



# City of Sunnyvale

## Notice and Agenda

### City Council

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Tuesday, April 12, 2016

6:00 PM

Council Chambers, City Hall, 456 W. Olive  
Ave., Sunnyvale, CA 94086

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**Special Meeting: Joint Meeting of Council and the Redevelopment Successor Agency  
Immediately Followed by Special City Council Meeting**

#### **6 P.M. SPECIAL MEETING**

#### **Joint Meeting of the City Council and the Redevelopment Successor Agency**

**1 Call to Order in the Council Chambers (Open to the Public)**

**2 Roll Call**

**3 Public Comment**

**4 Closed Session Reports for a) April 30, 2013 (revised report out) and b)  
February 23, 2016**

**5 Consent Calendar**

**A**     [16-0361](#)     Approve Joint City Council and Redevelopment Successor  
Agency Meeting Minutes of April 30, 2013

**Recommendation:** Redevelopment Successor Agency:  
Approve the Joint City Council and Redevelopment Successor  
Agency Meeting Minutes of April 30, 2013 as submitted.

**B**     [16-0379](#)     Approve Joint City Council and Redevelopment Successor  
Agency Meeting Minutes of December 10, 2015

**Recommendation:** Redevelopment Successor Agency:  
Approve the Joint City Council and Redevelopment Successor  
Agency Meeting Minutes of December 10, 2015 as submitted.

- C     [16-0378](#)     Approve Joint City Council and Redevelopment Successor Agency Meeting Minutes of February 23, 2016

**Recommendation:** Redevelopment Successor Agency:  
Approve the Joint City Council and Redevelopment Successor Agency Meeting Minutes of February 23, 2016 as submitted.

- D     [16-0343](#)     Approve the First Amendment to Outside Counsel Agreement with Goldfarb & Lipman LLP for Litigation Services Pertaining to the Three Lawsuits Related to the Dissolution of the Redevelopment Agency

**Recommendation:** City Council:  
Authorize the City Attorney to execute a First Amendment, in substantially the same form as Attachment 1 to the report, to the Outside Counsel Agreement with the law firm of Goldfarb Lipman to extend the term of the Agreement until May 19, 2019 and to increase the not-to-exceed amount by \$60,000, for a new not-to-exceed contract amount of \$160,000.

Redevelopment Successor Agency:  
Authorize the Agency Counsel to execute a First Amendment, in substantially the same form as Attachment 1 to the report, to the Outside Counsel Agreement with the law firm of Goldfarb Lipman to extend the term of the Agreement until May 19, 2019 and to increase the not-to-exceed amount by \$60,000, for a new not-to-exceed contract amount of \$160,000.

## **6 Adjourn Joint Meeting of the City Council and Redevelopment Successor Agency**

### **SPECIAL CITY COUNCIL MEETING (Immediately Following Joint Meeting of the City Council and Redevelopment Successor Agency)**

*Pursuant to Council Policy, City Council will not begin consideration of any agenda item after 11:30 p.m. without a vote. Any item on the agenda which must be continued due to the late hour shall be continued to a date certain. Information provided herein is subject to change from date of printing of the agenda to the date of the meeting.*

### **CALL TO ORDER**

*Call to Order in the Council Chambers (Open to the Public)*

**SALUTE TO THE FLAG****ROLL CALL****PRESENTATION**[16-0355](#)

PRESENTATION - PG&E Pipeline Safety Program  
(Rescheduled from March 29, 2016)

**ORAL COMMUNICATIONS**

*This category provides an opportunity for members of the public to address Council on items not listed on the agenda and is limited to 15 minutes (may be extended or continued after the public hearings/general business section of the agenda at the discretion of the Mayor) with a maximum of up to three minutes per speaker.*

*Please note the Brown Act (Open Meeting Law) does not allow Councilmembers to take action on an item not listed on the agenda. If you wish to address the Council, please complete a speaker card and give it to the City Clerk. Individuals are limited to one appearance during this section.*

**CONSENT CALENDAR**

*All matters listed on the consent calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion of these items. If a member of the public would like a consent calendar item pulled and discussed separately, please submit a speaker card to the City Clerk prior to the start of the meeting or before approval of the consent calendar.*

**1.A**    [16-0344](#)            Approve City Council Meeting Minutes of March 29, 2016

**Recommendation:** Approve the City Council Meeting Minutes of March 29, 2016 as submitted.

**1.B**    [16-0348](#)            Approve the List(s) of Claims and Bills Approved for Payment by the City Manager

**Recommendation:** Approve the list(s) of claims and bills.

- 1.C     [16-0312](#)     Award of Bid No. PW16-21 for the Slurry Seal 2016-B Project and Finding of California Environmental Quality Act (CEQA) Categorical Exemption

**Recommendation:** 1) Make a finding of CEQA categorical exemption pursuant to CEQA Guidelines Section 15301 (Class 1, Existing Facilities) as it relates to the rehabilitation of existing streets involving negligible or no expansion of existing use; 2) award a construction contract, in substantially the same format as Attachment 2 to the report and in the amount of \$277,000 to VSS International Inc.; and 3) approve a 10% construction contingency in the amount of \$27,700.

- 1.D     [16-0342](#)     Award of Bid No. PW16-15 for the Concrete, Sidewalk, Curbs, Gutters and Driveway Approaches 2016-17 Project and Finding of California Environmental Quality Act (CEQA) Categorical Exemption

**Recommendation:** 1) Make a finding of CEQA categorical exemption pursuant to CEQA Guidelines Section 15301 (Class 1, Existing Facilities) as it relates to the rehabilitation of existing streets involving negligible or no expansion of existing use; 2) award a construction contract, in substantially the same format as Attachment 2 to the report and in the amount of \$867,728 to Spencon Construction Inc.; 3) approve a 10% construction contingency in the amount of \$86,773; and 4) determine that the bid submitted by JJR Construction, Inc. is non-responsive.

## **PUBLIC HEARINGS/GENERAL BUSINESS**

*If you wish to speak to a public hearings/general business item, please fill out a speaker card and give it to the City Clerk. You will be recognized at the time the item is being considered by Council. Each speaker is limited to a maximum of three minutes. For land-use items, applicants are limited to a maximum of 10 minutes for opening comments and 5 minutes for closing comments.*

- 2        [16-0046](#)        Introduce an Ordinance to Award a Non-Exclusive Taxicab Franchise to Silicon Valley Taxi Drivers, Inc. DBA Green Cab

**Recommendation:** Alternative 1: Introduce an Ordinance to Award a Non-exclusive Taxicab Franchise to Silicon Valley Taxi Drivers, Inc. DBA Green Cab and authorize the City Manager to execute the franchise agreement.



- 3      [16-0181](#)      Introduce an Ordinance to Award a Non-Exclusive Taxicab Franchise to Silicon Valley Cab Co., Inc. DBA Silicon Valley Cab

**Recommendation:** Alternative 1: Introduce an Ordinance to Award a Non-exclusive Taxicab Franchise to Silicon Valley Cab Co., Inc. DBA Silicon Valley Cab and authorize the City Manager to execute the franchise agreement.

- 4      [16-0373](#)      Appoint a Councilmember to the Valley Transportation Authority El Camino Real Rapid Transit Policy Advisory Board to Serve as a Voting Member and if necessary Appoint an Alternate Member

**Recommendation:** Staff makes no recommendation.

- 5      [16-0090](#)      Introduce an Ordinance Amending Sunnyvale Municipal Code Chapter 9.86 and Title 19 to Expressly Prohibit Medical Marijuana Cultivation, Commercial Activity, Distribution, and Delivery; Exempt from CEQA Pursuant to CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3)

**Recommendation:** Alternative 1: Introduce an ordinance amending Chapter 9.86 and Title 19 (Zoning), Section 19.62.010 and Tables 19.24.030, 19.28.080, 19.18.030, 19.20.030, 19.29.050, and 19.22.030, of the Sunnyvale Municipal Code relating to an express prohibition on medical marijuana cultivation, commercial activity, distribution, delivery and other activities, and find that the adoption of the ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3).

- 6      [16-0151](#)      Introduce an Ordinance Amending Section 3.80.040 of the Sunnyvale Municipal Code to increase the City's Minimum Wage to \$15 by 2018

**Recommendation:** Alternative 1: Introduce an Ordinance Amending Section 3.80.040 of the Sunnyvale Municipal Code to increase the City's Minimum Wage to \$15 by 2018.

- 7      [16-0030](#)      Approve the Issuance of Request for Proposals to Develop a New Affordable Housing Project on City Property Located on Charles Street (Block 15)

**Recommendation:** Alternative 1: Approve the Issuance of the Request for Proposals (RFP) to Develop New Affordable Housing Project on City Property Located on Charles Street (Block 15).

- 8      [16-0301](#)      Introduce an Ordinance to Amend Titles 3 (Revenue and Finance) and 19 (Zoning) of the Sunnyvale Municipal Code related to the Transportation Impact Fee and Housing Impact Fees in Conjunction with the Study Issue to Evaluate the Timing of Park Dedication In-lieu Fee Calculation and Payment (2015-7151) (Continued from March 15 and March 29, 2016)

**Recommendation:** Alternative 1: Introduce an Ordinance to Amend Titles 3 (Revenue and Finance) and 19 (Zoning) of the Sunnyvale Municipal Code related to the Transportation Impact Fee and Housing Impact Fees to calculate fees at the time of building permit submittal.

- 9      [15-1031](#)      Consideration of Options for Implementation of an Auxiliary Restroom at the Las Palmas Park / Tennis Center

**Recommendation:** Alternative 3: Direct staff to defer the auxiliary restroom for consideration as part of the community outreach process for the Las Palmas Park Renovation and Enhancement project in FY 2023/24 and increase the project budget during the next capital project budget cycle to reflect the additional restroom scope.

#### **COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS**

#### **NON-AGENDA ITEMS & COMMENTS**

-Council

-City Manager

#### **INFORMATION ONLY REPORTS/ITEMS**

- [16-0351](#) Tentative Council Meeting Agenda Calendar
- [16-0324](#) Information/Action Items
- [16-0359](#) Update on City Position as Part of Envision Silicon Valley and the Proposed 2016 Transportation Ballot Measure (Information Only)
- [16-0352](#) Board/Commission Meeting Minutes

## **ADJOURNMENT**

### **NOTICE TO THE PUBLIC**

*The agenda reports to council (RTCs) may be viewed on the City's Web site at [sunnyvale.ca.gov](http://sunnyvale.ca.gov) after 7 p.m. on Thursdays or at the Sunnyvale Public Library, 665 W. Olive Ave. as of Fridays prior to Tuesday City Council meetings. Any agenda related writings or documents distributed to members of the City of Sunnyvale City Council regarding any open session item on this agenda will be made available for public inspection in the Office of the City Clerk located at 603 All America Way, Sunnyvale, California during normal business hours and in the Council Chamber on the evening of the Council Meeting, pursuant to Government Code §54957.5. Please contact the Office of the City Clerk at (408) 730-7483 for specific questions regarding the agenda.*

*PLEASE TAKE NOTICE that if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the public hearing or presented in writing to the Office of the City Clerk at or before the public hearing. PLEASE TAKE FURTHER NOTICE that Code of Civil Procedure section 1094.6 imposes a 90-day deadline for the filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure 1094.5.*

*Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact the Office of the City Clerk at (408) 730-7483. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.106 ADA Title II).*

### **Planning a presentation for a City Council meeting?**

*To help you prepare and deliver your public comments, please review the "Making Public Comments During City Council or Planning Commission Meetings" document available at [Presentations.inSunnyvale.com](http://Presentations.inSunnyvale.com).*

**Planning to provide materials to Council?**

*If you wish to provide the City Council with copies of your presentation materials, please provide 12 copies of the materials to the City Clerk (located to the left of the Council dais). The City Clerk will distribute your items to the Council.*

**Upcoming Meetings**

*Visit [CouncilMeetings.inSunnyvale.com](http://CouncilMeetings.inSunnyvale.com) for upcoming Council meeting information.*

*Visit [BoardsandCommissions.inSunnyvale.com](http://BoardsandCommissions.inSunnyvale.com) for upcoming board and commission meeting information.*

*For a complete schedule of KSUN-15 Council meeting broadcasts, visit [KSUN.insunnyvale.com](http://KSUN.insunnyvale.com).*



# City of Sunnyvale

## Agenda Item

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**16-0361**

**Agenda Date:** 4/12/2016

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**SUBJECT**

Approve Joint City Council and Redevelopment Successor Agency Meeting Minutes of April 30, 2013

**RECOMMENDATION**

Redevelopment Successor Agency:

Approve the Joint City Council and Redevelopment Successor Agency Meeting Minutes of April 30, 2013 as submitted.

**APPROVED MINUTES  
SUNNYVALE CITY COUNCIL  
AND  
SUNNYVALE REDEVELOPMENT SUCCESSOR AGENCY  
TUESDAY, APRIL 30, 2013, 5:30 P.M.**

**CALL TO ORDER**

Vice Mayor Griffith called the meeting to order in the West Conference Room.

**ROLL CALL**

**PRESENT:**

Mayor Anthony (Tony) Spitaleri  
Vice Mayor Jim Griffith  
Councilmember Christopher Moylan  
Councilmember Pat Meyering  
Councilmember Tara Martin-Milius  
Councilmember Jim Davis

**ABSENT:**

Councilmember David Whittum

Public Hearing opened at 5:30 p.m.

No speakers.

Public Hearing closed at 5:30 p.m.

**CONVENE TO CLOSED SESSION** – Closed Session pursuant to Government Code Section 54956.9(d)(4) – Conference with Legal Counsel, Initiation of Litigation: one potential case.

**ADJOURNMENT**

Vice Mayor Griffith adjourned the meeting at 5:55 p.m.

**CLOSED SESSION REPORT**

Vice Mayor Griffith reported a closed session was held and the following direction was given:

“Direction to initiate litigation, if necessary, has been given, and the action, defendants and other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless doing so would jeopardize our ability to effectuate service or negatively impact any settlement negotiations.”



# City of Sunnyvale

## Agenda Item

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**16-0379**

**Agenda Date:** 4/12/2016

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**SUBJECT**

Approve Joint City Council and Redevelopment Successor Agency Meeting Minutes of December 10, 2015

**RECOMMENDATION**

Redevelopment Successor Agency:

Approve the Joint City Council and Redevelopment Successor Agency Meeting Minutes of December 10, 2015 as submitted.



# City of Sunnyvale

## Meeting Minutes City Council

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Thursday, December 10, 2015

10:30 AM

Council Chambers and West Conference  
Room, City Hall, 456 W. Olive Ave.,  
Sunnyvale, CA 94086

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### Special Meeting: Joint Meeting and Study Session of City Council and Successor Agency to the Redevelopment Agency

#### **10:30 A.M. PUBLIC HEARING / GENERAL BUSINESS**

##### **1 Call to Order in the Council Chambers (Open to the Public)**

Mayor/Agency Member Griffith called the meeting to order in Council Chambers and led the salute to the flag.

##### **2 Roll Call**

**Present:** 6 - Mayor Jim Griffith  
Vice Mayor Tara Martin-Milius  
Councilmember David Whittum  
Councilmember Jim Davis  
Councilmember Glenn Hendricks  
Councilmember Gustav Larsson

**Absent:** 1 - Councilmember Pat Meyering

##### **3 Public Comment**

None.

##### **4 Public Hearing/General Business**

[15-0444](#) Direction on Article 6 of the 2010 Amended Disposition and  
Development and Owner Participation Agreement (ADDOPA)  
for Transfer of the Sunnyvale Town Center Property

City Manager Deanna Santana and Assistant City Manager, Chief of Downtown  
Planning Hanson Hom provided the staff report.

Scott Johnson, CPA Partner, Macias Gini & O'Connell LLP (MGO) Advisory  
Services presented MGO's Independent Evaluation Report on the Article 6 Criteria  
for the Proposed Transfer.

Tim Kelly, Keyser Marston Associates (KMA), Advisors in Public/Private Real



Estate Development, provided information regarding the KMA peer review of the MGO findings.

Council/Agency recessed at 12:03 p.m.

Council/Agency reconvened at 1 p.m. with all Councilmembers/Agency Members present.

**Present:** 7 - Mayor Jim Griffith  
Vice Mayor Tara Martin-Milius  
Councilmember David Whittum  
Councilmember Pat Meyering  
Councilmember Jim Davis  
Councilmember Glenn Hendricks  
Councilmember Gustav Larsson

[15-0444](#) Direction on Article 6 of the 2010 Amended Disposition and Development and Owner Participation Agreement (ADDOPA) for Transfer of the Sunnyvale Town Center Property

The Development Team provided background information on the respective business partners:

Drew Hudacek, Sares Regis Group of Northern California  
Morgan Lingel, JP Morgan Real Estate Asset Management Group  
Deke Hunter, Hunter Properties Inc.  
David Ash, Senior Vice President, Wells Fargo

Public Hearing opened at 1:55 p.m.

Russ Melton, speaking on his own accord, spoke in support of Alternative 1.

Steve Scandalis spoke regarding the importance of exercising caution in dealing with Limited Liability Companies (LLCs) and suggested asking JP Morgan to purchase the Macy's property from the former developer.

Public Hearing closed at 1:59 p.m.

MOTION: Councilmember/Agency Member Hendricks moved and Councilmember/Agency Member Larsson seconded the motion to approve Alternative 1: Acknowledge that the proposed Transferee satisfies the four Article 6 criteria in the ADDOPA for transfer of the Sunnyvale Town Center property.

SUBSTITUTE MOTION: Councilmember/Agency Member Whittum moved a

substitute motion and Councilmember/Agency Member Meyering seconded to take this action on December 15.

The substitute motion failed by the following vote:

- Yes:** 3 - Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis
- No:** 4 - Mayor Griffith  
Vice Mayor Martin-Milius  
Councilmember Hendricks  
Councilmember Larsson

The main motion carried by the following vote:

- Yes:** 4 - Mayor Griffith  
Vice Mayor Martin-Milius  
Councilmember Hendricks  
Councilmember Larsson
- No:** 3 - Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

MOTION: Councilmember/Agency Member Meyering moved and Councilmember/Agency Member Davis seconded the motion to hold the Study Session in the Council Chambers.

The motion failed by the following vote:

- Yes:** 3 - Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis
- No:** 4 - Mayor Griffith  
Vice Mayor Martin-Milius  
Councilmember Hendricks  
Councilmember Larsson

City Manager Deanna Santana provided closing comments.

Mayor Griffith provided closing comments and adjourned the meeting to Study

Session at 2:40 p.m.

### **STUDY SESSION**

#### **Call to Order in the West Conference Room (Open to the Public)**

Vice Mayor/Agency Member Martin-Milius called the Study Session to order in the West Conference Room at 2:43 p.m.

#### **Roll Call**

**Present:** 7 - Mayor Jim Griffith  
Vice Mayor Tara Martin-Milius  
Councilmember David Whittum  
Councilmember Pat Meyering  
Councilmember Jim Davis  
Councilmember Glenn Hendricks  
Councilmember Gustav Larsson

#### **Study Session**

Councilmember/Agency Member Larsson stated he lives near the downtown and he would recuse himself from participation in the discussion of the item.

Councilmember/Agency Member Davis stated he resides near the proposed project but has determined he did not need to recuse himself from participating in the discussion.

Councilmember/Agency Member Whittum stated he resides near the proposed project but does not believe he needs to recuse himself from participating in the discussion.

MOTION: Councilmember/Agency Member Meyering moved and Councilmember/Agency Member Davis seconded the motion to conduct the meeting in Council Chambers.

The motion carried by the following vote:

**Yes:** 4 - Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis  
Councilmember Hendricks

**No:** 2 - Mayor Griffith  
Vice Mayor Martin-Milius

**Recused:** 1 - Councilmember Larsson

Council/Agency reconvened in Council Chambers.

Mayor/Agency Member Griffith called the Study Session to order at 3:05 p.m.

Mayor/Agency Member Griffith restated that Councilmember/Agency Member Larsson has recused himself from the discussion and remained in the room.

[15-1098](#)      Discussion on Status of Sunnyvale Town Center Project and  
Presentation on Market Assessment

Assistant City Manager, Chief of Downtown Development Hanson Hom provided the staff report.

Tim Kelly, Keyser Marston Associates, provided information and a presentation on the market assessment.

**Public Comment**

Public Comment opened at 4:30 p.m.

No speakers.

Public Comment closed at 4:30 p.m.

**Adjourn Special Meeting**

Mayor Griffith adjourned the Study Session at 4:30 p.m.



# City of Sunnyvale

## Agenda Item

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**16-0378**

**Agenda Date:** 4/12/2016

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**SUBJECT**

Approve Joint City Council and Redevelopment Successor Agency Meeting Minutes of February 23, 2016

**RECOMMENDATION**

Redevelopment Successor Agency:

Approve the Joint City Council and Redevelopment Successor Agency Meeting Minutes of February 23, 2016 as submitted.



# City of Sunnyvale

## Meeting Minutes City Council

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Tuesday, February 23, 2016

5:30 PM

West Conference Room and Council  
Chambers, City Hall, 456 W. Olive Ave.,  
Sunnyvale, CA 94086

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**Special Meeting-Joint Closed Session with City Council and Successor Agency to the  
Redevelopment Agency-5:30 PM | Study Session-6 PM | Regular Meeting-7 PM**

### **7 P.M. COUNCIL MEETING**

#### **CALL TO ORDER**

Mayor Hendricks called the meeting to order in Council Chambers.

#### **SALUTE TO THE FLAG**

Mayor Hendricks led the salute to the flag.

#### **ROLL CALL**

**Present:** 7 - Mayor Glenn Hendricks  
Vice Mayor Gustav Larsson  
Councilmember Jim Griffith  
Councilmember Tara Martin-Milius  
Councilmember David Whittum  
Councilmember Pat Meyering  
Councilmember Jim Davis

#### **CLOSED SESSION REPORT**

Vice Mayor Larsson reported the Council and Successor Agency to the Redevelopment Agency met in joint closed session held pursuant to California Government Code Section 54956.9: Conference with Legal Counsel-Existing Litigation (Paragraph (1) of subdivision (d) of Section 54956.9); nothing to report.

#### **SPECIAL ORDER OF THE DAY**

[16-0198](#) SPECIAL ORDER OF THE DAY - Arbor Day Celebration and Proclamation

Mayor Hendricks presented a proclamation to Leonard Dunn, Street Tree Services Program Manager, in honor of Arbor Day.

#### **ORAL COMMUNICATIONS**



# City of Sunnyvale

## Agenda Item

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16-0343

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### SUBJECT

Approve the First Amendment to Outside Counsel Agreement with Goldfarb & Lipman LLP for Litigation Services Pertaining to the Three Lawsuits Related to the Dissolution of the Redevelopment Agency

#### REPORT IN BRIEF

Approval is requested for a First Amendment to the Outside Counsel Agreement with the law firm of Goldfarb Lipman for legal services and representation of the City in the matters of (i) *Sunnyvale Successor Agency v. Ana Matosantos* (Sac SC # 34-2013-800001499) ("Sunnyvale #1"); (ii) *Santa Clara Office of Education et al. vs Successor Agency to the Sunnyvale Redevelopment Agency* (Sac SC # 34-2013-800001627) ("Sunnyvale #2"); and (iii) *Sunnyvale vs. Michael Cohen* (Sac SC #34-2015-80002067) ("Sunnyvale #3"). This First Amendment is needed to cover the costs associated with the appeals of Sunnyvale #1 and #2 and pursuing an appeal in Sunnyvale #3, which are estimated to be between \$50,000 to \$60,000.

#### BACKGROUND

Karen Tiedemann, a partner in the law firm Goldfarb Lipman in Oakland, is a lawyer specializing in the areas of real estate transactions, affordable housing, nonprofit organization and environmental law. Ms. Tiedemann and her firm were retained by the City Attorney under Section 908 of the City Charter to represent the City and provide legal services, consultation and advice concerning the above referenced cases in litigation. The Agreement was entered in June 24, 2013, with a current not to exceed amount of \$100,000. The term of the Agreement expires on May 31, 2016.

#### DISCUSSION

The Goldfarb law firm has represented the City in many matters concerning the dissolution of the Redevelopment Agency during the past years. In October 2014, the City Council gave authority by a 7-0 vote to pursue appellate review in Sunnyvale #1 and Sunnyvale #2. Sunnyvale #1 and Sunnyvale #2 involve approximately \$13.8 million that the former RDA paid to the City in FY 2010-11 and 2011-12 under the 1977 Repayment Agreement between the City and the former RDA. The California Department of Finance (DOF) and the County of Santa Clara contend that the payments were not authorized by the 2011 law that dissolved redevelopment agencies.

Sunnyvale #3 involves a 2012 Re-entered Agreement that authorized the Successor Agency to repay the City approximately \$12.5 million for the 1998 Certificates of Participation that were issued to refinance the RDA's prior debt for the construction of the downtown parking garage. The City filed a separate lawsuit after it was rejected by the DOF.

It is anticipated that the City may incur an additional \$50,000 to \$60,000 in legal fees for completion of the appeals in Sunnyvale #1 and #2, and pursuing appeal in Sunnyvale #3. Therefore, it is

necessary to amend the Agreement to allow for an additional \$60,000 in legal expenses, for a new not-to-exceed amount of \$160,000.

In addition as the term of the Agreement is set to expire on May 31, 2016, it is necessary to extend the term and staff recommends that the term be extended for an additional three years or until May 19, 2019. This should be a sufficient amount of time to resolve the three lawsuits related to the dissolution of the Redevelopment Agency.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378 (b) (4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

### **FISCAL IMPACT**

Funding for RDA Counsel Fees in FY 2015/16 has been appropriated in the General Fund.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **RECOMMENDATION**

#### **City Council:**

Authorize the City Attorney to execute a First Amendment, in substantially the same form as Attachment 1 to the report, to the Outside Counsel Agreement with the law firm of Goldfarb Lipman to extend the term of the Agreement until May 19, 2019 and to increase the not-to-exceed amount by \$60,000, for a new not-to-exceed contract amount of \$160,000.

#### **Redevelopment Successor Agency:**

Authorize the Agency Counsel to execute a First Amendment, in substantially the same form as Attachment 1 to the report, to the Outside Counsel Agreement with the law firm of Goldfarb Lipman to extend the term of the Agreement until May 19, 2019 and to increase the not-to-exceed amount by \$60,000, for a new not-to-exceed contract amount of \$160,000.

Prepared by: Nichole Anglin, Paralegal

Reviewed and Approved by: John A. Nagel, City Attorney and Agency Counsel

### **ATTACHMENT**

1. Draft First Amendment to Outside Counsel Agreement



**FIRST AMENDMENT TO  
OUTSIDE COUNSEL SERVICES AGREEMENT  
BETWEEN THE CITY OF SUNNYVALE AND THE  
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
OF THE CITY OF SUNNYVALE AND  
GOLDFARB & LIPMAN LLP  
(FORMER RDA LITIGATION)**

THIS FIRST AMENDMENT TO OUTSIDE COUNSEL SERVICES AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF SUNNYVALE (“City”), a municipal corporation, and the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SUNNYVALE, a public agency organized and existing under Health and Safety Code section 34173 (g) (“Agency”) and GOLDFARB & LIPMAN LLP, a California professional corporation, engaged in the practice of law in California (“Outside Counsel”).

**RECITALS**

**WHEREAS**, on June 24, 2013, City and Outside Counsel entered into an agreement entitled, “Outside Counsel Services Agreement between the City of Sunnyvale and the Successor Agency to the Redevelopment Agency of the City of Sunnyvale and Goldfarb & Lipman LLP” (“Agreement”); and

**WHEREAS**, Outside Counsel was retained to assist in the litigation matter of *Successor Agency to Redevelopment Agency of the City of Sunnyvale and City of Sunnyvale v. Matosantos, et al.*, Sacramento County Superior Court Case No. 34-2013-80001499 (Sunnyvale #1); and

**WHEREAS**, in October 2014, by a unanimous 7-0 vote, the City Council authorized the City Attorney to pursue appellate review, and now includes *Santa Clara Office of Education et al. vs Successor Agency to the Sunnyvale Redevelopment Agency* (Sac SC # 34-2013-800001627) (“Sunnyvale #2”); and *Sunnyvale vs. Michael Cohen* (Sac SC #34-2015-80002067) (“Sunnyvale #3”); and

**WHEREAS**, City and Outside Counsel desire to amend the Agreement to extend the term and increase the amount of total compensation allowed by \$60,000, for a total not-to-exceed amount of \$160,000;

**NOW, THEREFORE**, the parties agree to amend the Agreement as follows:

1. Section 2.0 is hereby amended to read as follows:
  - 2.0. TIME OF PERFORMANCE.** The term of this Agreement shall be for a period of six years, commencing May 20, 2013, and ending May 19, 2019.

2. Section 3.0 is hereby amended to read as follows:

**3.0 COMPENSATION, REIMBURSEMENT AND METHOD OF PAYMENTS.**

**3.1 Compensation.** Fees for all legal services provided hereunder shall be charged in accordance with First Revised Exhibit "A" which is attached and incorporated by reference. First Revised Exhibit "A" may be amended, from time to time, to alter fees and charges applicable hereto provided that a letter agreement is duly signed and approved by the City Attorney. The total amount of fees and expenses shall not exceed \$160,000.00. Outside Counsel shall notify the City prior to incurring billable costs in excess of 95% of the not-to-exceed amount.

3. Exhibit A, "Fee Schedule" is amended to read as shown in First Revised Exhibit A, attached and incorporated into this First Amendment.

4. All of the terms and conditions of the Agreement not specifically modified by this First Amendment shall remain in full force and effect.

WITNESS THE EXECUTION HEREOF on the day and year first written above.

CITY OF SUNNYVALE, a municipal  
corporation

GOLDFARB & LIPMAN LLP, a professional  
corporation

By \_\_\_\_\_  
JOHN A. NAGEL  
City Attorney

By \_\_\_\_\_  
KAREN M. TIEDEMANN  
Partner

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

SUCCESSOR AGENCY TO THE  
REDEVELOPMENT AGENCY OF THE CITY  
OF SUNNYVALE, a municipal corporation

By \_\_\_\_\_  
JOHN A. NAGEL  
Agency Counsel

Dated: \_\_\_\_\_

**FIRST REVISED EXHIBIT A**

**FEE SCHEDULE**

HOURLY RATE

Partner	\$275-295
Senior Counsel	\$275-295
Associates	\$175-215
Litigation Paralegal	\$145
Senior Law Clerks	\$145
Law Clerks	\$130
Project Coordinators	\$130



# City of Sunnyvale

## Agenda Item

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**16-0355**

**Agenda Date:** 4/12/2016

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PRESENTATION - PG&E Pipeline Safety Program (Rescheduled from March 29, 2016)



# City of Sunnyvale

## Agenda Item

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**16-0344**

**Agenda Date:** 4/12/2016

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**SUBJECT**

Approve City Council Meeting Minutes of March 29, 2016

**RECOMMENDATION**

Approve the City Council Meeting Minutes of March 29, 2016 as submitted.



# City of Sunnyvale

## Meeting Minutes - Draft City Council

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Tuesday, March 29, 2016

5:00 PM

Council Chambers and West Conference  
Room, City Hall, 456 W. Olive Ave.,  
Sunnyvale, CA 94086

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Special Meeting-Study Sessions-5 PM | Regular Meeting-7 PM

### **7 P.M. COUNCIL MEETING**

#### **CALL TO ORDER**

Mayor Hendricks called the meeting to order in Council Chambers.

#### **SALUTE TO THE FLAG**

Mayor Hendricks led the salute to the flag.

#### **ROLL CALL**

**Present:** 7 - Mayor Glenn Hendricks  
Vice Mayor Gustav Larsson  
Councilmember Jim Griffith  
Councilmember Tara Martin-Milius  
Councilmember David Whittum  
Councilmember Pat Meyering  
Councilmember Jim Davis

#### **PRESENTATIONS**

- 1      [16-0316](#)      PRESENTATION - Presentation by the Sunnyvale Chamber of Commerce Regarding its Recent Survey on Transportation Priorities

The presentation was heard at 8:12 p.m. following Public Hearing Item 3.

Don Eagleston, President and CEO, Sunnyvale Silicon Valley Chamber of Commerce introduced EMC Research representatives Jessica Polsky, Vice President, and Sianna Ziegler, Research Analyst, who provided a presentation on the Sunnyvale Chamber of Commerce transportation and opinion study.

Following the presentation, Council considered Public Hearing Item 4 at 8:32 p.m.

**2      [16-0155](#)      PRESENTATION - PG&E Pipeline Safety Program**

Mayor Hendricks announced the PG&E presentation has been postponed to April 12.

Mayor Hendricks announced Public Hearing/General Business Item 9 would be heard following Public Hearing/General Business Item 4.

**ORAL COMMUNICATIONS**

Councilmember Whittum announced upcoming vacancies on boards and commissions and an application deadline.

Councilmember Martin-Milius provided updates regarding Energize Sunnyvale presentations and events.

Maria Pan spoke regarding the American spirit for equality, justice and freedom.

Kevin Bock, Director of Summit Denali School, spoke regarding public Charter schools.

**CONSENT CALENDAR**

Councilmember Meyering pulled Items 1.A, 1.B, 1.C, 1.D, 1.E, 1.F, 1.G, 1.H, 1.I, 1.M, 1.P, and 1.Q.

Councilmember Whittum announced that because his home is within 500 feet of the Business Improvement District, his vote would not be a vote on Items 1.O and 1.K.

MOTION: Vice Mayor Larsson moved and Councilmember Martin-Milius seconded the motion to approve Consent Calendar Items 1.J, 1.K, 1.L, 1.N. and 1.O.

The motion carried by the following vote:

**Yes: 7 -** Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

**No: 0**



Mayor Hendricks announced that due to time sensitivity Consent Calendar Items 1.E, 1.F, 1.G, 1.I, and 1.M would be handled next, and the balance of the Consent Items would be handled following the Public Hearing/General Business portion of the meeting.

**1.A**      [16-0304](#)      Approve City Council Meeting Minutes of February 9, 2016  
(Continued from March 15, 2016)

Consent Calendar Items 1.A, 1.B and 1.C were taken up by unanimous action of the Council following action on Consent Calendar Item 1.P.

Public Hearing opened at 1:06 a.m.

No speakers.

Public Hearing closed at 1:06 a.m.

MOTION: Councilmember Davis moved and Councilmember Griffith seconded the motion to approve the City Council Meeting Minutes of February 9, 2016 as submitted.

The motion carried by the following vote:

**Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis

**No:** 1 - Councilmember Meyering

**1.B**      [16-0305](#)      Approve City Council Meeting Minutes of February 23, 2016  
(Continued from March 15, 2016)

Public Hearing opened at 1:06 a.m.

No speakers.

Public Hearing closed at 1:06 a.m.

MOTION: Councilmember Davis moved and Councilmember Griffith seconded the motion to approve the City Council Meeting Minutes of February 23, 2016 as submitted.

The motion carried by the following vote:

**Yes: 6 -** Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis

**No: 1 -** Councilmember Meyering

**1.C**     [16-0268](#)     Approve City Council Meeting Minutes of March 15, 2016

Public Hearing opened at 1:06 a.m.

No speakers.

Public Hearing closed at 1:06 a.m.

MOTION: Councilmember Davis moved and Councilmember Griffith seconded the motion to approve the City Council Meeting Minutes of March 15, 2016 as submitted.

The motion carried by the following vote:

**Yes: 6 -** Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis

**No: 1 -** Councilmember Meyering

MOTION: Councilmember Davis moved and Councilmember Griffith seconded the motion to continue with Item 1.D.

The motion carried by the following vote:

**Yes: 6 -** Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis

**No: 1 -** Councilmember Meyering

**1.D**      [16-0166](#)      Approve the List(s) of Claims and Bills Approved for Payment  
by the City Manager

Public Hearing opened at 1:08 a.m.

No speakers.

Public Hearing closed at 1:08 a.m.

MOTION: Vice Mayor Larsson moved and Councilmember Davis seconded the motion to approve the list(s) of claims and bills.

The motion carried by the following vote:

**Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis  
**No:** 1 - Councilmember Meyering

MOTION: Councilmember Griffith moved and Vice Mayor Larsson seconded the motion to take up Consent Calendar Item 1.H.

