



City of Palo Alto

City Council Staff Report

(ID # 11161)

Report Type: Action Items

Meeting Date: 3/23/2020

Council Priority: Fiscal Sustainability

Summary Title: Update, Consideration, and Potential Direction on Possible Local Tax Measure for 2020 Election

Title: Consideration of Analysis, Public Outreach, and Refined Polling and Further Direction on a Potential Local Business Tax Ballot Measure for 2020 Election

From: City Manager

Lead Department: Administrative Services

Recommendation

Staff recommends that the City Council:

- 1) Review the results of the Business Climate Survey that was sent to local businesses;
- 2) Provide direction to staff on next steps in developing a potential local business tax ballot measure including, but not limited to, drafting of an ordinance for a business tax based on employee count for City Council review, which requires refined direction on the following:
 - a. Selection of a tiered rate model and approximate level of taxation (either specific rates or gross revenue target);
 - b. Selection of an annual reporting requirement and an annual escalator;
 - c. Selection of certain dimensions pertaining to implementation and administration;
 - d. Selection of elements of an economic sustainability program to pursue further; and
- 3) Review, provide any additional direction needed, approve, and direct staff to proceed with the initial outline and framework for a second poll as detailed by the City's polling consultant, Fairbank, Maslin, Maullin, Metz and Associates ("FM3") (Attachment C), regarding a potential local tax ballot measure.

Executive Summary

This report continues work on the 2019 Council priority, “Fiscal Sustainability.” On January 27, 2020 the City Council gave direction to staff to narrow options related to a potential revenue generating local tax ballot measure. The ballot measure work plan is spread across three tracks that interact with each other continuously throughout the process: 1) analysis, 2) polling, and 3) stakeholder engagement. City staff has engaged the City Council, the Finance Committee, residents of Palo Alto, and stakeholders in the Palo Alto business community on this process for the past ten months and will continue to do so throughout this process.

This report provides an update across of each these tracks, by discussing stakeholder engagement efforts to date, analyzing the impact of four different options for tiering the tax based on employee headcount, outlining recommendations to further advance the conversation based on January 27, 2020 direction from the City Council, and discussing what a second round of polling could include.

This report also includes multiple attachments that offer additional context for the conversations about a potential business tax ballot measure.

Attachment A: transmits a report from TBWB, the City’s consultant for stakeholder engagement, which summarizes responses to the online engagement survey conducted by TBWB. The survey and other stakeholder engagement efforts to date are discussed in the body of this report.

Attachment B: transmits a report from Matrix Consulting that summarizes various dimensions of business taxes related to implementation and administration from comparable communities. Those dimensions, and staff’s recommendations related to those dimensions, are discussed in the body of this CMR.

Attachment C: transmits a high-level outline of a round two poll. It is anticipated that the City Council will issue direction to staff regarding further refinement of a potential business tax ballot measure and that the additional direction will be incorporated into the second round of polling.

Attachment D: details all prior staff reports to the Finance Committee and to the City Council that have been issued throughout this process regarding a potential local tax ballot measure.

Discussion

Stakeholder Engagement Update

The City's outreach consultant, TBWB, conducted an online survey instrument that was open from February 12, 2020 through March 4, 2020. This 34-question survey was e-mailed to a distribution list compiled from various sources, including the City's business registry program, the City's utilities business customer database, and the Palo Alto Chamber of Commerce's online directory. Additionally, direct outreach was conducted to various groups, such as the Palo Alto Downtown Business and Professionals Association, the California Avenue Area Business Association, and the Stanford Research Park to encourage them to share it with their members and associates.

TBWB's key findings from the survey are included as Attachment A to this report and will be discussed with the City Council on March 23, 2020. The survey covered a variety of topics, including perceptions of the general business climate, the degree to which community issues impact businesses, and general opinions related to a potential business tax.

The survey represents only the first step in the outreach plan related to a potential business tax. In addition to the online survey, City staff met with companies at the Stanford Research Park on March 3rd to discuss the potential business tax ballot measure and received feedback and questions from various businesses that participated in the discussion. City staff also plans to meet with companies through a meeting of the Palo Alto Chamber of Commerce on Tuesday, March 17th (subsequent to the issuance of this staff report but prior to the discussion at City Council). The City has also conducted outreach to individual firms and will continue these efforts throughout the process.

Next steps in the stakeholder engagement process will include the convening of small focus groups of businesses and other stakeholders to receive further qualitative feedback. As the City Council continues to refine and iterate what a potential business tax ballot measure may entail the outreach will continue to be tailored and refined accordingly.

Additionally, the City has set up a website as a central resource for items related to the business tax ballot measure. Prior City Council direction has been summarized to reflect the progress made to date, and previous reports are linked so that members of the community can easily access earlier reference materials. The City's website related to a potential business tax ballot measure can be accessed at: www.cityofpaloalto.org/businesstax .

Analysis Update

In partnership with Matrix Consulting, staff has prepared an analysis of four different scenarios to show the impact of tiering and of different definitions of “small business” based on headcount. Some demographic information about the City’s number of firms by employee tier, as well as employees in each tier, is included below. Following the discussion of the scenarios is additional analysis on dimensions related to the implementation of a business tax ballot measure. The source data for Figure 1 and Figure 2 are also included as Appendix A to Attachment B of this CMR.

Revenue Modeling based on Tiers for Employee Headcount

Figure 1. Total Number of Firms by Employee Headcount Tier by Industry Description

Code	Industry Description	Total # of Firms									Grand Total
		1 0-4	2 5-9	3 10-19	4 20-49	5 50-99	6 100-249	7 250-499	8 500-999	9 1,000+	
1100	Agriculture, Forestry, Fishing and Hunting	7	1								8
2300	Construction	53	16	9	6	2	1				87
3100	Manufacturing	3	1	3	2						9
3200	Manufacturing	14	1	1							16
3300	Manufacturing	42	10	6	6	3	4	2	2	1	76
4200	Wholesale Trade	47	12	7	8	3	1	1			79
4400	Retail Trade	55	48	37	15	13	5				173
4500	Retail Trade	38	10	9	5	1	2	3			68
4800	Transportation and Warehousing	8	0	1	0	1	1				11
5100	Information	138	29	26	30	11	5	3	2	3	247
5200	Finance and Insurance	135	36	35	22	6	1	2			237
5300	Real Estate and Rental and Leasing	130	18	14	12	4	1				179
5400	Professional, Scientific, and Technical Services	635	112	83	93	35	23	10	2	3	996
5500	Management of Companies and Enterprises	4	3	6	2	1	1	0	0	2	19
5600	Administrative and Support and Waste Management	68	21	14	10	10	3				126
7100	Arts, Entertainment, and Recreation	25	7	7	7	2	2				50
7200	Accommodation and Food services	37	35	45	61	23	9	1			211
81	Other Services (except Public Administration)	468	33	22	17	6	3				549
Total:		1,907	393	325	296	121	62	22	6	9	3,141
Percentage of total:		60.7%	12.5%	10.3%	9.4%	3.9%	2.0%	0.7%	0.2%	0.3%	

Figure 2. Total Number of Employees by Employee Headcount Tier by Industry Description

Code	Industry Description	Total # of Employees									Grand Total
		1 0-4	2 5-9	3 10-19	4 20-49	5 50-99	6 100-249	7 250-499	8 500-999	9 1,000+	
1100	Agriculture, Forestry, Fishing and Hunting	7	5								12
2300	Construction	81	114	111	177	150	175				808
3100	Manufacturing	5	7	45	75						132
3200	Manufacturing	28	7	11							46
3300	Manufacturing	67	67	84	151	158	470	750	1,500	2,234	5,481
4200	Wholesale Trade	58	82	88	245	225	175	329			1,202
4400	Retail Trade	112	335	516	478	922	782				3,145
4500	Retail Trade	65	67	127	136	75	250	1,258			1,978
4800	Transportation and Warehousing	15	0	15	0	75	117				222
5100	Information	200	199	365	884	710	815	1,127	1,500	6,889	12,689
5200	Finance and Insurance	219	236	467	705	450	175	764			3,016
5300	Real Estate and Rental and Leasing	188	110	181	344	300	179				1,302
5400	Professional, Scientific, and Technical Services	920	724	1,103	2,855	2,393	3,491	3,298	1,500	5,963	22,247
5500	Management of Companies and Enterprises	4	19	90	70	75	175	0	0	3,245	3,678
5600	Administrative and Support and Waste Management	95	141	198	303	729	626				2,092
7100	Arts, Entertainment, and Recreation	36	44	96	219	150	330				875
7200	Accommodation and Food services	62	238	660	1,903	1,580	1,575	375			6,393
81	Other Services (except Public Administration)	549	212	297	530	399	384				2,371
Total:		2,711	2,607	4,454	9,075	8,391	9,719	7,901	4,500	18,331	67,689
Percentage of total:		4.0%	3.9%	6.6%	13.4%	12.4%	14.4%	11.7%	6.6%	27.1%	

Matrix Consulting used information obtained from the Employment Development Department (EDD) to develop tables that detail the number of firms, and number of employees, by industry type by employee tier. In some cases, confidential information was contained in the data and was redacted by the EDD. In cases where the total employee count was known for the industry and only one data point was redacted due to confidentiality, the employee count was made to fit. However, in cases where the data was redacted too much to allow for such an analysis, Matrix used estimations of employee counts. More information about the methodology Matrix used to populate the tables can be found in Attachment B.

Figure 1 and Figure 2 do not include businesses in the following industry categories: Educational Services; Health Care and Social Assistance; Religious, Grantmaking, Civic, Professional, etc. Those categories represent industries which are typically exempted under either federal/state requirements (such as non-profits) or which may include significant Stanford Related businesses that are outside City limits. As discussed in prior reports, the City has no authority to tax businesses located outside of City limits. To the extent that any firms in those categories are not exempt under federal/state requirements and within City limits, the number of firms and employees subject to the tax would increase. However, the EDD does not have a mechanism to identify non-profits by industry type. Thus, if non-profits are operating in the industry types detailed in Figure 1 and Figure 2, the number of firms and employees subject to the tax would decrease slightly. Information about the number of firms and the number of employees in the industries excluded in Figure 1 and Figure 2 can be found in Appendix C of Attachment 2.

As seen above in Figure 1, 2,300 firms, or 73.2% of businesses in Palo Alto, have fewer than 10 employees; 2,625 (inclusive) firms, or 83.6% of total businesses, have fewer than 20 employees; and 2,921 firms, or 93.0%, have fewer than 50 employees. In total, these 93.0% of total businesses have 18,847 employees, representing 27.8% of total employees. This means that the remaining 48,842 employees, or 72.2% of employees, are at 220 firms, representing 7.0% of total firms in Palo Alto.

City Council's most recent direction to staff included the consideration of 'tiered' rates to increase progressively through the different brackets. This typically functions similar to a marginal tax bracket; a business would pay a registration fee in the first tier, plus a certain rate for the employees beyond first tier, then at another higher rate for the number of employees they had in the next tier, up to the top tier. Consistent with prior direction from the City Council, staff developed four scenarios based on Figure 1 and Figure 2 that apply different tiers based on employee headcount.

The first scenario, scenario A, shows what it would look like if every business paid a registration fee and a per employee rate. In Scenarios B, C, and D, those businesses that were categorized as a "small business", based on employee size, would pay only the registration fee without paying an additional per employee price. As seen through Scenarios A, B, C, and D, the rates

could change, the number of tiers could change, and the definition of small business could be modified to achieve each different outcome.

Table 1. Scenario Summary with Small Business Definition, Tier Definitions, and Demographics

	Tier 1	Tier 2	Tier 3	Tier 4
Scenario A: No Small Business				
<i>Definition</i>	0 - 9 EEs	10 – 49 EEs	50 – 249 EEs	250 + EEs
<i>Tax Rate</i>	\$150 Registration + \$100/EE	+\$125/ additional EE > 9	+\$150/ additional EE > 49	+\$175/ additional EE >249
<i># Firms/ % of total</i>	2,300 73.2%	621 19.8%	183 5.8%	37 1.2%
<i># EEs/ % of total</i>	5,318 7.9%	13,529 20.0%	18,110 26.8%	30,732 45.4%
<i>Avg Firm Rate</i>	\$300	\$2,600	\$13,550	\$137,829
<i>Est Rev.</i>	\$0.69 M	\$1.6 M	\$2.5 M	\$5.1 M
Scenario B: Small Business < 10 Employees				
<i>Definition</i>	0 – 9 EEs	10 – 49 EEs	50 – 499 EEs	500 + EEs
<i>Tax Rate</i>	\$150 Registration Fee	+\$150/ additional EE > 9	+\$200/ additional EE > 49	+\$225/ additional EE > 499
<i># Firms/ % of total</i>	2,300 73.2%	621 19.8%	205 6.5%	15 0.5%
<i># EEs/ % of total</i>	5,318 7.9%	13,529 20.0%	26,011 38.4%	22,831 33.7%
<i>Avg Firm Rate</i>	\$150	\$2,100	\$19,800	\$290,000
<i>Est Rev.</i>	\$0.35 M	\$1.3 M	\$4.05 M	\$4.3 M
Scenario C: Small Business < 20 Employees				
<i>Definition</i>	0 – 19 EEs	20 – 99 EEs	100 – 499 EEs	500 + EEs
<i>Tax Rate</i>	\$150 Registration Fee	+\$150/ additional EE > 19	+\$200/ additional EE > 99	+\$250/ additional EE > 499
<i># Firms/ % of total</i>	2,625 83.6%	417 13.3%	84 2.7%	15 0.5%
<i># EEs/ % of total</i>	9,772 14.4%	17,466 25.8%	17,620 26.0%	22,831 33.7%
<i>Avg Firm Rate</i>	\$150	\$3,600	\$34,250	\$348,000
<i>Est Rev.</i>	\$0.4 M	\$1.5 M	\$2.8 M	\$5.2 M
Scenario D: Small Business < 50 Employees				
<i>Definition</i>	0 – 49 EEs	50 – 249 EEs	250 – 999 EEs	1,000 + EEs
<i>Tax Rate</i>	\$150 Registration Fee	+\$200/ additional EE > 49	+\$275/ additional EE > 249	+\$300/ additional EE > 999
<i># Firms/ % of total</i>	2,921 93.0%	183 5.8%	28 0.9%	9 0.3%
<i># EEs/ % of total</i>	18,847 27.8%	18,110 26.8%	12,401 18.3%	18,331 27.1%
<i>Avg Firm Rate</i>	\$150	\$10,100	\$93,470	\$557,700
<i>Est Rev.</i>	\$0.44 M	\$1.9 M	\$2.6 M	\$5.0 M

As seen above, the definition of “small business” has a significant impact on the potential modeling. Based on previous conversations with the City Council, staff varied the definition of small business based on employee headcount. Cupertino, Mountain View, Redwood City and San Jose define small business through gross receipts, either less than \$5,000 or less than \$1,000, as seen on page 17 of Attachment B.

The scenarios above do not contemplate administrative variables that have yet to be refined by the City Council. These may include, but are not necessarily limited to, the definition of an employee, audit and verification requirements associated with a business tax, the inclusion of an adjustment for inflation (and at what level), how frequently to assess the tax, whether the tax should be administered on an calendar year basis or rolling basis, whether the tax should be pro-rated for the first year of a business, whether the business tax should be phased in at a certain level, what the reporting requirements should be, and what the implementation timeline will look like. Each of those decisions will need to be factored into more refined revenue projections as the City continues this evaluation.

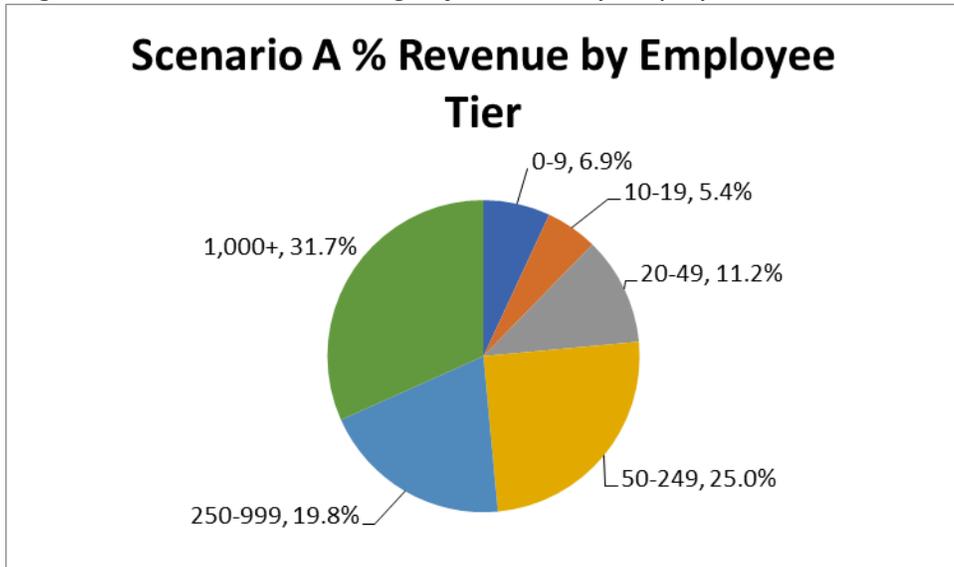
Each of these costing scenarios is discussed in detail to examine different approaches for raising \$10 million for the City’s General Fund. Each scenario includes a description of the rates charged at a certain employee headcount tier, a graph that shows the percentage breakdown of the revenues raised by employee tier, and a brief description of the distribution of the tax across the different tiers. As discussed above, City Council’s definition of “small business” may have a significant impact on the rates paid by the businesses that are do not meet that definition.

Scenario A – No Business Pays Only a Registration Fee, Tiered at 10, 50, and 250 Employees

Table 2. Scenario A Modeling by Range of Employees

Scenario A - No Small Business, Tiered				
Range of Employees	Base Rate	Per Employee Rate	Small Business (Yes / no)	Average Cost per Firm
0-4	\$150	\$100	No	\$192
5-9	\$650	\$100	No	\$813
10-19	\$1,175	\$125	No	\$1,638
20-49	\$2,425	\$125	No	\$3,757
50-99	\$6,200	\$150	No	\$9,102
100-249	\$13,700	\$150	No	\$22,214
250-499	\$36,225	\$175	No	\$55,324
500-999	\$79,975	\$175	No	\$123,725
1,000+	\$167,475	\$175	No	\$348,911

Figure 3. Scenario A Percentage of Revenue by Employee Headcount Tier



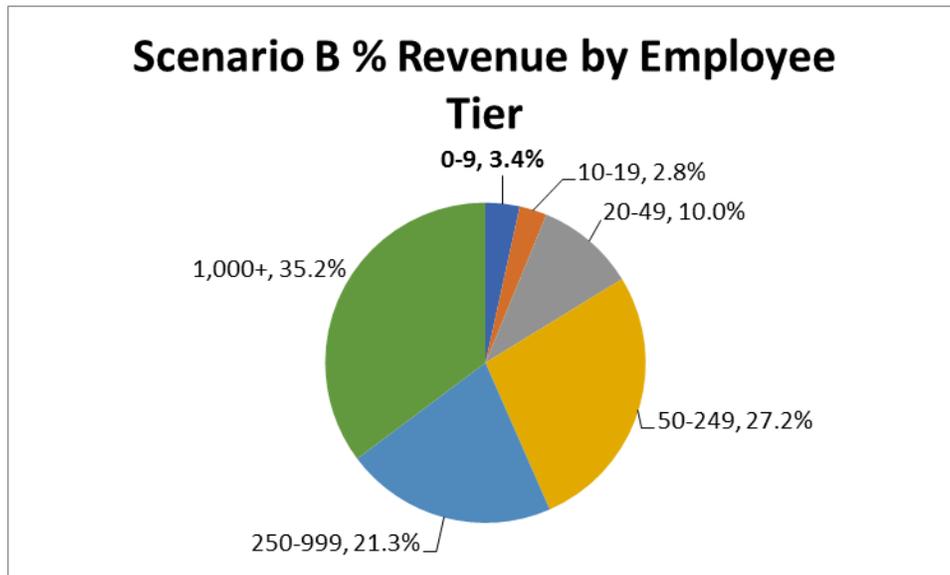
Scenario A shows what it would look like if there was a registration fee of \$150 and then an additional per employee charge. The tiers for these per employee charges are 0 – 9 employees at \$100 per employee, moving up to \$125 for employees 10 – 49, then increasing again to \$150 for employees 50 – 249 before reaching the final tier of \$175 for employees 250 or more. Because this scenario charges for each employee with no additional exemptions, it most closely aligns the incidence, or burden of the tax, with the employee count. 23% of the revenues would be raised by the 2,921 firms, representing 93% of total firms, with fewer than 49 employees. Those firms employ a total of 18,847 employees, representing 27.9% of total employees. The remaining 77% of revenues would be raised by the 220 firms, representing 7% of total firms, with 50 or more employees that employ the remaining 48,842 employees, representing 72.2% of total employees. This scenario can be thought of as a “base” model that helps illustrate the different rates for different size firms with no exceptions for small businesses. The remaining scenarios each iterate through what a possible business tax could look like with different definitions for small business.

Scenario B – Small Business fewer than 10 employees, Tiered at 10, 50, and 500 Employees

Table 3. Scenario B Modeling by Range of Employees

Scenario B - Small < 10, Tiered					
Range of Employees	Base Rate	Per Employee Rate	Small Business (Yes / no)	Average Cost per Firm	
0-4	\$150	\$0	Yes	\$150	
5-9	\$150	\$0	Yes	\$150	
10-19	\$300	\$150	No	\$856	
20-49	\$1,800	\$150	No	\$3,399	
50-99	\$6,325	\$175	No	\$9,711	
100-249	\$15,075	\$175	No	\$25,008	
250-499	\$41,325	\$175	No	\$60,424	
500-999	\$85,100	\$200	No	\$135,100	
1,000+	\$185,100	\$200	No	\$392,456	

Figure 4. Scenario B Percentage of Revenue by Employee Headcount Tier



Scenario B shows what a potential business tax ballot measure could look like if it included a definition of small business as fewer than 10 employees. Scenario B evidences the calculated cost if the registration fee of \$150 was charged for business with fewer than 10 employees, and then a \$150 per employee rate was charged for employees between 10 and 49, \$200 per employee for employees between 50 and 249, then \$225 for employees 250 and beyond. This scenario partially shifts the incidence, or burden, of the tax from employers with fewer than 10 employees to employers with more than 10 employees. 2,300 firms, representing 73.2% of total businesses, with fewer than 10 employees in Palo Alto would pay approximately 3.4% of

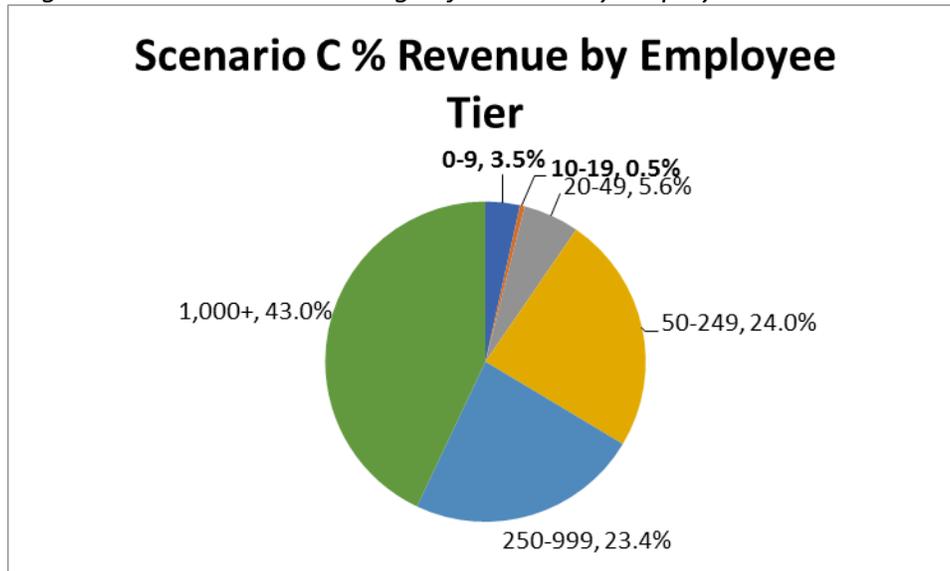
the total revenue. These firms contain 5,318 employees, representing 7.9% of the total employees in Palo Alto, with the remaining 62,731, or 92.1% of total employees, working for one of the remaining 841 firms (26.8% of total businesses.) Under this model, 62.7% of retail businesses and 34.1% of Accommodation and Food Service businesses would pay only the \$150 registration fee.

Scenario C – Small Business fewer than 20 employees, Tiered at 20, 100, 500

Table 4. Scenario C Modeling by Range of Employees

Scenario C - Small < 20, Tiered					
Range of Employees	Base Rate	Per Employee Rate	Small Business (Yes / no)	Average Cost per Firm	
0-4	\$150	\$0	Yes	\$150	
5-9	\$150	\$0	Yes	\$150	
10-19	\$150	\$0	Yes	\$150	
20-49	\$300	\$150	No	\$1,899	
50-99	\$4,800	\$150	No	\$7,702	
100-249	\$12,300	\$200	No	\$23,652	
250-499	\$42,300	\$200	No	\$64,127	
500-999	\$92,350	\$250	No	\$154,850	
1,000+	\$217,350	\$250	No	\$476,544	

Figure 5. Scenario C Percentage of Revenue by Employee Headcount Tier



Scenario C shows a potential business tax that defines small business as fewer than 20 employees. This scenario further extends the \$150 registration fee assumed in Scenario B for firms with fewer than 10 employees to firms with fewer than 20 employees. As expected, this

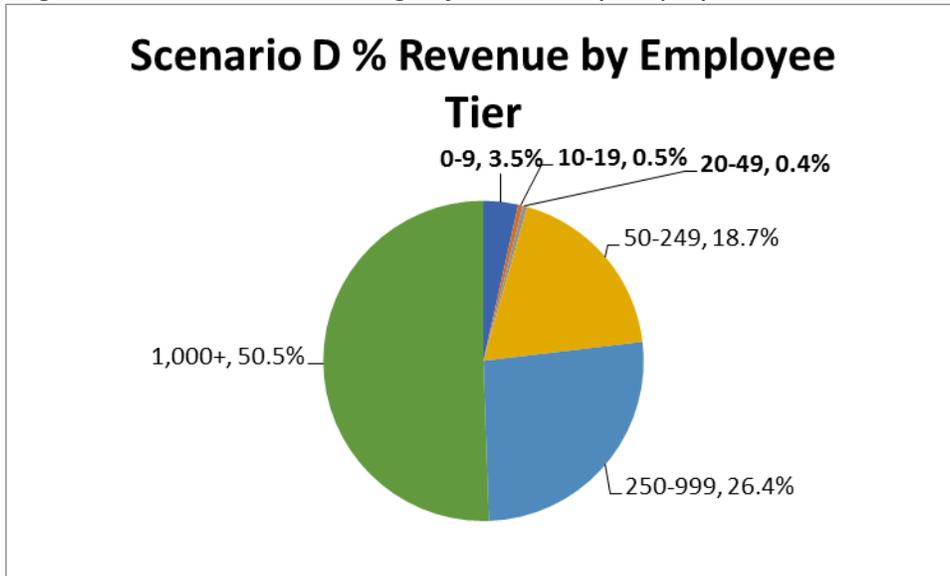
further shifts the incidence of the tax to employers with more than 20 employees. This scenario then includes a rate of \$150 per employee from 20-99, then \$200 per employee from 100-499, before reaching the highest rate of \$250 per employees beyond 499. Under this model, 83.6% of businesses would pay only the \$150 flat rate, and would pay 3.9% of the revenue raised. The remaining 96.1% of revenue raised would be borne by the remaining 16.4% of business that have more than 19 employees. 9,772 employees, or 14.4% of total employees, work for the 2,625 firms with fewer than 20 employees, compared to 57,917, or 85.6% of total employees, who work for the 516 firms with 20 or more employees. Under Scenario C, 81.7% of retail firms and 55.5% of Accommodation and Food Service businesses would pay only the registration fee.

