully explained in the City's Fees and Charges Report, which is released in May of each year.

## FINES, FORFEITURES, AND PENALTIES

The City receives a portion of the fines collected in connection with violations of the State Vehicle Code on city streets. Various fines may be assessed in addition to those imposed by the Santa Clara County bail schedule and judges' sentences. The County court system collects the fines as authorized by the State Vehicle Code and makes monthly remittances to the City. Only "on call" emergency vehicles are exempt from Vehicle Code street laws. State legislative action in 1991-1992 reduced the amount (by approximately 50%) of vehicle code fine and forfeiture revenue forwarded to the City. On October 10, 1997, however, the Governor signed Assembly Bill 233 (AB 233) which became effective on July 1, 1998. AB 233 changed how the State and California counties and cities share in traffic citation fine revenues. This legislation essentially resulted in the doubling of the City's revenue collections in this area, reversing the impact of the 1991-1992 state legislative action.

The City receives fines and forfeitures of bail resulting from violation of State Health and Safety Codes and City Ordinances. These fees, authorized by the State Criminal Code and City Ordinances, are collected by the County and remitted to the City on a monthly basis. The City also receives revenue collected in connection with violations of the City's vehicle parking laws. These fines vary according to the nature of the violation. The City pays an agency to process and collect the fines. The only authorized exemption is for "on call" emergency vehicles.

## USE OF MONEY AND PROPERTY

The City invests idle funds in order to earn interest. The total income varies with the market rates of interest and the funds available to invest. The City has established a formalized and conservative investment policy with objectives emphasizing safety and liquidity. This policy provides guidelines for type, size, maturity, percentage of portfolio, and size of security issuer (among others) of each investment. In addition, the policy statement outlines several responsibilities of the City Council, City Manager, City Auditor, and Finance Director. These policy and monitoring units interact and produce investment performance reports and an annually updated investment policy. All reports

# GENERAL FUND REVENUE DESCRIPTIONS

## USE OF MONEY AND PROPERTY

and policies must be reviewed and approved by both the City Manager and City Council. Investment of funds is authorized by the City Charter, Section 8066. Revenue is also received from the rental of City-owned property. Exceptions are created by City Council resolution. The fees are authorized in Title 2 of the Municipal Code, Section 2.04.1070.

## REVENUE FROM LOCAL AGENCIES

This revenue category includes revenue received from a variety of other local government agencies. For example, the City receives payments from the Central Fire District for fire services provided to District residents by the San José Fire Department and payments from the County for the Paramedic Program.

## REVENUE FROM THE STATE OF CALIFORNIA

The City receives revenue from the State of California in a number of different forms. While the State provides the City with funds through grants and contracts for services, by far the largest source of funds is the Tobacco Settlement payments:

On November 23, 1998, the attorneys general of most States and the major United States tobacco companies signed a Master Settlement Agreement (MSA) to settle more than 40 pending lawsuits brought by states against the tobacco industry. In exchange for the states dropping their lawsuits, and agreeing not to sue in the future, the tobacco companies agreed to pay, in perpetuity, various annual payments to the states to compensate them for some of the medical costs of caring for persons with smoking-related illnesses. Further, the companies have restricted their marketing activities and established new efforts to curb tobacco consumption. The City, along with the other states and local government entities, joined in the settlement. In the MSA, the Original Participating Manufacturers agreed to pay a minimum of \$206 billion over the first twenty-five years of the agreement.

The City has also previously received Motor Vehicle In-Lieu (MVLF) Tax revenues, which are license fees collected by the California Department of Motor Vehicles (DMV). Until 1998-1999, the annual license fee was two percent of the market value of the vehicle as determined by the DMV. In 1998-1999, the State reduced the license fees by 25%, but agreed to backfill local jurisdictions for the loss in revenue, which represented 67.5% of MVLF revenues received by the City at the time. In 2004-2005, as part of State budget actions, the MVLF rate was permanently reduced from 2% to 0.65% and all future receipts of the backfill were approved to be in the form of increased Property Tax receipts and are reflected in that category. Thus, the backfill amount due to the City has permanently become property tax revenue that now grows based on assessed valuations. The



# **GENERAL FUND REVENUE DESCRIPTIONS**

## **REVENUE FROM THE STATE OF CALIFORNIA**

State withholds a portion of these fees for the support of the DMV. The remaining fees were divided equally between counties and cities, and their aggregate shares were distributed in proportion to the respective populations of the cities and counties of the State. The exemptions authorized by the State Constitution, Article 13, include vehicles owned by insurance companies and banks, publicly owned vehicles, and vehicles owned by certain veterans with disabilities. The tax is authorized by the State Revenue and Taxation Code. In late June 2011, the State legislature approved SB 89, which shifted over \$130 million in annual General Fund Motor Vehicle In-Lieu revenue from cities to support State law enforcement grants effective July 1, 2011. State legislative action in 1992-1993 eliminated local Trailer Coach In-Lieu Tax revenues. These funds were shifted to the State General Fund.