The motion carried by the following vote:

**Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis  
**No:** 1 - Councilmember Meyering

**1.E**      [16-0300](#)      Approve Agreement with Abode Services Related to Tenant  
Based Rental Assistance (TBRA) Program (Continued from  
March 15, 2016)

Housing Officer Suzanne Ise responded to Council questions.

Public hearing opened at 7:19 p.m.

No speakers.

Public hearing closed at 7:19 p.m.

MOTION: Vice Mayor Larsson moved and Councilmember Martin-Milius seconded the motion to approve the Agreement with Abode Services, in substantially the same form as Attachment 1 to the report, to provide funding for the Sunnyvale TBRA Program in an amount not to exceed \$371,898, and authorize the City Manager to execute the Agreement.

The motion carried by the following vote:

**Yes:** 7 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

**No:** 0

**1.F**      [16-0306](#)      Third Amendment to Outside Counsel Agreement with Rankin Stock Heaberlin for Litigation Services (Continued from March 15, 2016)

City Attorney John Nagel responded to Council questions.

Public Hearing opened at 7:24 p.m.

No speakers.

Public Hearing closed at 7:24 p.m.

MOTION: Councilmember Meyering moved to deny any further funding for the project.

The motion died due to lack of a second.

MOTION: Vice Mayor Larsson moved and Councilmember Davis seconded the motion to authorize the City Attorney to execute a Third Amendment, in substantially the same form as Attachment 1 to the report, to the Outside Counsel Agreement with the law firm of Rankin Stock Heaberlin to increase the not to exceed amount by \$100,000, for a new not to exceed contract amount of \$250,000.

The motion carried by the following vote:

**Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis

**No:** 1 - Councilmember Meyering

**1.G**      [16-0307](#)      Award of Contract for Americans with Disabilities Act (ADA)  
Access Evaluation and Transition Plan for City Facilities and  
Rights-of-way (F16-55) (Continued from March 15, 2016)

Public Hearing opened at 7:26 p.m.

No speakers.

Public Hearing closed at 7:26 p.m.

MOTION: Councilmember Meyering moved to deny Alternative 2 regarding the  
10% contingency.

The motion died due to lack of a second.

MOTION: Councilmember Davis moved and Vice Mayor Larsson seconded the  
motion to 1) Award a contract, in substantially the same form as Attachment 1 of  
the report and in the amount not to exceed \$269,415 to Sally Swanson Architects,  
Inc. and 2) approve a 10% contract contingency in the amount of \$26,942.

The motion carried by the following vote:

**Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis

**No:** 0

**Abstain:** 1 - Councilmember Meyering

**1.H**      [16-0308](#)      Award of Bid No. PW16-06 for Orchard Gardens Park  
Restrooms Renovation and Finding of CEQA Categorical  
Exemption (Continued from March 15, 2016)

Public Hearing opened at 1:13 a.m.

No speakers.

Public Hearing closed at 1:13 a.m.

MOTION: Councilmember Meyering moved to deny recommendation number two. The motion died due to lack of a second.

MOTION: Vice Mayor Larsson moved and Councilmember Griffith seconded the motion to make a finding of CEQA categorical exemption pursuant to CEQA Guideline Section 15301 for alterations to existing facilities involving negligible or no expansion of use beyond that presently existing; 2) award a contract in substantially the same form as Attachment 2 to the report and in the amount of \$120,365 to Integra Construction Services Inc.; and 3) approve a 15% construction contingency in the amount of \$18,055.

The motion carried by the following vote:

**Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis

**No:** 1 - Councilmember Meyering

Following action on Item 1.H, Mayor Hendricks announced Consent Calendar Item 1.Q would be handled at a future meeting.

**1.I**      [16-0309](#)      Adopt Ordinance No. 3074-16 Amending Certain Sections in Chapters 18.04 (General Provisions) and 18.20 (Maps) of Title 18 (Subdivisions) of the Sunnyvale Municipal Code  
(Continued from March 15, 2016)

Public Hearing opened at 7:28 p.m.

No speakers.

Public Hearing closed at 7:28 p.m.

MOTION: Vice Mayor Larsson moved and Councilmember Davis seconded the motion to adopt Ordinance No. 3074 16.

The motion carried by the following vote:

**Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis

**No:** 1 - Councilmember Meyering

**1.J**     [16-0277](#)     Appoint Dr. Judy Miner to the NOVA Workforce Board  
Appoint Dr. Judy Miner to the NOVA Workforce Board.

**1.K**     [16-0281](#)     Approve Recommendation from the Community Event Grant  
Distribution Subcommittee to Initiate the 2016 Grant  
Procedure and Process

MOTION: Vice Mayor Larsson moved and Councilmember Martin-Milius seconded the motion to approve the grant procedure and process, including eligibility evaluation criteria, application and time line, as outlined in the Memorandum to the Community Events Grant Distribution Subcommittee dated February 9, 2016 (Attachment 2 to this report) to initiate the 2016 Grant Procedure and Process. The Subcommittee will present their final grant distribution recommendations to the City Council during the June 28, 2016 City Council meeting, following the adoption of the Fiscal Year 2016/17 Budget.

The motion carried by the following vote:

**Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Meyering  
Councilmember Davis

**No:** 0

**Recused:** 1 - Councilmember Whittum

**1.L**     [16-0214](#)     Approve Modification to Contract for Youth Workforce  
Development Services

Approve the modification of the Agreement with JobTrain for youth workforce development services, as presented in Attachment 1 of the staff report, and authorize the City Manager to Execute the Agreement increasing the not to exceed amount by \$50,000 for a new not to exceed amount of \$400,000 for services

through June 30, 2016.

- 1.M**      [16-0254](#)      Award of a Contract for Design Services to Upgrade the SMaRT Station Stormwater Management System in Conjunction with the San Francisco Baykeeper Settlement (F16-71)

Public Hearing opened at 7:29 p.m.

No speakers.

Public Hearing closed at 7:29 p.m.

MOTION: Councilmember Meyering moved to deny recommendation 2, the 10% design contingency.

The motion died due to lack of a second.

MOTION: Councilmember Meyering moved to take recommendations 1 and 2 separately.

The motion died due to lack of a second.

MOTION: Vice Mayor Larsson moved and Councilmember Davis seconded the motion to 1) Award a contract, in substantially the same form as Attachment 1 of this report and in an amount not to exceed \$149,563 to Geosyntec Consultants; and 2) approve a 10% design contingency in the amount of \$14,956.

The motion carried by the following vote:

**Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis

**No:** 1 - Councilmember Meyering

Following action on Consent Calendar Item 1.M, Council considered Public Hearing/General Business Item 2.

- 1.N**      [16-0145](#)      Adopt a Resolution Approving City Applications for CalRecycle Funding and Related Authorizations

Adopt the Resolution for Submittal of Applications for CalRecycle Payment Programs and Related Authorizations for which City of Sunnyvale is Eligible.



- 1.O**      [16-0167](#)      Approve the Downtown Sunnyvale Business Improvement District Report for Fiscal Year 2015/16 and Adopt the Resolution of Intention to Reauthorize the Downtown Sunnyvale Business Improvement District for Fiscal Year 2016/17

MOTION: Vice Mayor Larsson moved and Councilmember Martin-Milius seconded the motion to approve the submitted FY 2015/16 BID Annual Report and Adopt the Resolution of Intention, and schedule a public hearing for April 19, 2016 to reauthorize the Business Improvement District for FY 2016/17.

The motion carried by the following vote:

**Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Meyering  
Councilmember Davis

**No:** 0

**Recused:** 1 - Councilmember Whittum

- 1.P**      [16-0176](#)      Approve Final Map (Tract No.10316) - 7 Townhomes at 1050-1060 Helen Avenue by Casa Camino, LLC, a California Limited Liability Company

Director of Public Works Manuel Pineda, City Attorney John Nagel and Director of Community Development Trudi Ryan responded to Council questions.

Public Hearing opened at 1:03 a.m.

No speakers.

Public Hearing closed at 1:03 a.m.

MOTION: Councilmember Griffith moved and Councilmember Martin-Milius seconded the motion to approve the final map for Tract No. 10316; authorize the Mayor to sign Subdivision Agreement SD 15 03 upon submittal of other documents deemed necessary by the Director of Public Works; and direct the City Clerk to sign the City Clerk's Statement and forward the final map for recordation.

The motion carried by the following vote:

- Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis
- No:** 1 - Councilmember Meyering

MOTION: Councilmember Davis moved and Councilmember Whittum seconded the motion to take up Consent Calendar Items 1.A, 1.B and 1.C.

FRIENDLY AMENDMENT: Councilmember Griffith offered a friendly amendment to take up Consent Calendar Items 1.A, 1.B and 1.C. as one item.  
Councilmember Davis accepted the friendly amendment.

Public Hearing opened at 1:06 a.m.  
No speakers.  
Public Hearing closed at 1:06 a.m.

The motion carried by the following vote:

- Yes:** 7 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis
- No:** 0

- 1.Q**     [16-0246](#)     Annual Review and Approval of City's Code of Ethics and Conduct for Elected and Appointed Officials

No action taken. Following action on Item 1.H, Mayor Hendricks announced Consent Calendar Item 1.Q would be handled at a future meeting.

### **PUBLIC HEARINGS/GENERAL BUSINESS**

- 2**     [16-0311](#)     RECOMMEND CONTINUANCE TO APRIL 12, 2016  
Introduce an Ordinance to Amend Titles 3 (Revenue and Finance) and 19 (Zoning) of the Sunnyvale Municipal Code

related to the Transportation Impact Fee and Housing Impact Fees in Conjunction with the Study Issue to Evaluate the Timing of Park Dedication In-lieu Fee Calculation and Payment (2015-7151) (Continued from March 15, 2016)

Public Hearing opened at 7:31 p.m.

No speakers.

Public Hearing closed at 7:31 p.m.

MOTION: Vice Mayor Larsson moved and Councilmember Martin-Milius seconded the motion to continue the item to April 12, 2016.

The motion carried by the following vote:

**Yes:** 7 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

**No:** 0

- 3**      [16-0302](#)      Consider First Community Housing Proposal for \$6 Million in Housing Mitigation Funds for Redevelopment of Orchard Gardens Apartments at 245 W. Weddell Drive, Resulting in an 87-Unit Affordable Housing Project (Continued from March 15, 2016.)

Housing Officer Suzanne Ise provided the staff report. Applicant Geoffrey Morgan, President and CEO of First Community Housing, provided additional information.

Public Hearing opened at 7:45 p.m.

Jan Stokely spoke regarding supportive services for independent living for developmentally disabled adults and in support of affordable housing in Sunnyvale, and provided written materials.

Lisa Wolk spoke in support of the affordable housing project for developmentally disabled adults.

JoAnn Gines spoke in support of the affordable housing project for developmentally disabled adults.

Alba Virgen spoke in support of the affordable housing project for developmentally disabled adults.

Sherry McClure spoke in support of the affordable housing project for developmentally disabled adults.

Clare Meyerson spoke in support of this and future affordable housing projects for the developmentally disabled.

Stan Hendryx spoke in support of Alternative 1.

Amy Jasper spoke in support of the project.

Public Hearing closed at 8:03 p.m.

MOTION: Councilmember Davis moved and Vice Mayor Larsson seconded the motion to approve Alternative 1: Award a two year conditional commitment of HMF in the amount of \$6 million to FCH for redevelopment of Orchard Gardens Apartments at 245 W. Weddell Drive in Sunnyvale, generally consistent with the terms described in Attachment 5 to the report, and direct staff to include the funds committed to this project in the FY 2016 17 Projects Budget.

The motion carried by the following vote:

**Yes:** 7 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

**No:** 0

Following action on Item 3, Mayor Hendricks announced the presentation by the Sunnyvale Chamber of Commerce would be heard at this time.

**4**      [16-0190](#)      File #: 2015-7960  
Location: 882 W. McKinley Ave. (APN: 165-46-057)  
Zoning: R-1.7/PD (Low Medium Density Residential / Planned  
Development) Zoning District

Proposed Project:

SPECIAL DEVELOPMENT PERMIT: Appeal of a Planning Commission decision by the property owner for a first floor addition of 280 square feet to the rear of the existing two-story, single-family home resulting in a building size of 2,425 square feet including a 415 square foot garage and a floor area ratio (FAR) of 60.35 percent.

Applicant / Owner: Rong Chang USA Corporation (applicant) / King and Lynn Wu (owner)

Environmental Review: Categorical Exemption pursuant to California Environmental Quality Act Section 15301 (minor alterations and additions to existing structure)

Planning Officer Andrew Miner provided the staff report. Director of Community Development Trudi Ryan, City Attorney John Nagel and Housing Officer Suzanne Ise provided additional information.

Applicant/Appellant Kevin Wu, speaking for his parents King and Lynn Wu, provided information regarding their qualifications for reasonable accommodations and the importance to them of staying in their home and neighborhood.

Public Hearing opened at 8:48 p.m.

Othar Hansson stated his objections to the remodel due to a privacy issue with the addition of the bay window, the trend for modifications in the neighborhood, the large size of this house, and suggested alternative solutions to the reasonable accommodation. Hansson urged denial of the appeal.

Terry Glennon spoke in opposition to the proposed modifications, citing the change to the character of the neighborhood.

Izabella Briskin provided four copies of photos of the window placements, and spoke in opposition to the proposal due to privacy concerns and the negative impact to the value of her property.

James O'Brien spoke against the appeal and against the variance, citing an incompatibility with the neighborhood to create a five bedroom house.

Applicant/Appellant Kevin Wu responded to comments and concerns raised during the public hearing and stated they are willing to make changes to two rear windows.

Public Hearing closed at 9:13 p.m.

MOTION: Councilmember Davis moved and Councilmember Martin-Milius seconded the motion to approve Alternative 1: Grant the appeal and approve the Special Development Permit with Reasonable Accommodation subject to the Conditions of Approval in Attachment 4 to the report and in accordance with the Findings in Attachment 3 to the report.

FRIENDLY AMENDMENT: Mayor Hendricks offered a friendly amendment that the windows on the side of the house are frosted glass.  
Councilmember Davis accepted the friendly amendment.

FRIENDLY AMENDMENT: Mayor Hendricks offered a friendly amendment to add a deed restriction that the addition cannot be used as a separate rental.  
Councilmember Davis accepted the friendly amendment.

AMENDMENT: Councilmember Whittum moved to amend the motion and Councilmember Meyering seconded to amend the Conditions of Approval to remove the two bedroom windows on the proposed right west elevation.

The motion to amend failed by the following vote:

- Yes:** 2 - Councilmember Whittum  
Councilmember Meyering
- No:** 5 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Davis

The main motion carried by the following vote:

- Yes:** 4 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Martin-Milius  
Councilmember Davis
- No:** 3 - Councilmember Griffith  
Councilmember Whittum  
Councilmember Meyering

Council recessed at 9:53 p.m.

Council reconvened at 10 p.m. with all Councilmembers present.

Following the recess, Council resumed with Item 9.

- 5**      [16-0299](#)      Approve the 2015 Annual Progress Report on Implementation of the General Plan Housing Element (Continued from March 15, 2016)

Housing Officer Suzanne Ise provided the staff report.

Public Hearing opened at 12:02 a.m.

Stan Hendryx spoke regarding the continued need for affordable housing in Sunnyvale.

Public Hearing closed at 12:05 a.m.

MOTION: Councilmember Griffith moved and Vice Mayor Larsson seconded the motion to approve Alternative 1: Approve the Annual Progress Report on implementation of the Housing Element.

The motion carried by the following vote:

- Yes:** 6 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis
- No:** 1 - Councilmember Meyering

MOTION: Councilmember Griffith moved and Councilmember Whittum seconded the motion to take up Item 7.

The motion carried by the following vote:

**Yes: 7 -** Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

**No: 0**

- 6**      [16-0154](#)      Hold Tax Equity and Fiscal Responsibility Act (TEFRA)  
Hearing and Adopt Resolution Related to Proposed Issuance  
of Tax Exempt Revenue Bonds for Preservation of “Life’s  
Garden” Affordable Senior Apartments at 450 Old San  
Francisco Road in Sunnyvale

Mayor Hendricks stated his grandmother lived at Life’s Garden in the 1970s-1980s and his mother worked there in the administrative office, but it would not affect his vote.

Housing Officer Suzanne Ise provided the staff report. JP Stocco, Beacon Communities, provided additional information.

Public Hearing opened at 11:57 p.m.  
No speakers.  
Public Hearing closed at 11:57 p.m.

MOTION: Councilmember Griffith moved and Councilmember Davis seconded the motion to approve Alternatives 1 and 2: 1) Conduct a public hearing pursuant to the Tax and Equity Fiscal Responsibility Act and the Internal Revenue Code of 1986, as amended; and 2) Adopt a Resolution approving the issuance of up to \$45,000,000 in tax exempt revenue bonds by the California Municipal Finance Authority for the Life's Garden Senior Housing Project and authorizing the City Manager or her designee to execute the CMFA Joint Exercise of Powers Agreement (Attachment 2 in the report) on the City's behalf.

The motion carried by the following vote:



**Yes: 7 -** Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

**No: 0**

MOTION: Councilmember Griffith moved and Vice Mayor Larsson seconded the motion to continue with Item 5.

The motion carried by the following vote:

**Yes: 7 -** Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

**No: 0**

**7**      [16-0313](#)      Discussion and Possible Council Action Relating to  
Sunnyvale's Rotational Schedule on the Santa Clara Valley  
Transportation Authority Board of Directors

Assistant City Manager Kent Steffens provided the staff report. City Attorney John Nagel and City Manager Deanna Santana provided additional information.

Councilmember Whittum provided written materials and information on proposed alternatives.

Public Hearing opened at 12:22 a.m.

No speakers.

Public Hearing closed at 12:22 a.m.

MOTION: Councilmember Davis moved and Councilmember Griffith seconded the motion to reaffirm the February 6, 2012 memo on Santa Clara City stationery and signed by Mayors Matthews, Spitaleri and Esteves as voting members for District 5.

FRIENDLY AMENDMENT: Councilmember Griffith offered a friendly amendment that the rotation in the February 6, 2012 memo continues in that pattern forever, which is Alternative 2: Pursue an alternate rotation schedule, and authorize the Mayor, or other Councilmember, to pursue consent with the two other cities in the North-East city grouping and to communicate the alternate rotational schedule to the VTA.

Councilmember Davis accepted the friendly amendment to amend the motion to Alternative 2.

FRIENDLY AMENDMENT: Vice Mayor Larsson offered a friendly amendment to change the motion back to Alternative 1: Affirm the 2012 Rotation Schedule, presented as Attachment 2 of this report, and authorize the Mayor, or other Councilmember, to pursue resolution with the VTA and the two other cities in the northeast city grouping.

Councilmember Davis accepted the friendly amendment and specified that the rotation documented in the February 6, 2012 letter applies.

The motion carried by the following vote:

**Yes: 7 -** Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

**No: 0**

Councilmember Whittum submitted his resignation from the VTA Board effective upon appointment of a new representative, and provided information about upcoming meeting dates.

Councilmember Hendricks stated an item to make the VTA appointment will be added to the agenda for next Tuesday.

MOTION: Councilmember Griffith moved and Vice Mayor Larsson seconded the motion to authorize the Mayor to negotiate on behalf of the City of Sunnyvale to make the rotational schedule in the 2012 letter continue in perpetuity, provided that negotiations over the first measure, in restoring our access, turn out as expected.

The motion carried by the following vote:

**Yes: 7 -** Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

**No: 0**

MOTION: Vice Mayor Larsson moved and Councilmember Whittum seconded the motion to take up Item 8.

Public Hearing opened at 12:48 a.m.

No speakers.

Public Hearing closed at 12:48 a.m.

The motion carried by the following vote:

**Yes: 6 -** Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis

**No: 1 -** Councilmember Meyering

**8**      [16-0310](#)      Review the Existing Friendly Exchange Relations Agreement with the City of Dubna, Moscow Region, Russian Federation for Potential Renewal (Continued from March 15, 2016)

Assistant City Manager Walter Rossmann provided the staff report.

Public Hearing opened at 12:50 a.m.

No speakers.

Public Hearing closed at 12:50 a.m.

MOTION: Councilmember Meyering moved and Councilmember Davis seconded the motion to request staff to contact the officials in Dubna to find out what their inclination is and discuss methods of having a friendly exchange, especially at lower age levels, and run it by the Teen Advisory Committee.

The motion failed by the following vote:

**Yes:** 3 - Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

**No:** 4 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius

MOTION: Councilmember Griffith moved and Vice Mayor Larsson seconded the motion to approve Alternative 2: Allow the current Friendly Exchange Relationship Agreement to expire on April 8, 2016.

The motion carried by the following vote:

**Yes:** 5 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Davis

**No:** 2 - Councilmember Whittum  
Councilmember Meyering

MOTION: Councilmember Griffith moved and Vice Mayor Larsson seconded the motion to take up Consent Calendar Item 1.P.

The motion carried by the following vote:

**Yes:** 7 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis

**No:** 0

- 9      [16-0314](#)      Approve the Extension of the Closing Deadline Agreement for the Purchase and Sales Agreement for Raynor Activity Center Located at 1500 Partridge Avenue and Amend the Joint Use Agreement for Raynor Park with Stratford School to Reflect

### Use Permit Conditions Approved by City Council

Assistant City Manager Kent Steffens provided the staff report. City Attorney John Nagel and City Manager Deanna Santana provided additional information.

Public Hearing opened at 10:29 p.m.

Sarah Rao spoke regarding Council discussion at the March 15 Council meeting and in opposition to Stratford use of the property.

Denise DeLange requested denial of the extension of the agreement citing concerns that the agreement is already null and void.

Demetrios Triantafyllou urged Council to deny the extension of the closing deadline, citing traffic impacts to the neighborhood, faulty traffic analysis, and inadequate mitigation measures

Terri Boyanich urged Council to not approve the extension of the closing agreement and stop the sale of the park.

Preeti Ray urged Council to not approve the extension of closing deadline agreement stating the EIR violates CEQA and stated the agenda item was not noticed to the neighborhood.

Henry Alexander urged Council to not approve the extension of the closing deadline agreement stating that it is illegal to extend an agreement that is expired and due to potential violation of the Quimby Act.

Joan Clothier requested Council consider other options for the site and urged Council to not approve the extension of the closing deadline agreement.

Clay Stringham, Stratford School, addressed comments made during the public hearing.

Tim Dietrich spoke regarding the EIR, stating it was incomplete because it did not consider the Washington Pool and Lakewood Library expansion proposals. Dietrich read from a March 15 letter to the City Council from the attorney for Save Sunnyvale.

Public Hearing closed at 10:54 p.m.

MOTION: Councilmember Griffith moved and Vice Mayor Larsson seconded the

motion to approve Alternatives 1, 2 and 3: 1) Find that the proposed extension of the closing deadline in the Purchase and Sale Agreement and amendments to the Joint Use Agreement will not create significant new environmental effects or increase the severity of previously identified significant effects associated with the project that would require additional environmental review under CEQA; 2) Authorize the City Manager to execute the revised Joint Use Agreement for Raynor Park with Stratford School (Attachment 1 of the report); and 3) Authorize the City Manager to execute the Extension of Closing Deadline Agreement for the Purchase and Sales Agreement for Raynor Activity Center Located at 1500 Partridge Avenue (Attachment 2 of the report).

AMENDMENT: Councilmember Meyering moved to amend the motion and Councilmember Whittum seconded to alter the provision concerning the closing deadline of the sales agreement to include a right of first refusal to require Stratford to offer the property for purchase by the City of Sunnyvale at any future time on the same terms as being offered to a third party.

MOTION TO RE-OPEN PUBLIC HEARING: Councilmember Whittum moved and Councilmember Meyering seconded the motion to re-open the public hearing.

The motion to re-open the public hearing failed by the following vote:

- Yes:** 3 - Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis
- No:** 4 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius

The motion to amend failed by the following vote:

- Yes:** 3 - Councilmember Whittum  
Councilmember Meyering  
Councilmember Davis
- No:** 4 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius

Councilmember Griffith amended his motion to include direction to staff to enter into discussions with Stratford to see if a right of first refusal can be included and authorize the inclusion of that if negotiations are successful.

AMENDMENT: Councilmember Meyering moved to amend the motion to include in the joint use agreement a requirement that the joint use agreement be placed on the ballot at the next general election for a vote by Sunnyvale residents. The motion to amend died due to lack of a second.

AMENDMENT: Councilmember Meyering moved to amend the motion and Councilmember Whittum seconded to change the term of the joint use agreement to two years and require voter approval of any extension.

The motion to amend failed by the following vote:

**Yes:** 1 - Councilmember Meyering

**No:** 5 - Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Davis

**Abstain:** 1 - Councilmember Whittum

MOTION AS RESTATED BY THE MAKER: Councilmember Griffith moved and Vice Mayor Larsson seconded the motion to approve Alternatives 1, 2 and 3: 1) Find that the proposed extension of the closing deadline in the Purchase and Sale Agreement and amendments to the Joint Use Agreement will not create significant new environmental effects or increase the severity of previously identified significant effects associated with the project that would require additional environmental review under CEQA; 2) Authorize the City Manager to execute the revised Joint Use Agreement for Raynor Park with Stratford School (Attachment 1 of the report); and 3) Authorize the City Manager to execute the Extension of Closing Deadline Agreement for the Purchase and Sales Agreement for Raynor Activity Center Located at 1500 Partridge Avenue (Attachment 2 of the report); and Direct staff to enter into negotiations with Stratford regarding the possibility of including a right of first refusal with staff only needing to come back to Council if there was a counter-proposal or a negative response.

The main motion as amended and restated carried by the following vote:

**Yes:** 4 - Mayor Hendricks  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum

**No: 3 -** Vice Mayor Larsson  
Councilmember Meyering  
Councilmember Davis

Following action on Item 9, due to the lateness of the hour:

MOTION: Councilmember Griffith moved and Councilmember Martin-Milius seconded to continue with the balance of the agenda items.

REVISED MOTION: Councilmember Griffith moved and Councilmember Martin-Milius seconded to continue with Item 6.

The motion carried by the following vote:

**Yes: 6 -** Mayor Hendricks  
Vice Mayor Larsson  
Councilmember Griffith  
Councilmember Martin-Milius  
Councilmember Whittum  
Councilmember Davis

**No: 1 -** Councilmember Meyering

**COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS**

None.

**NON-AGENDA ITEMS & COMMENTS**

**-Council**

None.

**-City Manager**

None.

**INFORMATION ONLY REPORTS/ITEMS**

[16-0273](#) Tentative Council Meeting Agenda Calendar

[16-0147](#) Information/Action Items



[16-0333](#) Formation of Sunnyvale Brand Subcommittee (Information Only)

[16-0280](#) Board/Commission Meeting Minutes

**ADJOURNMENT**

Mayor Hendricks adjourned the meeting at 1:13 a.m.



# City of Sunnyvale

## Agenda Item

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16-0348

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### **SUBJECT**

Approve the List(s) of Claims and Bills Approved for Payment by the City Manager

#### **BACKGROUND**

Pursuant to Sunnyvale Charter Section 802(6), the City Manager has approved for payment claims and bills on the following list(s); and checks have been issued.

List No.	Date	Total Disbursements
810	03/27/16 through 04/02/16	\$1,933,628.09

#### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

#### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

#### **RECOMMENDATION**

Approve the list(s) of claims and bills.

Prepared by: Pete Gonda, Purchasing Officer

Reviewed by: Timothy J. Kirby, Acting Director of Finance

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

#### **ATTACHMENTS**

1. List(s) of Claims and Bills Approved for Payment

4/4/2016

City of Sunnyvale

**LIST # 810**

Page 1

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 3/27/2016 through 4/2/2016**

Sorted by Payment Number

<b>Payment No.</b>	<b>Payment Date</b>	<b>Vendor Name</b>	<b>Invoice No.</b>	<b>Description</b>	<b>Invoice Amount</b>	<b>Discount Taken</b>	<b>Amount Paid</b>	<b>Payment Total</b>
2107068	3/29/16	AIMEE FOSBENNER	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	258.21	0.00	258.21	<b>\$258.21</b>
2107069	3/29/16	ALEX MICHAELIS	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107070	3/29/16	ANNABEL YURUTUCU	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	539.34	0.00	539.34	<b>\$539.34</b>
2107071	3/29/16	BYRON K PIPKIN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,031.03	0.00	1,031.03	<b>\$1,031.03</b>
2107072	3/29/16	CATHY E MERRILL	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	258.21	0.00	258.21	<b>\$258.21</b>
2107073	3/29/16	CATHY HAYNES	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,317.77	0.00	1,317.77	<b>\$1,317.77</b>
2107074	3/29/16	CHARLES J SCHWABE	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107075	3/29/16	CHERYL BUNNELL	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	734.97	0.00	734.97	<b>\$734.97</b>
2107076	3/29/16	CHRIS CARRION	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	734.97	0.00	734.97	<b>\$734.97</b>
2107077	3/29/16	CORYN CAMPBELL	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	346.56	0.00	346.56	<b>\$346.56</b>
2107078	3/29/16	DAN HAMMONS	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,274.39	0.00	1,274.39	<b>\$1,274.39</b>
2107079	3/29/16	DAVID A LEWIS	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,020.57	0.00	1,020.57	<b>\$1,020.57</b>
2107080	3/29/16	DAVID KAHN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	867.84	0.00	867.84	<b>\$867.84</b>
2107081	3/29/16	DAVID L NIETO	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107082	3/29/16	DAVID L VERBRUGGE	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,884.10	0.00	1,884.10	<b>\$1,884.10</b>
2107083	3/29/16	DAVID M GOTT	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	346.56	0.00	346.56	<b>\$346.56</b>
2107084	3/29/16	DEE SCHABOT	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,274.39	0.00	1,274.39	<b>\$1,274.39</b>

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2107085	3/29/16	DON JOHNSON	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	492.65	0.00	492.65	<b>\$492.65</b>
2107086	3/29/16	DONALD R OLSEN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107087	3/29/16	DONNA A SCOTT	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107088	3/29/16	ENCARNACION HERNANDEZ	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	233.72	0.00	233.72	<b>\$233.72</b>
2107089	3/29/16	ERWIN YOUNG	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,052.90	0.00	1,052.90	<b>\$1,052.90</b>
2107090	3/29/16	ESTRELLA AGRAVIADOR KAWCZYNSKI	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	621.47	0.00	621.47	<b>\$621.47</b>
2107091	3/29/16	EUGENE J WADDELL	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,091.71	0.00	1,091.71	<b>\$1,091.71</b>
2107092	3/29/16	FRANK CURTIS BLACK	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	551.77	0.00	551.77	<b>\$551.77</b>
2107093	3/29/16	FRANK P BELLUCCI	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107094	3/29/16	GABRIEL A SILVA	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107095	3/29/16	GARY K CARLS	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	406.77	0.00	406.77	<b>\$406.77</b>
2107096	3/29/16	GARY LUEBBERS	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	346.56	0.00	346.56	<b>\$346.56</b>
2107097	3/29/16	GLENN FORTIN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	641.03	0.00	641.03	<b>\$641.03</b>
2107098	3/29/16	GREGORY E KEVIN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	641.03	0.00	641.03	<b>\$641.03</b>
2107099	3/29/16	HIRA L RAINA	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	406.77	0.00	406.77	<b>\$406.77</b>
2107100	3/29/16	IRWIN I BAKIN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107101	3/29/16	JAMES A BRICE	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107102	3/29/16	JAMES BOUZIANE	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	635.01	0.00	635.01	<b>\$635.01</b>

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2107103	3/29/16	JAMES R RAND	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107104	3/29/16	JAMES WEBB JR	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	285.73	0.00	285.73	<b>\$285.73</b>
2107105	3/29/16	JEROME P AMMERMAN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	734.97	0.00	734.97	<b>\$734.97</b>
2107106	3/29/16	JERRY D BAKER	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107107	3/29/16	JERRY RONDEAU	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107108	3/29/16	JOHN ADDEO	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107109	3/29/16	JOHN DEBATTISTA	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	734.97	0.00	734.97	<b>\$734.97</b>
2107110	3/29/16	JOHN HOWE	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	539.34	0.00	539.34	<b>\$539.34</b>
2107111	3/29/16	JOHN S WITTHAUS	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,884.10	0.00	1,884.10	<b>\$1,884.10</b>
2107112	3/29/16	KAREN D WILLES	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107113	3/29/16	KAREN L DAVIS	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	131.30	0.00	131.30	<b>\$131.30</b>
2107114	3/29/16	KAREN WOBLESKY	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,020.57	0.00	1,020.57	<b>\$1,020.57</b>
2107115	3/29/16	KATHERINE B CHAPPELEAR	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107116	3/29/16	KATHRYN BERRY	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,274.39	0.00	1,274.39	<b>\$1,274.39</b>
2107117	3/29/16	KELLY FITZGERALD	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	641.03	0.00	641.03	<b>\$641.03</b>
2107118	3/29/16	KELLY MENEHAN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	131.30	0.00	131.30	<b>\$131.30</b>
2107119	3/29/16	KENNETH C HOWELL	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107120	3/29/16	LELAND W VANDIVER	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>

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2107121	3/29/16	MARIO R NAPPI	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107122	3/29/16	MARK G PETERSEN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,554.13	0.00	1,554.13	<b>\$1,554.13</b>
2107123	3/29/16	MARK STIVERS	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,031.03	0.00	1,031.03	<b>\$1,031.03</b>
2107124	3/29/16	MARVIN A ROSE	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,884.10	0.00	1,884.10	<b>\$1,884.10</b>
2107125	3/29/16	MICHAEL A CHAN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,884.10	0.00	1,884.10	<b>\$1,884.10</b>
2107126	3/29/16	MICHAEL CURRAN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	518.45	0.00	518.45	<b>\$518.45</b>
2107127	3/29/16	MICHAEL N JONES	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107128	3/29/16	MYRIAM CASTANEDA	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,072.90	0.00	1,072.90	<b>\$1,072.90</b>
2107129	3/29/16	NANCY BOLGARD STEWARD	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,020.57	0.00	1,020.57	<b>\$1,020.57</b>
2107130	3/29/16	NANCY F JACKSON	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107131	3/29/16	OSCAR J BARBA	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107132	3/29/16	PATRICIA E CASTILLO	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107133	3/29/16	RAE BARBARA WALDMAN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107134	3/29/16	RAYMOND C WILLIAMSON	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	346.56	0.00	346.56	<b>\$346.56</b>
2107135	3/29/16	RICHARD C GURNEY	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	539.34	0.00	539.34	<b>\$539.34</b>
2107136	3/29/16	ROBERT PATERNOSTER	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	316.98	0.00	316.98	<b>\$316.98</b>
2107137	3/29/16	ROMOLA GEORGIA	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107138	3/29/16	RONALD DALBA	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	641.03	0.00	641.03	<b>\$641.03</b>

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2107139	3/29/16	SCOTT MORTON	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,182.85	0.00	1,182.85	<b>\$1,182.85</b>
2107140	3/29/16	SIMON C LEMUS	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,554.13	0.00	1,554.13	<b>\$1,554.13</b>
2107141	3/29/16	SONJA GUPTE	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107142	3/29/16	STEVEN D PIGOTT	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	591.67	0.00	591.67	<b>\$591.67</b>
2107143	3/29/16	TAMMY PARKHURST	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	635.01	0.00	635.01	<b>\$635.01</b>
2107144	3/29/16	THEODORE R BRESLER	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107145	3/29/16	THERESE BALBO	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	944.69	0.00	944.69	<b>\$944.69</b>
2107146	3/29/16	THOMAS A BAISLEY	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107147	3/29/16	TIM CARLYLE	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	641.03	0.00	641.03	<b>\$641.03</b>
2107148	3/29/16	TIM JOHNSON	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	641.03	0.00	641.03	<b>\$641.03</b>
2107149	3/29/16	TONY J PEREZ	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	518.45	0.00	518.45	<b>\$518.45</b>
2107150	3/29/16	WILLIAM BIELINSKI	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	492.65	0.00	492.65	<b>\$492.65</b>
2107151	3/29/16	WILLIAM F POWERS	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
2107152	3/29/16	WILLIAM L DISQUE	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	536.22	0.00	536.22	<b>\$536.22</b>
100279033	3/28/16	AMS.NET INC	144278	Communication Equipment	16,336.00	0.00	16,336.00	<b>\$16,336.00</b>
100279034	3/28/16	ACME BOILER & WATER HEATING CO	1061	Facilities Maint & Repair - Labor	870.00	0.00	870.00	<b>\$1,740.00</b>
			1062	Facilities Maint & Repair - Labor	290.00	0.00	290.00	
			1063	Facilities Maint & Repair - Labor	290.00	0.00	290.00	
			1068	Facilities Maint & Repair - Labor	290.00	0.00	290.00	
100279035	3/28/16	ADVANCED PC CONCEPTS	1319	City Training Program	2,250.00	0.00	2,250.00	<b>\$2,250.00</b>
100279036	3/28/16	AIRGAS USA LLC	9048883629	General Supplies	98.56	0.00	98.56	<b>\$97.35</b>