Scenario D – Small Business Fewer than 50 Employees, Tiered at 50, 250, 1,000

Table 5. Scenario D Modeling by Range of Employees

Scenario D - Small < 50, Tiered					
Range of Employees	Base Rate	Per Employee Rate	Small Business (Yes / no)	Average Cost per Firm	
0-4	\$150	\$0	Yes	\$150	
5-9	\$150	\$0	Yes	\$150	
10-19	\$150	\$0	Yes	\$150	
20-49	\$150	\$0	Yes	\$150	
50-99	\$350	\$200	No	\$4,219	
100-249	\$10,350	\$200	No	\$21,702	
250-499	\$40,425	\$275	No	\$70,438	
500-999	\$109,175	\$275	No	\$177,925	
1,000+	\$246,700	\$300	No	\$557,733	

Figure 6. Scenario D Percentage of Revenue by Employee Headcount Tier



Scenario D shows a potential business tax that defines small business as fewer than 50 employees. This scenario models the impact of a registration fee being extended beyond the assumptions contained in assumption C to include all businesses with fewer than 50 employees. The registration fee in this model is once again \$150, but the per employee costs are \$200 per employee from 50 to 249, before increasing to \$275 for employees between 250 and 999, and then increasing to \$300 per employee 1,000 and beyond. This model shows that 2,921, or 93.0% of the total firms, employing 27.8% of total employees would pay 4.4% of the total revenue generated. The remaining 95.6% would be borne by the remaining 220, or 7.0% of businesses, with more than 49 employees. 48,842 employees, or 72.2% of the total employees in the City, work for an employer with more than 49 employees. Under Scenario D, 90.0% of retail firms and 84.4% of Accommodation and Food Service businesses would pay only the registration fee.

Table 6. Percentage of Employees by Headcount Tier compared to relative percentage of revenue

Employee Tiers	0-9	10-19	20-49	50-249	250-999	1,000+
% of Employees	7.9%	6.6%	13.4%	26.8%	18.3%	27.1%
Scenario A % of Revenues	6.9%	5.4%	11.2%	25.0%	19.8%	31.7%
Scenario B % of Revenues	3.4%	2.8%	10.0%	27.2%	21.3%	35.2%
Scenario C % of Revenues	3.5%	0.5%	5.6%	24.0%	23.4%	43.0%
Scenario D % of Revenues	3.5%	0.5%	0.4%	18.7%	26.4%	50.5%

Table 6 (above) shows the percent of employees by tiered employee headcount compared to the percentage of revenue raised under each scenario. Staff is looking for input from the City Council to further inform the development of tiers and rates. As discussed above, the definition of small business has an impact on the incidence, or burden, of the tax. The City of Palo Alto has a unique business community and the four scenarios discussed above show the impacts to different elements on the various parts of that community.

Additional Variables for Administration of a Business Tax

Matrix Consulting has continued their evaluation of comparable jurisdictions' business taxes in order to inform the City's options regarding implementation and administration of a potential business tax. The elements of implementation and administration discussed here are reflected in Attachment B, which summarizes Matrix's findings and includes their recommendations. These range from the definition of an employee, to employee verification requirements, to the inclusion of a hardship or amnesty program, a discussion of exemptions, as well as implementation timeline, administrative resources, and other considerations such as the Certified Access Specialist (CAsp) fee and compliance with the state mandate for certain businesses to demonstrate enrollment with the National Pollutant Discharge Elimination System permit program. Staff's recommendations for each of those dimensions are included in the discussion below. Of note, based on the information provided by Matrix, the City recommends issuing a competitive request for proposal for elements related to the system for receiving business tax submissions. This proposal could be flexibly structured to include administration of the program as an option. If a business tax is further pursued, the timing of the RFP issuance could commence immediately after the election results are certified.

Definition of an Employee

In addition to affecting the amount charged and revenue raised, how the City chooses to define an employee will also have an impact on the administration of a business tax. Discussions with the City Council to date have included conversations about the intent of the business tax. Consistent with those discussions, it is recommended that the City use a definition for employee that includes those persons receiving a wage from a company in Palo Alto and included in the company's report to the Employment Development Department regarding employees in Palo Alto.

If a company hired an independent contractor, as opposed to an employee, to perform work in Palo Alto then the contractor's firm/employer could be required to register as a business and pay the applicable rate. This would ensure alignment with the intent voiced by the City Council that the headcount should capture all individuals working in Palo Alto, but would ensure that the burden for contractors is borne by their employer, not the firm where that contractor is working.

It is recommended that the ordinance specify that the employee headcount shall be consistent with the highest monthly number reported by the company to the EDD over the past year. This will help streamline the reporting of employees and the calculation of the tax for businesses since reporting to the EDD is mandatory and will also provide an easily verifiable audit document.

Matrix's findings on other jurisdictions' definitions of employees can be found on pages 4 – 6 of Attachment B.

Employee Verification Requirements

As discussed with the City Council throughout the past year, it will be important that the City include audit and verification parameters for enforcement and compliance purposes as part of a potential business tax. It is recommended that the City not only require a signature under penalty of perjury verifying that the number of employees is true and accurate and be signed by the local chief operating officer of a company but also notify businesses that they may be audited on an annual basis to independently assess the veracity of their submissions. Language should be included in the ordinance for a potential business tax ballot measure that representatives of the City shall have access to the records necessary to independently verify that the correct figures were used in the calculation of a tax and to treat materials gathered through that verification confidentially.

Matrix's findings on other jurisdictions' employee verification requirements can be found on pages 7 – 11 of Attachment B.

Hardship/Exemption Clause

To date, the City Council has expressed interest in minimizing the impact of a potential business tax on small businesses. Only one other jurisdiction, San Jose, offers a hardship clause. If the City Council chooses a tiered model that involves some definition of small business paying only the registration fee, a hardship clause is not recommended. In each of the three scenarios described above (Scenarios B, C, and D) where small businesses are charged only a registration fee, the nominal cost associated with the registration fee for small businesses would be less than the current base fee for San Jose. Processing hardship applications would also require additional administrative resources. Given the nominal cost of a registration fee in the City's scenarios and the additional administrative resources necessary to administer a hardship exemption program, a hardship/exemption clause is not recommended for inclusion in the ordinance.

Matrix's findings on other jurisdictions' use of a hardship clause can be found on page 11 of Attachment B.

Annual Revenue reporting Requirements

On January 27, 2020, the City Council voted to include an annual revenue reporting requirement. This would ensure that the funds generated through a business tax program are tracked and accounted for and would help provide accountability for the use of the funds. The City has several options for an annual report on the revenue generated through a business tax.

From most extensive to least extensive, three options include the development of a citizen's committee to review the revenues generated and the expenditure of funds on an annual basis, the development of an audit from an outside firm to review the revenues and expenditures

associated with a business tax on an annual basis, and the inclusion of reporting out on revenues and expenditures generated by a business tax as part of the City’s existing reporting structures including the Comprehensive Annual Financial Report (CAFR) and the associated Year-End report.

The City Council has stated its desire to ensure accountability of the funds raised through a business tax. No other comparable jurisdiction has included a reporting requirement beyond inclusion in their annual audit in their business tax modernization. One option could include the creation of a citizen’s oversight committee; however, the resources necessary to staff a citizen’s committee would be non-trivial and would erode an additional portion of the revenues raised, in addition to the costs necessary to staff the administrative elements of the business tax. As such, staff recommends that the City use polling to ensure that annual business tax revenue expenditures remain aligned with community priorities and the community’s expectation of accountability for the funds.

Index for Inflation

On January 27, 2020, the City Council voted to include an escalator in the development of a business tax. The Consumer Price Index (CPI), as calculated by the U.S. Bureau of Labor Statistics (BLS), reflects the changes in prices year-over-year in a predetermined basket of goods. This figure quantifies the aggregate price level in an economy and is useful for quantifying the impacts of inflation.

In order to ensure that a potential business tax generates a consistent amount of revenue, it is recommended that an index for inflation, consistent with CPI for the San Francisco Bay Area, be included as part of any potential business tax. The CPI is published on bi-monthly basis (every even month) by the BLS for the San Francisco Bay Area and is usually released in the middle of the following month, e.g. February’s information is released in the middle of March.

The selection of a CPI month to use is important not only because it should be consistent, but because it impacts not only the timing of the administration of the tax but also influences, and is influenced by, whether the tax should be administered on a rolling basis or an annual basis.

Table 7. Comparable Jurisdictions’ Indices for Inflation (Source: [CMR 10655](#) – Attachment A)

Jurisdiction	Type of Tax	Index for Inflation
Cupertino	Square Footage	1.8%
San Jose	Employee Headcount	1.5% minimum base tax, 3.0% on incremental brackets, 3.0% on rate cap
Mountain View	Employee Headcount	Bay Area CPI
Redwood City	Employee Headcount	Bay Area CPI

To ensure consistency, it is recommended that a CPI be used from 5 months before an annual renewal date. (If the annual renewal date was January 1, the CPI used could be the August to August CPI, which is released in September.) This would ensure sufficient time to apply the CPI to the prior year’s rates and update notification materials for businesses appropriately. If the

annual renewal date was July 1, the CPI used could be the February to February annual CPI, which is released in March to ensure sufficient time to apply the CPI to the prior year's rates and update notification materials for businesses appropriately.

Table 8 below, showing 20 years of CPI for the Bay Area, is included for reference. The data from February to February and August to August has been bordered in the table for ease of reference.

Table 8. San Francisco Bay Area CPI 1999 – 2019

Year	Feb	YoY Growth as %	Apr	YoY Growth as %	Jun	YoY Growth as %	Aug	YoY Growth as %	Oct	YoY Growth as %	Dec	YoY Growth as %	Annual	YoY Growth as %
1999	169.4		172.2		171.8		173.5		175.2		174.5		172.5	
2000	176.5	4.2%	178.7	3.8%	179.1	4.2%	181.7	4.7%	183.4	4.7%	184.1	5.5%	180.2	4.5%
2001	187.9	6.5%	189.1	5.8%	190.9	6.6%	191.0	5.1%	191.7	4.5%	190.6	3.5%	189.9	5.4%
2002	191.3	1.8%	193.0	2.1%	193.2	1.2%	193.5	1.3%	194.3	1.4%	193.2	1.4%	193.0	1.6%
2003	197.7	3.3%	197.3	2.2%	196.3	1.6%	196.3	1.4%	196.3	1.0%	195.3	1.1%	196.4	1.8%
2004	198.1	0.2%	198.3	0.5%	199.0	1.4%	198.7	1.2%	200.3	2.0%	199.5	2.2%	198.8	1.2%
2005	201.2	1.6%	202.5	2.1%	201.2	1.1%	203.0	2.2%	205.9	2.8%	203.4	2.0%	202.7	2.0%
2006	207.1	2.9%	208.9	3.2%	209.1	3.9%	210.7	3.8%	211.0	2.5%	210.4	3.4%	209.2	3.2%
2007	213.688	3.2%	215.842	3.3%	216.123	3.4%	216.240	2.6%	217.949	3.3%	218.485	3.8%	216.048	3.3%
2008	219.612	2.8%	222.074	2.9%	225.181	4.2%	225.411	4.2%	225.824	3.6%	218.528	0.0%	222.767	3.1%
2009	222.166	1.2%	223.854	0.8%	225.692	0.2%	225.801	0.2%	226.051	0.1%	224.239	2.6%	224.395	0.7%
2010	226.145	1.8%	227.697	1.7%	228.110	1.1%	227.954	1.0%	228.107	0.9%	227.658	1.5%	227.469	1.4%
2011	229.981	1.7%	234.121	2.8%	233.646	2.4%	234.608	2.9%	235.331	3.2%	234.327	2.9%	233.390	2.6%
2012	236.880	3.0%	238.985	2.1%	239.806	2.6%	241.170	2.8%	242.834	3.2%	239.533	2.2%	239.650	2.7%
2013	242.677	2.4%	244.675	2.4%	245.935	2.6%	246.072	2.0%	246.617	1.6%	245.711	2.6%	245.023	2.2%
2014	248.615	2.4%	251.495	2.8%	253.317	3.0%	253.354	3.0%	254.503	3.2%	252.273	2.7%	251.985	2.8%
2015	254.910	2.5%	257.622	2.4%	259.117	2.3%	259.917	2.6%	261.019	2.6%	260.289	3.2%	258.572	2.6%
2016	262.600	3.0%	264.565	2.7%	266.041	2.7%	267.853	3.1%	270.306	3.6%	269.483	3.5%	266.344	3.0%
2017	271.626	3.4%	274.589	3.8%	275.304	3.5%	275.893	3.0%	277.570	2.7%	277.414	2.9%	274.924	3.2%
2018	281.308	3.6%	283.422	3.2%	286.062	3.9%	287.664	4.3%	289.673	4.4%	289.896	4.5%	285.550	3.9%
2019	291.227	3.5%	294.801	4.0%	295.259	3.2%	295.490	2.7%	298.443	3.0%	297.007	2.5%	295.004	3.3%

The City included CPI as its method of increasing fees associated with the Storm Drain program. That program includes a stipulation that inflation adjustments would be based on the lesser of the local rate of inflation or 6 percent. The 6 percent serves as a functional limit on year-over-year increase. If the City Council would like to pursue something similar in the case of the business tax, a similar ceiling could be imposed.

City Council included direction to include an index for inflation in their January 27 direction to staff regarding a potential business tax. To advance the conversation, it is important to determine whether to tie that index to CPI, whether to include a provision that it could not be lower than the prior year, and clarifying whether there should be a ceiling similar to the increase for the Storm Drain increase.

Resources for Implementing and Administering a Business Tax

As the City Council continues to explore a potential business tax ballot measure, the timeline and the administrative resources necessary to implement the business tax can be refined in parallel to the other decisions made by the City Council.

The implementation timeline will be significantly impacted by the decisions the City Council makes with regards to both the structure of the program as well as the decision on whether to administer the tax in-house or to use a consultant to collect the business tax. Regardless of which path is pursued, the City would be able to realize a portion of savings from the contract for the business registry certificate program, which would become partially redundant if a business tax is implemented. If a potential business tax is ultimately enacted, staff recommends that the Business Registry Certificate functions be subsumed by the administration of the Business Tax, regardless of whether that administration is in-house or an outside consultant.

In order to administer the funds in-house, the City would be able to repurpose the portion of a management analyst that currently works on the business registry, but would need to augment existing staffing to ensure sufficient resources are available. Other comparable jurisdictions have between 1.0 and 10.0 dedicated FTE to administer their programs and many contract out the audit/compliance function as seen on page 13 of Attachment B. Staff could be cross-trained, but during peak times it would be important to have dedicated resources to administer the renewal process. It is likely that the City would pursue a functional team where multiple employees each contribute a portion of their time to the administration of a business tax program. However, the level of the staff necessary would depend in part on whether the City Council chooses an expiration and renewal date that is the same for every business or whether there is a rolling expiration and renewal process.

A rolling process would require dedicated staffing throughout the year in order to process applications on a rolling basis, while a uniform expiration and renewal date would allow employees to work on other projects throughout the year and then focus on the business tax administration.

This also impacts the implementation timeline. It will take time to implement a system, interact with businesses, and perform outreach and education. Notably, Mountain View elected to phase-in the full business tax for employers with more than 50 employees. If the City Council wanted to pursue a similar option, the impact on revenues would need to be considered as part of that decision.

In order to add two professional staff to administer the business tax and procure a system capable of receiving online applications, staff estimates a funding need of between \$500,000 and \$700,000 to administer the program in-house.

The City of Palo Alto is in a somewhat unique situation among comparable jurisdictions since the City Council is not exploring the modernization of an existing business tax, but rather the institution of a business tax for the first time. Comparable jurisdictions in the Bay Area administer their programs in-house, but through Matrix Consulting's research it was not clear how they arrived at that decision nor what factors were examined to reach their current service delivery model.

Through contact with other cities outside of the area that use consultants to administer their business tax programs, a few points emerged. Matrix Consulting found that jurisdictions were charged various rates. These are discussed in greater detail in the Matrix report, in Attachment B, on pages 14 and 15.

Based on the information provided by Matrix, the City recommends issuing a competitive request for proposal for elements related to the system for receiving business tax submissions. This proposal could be flexibly structured to include administration of the program as an option. If a business tax is further pursued, the timing of the RFP issuance could commence immediately after the election results are certified. Through this timeline, the City could more effectively evaluate its options for administering the program and return to the City Council with a refined recommendation regarding whether the tax should be administered in-house or through a contracted vendor.

Additional findings of note related to administration are that the City should include that it provides required State and Federal Law Business License tax exemptions in its ordinance, but not specifically enumerate them in the ordinance since they may change periodically. The City could then list those exemptions on its Business Tax portal. Matrix recommends explicitly including that the obligation of claiming an exemption falls to the business.

Matrix's findings and recommendations related to the implementation and administration of a business tax can be found on pages 11-20 of Attachment B.

State Mandates

Matrix also identified two state mandates that the City should keep in mind when implementing a business tax, as discussed on pages 20 – 22 of Attachment B. First is the inclusion of a Certified Access Specialist (CASp) fee consistent with SB 1186. SB 1186 requires that \$4 of any business license fee be transmitted to the state for disability access, including non-profits and otherwise exempted organizations. This additional fee should be added to any business tax to ensure that funds can be paid to the state. Additionally, the City should include language about compliance with disability access provisions under federal and state law as part of its business tax process.

The second state mandate that Matrix identified was related to SB 205, signed into law by Governor Newsom in October 2019. This law requires certain types of business to demonstrate their enrollment with the National Pollution Discharge Elimination System (NPDES) permit program prior to obtaining a business license. The City should provide information related to these requirements as part of its business tax process, and include a question on the application about whether the business falls into one of the required categories. However, staff recommends that the obligation be on businesses to both identify themselves as required to participate in the NPDES permit program and demonstrate their enrollment as part of their application.

Economic Sustainability Strategy

On January 23, 2020 the City Council gave direction to include an economic sustainability program as part of continued conversations around a business tax. To add a position responsible for economic sustainability strategy, approximately \$250,000 in ongoing funding would be needed. This role could serve as a central point of citywide strategy implementation and coordination with businesses throughout the City of Palo Alto and ensure community engagement with business leaders.

If a position were added, they could also serve as an ombudsperson for local businesses that interact with City departments, serving as a central resource to coordinate work and responses about concerns ranging from permitting to the status of infrastructure improvements that might impact businesses.

This staff liaison could meet with the Palo Alto Downtown Business and Professional Association (PADPBA), the California Avenue Area Business Association (CAABA), as well as meetings with groups like the Chamber of Commerce, businesses at Stanford Shopping Mall, Town & Country Village, and companies at the Stanford Research Park. This position could also interact with groups like the Transportation Management Association (TMA) to not only maintain the relationship between the City and the TMA but also strengthen the City's engagement with the firms that participate in the TMA.

The City's commercial districts are assets to Palo Alto companies as well as residents, providing services and amenities critical to attracting and retaining the talented workforce needed to live, work, and enjoy Palo Alto. The position could be tasked with ensuring that the City's commercial districts remain attractive by coordinating among not only the associations listed above but also pursuing additional strategies to draw more people to the districts. Adding \$50,000 in non-personal expenses would help bolster the options available for economic sustainability and ensure that the City could contribute in modest ways to economic sustainability. These could include further investments in City-organized activities, permitting fees for certain community events, and outreach campaigns on various topics for the business community. This would bring the total resource impact of an economic sustainability program to \$300,000 and could help ensure that Palo Alto remains an attractive site for businesses to locate.

Polling Update

The City has engaged FM3 to conduct public opinion research for the potential local business tax ballot measure. The City Council approved a workplan that included a preliminary round of polling that was completed in January and presented to the City Council on January 27, 2020 and a second refined round of polling to be completed in the spring.

The outline and framework for the second poll is detailed in Attachment C of this staff report. With City Council's approval of the outline and framework, it is expected that the poll will be conducted in April and the findings will be reported to the City Council in May.

Resource Impact

Resources for continued stakeholder engagement and a second round of polling have already been approved and appropriated by the City Council. As discussed above, anticipated resource impacts of approximately \$500,000 to \$700,000 in ongoing funding may be required for the in-house administration of a business tax and procurement of a system capable of processing initial applications and payments, as well as renewals and payments, online. Additionally, approximately \$300,000 in ongoing funding would be needed to have dedicated staff for Economic Sustainability. These ongoing costs would be offset by the revenue generated by a potential business tax.

Timeline/Next Steps

It is anticipated that the City Council will provide additional direction to staff. The next steps will consist of refining a chosen costing structure as well as implementation and administration details, continued stakeholder engagement, and a second round of polling with residents.

A potential draft timeline is detailed below:

Activity	Estimated Schedule
Round 1 Polling	January
Stakeholder Outreach (Business Community)	January– March
Report out on Round 1 of Ballot Measure Polling/ City Council Approval of Business Tax Methodology	January 27
City Council Discussion of scenarios w/rates and structures, administration and implementation, penalties/reporting, and additional needs assessment at defined levels (including Gross vs. Net analysis and Bondable Revenue). Provide direction on tax structure for preparation of draft ordinance language for a potential ballot measure.	March 23
Round 2 refined polling	April
City Council to discuss round 2 refined polling results and inform feedback on draft ordinance for a potential ballot measure for Nov 2020 election	April/May
City Council review of ordinance language, review of ballot language	June
City Council takes policy action to place measure on ballot	June (est 6/22)
City Council adopts resolution of necessity	
City Council adopts resolution calling election	
Deadline to submit Ballot Measure to Santa Clara County	August 7
Election Day	November 3

In order to place a local tax ballot measure on the November 2020 ballot, the City Council needs to provide additional direction to staff to ensure sufficient time for staff and consultants to complete the work necessary to reach the November 2020 election timelines.

If the City Council is unable to continue to narrow the focus regarding the critical elements of a potential ballot measure, the tight timelines necessary to comply with the election deadlines may be compromised. It is expected that some of these reports will be transmitted in late packet due to the quick turnaround times and flow of information.

Environmental Review

This report is not a project for the purposes of the California Environmental Quality Act (CEQA).

Attachments:

- Attachment A: TBWB Business Survey
- Attachment B: Matrix Consulting Palo Alto Business License Tax Supplemental Report
- Attachment C: FM3 Second Poll Outline
- Attachment D: Summary of CMRs



TO: City of Palo Alto
FROM: Charles Heath, Partner, TBWBH
DATE: March 9, 2020
RE: Business Climate Survey Results

As the first step in the outreach plan related to a potential business tax, representatives from local businesses were invited to complete a 34 question survey. Respondents were invited to begin completing the survey on February 12, 2020 and the survey remained open through March 4, 2020. A link to the online survey was emailed to all available business email addresses and two reminder emails were sent during the survey period. The City used e-mail addresses from various sources; these included City utility accounts on file, e-mail addresses from the City's Business registry program, as well as individual e-mail addresses identified through the Chamber of Commerce's website. In addition, outreach was conducted to various groups, such as the Palo Alto Downtown Business and Professionals Association, the California Avenue Area Business Association, and the Stanford Research park to encourage them to share the survey with other businesses. To allow for the survey to be completed anonymously, a dedicated phone line was created to receive survey responses by phone and hard copy surveys were made available as well.

The substance of the survey covered a variety of topics including perceptions of the general business climate, the degree to which various community issues impact local businesses, as well as opinions related to a potential business tax. Open ended questions and a general comments section allowed businesses to share feedback outside of the structure of the survey. While the content of the survey questions were tailored for businesses, many of the same themes covered in the City's recent voter opinion research were also included to help compare and contrast the opinions of businesses and residents.

A total of 120 survey responses were received. Small businesses with five or fewer employees comprised the largest group of respondents (38.8%). Businesses with 20 or fewer employees made up 81% of the responses. Only 8% of the responses came from larger businesses with 40 or more employees. Respondents were much more likely to lease property in Palo Alto than own property. Approximately 75% of survey responses were submitted by the owner or an executive of a business. An additional 22% of surveys were completed by management level employees.

Following is a summary of key findings from the survey:

- Respondents were evenly divided in their ratings of Palo Alto as a place to do business. 53% rated Palo Alto as an excellent or good place to do business while 47% rated Palo Alto as an only fair or poor place to do business.