## **REVENUE FROM THE FEDERAL GOVERNMENT**

Federal grants account for the majority of federal revenues. Grant programs must be specifically outlined and proposed for federal sponsorship. Due to the grant process, the volume of grants and level of revenue has been and will be sporadic.

## **DEPARTMENTAL CHARGES**

Departmental Charges are comprised of fees charged for services which are primarily provided by the following departments: Planning, Building and Code Enforcement; Police; Public Works; Transportation; Library; and Parks, Recreation and Neighborhood Services. The Planning, Building and Code Enforcement Department, for example, charges specific fees for various development fee programs. The fees in this category are determined by ordinance and described in the City's Annual Fees and Charges Report. In addition, it should be noted that the fees assessed by the Parks, Recreation and Neighborhood Services Department can be found on the Internet ([www.sanjoseca.gov/ptns](http://www.sanjoseca.gov/ptns)).

## **OTHER REVENUE**

This revenue category contains revenue received from a variety of miscellaneous sources. Significant sources of revenue include HP Pavilion rental, parking, suite, and naming revenues and cost reimbursements related to Finance Department staff in the Investment Program. The remaining revenues represent one-time and/or varied levels of reimbursements, sale of surplus property receipts, and miscellaneous revenues associated with the Office of the City Attorney.

# GENERAL FUND REVENUE DESCRIPTIONS

## TRANSFERS AND REIMBURSEMENTS

The Transfers and Reimbursements revenue category is used to account for funds received by the General Fund from other City funds through a combination of means, including operating and capital fund overhead charges, transfers, and reimbursements for services rendered.

Overhead charges are assessed to recover the estimated fair share of indirect General Fund support services costs (staff and materials) that benefit other City program and fund activities. Examples of support activities included in the charges are services provided by the following departments: Finance, Human Resources, Information Technology, Mayor and City Council, the Office of the City Manager, and the Office of the City Attorney. Each year the charges are calculated using Finance Department developed overhead rates applied to projected salary costs in most City funds. The most significant sources of overhead reimbursements are the Treatment Plant Operating Fund, the Sewer Service and Use Charge Fund, the Airport Maintenance and Operation Fund, and the Integrated Waste Management Fund.

Transfers consist of both one-time and ongoing revenue sources to the General Fund. Ongoing transfers include capital fund transfers for maintenance and operating expenses incurred by the General Fund. One-time transfers occur on a sporadic basis and have included the disposition of uncommitted fund balances in several special funds and the transfer of monies to fund a variety of City projects.

Reimbursements from other funds represent the cost to the General Fund for services provided on behalf of the other City funds. This category also includes the State Gas Tax funds that are used to reimburse the General Fund for eligible expenditures. The State Gas Tax is described in the following section.

## STATE GAS TAX

A portion of the State Gas Tax is shared with cities and counties under separate sections of the Streets and Highways Code. The 1964 Gas Tax (Section 2106) provides for a \$0.0104 charge on every gallon of gasoline. Revenue is then allocated according to the following formula:

---

County Allocation :    a No. of Registered Vehicles in County  
                          ÷ b No. of Registered Vehicles in State  
                          x c \$0.0104  
                          x d Gallons of Gas Sold

---

City Allocation:        a Incorporated Assessed Value in County  
                          ÷ b Total Assessed Value in County  
                          x c County Allocation

---

Individual City Allocation:    a Population in City  
                                  ÷ b Population of all Cities in County  
                                  x c City Allocation

## GENERAL FUND REVENUE DESCRIPTIONS

### STATE GAS TAX

The 1943 Gas Tax (Section 2107) authorized a per gallon charge of \$0.00725. The State allocates part of these revenues for snow removal; the balance is distributed by calculating the portion of the State population represented by the city's population.

As a result of the passage of Proposition 111, gas and diesel taxes were increased \$0.05 per gallon on August 1, 1990, and increased by \$0.01 per gallon each January 1 until January 1, 1994. For the 1990 Gas Tax (Section 2105), cities are apportioned a sum equal to the net revenues derived from 11.5% of highway users taxes in excess of \$0.09 per gallon in the proportion that the total city population bears to the total population of all cities in the State.

**PAGE IS INTENTIONALLY LEFT BLANK**