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			9701243853	General Supplies	-98.56	0.00	-98.56	
			9800316859	General Supplies	97.35	0.00	97.35	
100279037	3/28/16	APPLEONE EMPLOYMENT SERVICES	01-3999250	Contracts/Service Agreements	4,832.44	0.00	4,832.44	<b>\$4,832.44</b>
100279038	3/28/16	BMI IMAGING SYSTEMS	303415	Professional Services	13,450.00	0.00	13,450.00	<b>\$13,450.00</b>
100279039	3/28/16	BADGER METER INC	1083939	Water Meters	1,128.12	0.00	1,128.12	<b>\$1,128.12</b>
100279040	3/28/16	BAKER & TAYLOR	4011528984	Library Acquisitions, Books	96.84	0.00	96.84	<b>\$334.05</b>
			4011528984	Library Materials Preprocessing	3.18	0.00	3.18	
			4011541511	Library Acquisitions, Books	226.41	0.00	226.41	
			4011541511	Library Materials Preprocessing	7.62	0.00	7.62	
100279041	3/28/16	BAY-VALLEY PEST CONTROL INC	0203224	Services Maintain Land Improv	58.00	0.00	58.00	<b>\$842.00</b>
			0203580	Facilities Maint & Repair - Labor	64.00	0.00	64.00	
			0203585	Facilities Maint & Repair - Labor	120.00	0.00	120.00	
			0203587	Facilities Maint & Repair - Labor	120.00	0.00	120.00	
			0203589	Facilities Maint & Repair - Labor	120.00	0.00	120.00	
			0203591	Facilities Maint & Repair - Labor	120.00	0.00	120.00	
			0203593	Facilities Maint & Repair - Labor	120.00	0.00	120.00	
			0203594	Facilities Maint & Repair - Labor	120.00	0.00	120.00	
100279042	3/28/16	BERTRAND FOX ELLIOT OSMAN & WENZEL	24528	Legal Services	7,017.34	0.00	7,017.34	<b>\$7,017.34</b>
100279043	3/28/16	BURTONS FIRE INC	S31647	Parts, Vehicles & Motor Equip	275.65	0.00	275.65	<b>\$275.65</b>
100279044	3/28/16	CSG CONSULTANTS INC	030539	Consultants	16,800.00	0.00	16,800.00	<b>\$30,816.00</b>
			030818	Consultants	14,016.00	0.00	14,016.00	
100279045	3/28/16	CALIFORNIA BUILDING OFFICIALS	9988	Advertising Services	225.00	0.00	225.00	<b>\$225.00</b>
100279046	3/28/16	COAST PERSONNEL SERVICES INC	242311	Contracts/Service Agreements	967.20	0.00	967.20	<b>\$5,530.16</b>
			242312	Contracts/Service Agreements	665.60	0.00	665.60	
			242313	Contracts/Service Agreements	1,063.92	0.00	1,063.92	
			242314	Contracts/Service Agreements	1,063.92	0.00	1,063.92	
			242315	Contracts/Service Agreements	967.20	0.00	967.20	
			242316	Contracts/Service Agreements	802.32	0.00	802.32	
100279050	3/28/16	CORIX WATER PRODUCTS (US) INC	17613006432	Inventory Purchase	710.68	6.54	704.14	<b>\$2,611.78</b>
			17613006433	Inventory Purchase	881.55	8.11	873.44	



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			17613006593	Inventory Purchase	60.90	0.56	60.34	
			17613006596	Inventory Purchase	182.16	1.68	180.48	
			17613006755	Inventory Purchase	899.53	8.27	891.26	
			1761500537	Inventory Purchase	-97.88	0.00	-97.88	
100279051	3/28/16	COUNTY LEGAL & NOTARY SERVICE	7043430	Contracts/Service Agreements	45.00	0.00	45.00	<b>\$135.00</b>
			7043555	Contracts/Service Agreements	45.00	0.00	45.00	
			7043556	Contracts/Service Agreements	45.00	0.00	45.00	
100279052	3/28/16	CROP PRODUCTION SERVICES INC	29083544	Materials - Land Improve	1,306.56	0.00	1,306.56	<b>\$1,306.56</b>
100279053	3/28/16	D & M TRAFFIC SERVICES INC	46748	Inventory Purchase	332.78	0.00	332.78	<b>\$332.78</b>
100279054	3/28/16	ECONOMIC DRIVING SCHOOL	02222016	Rec Instructors/Officials	475.00	0.00	475.00	<b>\$475.00</b>
100279055	3/28/16	EMPIRE SAFETY & SUPPLY	0079462-IN	Inventory Purchase	538.31	0.00	538.31	<b>\$538.31</b>
100279056	3/28/16	EQUIFAX INFORMATION SERVICES LLC	9565854	Financial Services	3.81	0.00	3.81	<b>\$29.65</b>
			9614834	Investigation Expense	25.84	0.00	25.84	
100279057	3/28/16	ESBRO	22724	Chemicals	1,091.29	0.00	1,091.29	<b>\$1,091.29</b>
100279058	3/28/16	EXAM WORKS CLINICAL SOLUTIONS	ECS-MAR16-483	Liability Claims Paid	125.00	0.00	125.00	<b>\$250.00</b>
			7					
			ECS-MAR16-563	Liability Claims Paid	125.00	0.00	125.00	
			6					
100279059	3/28/16	FAST RESPONSE ON-SITE TESTING INC	12868	Medical Services	715.00	0.00	715.00	<b>\$985.00</b>
			12868	Contracts/Service Agreements	270.00	0.00	270.00	
100279060	3/28/16	FERGUSON ENTERPRISES INC	1156947	Inventory Purchase	2,316.59	0.00	2,316.59	<b>\$2,316.59</b>
100279061	3/28/16	FITGUARD INC	0000112182	Professional Services	43.50	0.00	43.50	<b>\$238.50</b>
			0000112214	Professional Services	195.00	0.00	195.00	
100279062	3/28/16	FOSTER BROS SECURITY SYSTEMS INC	277569	Bldg Maint Matls & Supplies	73.95	0.00	73.95	<b>\$185.31</b>
			277681	Bldg Maint Matls & Supplies	111.36	0.00	111.36	
100279063	3/28/16	FOUNDATION FOR CALIFORNIA COMMUNITY	NOVA-1618	DED Services/Training - Training	392.00	0.00	392.00	<b>\$490.11</b>
			NOVA-1618	Professional Services	98.11	0.00	98.11	
100279064	3/28/16	GARDENLAND POWER EQUIPMENT	345566	Misc Equip Maint & Repair - Materials	1,132.83	0.00	1,132.83	<b>\$1,502.47</b>
			362349	Misc Equip Maint & Repair - Materials	255.55	0.00	255.55	
			363011	Misc Equip Maint & Repair - Materials	114.09	0.00	114.09	
100279065	3/28/16	GOLDEN GATE TRUCK CENTER	F005701939:01	Parts, Vehicles & Motor Equip	195.89	0.00	195.89	<b>\$195.89</b>

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100279066	3/28/16	GOLDFARB LIPMAN ATTORNEYS	118754	Legal Services	349.30	0.00	349.30	<b>\$349.30</b>
100279067	3/28/16	GOODYEAR COMMERCIAL TIRE & SERVICE CTR	189-1090693	Inventory Purchase	296.62	0.00	296.62	<b>\$296.62</b>
100279068	3/28/16	GRANITEROCK CO	948904	Materials - Land Improve	1,221.57	0.00	1,221.57	<b>\$1,221.57</b>
100279069	3/28/16	HACH CO INC	9812047	General Supplies	415.85	0.00	415.85	<b>\$415.85</b>
100279070	3/28/16	HOWARD ROME MARTIN & RIDLEY LLP	34694	Legal Services	2,453.92	0.00	2,453.92	<b>\$4,454.77</b>
			34731	Legal Services	2,000.85	0.00	2,000.85	
100279071	3/28/16	HYDROSCIENCE ENGINEERS INC	262001069	Professional Services	3,324.66	0.00	3,324.66	<b>\$3,324.66</b>
100279072	3/28/16	ITRON INC	407550	Inventory Purchase	14,460.00	0.00	14,460.00	<b>\$14,460.00</b>
100279073	3/28/16	IMPERIAL SPRINKLER SUPPLY	2532307-00	Hand Tools	61.00	0.00	61.00	<b>\$61.00</b>
100279074	3/28/16	JAVELCO EQUIPMENT SERVICE INC	50513	Parts, Vehicles & Motor Equip	20.64	0.00	20.64	<b>\$35.80</b>
			50531	Parts, Vehicles & Motor Equip	15.16	0.00	15.16	
100279075	3/28/16	JEN MORRILL	031216-031516	Travel Expenses - Other	89.85	0.00	89.85	<b>\$89.85</b>
100279076	3/28/16	KOHLWEISS AUTO PARTS INC	01OS7194	Inventory Purchase	165.49	3.31	162.18	<b>\$180.28</b>
			01OS7237	Inventory Purchase	18.47	0.37	18.10	
100279077	3/28/16	L N CURTIS & SONS INC	1383317-05	Clothing, Uniforms & Access	4,071.76	0.00	4,071.76	<b>\$4,677.47</b>
			1390324-00	Inventory Purchase	605.71	0.00	605.71	
100279078	3/28/16	LAWSON PRODUCTS INC	9303972483	Miscellaneous Equipment Parts & Supplies	45.90	0.00	45.90	<b>\$366.63</b>
			9303972484	Miscellaneous Equipment Parts & Supplies	320.73	0.00	320.73	
100279079	3/28/16	LEIGHTON STONE CORP	1123311	Equipment Maintenance & Repair Labor	136.47	0.00	136.47	<b>\$136.47</b>
100279080	3/28/16	MALLORY SAFETY & SUPPLY LLC	4057358	Inventory Purchase	709.92	0.00	709.92	<b>\$1,343.00</b>
			4060198	Inventory Purchase	231.09	0.00	231.09	
			4060476	Inventory Purchase	118.54	0.00	118.54	
			4061142	Inventory Purchase	283.45	0.00	283.45	
100279081	3/28/16	MARCIA LINWOOD	031616PURCHASE	DED Services/Training - Books	185.90	0.00	185.90	<b>\$185.90</b>
100279082	3/28/16	MCMASTER CARR SUPPLY CO	52460248	Miscellaneous Equipment Parts & Supplies	1,182.86	0.00	1,182.86	<b>\$2,438.20</b>
			52592607	Supplies, Safety	28.60	0.00	28.60	
			52723925	Miscellaneous Equipment Parts & Supplies	1,164.84	0.00	1,164.84	
			52787091	Miscellaneous Equipment Parts & Supplies	34.42	0.00	34.42	
			52787092	Hand Tools	27.48	0.00	27.48	

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100279083	3/28/16	MUNICIPAL MAINTENANCE EQUIPMENT INC	0108726-IN	Miscellaneous Equipment	435.19	0.00	435.19	<b>\$435.19</b>
100279084	3/28/16	NAPA AUTO PARTS	222732	Parts, Vehicles & Motor Equip	482.85	0.00	482.85	<b>\$397.78</b>
			229159	Parts, Vehicles & Motor Equip	-264.26	0.00	-264.26	
			229298	Parts, Vehicles & Motor Equip	-9.79	0.00	-9.79	
			229614	Parts, Vehicles & Motor Equip	-19.58	0.00	-19.58	
			230309	Parts, Vehicles & Motor Equip	16.67	0.00	16.67	
			230335	Parts, Vehicles & Motor Equip	48.98	0.00	48.98	
			230343	Parts, Vehicles & Motor Equip	133.33	0.00	133.33	
			230462	Parts, Vehicles & Motor Equip	9.58	0.00	9.58	
100279085	3/28/16	NGOC TRAN	ORDER91840968	DED Services/Training - Support Services	204.00	0.00	204.00	<b>\$204.00</b>
100279086	3/28/16	ON ASSIGNMENT LAB SUPPORT	LAB550173250	Salaries - Contract Personnel	1,200.00	0.00	1,200.00	<b>\$2,400.00</b>
			LAB550173265	Salaries - Contract Personnel	1,200.00	0.00	1,200.00	
100279087	3/28/16	OPTO 22	438259	Miscellaneous Equipment Parts & Supplies	1,202.15	0.00	1,202.15	<b>\$3,096.08</b>
			438530	Miscellaneous Equipment Parts & Supplies	1,893.93	0.00	1,893.93	
100279088	3/28/16	OVERDRIVE INC	0910-171509400	Library Periodicals/Databases	463.50	0.00	463.50	<b>\$463.50</b>
100279089	3/28/16	P&R PAPER SUPPLY CO INC	30073141-00	Inventory Purchase	1,845.49	0.00	1,845.49	<b>\$1,894.82</b>
			30073306-00	Inventory Purchase	49.33	0.00	49.33	
100279090	3/28/16	PETERSON POWER SYSTEMS INC	SW240130285	Misc Equip Maint & Repair - Labor	3,720.00	0.00	3,720.00	<b>\$5,709.45</b>
			SW240130285	Misc Equip Maint & Repair - Materials	1,989.45	0.00	1,989.45	
100279091	3/28/16	PINE CONE LUMBER CO INC	634453	Bldg Maint Matls & Supplies	187.20	0.00	187.20	<b>\$187.20</b>
100279092	3/28/16	R & R PRODUCTS INC	CD1981973	Materials - Land Improve	261.44	0.00	261.44	<b>\$919.71</b>
			CD1982015	Misc Equip Maint & Repair - Materials	658.27	0.00	658.27	
100279093	3/28/16	R E P NUT N BOLT GUY	27260	Inventory Purchase	259.74	0.00	259.74	<b>\$259.74</b>
100279094	3/28/16	RAJESH PATEL	NCCT EXAM	DED Services/Training - Support Services	90.00	0.00	90.00	<b>\$262.43</b>
			WORD&EXCEL	DED Services/Training - Books	172.43	0.00	172.43	
100279095	3/28/16	RANKIN STOCK HEABERLIN	33401	Legal Services	1,758.36	0.00	1,758.36	<b>\$1,758.36</b>
100279096	3/28/16	READYREFRESH BY NESTLE	06C0028805083	General Supplies	25.38	0.00	25.38	<b>\$471.60</b>
			06C0029664380	Food Products	86.31	0.00	86.31	
			16C5727863010	General Supplies	23.21	0.00	23.21	
			16C5736476002	General Supplies	30.02	0.00	30.02	

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			16C5740142004	General Supplies	35.55	0.00	35.55	
			16C5740146005	Miscellaneous Services	168.96	0.00	168.96	
			16C5740153001	General Supplies	89.14	0.00	89.14	
			16C5740154009	General Supplies	4.34	0.00	4.34	
			16C5740156004	General Supplies	8.69	0.00	8.69	
100279097	3/28/16	RENNE SLOAN HOLTZMAN SAKAI LLP	30522	Legal Services	21,481.62	0.00	21,481.62	<b>\$26,262.16</b>
			30523	Legal Services	3,702.54	0.00	3,702.54	
			30524	Legal Services	1,078.00	0.00	1,078.00	
100279098	3/28/16	ROBERT A BOTHMAN INC	ORCHARDGRD N#09	Construction Services	3,975.75	0.00	3,975.75	<b>\$3,975.75</b>
100279099	3/28/16	SCP DISTRIBUTORS LLC	36824454	Chemicals	141.18	0.00	141.18	<b>\$141.18</b>
100279100	3/28/16	SAFEWAY INC	433207-032216	Food Products	17.00	0.00	17.00	<b>\$92.18</b>
			726928-032116	Food Products	16.77	0.00	16.77	
			727857-032316	General Supplies	15.98	0.00	15.98	
			803811-032316	Food Products	42.43	0.00	42.43	
100279101	3/28/16	SANTA CLARA VALLEY WATER DISTRICT	CBZ CK EP APPL	Permit Fees	250.00	0.00	250.00	<b>\$250.00</b>
100279102	3/28/16	SANTA CLARA VLY TRANSPORTATION AUTHORITY	0000016449	DED Services/Training - Transportation	700.00	0.00	700.00	<b>\$700.00</b>
100279103	3/28/16	SIERRA CHEMICAL CO	SLS10031570	Chemicals	3,525.03	0.00	3,525.03	<b>\$3,525.03</b>
100279104	3/28/16	SKIL-PAINTING INC	4674	Equipment Maintenance & Repair Labor	300.00	0.00	300.00	<b>\$300.00</b>
100279105	3/28/16	SMART & FINAL INC	187242-031816	Food Products	69.26	0.00	69.26	<b>\$79.43</b>
			187242-031816	General Supplies	10.17	0.00	10.17	
100279106	3/28/16	SPARTAN TOOL LLC	513722	Miscellaneous Equipment	2,268.95	0.00	2,268.95	<b>\$2,268.95</b>
100279108	3/28/16	SUNNYVALE BUILDING MAINTENANCE	98649	Professional Services	7,421.00	0.00	7,421.00	<b>\$26,371.52</b>
			98650	Professional Services	18,950.52	0.00	18,950.52	
100279109	3/28/16	SUNNYVALE FORD	465811	Parts, Vehicles & Motor Equip	380.59	0.00	380.59	<b>\$422.31</b>
			465813	Parts, Vehicles & Motor Equip	41.72	0.00	41.72	
100279110	3/28/16	SUNNYVALE TOWING INC	298266	Fuel, Oil & Lubricants	40.00	0.00	40.00	<b>\$80.00</b>
			298276	Fuel, Oil & Lubricants	40.00	0.00	40.00	
100279111	3/28/16	SUPPLYWORKS	362148215	Inventory Purchase	74.03	0.74	73.29	<b>\$824.36</b>
			362386039	Inventory Purchase	758.66	7.59	751.07	

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100279112	3/28/16	THE PRINTING WORKS	INV-1397	Printing & Related Services	256.66	0.00	256.66	<b>\$256.66</b>
100279113	3/28/16	USA BLUEBOOK	903800	General Supplies	284.54	0.00	284.54	<b>\$284.54</b>
100279114	3/28/16	UNITED RENTALS	134642943-002	Equipment Rental/Lease	5,073.04	0.00	5,073.04	<b>\$5,073.04</b>
100279115	3/28/16	VWR INTERNATIONAL LLC	8044350153	General Supplies	27.18	0.00	27.18	<b>\$88.66</b>
			8044370130	General Supplies	61.48	0.00	61.48	
100279116	3/28/16	W A KRAUSS & CO INC	201603	Professional Services	233.75	0.00	233.75	<b>\$233.75</b>
100279117	3/28/16	WATER WORKS ENGINEERS LLC	5527	Engineering Services	196,929.03	0.00	196,929.03	<b>\$196,929.03</b>
100279118	3/28/16	WINSUPPLY OF SILICON VALLEY	656279 00	Miscellaneous Equipment Parts & Supplies	135.63	0.00	135.63	<b>\$135.63</b>
100279119	3/28/16	YAMAHA MOTOR FINANCE CORP USA	572666	Fleet Rental	5,444.83	0.00	5,444.83	<b>\$5,444.83</b>
100279120	3/28/16	ALBERT J SCOTT	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	123.03	0.00	123.03	<b>\$123.03</b>
100279121	3/28/16	CHARLES S EANEFF JR	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,020.57	0.00	1,020.57	<b>\$1,020.57</b>
100279122	3/28/16	DEAN CHU	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	975.37	0.00	975.37	<b>\$975.37</b>
100279123	3/28/16	DEAN S RUSSELL	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,543.89	0.00	1,543.89	<b>\$1,543.89</b>
100279124	3/28/16	GAIL SWEGLES	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	117.59	0.00	117.59	<b>\$117.59</b>
100279125	3/28/16	KLAUS DAEHNE	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	764.63	0.00	764.63	<b>\$764.63</b>
100279126	3/28/16	MARK ROGGE	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	258.21	0.00	258.21	<b>\$258.21</b>
100279127	3/28/16	MARSHA POLLAK	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	58.11	0.00	58.11	<b>\$58.11</b>
100279128	3/28/16	PACIFIC GAS & ELECTRIC CO	SVVT1362020613	Utilities - Electric	4,371.88	0.00	4,371.88	<b>\$4,371.88</b>
100279129	3/28/16	ROBERT A WALKER	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	1,884.10	0.00	1,884.10	<b>\$1,884.10</b>
100279130	3/28/16	ROBERT VAN HEUSEN	APRIL 2016	Insurances - Retiree Medical - Retiree Reimbursement	643.74	0.00	643.74	<b>\$643.74</b>
100279131	3/28/16	AZTEC CONSULTANTS INC	BL054708	Business License Tax	118.16	0.00	118.16	<b>\$118.16</b>
			CRBAL					
100279132	3/28/16	COMMUNITY HOUSING DEVELOPERS						<b>\$419.15</b>

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			BL035500	Business License Tax	419.15	0.00	419.15	
			CRBAL					
100279133	3/28/16	FIRST AMERICAN TITLE COMPANY	2015-3721	Permit - Building	510.66	0.00	510.66	<b>\$510.66</b>
100279134	3/28/16	NEXGEN BUILDERS INC	#311625&313131	Deposits Payable - Hydrant Meter	2,262.00	0.00	2,262.00	<b>\$2,197.85</b>
			#311625&313131	Water Sales - Metered	-64.15	0.00	-64.15	
100279135	3/28/16	SARAH SPAGNOL	169161-4536	Refund Utility Account Credit	174.33	0.00	174.33	<b>\$174.33</b>
100279136	3/28/16	US GLASS & ALUMINUM INC (NV)	BL068002	Business License Tax	71.19	0.00	71.19	<b>\$71.19</b>
			CRBAL					
100279140	3/30/16	ALAMEDA COUNTY SHERIFFS OFFICE	4285	Real Property Rental/Lease	300.00	0.00	300.00	<b>\$300.00</b>
100279141	3/30/16	ALCAL SPECIALTY CONTRACTING INC	ROOFIRE1346#04	Construction Services	70,995.01	0.00	70,995.01	<b>\$70,995.01</b>
100279143	3/30/16	BADGER METER INC	1086006	Water Meters	4,700.16	0.00	4,700.16	<b>\$4,700.16</b>
100279144	3/30/16	BAKER & TAYLOR	4011553690	Library Acquisitions, Books	285.02	0.00	285.02	<b>\$297.74</b>
			4011553690	Library Materials Preprocessing	12.72	0.00	12.72	
100279145	3/30/16	BEE FRIENDLY HONEY BEE MGMT SOLUTIONS	213	Services Maintain Land Improv	650.00	0.00	650.00	<b>\$1,400.00</b>
			214	Services Maintain Land Improv	750.00	0.00	750.00	
100279146	3/30/16	BIDDLE CONSULTING GROUP INC	50673	Software Licensing & Support	1,449.00	0.00	1,449.00	<b>\$1,449.00</b>
100279147	3/30/16	BRAND MECHANICS INC	SUN/006	Consultants	1,449.76	0.00	1,449.76	<b>\$1,449.76</b>
100279148	3/30/16	CALTRONICS BUSINESS SYSTEMS	1927779	Equipment Rental/Lease	113.79	0.00	113.79	<b>\$12,410.82</b>
			1942011	Equipment Rental/Lease	423.20	0.00	423.20	
			1977381	Equipment Rental/Lease	11,873.83	0.00	11,873.83	
100279149	3/30/16	CITIES ASSN OF SANTA CLARA COUNTY	2016	Books & Publications	24.00	0.00	24.00	<b>\$24.00</b>
100279150	3/30/16	DUKES ROOT CONTROL INC	11743	Construction Services	27,581.84	0.00	27,581.84	<b>\$27,581.84</b>
100279151	3/30/16	FLAGSHIP FLEET MANAGEMENT LLC	464	Software Licensing & Support	880.00	0.00	880.00	<b>\$880.00</b>
100279152	3/30/16	FOXIT CORP	V160323U028	Software Licensing & Support	7,974.00	0.00	7,974.00	<b>\$7,974.00</b>
100279153	3/30/16	FUN SERVICE	18881	Special Events	250.00	0.00	250.00	<b>\$250.00</b>
100279154	3/30/16	GALE/CENGAGE LEARNING	57764678	Library Acquisitions, Books	33.05	0.00	33.05	<b>\$33.05</b>
100279155	3/30/16	GEOSYNTEC CONSULTANTS INC	16160173	Consultants	2,325.03	0.00	2,325.03	<b>\$2,325.03</b>
100279156	3/30/16	GLOBAL ACCESS INC	14447	Software As a Service	236.00	0.00	236.00	<b>\$236.00</b>
100279157	3/30/16	GRAYBAR ELECTRIC CO INC	983618011	Comm Equip Maintain & Repair - Materials 2	945.12	0.00	945.12	<b>\$5,450.97</b>

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			983718736	Comm Equip Maintain & Repair - Materials 2	3,912.75	0.00	3,912.75	
			984011198	Comm Equip Maintain & Repair - Materials 2	48.62	0.00	48.62	
			984011199	Comm Equip Maintain & Repair - Materials 2	375.02	0.00	375.02	
			984134807	Comm Equip Maintain & Repair - Materials 2	169.46	0.00	169.46	
100279159	3/30/16	GURDEEP KAUR CHAWLA	3.1.16	Investigation Expense	1,175.00	0.00	1,175.00	<b>\$1,175.00</b>
100279160	3/30/16	HATCH MOTT MACDONALD	304781-29	Engineering Services	663.50	0.00	663.50	<b>\$663.50</b>
100279161	3/30/16	INTERNATIONAL PAPER CO	P0098433-01	Recycling Services	185.26	0.00	185.26	<b>\$185.26</b>
100279162	3/30/16	KATHLEEN KRUEGER SASMITA	0316	Rec Instructors/Officials	30.00	0.00	30.00	<b>\$30.00</b>
100279163	3/30/16	KELLY PAPER CO	7828962	General Supplies	488.29	0.00	488.29	<b>\$396.94</b>
			7837124	General Supplies	-91.35	0.00	-91.35	
100279164	3/30/16	L N CURTIS & SONS INC	1388679-01	Inventory Purchase	716.26	0.00	716.26	<b>\$716.26</b>
100279165	3/30/16	L3 COMMUNICATIONS MOBILE VISION INC	0238289-IN	Comm Equip Maintain & Repair - Materials 2	275.58	0.00	275.58	<b>\$275.58</b>
100279166	3/30/16	LTI ELECTRIC INC	1558	Professional Services	10,940.00	0.00	10,940.00	<b>\$10,940.00</b>
100279167	3/30/16	LAW OFFICE OF JUDITH PROPP	FEB-MAR2016	Legal Services	2,490.00	0.00	2,490.00	<b>\$2,490.00</b>
100279168	3/30/16	MALLORY SAFETY & SUPPLY LLC	4058247	Inventory Purchase	297.54	0.00	297.54	<b>\$950.04</b>
			4062332	Inventory Purchase	652.50	0.00	652.50	
100279169	3/30/16	MIDWEST TAPE	93782387	Library Acquis, Audio/Visual	616.93	0.00	616.93	<b>\$2,218.38</b>
			93782389	Library Acquis, Audio/Visual	155.64	0.00	155.64	
			93782969	Library Acquis, Audio/Visual	453.22	0.00	453.22	
			93783281	Library Acquis, Audio/Visual	103.30	0.00	103.30	
			93783282	Library Acquis, Audio/Visual	889.29	0.00	889.29	
100279170	3/30/16	NV5 INC	42776	Consultants	18,194.75	0.00	18,194.75	<b>\$18,194.75</b>
100279171	3/30/16	ORACLE AMERICA INC	42948786	Software Licensing & Support	9,656.61	0.00	9,656.61	<b>\$9,656.61</b>
100279172	3/30/16	OVERDRIVE INC	0910-140216283	Library Periodicals/Databases	2,814.89	0.00	2,814.89	<b>\$2,814.89</b>
100279173	3/30/16	PAN ASIAN PUBLICATIONS INC	U-14746	Library Acquis, Audio/Visual	839.80	0.00	839.80	<b>\$1,996.75</b>
			U-14747	Library Acquis, Audio/Visual	168.24	0.00	168.24	
			U-14750	Library Acquisitions, Books	988.71	0.00	988.71	
100279174	3/30/16	PINE CONE LUMBER CO INC						<b>\$96.52</b>

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			635526	Materials - Land Improve	96.52	0.00	96.52	
100279175	3/30/16	QUICKSTART INTELLIGENCE	IN-PO-45717	Training and Conferences	2,096.50	0.00	2,096.50	<b>\$2,096.50</b>
100279176	3/30/16	READYREFRESH BY NESTLE	16C5727863002	General Supplies	35.91	0.00	35.91	<b>\$35.91</b>
100279177	3/30/16	ROBERT HALF TECHNOLOGY	45311720	Contracts/Service Agreements	4,994.40	0.00	4,994.40	<b>\$4,994.40</b>
100279178	3/30/16	SC FUELS	3017237	Inventory Purchase	16,323.20	0.00	16,323.20	<b>\$16,323.20</b>
100279179	3/30/16	SCHAAF & WHEELER	26712	Engineering Services	4,214.02	0.00	4,214.02	<b>\$4,214.02</b>
100279180	3/30/16	SHIN SHIN TRAINING CENTER	W20160063	DED Services/Training - Training	4,455.00	0.00	4,455.00	<b>\$13,365.00</b>
			10F2					
			W20160064 102	DED Services/Training - Training	4,455.00	0.00	4,455.00	
			W20160065	DED Services/Training - Training	4,455.00	0.00	4,455.00	
			10F2					
100279181	3/30/16	SIGN WIZ	11578	General Supplies	153.88	0.00	153.88	<b>\$153.88</b>
100279182	3/30/16	STUDIO EM GRAPHIC DESIGN	16060	Graphics Services	1,305.00	0.00	1,305.00	<b>\$1,305.00</b>
100279183	3/30/16	THE COVELLO GROUP INC	2015.003-10	Engineering Services	7,430.00	0.00	7,430.00	<b>\$7,430.00</b>
100279184	3/30/16	TOWNE FORD SALES	68644	Vehicles & Motorized Equip	23,607.50	0.00	23,607.50	<b>\$49,933.75</b>
			68663	Vehicles & Motorized Equip	23,607.50	0.00	23,607.50	
			ALICIA04	Vehicles & Motorized Equip	2,718.75	0.00	2,718.75	
100279185	3/30/16	WAITER.COM INC	G0317938164	Food Products	74.75	0.00	74.75	<b>\$74.75</b>
100279186	3/30/16	BAY AREA AIR QUALITY MANAGEMENT DISTRICT	3TS84	Taxes & Licenses - Misc	21,371.00	0.00	21,371.00	<b>\$21,371.00</b>
100279187	3/30/16	JOHNNY HANEY	CR15-8441	Return of Seized, Forfeiture or Found Funds	170.00	0.00	170.00	<b>\$170.00</b>
100279188	3/30/16	CHINA WOK	BL057723	Business License Tax	60.10	0.00	60.10	<b>\$60.10</b>
			CRBAL					
100279189	3/30/16	GCA	305147	Refund Recreation Fees	44.60	0.00	44.60	<b>\$44.60</b>
100279190	3/30/16	HAFEZ FOUNDATION	305140	Refund Recreation Fees	120.00	0.00	120.00	<b>\$120.00</b>
950906023	3/29/16	US BANK		Insurances - OPEB Trust Contribution	1,105,000.00	0.00	1,105,000.00	<b>\$1,105,000.00</b>
950906026	3/29/16	JPMORGAN CHASE BANK N.A.	14SLDWST0416	Bond Interest	30,769.07	0.00	30,769.07	<b>\$30,769.07</b>
<b>Grand Total Payment Amount</b>								<b><u>\$1,933,628.09</u></b>





# City of Sunnyvale

## Agenda Item

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16-0312

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### SUBJECT

Award of Bid No. PW16-21 for the Slurry Seal 2016-B Project and Finding of California Environmental Quality Act (CEQA) Categorical Exemption

#### REPORT IN BRIEF

Approval is requested to award a construction contract in the amount of \$277,000 to VSS International Inc. of West Sacramento for the Slurry Seal 2016-B project (Public Works Project ST-16-02). Approval is also requested for a 10% construction contingency in the amount of \$27,700.

#### EXISTING POLICY

Section 1309 of the City Charter requires public works construction contracts to be awarded to the lowest responsive and responsible bidder.

#### ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) determination for this project is a Class 1 categorical exemption pursuant to CEQA Guidelines Section 15301 for maintenance or repair of existing facilities involving negligible or no expansion of use beyond which presently exists.

#### BACKGROUND AND DISCUSSION

The slurry sealing of City streets provides for the application of a mixture of oil, water, sand and selected additives to the surface of a street, which when allowed to dry/cure, provides a thin wearing surface and seals the underlying surface materials to assist in blocking the access of water into the subgrade. Slurry seal is a maintenance treatment that is easy to apply and economical, providing a cost effective method to extend the life of a road surface.

The City typically bids and awards a slurry seal contract under a comprehensive annual program which involves a significant effort on the part of City staff to provide public noticing, traffic control and crack sealing. The annual 2016 contract included approximately 3.1 million square feet of slurry sealing over 115 locations and was awarded on February 23, 2016 (RTC No. 16-0150).

The recommended contract with VSS International involves the slurry sealing of two segments of Mathilda Avenue, from Caribbean Drive to Bordeaux Drive and Awahnee to California Avenue, with approximately 572,000 square feet of roadway repair. Under this contract, all of the prep work, noticing, and traffic control (including lane closures) will be handled by the paving contractor rather than City staff, which is typical for work on major arterial streets.

The project was advertised for competitive bidding in the Sunnyvale Sun on February 5, 2016, distributed to eighteen Bay Area Builder's Exchanges, and published on the City's website through the Demandstar public procurement network. Eight contractors requested bid documents. Sealed

bids were opened on February 24, 2016, with six responsive bids being received. The lowest responsive and responsible bid was submitted by VSS International Inc. The bid summary is contained in Attachment 1.

A seventh bid was received from Pavement Coatings Company of Jurupa, but the bid included a material math error which affected their bid result by \$70,000, i.e., the total of their bid items equaled \$299,225 but a lower amount of \$229,225 was written as the grand total. In accordance with sections 5103 and 5015 of the California Public Contract Code, Pavement Coatings Company requested and was allowed to withdraw their bid.

### **FISCAL IMPACT**

The project costs consist of the construction contract in the amount of \$277,000, and a 10% construction contingency in the amount of \$27,700, for a total of \$304,700. Budgeted funds are available in Capital project 825290, Pavement Rehabilitation.

### **Funding Source**

This project is funded by the General Fund, the SB83 VRF Road Improvement Fund, and Gas Tax Funds.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **RECOMMENDATION**

1) Make a finding of CEQA categorical exemption pursuant to CEQA Guidelines Section 15301 (Class 1, Existing Facilities) as it relates to the rehabilitation of existing streets involving negligible or no expansion of existing use; 2) award a construction contract, in substantially the same format as Attachment 2 to the report and in the amount of \$277,000 to VSS International Inc.; and 3) approve a 10% construction contingency in the amount of \$27,700.