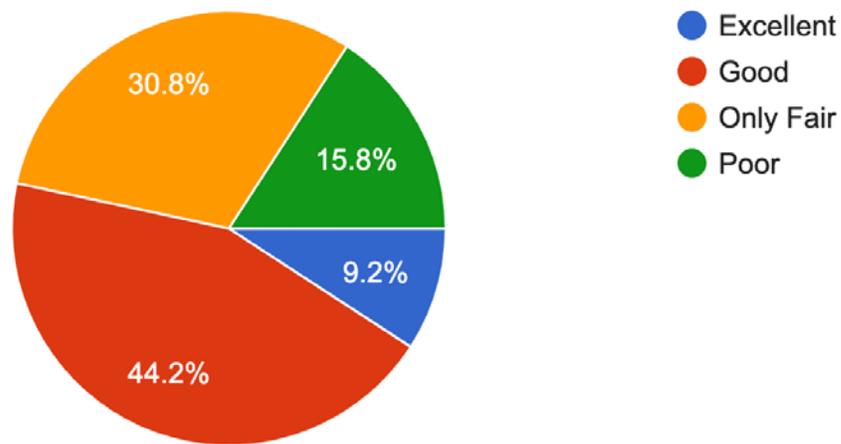
- Businesses were more positive in their ratings of the strength of the local economy. 59% rated the local economy as very strong or strong and 32.5% rated the economy as moderate. Only 8% rated the local economy as weak.
- A strong majority of respondents felt that Palo Alto is either a worse place to do business or about the same as it was five to ten years ago. Similarly, most respondents felt Palo Alto will be a worse place to do business or about the same in the next five to ten years.
- When asked what Palo Alto could do to improve the local business climate, responses focused on reducing taxes and regulation, creating more affordable housing, improving parking and traffic, and improving communication between the City and local businesses.
- Businesses ranked the cost and availability of housing as the issue having the biggest impact on attracting and retaining employees, followed by traffic congestion and parking. Parking was noted as having the biggest impact on attracting and retaining customers.
- Businesses were evenly divided on their perception of whether the City needs additional funding to solve local problems. Respondents were also divided on whether the amount paid in local taxes and utilities is too high or about the right amount. Virtually no respondents rated these amounts as too low.
- Business were divided as to whether the amount Palo Alto businesses pay in local taxes is about the same or higher than the amounts paid in other Bay Area cities. Very few businesses responded that the amount paid in Palo Alto is lower.
- Over 60% of respondents disagreed with the idea that Palo Alto businesses should contribute to addressing local issues by paying a business tax similar to those paid by businesses in neighboring cities. Approximately 24% of respondents agreed with this statement. Similarly, seven out of ten respondents indicated that increasing taxes on local businesses would have negative impacts including causing some businesses to relocate outside of Palo Alto.
- 62% of respondents indicated that they would oppose a business tax with tiered rates based on the number of employees. 38% indicated support. Respondents overwhelmingly indicated that small businesses should receive an exemption or discount.
- Majorities of respondents also opposed potential alternative tax structures including a property tax based on building size (58% oppose), a flat tax that applied to all businesses equally (66% oppose) and a payroll tax (93% oppose).
- 71% of respondents felt that any business tax should be structured as a special tax with clearly defined spending priorities rather than a general tax with flexible uses for any city purpose.
- As for the use of funds from a potential tax, businesses placed the highest priority on improving traffic and transportation followed by providing more workforce housing.
- If Palo Alto were to enact a business tax, 42% of respondents reported they would relocate to another community. An additional 33% reported they were unsure about relocating.

Following is a detailed summary of survey questions and responses. As next steps in the outreach process, we will convene small focus groups of businesses and other stakeholders to receive qualitative feedback. In addition, regular informational updates will be provided to businesses and the community at-large as Council makes decisions related to a potential business tax.

Palo Alto Business Climate Survey Results

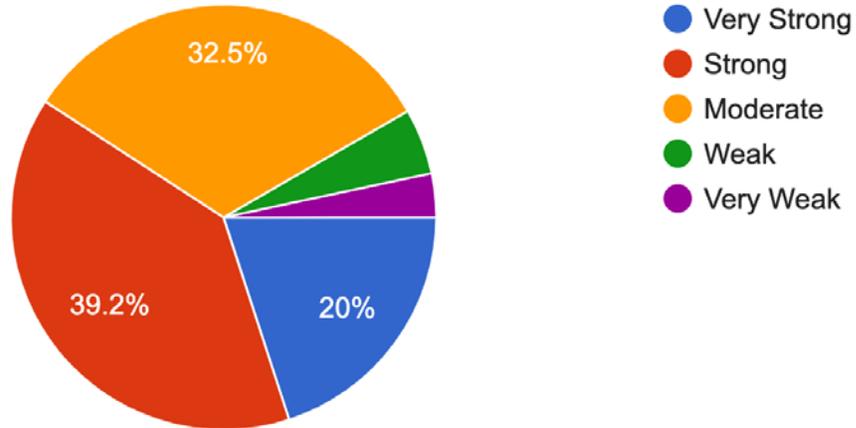
1. How would you rate the City of Palo Alto as a place to do business?

120 responses



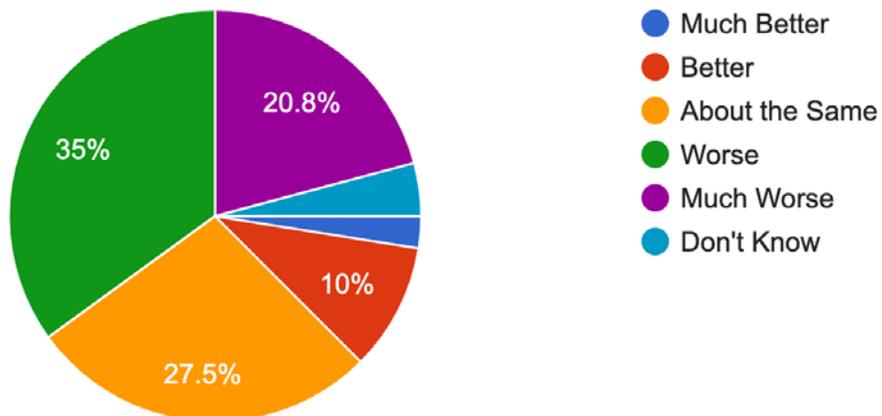
2. How would you rate the strength of the local Palo Alto economy for businesses?

120 responses



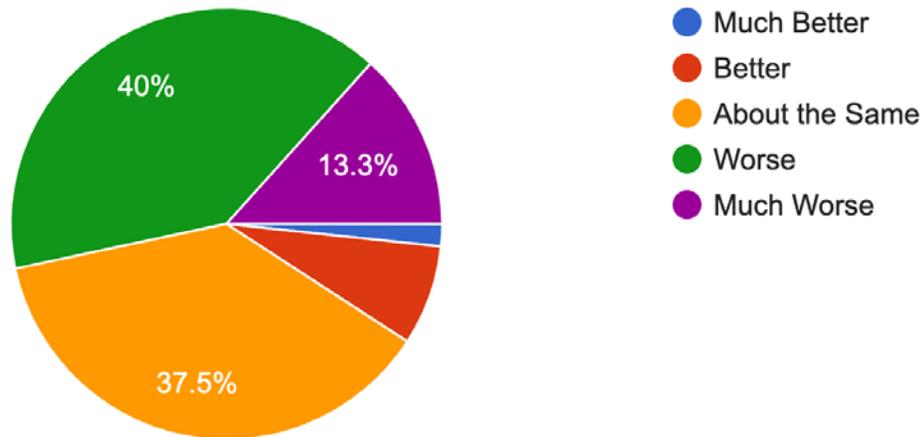
3. Looking back five to ten years, is Palo Alto a better or worse place to do business today than it was then?

120 responses



4. Looking ahead five to ten years, do you expect Palo Alto will be a better or worse place to do business that it is today?

120 responses



5. What is the single most important thing Palo Alto could do to make it a better place to do business in the future?

1. Less regulation
2. Lower taxes and fees for local businesses
3. Increase affordable housing
4. Increase parking
5. Better communication between businesses and city government
6. Promote local businesses
7. Improve traffic
8. Reduce cost of rent for businesses
9. Improve downtown area
10. Address homelessness
11. Improve public transportation

6. What is the next most important thing Palo Alto could do to make it a better place to do business in the future?

1. Lower taxes and fees for local businesses
2. Increase parking
3. Improve traffic
4. Increase affordable housing
5. Better communication between businesses and city government
6. Reduce cost of rent for businesses

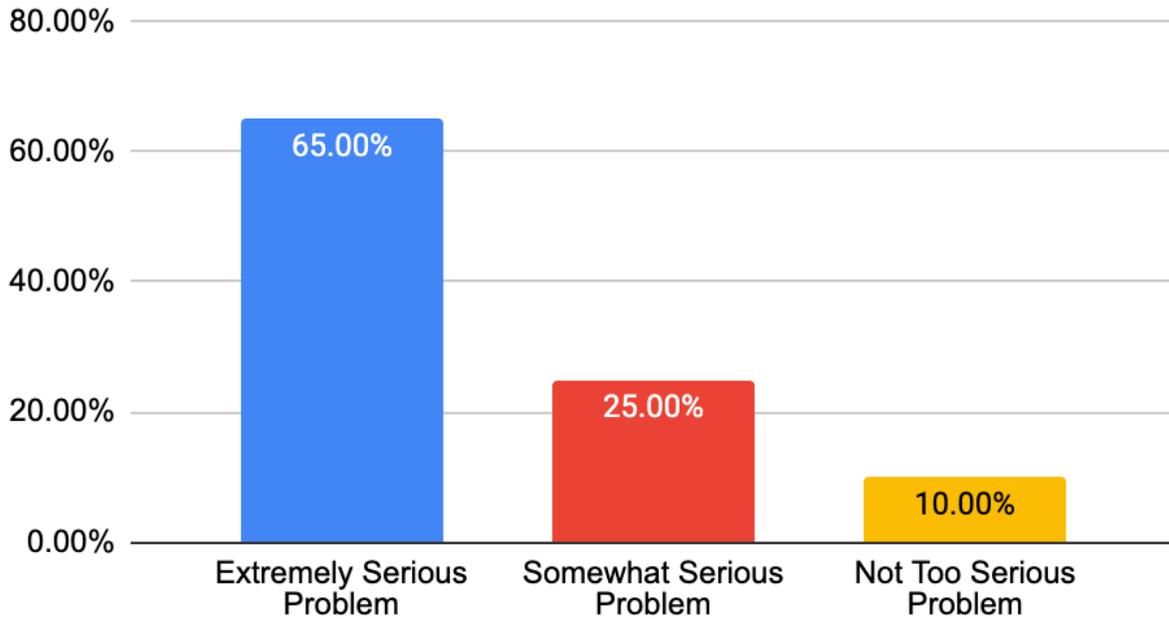
7. Less regulation
8. Improve downtown area
9. Address homelessness
10. Improve public transportation
11. Reduce minimum wage

7. What is the single most important thing Palo Alto could do to help develop and promote local businesses?

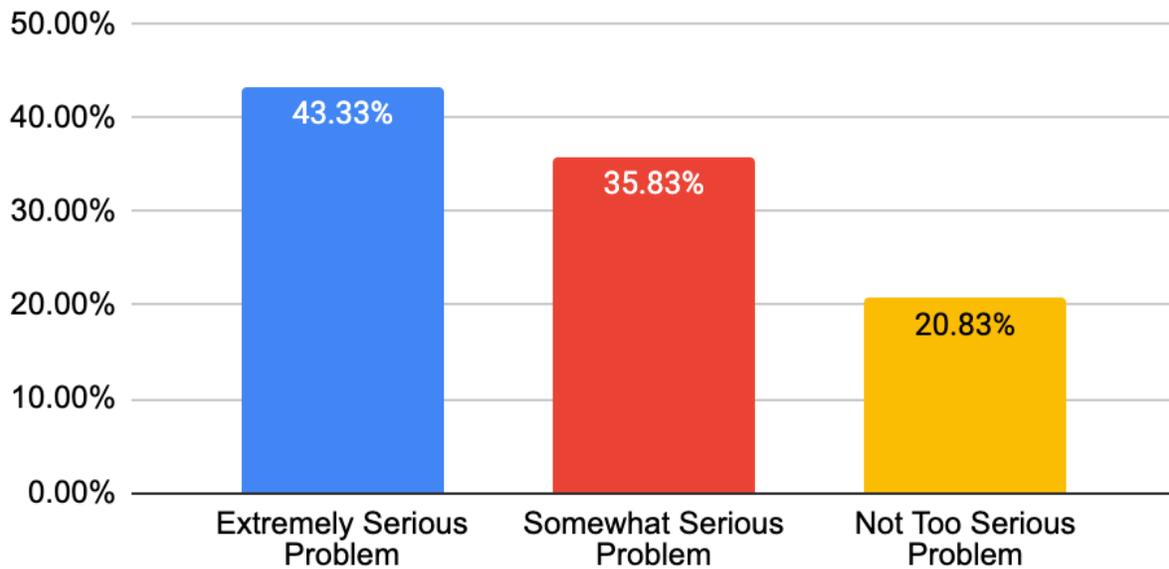
1. Better communication between businesses and city government
2. Lower taxes and fees for local businesses
3. Less regulation
4. Promote local businesses
5. Increase parking
6. Reduce cost of rent for businesses
7. Increase affordable housing
8. Improve downtown area
9. Reduce minimum wage
10. Address homelessness
11. Improve public transportation

8. Following is a list of problems and challenges that some people say need to be addressed in Palo Alto. For each item, please rate how serious the problem is to your business.

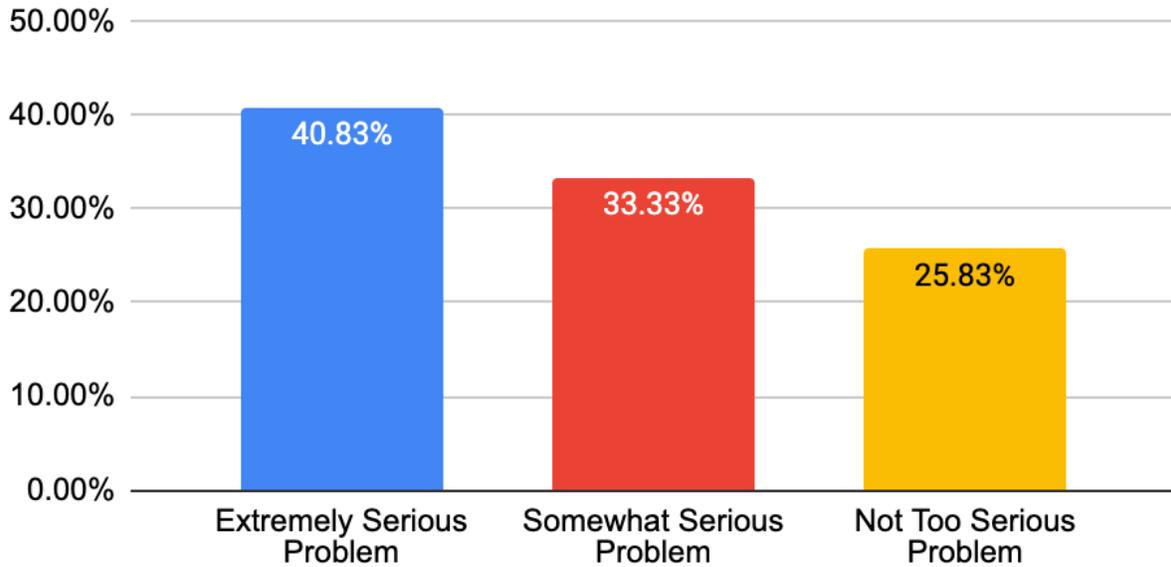
The cost and availability of workforce housing



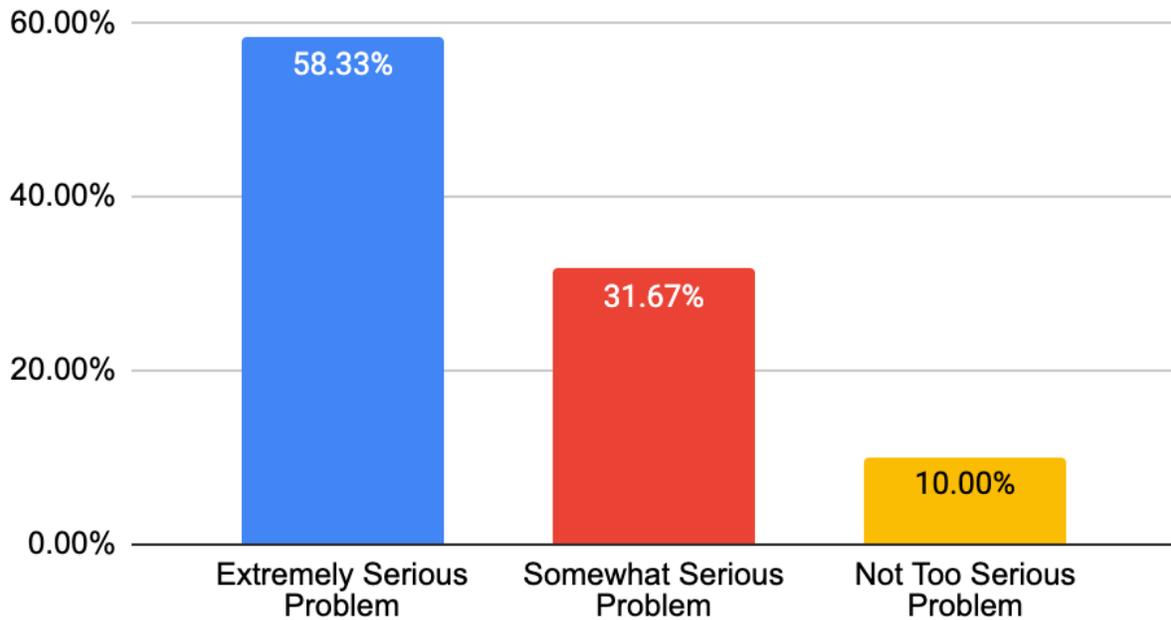
The cost and availability of commercial and office space



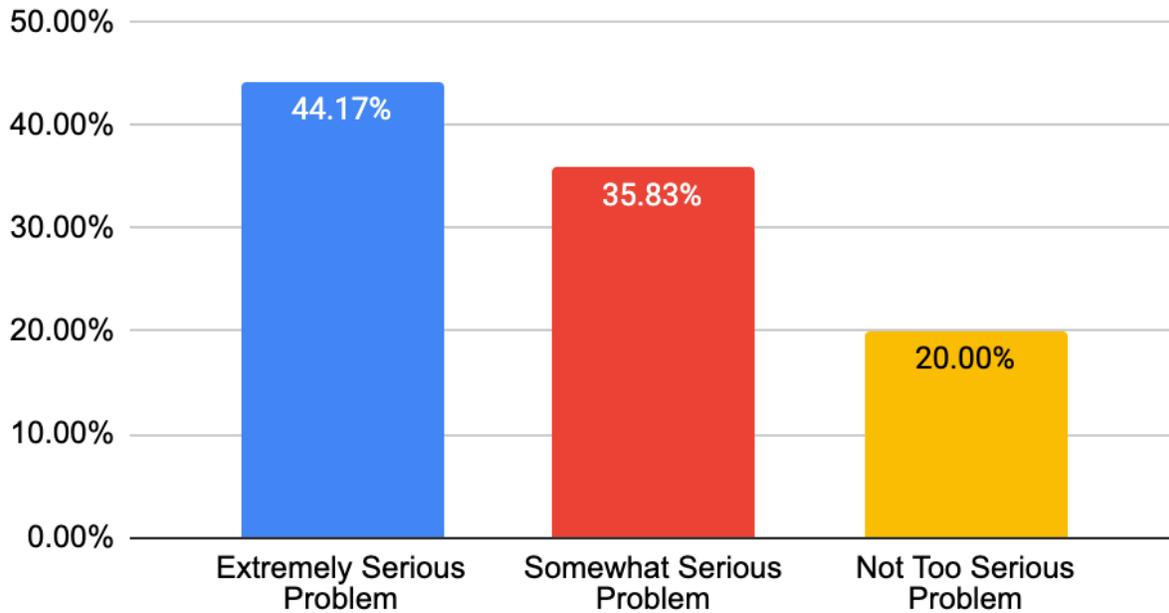
Traffic and congestion on Palo Alto's streets and roads



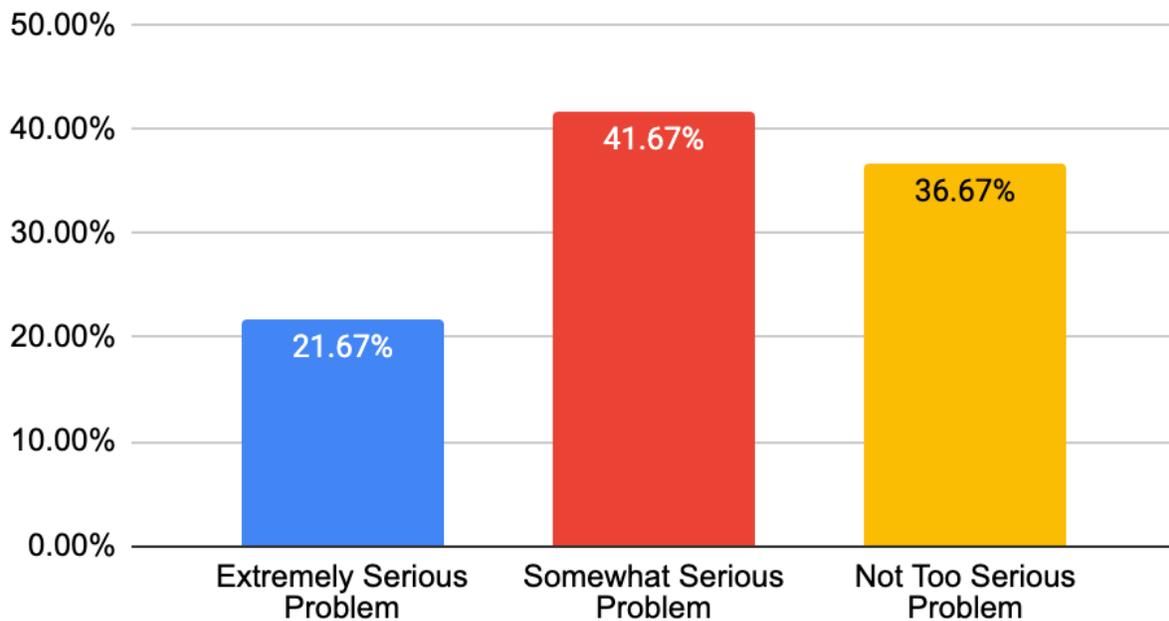
Regional traffic and commute times



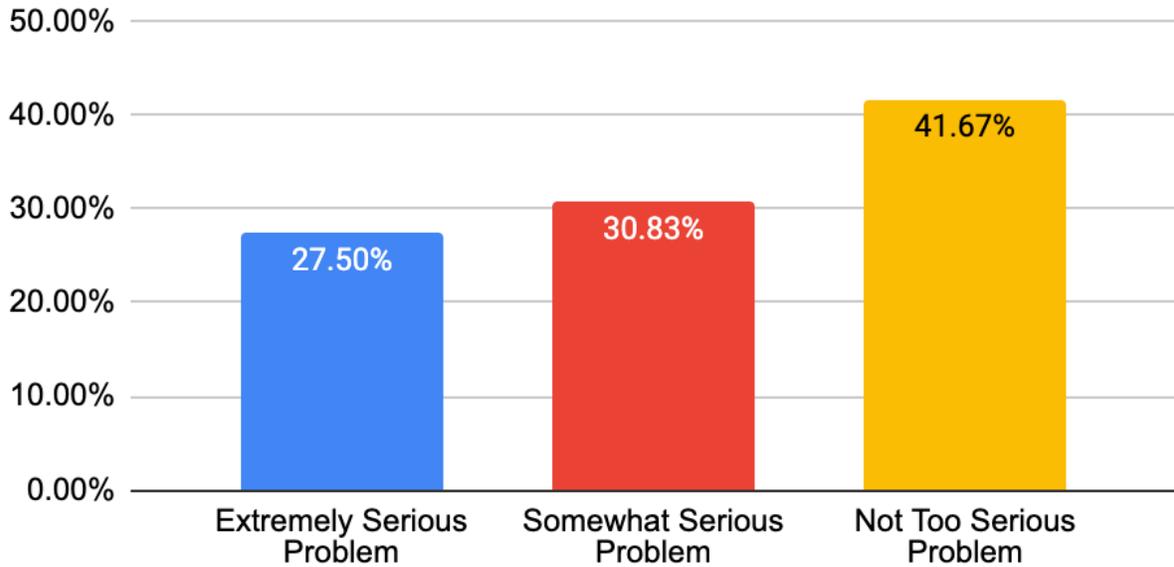
Excessive regulations impacting local businesses



