



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmember Pam Foley

**SUBJECT:** SEE BELOW

**DATE:** September 23, 2019

Approved

Date

9-23-19

**SUBJECT: REVENUE CAPTURE AGREEMENT BETWEEN CITY OF SAN JOSE AND EBAY INC.**

## RECOMMENDATION

1. Accept staff recommendation as is and defer the discussion on allocation of funds generated to be included in the typical budgeting process.

## BACKGROUND

Thank you to San José city staff and eBay staff who have worked to increase the City of San José's ability to generate revenue. Coming to this agreement was not easy and staff should be commended for their hard work.

The first revenues from this agreement are not expected to be received until the first or second quarter of 2020. I would like to propose we have a more comprehensive discussion regarding the use of this new revenue when the budgeting process occurs next year. The City of San José's budgetary priorities may very-well change in the coming months, and the conversation about where these monies should be allocated appears premature. Additionally, important public comments regarding the proper allocation of funds from this agreement will be heard during the budgeting process, and the public has not had a sufficient amount of time to weigh in on where these funds might be allocated just yet.

I would like for us to better understand the number of the funds generated annually by this agreement, as the actual tax revenue to be received is still somewhat of an educated guess. Before we begin to allocate tax revenue, it is essential for us to understand the actual amount of revenue being allocated. City Council will be much better prepared to budget revenue from this agreement after we have received the first payment.

Furthermore, the State of California is charged with auditing the multiple multinational corporations that *South Dakota vs. Wayfair Inc.* and CA Assembly Bill 147 impact. We must use San José's scarce resources wisely and we should not duplicate tasks the State of California is well-prepared to conduct. Indeed, the State of California has the resources and institutional experience to conduct higher quality audits of eBay Inc.'s tax returns than the City of San José.

By accepting the staff recommendation, we by no means will delay funding for anything related to the City of San Jose, but will be better prepared to more conscientiously decide on the proper allocation of these funds. City Council will have a wider perspective come budget time given the new context the City of San José will find itself in in six months.

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