Prepared by: Pete Gonda, Purchasing Officer

Reviewed by: Timothy J. Kirby, Acting Director, Finance

Reviewed by: Manuel Pineda, Director, Public Works

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Bid Summary
2. Draft General Construction Contract

Invitation for Bids No. PW16-21

Slurry Seal 2016 2016-B  
Project No. ST-16-02

Invitation for Bids No. PW16-21  Slurry Seal 2016 2016-B Project No. ST-16-02				Bidders											
				VSS International		American Asphalt Repair & Resurfacing Co.		Graham Contractors		Telfer Pavement Technologies		Bond Blacktop		Intermountain Slurry Seal	
				3785 Channel Drive West Sacramento, CA 95691 Jeffrey R. Reed		24200 Clawiter Road Hayward, CA 94545 Allan enderson		860 Lonus Street San Jose, CA 95126 Gerald J. Graham Jr.		4522 Parker Avenue, Suite 350 McClellan, CA 95652 Mike Fair		27607 Industrail Blvd. Hayward, CA 94545 Debbie Dillon		1005 Terminal Way, Suite 220 Reno, NV 89502 Jason T. Klaumann	
No.	Bid Item	UOM	QTY	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price	Unit Price	Extended Price
1	Traffic Control	LS	1	34,383.79	\$ 34,383.79	30,000.00	\$ 30,000.00	30,000.00	\$ 30,000.00	64,000.00	\$ 64,000.00	55,200.00	\$ 55,200.00	140,885.33	\$ 140,885.33
2	Install Slurry Seal Type III with 2-1/2" Latex	SF	572,423	0.27	\$ 154,554.21	0.30	\$ 171,726.90	0.31	\$ 177,451.13	0.28	\$ 160,278.44	0.29	\$ 166,002.67	0.29	\$ 166,002.67
3	Remove existing pavement striping, markings, legends, and raised pavement markers	LS	1	14,700.00	\$ 14,700.00	14,000.00	\$ 14,000.00	20,000.00	\$ 20,000.00	14,000.00	\$ 14,000.00	14,000.00	\$ 14,000.00	14,000.00	\$ 14,000.00
4	Install thermoplastic pavement striping, markings, legends, and raised pavement markers	LS	1	55,650.00	\$ 55,650.00	56,000.00	\$ 56,000.00	55,000.00	\$ 55,000.00	53,000.00	\$ 53,000.00	56,000.00	\$ 56,000.00	53,000.00	\$ 53,000.00
5	Changeable Message Board (CMB) (Revocable)	EA	8	714.00	\$ 5,712.00	1,250.00	\$ 10,000.00	1,850.00	\$ 14,800.00	1,400.00	\$ 11,200.00	1,250.00	\$ 10,000.00	1,400.00	\$ 11,200.00
6	Crack Sealing (Revocable)	LF	1,000	\$ 12.00	\$ 12,000.00	\$ 5.00	\$ 5,000.00	\$ 9.00	\$ 9,000.00	\$ 7.50	\$ 7,500.00	\$ 13.69	\$ 13,690.00	11.00	\$ 11,000.00
Bid Totals:					\$ 277,000.00		\$ 286,726.90		\$ 306,251.13		\$ 309,978.44		\$ 314,892.67		\$ 396,088.00

Surety:	10% Bid Bond	10% Bid Bond	10% Bid Bond	10% Bid Bond	10% Bid Bond	10% Bid Bond
License:	A, B, C12	C32, A	C-12, A	A	A	A
Subs:	Sierra Traffic Markings, Inc.	Chrisp Company	Sierra Traffic Markings, Inc.	Sierra Traffic Markings, Inc.	Chrisp Company	Sierra Traffic Markings, Inc.
	Striping Removal & Striping	Striping	Striping Removal & Striping	Striping Removal & Striping Install	Striping	Striping Removal & Striping

Notes:

1. A seventh bid in the amount of \$299,225 was received from Pavement Coatings Company of Jurupa, CA, but they requested to withdraw the bid pursuant to Public Contract Code sections 5103 and 5105 due to a material math error.

## GENERAL CONSTRUCTION CONTRACT

THIS CONTRACT dated \_\_\_\_\_ is by and between the CITY OF SUNNYVALE, a municipal corporation of the State of California ("Owner") and VSS INTERNATIONAL, INC. a California corporation ("Contractor").

### RECITALS:

The parties to this Contract have mutually covenanted and agreed, as follows:

1. **The Contract Documents.** The complete Contract consists of the following documents: Notice Inviting Bids; Instructions to Bidders; Performance Bond and Payment Bond; Guaranty; City of Sunnyvale Standard Specifications for Public Works Construction, 2006 Edition; City of Sunnyvale Standard Details for Public Works Construction, 2006 Edition; Plans and Specifications, "Slurry Seal 2016-B, Project No. ST-16-02, Invitation for Bids No. PW16-21", including; OSHA, and other standards and codes as outlined in the Specifications. These documents are all incorporated by reference. The documents comprising the complete contract are collectively referred to as the Contract Documents.

Any and all obligations of the Owner and the Contractor are fully set forth and described therein.

All of the above documents are intended to work together so that any work called for in one and not mentioned in the other or vice versa is to be executed the same as if mentioned in all documents.

2. **The Work.** Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, transportation, and material necessary to perform and complete the project in a good and workmanlike manner. The work consist(s) of furnishing all labor, materials, equipment, tools and incidentals necessary to remove (by grinding) existing thermoplastic striping, pavement markings and legends; remove raised pavement markers; apply pavement crack sealant; apply slurry seal in areas indicated; install new striping, pavement markings, legends and raised pavement markers, ready for use in accordance with these specifications, as called for, and in the manner designated in, and in strict conformity with, the Plans and Specifications prepared by the City of Sunnyvale and adopted by the Owner. These Plans and Specifications are entitled respectively, Slurry Seal 2016-B, Project No. ST-16-02.

It is understood and agreed that the work will be performed and completed as required in the Plans and Specifications under the sole direction and control of the Contractor, and subject to inspection and approval of the Owner, or its representatives. The Owner hereby designates as its representative for the purpose of this contract the Senior Civil Engineer for Construction or an employee of the Owner who will be designated in writing by the Director of Public Works.

**3. Contract Price.** The Owner agrees to pay and the Contractor agrees to accept, in full payment for the work above agreed to be done, the sum of Two Hundred Seventy Seven Thousand and NO/100 Dollars (\$277,000.00) subject to final determination of the work performed and materials furnished at unit prices per "Exhibit A" attached hereto and incorporated by this reference, and subject to additions and deductions in accordance, as provided in the Documents and in accordance with Contract Documents.

**4. Permits; Compliance with Law.** Contractor shall, at its expense, obtain all necessary permits and licenses, easements, etc., for the construction of the project, give all necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules and regulations relating to the work and to the preservation of the public health and safety.

**5. Inspection by Owner.** Contractor shall at all times maintain proper facilities and provide safe access for inspection by the Owner to all parts of the work, and to the shops wherein the work is in preparation. Where the Specifications require work to be specially tested or approved, it shall not be tested or covered up without timely notice to the Owner of its readiness for inspection and without the approval thereof or consent thereto by the latter. Should any such work be covered up without such notice, approval, or consent, it must, if required by Owner, be uncovered for examination at the Contractor's expense.

**6. Extra or Additional Work and Changes.** Should Owner at any time during the progress of the work request any alterations, deviations, additions or omissions from the Specifications or Plans or other Contract Documents it shall be at liberty to do so, and the same shall in no way affect or make void the contract, but will be added to or deducted from the amount of the contract price, as the case may be, by a fair and reasonable valuation, agreed to in writing between the parties hereto. No extra work shall be performed or change be made unless in pursuance of a written order from the Director of Public Works or authorized representative, stating that the extra work or change is authorized and no claim for an addition to the contract sum shall be valid unless so ordered.

**7. Time for Completion.** All work under this contract shall be completed before the expiration Forty (40) working days from the date specified in the Notice to Proceed.

If Contractor shall be delayed in the work by the acts or neglect of Owner, or its employees or those under it by contract or otherwise, or by changes ordered in the work, or by strikes, lockouts by others, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the Owner, or by any cause which the Owner shall decide to justify the delay, then the time of completion shall be extended for such reasonable time as the Owner may decide.

This provision does not exclude the recovery of damages for delay by either party under other provisions.

**8. Inspection and Testing of Materials.** Contractor shall notify Owner a sufficient time in advance of the manufacture or production of materials, to be supplied

under this contract, in order that the Owner may arrange for mill or factory inspection and testing of same, if Owner requests such notice from Contractor.

**9. Termination for Breach, etc.** If Contractor should file a bankruptcy petition and/or be judged bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency, or if Contractor or any subcontractors should violate any of the provisions of the Contract, Owner may serve written notice upon Contractor and its surety of Owner's intention to terminate the Contract. The notice shall contain the reasons for such intention to terminate the Contract, and, unless within ten days after serving such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, upon the expiration of the ten days, the Contract shall cease and terminate. In the event of any such termination, Owner shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the Contract; provided, however that, if the surety within fifteen days after the serving upon it of notice of termination does not give Owner written notice of its intention to take over and perform the Contract or does not commence performance thereof within thirty days from the date of the serving of such notice, Owner may take over the work and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of Contractor, and Contractor and its surety shall be liable to Owner for any excess cost occasioned Owner thereby, and in such event Owner may without liability for so doing take possession of and utilize in completing the work, such materials, appliances, plant and other property belonging to Contractor as may be on the site of the work and necessary therefor.

**10. Owner's Right to Withhold Certain Amounts and Make Application Thereof.** In addition to the amount which Owner may retain under Paragraph 21 until the final completion and acceptance of all work covered by the Contract, Owner may withhold from payment to Contractor such amount or amounts as in its judgment may be necessary to pay just claims against Contractor or any subcontractors for labor and services rendered and materials furnished in and about the work. Owner may apply such withheld amount or amounts to the payment of such claims in its discretion. In so doing Owner shall be deemed the agent of Contractor and any payment so made by Owner shall be considered as a payment made under the Contract by Owner to the Contractor and Owner shall not be liable to Contractor for any such payment made in good faith. Such payment may be made without prior judicial determination of the claim or claims.

**11. Notice and Service Thereof.** All notices required pursuant to this Contract shall be communicated in writing, and shall be delivered in person, by commercial courier or by first class or priority mail delivered by the United States Postal Service. Transmission of notice by facsimile or by telephone may be deemed sufficient if the requirement for written notice is waived, in writing, by the receiving party. Notices delivered in person shall be deemed communicated as of actual receipt. Notices sent by mail or courier service shall be deemed communicated as of three days after mailing or dispatch, unless that date is a date on which there is no mail or delivery service, in

which case communication shall be deemed to occur the next mail service or delivery day. The burden of proof of compliance with this requirement for written notice shall be on the sending party. All notices sent pursuant to this Contract shall be addressed as follows:

Owner: City of Sunnyvale  
Department of Public Works  
Construction Contract Administrator  
P. O. Box 3707  
Sunnyvale, CA 94088-3707

Contractor: VSS International, Inc.  
Attn: Jeffrey R. Reed  
3785 Channel Drive  
West Sacramento, CA 95691

**12. Assignment of Contract.** Neither the Contract, nor any part thereof, nor moneys due or to become due thereunder may be assigned by Contractor without the prior written approval of Owner.

**13. Compliance with Specifications of Materials.** Whenever in the Specifications, any material or process is indicated or specified by patent or proprietary name, or by name of manufacturer, such Specifications must be met by Contractor, unless Owner agrees in writing to some other material, process or article offered by Contractor which is equal in all respects to the one specified.

**14. Contract Security.** Contractor shall furnish a surety bond in an amount at least equal to 100 percent of the contract price as security for the faithful performance of this Contract. Contractor shall also furnish a separate surety bond in an amount at least equal to 100 percent of the contract price as security for the payment of all persons for furnishing materials, provisions, provender, or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for performing any work or labor thereon of any kind, and for the payment of amounts due under the Unemployment Insurance Code with respect to such work or labor in connection with this Contract, and for the payment of a reasonable attorney's fee to be fixed by the court in case suit is brought upon the bond. Bonds shall be issued by an admitted surety insurer authorized to operate in the state of California.

**15. Insurance.** Contractor shall not commence work under this Contract until all insurance required under this paragraph has been obtained and such insurance has been approved by the Owner, nor shall Contractor allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Contractor shall furnish the Owner with satisfactory proof of the carriage of insurance required, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Contract and particularly

Paragraph 16 hereof. Any policy of insurance required of the Contractor under this Contract shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to the Owner of any pending change in the limits of liability or of any cancellation or modification of the policy. Insurance carrier shall be California-admitted.

(a) Compensation Insurance and Employer's Liability Insurance. Contractor shall take out and maintain during the life of this Contract Workers' Compensation Insurance and Employer's Liability Insurance for all of employees employed at the site of the project and, in case any work is sublet, Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance and Employer's Liability Insurance for all of the latter's employees unless such employees are covered by the protection afforded by Contractor.

In signing this Contract, Contractor makes the following certification, required by Section 1861 of the Labor Code:

"I am aware of the provision of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

(b) General and Automobile Liability Insurance. Contractor, at its own cost and expense, shall maintain personal injury liability and property damage insurance for the period covered by the Contract in the amount of Two Million Dollars (\$2,000,000.00) per occurrence and \$4,000,000 annual aggregate combined single limit coverage. Such coverage shall include, but shall not be limited to, protection against claims arising therefrom, and damage to property resulting from activities contemplated under this Contract, use of owned automobiles, products and completed operations, including U, C and X. Such insurance shall be with insurers and under forms of policies satisfactory in all respects to the Owner and shall provide that notice must be given to Owner at least thirty (30) days prior to cancellation or material change. The following endorsements shall be attached to the policy:

Policy shall cover on an "occurrence" basis. Policy must cover personal injuries as well as bodily injuries. Exclusion of contractual liability must be eliminated from personal injury endorsement. Broad form property damage endorsement must be attached. Owner is to be named as an additional insured on any contracts of insurance under this paragraph (b). Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code. The policies of insurance shall be considered primary insurance before any policies of insurance maintained by Owner.



**16. Hold Harmless.** Contractor agrees to defend, save, indemnify and hold harmless Owner and all its officers, employees, and agents, against any and all liability, claims, judgments, or demands, including demands arising from injuries or death of persons (Contractor's employees included) and damage to property, arising directly or indirectly out of the obligations herein undertaken or out of the operations conducted by Contractor, save and except claims or litigation arising through the active negligence or willful misconduct of Owner, or of Owner's officials, agents, employees, servants, or independent contractors who are directly responsible to Owner. Contractor shall make good and reimburse Owner for any expenditures, including reasonable attorneys' fees, Owner may make by reason of such claim or litigation, and, if requested by Owner, Contractor shall defend any such suits at the sole cost and expense of Contractor.

**17. Hours of Work.** Eight hours of labor during any one calendar day and forty hours of labor during any one calendar week shall constitute the maximum hours of service upon all work done hereunder, and it is expressly stipulated that no laborer, worker, or mechanic employed at any time by the Contractor or by any subcontractor or subcontractors under this Contract, upon the work or upon any part of the work contemplated by this Contract, shall be required or permitted to work thereon more than eight hours during any one calendar day and forty hours during any one calendar week, except, as provided by Section 1815 of the Labor Code of the State of California, work performed by employees of contractors in excess of eight hours per day and forty hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. It is further expressly stipulated that for each and every violation of Sections 1811-1815, inclusive, of the Labor Code of the State of California, all the provisions whereof are deemed to be incorporated herein, Contractor shall forfeit, as a penalty to Owner, twenty five (\$25.00) for each laborer, worker, or mechanic employed in the execution of this Contract by Contractor, or by any subcontractor under this Contract, for each calendar day during which the laborer, worker, or mechanic is required or permitted to work more than eight hours in any one calendar day and forty hours in any one calendar week in violation of the provisions of the Sections of the Labor Code.

Contractor, and each subcontractor, shall, in accordance with California Labor Code Section 1776 or as the same may be later amended, keep accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with work under this agreement. Each payroll record shall contain or be verified by a written declaration under penalty of perjury, in accordance with Labor Code Section 1776(a). Such payroll records shall be made available at all reasonable times at the Contractor's principal office to the persons authorized to inspect such records pursuant to Labor Code Section 1776. A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department

of Industrial Relations, as well as to the Owner's representative. In the event the Contractor or a Subcontractor fails to comply in a timely manner within ten days to a written notice requesting the records, such contractor or subcontractor shall forfeit one hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated, in accordance with Labor Code Section 1776(h).

**18. Wage Rates.** Pursuant to the Labor Code of the State of California, or any applicable local law, Owner has ascertained the general prevailing rate per diem wages and rates for holidays, and overtime work in the city, for each craft, classification or type of laborer, worker, or mechanic needed to execute this Contract. Owner has adopted, by reference, the general prevailing rate of wages applicable to the work to be done under the Contract, as adopted and published by the Division of Labor Standards Enforcement and Labor Statistics and Research of the State of California, Department of Industrial Relations, to which reference is hereby made for a full and detailed description. A copy of the prevailing wage rates may be reviewed in the office of the Director of Public Works, City of Sunnyvale, 456 West Olive Avenue, Sunnyvale, California. Wage rates can also be obtained through the California Department of Industrial Relations website.

Neither the notice inviting bids nor this Contract shall constitute a representation of fact as to the prevailing wage rates upon which the Contractor or any subcontractor may base any claim against Owner.

It shall be mandatory upon Contractor and upon any subcontractor to pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the Contract. It is further expressly stipulated that Contractor shall, as a penalty to Owner, forfeit two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each laborer, worker, or mechanic paid less than the stipulated prevailing rates for any work done under this Contract by Contractor or by any subcontractor; and Contractor agrees to comply with all provisions of Section 1775 of the Labor Code.

In case it becomes necessary for Contractor or any subcontractor to employ on the project under this Contract any person in a trade or occupation (except executives, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate is herein specified, Contractor shall immediately notify Owner who will promptly thereafter determine the prevailing rate for such additional trade or occupation and shall furnish Contractor with the minimum rate based thereon. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

**19. Accident Prevention.** Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions of the Construction Safety Orders issued by the Industrial Accident Commission of the State of California.

**20. Contractor's Guarantee.** Owner shall not, in any way or manner, be answerable or suffer loss, damage, expense or liability for any loss or damage that may happen to the building, work, or equipment or any part thereof, or in, on, or about the same during its construction and before acceptance. Contractor unqualifiedly guarantees the first-class quality of all workmanship and of all materials, apparatus, and equipment used or installed by Contractor or by any subcontractor or supplier in the project which is the subject of this Contract, unless a lesser quality is expressly authorized in the Plans and Specifications, in which event Contractor unqualifiedly guarantees such lesser quality; and that the work as performed by Contractor will conform with the Plans and Specifications or any written authorized deviations therefrom. In case of any defect in work, materials, apparatus or equipment, whether latent or patent, revealed to Owner within one year of the date of acceptance of completion of this Contract by Owner, Contractor will forthwith remedy such defect or defects without cost to Owner.

**21. Liquidated Damages.** Time shall be the essence of this Contract. If Contractor fails to complete, within the time fixed for such completion, the entire work mentioned and described and contracted to be done and performed, Contractor shall become liable to Owner for liquidated damages in the sum of Two Hundred Fifty and No/100 (\$250.00) for each and every calendar day during which work shall remain uncompleted beyond such time fixed for completion or any lawful extension thereof. The amount specified as liquidated damages is presumed to be the amount of damage sustained by Owner since it would be impracticable or extremely difficult to fix the actual damage; and the amount of liquidated damages may be deducted by Owner from moneys due Contractor hereunder, or its assigns and successors at the time of completion, and Contractor, or its assigns and successors at the time of completion, and its sureties shall be liable to Owner for any excess.

**22. Additional Provisions.**

None.

IN WITNESS WHEREOF, two identical counterparts of this contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties.

CITY OF SUNNYVALE  
a Municipal Corporation, Owner

VSS International, Inc.  
Contractor

License No. 293727

By \_\_\_\_\_ /   /  
City Manager

Attest:  
City Clerk

By \_\_\_\_\_ /   /  
City Clerk                      Date

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_ /   /  
City Attorney                      Date

By \_\_\_\_\_  
\_\_\_\_\_/   /  
Title                      Date

By \_\_\_\_\_  
\_\_\_\_\_/   /  
Title                      Date

**EXHIBIT A**  
**Bid Schedule**

<b>No.</b>	<b>Description</b>	<b>QTY</b>	<b>Unit of Measure</b>	<b>Unit Cost</b>
1	Traffic Control	1	LS	\$34,383.79
2	Install Slurry Seal Type III with 2-1/2% Latex	572,423	SF	\$0.27
3	Remove existing pavement striping, markings, legends, and raised pavement markers	1	LS	\$14,700.00
4	Install thermoplastic pavement striping, markings, legends, and raised pavement markers	1	LS	\$55,650.00
5	Changeable Message Board (CMB) <b>(Revocable)</b>	8	EA	\$714.00
6	Crack Sealing <b>(Revocable)</b>	1,000	LF	\$12.00

## EXHIBIT B

**Utilization of Local Workforce in Construction Projects** - The Sunnyvale City Council has adopted a policy which encourages utilization of local workforces, including State-certified apprentices, as a means of supporting economic opportunities for all members of the community. Local workforce is defined as workers residing in Santa Clara County. The lowest responsive and responsible bidder must provide a projection of locally-hired workers utilized for this contract.

Contractor	Projected Number of Locally Hired Workers_____
	Projected Percent of Locally Hired Workers_____%
Subcontractor(s)	Projected Number of Locally Hired Workers_____
	Projected Percent of Locally Hired Workers_____%



# City of Sunnyvale

## Agenda Item

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16-0342

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### SUBJECT

Award of Bid No. PW16-15 for the Concrete, Sidewalk, Curbs, Gutters and Driveway Approaches 2016-17 Project and Finding of California Environmental Quality Act (CEQA) Categorical Exemption

#### REPORT IN BRIEF

Approval is requested to award a construction contract in the amount of \$867,728 to Spencon Construction Inc. of Danville for the Concrete, Sidewalk, Curbs, Gutters and Driveway Approaches 2016-17 project (Public Works Project ST-15-11). Approval is also requested for a 10% construction contingency in the amount of \$86,773.

#### EXISTING POLICY

Section 1309 of the City Charter requires public works construction contracts to be awarded to the lowest responsive and responsible bidder.

#### ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) determination for this project is a Class 1 categorical exemption pursuant to CEQA Guidelines Section 15301 for maintenance or repair of existing facilities involving negligible or no expansion of use beyond which presently exists.

#### BACKGROUND AND DISCUSSION

Capital Project 829400, Sidewalk, Curbs and Gutter Replacement, provides annual funding for the replacement of damaged or raised sidewalks, curbs, gutters and driveway approaches throughout the City. Locations requiring repair or replacement are generally identified by residents and then inspected, prioritized and scheduled by the Department of Public Works Street Maintenance Division. Traditionally the requirements for each year are bundled together and contracted out through the competitive bid process. On October 27, 2015, City Council awarded a project for FY 2015/16 in the amount of \$2, 218,567. The current project being considered for award consists of concrete replacement at approximately 236 locations throughout the City and is utilizing available funds from the FY 2016/17 budget. Included in the scope of work is the removal and replacement of trees that are deemed to cause damage and severe displacement to the concrete hardscape.

The project was advertised for competitive bidding in the Sunnyvale Sun on February 5, 2016, distributed to eighteen Bay Area Builder's Exchanges, and published on the City's website through the Demandstar public procurement network. Eight contractors requested bid documents. Sealed bids were opened on February 24, 2016, with two responsive bids being received. The lowest responsive and responsible bid was submitted by Spencon Construction Inc. The bid summary is contained in Attachment 1.

A third bid was received from JJR Construction Inc. of San Mateo, but the bid included a material

math error which affected their bid result by \$71,859 (i.e., the total of their bid items equaled \$1,043,278 but a lower amount of \$971,419 was written as the grand total). JJR Construction was notified of the error and afforded the opportunity to withdraw their bid in accordance with sections 5103 and 5015 of the California Public Contract Code, but they declined and requested that the City waive the error as a minor irregularity and allow their bid of \$1,043,278 to remain in place (as the second lowest bid). While City staff has the ability to waive minor defects or irregularities in a bid, the waiver cannot affect the bid amount or give the bidder an advantage over other bidders.

Staff asked JJR Construction to articulate the lawful basis for the City to waive the bid defect, but no additional information was provided. In that JJR's bid is the second lowest (with a reasonable possibility of being awarded the bid if Spenco could not execute the contract for whatever reason), and staff cannot alter the bid amount, it is recommended that Council make a determination that JJR Construction's bid is non-responsive due to a material math error.

### **FISCAL IMPACT**

The project costs consist of the construction contract in the amount of \$867,728, and a 10% construction contingency in the amount of \$86,773, for a total of \$954,501. Budgeted funds are available in Capital project 829400, Sidewalk, Curb and Gutter Replacement.

### **Funding Source**

This project is funded by the General Fund with excess funds from the State's Educational Revenue Augmentation Fund (ERAF).

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **RECOMMENDATION**

1) Make a finding of CEQA categorical exemption pursuant to CEQA Guidelines Section 15301 (Class 1, Existing Facilities) as it relates to the rehabilitation of existing streets involving negligible or no expansion of existing use; 2) award a construction contract, in substantially the same format as Attachment 2 to the report and in the amount of \$867,728 to Spenco Construction Inc.; 3) approve a 10% construction contingency in the amount of \$86,773; and 4) determine that the bid submitted by JJR Construction, Inc. is non-responsive.

Prepared by: Pete Gonda, Purchasing Officer  
Reviewed by: Timothy J. Kirby, Director, Finance  
Reviewed by: Manuel Pineda, Director, Public Works  
Reviewed by: Walter C. Rossmann, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Bid Summary
2. Draft General Construction Contract



Invitation for Bids No. PW16-15

Concrete Sidewalks, Curbs, Gutters and Driveway

Approaches 2016-2017, Project No. ST-15-11

				<u>Bidders</u>			
				<i>Spenco Construction, Inc.</i> <i>4115 Blackhawk Plaza Circle</i> <i>Danville, CA 94506</i> <i>Steve Stahl</i>		<i>FBD Vanguard Construction, Inc.</i> <i>651 Enterprise Ct.</i> <i>Livermore, CA 94550</i> <i>Bill Sposeto</i>	
No.	Bid Item	UOM	QTY	Unit Price	Extended Price	Unit Price	Extended Price
1	Remove and Reconstruct 4" Thick Concrete Sidewalk	SF	31,243	\$ 11.00	\$ 343,673.00	\$ 18.00	\$ 562,374.00
2	Remove and Reconstruct Curb and Gutter	LF	7,186	\$ 59.00	\$ 423,974.00	\$ 75.00	\$ 538,950.00
3	Remove and Reconstruct 6" Thick Concrete Sidewalk Driveway	SF	2,240	\$ 12.00	\$ 26,880.00	\$ 20.00	\$ 44,800.00
4	Remove and Reconstruct 6" Thick Concrete Driveway Approach	SF	2,806	\$ 12.00	\$ 33,672.00	\$ 18.00	\$ 50,508.00
5	Remove Park Strip Concrete and Backfill with 4" Topsoil (Revocable)	SF	4,293	\$ 3.00	\$ 12,879.00	\$ 13.00	\$ 55,809.00
6	Adjust Utility Boxes and Manholes in Sidewalk <b>(Revocable)</b>	EA	5	\$ 150.00	\$ 750.00	\$ 2,300.00	\$ 11,500.00
7	4" Thick Asphalt Concrete <b>(Revocable)</b>	SF	2,500	\$ 9.00	\$ 22,500.00	\$ 41.00	\$ 102,500.00
8	Replace Water Meter Box <b>(Revocable)</b>	EA	10	\$ 200.00	\$ 2,000.00	\$ 400.00	\$ 4,000.00
9	Installation of 3" Ductile Iron Pipe (DIP) Curb Drain <b>(Revocable)</b>	LF	30	\$ 30.00	\$ 900.00	\$ 55.00	\$ 1,650.00
10	Project Management Software Training (e-Builder) and Use <b>(Revocable)</b>	LS	1	\$ 500.00	\$ 500.00	\$ 3,050.00	\$ 3,050.00
<b>Bid Totals:</b>					<b>\$ 867,728.00</b>		<b>\$ 1,375,141.00</b>

Surety:	10% Bid Bond	10% Bid Bond
License:	A	A, B
Subs:	Breakaway Concrete Cutting Partial Demo If Needed	None

## Notes:

1. A third bid in the amount of \$1,043,278 was received from JJR Construction of San Mateo but it was determined to be non-responsive due to a significant math error.

## GENERAL CONSTRUCTION CONTRACT

THIS CONTRACT dated \_\_\_\_\_ is by and between the CITY OF SUNNYVALE, a municipal corporation of the State of California ("Owner") and SPENCON CONSTRUCTION, INC., a California corporation ("Contractor").

### RECITALS:

The parties to this Contract have mutually covenanted and agreed, as follows:

1. **The Contract Documents.** The complete Contract consists of the following documents: Notice Inviting Bids; Instructions to Bidders; Performance Bond and Payment Bond; Guaranty; City of Sunnyvale Standard Specifications for Public Works Construction, 2006 Edition; City of Sunnyvale Standard Details for Public Works Construction, 2006 Edition; Plans and Specifications, "Concrete Sidewalk, Curb, Gutter and Driveway Approaches 2016-2017, Project No. ST-15-11, Invitation for Bids No. PW16-15", including; OSHA, and other standards and codes as outlined in the Specifications. These documents are all incorporated by reference. The documents comprising the complete contract are collectively referred to as the Contract Documents.

Any and all obligations of the Owner and the Contractor are fully set forth and described therein.

All of the above documents are intended to work together so that any work called for in one and not mentioned in the other or vice versa is to be executed the same as if mentioned in all documents.

2. **The Work.** Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, transportation, and material necessary to perform and complete the project in a good and workmanlike manner. The work consist(s) of furnishing transportation, labor, materials, and equipment to perform construction of concrete sidewalks, gutters, and driveway approaches, as required, ready for use in the manner designated in, and in strict conformity with, the Plans and Specifications prepared by the City of Sunnyvale and adopted by the Owner. These Plans and Specifications are entitled respectively, Concrete Sidewalk, Curb, Gutter and Driveway Approaches 2016-2017, Project No. ST-15-11.

It is understood and agreed that the work will be performed and completed as required in the Plans and Specifications under the sole direction and control of the Contractor, and subject to inspection and approval of the Owner, or its representatives. The Owner hereby designates as its representative for the purpose of this contract the Senior Civil Engineer for Construction or an employee of the Owner who will be designated in writing by the Director of Public Works.

3. **Contract Price.** The Owner agrees to pay and the Contractor agrees to accept, in full payment for the work above agreed to be done, the sum of Eight Hundred Sixty Seven Thousand Seven Hundred Twenty Eight and No/100 Dollars (\$867,728.00) subject to final determination of the work performed and materials furnished at unit prices per "Exhibit A" attached hereto and

incorporated by this reference, and subject to additions and deductions in accordance, as provided in the Documents and in accordance with Contract Documents.

**4. Permits; Compliance with Law.** Contractor shall, at its expense, obtain all necessary permits and licenses, easements, etc., for the construction of the project, give all necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules and regulations relating to the work and to the preservation of the public health and safety.

**5. Inspection by Owner.** Contractor shall at all times maintain proper facilities and provide safe access for inspection by the Owner to all parts of the work, and to the shops wherein the work is in preparation. Where the Specifications require work to be specially tested or approved, it shall not be tested or covered up without timely notice to the Owner of its readiness for inspection and without the approval thereof or consent thereto by the latter. Should any such work be covered up without such notice, approval, or consent, it must, if required by Owner, be uncovered for examination at the Contractor's expense.

**6. Extra or Additional Work and Changes.** Should Owner at any time during the progress of the work request any alterations, deviations, additions or omissions from the Specifications or Plans or other Contract Documents it shall be at liberty to do so, and the same shall in no way affect or make void the contract, but will be added to or deducted from the amount of the contract price, as the case may be, by a fair and reasonable valuation, agreed to in writing between the parties hereto. No extra work shall be performed or change be made unless in pursuance of a written order from the Director of Public Works or authorized representative, stating that the extra work or change is authorized and no claim for an addition to the contract sum shall be valid unless so ordered.

**7. Time for Completion.** All work under this contract shall be completed before the expiration Ninety (90) working days from the date specified in the Notice to Proceed.

If Contractor shall be delayed in the work by the acts or neglect of Owner, or its employees or those under it by contract or otherwise, or by changes ordered in the work, or by strikes, lockouts by others, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the Owner, or by any cause which the Owner shall decide to justify the delay, then the time of completion shall be extended for such reasonable time as the Owner may decide.

This provision does not exclude the recovery of damages for delay by either party under other provisions.

**8. Inspection and Testing of Materials.** Contractor shall notify Owner a sufficient time in advance of the manufacture or production of materials, to be supplied under this contract, in order that the Owner may arrange for mill or factory inspection and testing of same, if Owner requests such notice from Contractor.

**9. Termination for Breach, etc.** If Contractor should file a bankruptcy petition and/or be judged bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency, or if Contractor or any subcontractors should violate any of the provisions of the Contract, Owner may serve written notice upon Contractor and its surety of Owner's intention to terminate the Contract. The notice shall contain the reasons for such intention to terminate the Contract, and, unless within ten days after serving such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, upon the expiration of the ten days, the Contract shall cease and terminate. In the event of any such termination, Owner shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the Contract; provided, however that, if the surety within fifteen days after the serving upon it of notice of termination does not give Owner written notice of its intention to take over and perform the Contract or does not commence performance thereof within thirty days from the date of the serving of such notice, Owner may take over the work and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of Contractor, and Contractor and its surety shall be liable to Owner for any excess cost occasioned Owner thereby, and in such event Owner may without liability for so doing take possession of and utilize in completing the work, such materials, appliances, plant and other property belonging to Contractor as may be on the site of the work and necessary therefor.

**10. Owner's Right to Withhold Certain Amounts and Make Application Thereof.** In addition to the amount which Owner may retain under Paragraph 21 until the final completion and acceptance of all work covered by the Contract, Owner may withhold from payment to Contractor such amount or amounts as in its judgment may be necessary to pay just claims against Contractor or any subcontractors for labor and services rendered and materials furnished in and about the work. Owner may apply such withheld amount or amounts to the payment of such claims in its discretion. In so doing Owner shall be deemed the agent of Contractor and any payment so made by Owner shall be considered as a payment made under the Contract by Owner to the Contractor and Owner shall not be liable to Contractor for any such payment made in good faith. Such payment may be made without prior judicial determination of the claim or claims.

**11. Notice and Service Thereof.** All notices required pursuant to this Contract shall be communicated in writing, and shall be delivered in person, by commercial courier or by first class or priority mail delivered by the United States Postal Service. Transmission of notice by facsimile or by telephone may be deemed sufficient if the requirement for written notice is waived, in writing, by the receiving party. Notices delivered in person shall be deemed communicated as of actual receipt. Notices sent by mail or courier service shall be deemed communicated as of three days after mailing or dispatch, unless that date is a date on which there is no mail or delivery service, in which case communication shall be deemed to occur the next mail service or delivery day. The burden of proof of compliance with this requirement for written notice shall be on the sending party. All notices sent pursuant to this Contract shall be addressed as follows:

Owner: City of Sunnyvale  
Department of Public Works  
Construction Contract Administrator  
P. O. Box 3707  
Sunnyvale, CA 94088-3707

Contractor: SpenCon Construction, Inc.  
Attn: Steve Stahl  
4115 Blackhawk Plaza Circle, Suite 100  
Danville, CA 94506

**12. Assignment of Contract.** Neither the Contract, nor any part thereof, nor moneys due or to become due thereunder may be assigned by Contractor without the prior written approval of Owner.

**13. Compliance with Specifications of Materials.** Whenever in the Specifications, any material or process is indicated or specified by patent or proprietary name, or by name of manufacturer, such Specifications must be met by Contractor, unless Owner agrees in writing to some other material, process or article offered by Contractor which is equal in all respects to the one specified.

**14. Contract Security.** Contractor shall furnish a surety bond in an amount at least equal to 100 percent of the contract price as security for the faithful performance of this Contract. Contractor shall also furnish a separate surety bond in an amount at least equal to 100 percent of the contract price as security for the payment of all persons for furnishing materials, provisions, provender, or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for performing any work or labor thereon of any kind, and for the payment of amounts due under the Unemployment Insurance Code with respect to such work or labor in connection with this Contract, and for the payment of a reasonable attorney's fee to be fixed by the court in case suit is brought upon the bond. Bonds shall be issued by an admitted surety insurer authorized to operate in the state of California.

**15. Insurance.** Contractor shall not commence work under this Contract until all insurance required under this paragraph has been obtained and such insurance has been approved by the Owner, nor shall Contractor allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Contractor shall furnish the Owner with satisfactory proof of the carriage of insurance required, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Contract and particularly Paragraph 16 hereof. Any policy of insurance required of the Contractor under this Contract shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to the Owner of any pending change in the limits of liability or of any cancellation or modification of the policy. Insurance carrier shall be California-admitted.