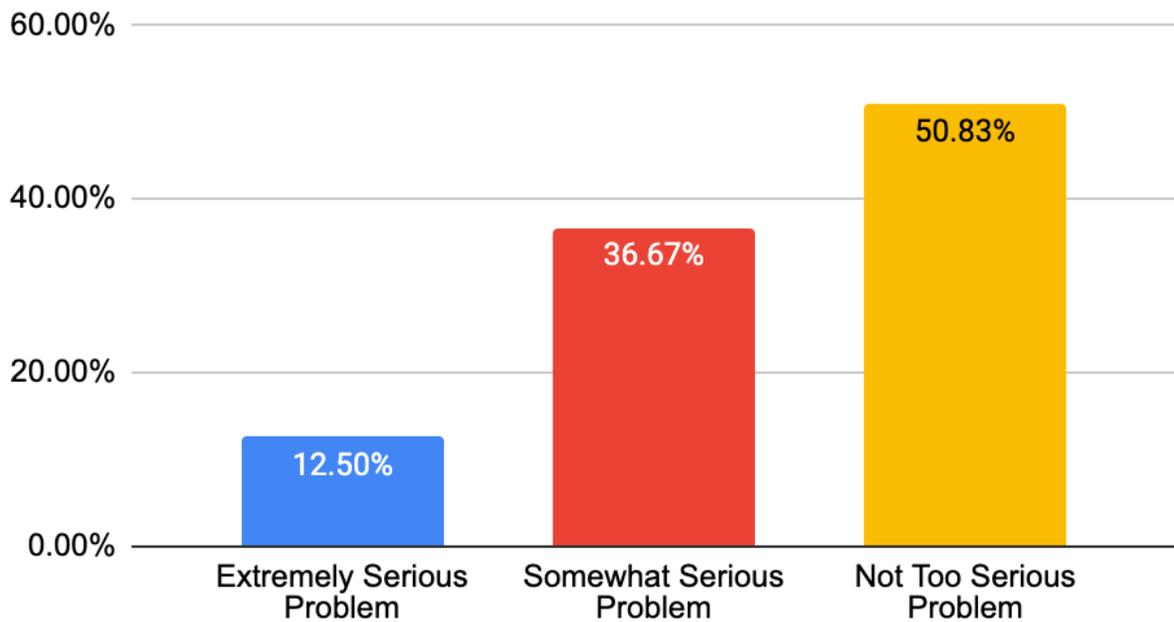
The pace of growth and development



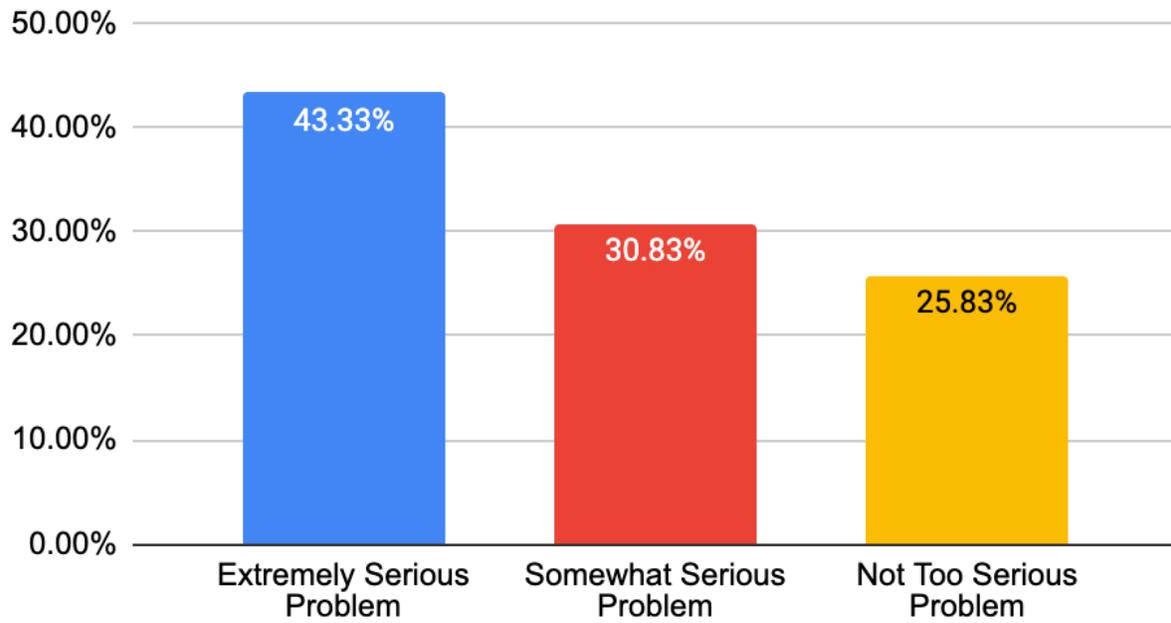
Height restrictions on new commercial development



The condition of the local economy

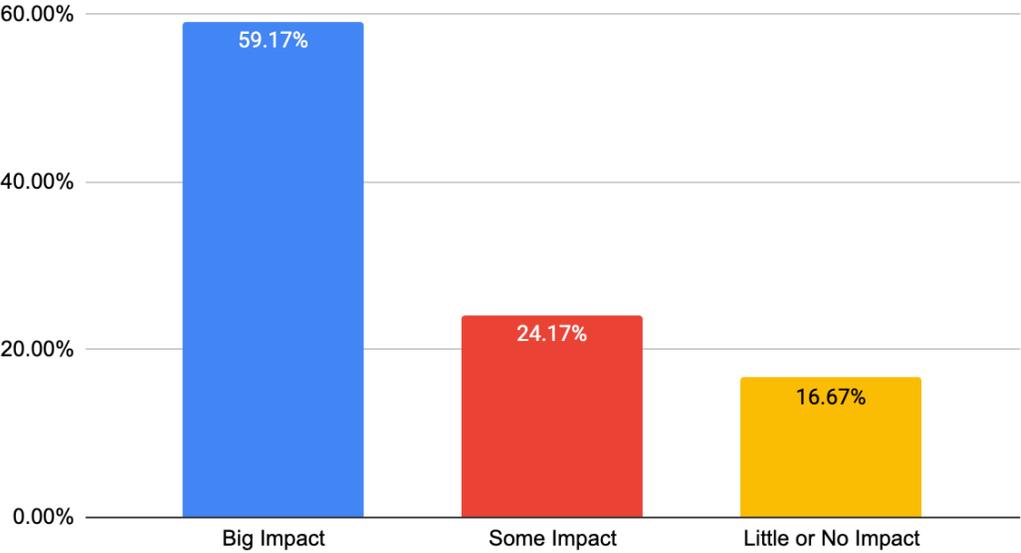


The availability of trained and skilled workers

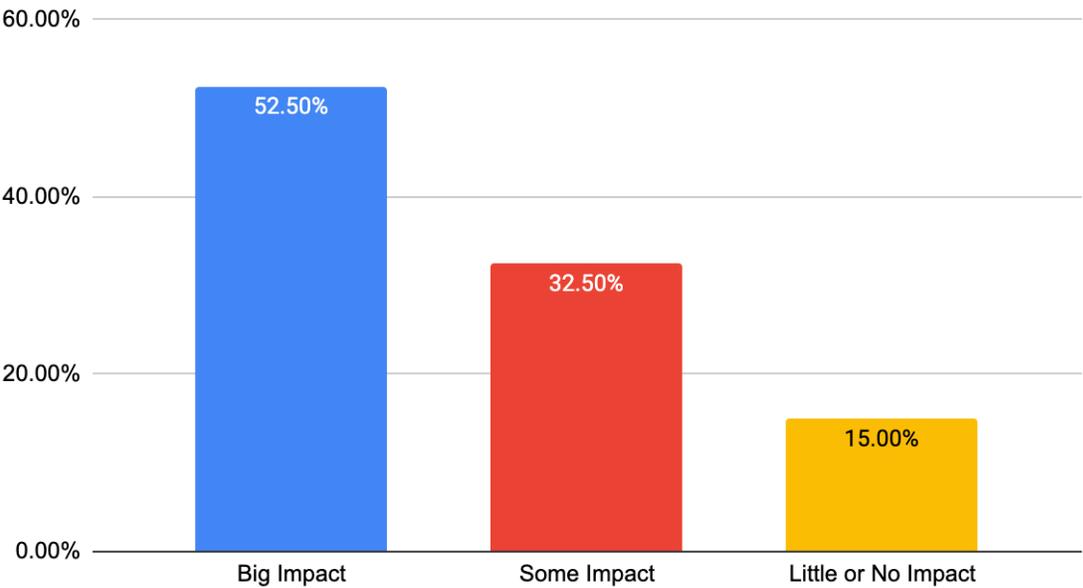


10. For each of the following items, please rate the degree to which each item impacts your business's ability to attract and retain employees in Palo Alto.

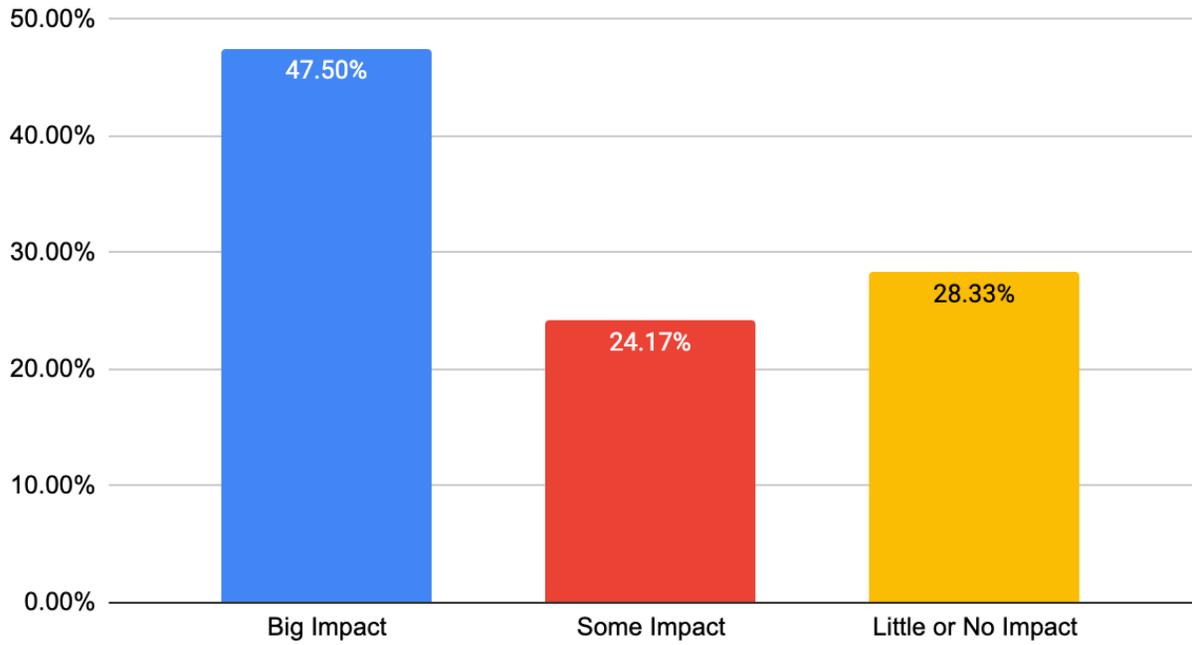
The cost and availability of local housing



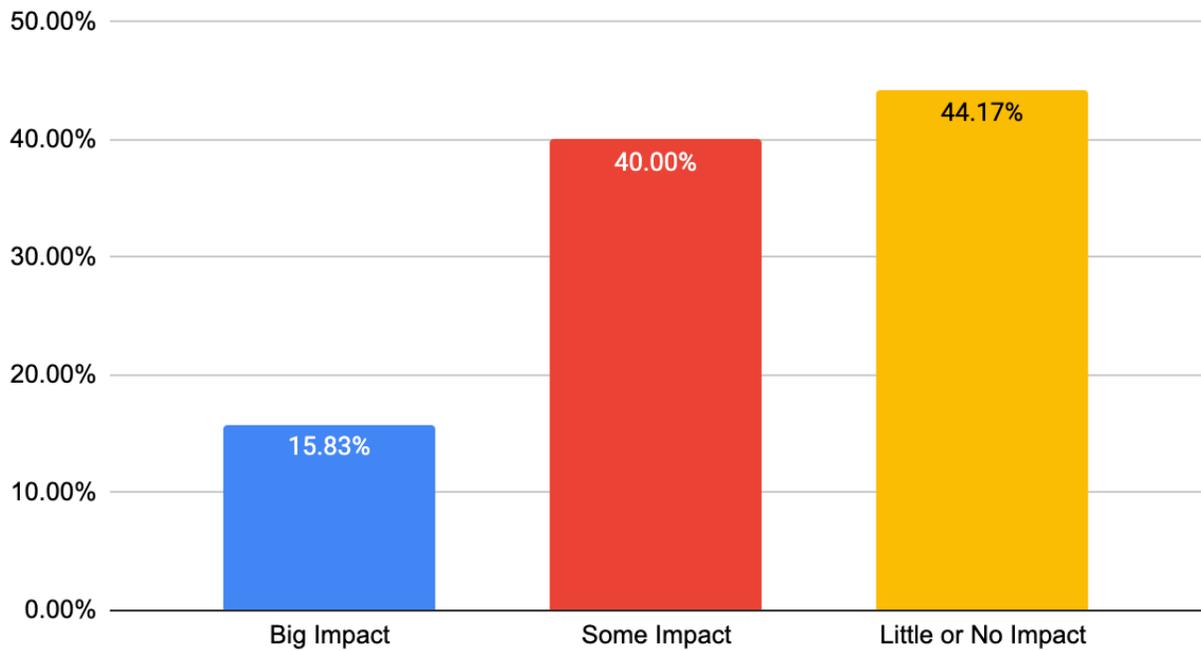
Traffic congestion and commute times for employees



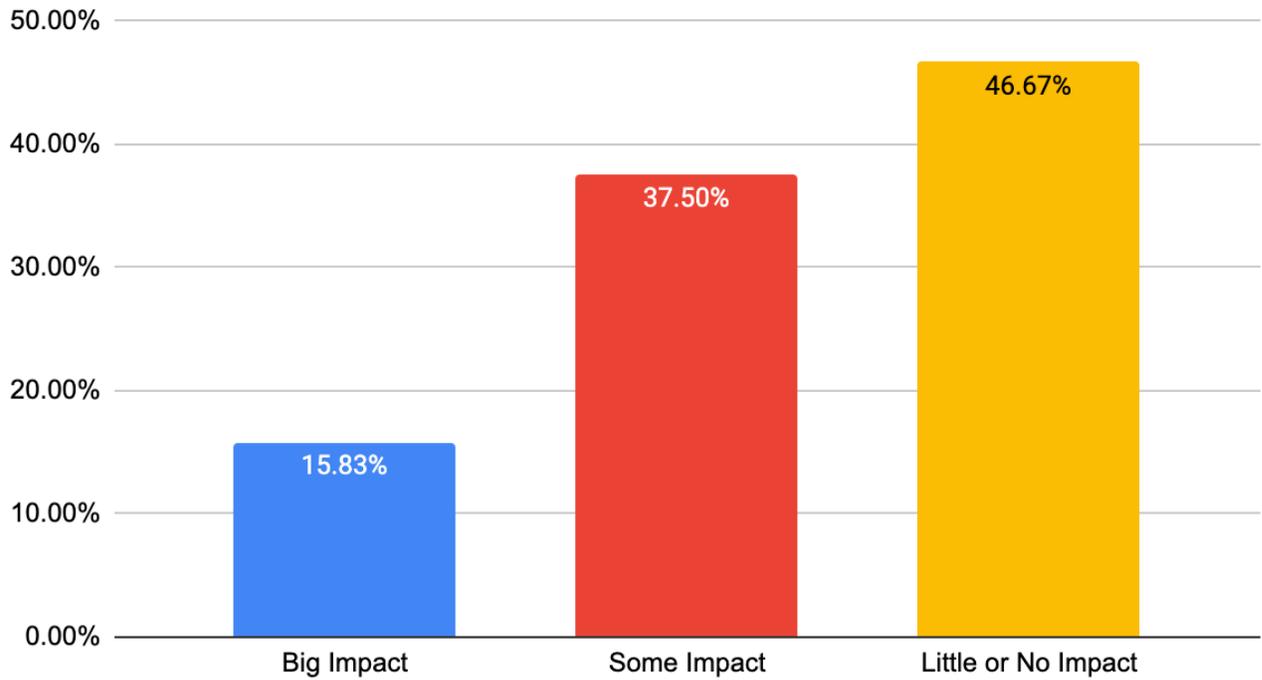
The availability of parking for employees



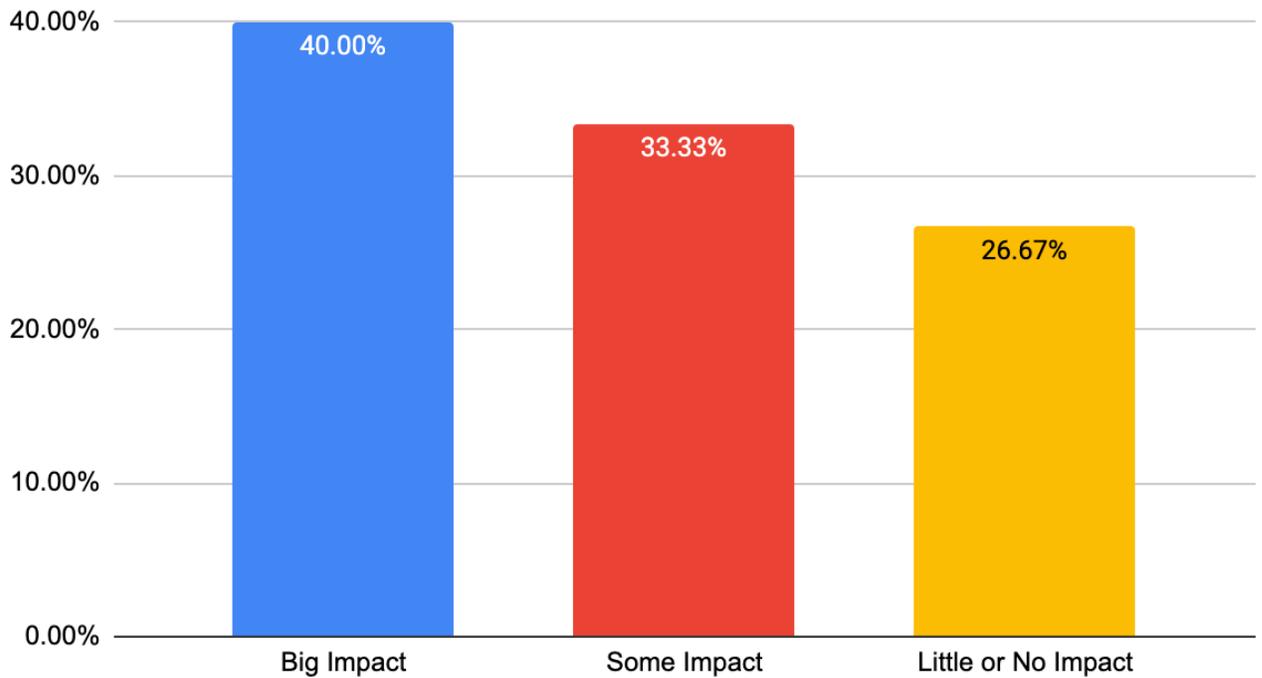
Caltrain cost and limited train schedules



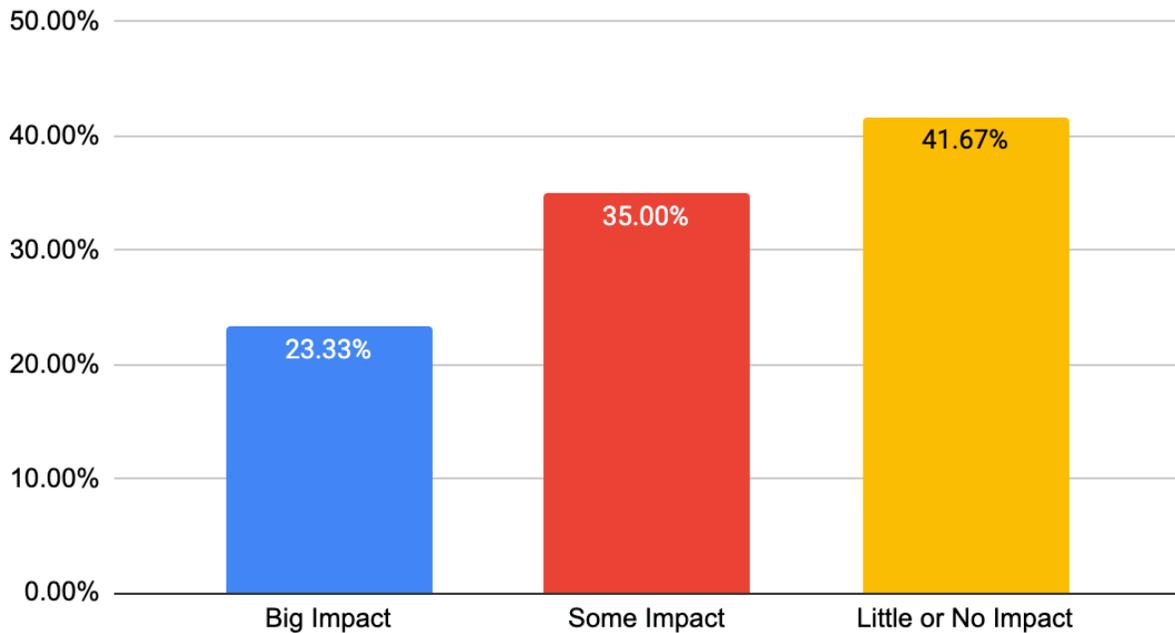
The condition of the local economy



The availability of trained and skilled workers

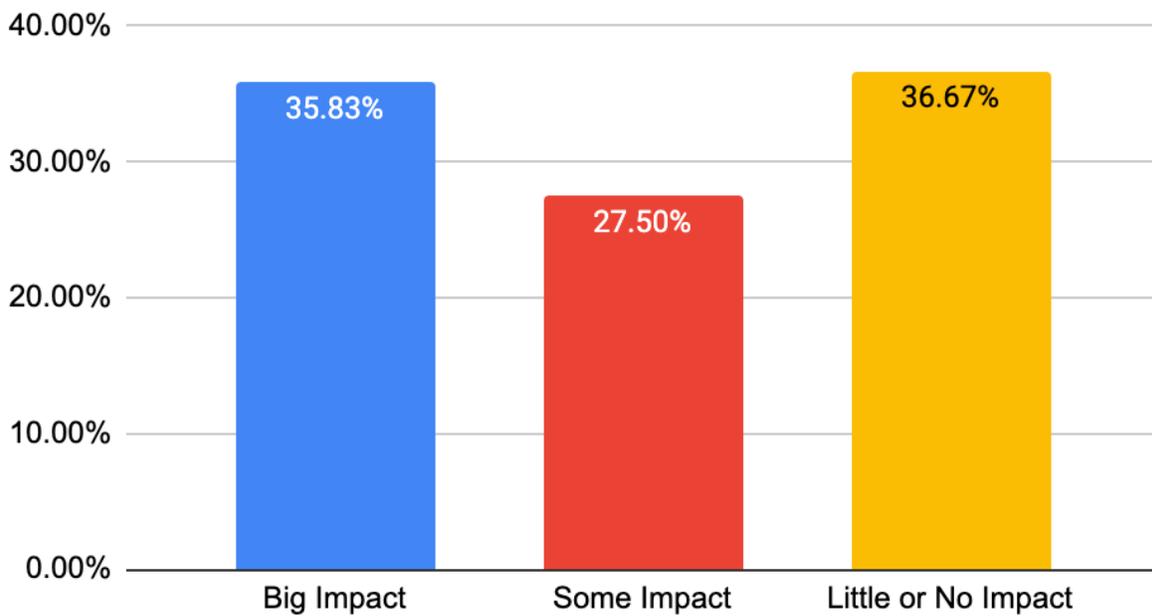


Quality of life issues like crime and homelessness

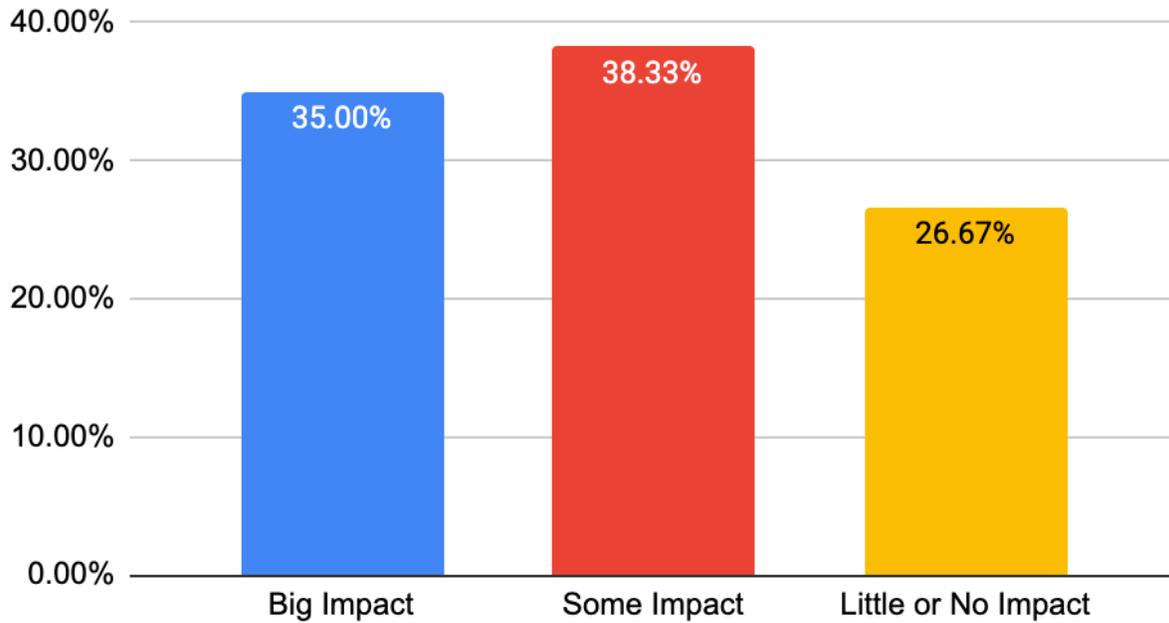


12. For each of the following items, please rate the degree to which each item impacts your business's ability to attract and retain customers in Palo Alto.