(a) Compensation Insurance and Employer's Liability Insurance. Contractor shall take out and maintain during the life of this Contract Workers' Compensation Insurance and Employer's Liability Insurance for all of employees employed at the site of the project and, in case any work is sublet, Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance and Employer's Liability Insurance for all of the latter's employees unless such employees are covered by the protection afforded by Contractor.

In signing this Contract, Contractor makes the following certification, required by Section 1861 of the Labor Code:

"I am aware of the provision of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

(b) General and Automobile Liability Insurance. Contractor, at its own cost and expense, shall maintain personal injury liability and property damage insurance for the period covered by the Contract in the amount of Two Million Dollars (\$2,000,000.00) per occurrence and \$4,000,000 annual aggregate combined single limit coverage. Such coverage shall include, but shall not be limited to, protection against claims arising therefrom, and damage to property resulting from activities contemplated under this Contract, use of owned automobiles, products and completed operations, including U, C and X. Such insurance shall be with insurers and under forms of policies satisfactory in all respects to the Owner and shall provide that notice must be given to Owner at least thirty (30) days prior to cancellation or material change. The following endorsements shall be attached to the policy:

Policy shall cover on an "occurrence" basis. Policy must cover personal injuries as well as bodily injuries. Exclusion of contractual liability must be eliminated from personal injury endorsement. Broad form property damage endorsement must be attached. Owner is to be named as an additional insured on any contracts of insurance under this paragraph (b). Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code. The policies of insurance shall be considered primary insurance before any policies of insurance maintained by Owner.

**16. Hold Harmless.** Contractor agrees to defend, save, indemnify and hold harmless Owner and all its officers, employees, and agents, against any and all liability, claims, judgments, or demands, including demands arising from injuries or death of persons (Contractor's employees included) and damage to property, arising directly or indirectly out of the obligations herein undertaken or out of the operations conducted by Contractor, save and except claims or litigation arising through the active negligence or willful misconduct of Owner, or of Owner's officials, agents, employees, servants, or independent contractors who are directly responsible to Owner. Contractor shall make good and reimburse Owner for any expenditures,

including reasonable attorneys' fees, Owner may make by reason of such claim or litigation, and, if requested by Owner, Contractor shall defend any such suits at the sole cost and expense of Contractor.

**17. Hours of Work.** Eight hours of labor during any one calendar day and forty hours of labor during any one calendar week shall constitute the maximum hours of service upon all work done hereunder, and it is expressly stipulated that no laborer, worker, or mechanic employed at any time by the Contractor or by any subcontractor or subcontractors under this Contract, upon the work or upon any part of the work contemplated by this Contract, shall be required or permitted to work thereon more than eight hours during any one calendar day and forty hours during any one calendar week, except, as provided by Section 1815 of the Labor Code of the State of California, work performed by employees of contractors in excess of eight hours per day and forty hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. It is further expressly stipulated that for each and every violation of Sections 1811-1815, inclusive, of the Labor Code of the State of California, all the provisions whereof are deemed to be incorporated herein, Contractor shall forfeit, as a penalty to Owner, twenty five (\$25.00) for each laborer, worker, or mechanic employed in the execution of this Contract by Contractor, or by any subcontractor under this Contract, for each calendar day during which the laborer, worker, or mechanic is required or permitted to work more than eight hours in any one calendar day and forty hours in any one calendar week in violation of the provisions of the Sections of the Labor Code.

Contractor, and each subcontractor, shall, in accordance with California Labor Code Section 1776 or as the same may be later amended, keep accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with work under this agreement. Each payroll record shall contain or be verified by a written declaration under penalty of perjury, in accordance with Labor Code Section 1776(a). Such payroll records shall be made available at all reasonable times at the Contractor's principal office to the persons authorized to inspect such records pursuant to Labor Code Section 1776. A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations, as well as to the Owner's representative. In the event the Contractor or a Subcontractor fails to comply in a timely manner within ten days to a written notice requesting the records, such contractor or subcontractor shall forfeit one hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated, in accordance with Labor Code Section 1776(h).

**18. Wage Rates.** Pursuant to the Labor Code of the State of California, or any applicable local law, Owner has ascertained the general prevailing rate per diem wages and rates for holidays, and overtime work in the city, for each craft, classification or type of laborer, worker, or mechanic needed to execute this Contract. Owner has adopted, by reference, the general prevailing rate of wages applicable to the work to be done under the Contract, as adopted and published by the Division of Labor Standards Enforcement and Labor Statistics

and Research of the State of California, Department of Industrial Relations, to which reference is hereby made for a full and detailed description. A copy of the prevailing wage rates may be reviewed in the office of the Director of Public Works, City of Sunnyvale, 456 West Olive Avenue, Sunnyvale, California. Wage rates can also be obtained through the California Department of Industrial Relations website at:  
<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

Neither the notice inviting bids nor this Contract shall constitute a representation of fact as to the prevailing wage rates upon which the Contractor or any subcontractor may base any claim against Owner.

It shall be mandatory upon Contractor and upon any subcontractor to pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the Contract. It is further expressly stipulated that Contractor shall, as a penalty to Owner, forfeit two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each laborer, worker, or mechanic paid less than the stipulated prevailing rates for any work done under this Contract by Contractor or by any subcontractor; and Contractor agrees to comply with all provisions of Section 1775 of the Labor Code.

In case it becomes necessary for Contractor or any subcontractor to employ on the project under this Contract any person in a trade or occupation (except executives, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate is herein specified, Contractor shall immediately notify Owner who will promptly thereafter determine the prevailing rate for such additional trade or occupation and shall furnish Contractor with the minimum rate based thereon. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

**19. Accident Prevention.** Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions of the Construction Safety Orders issued by the Industrial Accident Commission of the State of California.

**20. Contractor's Guarantee.** Owner shall not, in any way or manner, be answerable or suffer loss, damage, expense or liability for any loss or damage that may happen to the building, work, or equipment or any part thereof, or in, on, or about the same during its construction and before acceptance. Contractor unqualifiedly guarantees the first-class quality of all workmanship and of all materials, apparatus, and equipment used or installed by Contractor or by any subcontractor or supplier in the project which is the subject of this Contract, unless a lesser quality is expressly authorized in the Plans and Specifications, in which event Contractor unqualifiedly guarantees such lesser quality; and that the work as performed by Contractor will conform with the Plans and Specifications or any written authorized deviations therefrom. In case of any defect in work, materials, apparatus or equipment, whether latent or patent, revealed to Owner within one year of the date of acceptance of completion of this Contract by Owner, Contractor will forthwith remedy such defect or defects without cost to Owner.



**21. Liquidated Damages.** Time shall be the essence of this Contract. If Contractor fails to complete, within the time fixed for such completion, the entire work mentioned and described and contracted to be done and performed, Contractor shall become liable to Owner for liquidated damages in the sum of Two Hundred Fifty and No/100 (\$250.00) for each and every calendar day during which work shall remain uncompleted beyond such time fixed for completion or any lawful extension thereof. The amount specified as liquidated damages is presumed to be the amount of damage sustained by Owner since it would be impracticable or extremely difficult to fix the actual damage; and the amount of liquidated damages may be deducted by Owner from moneys due Contractor hereunder, or its assigns and successors at the time of completion, and Contractor, or its assigns and successors at the time of completion, and its sureties shall be liable to Owner for any excess.

**22. Additional Provisions.**

None.

City Attorney \_\_\_\_\_ Date \_\_\_\_\_

## EXHIBIT A

No.	Description	QTY	Unit of Measure	Unit Cost
1	Remove and Reconstruct 4" Thick Concrete Sidewalk	31,243	SF	\$11.00
2	Remove and Reconstruct Curb and Gutter	7,186	LF	\$59.00
3	Remove and Reconstruct 6" Thick Concrete Sidewalk Driveway	2,240	SF	\$12.00
4	Remove and Reconstruct 6" Thick Concrete Driveway	2,806	SF	\$12.00
5	Remove Park Strip Concrete and Backfill with 4" Topsoil <b>(Revocable)</b>	4,293	SF	\$3.00
6	Adjust Utility Boxes and Manholes in Sidewalk <b>(Revocable)</b>	5	EA	\$150.00
7	4" Thick Asphalt Concrete <b>(Revocable)</b>	2,500	SF	\$9.00
8	Replace Water Meter Box <b>(Revocable)</b>	10	EA	\$200.00
9	Installation of 3" Ductile Iron Pipe (DIP) Curb Drain <b>(Revocable)</b>	30	LF	\$30.00
10	Project Management Software Training (e-Builder) and Use <b>(Revocable)</b>	1	LS	\$500.00

## EXHIBIT B

**Utilization of Local Workforce in Construction Projects** - The Sunnyvale City Council has adopted a policy which encourages utilization of local workforces, including State-certified apprentices, as a means of supporting economic opportunities for all members of the community. Local workforce is defined as workers residing in Santa Clara County. The lowest responsive and responsible bidder must provide a projection of locally-hired workers utilized for this contract.

Contractor	Projected Number of Locally Hired Workers_____
	Projected Percent of Locally Hired Workers_____%
Subcontractor(s)	Projected Number of Locally Hired Workers_____
	Projected Percent of Locally Hired Workers_____%



# City of Sunnyvale

## Agenda Item

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16-0046

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### **SUBJECT**

Introduce an Ordinance to Award a Non-Exclusive Taxicab Franchise to Silicon Valley Taxi Drivers, Inc. DBA Green Cab

#### **BACKGROUND**

A taxicab franchise application and required fees have been received from Silicon Valley Taxi Drivers, Inc. doing business as (dba) Green Cab.

There are currently six valid taxicab companies franchised to operate within the City of Sunnyvale. They are: Checker Cab, California Cab, Yellow Cab Peninsula (suspended voluntarily until 5/01/2016), Green Cab, Silicon Valley Cab, and Orange Cab.

Silicon Valley Taxi Drivers, Inc. DBA Green Cab acknowledges and accepts the requirements of the Sunnyvale Municipal Code as well as the City's taxicab franchise agreement. Silicon Valley Taxi Drivers, Inc. DBA Green Cab is also aware of the right of the City of Sunnyvale to revoke or suspend the taxicab franchise if it is determined that there is a violation or non-compliance of the terms contained in Sunnyvale Municipal Code Chapter 5.36.

#### **EXISTING POLICY**

##### **General Plan**

Chapter 3: Land Use and Transportation (LT):

Goal LT-5 Effective, Safe Pleasant and Convenient Transportation

Attain a transportation system that is effective, safe, pleasant and convenient

Policy LT-5.5

Support a variety of transportation modes

The term "non-exclusive franchise" as used in the Sunnyvale Municipal Code means that the city does not limit the number of like franchises in operation at one time. If an applicant meets the provisions as outlined in the Sunnyvale Municipal Code, then the franchise to operate a taxicab service may be awarded by City Council.

The City's non-exclusive franchise requirements are derived from Sunnyvale Municipal Code Chapter 5.36. It is unlawful to operate any taxicab in the City unless the owner applies for and obtains a franchise to do so. The City Council may deny a franchise to any applicant if:

1. The applicant has been convicted of certain criminal offenses.
2. The proposed color scheme or other insignia may tend to confuse the identification with other franchises already operating within the city.
3. The applicant has been in violation of any law or Municipal Code regulation relating to

the conduct of a taxicab business.

4. The applicant has had a taxicab license revoked or suspended in the City of Sunnyvale or any other jurisdiction within five years prior to the date of application.
5. Any other reasonable cause exists which, within the City Council's sound discretion, would render the proposed operation undesirable to the City of Sunnyvale.

A franchise may be awarded for a term of two years, with an option for the Director of Public Safety to approve up to two, two-year extensions for a franchisee that is in good standing. At the expiration of the total term, a new franchise must be approved by the Council under the provisions of Sunnyvale Municipal Code Chapter 5.36.

### **ENVIRONMENTAL REVIEW**

The action being considered is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061 (b) (3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

### **DISCUSSION**

Silicon Valley Taxi Drivers, Inc. dba Green Cab has previously operated with a valid franchise agreement, which was awarded on by City Council on November 26, 2013. The agreement was effective on December 1, 2013 expired on December 1, 2015, and the franchisee timely requested and was allowed , pursuant to section 5.36.120 of the Sunnyvale Municipal Code, to continue operations under the terms of the old franchise until the City Council takes action on a new franchise.

Silicon Valley Taxi Drivers, Inc. dba Green Cab has submitted information and documentation to demonstrate compliance with the criteria identified in Sunnyvale Municipal Code Chapter 5.36, as outlined below:

SMC Section	Description of Requirement	Status
5.36.040	Applicant has paid the required franchise application fee.	Met
5.36.050	Applicant has at least five (5) vehicles.	Met
5.36.050	Taxicabs have unique color scheme.	Met
5.36.050	Applicant shows sufficient experience to operate franchise.	Met
5.36.050	All drivers for the franchise will be permitted by DPS.	Met
5.36.050	All drivers will be subject to random drug testing requirements.	Met
5.36.220	Applicant has a toll free phone number and sufficient phone lines for dispatch.	Met
5.36.280	Applicant has filed its fare schedule with DPS.	Met
5.36.300	Applicant has a valid insurance policy with \$1.0 million combined single limit liability for bodily injury and property damage per any one accident	Met
5.36.320	All vehicles have a taximeter which was inspected by Santa Clara Co. Weights and Measures.	Met

5.36.360	Applicant has undergone a criminal history check. There were no convictions for felony, narcotics, or crimes of moral turpitude.	Met
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Staff review of the franchise application and history includes the following notes regarding Silicon Valley Taxi Drivers, Inc. dba Green Cab:

1. Insurance - Silicon Valley Taxi Drivers, Inc. dba Green Cab has provided a valid certificate of insurance issued by Preserver Insurance Company that names the City of Sunnyvale as additional insured. Staff reviewed the Certificate of Insurance and found that the coverage provided meets the requirements of the Municipal Code. The A.M. Best rating for Preserver Insurance Company does not meet the requirements of the Sunnyvale Municipal Code, but the City's Risk Manager has reviewed and approved the insurance rating on an exception basis pursuant to Sunnyvale Municipal Code Section 5.36.300. The company understands that it may not operate without proper insurance.
2. Franchise History - Silicon Valley Taxi Drivers, Inc. dba Green Cab is currently doing business in four cities: San Jose, Santa Clara, Mountain View, and Sunnyvale. The applicant has been operating as Green Cab since 2005. In 2012 and 2013, Green Cab Company was issued two notices of suspension from the Department of Public Safety due to non-compliance with vehicle inspection due dates and minimum driver requirements. Those violations were corrected and did not recur. In 2014, the Department of Public Safety notified Green Cab Company of a potential violation associated with illegal pickups within City limits. Green Cab Company voluntarily provided documentation of all trip manifests on a monthly basis until DPS was assured that illegal pickups were no longer an issue. For the year 2015, Green Cab Company remained in full compliance of the Sunnyvale Municipal Code and their franchise agreement.

The proposed term for the franchise is May 15, 2016 through May 14, 2018, with the option for the Director of Public Safety to approve two, two-year extensions pursuant to SMC 5.36.120 if the franchise is in good standing, for a total possible term of May 15, 2016 through May 14, 2022.

### **FISCAL IMPACT**

Franchise fees, vehicle fees, and driver permit fees are calculated based on full cost recovery; the fiscal impact of awarding a taxicab franchise is therefore predictably nominal, and can be absorbed in the General Fund.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **ALTERNATIVES**

1. Introduce an Ordinance to Award a Non-exclusive Taxicab Franchise to Silicon Valley Taxi Drivers, Inc. DBA Green Cab and authorize the City Manager to execute the franchise agreement.
2. Do not introduce an Ordinance to Award a Non-exclusive Taxicab Franchise to Silicon Valley Taxi Drivers, Inc. DBA Green Cab or authorize the City Manager to execute the franchise agreement.

**STAFF RECOMMENDATION**

Alternative 1: Introduce an Ordinance to Award a Non-exclusive Taxicab Franchise to Silicon Valley Taxi Drivers, Inc. DBA Green Cab and authorize the City Manager to execute the franchise agreement.

Prepared by: Elaine Ketell, Management Analyst

Reviewed by: Chief Frank J. Grgurina, Director, Public Safety

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Taxicab Franchise Agreement

2. Ordinance for Non-Exclusive Taxicab Franchise- Silicon Valley Taxi Drivers, Inc. DBA Green Cab



**CITY OF SUNNYVALE  
TAXICAB FRANCHISE AND AGREEMENT**

THIS FRANCHISE AND AGREEMENT, dated \_\_\_\_\_, is between the CITY OF SUNNYVALE, a municipal corporation of the State of California (herein "City"), and Silicon Valley Taxi Drivers, Inc. doing business as Green Cab (herein "Franchisee").

**RECITALS**

WHEREAS, Franchisee has filed a verified application of a nonexclusive Franchise to operate a taxicab service pursuant to Chapter 5.36 of the Sunnyvale Municipal Code; and

WHEREAS, on \_\_\_\_\_, 2016, the City Council passed and adopted Ordinance No \_\_\_\_\_, after Notice and Public Hearing, approving the award of such Franchise;

NOW, THEREFORE, in consideration of the award of a nonexclusive Franchise and of the mutual covenants and conditions as set forth herein, it is agreed as follows:

1. Grant of Non-Exclusive Franchise. City grants to Franchisee a nonexclusive Franchise to use the public streets, ways, alleys and places, as the same now or may hereafter exist, within the corporate limits of the City of Sunnyvale as they presently exist or as they may be changed during the term of this Franchise by annexations or detachments, in connection with furnishing the City of Sunnyvale and its inhabitants with taxicab service.
2. Term of Non-Exclusive Franchise. This Franchise shall be in effect for an initial term of two (2) years, beginning May 15, 2016, and ending at midnight on May 14, 2018. Pursuant to Sunnyvale Municipal Code section 5.38.120, the City's Director of Public Safety may approve up to two, two-year extensions, provided Franchisee remains in good standing. The total term, including any approved extensions, may not exceed six years and shall terminate no later than May 14, 2022.
3. Payment of Franchise Fees. The Franchisee during the term of this Franchise shall pay to the City the consideration based on the number of vehicles in service under the Franchise, as set forth in the City's Master Fee Schedule, as may be amended from time to time and which is incorporated by reference herein.
4. Franchisee Obligations.

The Franchisee shall:

- A. Appear and defend all actions against the City arising out of the exercise of the Franchise and shall indemnify and save City, its officers, employees and agents harmless of and from all claims, demands, actions or causes of action of every kind and description resulting directly or indirectly, arising out of, or in any way connected with, the exercise of the Franchise.

B. Obtain and keep in force during the term of the Franchise insurance in compliance with the requirements of Sunnyvale Municipal Code Section 5.36.300.

C. Comply with all other requirements of Sunnyvale Municipal Code Chapter 5.36 and any amendments thereto, and with all applicable laws and regulations of the State of California, and all applicable laws and regulations of the United States, or any regulatory agency having jurisdiction. Franchisee shall establish a controlled substance and alcohol certification program. The program shall be included in a written company policy. Each driver must sign for receipt of said policy, and the receipt shall be retained by Franchisee. A copy shall be provided to Department Public Safety upon request. Every driver shall test negative for controlled substances as specified in 40 CFR Part 40 and 49 CFR Part 382.

5. Assignment of Franchise and Insolvency. The Franchise granted hereunder shall not be assignable, either voluntarily or by operation of law, without the prior approval of the City Council, by resolution. At least forty-five (45) days prior to the date for the formal transfer of such interest or ownership, the Franchisee shall so notify City in writing. If the Franchisee at any time during the term of this Franchise becomes insolvent, or if any proceeding in bankruptcy shall be instituted by or against the Franchisee, or if the Franchisee shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy, or receiver of any property of the Franchisee shall be appointed in any suit or proceeding brought by or against the Franchisee, or if the Franchisee shall make an assignment for the benefit of creditors, then and in each and every such case this Franchise and the rights and privileges granted thereby shall immediately cease, and be forfeited and cancelled, without notice and without suit or other proceeding.

6. Transfer of Ownership Interest. If the Franchisee at any time during the term of this Franchise shall sell, exchange or otherwise transfer more than one-half of the equity interest in or ownership of the taxicab service business, whether with or without the property, equipment or other assets in connection therewith, permitted to be operated by the Franchise granted hereunder, the City Council shall have the right to cancel and revoke the Franchise following a hearing held after then (10) days' written notice thereof to the Franchisee. The right to cancel and revoke the Franchise shall not be triggered by any mortgage or deed of trust made in good faith by the Franchisee.

7. Amendments. This Franchise and Agreement may be amended by the City during its term with the consent of the Franchisee.

8. Compliance. The Franchise is granted to and is accepted by the Franchisee upon the express condition that the public streets, ways, alleys and places shall be used and taxicab service furnished in strict compliance with the terms of this Franchise Agreement, the Sunnyvale City Charter, and all applicable provisions of the Sunnyvale Municipal Code.

IN WITNESS WHEREOF, the parties have executed this Agreement.

**"FRANCHISEE"**

SILICON VALLEY CAB COMPANY DBA  
GREEN CAB

By \_\_\_\_\_

Owner

**"CITY"**

CITY OF SUNNYVALE, a municipal  
corporation

By \_\_\_\_\_

DEANNA J. SANTANA  
City Manager

ATTEST:

\_\_\_\_\_  
KATHLEEN FRANCO-SIMMONS  
City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_

MELISSA C. TRONQUET  
Assistant City Attorney

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
SUNNYVALE AWARDING NONEXCLUSIVE FRANCHISE  
FOR TAXICAB SERVICE TO SILICON VALLEY TAXI  
DRIVERS, INC. DBA GREEN CAB**

WHEREAS, Chapter 5.36 of the Sunnyvale Municipal Code establishes a procedure for the consideration and award of nonexclusive taxi franchises by the City of Sunnyvale; and

WHEREAS, Silicon Valley Taxi Drivers, Inc. dba Green Cab has applied for a nonexclusive taxicab franchise; and

WHEREAS, public notice in accordance with Sunnyvale Municipal Code Section 5.36.070 has been given that the City Council of the City of Sunnyvale would hold a public hearing for the purpose of determining whether to award the franchise; and

WHEREAS, the City Council finds that it would be in the best interest of the City of Sunnyvale to award a nonexclusive franchise for taxicab service to the Silicon Valley Taxi Drivers, Inc. dba Green Cab;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. FRANCHISE GRANTED. The City of Sunnyvale hereby grants to Silicon Valley Taxi Drivers, Inc. dba Green Cab (hereinafter "Franchisee"), a nonexclusive Franchise for taxicab service within the corporate boundaries of the City of Sunnyvale as such boundaries presently exist or as they may be changed during the term of this Franchise. The Franchisee shall conduct its operations under the Franchise in strict compliance with the Sunnyvale City Charter and Chapter 5.36 of the Sunnyvale Municipal Code, and any amendments thereto, together with all applicable laws and regulations of the State of California, the United States or any regulatory agency having jurisdiction.

SECTION 2. TERM. The initial term for which this Franchise is granted shall be two years commencing May 15, 2016, and ending at 12:00 midnight on May 14, 2018. The Director of Public Safety is further authorized, as provided in SMC Section 5.38.120, to approve two, two-year extensions, provided Franchisee is in good standing. The total term, including any approved extensions, shall not exceed six years and the franchise shall expire no later than May 14, 2022 at 12:00 midnight.

SECTION 3. CONSIDERATION. The Franchisee shall pay to the City as consideration for the granting of this Franchise the amounts per vehicle as set forth in the City's Master Fee Schedule, as may be amended from time to time, which is incorporated by reference herein.

SECTION 4. USE OF CITY STREETS. The Franchisee hereby is given permission to use City streets for the purpose of providing taxicab service in accordance with the terms of this ordinance and the franchise agreement.

SECTION 5. GENERAL CONDITIONS. This Franchise is granted subject to the terms and conditions set forth in Exhibit A, "Taxicab Franchise and Agreement" attached and incorporated.

SECTION 6. ACCEPTANCE OF FRANCHISE TERMS AND CONDITIONS. This Franchise shall not become effective until the Franchisee accepts the Franchise by executing the Taxicab Franchise Agreement within ten (10) days after adoption of this ordinance.

SECTION 7. APPROVAL OF FRANCHISE AGREEMENT—EXECUTING AND ATTESTING. The Taxicab Franchise Agreement is hereby approved, and the City Manager is authorized to execute it on behalf of the City.

SECTION 8. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 9. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project that has the potential for causing a significant effect on the environment.

SECTION 10. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 11. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Date of Attestation:

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

## **EXHIBIT A**

### **CITY OF SUNNYVALE TAXICAB FRANCHISE AND AGREEMENT**

THIS FRANCHISE AND AGREEMENT, dated \_\_\_\_\_, is between the CITY OF SUNNYVALE, a municipal corporation of the State of California (herein "City"), and Silicon Valley Cab Taxi Drivers, doing business as Green Cab (herein "Franchisee").

#### **RECITALS**

WHEREAS, Franchisee has filed a verified application of a nonexclusive Franchise to operate a taxicab service pursuant to Chapter 5.36 of the Sunnyvale Municipal Code; and

WHEREAS, on \_\_\_\_\_, 2016, the City Council passed and adopted Ordinance No \_\_\_\_\_, after Notice and Public Hearing, approving the award of such Franchise;

NOW, THEREFORE, in consideration of the award of a nonexclusive Franchise and of the mutual covenants and conditions as set forth herein, it is agreed as follows:

1. Grant of Non-Exclusive Franchise. City grants to Franchisee a nonexclusive Franchise to use the public streets, ways, alleys and places, as the same now or may hereafter exist, within the corporate limits of the City of Sunnyvale as they presently exist or as they may be changed during the term of this Franchise by annexations or detachments, in connection with furnishing the City of Sunnyvale and its inhabitants with taxicab service.
2. Term of Non-Exclusive Franchise. This Franchise shall be in effect for an initial term of two (2) years, beginning May 15, 2016, and ending at midnight on May 14, 2018. Pursuant to Sunnyvale Municipal Code section 5.38.120, the City's Director of Public Safety may approve up to two, two-year extensions, provided Franchisee remains in good standing. The total term, including any approved extensions, may not exceed six years and shall terminate no later than May 14, 2022.
3. Payment of Franchise Fees. The Franchisee during the term of this Franchise shall pay to the City the consideration based on the number of vehicles in service under the Franchise, as set forth in the City's Master Fee Schedule, as may be amended from time to time and which is incorporated by reference herein.
4. Franchisee Obligations.

The Franchisee shall:

- A. Appear and defend all actions against the City arising out of the exercise of the Franchise and shall indemnify and save City, its officers, employees and agents harmless of and from all claims, demands, actions or causes of action of every kind and description resulting directly or indirectly, arising out of, or in any way connected with, the exercise of the Franchise.

B. Obtain and keep in force during the term of the Franchise insurance in compliance with the requirements of Sunnyvale Municipal Code Section 5.36.300.

C. Comply with all other requirements of Sunnyvale Municipal Code Chapter 5.36 and any amendments thereto, and with all applicable laws and regulations of the State of California, and all applicable laws and regulations of the United States, or any regulatory agency having jurisdiction. Franchisee shall establish a controlled substance and alcohol certification program. The program shall be included in a written company policy. Each driver must sign for receipt of said policy, and the receipt shall be retained by Franchisee. A copy shall be provided to Department Public Safety upon request. Every driver shall test negative for controlled substances as specified in 40 CFR Part 40 and 49 CFR Part 382.

5. Assignment of Franchise and Insolvency. The Franchise granted hereunder shall not be assignable, either voluntarily or by operation of law, without the prior approval of the City Council, by resolution. At least forty-five (45) days prior to the date for the formal transfer of such interest or ownership, the Franchisee shall so notify City in writing. If the Franchisee at any time during the term of this Franchise becomes insolvent, or if any proceeding in bankruptcy shall be instituted by or against the Franchisee, or if the Franchisee shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy, or receiver of any property of the Franchisee shall be appointed in any suit or proceeding brought by or against the Franchisee, or if the Franchisee shall make an assignment for the benefit of creditors, then and in each and every such case this Franchise and the rights and privileges granted thereby shall immediately cease, and be forfeited and cancelled, without notice and without suit or other proceeding.

6. Transfer of Ownership Interest. If the Franchisee at any time during the term of this Franchise shall sell, exchange or otherwise transfer more than one-half of the equity interest in or ownership of the taxicab service business, whether with or without the property, equipment or other assets in connection therewith, permitted to be operated by the Franchise granted hereunder, the City Council shall have the right to cancel and revoke the Franchise following a hearing held after then (10) days' written notice thereof to the Franchisee. The right to cancel and revoke the Franchise shall not be triggered by any mortgage or deed of trust made in good faith by the Franchisee.

7. Amendments. This Franchise and Agreement may be amended by the City during its term with the consent of the Franchisee.

8. Compliance. The Franchise is granted to and is accepted by the Franchisee upon the express condition that the public streets, ways, alleys and places shall be used and taxicab service furnished in strict compliance with the terms of this Franchise Agreement, the Sunnyvale City Charter, and all applicable provisions of the Sunnyvale Municipal Code.



IN WITNESS WHEREOF, the parties have executed this Agreement.

**"FRANCHISEE"**

SILICON VALLEY CAB COMPANY DBA  
GREEN CAB

By \_\_\_\_\_

Owner

**"CITY"**

CITY OF SUNNYVALE, a municipal  
corporation

By \_\_\_\_\_

DEANNA J. SANTANA  
City Manager

ATTEST:

\_\_\_\_\_  
KATHLEEN FRANCO-SIMMONS  
City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_

MELISSA C. TRONQUET  
Assistant City Attorney



# City of Sunnyvale

## Agenda Item

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16-0181

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### **SUBJECT**

Introduce an Ordinance to Award a Non-Exclusive Taxicab Franchise to Silicon Valley Cab Co., Inc. DBA Silicon Valley Cab

#### **BACKGROUND**

A taxicab franchise application and required fees have been received from Silicon Valley Cab Co., Inc. DBA Silicon Valley Cab.

There are currently six valid taxicab companies franchised to operate within the City of Sunnyvale. They are: Checker Cab, California Cab, Yellow Cab Peninsula (suspended voluntarily until 5/01/2016), Silicon Valley Cab, Green Cab, and Orange Cab.

Silicon Valley Cab Co., Inc. DBA Silicon Valley Cab acknowledges and accepts the requirements of the Sunnyvale Municipal Code as well as the City's taxicab franchise agreement. Silicon Valley Cab Co., Inc. DBA Silicon Valley Cab is also aware of the right of the City to revoke or suspend the taxicab franchise if it is determined that there is a violation or non-compliance of the terms contained in Sunnyvale Municipal Code Section Chapter 5.36.

#### **EXISTING POLICY**

##### **General Plan**

Chapter 3: Land Use and Transportation (LT):

Goal LT-5 Effective, Safe Pleasant and Convenient Transportation

Attain a transportation system that is effective, safe, pleasant and convenient

Policy LT-5.5

Support a variety of transportation modes

The term "non-exclusive franchise" as used in the Sunnyvale Municipal Code means that the City does not limit the number of like franchises in operation at one time. If an applicant meets the provisions as outlined in the Sunnyvale Municipal Code, then the franchise to operate a taxicab service may be awarded by City Council.

The City's non-exclusive franchise requirements are derived from Sunnyvale Municipal Code Chapter 5.36. It is unlawful to operate any taxicab in the City unless the owner applies for and obtains a franchise to do so. The City Council may deny a franchise to any applicant if:

1. The applicant has been convicted of certain criminal offenses.
2. The proposed color scheme or other insignia may tend to confuse the identification with other franchises already operating within the city.
3. The applicant has been in violation of any law or Municipal Code regulation relating to

the conduct of a taxicab business.

4. The applicant has had a taxicab license revoked or suspended in the City of Sunnyvale or any other jurisdiction within five years prior to the date of application.
5. Any other reasonable cause exists which, within the City Council's sound discretion would render the proposed operation undesirable to the City of Sunnyvale.

A franchise may be awarded for a term of two years, with an option for the Director of Public Safety to approve up to two, two-year extensions for a company that is in good standing. At the expiration of the total term, a new franchise is approved by the City Council under the provisions of Sunnyvale Municipal Code Chapter 5.36.

### **ENVIRONMENTAL REVIEW**

The action being considered is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061 (b) (3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

### **DISCUSSION**

Silicon Valley Cab has previously operated with a valid franchise agreement, which was awarded by City Council on November 23, 2103. The franchise commenced on December 18, 2013 and expired on December 17, 2015. The company timely submitted an application to continue the franchise and was allowed, pursuant to section 5.36.120 of the Sunnyvale Municipal Code, to continue operations under the terms of the old franchise until the City Council takes action on awarding a new franchise.

The owner of Silicon Valley Cab Co., Inc. DBA Silicon Valley Cab has submitted information and documentation to demonstrate compliance with each of the criteria identified in Sunnyvale Municipal Code Chapter 5.36, as outlined below:

SMC Section	Description of Requirement:	Status
5.36.040	Applicant has paid the required franchise application fee.	Met
5.36.050	Applicant has at least five (5) vehicles.	Met
5.36.050	Taxicabs have unique color scheme.	Met
5.36.050	Applicant shows sufficient experience to operate franchise.	Met
5.36.050	All drivers for the franchise will be permitted by DPS.	Met
5.36.050	All drivers will be subject to random drug testing requirements.	Met
5.36.220	Applicant has a toll free phone number and sufficient phone lines for dispatch.	Met
5.36.280	Applicant has filed its fare schedule with DPS.	Met
5.36.300	Applicant has a valid insurance policy with \$1.0 million combined single limit liability for bodily injury and property damage per any one accident	Met
5.36.320	All vehicles have a taximeter which was inspected by Santa Clara Co. Weights and Measures.	Met

5.36.360	Applicant has undergone a criminal history check. There were no convictions for felony, narcotics, or crimes of moral turpitude.	Met
5.36.365	Applicant has current contract for medical review officer services.	Met

The proposed term of the franchise is May 15, 2016 through May 14, 2018, with the option for the Director of Public Safety to approve two, two-year extensions pursuant to Sunnyvale Municipal Code section 5.36.120 if the franchisee is in good standing, for a total possible term of May 15, 2016 through May 14, 2022.

**FISCAL IMPACT**

Franchise fees, vehicle fees, and driver permit fees are calculated based on full cost recovery; the fiscal impact of awarding a taxicab franchise is therefore predictably nominal, and can be absorbed in the General Fund.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

**ALTERNATIVES**

1. Introduce an Ordinance to Award a Non-exclusive Taxicab Franchise to Silicon Valley Cab Co., Inc. DBA Silicon Valley Cab and authorize the City Manager to execute the franchise agreement.
2. Do not introduce an Ordinance to Award a Non-exclusive Taxicab Franchise to Silicon Valley Cab Co., Inc. DBA Silicon Valley Cab or authorize the City Manager to execute the franchise agreement.

**STAFF RECOMMENDATION**

Alternative 1: Introduce an Ordinance to Award a Non-exclusive Taxicab Franchise to Silicon Valley Cab Co., Inc. DBA Silicon Valley Cab and authorize the City Manager to execute the franchise agreement.

Prepared by: Elaine Ketell, Management Analyst  
Reviewed by: Chief Frank J. Grgurina, Director, Public Safety  
Reviewed by: Kent Steffens, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Taxicab Franchise Agreement
2. Non-Exclusive Taxicab Franchise Ordinance for Silicon Valley Cab Co., Inc.

**CITY OF SUNNYVALE  
TAXICAB FRANCHISE AND AGREEMENT**

THIS FRANCHISE AND AGREEMENT, dated \_\_\_\_\_, is between the CITY OF SUNNYVALE, a municipal corporation of the State of California (herein "City"), and Silicon Valley Cab Co., Inc. doing business as Silicon Valley Cab (herein "Franchisee").

**RECITALS**

WHEREAS, Franchisee has filed a verified application of a nonexclusive Franchise to operate a taxicab service pursuant to Chapter 5.36 of the Sunnyvale Municipal Code; and

WHEREAS, on \_\_\_\_\_, 2016, the City Council passed and adopted Ordinance No \_\_\_\_\_, after Notice and Public Hearing, approving the award of such Franchise;

NOW, THEREFORE, in consideration of the award of a nonexclusive Franchise and of the mutual covenants and conditions as set forth herein, it is agreed as follows:

1. Grant of Non-Exclusive Franchise. City grants to Franchisee a nonexclusive Franchise to use the public streets, ways, alleys and places, as the same now or may hereafter exist, within the corporate limits of the City of Sunnyvale as they presently exist or as they may be changed during the term of this Franchise by annexations or detachments, in connection with furnishing the City of Sunnyvale and its inhabitants with taxicab service.

2. Term of Non-Exclusive Franchise. This Franchise shall be in effect for an initial term of two (2) years, beginning May 15, 2016, and ending at midnight on May 14, 2018. Pursuant to Sunnyvale Municipal Code section 5.38.120, the City's Director of Public Safety may approve up to two, two-year extensions, provided Franchisee remains in good standing. The total term, including any approved extensions, may not exceed six years and shall terminate no later than May 14, 2022.

3. Payment of Franchise Fees. The Franchisee during the term of this Franchise shall pay to the City the consideration based on the number of vehicles in service under the Franchise, as set forth in the City's Master Fee Schedule, as may be amended from time to time and which is incorporated by reference herein.

4. Franchisee Obligations.

The Franchisee shall:

A. Appear and defend all actions against the City arising out of the exercise of the Franchise and shall indemnify and save City, its officers, employees and agents harmless of and from all claims, demands, actions or causes of action of every kind and description resulting directly or indirectly, arising out of, or in any way connected with, the exercise of the Franchise.

B. Obtain and keep in force during the term of the Franchise insurance in compliance with the requirements of Sunnyvale Municipal Code Section 5.36.300.

C. Comply with all other requirements of Sunnyvale Municipal Code Chapter 5.36 and any amendments thereto, and with all applicable laws and regulations of the State of California, and all applicable laws and regulations of the United States, or any regulatory agency having jurisdiction. Franchisee shall establish a controlled substance and alcohol certification program. The program shall be included in a written company policy. Each driver must sign for receipt of said policy, and the receipt shall be retained by Franchisee. A copy shall be provided to Department of Public Safety upon request. Every driver shall test negative for controlled substances as specified in 40 CFR Part 40 and 49 CFR Part 382.

5. Assignment of Franchise and Insolvency. The Franchise granted hereunder shall not be assignable, either voluntarily or by operation of law, without the prior approval of the City Council, by resolution. At least forty-five (45) days prior to the date for the formal transfer of such interest or ownership, the Franchisee shall so notify City in writing. If the Franchisee at any time during the term of this Franchise becomes insolvent, or if any proceeding in bankruptcy shall be instituted by or against the Franchisee, or if the Franchisee shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy, or receiver of any property of the Franchisee shall be appointed in any suit or proceeding brought by or against the Franchisee, or if the Franchisee shall make an assignment for the benefit of creditors, then and in each and every such case this Franchise and the rights and privileges granted thereby shall immediately cease, and be forfeited and cancelled, without notice and without suit or other proceeding.

6. Transfer of Ownership Interest. If the Franchisee at any time during the term of this Franchise shall sell, exchange or otherwise transfer more than one-half of the equity interest in or ownership of the taxicab service business, whether with or without the property, equipment or other assets in connection therewith, permitted to be operated by the Franchise granted hereunder, the City Council shall have the right to cancel and revoke the Franchise following a hearing held after then (10) days' written notice thereof to the Franchisee. The right to cancel and revoke the Franchise shall not be triggered by any mortgage or deed of trust made in good faith by the Franchisee.

7. Amendments. This Franchise and Agreement may be amended by the City during its term with the consent of the Franchisee.

8. Compliance. The Franchise is granted to and is accepted by the Franchisee upon the express condition that the public streets, ways, alleys and places shall be used and taxicab service furnished in strict compliance with the terms of this Franchise Agreement, the Sunnyvale City Charter, and all applicable provisions of the Sunnyvale Municipal Code.

IN WITNESS WHEREOF, the parties have executed this Agreement.

**"FRANCHISEE"**

**"CITY"**

SILICON VALLEY CAB COMPANY, INC. DBA  
SILICON VALLEY CAB

CITY OF SUNNYVALE, a municipal corporation

By \_\_\_\_\_  
Owner

By \_\_\_\_\_  
DEANNA J. SANTANA  
City Manager

ATTEST:

\_\_\_\_\_  
KATHLEEN FRANCO-SIMMONS  
City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
MELISSA C. TRONQUET  
Assistant City Attorney

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
SUNNYVALE AWARDING NONEXCLUSIVE FRANCHISE  
FOR TAXICAB SERVICE TO SILICON VALLEY CAB CO.,  
INC. DBA SILICON VALLEY CAB**

WHEREAS, Chapter 5.36 of the Sunnyvale Municipal Code establishes a procedure for the consideration and award of nonexclusive taxi franchises by the City of Sunnyvale; and

WHEREAS, Silicon Valley Cab Co., Inc. dba Silicon Valley Cab has applied for a nonexclusive taxicab franchise; and

WHEREAS, public notice in accordance with Sunnyvale Municipal Code Section 5.36.070 has been given that the City Council of the City of Sunnyvale would hold a public hearing for the purpose of determining whether to award the franchise; and

WHEREAS, the City Council finds that it would be in the best interest of the City of Sunnyvale to award a nonexclusive franchise for taxicab service to Silicon Valley Cab Co., Inc. dba Silicon Valley Cab;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

**SECTION 1. FRANCHISE GRANTED.** The City of Sunnyvale hereby grants to Silicon Valley Cab Co., Inc. dba Silicon Valley Cab (hereinafter "Franchisee"), a nonexclusive Franchise for taxicab service within the corporate boundaries of the City of Sunnyvale as such boundaries presently exist or as they may be changed during the term of this Franchise. The Franchisee shall conduct its operations under the Franchise in strict compliance with the Sunnyvale City Charter and Chapter 5.36 of the Sunnyvale Municipal Code, and any amendments thereto, together with all applicable laws and regulations of the State of California, the United States or any regulatory agency having jurisdiction.

**SECTION 2. TERM.** The initial term for which this Franchise is granted shall be two years commencing May 15, 2016, and ending at 12:00 midnight on May 14, 2018. The Director of Public Safety is further authorized, as provided in SMC Section 5.38.120, to approve two, two-year extensions, provided Franchisee is in good standing. The total term, including any approved extensions, shall not exceed six years and the franchise shall expire no later than May 14, 2022 at 12:00 midnight.

**SECTION 3. CONSIDERATION.** The Franchisee shall pay to the City as consideration for the granting of this Franchise the amounts per vehicle as set forth in the City's Master Fee Schedule, which is incorporated by reference herein.



SECTION 4. USE OF CITY STREETS. The Franchisee hereby is given permission to use City streets for the purpose of providing taxicab service in accordance with the terms of this ordinance and the franchise agreement.

SECTION 5. GENERAL CONDITIONS. This Franchise is granted subject to the terms and conditions set forth in Exhibit A, "Taxicab Franchise and Agreement" attached and incorporated.

SECTION 6. ACCEPTANCE OF FRANCHISE TERMS AND CONDITIONS. This Franchise shall not become effective until the Franchisee accepts the Franchise by executing the Taxicab Franchise Agreement within ten (10) days after adoption of this ordinance.

SECTION 7. APPROVAL OF FRANCHISE AGREEMENT—EXECUTING AND ATTESTING. The Taxicab Franchise Agreement is hereby approved, and the City Manager is authorized to execute it on behalf of the City.

SECTION 8. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 9. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project that has the potential for causing a significant effect on the environment.

SECTION 10. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 11. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Date of Attestation:

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

## **EXHIBIT A**

### **CITY OF SUNNYVALE TAXICAB FRANCHISE AND AGREEMENT**

THIS FRANCHISE AND AGREEMENT, dated \_\_\_\_\_, is between the CITY OF SUNNYVALE, a municipal corporation of the State of California (herein "City"), and Silicon Valley Cab Co., Inc. doing business as Silicon Valley Cab (herein "Franchisee").

#### **RECITALS**

WHEREAS, Franchisee has filed a verified application of a nonexclusive Franchise to operate a taxicab service pursuant to Chapter 5.36 of the Sunnyvale Municipal Code; and

WHEREAS, on \_\_\_\_\_, 2016, the City Council passed and adopted Ordinance No \_\_\_\_\_, after Notice and Public Hearing, approving the award of such Franchise;

NOW, THEREFORE, in consideration of the award of a nonexclusive Franchise and of the mutual covenants and conditions as set forth herein, it is agreed as follows:

1. Grant of Non-Exclusive Franchise. City grants to Franchisee a nonexclusive Franchise to use the public streets, ways, alleys and places, as the same now or may hereafter exist, within the corporate limits of the City of Sunnyvale as they presently exist or as they may be changed during the term of this Franchise by annexations or detachments, in connection with furnishing the City of Sunnyvale and its inhabitants with taxicab service.

2. Term of Non-Exclusive Franchise. This Franchise shall be in effect for an initial term of two (2) years, beginning May 15, 2016, and ending at midnight on May 14, 2018. Pursuant to Sunnyvale Municipal Code section 5.38.120, the City's Director of Public Safety may approve up to two, two-year extensions, provided Franchisee remains in good standing. The total term, including any approved extensions, may not exceed six years and shall terminate no later than May 14, 2022.

3. Payment of Franchise Fees. The Franchisee during the term of this Franchise shall pay to the City the consideration based on the number of vehicles in service under the Franchise, as set forth in the City's Master Fee Schedule, as may be amended from time to time and which is incorporated by reference herein.

4. Franchisee Obligations.

The Franchisee shall:

A. Appear and defend all actions against the City arising out of the exercise of the Franchise and shall indemnify and save City, its officers, employees and agents harmless of and from all claims, demands, actions or causes of action of every kind and description resulting directly or indirectly, arising out of, or in any way connected with, the exercise of the Franchise.

B. Obtain and keep in force during the term of the Franchise insurance in compliance with the requirements of Sunnyvale Municipal Code Section 5.36.300.

C. Comply with all other requirements of Sunnyvale Municipal Code Chapter 5.36 and any amendments thereto, and with all applicable laws and regulations of the State of California, and all applicable laws and regulations of the United States, or any regulatory agency having jurisdiction. Franchisee shall establish a controlled substance and alcohol certification program. The program shall be included in a written company policy. Each driver must sign for receipt of said policy, and the receipt shall be retained by Franchisee. A copy shall be provided to Department of Public Safety upon request. Every driver shall test negative for controlled substances as specified in 40 CFR Part 40 and 49 CFR Part 382.

5. Assignment of Franchise and Insolvency. The Franchise granted hereunder shall not be assignable, either voluntarily or by operation of law, without the prior approval of the City Council, by resolution. At least forty-five (45) days prior to the date for the formal transfer of such interest or ownership, the Franchisee shall so notify City in writing. If the Franchisee at any time during the term of this Franchise becomes insolvent, or if any proceeding in bankruptcy shall be instituted by or against the Franchisee, or if the Franchisee shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy, or receiver of any property of the Franchisee shall be appointed in any suit or proceeding brought by or against the Franchisee, or if the Franchisee shall make an assignment for the benefit of creditors, then and in each and every such case this Franchise and the rights and privileges granted thereby shall immediately cease, and be forfeited and cancelled, without notice and without suit or other proceeding.

6. Transfer of Ownership Interest. If the Franchisee at any time during the term of this Franchise shall sell, exchange or otherwise transfer more than one-half of the equity interest in or ownership of the taxicab service business, whether with or without the property, equipment or other assets in connection therewith, permitted to be operated by the Franchise granted hereunder, the City Council shall have the right to cancel and revoke the Franchise following a hearing held after then (10) days' written notice thereof to the Franchisee. The right to cancel and revoke the Franchise shall not be triggered by any mortgage or deed of trust made in good faith by the Franchisee.

7. Amendments. This Franchise and Agreement may be amended by the City during its term with the consent of the Franchisee.

8. Compliance. The Franchise is granted to and is accepted by the Franchisee upon the express condition that the public streets, ways, alleys and places shall be used and taxicab service furnished in strict compliance with the terms of this Franchise Agreement, the Sunnyvale City Charter, and all applicable provisions of the Sunnyvale Municipal Code.

IN WITNESS WHEREOF, the parties have executed this Agreement.

**"FRANCHISEE"**

**"CITY"**

SILICON VALLEY CAB COMPANY, INC. DBA  
SILICON VALLEY CAB

CITY OF SUNNYVALE, a municipal corporation

By \_\_\_\_\_  
Owner

By \_\_\_\_\_  
DEANNA J. SANTANA  
City Manager

ATTEST:

\_\_\_\_\_  
KATHLEEN FRANCO-SIMMONS  
City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
MELISSA C. TRONQUET  
Assistant City Attorney



# City of Sunnyvale

## Agenda Item

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16-0373

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### **SUBJECT**

Appoint a Councilmember to the Valley Transportation Authority El Camino Real Rapid Transit Policy Advisory Board to Serve as a Voting Member and if necessary Appoint an Alternate Member

#### **BACKGROUND**

On March 29, 2016, Councilmember Whittum submitted his resignation as the City appointee to the Valley Transportation Authority (VTA) Board of Directors and the El Camino Real Rapid Transit Policy Advisory Board (Attachment 2). In response, on April 5, 2016, the Council appointed Mayor Hendricks to serve out the rest of the 2016-2017 term as a Director representing the City as part of the North East Cities Grouping.

This report presents an opportunity for Council to make an appointment to the El Camino Real Rapid Transit Policy Advisory Board. Before resigning, Councilmember Whittum served as the voting Member; with Councilmember Davis serving as the Alternate. Staff recommends that Council fill this vacancy; however, makes no recommendation on whom to appoint.

#### **EXISTING POLICY**

**Council Policy 7.4.12, *Council Intergovernmental Appointments.***

#### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378 (b) (5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

#### **DISCUSSION**

As a result of the vacancy created by Councilmember Whittum's resignation, the Council has an opportunity to appoint a replacement to represent the City's interests and influence policies and regulations of the VTA, specifically the El Camino Real Rapid Transit (ECRRT) Policy Advisory Board. This appointment to serve as a Board member would finish Councilmember Whittum's term, which ends in December 2017 or upon the appointment of a replacement.

VTA has established one Policy Advisory Board for each rapid transit corridor under study/construction and in the case of Caltrain, under operation by VTA. Each Policy Advisory Board consists of two Board Members and other elected officials from jurisdictions within a particular corridor. The purpose of the Policy Advisory Boards is to ensure that the local jurisdictions most affected by major transportation improvement projects are involved in guiding the planning, design and construction of these projects.

**Current membership of the ECRRT Policy Advisory Board**

Jeannie Bruins	Chairperson	City of Los Altos
Ken Yeager	Vice Chairperson	County of Santa Clara
Cory Wolbach	Member	City of Palo Alto
<b>VACANT</b>	<b>Member</b>	<b>City of Sunnyvale</b>
Joe Simitian	Member	County of Santa Clara
Leonard Siegel	Member	City of Mountain View
Pierluigi Oliverio	Member	City of San Jose
Charles "Chappie" Jones	Alternate	City of San Jose
<b>Jim Davis</b>	<b>Alternate</b>	<b>City of Sunnyvale</b>
Liz Kniss	Alternate	City of Palo Alto
Mary Prochnow	Alternate	City of Los Altos
Pat Showalter	Alternate	City of Mountain View
TBD	Member	Santa Clara VTA
Teresa O'Neill	Alternate	City of Santa Clara

This report presents an opportunity for Council to make an appointment to the El Camino Real Rapid Transit Policy Advisory Board to serve as a voting Member. Before resigning, Councilmember Whittum served as the voting Member; with Councilmember Davis serving as the Alternate. Staff recommends that Council fill this vacancy; however, makes no recommendation on whom to appoint.

**FISCAL IMPACT**

None.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

**ALTERNATIVES**

1. Appoint a Councilmember to the Valley Transportation Authority El Camino Real Rapid Transit Policy Advisory Board to serve as a voting Member.
2. If necessary, appoint a Councilmember to serve as Alternate on the Valley Transportation Authority El Camino Real Rapid Transit Policy Advisory Board.
3. Other direction as determined by Council.

**STAFF RECOMMENDATION**

Staff makes no recommendation.

Staff urges Council to make an appointment to fill this vacancy and, if necessary to appoint a Councilmember to serve as Alternate; however, makes no recommendation on whom to appoint.

Prepared by: Yvette Blackford, Senior Management Analyst

Reviewed by: Walter C. Rossmann, Assistant City Manager  
Reviewed by: Kent Steffens, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

**ATTACHMENT**

1. Letter from Councilmember Whittum to the Council, dated 3/27/2016



March 27, 2016

Colleagues

Regarding the discussion of Board rotation alternatives as attached, as information, Mayor Esteves is agreeable to either of the alternatives. Separately, my counterpart Hon. Teresa O'Neill is consulting with her Mayor on them.

My belief is that the revised rotation alternative is best for Sunnyvale, in light of the change to even year elections, and would be optimal for all cities, considering current and future project timelines.

If Council wishes, it could authorize the Mayor to discuss and settle on a mutually agreeable alternative with the other Mayors, and, subject to appropriate approvals, to execute an updated letter reflecting the selected alternative.

As a separate, procedural matter:

If Council should decide on the 2012 rotation, I would favor that I be replaced as soon as is practical, and on the ECR BRT PAB as well. A new appointment could be made at the Apr 5 Council meeting, and the revision of Milpitas to Alternate could occur at the Apr 6 3pm City Group 5 meeting, in time for the Apr 7 5:30pm Board meeting.

Note that Board attendance includes also attendance at the CMPP meeting at 10AM on the 3<sup>rd</sup> Thursday of each month, as well as the City Group 5 meeting on the Wednesday prior to the Thursday Board meeting each month. The ECR BRT PAB has been meeting more or less monthly on the fourth Wednesday at 3pm.

Regardless of alternative selected, if a new member is appointed, I hope they will be committed to attending the Board Workshop Apr 22 9AM where the tax measure will be discussed.

In any case, it has been my pleasure to serve. Thank you for the opportunity to make a positive contribution to transit and transportation issues in Sunnyvale and the region!

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'mnh' or similar, written in a cursive style.

Dave



# City of Sunnyvale

## Agenda Item

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16-0090

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### SUBJECT

Introduce an Ordinance Amending Sunnyvale Municipal Code Chapter 9.86 and Title 19 to Expressly Prohibit Medical Marijuana Cultivation, Commercial Activity, Distribution, and Delivery; Exempt from CEQA Pursuant to CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3)

#### BACKGROUND

In 1996, California voters approved Proposition 215, the “Compassionate Use Act of 1996” (“CUA”) to allow seriously ill Californians to legally possess, use and cultivate marijuana for medical use under state law. In 2003, the Legislature adopted SB 420, the “Medical Marijuana Program (“MMP”) to allow qualified patients and their primary caregivers to cultivate medical marijuana without being subject to criminal prosecution.

Neither the CUA nor the MMP require local governments to allow or otherwise authorize facilities that cultivate marijuana within their jurisdictions. Under the Federal Controlled Substances Act, the use, possession, and cultivation of marijuana remain unlawful and are subject to federal prosecution without regard to medical needs.

In October 2015, Governor Brown signed into law three bills (AB 243, AB 266, and SB 643) collectively referred to as the Medical Marijuana Regulation and Safety Act (“MMRSA”). The MMRSA establishes licensing requirements for cultivation, distribution and transportation of medical marijuana, along with safety and testing requirements for marijuana and marijuana products, and regulations for physicians who recommend or prescribe the drug. The MMRSA expressly preserves local rights to regulate or ban medical marijuana through the exercise of local land use powers, but requires that local agencies wishing to regulate cultivation and delivery of medical marijuana have local ordinances in place.

Municipal Code Chapter 9.86 has explicitly prohibited fixed and mobile medical marijuana dispensaries (called “medical marijuana distribution facilities”) since 2010, and those distribution facilities are also listed as non-permitted uses in the City’s zoning tables (Title 19: Tables 19.24.030, 19.28.080, 19.18.030, 19.20.030, 19.29.050, and 19.22.030). Although the code does not explicitly address other commercial medical marijuana activities associated with medical marijuana such as cultivation, processing, and delivery, the City has interpreted its existing zoning scheme, which prohibits uses not articulated in the code, to bar other medical marijuana uses such as cultivation, manufacturing, or delivery. Amending the City’s ordinance to expressly address these issues will provide clarity and simplicity in addressing questions about medical marijuana that arise, particularly when the MMRSA is fully implemented.

Maintaining local control over medical marijuana is important for the City. Medical marijuana activities may be incompatible with existing land uses, and create a number of significant risks to public health and safety, including but not limited to crime and fire hazards. As outlined in the findings section of

the proposed ordinance, the State Supreme Court has upheld the right of local public agencies to regulate and prohibit medical marijuana operations, and the MMRSA expressly preserves local rights to regulate or ban medical marijuana cultivation and similar activities through the exercise of local land use powers.

Although there are many possible approaches to regulation of medical marijuana, cities throughout the state that are comparable to Sunnyvale have or are in the process of taking similar action to regulate medical marijuana activities in light of the MMRSA. Many are approving explicit prohibitions similar to those recommended in this report. Within Santa Clara County, the majority of cities regulates and does not allow medical marijuana activities including dispensaries, cultivation, and delivery. The exceptions include the City of San Jose, which allows medical marijuana dispensaries, cultivation and delivery and the County of Santa Clara that allow personal cultivation. A summary of select city actions and a review of marijuana regulations for cities located within Santa Clara County are attached to this report (Attachment 3), and a non-comprehensive summary compiled by the League of California Cities of recent regulation in cities in other areas of the state is included as Attachment 4.

Adoption of an ordinance containing unequivocal regulations prohibiting cultivation, delivery and other commercial medical marijuana activities will ensure that the City maintains its existing policies regarding medical marijuana after the MMRSA becomes effective.

The Planning Commission considered the proposed changes to the Title 19 zoning tables (on January 11, 2016 and voted 6-0-1 (one commissioner abstaining) to recommend adoption as captured in the minutes (Attachment 2).

## **EXISTING POLICY**

### **General Plan**

#### **Chapter 6: Safety and Noise (SN):**

Goal SN3 Safe and Secure City - Ensure a safe and secure environment for people and property in the community by providing effective public safety response and prevention and education services.

#### **Chapter 3: Land Use and Transportation (LT):**

Goal LT-4 Quality Neighborhoods and Districts - Preserve and enhance the quality character of Sunnyvale's industrial, commercial and residential neighborhoods by promoting land use patterns and related transportation opportunities that are supportive of neighborhood concept.

Policy LT-4.1 Protect the integrity of the City's Neighborhoods; whether residential, industrial or commercial.

## **ENVIRONMENTAL REVIEW**

The adoption of this ordinance to expressly prohibit cultivation, delivery, and other commercial medical marijuana deliveries do not require review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15060(c)(2) as the ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment and section 15061(b)(3) ) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

## **DISCUSSION**

### **A. Sunnyvale's Existing Regulations for Medical Marijuana Dispensaries**

Chapter 9.86 of the Sunnyvale Municipal Code ("SMC") and related zoning tables in Title 19 currently explicitly prohibit medical marijuana distribution facilities in all zones of the City. A medical marijuana distribution facility is defined as "any facility or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides marijuana to two or more [persons]... or any facility where qualified patients, persons with identification cards, and primary caregivers meet or congregate to . . . cultivate or distribute medical marijuana for medical purposes."(SMC Section 9.86.010).

The code does not explicitly address any other medical marijuana issues. However, Sunnyvale's zoning ordinance is a permissive zoning scheme, in which permitted and conditionally permitted land uses in the City are specifically articulated and all other uses not identified are presumptively prohibited (SMC Section 19.98.220). Under this structure, medical marijuana cultivation and other activities have been and continue to be prohibited in the City. However, as the licensing process for medical marijuana cultivation and delivery under the MMRSA begins, ensuring that the City has clear and express provisions in the SMC to prohibit cultivation, delivery and all medical marijuana activities in the City will help protect public health and safety and avoid any question about the City's authority or scope of regulation.

### **B. Proposed Ban on Cultivation, Delivery and Other Medical Marijuana Activities.**

The proposed revisions to the SMC will explicitly ban cultivation, delivery, and all other commercial medical marijuana activities in the City of Sunnyvale in order to preserve and protect the public health, safety and welfare. The proposed ordinance amendments to SMC Chapter 9.86 revise the existing prohibition on medical marijuana distribution facilities to include and make consistent with the MMRSA relevant definitions for various other commercial marijuana-related activities, and comprehensively and expressly prohibit all marijuana-related uses. The minor revisions to the Title 19 zoning tables make the zoning code consistent with the proposed changes to SMC Chapter 9.86.

Medical marijuana creates many risks that the City may regulate under its police powers, including but not limited to:

- (1) Increased risks to public safety: Marijuana is a valuable plant and, where it is stored, cultivated, or used, can create an increased risk of break-ins, robbery, and theft, with potential for related violence and injury.
- (2) Land use compatibility and possible nuisance conditions on private property: When marijuana is cultivated, the mature plants emit a strong, distinctive "skunk-like" odor for a period of two months or more. The odor is offensive to many, and can be detected far beyond property boundaries, especially if grown outside. The odor can not only interfere with the use and enjoyment of neighboring properties, but can also identify the property as a location of marijuana and create a target for break-ins and other crime.
- (3) Increased fire hazards: In locations where marijuana is cultivated or processed indoors, those activities can create fire hazards from generators, grow lamps, electrical or other equipment, and frequently, overloaded electrical systems from the use of such equipment. Indoor cultivation of marijuana is often unattended and, when combined with the common use of the electrical equipment described above, has the potential to cause damage to people and property because of the increased risk of fire. In 2015 alone, numerous fire incidents were reported throughout the state as a

result of medical marijuana cultivation or processing, including most recently, a fire and explosion on December 7, 2015, at a home in Petaluma, suspected to be caused from the production of marijuana or “hash” oil.

(4) Criminal activity associated with marijuana deliveries: Mobile marijuana dispensaries and marijuana deliveries also increase crime risks. These operations are targets for armed robberies, often causing drivers to choose to carry weapons as protection, further increasing the risk for violent crime. There have been numerous reported incidents of armed robbery cases involving deliveries or dispensaries over the last two years in cities throughout the state.

Particularly in the densely populated residential and commercial areas in Sunnyvale, these dangers present serious public health and safety risks that make marijuana-related activities particularly inappropriate within the City. The City has recently received at least one inquiry regarding commercial manufacture and distribution of medical marijuana products in Sunnyvale, and anticipates increased inquiries and activity once the MMRSA is fully implemented.

Staff believes that land use compatibility will be preserved and the health and safety risks can only be effectively mitigated by prohibiting cultivation, delivery and other medical marijuana related activities. The comprehensive, express medical marijuana prohibitions in the proposed ordinance will provide clear guidelines on the scope of prohibited activity. The proposed amendments will ensure that the City retains the maximum authority to regulate marijuana activities at the local level, but will not prevent the City from reconsidering the scope of medical marijuana prohibitions in the future if it so chooses.

### **FISCAL IMPACT**

The proposed revision to the municipal code will ensure that the City’s existing interpretation prohibiting medical marijuana activities is explicit and will have no financial impact to the City.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website, and similar notice was provided in advance of the Planning Commission meeting on this topic on January 11, 2016, at which the Commission voted 6-0-1 (one abstention) to recommend adoption of the changes to the Title 19 zoning tables. In addition, a summary of the MMRSA and recommendations described in this report were included in the City Manager’s December 21, 2015 blog post.

### **ALTERNATIVES**

1. Adopt an ordinance amending Chapter 9.86 and Title 19 (Zoning), Section 19.62.010 and Tables 19.24.030, 19.28.080, 19.18.030, 19.20.030, 19.29.050, and 19.22.030, of the Sunnyvale Municipal Code relating to an express prohibition on medical marijuana cultivation, commercial activity, distribution, delivery and other activities, and find that the project is exempt from CEQA pursuant to CEQA Guidelines sections 15060(c)(2) and 15061(b)(3).
2. Adopt a modified ordinance regulating medical marijuana based on other Council priorities or directives.
3. Do not adopt an ordinance related to medical marijuana.

### **RECOMMENDATION**

Alternative 1: Introduce an ordinance amending Chapter 9.86 and Title 19 (Zoning), Section 19.62.010 and Tables 19.24.030, 19.28.080, 19.18.030, 19.20.030, 19.29.050, and 19.22.030, of the Sunnyvale Municipal Code relating to an express prohibition on medical marijuana cultivation, commercial activity, distribution, delivery and other activities, and find that the adoption of the ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3).

Prepared by: Frank Grgurina, Director of Public Safety & Melissa Tronquet, Assistant City Attorney  
Reviewed by: Trudi Ryan, Director of Community Development  
Reviewed by: Walter C. Rossmann, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Ordinance amending Chapter 9.86 and Title 19 (Zoning), Section 19.62.010 and Tables 19.24.030, 19.28.080, 19.18.030, 19.20.030, 19.29.050, and 19.22.030, of the Sunnyvale Municipal Code relating to an express prohibition on medical marijuana cultivation, commercial activity, distribution, delivery and other activities
2. Planning Commission Minutes, January 11, 2016
3. Medical marijuana regulation review- Santa Clara County Cities
4. Non-comprehensive summary of select recent local medical marijuana ordinance changes from League of CA Cities

The MMRSA initially provided that cities must have land use regulations regulating or prohibiting cultivation in effect before March 1, 2016, or the state would be the sole regulatory authority for cultivation in the jurisdiction. Clean-up legislation to eliminate the March 1 deadline was proposed in early January 2016 and adopted in early February. The law still requires cities wishing to regulate in this area to have local ordinances in place; the removal of the deadline simply gives cities more time to consider regulation.



## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF SUNNYVALE TO AMEND CHAPTER 9.86 OF TITLE 9  
(PUBLIC PEACE, SAFETY OR WELFARE) AND VARIOUS  
SECTIONS OF TITLE 19 (ZONING) OF THE SUNNYVALE  
MUNICIPAL CODE RELATING TO AN EXPRESS  
PROHIBITION ON MEDICAL MARIJUANA  
CULTIVATION, COMMERCIAL ACTIVITY,  
DISTRIBUTION AND DELIVERY**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code § 11362.5 and entitled “The Compassionate Use Act of 1996” or “CUA”); and

WHEREAS, the intent of the CUA was to enable seriously ill Californians to legally possess, use, and cultivate marijuana for medical use when deemed beneficial for health by a physician. The CUA specifically provides that the law shall not be construed to allow individuals to engage in conduct that endangers others, or to condone the use of marijuana for non-medical purposes; and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code § 11362.7 et seq. and referred to as the “Medical Marijuana Program” or “MMP”) to permit qualified patients and primary caregivers to associate collectively or cooperatively to cultivate marijuana for medical purposes without being subject to prosecution under specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly authorize and cities to adopt local ordinances regulating cooperatives or collectives; and

WHEREAS, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that cities have the authority to ban medical marijuana land uses and that the CUA and MMP do not preempt local ordinances; and

WHEREAS, under the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., the use, possession, and cultivation of marijuana are currently unlawful and subject to federal prosecution without regard to medical need or use.

WHEREAS, on October 9, 2015, Governor Brown signed 3 bills (AB 266, AB 243, and SB 643), collectively known as the Medical Marijuana Regulation and Safety Act (“MMRSA”), which governs cultivation, processing, transporting, testing, and distribution of medical marijuana to qualified patients.

WHEREAS, Sunnyvale Municipal Code Chapter 9.86 currently contains an express prohibition on fixed and mobile medical marijuana dispensaries in all zones of the City. Further, the City has interpreted its zoning regulations, which disallow uses not specifically articulated, to prohibit other medical marijuana activities, including cultivation, processing and delivery; and

WHEREAS, commercial medical marijuana activities as allowed by the CUA and MMP can adversely affect the health, safety, and well-being of City residents. According to the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, marijuana cultivation or other concentration of marijuana in any location without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity, including but not limited to loitering or crime.

WHEREAS, several California cities have reported negative impacts of marijuana cultivation, processing and distribution activities, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests;

WHEREAS, marijuana plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors. This condition also creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery or armed robbery; and

WHEREAS, when marijuana is grown and/or processed indoors, growing and processing equipment can have the potential to cause harm to persons or property by creating fire hazards. Many cities in the state have reported or responded to fires resulting from marijuana activity. Indoor cultivation operations are frequently unattended and utilize high wattage grow lamps, generators, or other equipment, or may be illegally wired to allow such equipment to function. This excessive energy use can overload electrical systems and cause fires. Notable recent fires associated with marijuana related activities include a December 2015 explosion at a home in Petaluma associated with production of marijuana oil, an October 2015 fire at a home with an indoor grow in Rialto started by an electrical panel that burst, a May 2015 fire at a commercial building in Sun Valley with an indoor marijuana grow house, and an explosion/fire in April 2015 at a Silver Lake home caused by an indoor marijuana operation; and

WHEREAS, criminal activity is also associated with mobile marijuana dispensaries and deliveries, which are targets for armed robbery; and

WHEREAS, based on the experiences of other cities, these negative effects on the public health, safety, and welfare are likely to occur, and continue to occur, in the City if marijuana cultivation, processing, distribution, and other commercial activities are permitted to operate or if permits, licenses, or similar entitlements were issued for such operation, and that such operation poses a current threat to the public health, safety, and welfare in the City due to the negative impacts of such activities as described above;



WHEREAS, the limited immunity from specified state marijuana laws provided by the Compassionate Use Act and Medical Marijuana Program does not confer a land use right or the right to create or maintain a public nuisance; and

WHEREAS, the MMRSA requires the city to prohibit cultivation uses, either expressly or otherwise under the principles of permissive zoning, or the State will become the licensing authority. The MMRSA also requires delivery services to be expressly prohibited by local ordinance, if the City desires to prohibit delivery. The MMRSA is silent as to how the City must prohibit other type of commercial medical marijuana activities; and

WHEREAS, while the City Council believes that cultivation and all commercial medical marijuana uses are prohibited under the City's permissive zoning regulations, it desires to enact this ordinance to express its intent to prohibit commercial medical marijuana activity consisted with the MMRSA, expressly make clear that all such uses are prohibited in all zones throughout the City, preserve local control over such uses, and protect the public from the health and safety risks described above; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 11, 2016, at which time it considered all evidence presented, both written and oral and at the end of the hearing recommended that the Council adopt the recommended changes to the City's zoning code; and

WHEREAS, the City Council held a duly noticed public hearing on this ordinance on \_\_\_\_\_, 2016, at which time it considered all evidence presented, both written and oral.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 9.86 AMENDED. Chapter 9.86 (Medical Marijuana Distribution Facilities) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code is hereby amended and renumbered to read as follows:

#### **Chapter 9.86.**

#### **MEDICAL MARIJUANA ~~DISTRIBUTION FACILITIES.~~**

**9.86.010. Purposes**

**9.86.020. Definitions.**

**9.86.020030. ~~Operation of medical distribution facilities~~ Prohibited activities.**

**9.86.030040. Violation – Penalty.**

**9.86.040050. Public Nuisance.**

**9.86.050060. Severability.**

**9.86.010. Definitions.Purpose.**

The purpose of this chapter is to reflect the intent of the City of Sunnyvale to (1) expressly prohibit cultivation, delivery, distribution and other commercial activity related to medical marijuana; (2) not administer a conditional permit program for marijuana cultivation under the Medical Marijuana Regulation and Safety Act (Health & Safety Code §11362.777); (3) exercise its local authority to regulate and enforce commercial activities related to medical marijuana, including prohibitions on cultivation and delivery; and (4) exercise its police power to enact and enforce regulations to benefit the health, safety and welfare of the Sunnyvale community.

**9.86.020. Definitions.**

(a) “Commercial cannabis activity” means and includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical marijuana or a medical marijuana product, and as provided in California Business & Professions Code §19300.5(k) as may be amended.

(b) “Cooperative” means two or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering or making available medical marijuana, with or without compensation.

(c) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming or processing of marijuana.

(d) “Delivery” shall have the same meaning as

(e) “Distribution” means the procurement, sale and transport of medical marijuana or medical marijuana products between entities licensed pursuant to the Medical Marijuana Regulation and Safety Act.