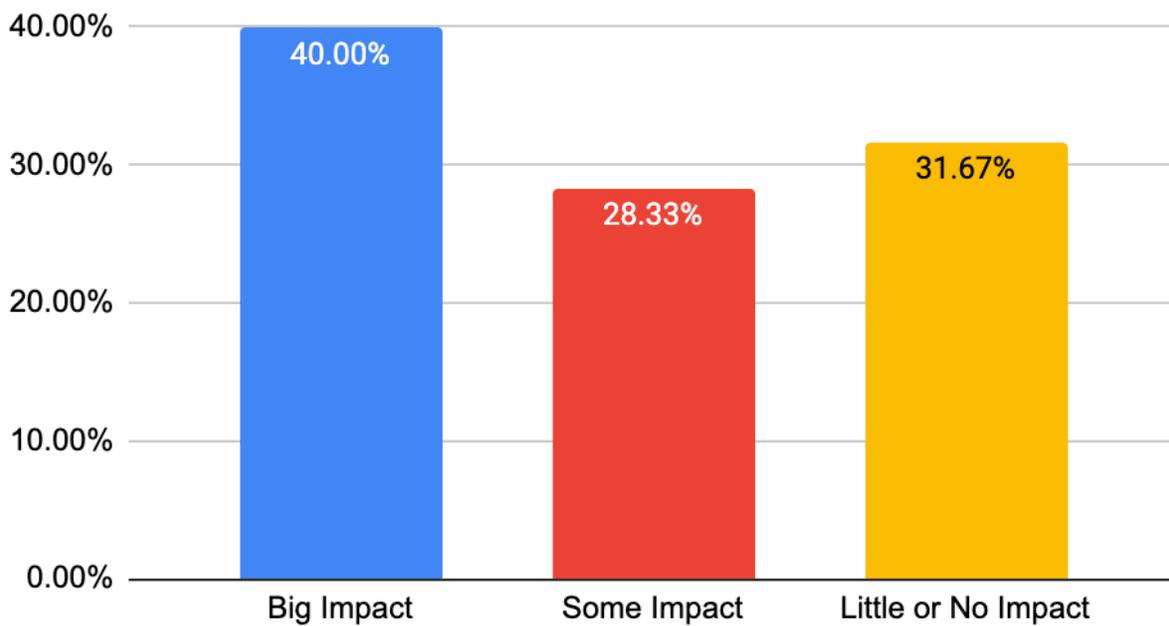
The cost and availability of local housing



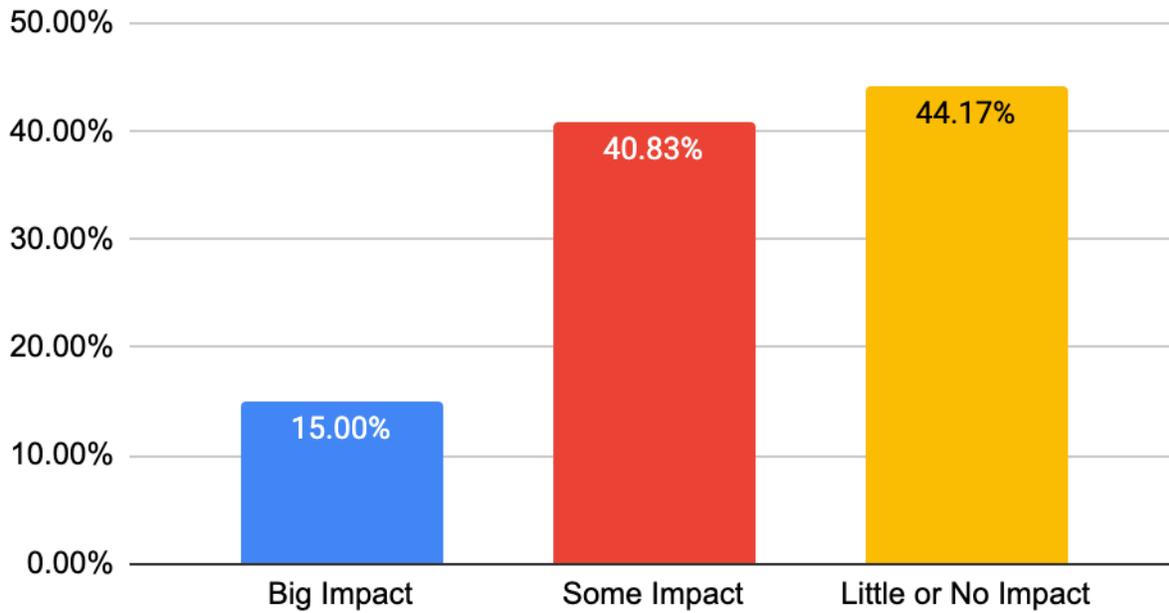
Traffic congestion for customers



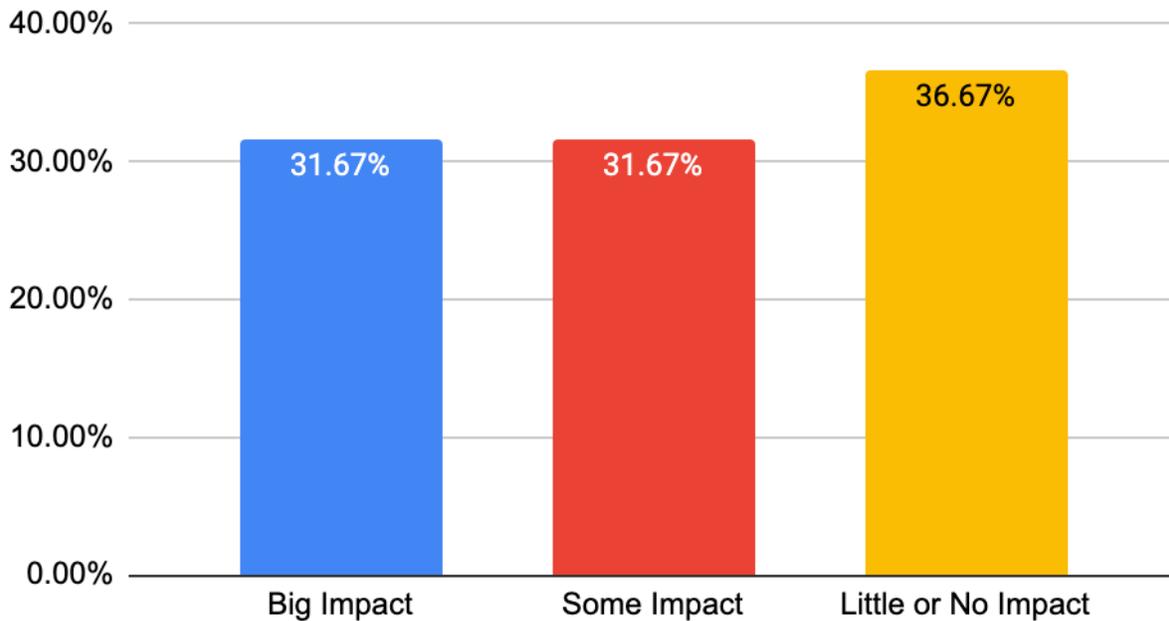
The availability of parking for customers



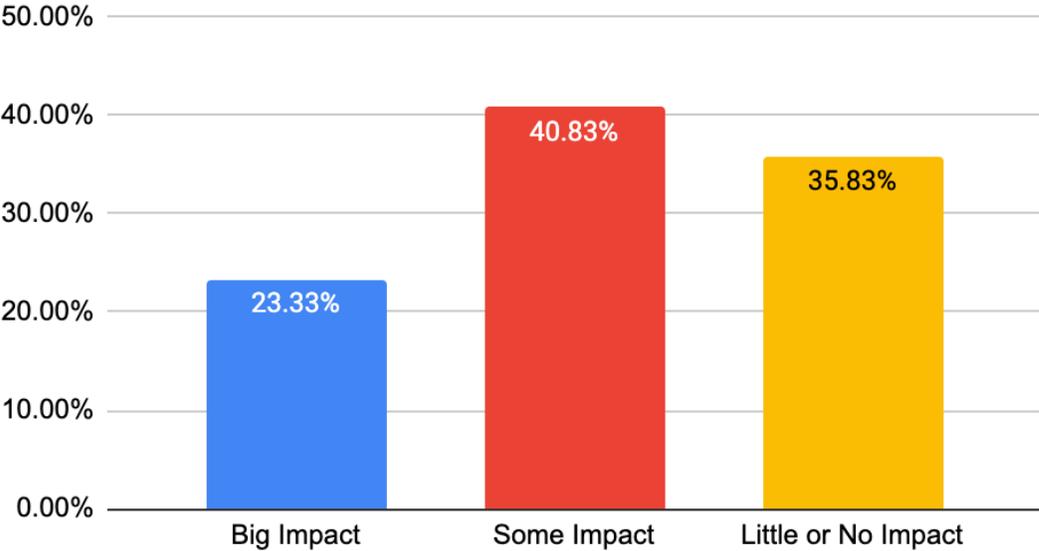
The condition of the local economy



The availability of trained and skilled workers

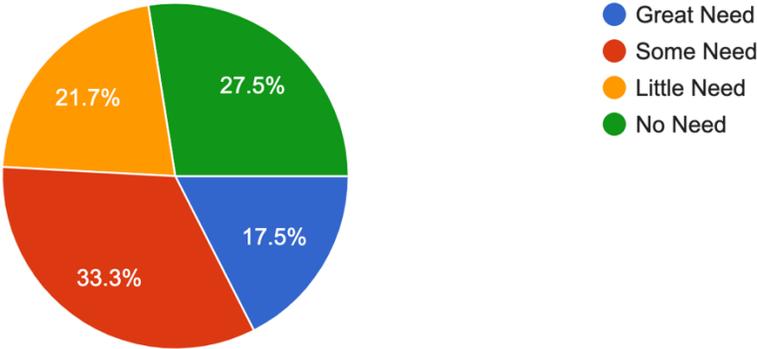


Quality of life issues like crime and homelessness



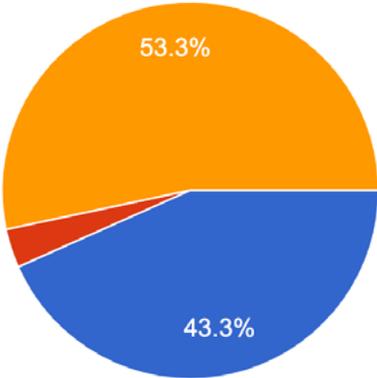
14. How would you rate the City of Palo Alto’s need for additional funding to solve problems currently facing the community?

120 responses



15. How would you rate the amount your business currently pays in local city taxes?

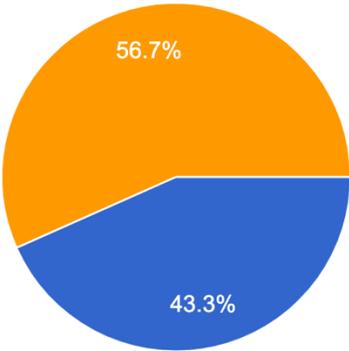
120 responses



- Too High
- Too Low
- About the Right Amount

16. How would you rate the amount your business currently pays to the City for utilities like gas, electricity and water?

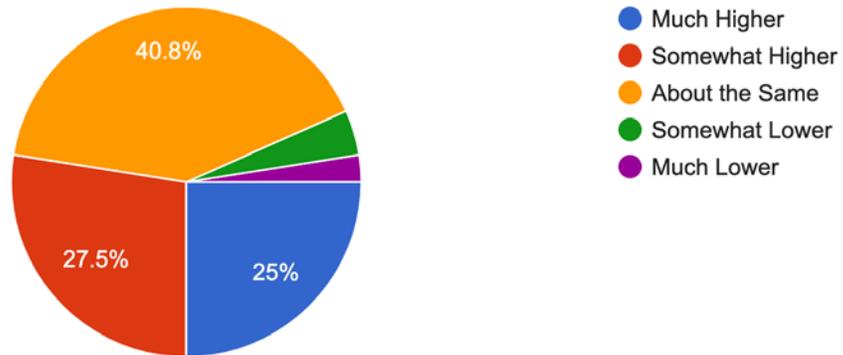
120 responses



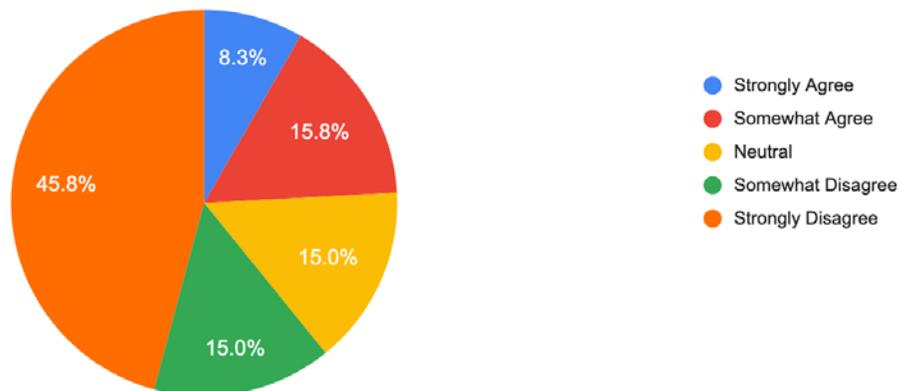
- Too High
- Too Low
- About the Right Amount

17. How do you perceive the amount your business pays in local taxes to the City of Palo Alto compares to the amount paid by businesses in other Bay Area cities?

120 responses

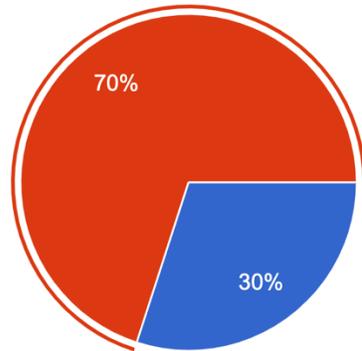


18. To what degree do you agree or disagree with the following statement: Palo Alto businesses should contribute funding for local needs like reducing traffic congestion, improving parking, providing affordable housing and improving public safety by paying a business tax similar to those paid by businesses in neighboring cities?



20. Which of the following statements is closer to your opinion?

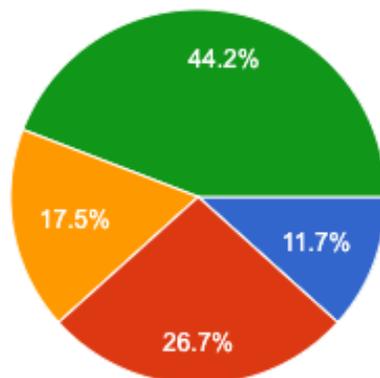
120 responses



- Many challenges facing Palo Alto – like increased traffic and rising housing costs – are in part due to the presence of successful businesses in our city that bring employees and customers to Palo Alto. It is only fair that those business...
- Increasing taxes on local businesses could have negative consequences for our city. It could lead businesses to relocate outside Palo Alto, costing us jobs and making local residents comm...

21. Recently, the Palo Alto City Council has voted to develop a potential local business tax ballot measure with tiered rates based on the number of employees of employees a business has in Palo Alto. Would your business support or oppose a tax structured in this way?

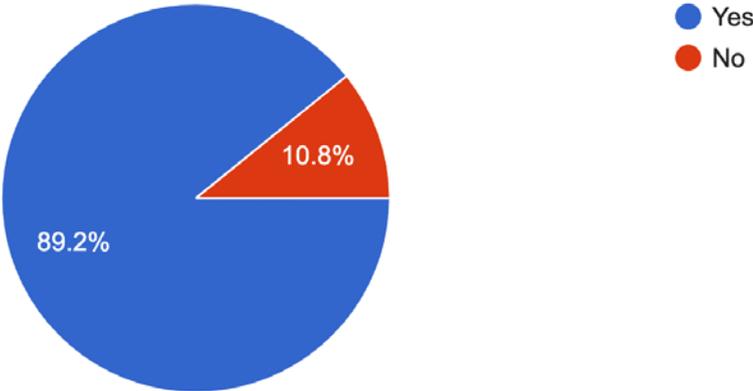
120 responses



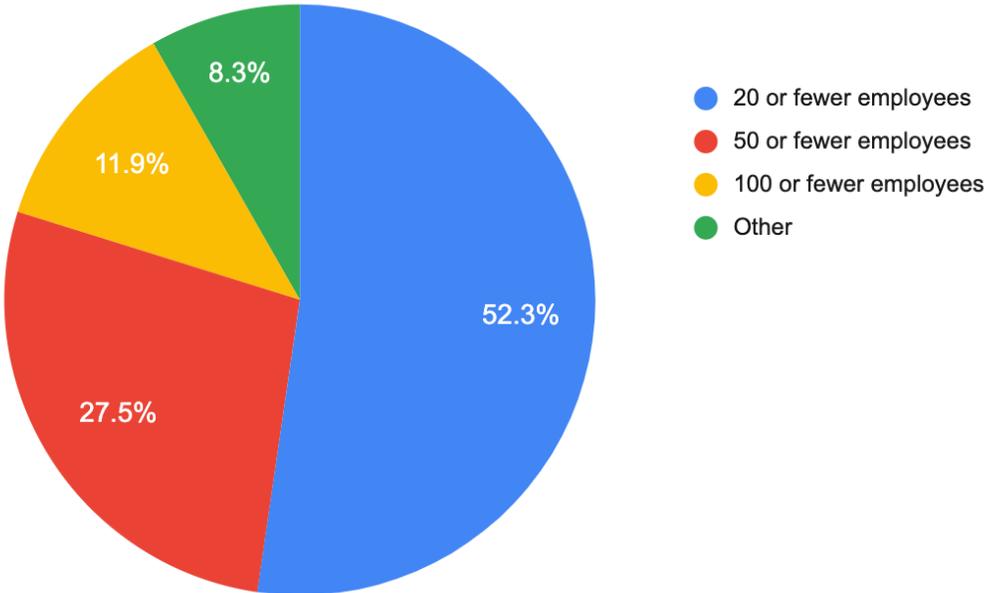
- Strongly Support
- Somewhat Support
- Somewhat Oppose
- Strongly Oppose

23. In your opinion, should small businesses receive an exemption or discount?

120 responses

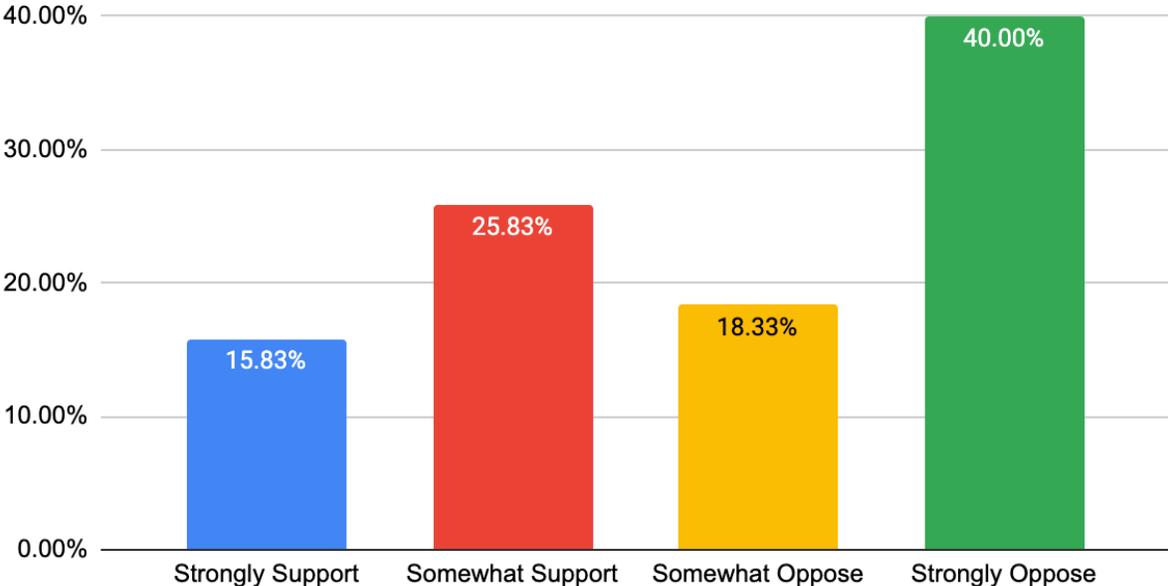


24. If yes, how would you define a small business?

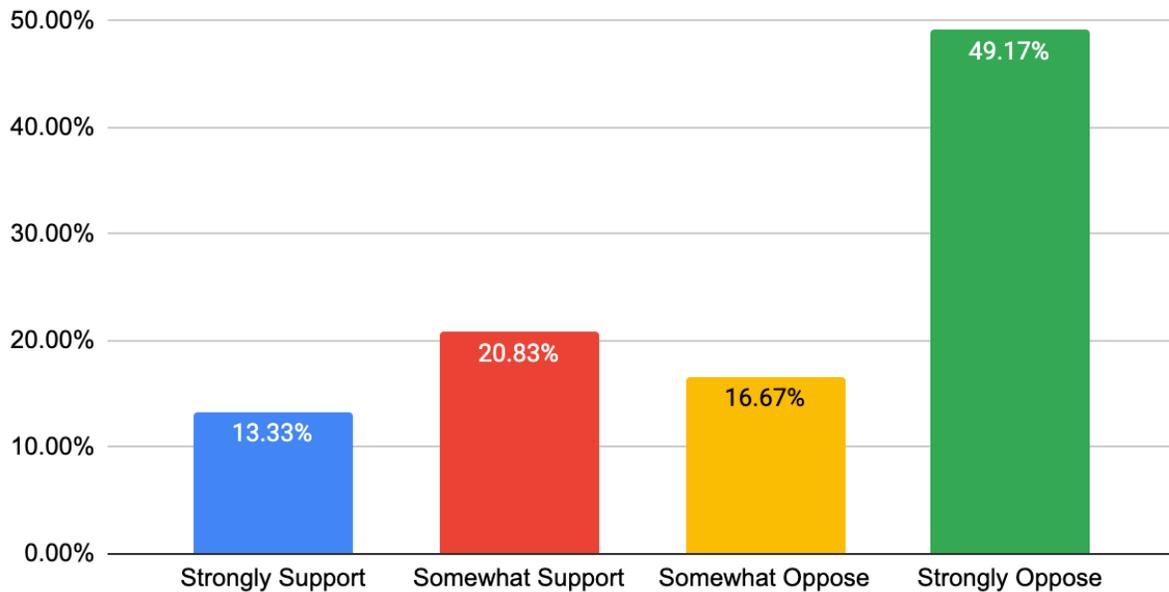


25. Here is a list of several other ways taxes on local businesses are structured in other cities. For each item, please indicate if you would support or oppose a tax on business structured in that way.

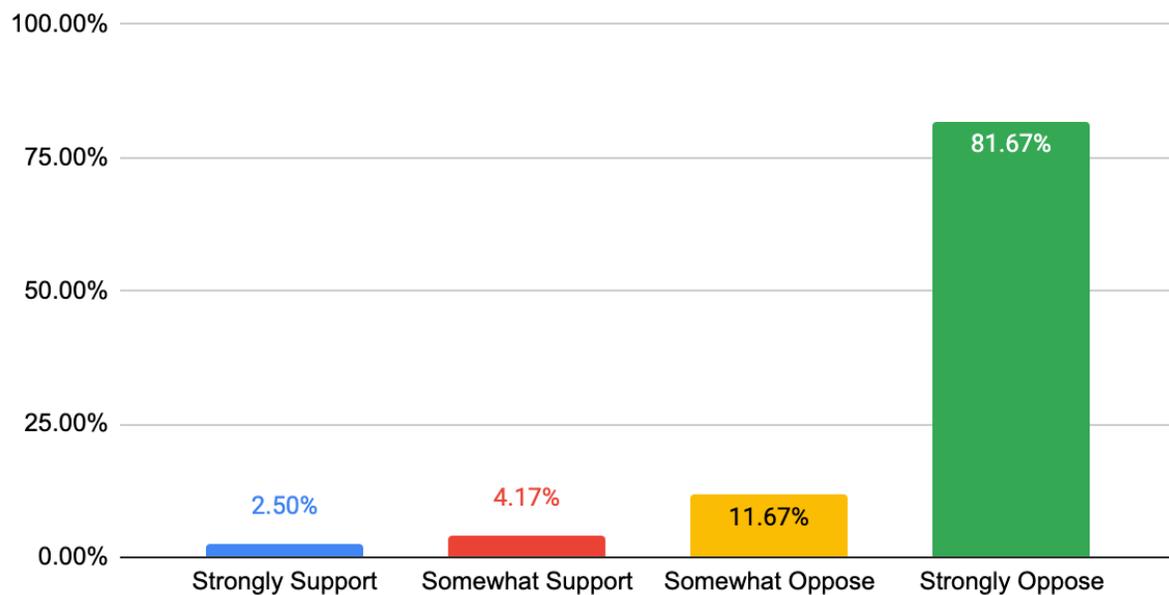
A property tax on commercial buildings based on the building's size



A flat tax that applies equally to all businesses regardless of size, number of employees or revenue

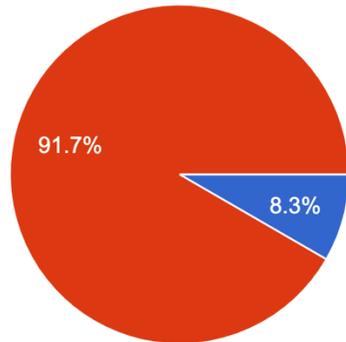


A payroll tax based on the salaries a company pays to employees in Palo Alto



26. Which of the following statements is closer to your opinion?

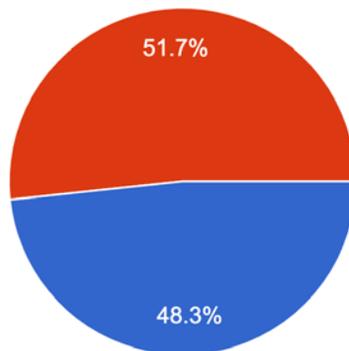
120 responses



- Any business tax should apply the same amount to all businesses regardless of size or revenue.
- A business tax should have tiered rates, so that larger businesses, pay a higher rate than smaller businesses.

27. Which of the following statements best reflects the opinion of your business?

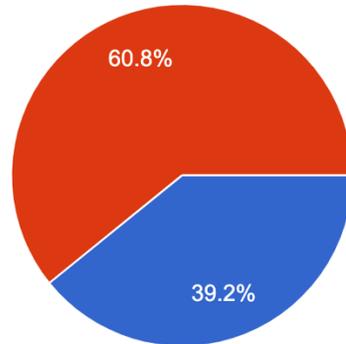
120 responses



- A business tax based on the number of employees a company has in Palo Alto ensures that companies with the most local employees pay their fair share since businesses with more employees put more strain on public services like...
- A business tax based on the number of employees gives companies an incentive to turn employees into contractors to avoid the tax and would disproportionately hurt businesses wit...

28. Which of the following statements best reflects the opinion of your business?

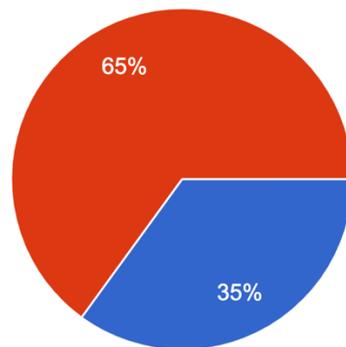
120 responses



- Establishing a property tax on commercial buildings based on the building's size ensures that owners of large business properties will pay more, which is only fair, as their greater size means more impact on traffic, public s...
- A property tax on commercial buildings based on the building's size is unfair, and has little to do with ability to pay – a medical warehouse is much larger than a venture capital firm, for example, but...

29. Which of the following statements best reflects the opinion of your business?

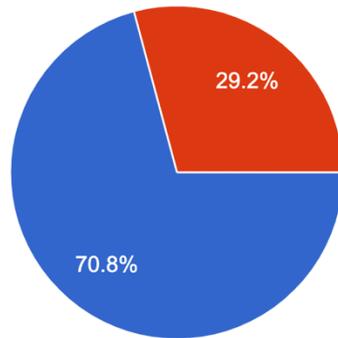
120 responses



- A payroll tax based on the salaries a company pays to employees in Palo Alto ensures that businesses with the highest revenues and most ability to pay invest in Palo Alto – not just those with the most employees.
- A payroll tax gives businesses an incentive to locate elsewhere, especially those with highly paid and skilled employees.