(f) “Marijuana” or “Cannabis” shall have the same definition as set forth in Business & Professions Code § 19300.5(k), as may be amended from time to time. A “medical marijuana distribution facility” is any facility or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides marijuana to two or more persons with identification cards or qualified patients, as defined in California Health and Safety Code Section 11362.5 et seq., or any facility where qualified patients, persons with identification cards and primary caregivers meet or congregate collectively and cooperatively to cultivate or distribute marijuana for medical purposes under the purported authority of California Health and Safety Code Section 11362.5 et seq.

(g) “Medical marijuana ~~distribution facility~~” dispensary” shall have the same definition as set forth in Business & Professions Code § 19300.5(n), as may be amended from time to time. For purposes of this Chapter, “dispensary” shall also include a cooperative. “Dispensary” shall not include the following uses, so long as such uses comply with this Code, Health and Safety Code Section 11362.5 et seq., and other applicable law:

(1) - (5) [Text unchanged]

(h) “Processing” means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale including but not limited to drying, cleaning, curing, packaging, or extracting active ingredients to create marijuana related products or concentrates, including but not limited to edible or topical products.

**9.86.020030. ~~Operation of medical marijuana distribution facilities~~  
~~Prohibited activities.~~**

~~Medical marijuana distribution facilities~~Marijuana cultivation, marijuana processing, marijuana delivery or distribution, marijuana dispensaries, and any other commercial cannabis activities, as defined in this chapter, are prohibited activities and uses in all zoning districts in the city of Sunnyvale. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the activities of marijuana cultivation, marijuana processing, marijuana delivery or distribution, establishment or operation of a marijuana dispensary, or any other commercial cannabis activity, and no person shall otherwise establish or conduct such activities in the City, except as otherwise expressly allowed by federal or state law.

**9.86.030040. Violation—Penalty.**

(a) – (b) [Text unchanged]

(c) In addition to any other enforcement remedies described in this code, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Chapter 1.20 of this code against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney’s fees and costs to the prevailing party.

**9.86.040050. Public nuisance.**

[Renumbered text unchanged]

**9.86.050060. Severability.**

[Renumbered; text unchanged]

SECTION 2. TABLE 19.18.030 AMENDED. TABLE 19.18.030 of Chapter 19.18 (Residential Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**Table 19.18.030  
Permitted, Conditionally Permitted and Prohibited Uses in Residential  
Zoning Districts**

In the table, the letters and symbols are defined as follows:

**P** = Permitted use

**MPP** = Miscellaneous Plan Permit required

**UP** = Use Permit required

**SDP** = Special Development Permit required  
**N** = Not permitted, prohibited

RESIDENTIAL ZONING DISTRICTS	R-0/R-1	R-1.5	R-1.7/PD	R-2	R-3	R-4	R-5	R-MH
<b>1. – 6. [Text unchanged.]</b>								
<b>7. Other uses.</b>								
<b>A. – M. [Text unchanged.]</b>								
<b>N. Medical Marijuana <del>Distribution</del> Facility.</b>	N	N	N	N	N	N	N	N
<b>O. [Text unchanged]</b>								

<sup>1-6</sup> [Text unchanged.]

SECTION 3. TABLE 19.20.030 AMENDED. Table 19.20.030 of Chapter 19.20 (Commercial Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**Table 19.20.030**  
**Permitted, Conditionally Permitted and Prohibited Uses in Commercial Zoning Districts**

In the table, the letters and symbols are defined as follows:

**P** = Permitted use  
**UP** = Use permit required  
**MPP** = Miscellaneous plan permit  
**N** = Not permitted, prohibited

COMMERCIAL ZONING DISTRICTS	C-1	C-2	C-3	C-4
<b>1. – 9. [Text unchanged.]</b>				
<b>10. Other</b>				
<b>A. – J. [Text unchanged.]</b>				
<b>K. Medical Marijuana <del>Distribution</del> Facility.</b>	N	N	N	N
<b>L. [Text unchanged.]</b>				

<sup>1-9</sup> [Text unchanged.]

SECTION 4. TABLE 19.22.030 AMENDED. TABLE 19.22.030 of Chapter 19.22 (Industrial Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**Table 19.22.030**  
**Permitted, Conditionally Permitted and Prohibited Uses in Industrial Districts**

In the table, the letters and symbols are defined as follows:

**P** = Permitted use  
**MPP** = Miscellaneous plan permit required  
**UP** = Use permit required  
**N** = Not permitted, prohibited  
**FAR** = Floor area ratio restrictions  
**>** = Greater than  
**N/A** = FAR does not apply

Use Regulations by Zoning District USE	M-S Zoning Districts FAR <sup>3</sup>	M-S Zoning Districts	M-S/POA Zoning Districts	M-3 Zoning Districts FAR <sup>3</sup>	M-3 Zoning Districts
<i>1. – 5. [Text unchanged.]</i>					
<b>6. Other</b>					
<i>A. – Q. [Text unchanged.]</i>					
<b>R. Medical Marijuana <del>Distribution</del> Facility</b>	N/A	N	N	N/A	N
<i>S. [Text unchanged; renumbered.]</i>					

<sup>1-4</sup> [Text unchanged.]

SECTION 5. TABLE 19.24.030 AMENDED. TABLE 19.24.030 of Chapter 19.24 (Office and Public Facilities Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**Table 19.24.030**  
**Permitted, conditionally permitted and prohibited uses in office, public facilities and civic center zones.**

In the table, the letters and symbols are defined as follows:

**P** = Permitted use  
**UP** = Use permitted required  
**MPP** = Miscellaneous plan permit required  
**N** = Not permitted, prohibited

OFFICE AND PUBLIC FACILITIES ZONING DISTRICTS	O	P-F
<i>1. – 5. [Text unchanged.]</i>		
<i>6. Other</i>		
<i>A. – L. [Text unchanged.]</i>		
<b>M. Medical Marijuana <del>Activities-Distribution Facilities</del></b>	N	N
<i>N. [Text unchanged.]</i>		

<sup>1-2</sup> [Text unchanged.]

SECTION 6. TABLE 19.28.070 AMENDED. TABLE 19.28.070 of Chapter 19.28 (Downtown Specific Plan Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**Table 19.28.070**

**Permitted, Conditionally Permitted and Prohibited Uses in Mixed Use, Commercial and Office DSP Blocks**

In the table, the letters and symbols are defined as follows:

**P** = Permitted use

**SDP** = Special development permit required

**MPP** = Miscellaneous plan permit required

**UP** = Use permit required

**N** = Not permitted, prohibited

DSP MIXED USE, COMMERCIAL AND OFFICE BLOCKS	1	1a	2	3	7	13	18	20	21	22
<i>1. – 6. [Text unchanged.]</i>										
<i>7. Other Uses</i>										
<i>A. – M. [Text unchanged.]</i>										
<b>N. Medical Marijuana <del>Activities-Distribution Facility.</del></b>	N	N	N	N	N	N	N	N	N	N
<i>O. [Text unchanged.]</i>										

<sup>1-3</sup> [Text unchanged.]

SECTION 7. TABLE 19.28.080 AMENDED. TABLE 19.28.080 of Chapter 19.28 (Downtown Specific Plan Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**Table 19.28.080**  
**Permitted, Conditionally Permitted and Prohibited Uses in Residential DSP**  
**Blocks**

In the table, the letters and symbols are defined as follows:

**P** = Permitted use  
**SDP** = Special development permit required  
**MPP** = Miscellaneous plan permit required  
**UP** = Use permit required  
**N** = Not permitted, prohibited

DSP RESIDENTIAL BLOCKS	4, 5, 14, 15, 16, 23	6, 10a	8, 9, 10, 11, 12, 17	8a	8b, 9a
<i>1. – 5. [Text unchanged.]</i>					
<i>6. Other Uses</i>					
<i>A. – K. [Text unchanged.]</i>	N	N	N	N	N
<i>L. Medical Marijuana <del>Activities Distribution</del> Facility.</i>					

<sup>1-3</sup> [Text unchanged.]

SECTION 8. TABLE 19.29.050 AMENDED. TABLE 19.29.050 of Chapter 19.29 (Moffett Park Specific Plan District) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**Table 19.29.050**  
**Permitted, Conditionally Permitted and Prohibited Uses**  
**in MPSP Subdistricts**

In the table, the letters and symbols are defined as follows:

**P** = Permitted use. A Moffett Park Design Review Permit is required pursuant to Section 19.29.050(c). Development exceeding the standard FAR limit must be reviewed through a major permit.  
**SDP** = Special development permit. A Moffett Park Special Development Permit is required.  
**MPP** = Miscellaneous Plan Permit. A Miscellaneous Plan Permit is required.  
**N** = Not permitted. Prohibited.

Use			Specific Plan Subdistrict		
			MP-TOD	MP-I	MP-C
1. – 7.		[Text unchanged.]			
8.		<i>Other</i>			
	A. – S.	[Text unchanged.]			
	T.	Medical Marijuana <del>Activities Distribution Facility.</del>	N	N	N
	U.	[Text unchanged.]			

SECTION 9. TITLE of CHAPTER 19.62 AMENDED. Chapter 19.62 (Distribution of Medical Marijuana) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**CHAPTER 19.62. ~~DISTRIBUTION OF~~ MEDICAL MARIJUANA.**

SECTION 10. SECTION 19.62.010 AMENDED. Section 19.62.010 of Chapter 19.62 (Distribution of Medical Marijuana) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**19.62.010. Medical marijuana ~~distribution facilities.~~**

All medical marijuana activities~~Medical marijuana distribution facilities,~~ as defined in Chapter 9.86 and described in section 9.86.030, are prohibited uses in all zoning districts in the city of Sunnyvale.

SECTION 11. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15060(c)(2), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and section 15061(b)(3) because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 12. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 13. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 14. POSTING AND PUBLICATION. The City Clerk is directed to cause



copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
Date of Attestation: \_\_\_\_\_

\_\_\_\_\_  
Mayor

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

- Yes:** 5 - Chair Melton  
Vice Chair Harrison  
Commissioner Olevson  
Commissioner Rheaume  
Commissioner Weiss
- No:** 2 - Commissioner Klein  
Commissioner Simons

4. [16-0033](#) Adopt an urgency ordinance amending Sunnyvale Municipal Code Chapter 9.86 and Title 19 to expressly prohibit medical marijuana cultivation, commercial activity, distribution, and delivery; exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3).

Melissa Tronquet, Assistant City Attorney, presented the report. She noted that Sunnyvale Municipal Code (SMC) Chapter 9.8.6 currently prohibits medical marijuana distribution facilities, which is re-iterated in SMC Title 19 zoning code. She stated that Governor Brown approved the Medical Marijuana Regulation and Safety Act in 2015, and includes two provisions that affect local authority; 1) Cities must have land use regulating marijuana and 2) specific ordinances must be in place to allow or not allow delivery of marijuana. She noted that staff recommended to explicitly prohibit the cultivation and delivery of marijuana. She noted that the decision in this proposal applies only to the changes to the zoning table in SMC 19.62. She said that the public will have an opportunity to make comments to the substance of the changes in the February 9 City Council Hearing.

Comm. Olevson recognized that the ordinance is outside their purview, but asked staff why it is an urgency measure. Ms. Tronquet responded that the March 1 deadline is from the state.

Comm. Weiss asked how it applies to an individual who cultivates for personal use.

Vice Chair Harrison asked if it would be illegal for someone with a medical marijuana card to drive in the City. Ms. Tronquet replied that one could pick up marijuana in another city and take it to their home in Sunnyvale for personal use.

Chair Melton asked staff to clarify the changes on the table in Title 19. Ms. Tronquet clarified the changes, such as the distribution, cultivation, commercial activity, delivery, transport, etc. will explicitly be prohibited by the City.

#### MOTION:

Comm. Klein moved Alternative 1: Recommend that the City Council adopt an

ordinance amending Title 19 (Zoning), Section 19.62.010 and Tables 19.24.030, 19.28.080, 19.18.030, 19.20.030, 19.29.050, and 19.22.030, of the Sunnyvale Municipal Code relating to an express prohibition on medical marijuana cultivation, commercial activity, distribution, delivery and other activities and find that the project is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3). Vice Chair Harrison seconded.

Comm. Klein said that this a fairly easy decision as far as making a recommendation to the City Council, which allows the City to preserve local rights by putting policies in place before the March 1 deadline from the state. This streamlines the Municipal Code.

Vice Chair Harrison said that it clarifies the intent and is consistent with state law.

Comm. Olevson will support the motion; however, his intent of his support is about the City being able to set its own regulations.

Comm. Simons understands local control desires. He said that if medical marijuana becomes nationally legal, the product would be highly taxed which will bring tax dollars to the City. He noted that he will be abstaining.

Comm. Weiss will be supporting the motion, stating that marijuana uses water and electricity intensively.

Chair Melton noted his support to the motion, giving Sunnyvale local jurisdiction to the subject matter.

Motion carried by the following vote:

**Yes:** 6 - Chair Melton  
Vice Chair Harrison  
Commissioner Olevson  
Commissioner Klein  
Commissioner Rheaume  
Commissioner Weiss

**No:** 0

**Abstained:** 1 - Commissioner Simons

#### **STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES**

Comm. Simons presented a proposed study issue regarding special development permits that include housing.

**NON-AGENDA ITEMS AND COMMENTS****-Commissioner Comments**

Vice Chair Harrison asked staff if there was a neighborhood village in the Evelyn ITR area. Mr. Miner noted a shopping center on Fair Oaks Rd. and Evelyn Ave., but is unsure if its considered a village. Comm. Harrison discussed the benefits of neighborhood villages.

**-Staff Comments**

Mr. Miner noted that the January 5 City Council Hearing approved the conversion impact report for Nick's Trailer Park on El Camino Real and Henderson Ave, and that the applicant may start discussion with staff reagarding their proposal.

**INFORMATION ONLY ITEMS**

None.

**ADJOURNMENT**

Chair Melton adjourned the meeting at 9:49 p.m.

# Santa Clara County Medical Marijuana Regulations

<u>CITY</u>	<u>DISPENSARIES</u>	<u>CULTIVATION</u>	<u>DELIVERY</u>
Palo Alto	No	No	No
Los Gatos	No	No	No
Los Altos	No	No	No
Mountain View	No	No	No
Santa Clara	No	No	No
Gilroy	No	No	No
Morgan Hill	No	No	No
San Jose	Yes	Yes	Yes
Santa Clara County	No	Yes	No*
Milpitas	No	No	No
Campbell	No	No	No

\*Ordinance does not specifically address delivery of medical marijuana

Sample List of Recent Ordinances Prohibiting Cultivation, Processing, Delivery, Dispensaries or Some Combination Thereof:<sup>1</sup>

City of Ceres: Prohibits cultivation and deliveries.

City of Eastvale: Prohibits commercial cannabis activities, deliveries, and cultivation.

City of Jackson: Prohibits cultivation, delivery and dispensaries.

City of Lathrop: Prohibits cultivation, processing and storage.

City of Live Oak: Prohibits cultivation and dispensaries.

City of Lodi: Prohibits delivery and processing.

City of Los Banos: Prohibits dispensaries, delivery, cultivation, and processing.

City of Manteca: Prohibits cultivation, deliveries, transportation and storage.

City of Merced: Prohibits commercial cannabis activities, deliveries, and cultivation.

City of Newman: Prohibits business licenses for dispensaries, commercial cannabis activity, distribution, cultivation, delivery, testing, or processing; prohibits commercial cannabis activity, delivery, activity for which a state license is required under the MMRSA, cultivation; will apply to recreational marijuana if legalized in the future.

City of Newport Beach: Prohibits cultivation, processing, delivery and dispensaries.

City of Riverbank: Prohibits dispensaries and outdoor cultivation.

City of San Marcos : Prohibits cultivation, processing, delivery and dispensaries.

City of Waterford: Prohibits commercial cannabis activities, deliveries, and cultivation.

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<sup>1</sup> From League of California Cities, available online at <http://www.cacities.org/medicalmarijuana>



# City of Sunnyvale

## Agenda Item

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16-0151

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### SUBJECT

Introduce an Ordinance Amending Section 3.80.040 of the Sunnyvale Municipal Code to increase the City's Minimum Wage to \$15 by 2018

#### BACKGROUND

On October 28, 2014, Council adopted a Minimum Wage Ordinance to establish a minimum wage of \$10.30 per hour beginning on January 1, 2015 and starting January 1, 2016, and every January 1 thereafter, adjust the rate by an amount corresponding to the prior year's Consumer Price Index (CPI). Ordinance No. 3047-14 states that future increases will be based upon the CPI for the U.S. city average for urban wage earners and clerical workers, consistent with the City of San José's ordinance. The City's minimum wage, as well as the minimum wage in San José, remained at \$10.30 per hour on January 1, 2016 as the CPI decreased 0.3 percent over the previous year.

In addition to adopting the City's Minimum Wage Ordinance, Council directed staff to work with neighboring cities, specifically the City of Mountain View, with the goal of reaching \$15 per hour minimum wage by 2018. On December 1, 2015, staff presented Council with RTC 15-0951 highlighting the efforts performed to seek a regional approach and reported that no city agreed to adopt the minimum wage increase using the incremental approach proposed by the cities of Sunnyvale and Mountain View.

At the Council meeting of December 1, 2015, Council directed staff to:

- Send a letter to the City of Mountain View to request they consider amending their recently adopted minimum wage ordinance such that instead of calculating CPI increases on a year over year basis, they calculate it using 2018 as a base year and doing all of the CPI adjustments based on that, in order to more accurately reflect CPI changes to account for years with a negative CPI.
- Amend the City's Minimum Wage ordinance by changing the CPI from the U.S. city average to the San Francisco-Oakland-San Jose CPI average.
- Revise the City's ordinance to be similar to the minimum wage ordinance the City of Mountain View adopted on November 10, 2015, and to increase the City's minimum wage to \$15 per hour by 2018 according to the schedule below:
  - \$11 per hour by July 1, 2016
  - \$13 per hour on January 1, 2017
  - \$15 per hour on January 1, 2018
  - Use the San Francisco-Oakland-San Jose CPI for future annual increases starting January 1, 2019

#### EXISTING POLICY

**Council Policy 7.3.1 Legislative Management - Goals and Policies:**

**Policy 7.3B.3** Prepare and update ordinances to reflect current community issues and concerns in compliance with state and federal laws.

**Council 5.0 Long-term Advocacy Positions - Socio-Economic:**

**Policy 5.2.3** Supporting the quality of life in Sunnyvale, the City would support legislation to increase the current minimum wage or tie future increases to Consumer Price Index (CPI) or inflation.

**ENVIRONMENTAL REVIEW**

The adoption of an ordinance of general policy and procedure does not constitute a “project” with the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(2).

**DISCUSSION**

As per Council direction, Mayor Glenn Hendricks sent a letter to Mountain View Mayor Pat Showalter requesting that Mountain View City Council consider amending their minimum wage ordinance. Instead of calculating CPI increases on a year over year basis, the minimum wage increase would be calculated using 2018 as a base year with subsequent CPI adjustments based on the 2018 base year. These adjustments to the annual minimum wage calculation method would have ensured that future increases are consistent with CPI increases even in cases of negative CPI adjustments or year-over-year rounding of minimum wage hourly rates. Mayor Hendricks included draft language that the Mountain View Council could consider as their amendment to the ordinance (Attachment 1). On February 3, 2016, Mayor Showalter responded and stated that Mountain View will not consider the annual minimum wage calculation method as outlined in Mayor Hendricks’s request (Attachment 2).

Also as per Council direction provided to staff on December 1, 2015, the proposed ordinance amendments (Attachment 3) are the revisions Council requested. The proposed ordinance amends Section 3.80.040 of the Sunnyvale Municipal Code to include the following:

- A minimum of \$11.00 per hour be paid by employers beginning July 1, 2016
- A minimum of \$13.00 per hour be paid by employers beginning January 1, 2017
- A minimum of \$15.00 per hour be paid by employers beginning January 1, 2018
- Starting January 1, 2019, calculate future adjustments based on Urban Wage Earners and Clerical Workers, San Francisco-Oakland-San Jose for All Items

On April 4, 2016, Governor Brown signed, Senate Bill 3 (Leno) *Minimum Wage* into law. Under the legislation, California's \$10 per hour minimum wage will increase to \$15 by 2022. Businesses with 26 or more employees shall follow the following schedule:

- \$10.50 per hour on January 1, 2017
- \$11 per hour on January 1, 2018
- \$12 per hour on January 1, 2019
- \$13 per hour on January 1, 2020
- \$14 per hour on January 1, 2021
- \$15 per hour on January 1, 2022

SB 3 also authorizes the Governor to temporarily halt planned increases if there is a forecasted budget deficit of more than one percent of annual revenue, or due to poor economic conditions such as declines in jobs and retail sales. Businesses with 25 or fewer employees will be given an extra



year to comply with the law. Once the minimum wage reaches \$15, it will rise annually with inflation. The calculation for any potential increase will be the lesser of 3.5 percent or the increase in the United States Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the nearest ten cents (\$0.10).

### **FISCAL IMPACT**

The amended ordinance is anticipated to have a fiscal impact on the City in terms of both wages paid by the City and some potential increased enforcement costs. The City currently has about 173 positions that are currently paid less than \$15 per hour. These are casual, part-time or seasonal positions. The cost impact to the City from an increase is not significant (less than \$5,000 per year) and will be incorporated into the FY 2016/17 Recommended Budget if the attached ordinance is approved.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website. Staff also used the City's minimum wage page to notify the public of the item.

### **ALTERNATIVES**

1. Introduce an Ordinance Amending Section 3.80.040 of the Sunnyvale Municipal Code to increase the City's Minimum Wage to \$15 by 2018.
2. Do Not Introduce an Ordinance Amending Section 3.80.040 of the Sunnyvale Municipal Code, which will result in the City of Sunnyvale following the State's minimum wage law.
3. Provide other direction.

### **STAFF RECOMMENDATION**

Alternative 1: Introduce an Ordinance Amending Section 3.80.040 of the Sunnyvale Municipal Code to increase the City's Minimum Wage to \$15 by 2018.

As directed by Council, staff prepared all the requested amendments to the ordinance in order to achieve Council's goal of reaching a minimum wage of \$15 per hour by 2018.

Prepared by: Connie Verceles, Economic Development Manager  
Reviewed by: John Nagel, City Attorney  
Reviewed by: Walter C. Rossmann, Assistant City Manager  
Reviewed by: Kent Steffens, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Mayor Hendricks' Letter to City of Mountain View
2. City of Mountain View response to Mayor Hendricks' Letter
3. Proposed Ordinance amending Section 3.80.040

# CITY OF SUNNYVALE

*The Heart of Silicon Valley<sup>sm</sup>*

456 WEST OLIVE AVENUE    SUNNYVALE, CALIFORNIA 94086    (408) 730-7473

Glenn Hendricks  
Mayor

January 15, 2015

Gustav Larsson  
Vice Mayor

The Honorable Pat Showalter  
Mayor, City of Mountain View  
500 Castro Street  
Mountain View, CA 94039

David Whittum  
Councilmember

Jim Griffith  
Councilmember

*Pat*  
Dear Mayor Showalter:

Pat Meyering  
Councilmember

Congratulations on your recent mayoral appointment and action to adopt a minimum wage of \$15 by 2018. On December 1, 2015, Sunnyvale City Council directed staff to return with a similar ordinance to raise Sunnyvale's minimum wage to \$11 on July 1, 2016; \$13 on January 1, 2017, and \$18 on January 1, 2018. Also, similar to Mountain View, beginning January 1, 2019, Sunnyvale's minimum wage may adjust annually based upon the Bay Area Consumer Price Index (CPI).

Tara Martin-Milius  
Councilmember

Jim Davis  
Councilmember

During the same meeting, Sunnyvale Council approved a motion to ask Mountain View's Council to consider amending its recently adopted minimum wage ordinance such that instead of calculating future CPI increases on a year-over-year basis, both Sunnyvale and Mountain View adopt ordinances that use 2018 as a base year for all future CPI increases. According to Councilmember Griffith, when small offsets occur in a given year due to rounding or a negative CPI value, those offsets add up to cause our respective minimum wages to deviate from the CPI more and more each year, never to be corrected. In particular, immediately after a downturn that results in negative CPI changes, the minimum wage accelerates away from the CPI.

Councilmember Griffith proposes that instead of calculating the minimum wage change by strictly looking at just the past year's CPI change, the minimum wage should be calculated from the total CPI change since the 2018 base year. In that way, past offsets are always taken into account, and they cannot add up over time. Attached for your reference, is proposed language that our City Attorney drafted to address Councilmember Griffith's concern.

Mayor Pat Showalter  
January 15, 2016  
Page 2 of 2

Sunnyvale City Council encourages the Mountain View City Council to consider adopting the attached proposed language in Mountain View's ordinance. I am aware that this decision must be accomplished by the full council and that you would have to place this item on your council agenda. I am requesting that you please let me know by January 29, 2016 whether or not you are agreeable to placing this item on your agenda for a full council review so that we can move forward with our ordinance. If your council votes to adopt the ordinance language change, our council will consider adopting the same language. If you choose not to address this, we will not address it either.

Regardless of your Council's decision, I want to thank you for being a partner in this effort. Together, our leadership has set the framework for a strong regional approach that will hopefully be followed by others.

Sincerely,



Glenn Hendricks  
Mayor

Pat,  
Congratulations on becoming  
Mayor. I Look forward  
to working with you.



**3.80.040. Minimum wage.**

(a) Employers shall pay employees no less than the minimum wage set forth in this section for each hour worked within the geographic boundaries of the city of Sunnyvale. Governmental agencies are exempt from the minimum wage requirements under the principle of governmental immunity when the work performed is related to the agency's governmental function.

(b) Effective January 1, 2015, the minimum wage shall be an hourly rate of ten dollars and thirty cents. On July 1, 2016, the minimum wage shall be an hourly rate of eleven dollars (\$11.00). On January 1, 2017, the minimum wage shall be an hourly rate of thirteen dollars (\$13.00). On January 1, 2018, the minimum wage shall be an hourly rate of fifteen dollars (\$15.00). To prevent inflation from eroding its value, beginning on January 1, 201~~9~~<sup>6</sup>, and each ~~year~~ January 1st thereafter, the minimum wage shall increase from the 2018 minimum wage of fifteen dollars (\$15.00) by an amount corresponding to the prior year's increase, if any, in the cost of living. The cost of living shall be measured using the Bay Area Consumer Price Index (Urban Wage Earners and Clerical Workers, San Francisco-Oakland, San Jose, CA for All Items) or its successor index as published by the U.S. Department of Labor or its successor agency. The August 2018 Bay Area Consumer Price Index ("Bay Area CPI") shall be the baseline number from which each subsequent year's percentage increase in the minimum wage is calculated.

(c) On January 1, 2019, the minimum wage shall be increased by the percentage increase, if any, in the Bay Area CPI as of August 2018, with the amount of the minimum wage increase rounded to the nearest multiple of five cents. On January 1, 2020, and each subsequent year, the increase in the minimum wage shall be measured by the percentage increase, if any, of the Bay Area CPI of August of the immediately preceding year as compared to the baseline value of the Bay Area CPI of August 2018. Should the current year's minimum wage calculation fall below the previous year's minimum wage calculation, the current year's minimum wage shall remain unchanged from the previous year's minimum wage. The prior year's increase in the cost of living shall be measured by the percentage increase, if any, as of August of the immediately preceding year of the Consumer Price Index (Urban Wage Earners and Clerical Workers, U.S. City Average for All Items) or its successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of five cents. The adjusted minimum wage shall be announced by November 1st of each year, or as soon as practicable thereafter if the Consumer Price Index for August has not yet been published, and shall become effective as the new minimum wage on January 1st of the following year.





# CITY OF MOUNTAIN VIEW

Office of the Mayor and City Council • 500 Castro Street • Post Office Box 7540 • Mountain View, California 94039-7540  
650-903-6305 • FAX 650-903-6039

January 25, 2016

The Honorable Glenn Hendricks  
Mayor, City of Sunnyvale  
456 West Olive Avenue  
Sunnyvale, CA 94039



Dear Mayor Hendricks:

Congratulations on becoming Mayor! Thank you for your recent communication regarding the proposed changes to the Consumer Price Index (CPI) calculation in our respective minimum wage ordinances.

At this time, the Mountain View City Council will not be considering a change to the CPI calculation as outlined in the proposal. We certainly value and support the creative thinking behind the proposal, but we prefer to leave the ordinance as adopted. If having a year-over-year CPI calculation becomes a regional issue, we are willing to address it at a later date well in advance of it possibly becoming an issue in 2019.

We appreciate your partnership on the minimum wage effort. I remain optimistic that the current framework of our adopted ordinances helps forge a path for regional consistency.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pat Showalter".

Pat Showalter  
Mayor

PS/KMcC/7/MGR  
001-01-25-16L-E

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF SUNNYVALE TO AMEND SECTION 3.80.040  
(MINIMUM WAGE) OF CHAPTER 3.80 (MINIMUM WAGE  
ORDINANCE) TO TITLE 3 (REVENUE AND FINANCE) OF  
THE SUNNYVALE MUNICIPAL CODE TO INCREASE  
THE CITY-WIDE MINIMUM WAGE

WHEREAS, families and workers need to earn a living wage, and public policies which help achieve that goal are beneficial; and

WHEREAS, payment of a minimum wage advances the interests of the City as a whole, by creating jobs that keep workers and their families out of poverty; and

WHEREAS, a minimum wage will enable a worker to meet basic needs and avoid economic hardship; and

WHEREAS, this ordinance is intended to improve the quality of services provided in the City to the public by reducing high turnover, absenteeism, and instability in the workplace; and

WHEREAS, prompt and efficient enforcement of this Chapter will provide workers with economic security and the assurance that their rights will be respected.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 3.80.040 AMENDED. Section 3.80.040 (Minimum Wage) of Chapter 3.80 (Minimum Wage Ordinance) is hereby amended in Title 3 (Revenue and Finance) of the Sunnyvale Municipal Code to read as follows:

**3.80.040. Minimum wage.**

- (a) [Text unchanged]
- (b) Effective January 1, 2015, the Minimum Wage shall be an hourly rate of ten dollars and thirty cents (\$10.30). On July 1, 2016, the minimum wage shall be an hourly rate of eleven dollars (\$11.00). On January 1, 2017, the minimum wage shall be an hourly rate of thirteen dollars (\$13.00). On January 1, 2018, the minimum wage shall be an hourly rate of fifteen dollars (\$15.00). To prevent inflation from eroding its value, beginning on January 1, 201~~9~~<sup>6</sup>, and each ~~year~~ January 1st thereafter, the Minimum Wage shall increase by an amount corresponding to the prior year's increase, if any, in the cost of living. The prior year's increase in the cost of living shall be measured by the percentage increase, if any, as of August of the immediately preceding year of the Bay Area Consumer

Price Index (Urban Wage Earners and Clerical Workers, ~~U.S. City Average~~San Francisco-Oakland-San Jose, CA for All Items) or its successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the Minimum Wage increase rounded to the nearest multiple of five (5) cents. The adjusted Minimum Wage shall be announced by November 1st of each year, or as soon as practicable thereafter if the Consumer Price Index for August has not yet been published, and shall become effective as the new Minimum Wage on January 1st of the following year. If there is no increase in the Bay Area Consumer Price Index, the minimum wage shall remain unchanged for that year.

(c) – (e) [Text unchanged]

SECTION 2. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(2), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that the adoption of an ordinance of general policy and procedure does not constitute a project within the meaning of CEQA.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
Date of Attestation: \_\_\_\_\_

\_\_\_\_\_  
Mayor

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney





# City of Sunnyvale

## Agenda Item

16-0030

Agenda Date: 4/12/2016

### REPORT TO COUNCIL

#### SUBJECT

Approve the Issuance of Request for Proposals to Develop a New Affordable Housing Project on City Property Located on Charles Street (Block 15)

#### REPORT IN BRIEF

In July 2015, the City Council authorized the purchase of four additional parcels in "Block 15" of the Downtown Specific Plan area to increase the City's ownership of the block to approximately 1.57 acres. In December 2015 the Council held a study session and provided direction on the future use of approximately 1.44 acres of City owned property in Block 15 for affordable housing, with an emphasis on projects that could provide at least a portion of the housing for special needs households (i.e., seniors, disabled adults).

Staff has prepared a draft Request for Proposals (RFP) (Attachment 1), consistent with Council's expressed interest in using this property for affordable housing. The RFP will be used to solicit proposals in order to identify and select a qualified affordable housing developer. Staff will evaluate the proposals received in response to the RFP and establish a staff committee to score and rank the proposals. Once staff has identified a preferred developer for Council's consideration, an Exclusive Negotiating Agreement ("ENA") would be prepared for Council's review and approval. The ENA would specify a period of time (e.g., 12 months with possible extension at City's discretion) for the developer to further develop the project plans. Following Council approval of the ENA, the selected developer would begin working with staff on predevelopment tasks such as a refined project description, financing plan, development review, and the terms of an Affordable Housing Developer Agreement ("AHDA").

Staff recommends that the Council approve the issuance of the Request for Proposals (RFP) to develop a new affordable housing project on City property located on Charles Street (Block 15).

#### BACKGROUND

In July 2015, the City Council authorized the purchase of four additional parcels in "Block 15" of the Downtown Specific Plan area to increase the City's ownership of the block to approximately 1.57 acres. Block 15 is bounded by Charles Street, McKinley Avenue, Mathilda Avenue and Iowa Avenue. The City's land assemblage consists of six contiguous parcels totaling approximately 1.44 acres and one non-contiguous parcel of 0.13 acre, and is collectively referred to as the "Charles Street Property."

On December 15, 2015, the City Council held a study session to consider the future use of the Charles Street Property. The Council indicated the following objectives or desired outcomes for the property: 1) maintain the property in City ownership for a public benefit; 2) retain the existing land use designation for Block 15 of the Downtown Specific Plan (DSP), which is Very High Density

Residential/Retail; 3) enter into a long-term lease with an entity to develop the property for affordable housing; and 4) place a preference or allocate a portion of the housing units for seniors and/or disabled adults ("special needs" households). Attachment 2 provides a summary of the study session. The Council further discussed that the 1.44-acre site, consisting of the six contiguous parcels (referred to herein as the "Project Site" and depicted in Attachment 3), was sufficient for development of a viable affordable housing project.

Based on the Council's direction at the study session, staff has prepared a draft RFP (Attachment 1) for the purpose of selecting a developer to begin negotiations with the City for the opportunity to develop an affordable housing project on the Project Site. The outcome of those initial negotiations would be an ENA for the opportunity to develop the project, as explained in more detail in the Discussion section below.

## **EXISTING POLICY**

### **General Plan, Housing Element**

**Goal A:** Assist in the provision of adequate housing to meet the diverse needs of Sunnyvale's households of all income levels.

*Policy A.7:* Support collaborative partnerships with non-profit organizations, affordable housing builders, and for-profit developers to gain greater access to various sources of affordable housing funds.

*Policy A.8:* Encourage developers to use State density bonus incentive when applicable to provide affordable housing units.

**Goal E:** Promote equal housing opportunities for all residents, including Sunnyvale's special needs populations, so that residents can reside in the housing of their choice.

*Policy E.3:* Continue to address the special needs of seniors through provision of affordable housing and housing related services.

*Policy E.4:* Continue to address the special needs of persons with disabilities through provision of supportive housing, accessibility grants, and development of procedures for reasonable accommodation.

## **Downtown Specific Plan**

### **Goals and Policies**

- A. Develop land uses set forth in the General Plan as amended by the City Council in June 2003 in an attractive and cohesive physical form that clearly identifies Sunnyvale's downtown.
- B. Establish the Downtown as the cultural, retail, financial and entertainment center of the community, complemented by employment, housing and transit opportunities.
  - B.2. Encourage below-market-rate housing in all residential neighborhoods.
- C. Promote a balanced street system that serves all users well regardless of their mode of travel.
  - C.3. Promote the use of public transit by intensifying land use and activities near transit cores.
- D. Protect and enhance existing neighborhoods.
  - D.1. Buffer single-family neighborhoods from higher density residential or commercial uses through the use of lower building heights and privacy measures such as increased landscaping and reduction in windows along elevations that directly face single-family properties.

D.3. Encourage intensification of specified high-density residential and commercial districts while maintaining the character and density of single-family neighborhoods surrounding the downtown.