30. Which of the following statements best reflects the opinion of your business?

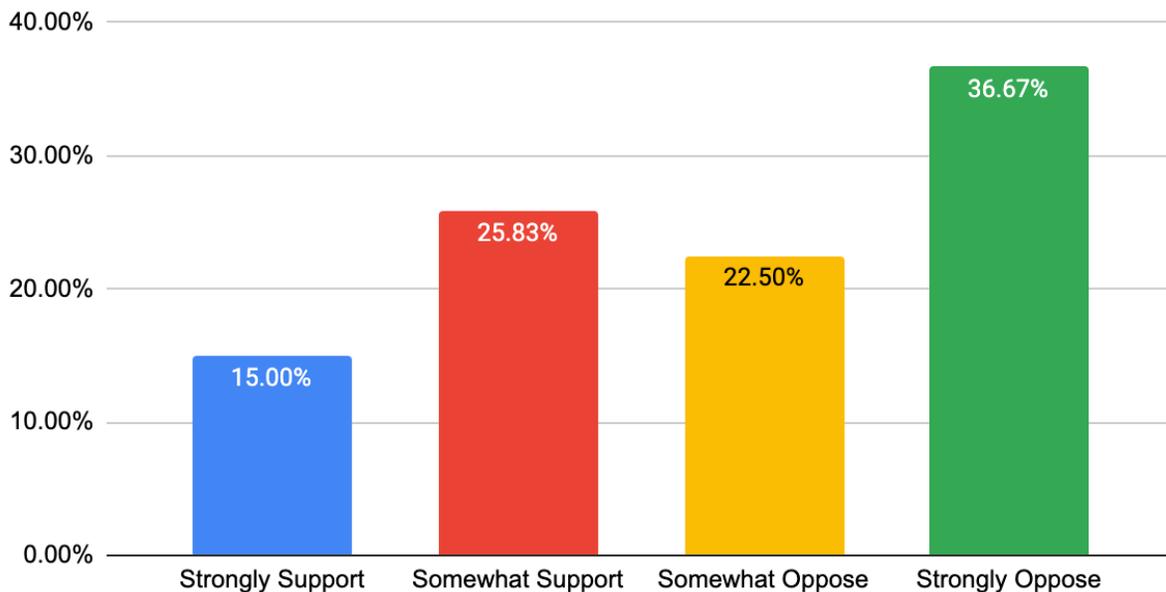
120 responses



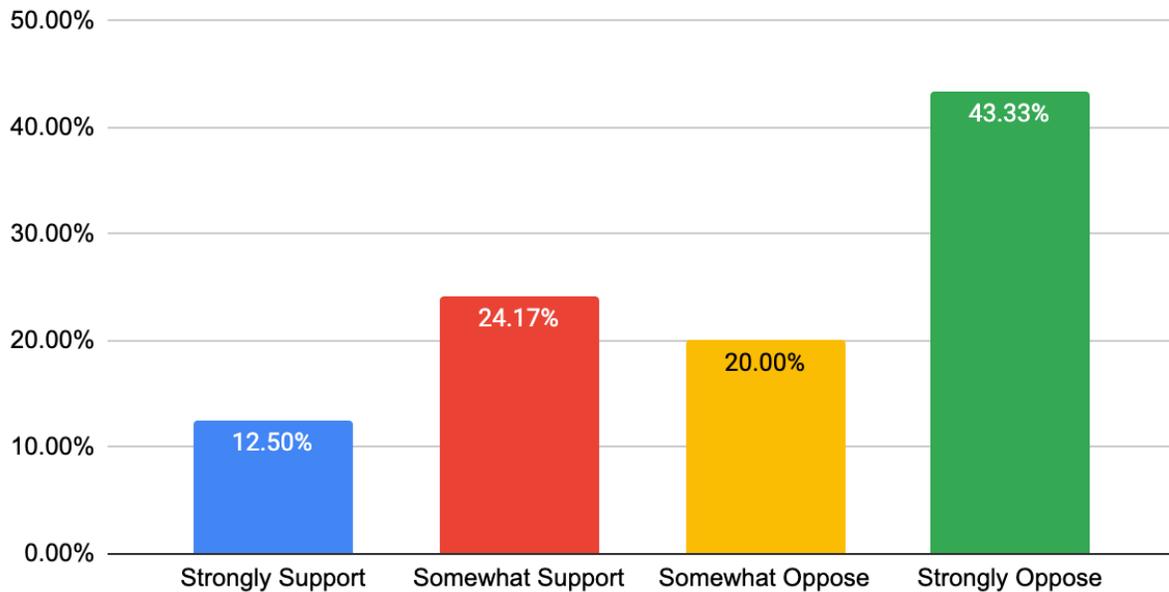
- Any local business tax should be written as a special-purpose measure with clearly defined spending priorities that cannot be changed at a later date.
- Any local business tax should be written as a general-purpose measure, with revenue going into the general fund to be spent as needed on a variety of city needs and to preserve flexibility to address changing city needs over time.

31. Having now considered different options for structuring a potential local business tax, please indicate if you would support or oppose a tax on business structured in the following ways.

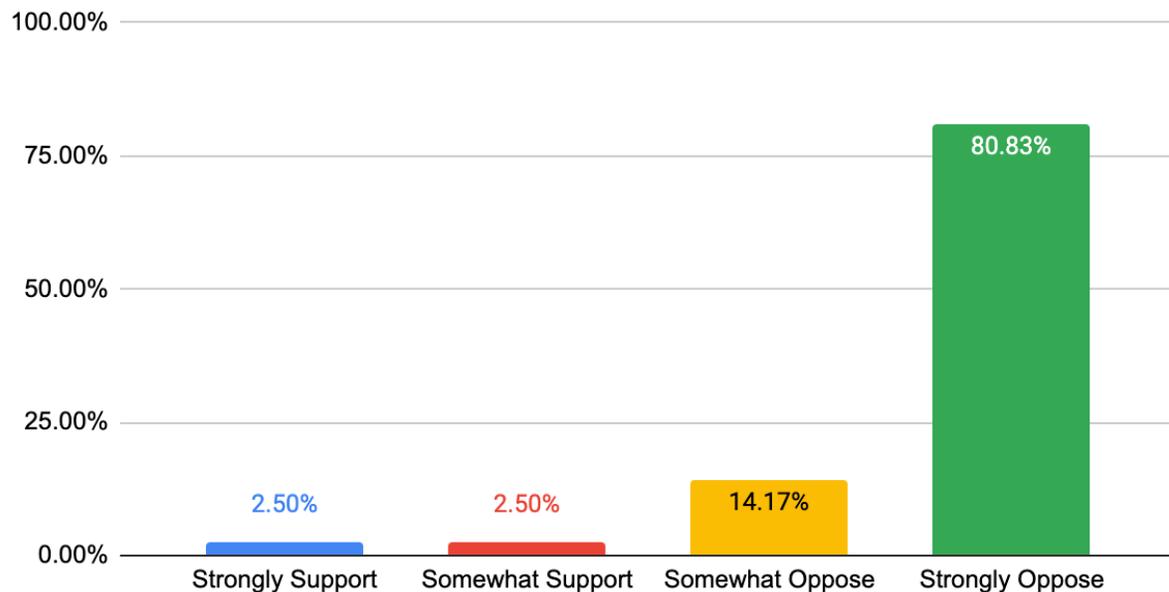
A business tax based on the number of employees a company has in Palo Alto



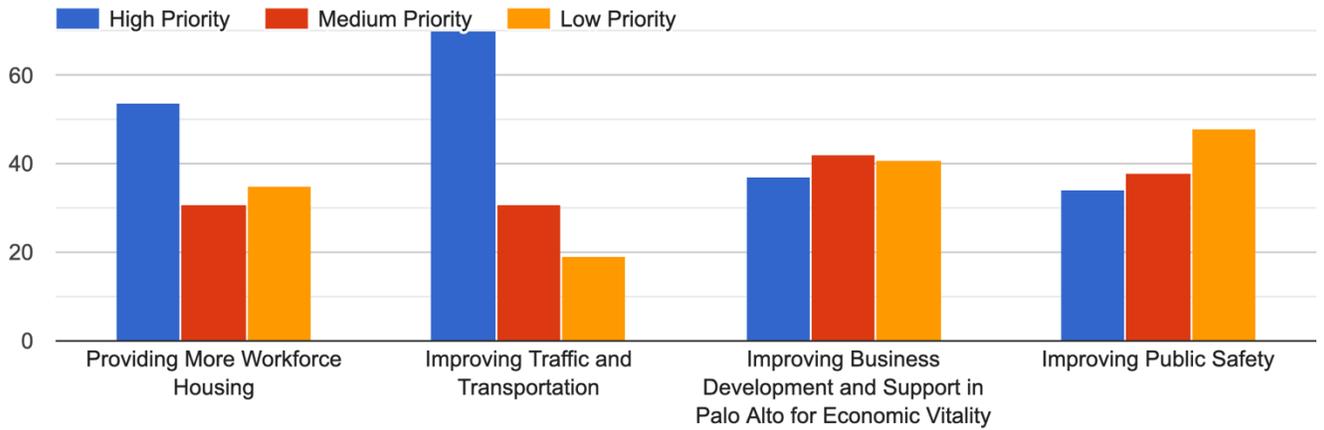
A payroll tax based on the salaries a company pays to employees in Palo Alto



A flat tax that applies equally to all businesses regardless of size, number of employees or revenue

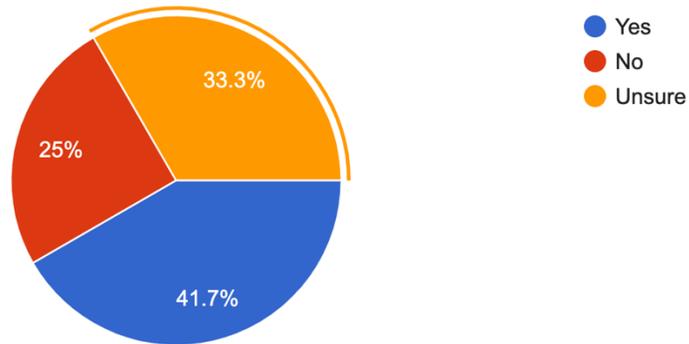


32. If the business tax were to be structured as a special-purpose tax with funding dedicated to specific purposes, how would you prioritize the following potential uses?

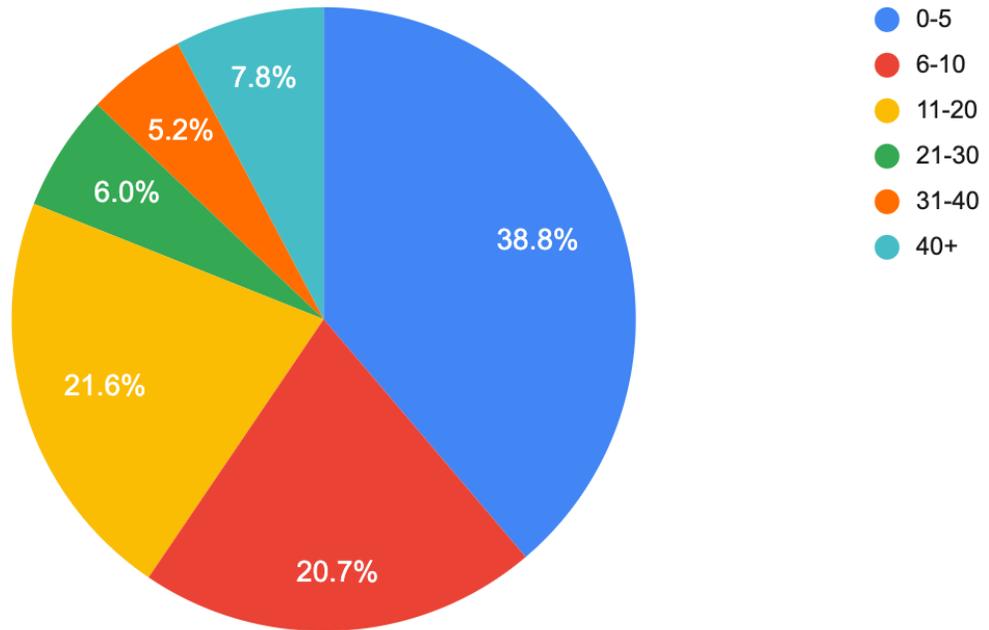


34. If Palo Alto were to enact a tax on businesses, would your business consider relocating to another community?

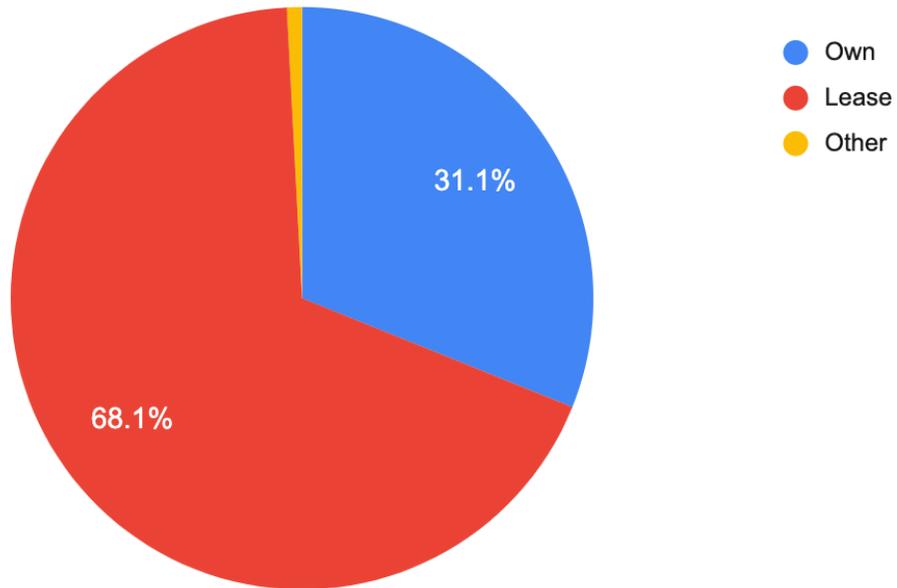
120 responses



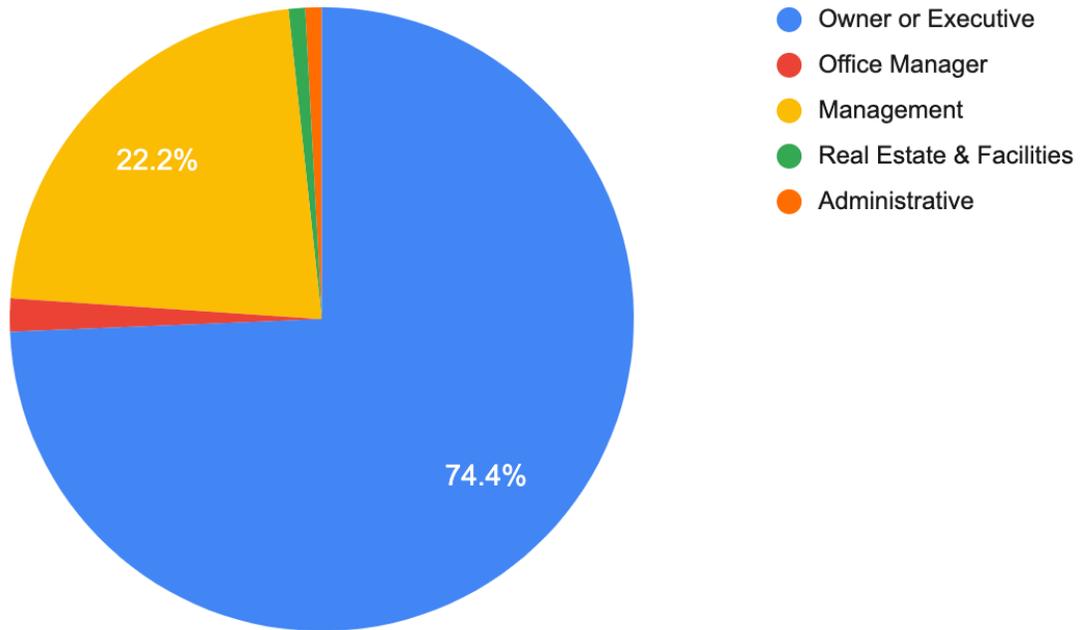
38. Approximate Number of Employees in Palo Alto



39. Does your business own or lease your location(s) in Palo Alto?



40. Respondent's Relationship to Business:



Business License Tax Program Recommended Program Parameters

CITY OF PALO ALTO, CALIFORNIA



March 10, 2019

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1 Overview

Since the prior report, the Matrix Consulting Group has developed for City staff an interactive financial spreadsheet that enables further refinement of revenue projections to be developed based upon varying scenarios. The tool enables a unique rate per employee to be applied to each business size category and for each category to be identified as a small business or not (and therefore applying a different rate for those identified as a small business).

The revenue projections were developed based upon data received from the State of California Employment Development Department on 10/3/19 and covered the fourth quarter of 2018. The data provided by EDD lists, within defined size categories, the number of firms and the number of employees within the City of Palo Alto. One important caveat on this data is that it does not exclude Stanford-related businesses and was generally provided only at the 2-digit NAICS code level. Prior analysis indicated that Stanford-related business represented approximately 3.3% of the total number of firms and approximately 11.5% of total employment.

To clean up the data and address the fact that a portion of the dataset had data suppressed to prevent disclosure of confidential information, the project team made the following assumptions regarding the suppressed firms and employee counts:

- For each business category based on employee size, the project team initially assumed any firm in that size category would be at the median of the range (i.e. – for business category size 5 – 9 we assumed the firm would have 7 employees. For the over 1000+ category, 1,500 employees was initially assumed when actual numbers were not available.
- Based upon the missing firms and knowing the size of the missing firms, the project team utilized a “best fit” approach to allocate the firms to size categories in a manner that accounted for all “missing employees”.
- This approach enables the data to include all firms in the data set and eliminate the majority of the “missing employees” that were due to the suppressed data enabling the final projections to be more accurate and reflective of the actual business environment in the City of Palo Alto.

For purposes of conducting revenue projections, the average number of employees per firm is used. The base tables utilized are provided in Appendix A.

The following information provides specific details on policy and administrative elements of establishing a business license tax program.

2 Program Implementation Parameters

This supplemental report to the prior report completed on the Business License Tax Program Revenue projections provides information regarding key elements of implementing a business license tax program. It is based upon prior advisory direction given by the City Council at prior meetings and approaches utilized by other Bay Area comparable communities that license businesses. It is intended to provide context on potential options regarding how the City of Palo Alto should structure the implementation and administration of their business license tax program.

1. Defining an Employee.

The City will need to determine a reasonable definition for who is to be considered an employee and how the total number of employees will be calculated. Several of the comparable jurisdictions with a Business License Tax program have the term “employee” defined within their ordinance. Certain jurisdictions further define the term “total number of employees”, “average number of employees” or similar language based on whether that jurisdiction’s taxing methodology requires calculation of total employees.

(a) Comparable Communities’ definition of “Employee”:

- “Any or all persons engaged in the operation or activity of any business, whether as owner, a corporate officer, a partner, agent, manager, solicitor or any and all persons employed or working in such business either full time, part-time, permanent or temporary”. – **Santa Clara**
- “Any person working in, or engaged in, the operation or conduct of any business, including, but not limited to the owner, a member of the owner’s family, partner, officer, agent, manager, servant, or solicitor”. – **Sunnyvale**
- “Any individual in the service of an employer, under an appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes but is not limited to, all of the enumerated categories in subsections (a) through (f) of California Labor Code Section 3351, regardless of whether Workers' Compensation Benefits, pursuant to Division 4, Part 1, Section 3200 *et seq.* of the California Labor Code are required to be paid”. – **San Francisco**

- “Each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission or room and board”. – **San Jose**
- “Any person who works for or under the direction of, or on behalf of or as an agent of a business operator.” – **Mountain View**
- “All persons engaged in the operation or conduct of any business including an owner, any member of an owner's family, partner, agent, manager, solicitor and any and all other persons employed or working in or associated with said business whether or not any salary or other compensation or remuneration is paid for such work. "Employee" as used herein includes employees (as defined above) of subcontractors, licensees or other persons engaged in the business for which a license hereunder is issued unless such subcontractors, licensees or other persons are licensed hereunder for the businesses in which they are engaged or which they conduct. Employee shall not include persons employed on a seasonal or periodic basis for less than one month or on a part-time basis for two (2) months or less.” – **Redwood City**
- “Any person engaged in the operation or conduct of any business, whether or not any member of the owner’s family, partner, agent, manager, solicitor, and any other person is employed or working in such business.” – **San Mateo**

(b) Comparable Communities’ definition of “Average Number of Employees”:

- The total number of employees for whom a tax is to be paid shall be determined in the following manner:
 - a. For any business having a fixed place of business in the city, the total number of employees shall be the greatest number of persons employed or expected to be employed or taking part in the business during any twenty-four-hour period.
 - b. For any business not having a fixed place of business in the city, the total number of employees shall be the greatest number of persons employed or expected to be employed or taking part in the business within city limits during any twenty-four-hour period. - **Sunnyvale**

- The average number of employees employed in the city in applicant's business in the one year immediately preceding the commencement of the year for which the business tax certificate is being issued, and shall be determined as follows:

By ascertaining the total number of hours of service performed in the city by all employees in the applicant's business during the preceding year and dividing the total number of hours of service thus obtained by the number of hours of service constituting a day's work according to the laws, custom or usage governing or pertaining to such employment, and the number thus obtained shall then be divided by the number of business days in the preceding year; or

At the option of the applicant, if the applicant files with the state department of employment the forms and reports hereinafter mentioned, and if the applicant reports therein all applicant's employees as defined in this chapter, the applicant may calculate the average number of employees by taking the number of employees employed in applicant's business in the city in each month of the preceding year as shown and reported on all DE3 forms, and by dividing the sum thus obtained by twelve. The DE3 and other forms hereinabove referred to are those certain forms entitled "DE3 Contribution Return and Report of Wages Under the Unemployment Insurance Code," which employers are required to file with the state department of employment, under the Unemployment Insurance Code of the state for the purpose of reporting contributions due under such code, and any other form or forms now or hereafter required by the state for such purposes.

In computing the average number of employees, fractions of numbers of one-half and greater shall be rounded up to the next whole number. – **San Jose**

- The number of employees as herein defined employed monthly within the City earning wages for the periods nearest the fifteenth day of each month during the previous year as reported by the applicant to the State Department of Employment on forms which are used for reporting payments due under the Unemployment Insurance Act of the State of California for each month of the previous calendar year, adding the same and dividing by twelve (12) and adding to the result thereof the number of employees compensated by other than wages engaged in the business. If the applicant has been in business less than one year, the average number of employees shall be the number of employees determined as described above divided by the number of months remaining in the calendar year for which such calculation is made.

As an alternative to the definition above, and at the option of the applicant, the "average number of persons employed" shall mean the average number of persons employed daily by the applicant for one year, determined by ascertaining the total number of hours of service performed in the City by all such employees during the previous year and dividing the total number of hours of service thus obtained by the number of hours of service constituting a year's work of one full-time employee according to the customs governing such employment and adding to the result thereof the number of owners, partners or other principals, salespersons or agents employed by the applicant, irrespective of the number of hours of service provided by such employees. "Hours of service" as used in this definition shall include all paid holidays, sick leave, vacations and any other days for which compensation is paid irrespective of whether work is performed therefor. As a condition to the optional use of the foregoing definition, the applicant shall provide all business records or other documentation related to the calculation aforesaid required by the Director. – **Redwood City**

(c) State of California Employment Development Department definition of employee.

Another useful source for defining an employee is the definition utilized by the State of California Employment Development Department (EDD). This department is the source of data utilized for projecting and estimating the revenue impacts of the business license tax program under consideration.

The Employment Development Department defines an employee as:

An "employee" includes all of the following:

- Any officer of a corporation.
- Any worker who is an employee under the ABC Test.
- Any worker whose services are specifically covered by law.

An employee may perform services on a temporary or less than full-time basis. The law does not exclude services from employment that are commonly referred to as day labor, part-time help, casual labor, temporary help, probationary, or outside labor.

This definition is summarized on an information sheet developed by the EDD and attached as Appendix B. More details regarding the EDD definition of employee can be found on page 8 of the 2020 California Employer's Guide available at: https://www.edd.ca.gov/pdf_pub_ctr/de44.pdf. One major benefit of utilizing the EDD

definition of employee would be the ability to utilize reports that businesses file with EDD as part of the City's audit program. This would provide an easy methodology for auditing the number of employees for a business.

(d) Analysis and Recommendation

According to California Government Code, Title 4. Government of Cities, Chapter 3. General Powers, Section 37101(b), the City must ensure that any business license tax levied fairly reflects the proportion of the taxed activity that is actually carried on within the City. To comply with this requirement the City will need to ensure that employees subject to the tax are performing work within the corporate City limits of Palo Alto.

While comparable organizations have various definitions for employee and total number of employees, to simplify the process for the business owner and for ease with administration, the City of Palo Alto could consider the following definitions:

Employee: "Any person engaged in the operation or activity of any business, whether as owner, a corporate officer, a partner, agent, manager, solicitor, or any and all persons employed or working in such business either full time, part-time, permanent or temporary".

Total number of employees: "Total number of employees for whom a tax is to be paid shall be determined as follows:

- a. For any business having a fixed place of business in the city:
The total number of employees shall be the greatest number of persons employed or expected to be employed or taking part in the business during any twenty-four-hour period.
- b. For any business not having a fixed place of business in the city:
The total number of employees shall be the greatest number of persons employed or expected to be employed or taking part in the business within city limits during any twenty-four-hour period."

A guiding clarification question for business owners to determine their number of employees for purposes of computing the appropriate BLT is "what was the greatest number of people working for the company, within the City of Palo Alto, on any day in the past year"?

Recommendation: Adopt clearly defined and easily calculated definitions of “employee” and “total number of employees”. It would be suggested that the City consider adopting the EDD definition of employee to enable an audit program that is easier to implement and relies upon a known approach to classifying employees.

2. Employee Verification Requirements

This section provides information on methods used in comparable BLT programs to help ensure the accuracy of provided data that is subsequently used to calculate an appropriate business license tax. Each comparable BLT program employs various methods in an attempt to ensure the accuracy of the data provided by business license applicants.

Each of the cities, regardless of the basis for their respective Business License Tax, requires the applicant to sign their application. Some applications are signed after declaring under penalty of perjury that the information contained therein is accurate and each city provides for the ability to audit the business to determine compliance with their Business License Tax Code. Some of the comparable cities put a provision in their Code that prohibits any City employee or agent from revealing any confidential data obtained during a compliance audit.

The following table shows the comparable cities, whether they require signed affidavits or sworn statements, and whether they provide for the ability to audit the business’s books to determine the accuracy of business data reported on the application or renewal form.

City	Signed Affidavit or Sworn Statement	Audit Requirement
Santa Clara	Yes	Yes
Sunnyvale	Yes	Yes
East Palo Alto	Yes	Yes
San Jose	Yes	Yes
San Francisco	Yes	Yes
Cupertino	Yes	Yes
Mountain View	Yes	Yes
Redwood City	Yes	Yes
San Mateo	Yes	Yes

The data show that each comparable City with a BLT program has a business license applicant attest as to the accuracy of their data on the application or renewal form and each has an audit provision in their respective Code.

The following are sample Code language from comparison City BLT Codes as they relate to verifying data provided on a Business License application or renewal.

- “Upon making application for the first certificate to be issued under this chapter where the amount of the tax is measured by the number of employees, the applicant shall furnish to the Director of Finance, for guidance in ascertaining the amount of such tax, a signed affidavit under penalty of perjury, upon a form provided by the Director of Finance, setting forth such information as may be necessary to determine the amount of the tax. The amount of the tax is determined by the number of persons engaged in the business at the time of application”. – **Santa Clara**
- Each person making application for the first license to be issued hereunder, or a license for a newly established business, shall furnish to the collector a sworn statement (upon a form provided by the collector) setting forth the following information:
 - (a) The exact nature or kind of business for which a license is requested;
 - (b) The place where such business is to be carried on;
 - (c) If the license is to be issued to a person doing business under a fictitious name, the application shall set forth the names of the owners of the business;
 - (d) If the license is to be issued to a corporation or a partnership, the application shall set forth the names of the officers or partners thereof;
 - (e) The number of employees employed in the business which is the subject of the application;
 - (f) Any further information which the collector may require.
- (a) No sworn statement required to be filed shall be conclusive as to the matter set forth therein. The filing of a sworn statement shall not preclude the city from collecting any sum of money actually due and payable under this chapter by appropriate action.
- (b) The collector shall have the right to examine and audit at all reasonable times the books and records of any licensee, or person making application for a license in order to (1) verify any sworn statement filed and the items contained therein, and (2) verify or ascertain the amount of any business license tax due.

If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the collector he fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to apply for a license, the collector shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. In case such determination is made, the collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the person so assessed at his last known place of address. –**Sunnyvale**

- The tax administrator shall have the right to audit records of the businesses subject to the business license tax to ensure compliance with this chapter. Businesses shall retain records pertaining the business license tax for a period of three (3) years from the end of each calendar year, and shall allow the city access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this chapter. Where a business does not maintain or retain adequate records documenting the number of its employees or does not allow the city reasonable access to such records, the city's calculation of the number of employees of the business shall be presumed to be accurate, absent clear and convincing evidence otherwise. – **Mountain View**
- The council, the board of review, the tax review committee, the Tax Collector, and any person designated as an agent by any of the above-listed persons for such an inspection may, at any time during normal business hours, for the purpose of enforcing the provisions of this title, inspect the accounts, books, papers, and documents of any business that holds any permit or tax certificate of the City or that has filed a permit application or business tax return with the City. Any person shall produce under the seal of the City his or her authority to make such an inspection.

The council, board of review, the tax review committee, or Tax Collector may, upon 5 days written notice, require any business that holds a permit or tax certificate issued by the City or that has filed a permit application or business tax return with the City to produce any accounts, books, papers, or documents at any location in the City that the Council, board of review, or Tax Collector may designate in writing, for the purpose of enforcing this title.

No person conducting an inspection or review pursuant to this section may reveal the information obtained from such an inspection or review to anyone not charged with the administration or enforcement of the provisions of this title. – **San Mateo**

In order to facilitate a reasonable likelihood of obtaining accurate employee count data, the City of Palo Alto should consider requiring each applicant to sign their Business License application and renewal under penalty of perjury, attesting that the information contained therein is accurate. Recommended language at the bottom of the application is:

AFFIDAVIT: I certify, under penalty of perjury, the information I provided in this application is true and correct, to the best of my knowledge.

Following that statement is the section to print or type the applicant's name, followed by the signature line.

The City should include a requirement in the Code that permits audit of a business's books, papers, or documents for the purpose of enforcing the Business License Tax ordinance. Recommended ordinance language is as follows:

“Upon making application for an initial or renewal Business License, the applicant shall furnish to the City a signed affidavit under penalty of perjury, upon a form provided by the City, setting forth such information as may be necessary to determine the amount of the business license tax.”

“The Tax Administrator or designee shall have the right to audit the books, papers, or other documents of any business subject to the business license tax to ensure compliance with this chapter. Each business shall retain records pertaining to the business license tax for a period of three (3) years from the end of each calendar year. With at least five days written notice and during normal business hours or a mutually agreeable time, the business shall allow the City access to such records in order to monitor compliance with the requirements of this chapter.

No person conducting an inspection or review of a business's books, papers, or other documents on behalf of the City and pursuant to this section may reveal the information obtained from such an inspection or

review to anyone not charged with the administration or enforcement of the provisions of this title”.

Recommendation: Require Business License applicants and renewals to sign their application/renewal under penalty of perjury.

Recommendation: Provide for an audit provision in the Business License Tax ordinance allowing City officials to audit the books, papers, or other documents of the business for the purpose of enforcing the ordinance.

Recommendation: Provide a requirement that anyone acting on behalf of the City that audits a business’s books is legally prohibited from revealing confidential business data to anyone not charged with the enforcement of the Business License ordinance.

3. Hardship/Amnesty Programs

Business License Tax hardship or amnesty programs are meant to provide a means for businesses subject to the tax to have the tax waived if certain conditions are met. The only City from the comparison to offer a hardship exemption is the City of San Jose.

A portion of the City of San Jose’s financial hardship exemption is as follows:

“The Financial Hardship Exemption Program is designed to help sole proprietor businesses in the City of San José whose business income is at or falls below two times the poverty level income established by the United States Department of Health and Human Services.”

As 89% of the comparable BLT programs do not offer hardship or amnesty exemptions, it is not recommended that the City of Palo Alto include any such exemption in their BLT Code as part of the base ordinance. In the future, if circumstances require, the City can consider implementation of a hardship exemption or amnesty program for businesses within the City.

Recommendation: To remain consistent with other Bay-area cities, it is not recommended that the City of Palo Alto include a hardship or amnesty exemption language in the City’s Business License Tax Program.

4. Program Administration

The following section provides information on BLT program administration, including timing of business license renewals and the number of City employees required to administer a BLT program. Program administration includes managing the business license program including the timing of when renewal licenses are due. In some of the comparable jurisdictions, renewal licenses are required at a certain point each year for all businesses (annual) and in other jurisdictions they are required to be paid on a rolling basis (i.e. 12 months after the current license was obtained). One jurisdiction, the City of Sunnyvale, requires businesses to pay for two years at a time in order to receive their Business License.

The following table shows information on how each comparable BLT program is administered with regard to when renewal Business Licenses are paid.

City	Renewal	Comments
Santa Clara	Rolling	BLT taxes due annually 12 months from the time the license was first issued. Nonrefundable.
Sunnyvale	Annual	Must be paid two years at a time with renewals due January 1.
San Francisco	Annual	March 31.
East Palo Alto	Annual	Licenses are by calendar year.
San Jose	Rolling	Based on when first issued. Nonrefundable.
Mountain View	Annual	By calendar year. Nonrefundable.
Redwood City	Annual	July 1 – June 30.
San Mateo	Annual	On a “quarter system”. Taxes due at the end of the quarter in the year following the month you originally obtained the Business License (i.e. sign up in January 2020, renewal due in March 2021).

Accepting renewal payments throughout the year on the anniversary of the issuance of the original business license allows for employee workload to be spread out throughout the year. While some months will have seen more business starts than others, theoretically there is more of an even distribution of workload for BLT staff than with acceptance of renewal payments at only one time of the year.

The benefits of annual license renewal are for overall ease of administration. With all licenses due for renewal at the same time (or if quarterly, four times a year), staff are able to obtain efficiencies in receipting payments, following up on overdue licenses, and in scheduling audits. As discussed later in this section, most comparable jurisdictions do not have fulltime staff dedicated to the BLT program throughout the year in which those staff commit 100% of their time to administering the program. The employees in those

jurisdictions often work fulltime on BLT matters for a few months (during the renewal time) and then split their time on BLT administration and other responsibilities.

Only cities that use a per employee basis as the methodology for their business license tax program are included in the following analysis. The table below shows estimated staffing requirements for administering the BLT program in each respective jurisdiction.

City	Estimated FTEs	Comments
Santa Clara	1.0	There are several employees cross trained to handle multiple responsibilities, including BLT program administration. There is 1.0 FTE cumulative time commitment estimated from all employees to administer the BLT program.
Sunnyvale	1.5	There are two fulltime employees assigned to BLT program administration from October through February. Those employees are still fulltime the remaining months; however, they perform other tasks as well during nonrenewal times.
San Jose	10.0	There is a manager, a supervisor, four inspectors (auditors), and four staff who answer phones/field inquiries. The four who answer phones are through a staffing agency while all others are employees of the City. All positions are fulltime.
Mountain View	1.5	There are two fulltime employees that handle the BLT program and utilities. They each spend approximately 75% of their time with BLT program administration.
Redwood City	1.0	There is one employee who administers the program; however, that person performs other non BLT tasks as well. That employee spends approximately 70% of their annual time on BLT program administration. There are five other employees in the office each cross-trained to handle BLT functions. Each spends between 5% and 10% of their time on BLT program administration (0.375 FTE).

The data show that the only city with more than two FTEs administering their BLT program is the City of San Jose; however, San Jose is a much larger city with a significantly larger business base than Palo Alto. Some of the comparable cities contract with a third party provider to manage the audit portion of their BLT program.

While the potential to reduce staff workload by requiring two years' payments at a time for every business is realistic, it is also reasonable to assume that a business owner is more likely to object to having to pay for two years' worth of license tax at once. For this reason (along with the fact that only one comparable community used this approach), the City should not require more than one years' payment at a time.

It is recommended that the City of Palo Alto consider implementing the program by having all renewals occurring one time each year (i.e. by January 1). The City should also consider allowing initial business license payments to be prorated according to the percentage of the year remaining before the license would expire. For example, if the City were on a calendar year licensing time period, a new business in the City that opens and pays for their business license effective October 1st would pay for three months and then renew effective January 1st. The following is recommended ordinance language:

“Business licenses expire on December 31 each year with renewal payments due by January 1 each year. Initial business license taxes may be prorated in accordance with the administrative guidelines established by the City”.

(a) Estimated In-House Staffing Requirements.

If the business license tax program is conducted in-house, the City of Palo Alto would likely require the assignment of two employees to be assigned duties related to the business tax program administration. While their primary responsibility would be for managing the BLT program, the City would have the ability to cross-train them to perform other financial duties and to cross-train other Finance office staff to perform the BLT functions as necessary.

Based on available comparative data, the two employees assigned primary responsibility for BLT program administration are estimated to have available time throughout the year to complete other tasks outside of BLT functions. The two employees will likely spend the majority of their workday handling BLT matters between November and February/March of each year; however, they should be cross-trained to complete other duties for the City.

The City should plan for software costs associated with buying and installing an appropriate software system designed to handle business license tax permitting if the existing systems in place do not have this capability.

(b) Estimated Costs of Contractual Administration.

Three communities that outsource their business license tax administration were contacted to discuss their perceptions of the service being contracted out and to identify the costs paid for this contracted service.

This is summarized in the following table:

City	Cost	Notes
City of Los Alamitos	<p>They estimate between 3% and 5% of the money brought in is remitted to the contractor for their fee. The City had FY18 BL revenue of \$647,433.</p> <hr/> <p>At 3% and using a scenario of \$10,000,000 in annual revenue that would calculate to that would be \$300,00 in fees owed to the contractor for program administration.</p>	<p>Turnkey interface with planning dept. Very hands off for municipal staff. The contractor take admin fees off of what they collect. The City uses for property tax services also (but this is a flat fee). Business license just a percentage of what they process and handle for the City.</p>
City of Commerce	<p>Flat fee per account of \$15. This includes a once per year canvassing of businesses to discover anyone out of compliance. They audit once per year and they receive 20% of any monies collected on non-paying businesses.</p> <p>Using 3,141 businesses (firms) for Palo Alto would be \$47,115 plus audit costs if they recover additional previously uncollected monies.</p>	<p>Approximately 4,000 accounts.</p>
City of Marina	<p>The contractor charges three fees:</p> <ul style="list-style-type: none"> • Renewal or new account \$13 • Collection if they become delinquent: 25% • Discovery of new account 35% <p>They pay contractor about \$40,000 a year on \$1.5 million of revenue. This equates to approximately 2.6% administration fee.</p>	<p>About 2,000 accounts</p> <p>Have found the contractor to be easy to work with and overall there have been very few account issues.</p>

Those communities with contracted services were happy with the service levels received and the quality of the services provided by the vendor they had chosen. Additionally, they were not required to incur any costs associated with software implementation as these costs were included in the contract for program administration. Fees for the City of Palo Alto would be estimated to be between 1.5% and 3% of revenue collected or approximately \$100,000 and \$300,000. A very informal discussion with one vendor indicated a likelihood to acquire services closer to the mid-point of this range or below.

The major benefits of contracting out the administration of the business license tax program is the ability to utilize a specialized resource who is skilled at processing

applications and identifying business subject to the ordinance. Additionally, the contracted firm would provide all technology needed and this would likely enable the City to avoid having to acquire software for the system administration. The City would need to retain responsibility for serving as an avenue of appeal on the fee calculation if there is a dispute regarding the fee.

Recommendation: Require renewal payments to be due at the same time each year for all businesses and provide for pro-ration of the initial business license based on the date of application.

Recommendation: Issue an RFP for third party administration (including provision of software solutions) for the business license tax program to enable the City to acquire firm pricing estimates to determine whether contracting the service is operationally and cost effective for the City.

Recommendation: If administered in-house, it is estimated that the City will need to staff with two positions to handle the program workload. These positions can be cross-trained in other financial duties to enable them to be effectively utilized during time periods when they are not fully allocated to the business license tax program.

5. Exemptions

This section provides information on exemptions offered in other comparable BLT jurisdictions as well as minimum required exemptions under the law. There are certain mandated business license tax exemptions that all cities in California must apply. Certain comparable BLT programs offer additional exemptions.

The following table provides information on BLT program exemptions and whether that exemption is mandated by law.

Exemption	Mandated	Santa Clara	Cupertino	East Palo Alto	Mountain View	Redwood City	Sunnyvale	San Francisco	San Jose	San Mateo
Charitable and Nonprofit Organizations ¹	✓	✓	✓		✓	✓	✓	✓	✓	✓
Federal and State law requirements	✓	✓	✓	✓	✓		✓	✓		
Veterans / Veteran's organizations meeting certain conditions ²	✓	✓				✓	✓			
Interstate Commerce ³	✓	✓		✓					✓	
Banks and Financial Institutions ⁴	✓						✓	✓		
For-hire motor carrier of property ⁵	✓						✓			
Home day care provider for 14 or fewer children ⁶	✓					✓	✓		✓	
Insurance broker-agents (includes bail bond agents) ⁷	✓						✓	✓		
Public utility franchise			✓		✓	✓	✓		✓	
Residential care facilities w/6 or fewer residents ⁸	✓						✓			
Sole business is sale of goods to only the City			✓							
Gross annual business receipts of less than a certain amount (either \$1,000 or \$5,000)			✓		✓	✓			✓	
Blind persons ⁹								✓		
Skilled nursing facilities ¹⁰								✓		
For-hire motor carrier of property ¹¹	✓							✓		

¹ Revenue and Taxation Code 23701.

² California Business and Professions Code Section 16000.7, 16001, 16001.5, 16001.7, and 16001.8.

³ Only if the license itself creates such a financial burden that it prohibits the business from engaging in interstate commerce and conflicts with U.S. Code on interstate commerce.

⁴ Exempt from local taxation under Article XIII, Section 27 of the California Constitution and Revenue and Taxation Code Section 23182 if they pay the State an "in lieu" tax.

⁵ If a for-hire motor carrier pays the DMV tax as stipulated in State Revenue and Taxation Code 7231-7236. Only transportation activities are exempt.

⁶ A home that provides family daycare for 14 or fewer children. Health and Safety Code sections 1597.45 and 1596.78.

⁷ Exempt from local taxation under Article XIII, Section 28 of the California Constitution if they pay the State an "in lieu" tax (includes Bail Bond agents if this is their only business activity, California Constitution Article 13, sec 28(f) and Grove v. Los Angeles (40 Cal 2d 751.256)).

⁸ Health and Safety Code 1566.2 and 1567.8.

⁹ Payroll tax applicability.

¹⁰ Licensed under the provisions of Title 22, California Administrative Code, Division 5 ("Licensing and Certification of Health Facilities and Referral Agencies") Chapter 3 ("Skilled Nursing Facilities").

¹¹ Revenue and Taxation Code Section 7233.

Exemption	Mandated	Santa Clara	Cupertino	East Palo Alto	Mountain View	Redwood City	Sunnyvale	San Francisco	San Jose	San Mateo
Intercity transportation as a household goods carrier ¹²	✓							✓		
Charter-party carriers operating limousines ¹³	✓									
Occasional transactions ¹⁴									✓	
Artists and craftspersons (handcrafted goods)									✓	
Teachers ¹⁵									✓	
Business at certain City facilities									✓	
City police officers working secondary employment while "in uniform"									✓	
Certain real estate agents/brokers									✓	
Recreation instructors						✓				
Performers and entertainers						✓				
Café musicians ¹⁶	✓									
Wholesale business commercial traveler ¹⁷	✓									
Real estate auctions ¹⁸	✓									

¹² Public Utilities Code Section 5327.

¹³ That are not domiciled or with a company base in the City per Public Utilities Code Section 5371.4.

¹⁴ In town selling at the request of a patient or specific business, so long as not selling for more than five days in the year.

¹⁵ Music, artistic, or educational subjects when done at the teacher's or pupil's residence.

¹⁶ Ca Government Code Title 4 Chapter 3, 37101.5 and Business and Professions Code 16000.5.

¹⁷ CA Business and Professions Code 16002.

¹⁸ CA Business and Professions Code 16002.1 (if the business is not based in the City and their only business is auctions).

The data show that there are several required exemptions for payment of a business license or business license tax, as well as several other possible exemptions that are used in other jurisdictions. In order to simplify operations, the City of Palo Alto should consider an approach that only provides for legally mandated exemptions from the business license tax program.

For simplification and because State and federal laws change periodically, the City should include in its ordinance that it provides required State and Federal law Business License Tax exemptions (without listing each exemption in the ordinance). A list of those exemptions should be shown on the City's website. A useful example of a list of exemptions to assist business owners is from the City of San Diego. The City of San Diego's business exemptions can be viewed on their website at: <https://www.sandiego.gov/treasurer/taxesfees/btax/btaxexemptions>.

Adding in exemptions for specific business categories will reduce revenue and increase complexity of administration of the program.

Recommendation: Provide State and Federal mandated business license tax exemptions in the City's ordinance (without listing each of those exemptions in the ordinance).

Recommendation: For ease of program administration and comparability with other communities, the City should consider not implementing any other business exemptions.

Recommendation: Provide an up-to-date list of common approved business exemptions on the City's website, making clear that the obligation of claiming an exemption is on the business.

6. Business License Applications / Renewal

Each comparable BLT jurisdiction provides initial and renewal applications electronically on the City's respective website. For ease of administration and to benefit the business owner, the City should ensure that business license applications are available electronically on the City's website. Ideally, for the convenience of applicants, it would be preferable to have online submittal of forms that enable both completion of the form and payments for the business license to be conducted online. This functionality will require more technology to implement; however, it would provide the greatest service to

applicants and reduce processing times as all forms completed online would not need to be manually processed.

There are several examples of business license applications for both initial licenses and renewals. Example initial or renewal applications from the cities of Mountain View, Redwood City, and Santa Clara are provided in Appendix D.

Recommendation: Ensure business license applications and renewals are available electronically on the City's webpage and consider implementing online submittal and payments for all business license permits.

7. Disability Access Requirements

This section provides information on disability access requirements and recommendations related to the issuance of business licenses. California Government Code 4469.5 related to disability access was modified by the State legislature and signed by the governor in 2018. This modification, as well as existing law, requires each city to provide business license applicants with certain information regarding compliance with disability access provisions under federal and state law, including information on legal obligations from specified state agencies.

The following data is from the Legislative Council's Digest as it relates to State Assembly Bill No. 3002 which amends Section 4469.5 of the Government Code related to disability access:¹⁹

Existing law also requires each city, county, or city and county to provide applicants for a business license or equivalent instrument or permit with certain information regarding compliance with disability access provisions under federal and state law, including information on legal obligations from specified state agencies.

This bill would additionally require the above local jurisdictions issuing building permits for commercial construction or business licenses to make available a notice containing specified information regarding disability access. The bill would also require a local agency to provide the informational notice to an applicant for a commercial building permit or a business license. The bill, among other things, would require this

¹⁹ http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB3002

informational notice to be translated into specified languages and to include specified information on compliance requirements under both state and federal law and an advisory strongly encouraging the applicant to obtain a Certified Access Specialist (CAsp) consultation and inspection. The bill would define “commercial property” for these purposes. The bill would require the State Architect to develop a model notice for local agencies to use to comply with these provisions, as specified. The bill would include related legislative findings. By imposing new requirements on local government agencies, the bill would create a state-mandated local program.

Based on this law, the City should ensure it provides the required and recommended information to all business license applicants. Information should be provided on the City’s website. Additionally, SB1186 requires a \$4 fee for any applicant of a local business license be remitted to the State related to increasing disability access compliance. The following is a screenshot from the City of East Palo Alto’s Business License website:

SB 1186 State Mandated Fee

On September 19, 2012 Governor Brown signed into law SB-1186 which adds a state fee of \$4 on any applicant for a local business license or similar instrument or permit, or renewal thereof. The purpose is to increase disability access and compliance with construction-related accessibility requirements and to develop educational resources for businesses in order to facilitate compliance with federal and state disability laws, as specified. This includes all Non-Profit organizations and exempt businesses. If you have any questions regarding the State Mandated fee, please see the following web sites.

Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies:

- [The Division of the State Architect](#)
- [The Department of Rehabilitation](#)
- [The California Commission on Disability Access](#)

The link for “The Division of the State Architect” goes to a State webpage that provides the “model notice” language referenced in the Government Code. There are model notices provided for in several languages: English, Spanish, Tagalog, Korean,

Vietnamese, Traditional Chinese, and Simplified Chinese. A copy of the English version of the model notice is provided as Appendix C.

Recommendation: Provide links on the City’s Business License webpage for the model “Notice to applicants for business licenses and commercial business permits”. These notices should be provided in several languages as recommended by the State.

Recommendation: Ensure the \$4 state fee is collected on each business license to be remitted to the State for increasing disability access compliance.

8. National Pollutant Discharge Elimination System (NPDES) Permit Program

In October 2019 the State Governor signed SB205 into law. This law requires certain businesses to demonstrate enrollment with the National Pollutant Discharge Elimination System (NPDES) permit program prior to obtaining a business license. The City should ensure that it has information on its website related to this requirement and to ensure the most up-to-date information, the City should link with the State Water Board website for its NPDES data. [Click here](#) to go to the State NPDES website. [Click here](#) to go to the Federal NPDES program.

While the burden should be on the business owner to show enrollment in the NPDES program when required, the City should include information on its business license application asking whether the business is required to provide proof of enrollment with the NPDES program.

Recommendation: Provide links on the City website to the State Water Board NPDES program to assist business owners in knowing whether they are required to show proof of enrollment prior to receiving a business license.

Recommendation: Provide a section on the business license application asking the applicant if they are required to be enrolled in the NPDES program.

Appendix A: Base Data for Employee Count Methodology

The following table summarizes by NAICS industry classification the number of employees within size category that were included in the revenue projections.

Code	Industry Description	Total # of Employees									TOTAL
		1 0-4	2 5-9	3 10-19	4 20-49	5 50-99	6 100-249	7 250-499	8 500-999	9 1000+	
1100	Agriculture, Forestry, Fishing and Hunting	7	5								12
2300	Construction	81	114	111	177	150	175				808
3100	Manufacturing	5	7	45	75						132
3200	Manufacturing	28	7	11							46
3300	Manufacturing	67	67	84	151	158	470	750	1,500	2,234	5,481
4200	Wholesale Trade	58	82	88	245	225	175	329			1,202
4400	Retail Trade	112	335	516	478	922	782				3,145
4500	Retail Trade	65	67	127	136	75	250	1,258			1,978
4800	Transportation and Warehousing	15	0	15	0	75	117				222
5100	Information	200	199	365	884	710	815	1,127	1,500	6,889	12,689
5200	Finance and Insurance	219	236	467	705	450	175	764			3,016
5300	Real Estate and Rental and Leasing	188	110	181	344	300	179				1,302
5400	Professional, Scientific, and Technical Services	920	724	1,103	2,855	2,393	3,491	3,298	1,500	5,963	22,247
5500	Management of Companies and Enterprises	4	19	90	70	75	175	0	0	3,245	3,678
5600	Administrative and Support and Waste Management	95	141	198	303	729	626				2,092
7100	Arts, Entertainment, and Recreation	36	44	96	219	150	330				875
7200	Accommodation and Food services	62	238	660	1,903	1,580	1,575	375			6,393
81	Other Services (except Public Administration)	549	212	297	530	399	384				2,371
		2,711	2,607	4,454	9,075	8,391	9,719	7,901	4,500	18,331	67,689

The following firms were excluded from the revenue projections based upon the NAICS code.

Industry	1 0-4	2 5-9	3 10-19	4 20-49	5 50-99	6 100-249	7 250-499	8 500-999	9 1000+	Total By Industry
6100 Total Educational Services	74	133	208	371	390	450	0	0	19,681	21,307
62 Total Health care and social assistance	959	433	656	698	540	1204	940	0	17,957	23,387
813 Total Religious, grantmaking, civic, professional, and similar organizations	63	45	85	180	355	175				903
TOTAL	1,096	611	949	1,249	1,285	1,829	940	-	37,638	45,597

The following table summarizes by NAICS industry classification the number of firms within each size category that were included in the financial projections.

Code	Industry Description	Total # of Firms									TOTAL
		1 0-4	2 5-9	3 10-19	4 20-49	5 50-99	6 100-249	7 250-499	8 500-999	9 1000+	
1100	Agriculture, Forestry, Fishing and Hunting	7	1								8
2300	Construction	53	16	9	6	2	1				87
3100	Manufacturing	3	1	3	2						9
3200	Manufacturing	14	1	1							16
3300	Manufacturing	42	10	6	6	3	4	2	2	1	76
4200	Wholesale Trade	47	12	7	8	3	1	1			79
4400	Retail Trade	55	48	37	15	13	5				173
4500	Retail Trade	38	10	9	5	1	2	3			68
4800	Transportation and Warehousing	8	0	1	0	1	1				11
5100	Information	138	29	26	30	11	5	3	2	3	247
5200	Finance and Insurance	135	36	35	22	6	1	2			237
5300	Real Estate and Rental and Leasing	130	18	14	12	4	1				179
5400	Professional, Scientific, and Technical Services	635	112	83	93	35	23	10	2	3	996
5500	Management of Companies and Enterprises	4	3	6	2	1	1	0	0	2	19
5600	Administrative and Support and Waste Management	68	21	14	10	10	3				126
7100	Arts, Entertainment, and Recreation	25	7	7	7	2	2				50
7200	Accommodation and Food services	37	35	45	61	23	9	1			211
81	Other Services (except Public Administration)	468	33	22	17	6	3				549
TOTAL		1,907	393	325	296	121	62	22	6	9	3,141

The following firms were excluded from the financial projections based upon the NAICS code.

Code	Industry	1 0-4	2 5-9	3 10-19	4 20-49	5 50-99	6 100-249	7 250-499	8 500-999	9 1000+	Total By Industry
6100	Total Educational Services	43	20	14	12	6	4	0	0	1	100
62	Total Health care and social assistance	703	68	52	22	7	8	3	0	3	866
813	Total Religious, grantmaking, civic, professional, and similar organizations	33	13	6	7	2	2	-	-	-	63
TOTAL		779	101	72	41	15	14	3	-	4	1,029

Appendix B

Employment Development Department - Definition of Employee



INFORMATION SHEET

EMPLOYMENT

Generally, employment occurs when an employer hires an employee to perform services for wages. An “employer” can be any employing unit, such as a sole proprietor, joint venture, partnership, limited liability company, or corporation. An “employer” can also include associations, trusts, charitable foundations, nonprofit organizations, public entities, household employment, and other organizations. An individual is determined to be an “employee” under the usual common law rules or by application of specific statutes. Refer to *Information Sheet: Types of Employment, DE 231TE*.

WHO IS AN EMPLOYER?

Section 675 of the California Unemployment Insurance Code (CUIC) provides that a business becomes a subject employer when it employs one or more employees and pays wages in excess of \$100 during any calendar quarter. Wages are compensation for personal services performed, including, but not limited to, cash payments, commissions, bonuses, and the reasonable cash value of nonmonetary payments for services, such as meals and lodging. Refer to *Information Sheet: Types of Payments, DE 231TP*.

Once subject, an employer must register with the Employment Development Department (EDD) within 15 days of becoming a subject employer. Employers are responsible for reporting wages paid to their employees and paying Unemployment Insurance (UI) and Employment Training Tax (ETT) on those wages, as well as withholding and remitting State Disability Insurance* (SDI) and Personal Income Tax (PIT) due on wages paid.

WHO IS AN EMPLOYEE?

An “employee” includes all of the following:

- Any officer of a corporation.
- Any worker who is an employee under the usual common law rules.
- Any worker whose services are specifically covered by law.

An employee may perform services on a permanent, temporary, or less than full-time basis. The law does not exclude services from employment that are commonly referred to as day labor, part-time help, casual labor, temporary help, probationary, or outside labor. Refer to *Information Sheet: Casual Labor, DE 231K*.

Who is a Common Law Employee?

Whether an individual is an employee for the purpose of Section 621(b) of the CUIC will be determined by the usual common law rules applicable in determining an employer-employee relationship. To determine whether one performs services for another as an employee, the most important factor is the right of the principal to control the manner and

* Includes Paid Family Leave (PFL).

means of accomplishing a desired result. The right to control, whether or not exercised, is the most important factor in determining the relationship. The right to discharge a worker at will and without cause is strong evidence of the right to control. Other factors to take into consideration are:

1. Whether or not the one performing the services is engaged in a separately established occupation or business.
2. The kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of a principal without supervision.
3. The skill required in performing the services and accomplishing the desired result.
4. Whether the principal or the person providing the services supplies the instrumentalities, tools, and the place of work for the person doing the work.
5. The length of time for which the services are performed to determine whether the performance is an isolated event or continuous in nature.
6. The method of payment, whether by the time, a piece rate, or by the job.
7. Whether or not the work is part of the regular business of the principal, or whether the work is not within the regular business of the principal.
8. Whether or not the parties believe they are creating the relationship of employer and employee.
9. The extent of actual control exercised by the principal over the manner and means of performing the services.
10. Whether the principal is or is not engaged in a business enterprise or whether the services being performed are for the benefit or convenience of the principal as an individual.

Another consideration relative to employment is whether or not the worker can make business decisions that would enable him or her to earn a profit or incur a financial loss. Investment of the worker's time is not sufficient to show a risk of loss.

The numbered factors above are evidence of the right to control. These factors are fully described in Section 4304-1 of Title 22, California Code of Regulations. A determination of whether an individual is an employee will depend upon a grouping of factors that are significant in relationship to the service being performed, rather than depending on a single controlling factor.

The courts and the California Unemployment Insurance Appeals Board have held that the existence of a written contract is not, by itself, a determining factor. The actual practices of the parties in a relationship are more important than the wording of a contract in determining whether a worker is an employee or independent contractor.

Appendix C

Example Disability Access Compliance Language

DISABILITY ACCESS REQUIREMENTS AND RESOURCES

NOTICE TO APPLICANTS FOR BUSINESS LICENSES AND COMMERCIAL BUILDING PERMITS:

Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies:

DEPARTMENT OF
GENERSERVICES,
Division of the State
Architect, CASp Program

www.dgs.ca.gov/dsa
www.dgs.ca.gov/casp

DEPARTMENT OF
REHABILITATION
Disability Access Services

www.dor.ca.gov
[www.rehab.cahwnet.gov/
disabilityaccessinfo](http://www.rehab.cahwnet.gov/disabilityaccessinfo)

DEPARTMENT OF
GENERSERVICES,
California Commission on
Disability Access

www.cdda.ca.gov
[www.cdda.ca.gov/resour
ces-menu/](http://www.cdda.ca.gov/resources-menu/)

CERTIFIED ACCESS SPECIALIST INSPECTION SERVICES

Compliance with state and federal construction-related accessibility standards ensures that public places are accessible and available to individuals with disabilities. Whether your business is moving into a newly constructed facility or you are planning an alteration to your current facility, by engaging the services of a Certified Access Specialist (CASp) early in this process you will benefit from the advantages of compliance and under the Construction-Related Accessibility Standards Compliance Act (CRASCA, Civil Code 55.51-55.545), also benefit from legal protections.

Although your new facility may have already been permitted and approved by the building department, it is important to obtain CASp inspection services after your move-in because unintended access barriers and violations can be created, for example, placing your furniture and equipment in areas required to be maintained clear of obstructions. For planned alterations, a CASp can provide plan review of your improvement plans and an access compliance evaluation of the public accommodation areas of your facility that may not be part of the alteration.

A CASp is a professional who has been certified by the State of California to have specialized knowledge regarding the applicability of accessibility standards. CASp inspection reports prepared according to CRASCA entitle business and facility owners to specific legal benefits, in the event that a construction-related accessibility claim is filed against them.

To find a CASp, visit www.apps2.dgs.ca.gov/DSA/casp/casp_certified_list.aspx.

(Issued 12-28-18)

Appendix D

Sample Business License Tax Application and Renewal Forms

This is a fill-in form. Please fill in and print.

Print Form

Clear Form

CITY OF MOUNTAIN VIEW ATTN: BUSINESS LICENSE POST OFFICE BOX 7540 MOUNTAIN VIEW, CA 94039-7540 finance@mountainview.gov 650-903-6317	 CITY OF MOUNTAIN VIEW	<h3 style="margin: 0;">APPLICATION FOR BUSINESS LICENSE</h3>
---	---------------------------	--

This application must be filed with the Finance and Administrative Services Department and the applicable Business License Tax paid prior to the commencement of the business.

PLEASE PRINT

Business Name		Business Address (P.O. Box Address NOT acceptable) STREET ADDRESS _____	
Business Description		CITY _____ STATE _____ ZIP CODE _____	
Mailing Address (If Different than Business Address) ADDRESS _____		Business Telephone No. (____) _____	Annual Gross Receipts (Revenue) <input type="checkbox"/> \$5,000 or less— COMPLETE AFFIDAVIT <input type="checkbox"/> \$5,001 or more
CITY _____ STATE _____ ZIP CODE _____		NAICS Code (6 digits)	MV Code (4 digits)
Name of Owner of Business		Date Business Started in Mountain View (MM/DD/YY)	Total No. of Employees (including owner)
Home Address of Owner ADDRESS _____		No. of Rental Units	Business Address Sq. Ft.
CITY _____ STATE _____ ZIP CODE _____		Contact Person's Name	Contact Person's Phone No. (____) _____
Home Telephone No. (____) _____	Number of Work Days in the City (Businesses located outside of Mountain View only)	<input type="checkbox"/> 0-5 Days <input type="checkbox"/> 6-64 Days <input type="checkbox"/> 65-129 Days <input type="checkbox"/> 130+ Days	State Sales Tax No. (CA Seller's Permit No.)
Type of Ownership: <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Trust		Business E-mail _____	
<input type="checkbox"/> Nonprofit—COMPLETE AFFIDAVIT <input type="checkbox"/> LLC <input type="checkbox"/> LLP			

THIS INFORMATION IS NOT A COMPLETE LISTING OF CLEARANCES THAT MIGHT BE REQUIRED

1. If you intend to alter, remodel, relocate, or install any structural, electrical, plumbing, or mechanical portions of the building, you will need to obtain building permits from the Building Inspection Division of the Community Development Department at 650-903-6313.
2. Businesses involving any use changes, exterior building changes, or sign changes are advised to secure Community Development Department approval prior to lease execution or purchase. Contact the Community Development Department at 650-903-6306.
3. Businesses operated out of the home must comply with Home Occupation Regulations (Section 36.28.75 of the City Code).
4. If you intend to serve food or beverages on the premises, you must obtain approval from the Santa Clara County Health Department (408-918-3400). Provide a copy of your Health Certificate with your business license application.
5. If your business uses or stores hazardous materials (including paints, thinners, solvents, acids, compressed gases, etc.), you may be required to obtain a Hazardous Materials Permit from the Fire Department. **NOTE:** Certain hazardous materials and processes such as spray-painting, welding, etc., are NOT ALLOWED in certain buildings. Contact the Fire Department at 650-903-6378 for information on permitted uses within the City.
6. Industries discharging processed wastewater down the sewer, such as machining fluid, water from glass washing, chemical neutralization, etc., may be required to obtain a Wastewater Discharge Permit from the Fire Department. For more information, call 650-903-6378.
7. Police Department approval is required for live entertainment, gaming, massage establishments, and outcall massage services. For more information, call 650-903-6350. Police Department Approval: _____
8. If there is a change of ownership, business name, or business location, you are required to obtain a new business license and are subject to any associated fees and approvals. For more information, contact the Finance and Administrative Services Department at 650-903-6317.

NOTICE: I understand that payment of this business tax does NOT represent approval of my use/business with respect to zoning, County Health Department approval, hazardous materials use or storage, wastewater discharge, or any other requirement. Further, I recognize that it is my responsibility to secure appropriate clearances and that it is advisable for me to secure such requisite approvals prior to establishing this business and paying this business tax.

Applicant's Signature _____ Date _____

FOR CONTRACTORS—License No. _____ FOR HOME OCCUPATIONS

I herewith certify that I have been licensed pursuant to the provisions of Chapter 9 of Division 3 of the Business and Professions Code of the State of California and that my license is in full force and effect.

I am aware of the nine restrictions on "Home Occupations" per Section 36.28.75 of the City Code and will conform thereto if this license is granted.

Signature _____ Signature _____

FOR OFFICE USE		Approved for Use		
Date Paid _____	Cashier Initial _____	Receipt No. _____	Total Paid _____	
Tax _____	Penalty _____	Interest _____	AB 1379 _____	BID 1 _____ BID 2 _____
Planner Signature _____			Print Initial _____	Date _____

BUSINESS LICENSE INFORMATION IS PUBLIC RECORD

FI-128 (Rev. 09-04-19)



City of Redwood City
 Revenue Services
 1017 Middlefield Rd.
 Redwood City, CA 94063
Mail Address:
 City of Redwood City
 P.O. Box 3355
 Redwood City, CA 94064

Business License Tax Application

Questions? Contact: Luis Bertelsen
 lbertelsen@redwoodcity.org
 (650) 780-7214

New Business Change of Ownership

ALL HIGHLIGHTED FIELDS MUST BE FILLED OUT

Business Name _____ Phone (____) _____ - _____

Business Address (include Zip) _____ E-mail Address _____

Mailing Address (include Zip) _____ Expected Opening Date (MM-DD-YY) _____

Business Description (please be specific - note the use of any hazardous materials as defined by the California Fire Code if applicable)

Federal Tax ID _____ ITIN/Other ID No. _____ Sellers Permit (if applicable) _____ State Contractor License (if applicable) _____

Business Owners/ Corporate Directors/ Partners _____ Title _____

1. _____

2. _____

Are you a business that is a regulated industry with storm water discharge requirements in accordance with the SB205 NPDES permit program? Yes No.
 If yes, please provide the SIC # and Permit # below.

SIC # _____ NPDES WDID Permit # _____

Is your business home-based? Yes No What is the square footage of your business location? _____

Business Type

Sole Proprietor Corporation Limited Partnership If Real Estate Rental Business If Applicable

Partnership Joint Venture LLC Commercial (# of square feet) _____ # of coin machines _____

Co-Partners Business Trust Government Residential (# of units) _____

Appropriate permits from the planning, building, fire, police and/ or other departments of the city may have to be secured before the start of your business. The business location, whether owned or leased, must be properly zoned and the building must meet fire code and hazardous materials standards. A Business License Tax does not indicate clearance from the city, county, state or federal governments from permits or licenses, which may be required for your type of business. Business License Taxes are nonrefundable (Sec. 32.117). You may want to contact the appropriate City departments, and/ or county, state or federal agencies before submitting your application .

* CASp Fee: On September 19, 2012, Governor Brown signed Senate Bill 1186 (SB 1186) into law. SB 1186 is intended to increase disability access, encourage compliance with construction-related accessibility requirements, develop education resources for businesses, and facilitate compliance with Federal and State disability laws . From January 1, 2013, and until December 31, 2017, cities and counties were required to collect a State mandated fee of \$ 1.00 from "any applicant for a local business license or equivalent instrument or permit, and from any applicant for the renewal of a business license or equivalent instrument or permit." Assembly Bill 1379 was passed on October 11, 2017 which extends the assessment of the fee indefinitely and also the State mandated fee from \$ 1.00 to \$4.00 from January 1, 2018 until December 31, 2023.

* Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies :

- The Division of the State Architect at: www.dgs.ca.gov/dsa
- The Department of Rehabilitation at: www.dor.ca.gov
- The California Commission on Disability Access at: www.cdda.ca.gov

I declare, under penalty of perjury, that this application has been prepared by me or under my direction and to the best of my knowledge and belief, is true and correct

Signature _____ Title _____ Date _____

Per AB 2184, you may protect your residential address by providing a different Service of Process address in accordance with Sections 16000.1(a)(2) and 16100.1(a)(2) of the Business and Professions Code. To do so, please fill out the section on the bottom of this form.

SERVICE OF PROCESS ADDRESS, PURSUANT TO AB2184 - AVAILABLE FOR PUBLIC INSPECTION

If you wish to protect your residential address with a different service of process address, please provide it here.

NOTE - if your service of process address is a post office box or private mailbox, it must comply with paragraph(2) of subdivision (b) of Section 17538.5 of the California Business and Professions Code.

Service of Process Address _____

Residential Address to protect Business Location Mailing Address Owner/Partner/Officer Address

Planning Approval _____	Tax Calculation	
_____	Base Tax	\$ 68
_____	# of persons full-time (including owners, partners and full-time employees) _____ x \$45 =	\$ _____
_____	# of persons part-time _____ x \$22 =	\$ _____
_____	# of rental units _____ x \$25 =	\$ _____
Fire Approval _____	# of commercial sq. ft. _____ x \$25 =	\$ _____
_____	# of coin machines _____ x \$13 =	\$ _____
Business License # _____	Late payment penalty (10% per month)	\$ _____
_____	* CASp Fee	\$ 4
_____	Total taxes due (see tax schedule to determine taxes)	\$ _____



City of Santa Clara
 Municipal Services Division - Business Tax Unit
 1500 Warburton Ave, Santa Clara, CA 95050
 Phone: (408) 615-2310 Fax: (408) 241-1543

BC# _____
 For Office Use Only

New Business Tax Affidavit

- Instructions:**
1. All questions must be answered or designated not applicable (N/A), as appropriate.
 2. Carefully read the "Note to Applicant" section.
 3. Additional information may be required (see section on "Additional Forms Required").
 4. Make checks payable to the City of Santa Clara and submit with completed affidavit.
 5. A separate application must be completed for each location and for each business at the same location.

PLEASE TYPE OR PRINT CLEARLY IN INK

Business Name: _____ DBA: _____	
Business Address: _____	
Mailing Address _____	
Business Phone: _____	Is this business going to be conducted in your home in Santa Clara? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, application must be submitted in person and applicant must first obtain the Home Occupation Rules and Regulations</i>
Email: _____	
Do you claim an exemption to pay Business Tax? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, include proof of exemption as provided by Internal Revenue Service (Form 501C)</i>	Will you distribute handbills or flyers door to door? <i>If yes, please obtain a copy of regulations concerning handbill distribution from the Finance Department.</i> <input type="checkbox"/> Yes <input type="checkbox"/> No
Ownership: <input type="checkbox"/> Corporation <input type="checkbox"/> Ltd Liability Co (LLC) <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship/Individual (Check one)	
Federal Tax ID (FEIN): _____ (FEIN required for Corporation, LLC, and Partnership)	
Please list information regarding the business owner (s) and/or all partners and officers: (attach additional sheet, if necessary)	
Name	Title
Alternate Address <small>(Cannot be PO Box)</small>	Alternate Phone #
Social Security # <small>(for Sole Proprietors/Individuals)</small>	
_____	_____
_____	_____
_____	_____
Business Description: _____	
Sellers Permit #: _____ <small>(Resellers License/BEAN)</small>	Contractors License #: _____ Class: _____
Emergency Contact: Name: _____ Address: _____	
Phone: _____	
TO CALCULATE FEES, PLEASE COMPLETE THE FOLLOWING:	
For a corporation or LLC, enter 1 otherwise, enter 0:	
Number of people (full and part-time/paid or unpaid) engaged in the conduct of business at this Santa Clara address, including owners, partners, officers, and employees:	_____
Total both lines:	_____
Based on the Fee Schedule on the reverse side (Page 2) of the form:	
ALL TAXES AND FEES ARE NON-TRANSFERABLE AND NON-REFUNDABLE	Business Tax: _____
	Fire Permit Fee: _____
	State CASp Fee: \$4.00
	Total Fee: _____

The issuance of a certificate under the provisions of this chapter to a particular certificate holder does not constitute approval, direct or indirect, by the City that the certificate holder may operate such business in violation of any of the provisions of the City Code, ordinances or resolutions or any law of the state or federal government. Any business to whom a certificate has been issued under this chapter will continue to be required, after the issuance thereof, to comply with all the laws of the City including, but not limited to its zoning regulations, building regulations, fire regulations, plumbing regulations, electrical regulations, mechanical code and subdivision regulations. Failure of the City to approve, deny, or act upon the application within one hundred and eighty (180) days shall be deemed a denial of the application. If any person fails to pay the annual renewal tax within ninety (90) days after the tax becomes due, his or her business certificate is considered revoked (Code Sections 3.40.061, 3.40.062 3.40.110, 3.40.230).

Signature _____ **Date** _____
 Print or Type Name _____ Title _____



TO City of Palo Alto Staff and Council

FROM Dave Metz and Miranda Everitt
FM3 Research

RE: Ballot Measure Refinement Survey Outline

DATE March 11, 2020

This memo outlines our recommended approach for a refinement survey to evaluate voter support for a potential business tax measure in November 2020. This survey will update baseline attitudes about City government and issues of concern, but will primarily focus on questions that provide a more precise test of ballot measure viability: gauging support for a draft 75-word ballot label; testing reactions once the measure is described in plain language; exploring views of key structural elements of the measure; and testing a full range of pro and con arguments.

The following is an outline of our recommended survey structure:

- Survey introduction
- Cell or landline, safety check
- Right direction/wrong track (tracking to prior surveys)
- Vote on the ballot measure, using draft 75-word ballot language
- Open-ended question on reason for support/opposition
- Plain-language explanation of the measure with a re-vote
- Job rating - Palo Alto city government (tracking to prior surveys)
- Approval rating on specific aspects of City management (tracking most to prior surveys)
 - ✓ Maintaining infrastructure
 - ✓ Managing budget/finances
 - ✓ Using tax dollars efficiently
 - ✓ Transportation
- Need for additional funding (tracking to prior surveys)
- Problem seriousness battery (tracking most to prior surveys)
 - ✓ Parking
 - ✓ Housing costs
 - ✓ Waste and inefficiency in local government
 - ✓ The economy
 - ✓ Crime

- ✓ Homelessness
- ✓ Traffic
- ✓ Growth and development
- ✓ Local tax rates
- ✓ Changing character of the community
- ✓ Coronavirus
- ✓ Jobs and the economy
- Support for specific, individual measure elements
 - ✓ Per employee tax
 - ✓ Tiered by business size to be progressive
 - ✓ Small businesses would pay a flat registration fee instead
 - ✓ No sunset
 - ✓ Annual escalator
 - ✓ Annual audits
- Importance of potential investment priorities, with variations in wording (tracking many to prior surveys)
 - ✓ Infrastructure
 - ✓ Streets/roads
 - ✓ Traffic congestion
 - ✓ Access for people with disabilities
 - ✓ Sidewalks
 - ✓ Potholes
 - ✓ Affordable housing
 - ✓ Park/rec facilities
 - ✓ Emergency communications
 - ✓ Disaster preparedness
 - ✓ Community centers
 - ✓ Storm drains
 - ✓ Caltrain electrification/crossings
- Support for various cutoff points to define "small business"
- Support for various escalator amounts
- Pro and con arguments, presented in rotating order, with a re-vote after each set of messages
- Pro arguments
 - ✓ Asking business to share cost of City services
 - ✓ Funding for housing
 - ✓ Funding for transportation
 - ✓ Exemptions for small business
 - ✓ Parity with nearby cities
 - ✓ Transparency/accountability provisions
 - ✓ Need to update/modernize business tax structure

- Con arguments
 - ✓ Could discourage businesses/startups from locating in Palo Alto
 - ✓ Could cost jobs
 - ✓ Can't trust how money will be spent
 - ✓ Many other taxes on ballot
 - ✓ Potential for economic downturn
 - ✓ Automatic escalator will yield increases
 - ✓ City has surplus
 - ✓ Could lead to longer commutes
- Test of voter sentiment on equity transfer
- Demographics
 - ✓ Own/rent
 - ✓ Work in Palo Alto
 - ✓ Own a business in Palo Alto
 - ✓ Education
 - ✓ Ethnicity
 - ✓ Income
 - ✓ Gender
- Voter file information (will not need to ask this)
 - ✓ Party
 - ✓ Age
 - ✓ Past election participation

Detailed Timeline of Discussions with Finance Committee and City Council regarding the
November 2020 Ballot Measure

As discussed in the body of City Manager's Report (CMR) 11161, the City of Palo Alto has been discussing its options for a revenue generating ballot measure in 2020 throughout the past 11 months. A brief timeline of the CMRs and discussions with the Finance Committee and the City Council since April of 2019, when staff was formally directed to begin working on this project by the City Council, is included below for additional context. The date, the forum of the meeting (Finance Committee or City Council), the summary title, and the CMR number are included for ease of reference.

Timeline:

- 4/22/2019 City Council, "2019 Fiscal Sustainability Workplan", [CMR 10267](#)
- 4/22/2019 City Council, "Approve Workplan for a Potential Revenue Generated Ballot Measure", [CMR 10261](#)
- 6/18/2019 Finance Committee, "Review, Comment, and Accept Preliminary Revenue Estimates for Consideration of a Ballot Measure", [CMR 10392](#)
- 8/20/2019 Finance Committee, "Evaluation and Discussion of Potential Revenue Generating Ballot Measures", [CMR 10445](#)
- 9/16/2019 City Council, "Evaluation and Discussion of Potential Revenue Generating Ballot Measures and Budget Amendment", [CMR 10615](#)
- 10/1/2019 Finance Committee, "Revised Workplan for Consideration of a Ballot Measure", [CMR 10712](#)
- 10/15/2019 Finance Committee, "Stakeholder Outreach, Initial Polling, and Discussion of a Potential Ballot Measure", [CMR 10743](#)
- 11/4/2019 City Council, "Potential Ballot Measure Polling/Outreach, Contract, Solicitation Exemption and Budget Amendment", [CMR 10792](#)
- 12/2/2019 City Council, "Structure and Scenarios of Initial Round of Polling for a Potential Local Tax Measure", [CMR 10891](#)
- 12/17/2019 Finance Committee, "Consideration, Evaluation, and Discussion of a Revenue Generating Local Tax Ballot Measure, Review of Refined Modeling, Analysis, Tax Structure and Recommendation to the City Council", [CMR 10655](#)
- 1/27/2020 City Council, "Update, Consideration, and Potential Direction on Possible Local Tax Measure for 2020 Election", [CMR 11019](#)