Various design principles and guidelines in the Downtown Specific Plan would be used to evaluate specific development proposals.

### **ENVIRONMENTAL REVIEW**

Approval of the issuance of an RFP does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment. When a development project is submitted for development review, it will be reviewed pursuant to CEQA to assess its potential environmental impacts.

### **DISCUSSION**

The RFP has been drafted to implement Council’s prior direction regarding this City property. The primary goal of this RFP is not to identify or approve a well-defined and/or fully designed housing project, but to select a development team with the expertise and track record required to successfully develop affordable housing projects in the region, and with which the City feels comfortable embarking on the process of negotiating the terms of an ENA for the Project Site.

The purpose of this RFP, which combines aspects of a typical RFP and a Request for Qualifications (RFQ), is to primarily gauge developer interest and potential feasibility of projects consistent with Council’s objectives, and allow experienced housing developers to share their vision and creative ideas for the site, within the preliminary framework provided by Council. At this early stage in the process, developers will be asked to provide a preliminary development concept only, as none of them will have completed due diligence work or exploratory design and financing studies at this point.

The proposals will include key information regarding each developer’s team to allow staff and Council to consider the strengths and weaknesses of each interested party, and select the party which appears to be most qualified, for the purpose of beginning to negotiate the ENA. This selection does not guarantee that the negotiations will necessarily result in a successful ENA and/or eventual Development Agreement, or that entitlements will be granted for any particular project at this site. The selection process is the first step in a process that could, if successful, lead to an affordable housing development on the Project Site.

The ENA would provide the selected developer with the exclusive right to negotiate with the City for the right to lease the Project Site and develop an affordable housing project on it. The key terms of the lease and a refined project concept would be set forth in a subsequent Development Agreement, following an extensive process of community outreach, design development, development review, further analysis of available financing sources, and a refined financing plan. For the above reasons, the most important content of the proposals is the portion describing each development team’s qualifications, community outreach process, and how well they articulate their process for planning, designing, financing, and managing an affordable housing project. Specific project details, to the extent they are provided, are likely to evolve and change as the process moves forward through the stages described above.

**Funding Context**

For the past several years, particularly in California, the context of affordable housing finance has been changing rapidly, with new funding sources coming on the scene from state, regional, and local entities, and older, more traditional sources becoming more competitive and/or limited than in the past. Due to this evolving funding context, it will be difficult for staff and/or the proposers to make definitive conclusions at this initial stage about the viability of future financing options, the feasibility of specific programmatic or project elements, or the optimal household/population mix that could be served by the project.

For instance, in the past several decades, almost all new affordable housing projects in this region have relied on established federal tax credit financing programs that have very specific guidelines covering items such as populations served, mix of unit sizes (bedroom counts), parking ratios, and community attributes. Recently, major new state funding sources have emerged, such as the Affordable Housing and Sustainable Communities (AHSC) and Veteran's Housing programs. Many developers are now opting to apply for AHSC and alternative funding sources. This shift has implications on project design, unit sizes, parking ratios, and other factors that affect project cost, programmatic decisions, and operating costs. Furthermore, the guidelines for these new programs are evolving quickly due to much input from competing interest groups.

For the above reason, the preliminary development concept set forth in the preferred proposal may need to evolve to effectively compete for funding under the new state programs. At this stage, the most important aspect of the RFP selection process is the developers' qualifications and initial development concept, rather than any project particulars that may be included in their proposals. Sufficient opportunity will be available during the ENA due diligence period to match or balance the City's objectives (e.g., units for "special needs" households) with the evolving program funding guidelines.

**Legal Context**

The California Surplus Lands Act, amended on January 1, 2015, requires local agencies wishing to dispose of land they no longer require (surplus land) to prioritize use of that land to increase the supply of housing affordable to lower income households. Council has expressed interest in developing the Project Site as a City-sponsored affordable housing project, therefore the land is not surplus and the Surplus Land Act does not apply in this case. Nonetheless, the type of housing project described in the RFP, which is affordable rental housing for lower-income households, is consistent with the State's interest in prioritizing the use of appropriate public property for affordable housing as expressed in the Surplus Lands Act.

**Project Site Details**

The Project Site is located in the southern portion of Block 15 of the DSP. Block 15 is designated for Very High Density Residential development, with an allowance for up to 152 dwellings units on the entire block, and a maximum of 10,000 square feet of retail/restaurant uses. The DSP states that, when just a portion of a block is proposed for development, the allowable units for that block shall be distributed proportionately by land area. For the Project Site, which is approximately 1.44 acres, the residential development potential allowed by the DSP translates to approximately 78 units. Additional units may be achieved within the Project Site through the State density bonus for affordable housing (up to 35 percent) and the City's green building incentive (up to 5 percent), for a total development capacity in the general range of 100 to 110 units. Staff will work with the selected proposer to obtain a survey of the property to confirm its precise acreage, and this may slightly decrease or increase the

number of units that may be developed on the site. In addition, the project may include a small commercial component at the corner of Mathilda and Iowa Avenues.

However, the City Council expressed at the study session that the maximum allowable units may not be realistic, as the project should be compatible and transition well with the adjacent residential neighborhood. The project would also need to respect the defined height limit for the block: 30 feet (two stories) along Charles Avenue, and 50 feet (four stories) along Mathilda Avenue. The required retail component may further constrain the feasible number of units for the project.

The mixed use development potential, combined with the location in a walkable downtown area near Caltrain and bus transit, makes the Project Site an ideal location for affordable housing. Development of affordable housing at this location would address the goals and objectives of the DSP and Housing Element to create affordable housing within a vibrant mixed use neighborhood in the downtown area. The site has good transit access, with proximity to the Downtown Sunnyvale Caltrain Station and bus lines along Mathilda Avenue. Future residents would have convenient access to downtown retail, dining, services, employment opportunities, and nearby open space including Washington Park and Plaza del Sol. See the Project Site and Vicinity Maps in Attachment 3 for neighborhood amenities.

Due to these locational advantages, a project at this location should be quite competitive for various affordable housing funding sources. In addition, the County has sent the City a letter expressing interest in partnering on an affordable housing project at this site, which could include County funding for development costs and/or ongoing services for any permanent supportive housing units (Attachment 4). Staff would further discuss with the County its proposed tenant selection process to ensure that City residents and individuals working in the City would have an opportunity to apply for, or possibly receive a local preference for, any County-assisted units. This conversation would occur after selecting a developer, if that developer decides to seek any County funding for the project.

Staff has drafted an RFP (Attachment 1) for Council's review and approval. The RFP includes a suggested scoring and selection criteria to be used to select a preferred developer from among those submitting proposals. The goal of this RFP is to identify a highly-qualified developer that demonstrates an understanding of the community, its affordable housing needs, and the unique attributes and opportunities in downtown Sunnyvale. The selection criteria includes factors such as the cost-effective use of the property, the proposed income levels and special needs populations that would likely be served by the project, a feasible financing and implementation plan, and successful experience in developing and managing affordable housing.

### ***Submittal Requirements***

The RFP requires the following types of information to be submitted by each proposer (see **Attachment 1** for complete list):

- Statement of Interest
- Applicant qualifications with past project experience and letters of reference
- Project description that address items such as project objectives, proposed development program, project size, unit mix, target clientele (including special needs population), tenant selection process, and tentative project schedule
- Preliminary financing plan including any requested City financial assistance and proposed matching funds
- Community outreach plan

- Tenant selection plan

### ***Evaluation and Selection Criteria***

All proposals will be evaluated by a staff scoring committee established by the City Manager. Proposals would be scored and ranked based on the following types of criteria and the scoring sheet provided in the RFP (see **Attachment 1** for details). The outcome of this process would be a staff-recommended preferred developer for the Council's consideration. The following types of criteria will be used in the evaluation and selection process:

- Project objectives
- Priority housing needs addressed by the proposal (including "special needs" households)
- Relevant experience developing affordable housing projects
- Financial capacity
- Leverage
- Community outreach plan
- Tenant selection plan

### ***Timeline***

The tentative timeline for the project is as follows, subject to further adjustment based on discussions with the preferred developer (Council actions shown in bold):

<b>Target Date</b>	<b>Milestone</b>
<b>April 12, 2016</b>	<b>Council approval of issuance of RFP</b>
April 15, 2016	Release RFP
May 30, 2016	Deadline to submit proposals
June - July, 2016	Staff evaluation process; may include proposer interviews at staff discretion
August 2016	Council discussion of preferred developer and preliminary ENA terms; staff prepares ENA
<b>September 2016</b>	<b>Council approval of ENA with preferred developer</b>
October 2016 - September 2017	Developer due diligence period: community outreach, design development, refinement of financing plan, programmatic analysis; staff negotiates and prepares Affordable Housing Developer Agreement (e.g. ground lease, loan and regulatory terms, project timeline and prerequisites)
<b>October 2017</b>	<b>Council approval of Affordable Housing Developer Agreement</b>
January - December 2017	Land use entitlement process; Planning Commission consideration
January 2018	Enter into and record ground lease, loan documents, regulatory agreement
January 2018 - June 2019	Developer completes financing, obtains building permits and begins construction

Once staff has identified a preferred developer for Council's consideration, an ENA would be prepared for Council's review and approval. The ENA would specify a period of time (e.g., 12 months with possible extension at City's discretion) for the developer to further develop the project proposal. During this period, the City and developer would negotiate the terms of the Affordable Housing Developer Agreement (AHDA), which would set the framework for the eventual long-term ground lease and regulatory agreement, and project timeline. The developer would further refine the financing plan during this time. If the developer has requested City housing funds for the project, key City loan terms would also be negotiated as part of the AHDA. Such City funds are likely to be requested by the developer to fund the ground lease and/or other development costs, such as design, construction, or soft costs.

During the ENA period, the developer would also prepare a project application and architectural plans and start the entitlement process to obtain the required land use approvals for the project. The Housing and Human Services Commission and Planning Commission would be involved in approving or making recommendations to the Council on various aspects of the project.

As a separate action, staff is considering demolition of the vacant buildings in the future, and would advise Council before taking any action. The empty houses can be a security and safety issue and it may be less costly to remove them than to provide long term monitoring.

#### **FISCAL IMPACT**

The recommended action to issue the RFP will not impact the General Fund.

#### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

#### **ALTERNATIVES**

1. Approve the Issuance of the Request for Proposals (RFP) to Develop a New Affordable Housing Project on City Property Located on Charles Street (Block 15).
2. Approve the Issuance of the Request for Proposals (RFP) to Develop a New Affordable Housing Project on City Property Located on Charles Street (Block 15) with modifications.
3. Do not approve the Issuance of the Request for Proposals and provide direction to staff on an alternative action.

#### **RECOMMENDATION**

Alternative 1: Approve the Issuance of the Request for Proposals (RFP) to Develop New Affordable Housing Project on City Property Located on Charles Street (Block 15).

The proposed recommendation is consistent with the goals of the City's Housing Element and Downtown Specific Plan and prior Council direction. The RFP addresses a number of City priorities, such as: providing housing for seniors, extremely low income and special needs households, and increasing affordable housing supply. In particular, staff recommends that the Council review Section IV, Proposal Evaluation and Selection Criteria, of the RFP, which will guide the selection of a preferred developer for entering into an ENA.

Prepared by: Shila Behzadiaria, Assistant Housing Planner

Reviewed by: Suzanne Isé, Housing Officer

Reviewed by: Trudi Ryan, Director, Community Development Department

Reviewed by: Hanson Hom, Assistant City Manager

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Draft Request for Proposals
2. Summary of December 15, 2015 Council Study Session
3. Project Site and Vicinity Maps
4. County of Santa Clara Letter dated November 16, 2015





**CITY OF SUNNYVALE**

## **REQUEST FOR PROPOSALS (RFP)**

**FOR**

### **AFFORDABLE HOUSING DEVELOPMENT PROPOSALS**

**For City Property Located On Charles Street  
Within Block 15 of Downtown Specific Plan**

**Issued by:**

City of Sunnyvale Community Development Department

**Housing Division**

456 W. Olive Avenue

P.O. Box 3707

Sunnyvale, CA 94088

***Housing.InSunnyvale.com***

(408) 730-7250

**Issued on:**

**April 15, 2016**

**Proposals Due:**

**May 30, 2016**

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## **I. INTRODUCTION**

### **General Information**

The City of Sunnyvale hereby requests proposals from qualified and experienced housing developers interested in developing an affordable housing project on a City-owned property of approximately 1.44 acres in area located at the intersection of Charles Street and West Iowa Avenue in Sunnyvale (the "Project Site"). The Project Site consists of several contiguous City-owned parcels on the southerly portion of a block identified as Block 15 in the City's Downtown Specific Plan. A Site Map of the Project Site boundaries and assessor's parcel numbers, as well as a Vicinity Map is provided in Section XII of this RFP.

Experienced affordable housing developers meeting the qualifications described in this RFP which have demonstrated their ability to design, build and manage quality affordable housing projects in Silicon Valley or in the wider Bay Area region, are encouraged to submit proposals in response to this RFP. This RFP is a solicitation of competitive proposals that best serve the public good, meet local affordable housing needs, and make the best public use of a valuable City asset (the Project Site).

The City is seeking housing project proposals that demonstrate an understanding of the Sunnyvale community and its affordable housing needs, the unique attributes and opportunities of the Sunnyvale Downtown Specific Plan (DSP) area and surrounding neighborhoods, and that would provide a high quality affordable housing development on the Project Site. Proposals shall demonstrate a feasible implementation plan and development concept, the proposer's successful experience in developing and managing affordable housing in the area, and a commitment to an inclusive and informative public participation process about the proposed project.

The proposer selected by Council through this RFP process will be invited to begin negotiations with the City and, if successful, enter into an Exclusive Negotiating Agreement (ENA) with the City which would eventually allow proposer to take possession of the Project Site subject to a long-term lease or similar possessory interest. The ENA will allow the selected developer at least one year, with possibility for limited extension of the term under certain circumstances, to complete its due diligence on the Project Site, conduct initial community outreach and other predevelopment tasks, prepare conceptual designs, and, once the due diligence phase has ended, apply for planning permits (entitlements) for the project.

If that process is successful, the City and developer will begin to negotiate an Affordable Housing Developer Agreement (AHDA) for transfer of possessory interest and development of the project. The AHDA would set forth additional detail regarding the terms of the land transfer, performance milestones for the developer, project development timeline, indemnities and insurance requirements, ongoing affordability covenants, refined financing plan, tenant selection plan, and any other miscellaneous City requirements for the project beyond what is typically included in the conditions of approval of a project's entitlements.

### **Project Objectives**

The City desires to facilitate development of an affordable housing project on the Project Site that will:

- Utilize environmentally-friendly and sustainable principles in project design and construction;
- Be attractive and compatible with the character of the neighborhood and larger community, both aesthetically and functionally, and consistent with the DSP;
- Provide a mix of units affordable to lower-income households at various levels, such as extremely low, very low, and low-income households;
- Include some units which could be reserved for and/or generally available to special needs households, which may include seniors, disabled adults, homeless or at-risk households, or other types of households defined as having special housing needs in the City's Housing Element and/or Consolidated Plan.
- Ensure that Sunnyvale residents and/or workers ("Sunnyvale applicants") meeting the project's income and other eligibility criteria will receive priority in the project's application processes and tenant selection plan, including any special needs units, units with operating subsidies or other funding provided by other agencies, and/or general affordable housing units.
- Apply for the State density bonus if necessary to accommodate the proposed project on the site, while complying with DSP development standards.
- Involve the community in the development of the proposed housing program for the site and the physical design of the project.
- Pay state prevailing wages and comply with local wage and/or hiring requirements, and follow the City's competitive procurement procedures for public works projects.
- Incorporate areas for resident services and amenities within the housing project, and a small commercial component of up to 10,000 square feet on the Mathilda Avenue frontage, consistent with the DSP.

### **Value of Land**

The property value was appraised at \$7.82 million in December 2014. A new appraisal shall be obtained to reflect current land values. Development proposals shall include proposed long-term lease payment amount and terms. The Council has stated a strong preference for development proposals based on a long-term ground lease structure for a term in the range of 55 to 90 years.

### **Legal Matters**

The transfer of interest in the land contemplated through this RFP and subsequent ENA and/or AHDA would not be a surplus property sale, but rather a City-sponsored development of an affordable housing project on City property.

Any successful proposer will be required to take full responsibility for the costs and execution of any activities needed to take possession and develop the Project Site, which may need to be cleared of structures, vegetation or other debris. The property will be offered “as is” to the selected Developer, who shall have full responsibility for completing a survey, environmental studies, site preparation, permits, relocation of tenants consistent with State law (and federal law, if any federal funding is proposed by applicant), environmental remediation, if needed, and any other predevelopment costs. Any property tax liability during the term of the lease or following Developer’s taking possession of the Project Site shall be the sole responsibility of the Developer.

### **Property Information**

#### **A. Location**

Block 15 is located within the Sunnyvale DSP area and is bounded by Mathilda, Iowa, and McKinley Avenues and Charles Street. The Project Site is made up of six City-owned parcels: three single-family homes located on Charles Avenue, as well as one duplex and two vacant parcels fronting Mathilda Avenue. Most of the existing dwelling units on the Project Site are over 55 years old and are generally in fair condition. Some are occupied and some are vacant. Additional details about the existing structures on the Project Site and the surrounding neighborhood are provided in **Attachment 1**.

#### **B. Other Characteristics**

- **Site Area:** The Project Site is approximately 62,533 square feet or 1.44 acres. The successful proposer shall confirm the exact site area by commissioning a survey of the Project Site during the due diligence phase.
- **Vicinity:** The Project Site is bordered by single-family residences on Charles Street and cross streets and by Mathilda Avenue, a very busy major commercial thoroughfare, on one side. Within the larger vicinity of the site, across Mathilda, is the Sunnyvale downtown or DSP area. Existing uses within the DSP include Murphy Avenue, a traditional downtown street with shopping, dining and entertainment uses and two department stores. Various nearby residential, office and mixed uses are also within the DSP, including two major office buildings, currently occupied by Apple and Nokia. Transit options include a Caltrain station and several VTA bus routes. Additional new housing and commercial space is in various stages of development throughout the DSP area, including several large market-rate multi-family rental properties, some of which include ground-floor retail, and smaller for-sale housing developments.
- **Floodplain Status:** The site is in Flood Zone X, an area that is determined to be outside the 100-500 year flood plain.
- **Topography:** The site is level.
- **Utilities:** All public utilities including water, sewer, natural gas, and electricity are within proximity to the site. Proposers may contact the Department of Public Works (DPW) with any questions regarding utility connections.

### **C. Zoning and Land Use Requirements**

The Project Site is subject to the zoning provisions of the DSP. The full text of the DSP is available [online](#). The City's municipal codes and General Plan are also available online at [Planning.inSunnyvale.com](http://Planning.inSunnyvale.com). Proposers may contact the Planning Division for details on the City's development review processes (contact information provided in Section IX).

### **Environmental Review**

Environmental review of the proposed development for compliance with the California Environmental Quality Act (CEQA) will be completed by the City after a complete planning application for the project has been submitted by the selected Developer, which is not anticipated to occur until after an ENA has been executed by the City and selected Developer. If federal funding is included in the proposal's financing plan, the agency providing those federal funds will be required to complete federal environmental review under the National Environmental Protection Act (NEPA). Selection of a developer through this RFP does not constitute "a project" as defined in CEQA.

A Phase I Environmental Site Assessment was completed in June 2015 on four of the six parcels comprising the Project Site and found no environmental conditions of concern. This document is available for review upon request. The successful proposer shall complete a Phase I of the entire Project Site during the due diligence phase.

## **II. ELIGIBLE APPLICANTS**

Eligible proposers (applicants) under this RFP may include one entity or a team of several entities, including any of the following: for-profit or non-profit housing developers, joint ventures, resident services providers or other services agency. Applicants that include several entities must include a lead entity which has demonstrated experience and capacity in the development and management of affordable housing, and shall have successfully completed at least three affordable housing projects of similar size and complexity as the proposed project, within Santa Clara County (preferred), the Bay Area, or another county in Northern California within the past fifteen years, to be eligible to submit a proposal. Applicants with prior experience building residential projects in Sunnyvale are encouraged to submit proposals.

***PLEASE NOTE: Proposers intending to use the "design-build" procurement process are not eligible to submit proposals under to this RFP due to conflicts with the procurement provisions of the City charter, and all design-build proposals will be rejected without further review. All proposers must be willing to competitively bid out project all contracts related to construction, including general contractor, sub-contractors, grading and site preparation and associated work. Any proposals using federal or state funds will be required to comply with applicable state and/or federal procurement, wage, and contracting requirements.***

### **III. ELIGIBLE HOUSING PROJECTS**

Each proposer/applicant entity and any affiliates of that entity may propose only one housing project proposal through this RFP, whether as a sole applicant or a partner or participant in a joint proposal by a partnership of several entities.

Eligible project types include new construction of affordable rental housing with a required component of street-level commercial space at the corner of Iowa and Mathilda Avenues, not to exceed 5,000 square feet. The housing portion of the project shall include at least some housing opportunities for special needs households (seniors, disabled adults, and/or other special needs households) as well as all-age households, and shall include rental units affordable to extremely low-, very low- and low-income households.

#### **Development Parameters**

##### **A. Transit-Oriented Development (TOD)**

The site is located within ½ mile of the Sunnyvale Caltrain Station, and within 100 feet from the nearest VTA bus stop. Proposals shall incorporate state of the art TOD concepts and transportation demand management (TDM) measures to the extent feasible within affordable housing financing constraints. Proposed projects shall be consistent with the development standards of the DSP, particularly for Block 15, as well as the Sunnyvale General Plan and local zoning codes.

##### **B. Project Size**

Proposed projects may include up to the maximum allowable number of units consistent with the land use policies, objectives, and guidelines set forth by the DSP and the goals of this RFP. Based on the density parameters in the DSP for Block 15, up to 78 dwelling units could be developed within the Project Site. Proposals that qualify for a 35 percent density bonus under State law and a 5 percent bonus under the City's green building incentive, combined, could potentially include approximately 100 units.

##### **C. Unit Size and Tenure**

The project may include a range of unit sizes, from studios to multiple-bedroom units. All units are expected to be rental units due to the preferred structure of a long-term ground lease with the developer. Proposals shall explain the basis for the proposed mix of unit sizes in the project and its relationship to the target tenant population described in the proposal.

##### **D. Affordability Requirements**

Proposals that provide a significant number of units affordable to very low and/or extremely low income households are encouraged. All units shall be affordable to lower-income households. Income levels are defined using the income limits published by the California Department of Housing and Community Development (HCD) for extremely low, very low, and low income households in Santa Clara County, as published annually by HCD.

### **E. Length of Affordability Term**

The term of affordability will be at least fifty-five (55) years.

### **F. Green Building and Energy Efficiency Requirements**

Proposals shall incorporate CALGreen Mandatory Measures and Build It Green into design, construction and future maintenance of the housing project. The selected project will be required to score at least 110 points on the Green Point Checklist. See Section IX for additional information.

### **G. On-Site Amenities and/or Commercial Space**

Proposals that include resident amenities and/or ancillary commercial space within the project, consistent with City zoning and the DSP, to improve the quality of life of future residents of the proposed housing development and/or the surrounding neighborhood, such as child care centers, classroom and/or meeting space, tot lots and similar amenities, or neighborhood-serving retail or dining space, are encouraged. The DSP requires a small commercial component of up to 10,000 square feet within Block 15.

### **H. Target Tenant Population**

Proposals shall describe the target tenant population for the project, which may include any of the following: general households/families (i.e., units not subject to age restrictions), seniors, disabled people, homeless people, youth aging out of foster care, and/or any other special needs groups. Proposals shall note if any number of the units will be specifically designed and/or reserved for any type of special needs tenants. Proposals shall describe the extent to which the proposed project is expected to provide housing opportunities for seniors and/or disabled adults.

## **Financial Terms and Assumptions**

### **A. Terms**

Proposals shall specify a proposed lease price for the land. Proposals will be evaluated not only on price, but also on the quality of the proposal and the desirability of the public benefits of the proposed development. Proposed lease price shall be included in the project financial pro forma, which shall also identify anticipated funding sources (including possible City sources) that will be sought to finance the project. If any City funds are contemplated in the proposal's financing plan, proposal shall indicate what type of City funding is contemplated, the amount to be requested, and proposed use(s) of such funds (i.e., predevelopment, lease payment, soft costs, and/or construction), as well as a timeline indicating when such funds would be required by Developer.

### **B. Assumptions**

The following assumptions should be used when preparing the financial pro forma, unless alternative funding sources are subject to different and more restrictive terms.

- Construction estimates: Use state prevailing wage requirements and local wage and/or hiring requirements.
- Contingencies: Use at least 15% for hard construction costs and 5% for soft costs



- Operating cash flow projections: use TCAC standards
- Leverage: it is anticipated that the selected developer will obtain the majority of financing for development of the project from non-City sources (leverage). The amount of leverage included in the proposed financing plan will be evaluated competitively against other proposals received, with proposals with higher leverage ratios evaluated favorably.
- Federal requirements: if the proposed financing plan includes federal funding sources such as HOME, CDBG, or Section 8, include costs and time for compliance with all applicable federal requirements (Section 3, Davis Bacon, URA, NEPA, etc.) in project pro forma and timeline.

#### **IV. EVALUATION AND SELECTION CRITERIA**

Staff will evaluate proposals received by the submittal deadline based on the qualifications of the proposer/applicant, how well the proposed project concept addresses the goals and objectives of this RFP and the City's Housing Element, Downtown Specific Plan, and other land use and/or policy documents. The staff committee will award points based on the Scoring Sheet provided at the end of this RFP, as well as on the committee's assessment of how well the proposal responds to the criteria below, the goals of this RFP, and overall positive attributes and expected public benefits of the proposal. The scores issued by the staff scoring committee shall be advisory to the City Manager, serving as an evaluation tool in the selection process, but shall not limit the City's discretion in final selection of a developer, and may not be appealed by the proposers or any other party for any reason.

##### **General Requirements:**

- Housing units will remain affordable for at least 55 years;
- The project's design, management plan, and on-site services plan promotes a healthy living environment for tenants and a compatible relationship with neighbors;
- The project costs are reasonable, the financing plan and the development and operating pro formas are reasonable and realistic, and it can reasonably be expected to be successful in securing funding from highly competitive sources;
- The project meets the minimum density requirement for the site (at least 75% of the maximum density allowed by the DSP) and includes a commercial component as required by the DSP;
- The project design is attractive, compatible with its surroundings, and will incorporate "Green" building practices and materials to the extent possible;
- Project incorporates TOD design features and TDM best practices in order to minimize potential negative impacts to the neighborhood such as increased traffic, noise, and on-street parking demands.
- The project incorporates appropriate community spaces, amenities and services for the target population, such as child care, vocational counseling, and/or health care;

##### **Priority Housing Needs**

- Rental units affordable to extremely low, very low, and low-income households;

- Rental units affordable to and accessible to special needs households (elderly, disabled, homeless, and/or other special needs groups).

### **Applicant Experience and Capacity**

Proposers' capacity and experience will be evaluated based on, but not limited to the following:

- Prior experience and technical competence of the proposer in completing and managing affordable housing developments of similar scope, complexity, and magnitude;
- Proposer's experience in partnering with the City of Sunnyvale or other local agencies, and
- Proposer's track record in use of public funds, properties or other public resources.
- Proposer's experience in working with the community to garner support for residential developments.
- Proposer's financial standing, financial references, possibly including review of materials such as audited financial statements, annual reports, operating budgets, available resources;
- Proposer's capacity to work cooperatively with City representatives and the community in design and development of the project;
- Proposer's track record in obtaining required financing and permits within time frames similar to those to be set forth in the ENA, and ability to complete development of the project within the time frames set forth in the AHDA, based on applicant's track record on similar projects.

### **Proposed Preliminary Financing Plan and Development Budget**

Proposals will be evaluated in this category based on proposed price and terms for the City property; the minimum City funding contribution (if any) needed to finance the proposed project and/or acquisition costs; and the degree to which any City contribution is leveraged with other funding sources. These factors will be evaluated in light of the proposal's relative public benefits and other positive attributes, such as the quality of the community outreach and tenant selection plans.

## **V. SUBMITTAL REQUIREMENTS**

Proposals must include the following materials:

- Three printed copies of the proposal and any supporting materials, double-sided and each copy bound separately, with one cover letter with an original signature from a principal or executive director of proposer. If proposer consists of a team of several entities, an authorized representative of each entity shall sign the cover letter.
- All application materials must also be submitted on a thumb drive in the form of one or more .pdf files. PDF files shall not exceed 5 MB in size.

***PLEASE NOTE:*** The City may, at its sole discretion, request that proposers modify or supplement their proposal with additional information following initial submittal. The City reserves the right to reject any or all proposals submitted, to cancel this RFP, and/or to modify and reissue the RFP at any time.

**PUBLIC RECORDS:**

*Pursuant to the California Public Records Act, all documents submitted in response to this RFP will be considered public records and will be made available to the public upon request. Proposals received may be posted on the city's website as part of the review process. Please do not submit any information to the City that you wish to keep confidential.*

**VI. SUBMISSION COMPONENTS**

- 1. Statement of Interest:** Provide a statement of proposer's interest in development of the project; highlights of the proposer's qualifications; proposer's understanding of the objectives of the RFP; and a brief description of project team.
- 2. Applicant Qualifications:** Provide an organizational chart describing the entities and key personnel on the proposer's team; CV's for lead personnel, and a brief description of similar projects completed by the team in the past fifteen years. Provide at least three letters of reference for each entity included on the project team from parties or agencies involved in the projects listed.
- 3. Project Description:** Provide a narrative description of the general development concept and affordable housing program proposed for the Project Site, addressing the details noted in Section III and IV of this RFP, such as unit mix, target clientele, financing plan, etc. Describe how the proposed concept addresses the objectives listed in this RFP. Renderings or graphic portrayals of the proposed project and/or preliminary site plans may be submitted but are not required.
- 4. Financial Terms:** Describe the general terms applicant proposes for the land transfer and the approximate amount and form of any City assistance applicant deems necessary to finance the project, including for site acquisition or other development costs. Include a financing plan, development pro forma and operating pro forma.
- 5. Other Items:** Include a detailed community outreach plan and proposed tenant selection plan for the project.

**Deadline to Submit:**

**5:00 P.M. on May 30, 2016**

**Proposals received after this time will not be considered.**

Proposals must be delivered in person or by mail or other delivery service to:

City of Sunnyvale Housing Division  
Attn: Shila Behzadiaria, Assistant Planner  
456 West Olive Avenue / PO Box 3707  
Sunnyvale, CA 94088-3707

**Proposals delivered by fax, email, or other electronic means will not be accepted.** Incomplete and/or late proposals (those which do not fully meet Sections V and VI above) will not be accepted or evaluated.

## **VII. SELECTION AND NEGOTIATION PROCESS**

1. A staff evaluation committee established by the City Manager for this purpose will review proposals for completeness and to verify that both the applicant and the proposed project respond to the requirements of this RFP. Proposals determined to be non-responsive will not be considered or evaluated. Any proposals deemed ineligible or non-responsive may appeal to the City Manager for reconsideration at the City Manager's sole discretion.
2. The staff evaluation committee may invite applicants for brief interviews with the staff evaluation committee to clarify or discuss any aspects of the proposals, at its discretion. The committee will evaluate those proposals deemed eligible and responsive to the RFP based on the major evaluation categories noted above and the Scoring Sheet provided at the end of this RFP.
3. Staff will select the preferred developer from among the responsive proposers and begin preliminary discussions regarding the terms of a potential ENA with that developer. If staff is not able to reach preliminary consensus with the first developer, staff may, in staff's sole discretion, terminate those discussions, release the first preferred developer from the list of potential candidates, and begin discussions with the next most-preferred developer on a potential ENA.
4. Once staff has reached initial consensus with a preferred developer regarding the terms of a potential ENA, staff will schedule a Council hearing on the draft ENA with the preferred developer. The ENA will be valid for an initial period of one year, and may be extended by the Council at its sole discretion.
5. Following Council approval of the ENA, the selected developer will be authorized to work with City staff to further develop a project proposal, begin the land use entitlement process, conduct community outreach, and negotiate the AHDA. The AHDA would establish the preliminary terms for the ground lease, loan and regulatory agreements and other project prerequisites.
6. Following Council approval of the AHDA, the preferred developer would complete the land use entitlement process (as needed), finalize its financing of the project, obtain the City building permits and other agency approvals, and schedule the execution and recording of the ground lease and loan and regulatory agreements. This step is subject to further refinement upon discussion with the preferred developer.

## **VIII. PROPOSAL REVIEW TIMELINE**

The approximate timeline for evaluating and selecting proposals is provided below. This timeline may be adjusted by the City at any time. Please contact the Housing Division to

verify the current timeline. Further milestones for the development will be set forth in the ENA.

Task	Target Date
Issue RFP	April 15, 2016
Pre-Submittal Meeting for Proposers	April 25, 2016
Proposals Due	May 30, 2016
Staff Evaluation Period	June 2016
Select Proposer & Begin ENA Negotiations	Mid-July 2016
Council Approval of ENA/Proposer	September 2016

### **Pre-Submittal Meeting**

Applicants are highly encouraged to attend this meeting for more information about the RFP and the application and evaluation process, followed by a question and answer session. Staff from Planning, Housing, and possibly other City departments will attend to answer questions.

**Meeting Time: 2:30 pm to 4:00 pm**

Monday, April 25

**Location:** West Conference Room

Sunnyvale City Hall

456 W. Olive Avenue, Sunnyvale, CA 94087

**Please RSVP** if you plan to attend by contacting Shila Behzadiaria at (408) 730-7456 or [sbehzadi@sunnyvale.ca.gov](mailto:sbehzadi@sunnyvale.ca.gov) with your name, organization, email and phone number.

## **IX. CITY CONTACTS AND RESOURCES**

For further information about this RFP, please contact Suzanne Isé, Housing Officer at (408) 730-7698 or by email to [sise@sunnyvale.ca.gov](mailto:sise@sunnyvale.ca.gov).

For information regarding the City's development review procedures, zoning, and other Planning information relevant to the Project Site, please contact Gerri Caruso, Principal Planner, at (408) 730-7591 or by email to [gcaruso@sunnyvale.ca.org](mailto:gcaruso@sunnyvale.ca.org).

Other resources available online:

- Links to the City's Zoning Code, General Plan, Downtown Specific Plan, and related requirements are available online at [Planning.inSunnyvale.com](http://Planning.inSunnyvale.com)
- Green Building requirements are available at [GreenBuilding.inSunnyvale.com](http://GreenBuilding.inSunnyvale.com)
- For Building information or additional assistance, please contact the City's One Stop Permit Center at (408) 730-7444.

**X. DISCLOSURES AND CHANGES TO RFP PROCESS**

All proposals will become the property of the City, and may be reproduced **in full or part and/or** published online and/or on paper for public review, and will not be returned to the proposers. Proposals will be public records. Please do not submit any information that is confidential.

**The City of Sunnyvale reserves the right to request additional information from applicants, reject any and all submittals, waive any irregularities in the submittal requirements, or cancel, suspend or amend the provisions of this RFP at any time. If such an action occurs, the City will notify all applicants, and any other parties requesting such notice, by posting updates online at:**

**[Housing.inSunnyvale.com](http://Housing.inSunnyvale.com)**

### SCORING SHEET

Category	Maximum Points
<p><b>1. Organizational Capacity and Relevant Experience of Applicant</b></p> <ul style="list-style-type: none"> <li>• Development team members are well qualified to complete and operate project, considering years of relevant experience and number of similar projects completed.</li> <li>• Applicant has the appropriate technical and professional staff available to implement the proposed outreach plan, explore various project design alternatives, operational and programmatic alternatives, financing options, etc. and prepare a complete Planning application package, refined financing plan, tenant selection plan, and other required materials within a reasonable timeframe following approval of the ENA.</li> <li>• Applicant's track record on similar projects demonstrates applicant's ability to successfully obtain highly competitive funding sources and complete projects of similar magnitude, complexity, and in similar contexts to that of the Project Site.</li> </ul>	<p><b>20</b></p>
<p><b>2. Addressing Housing Needs</b></p> <ul style="list-style-type: none"> <li>• Project clearly addresses one or more housing goals or priority needs identified in the RFP, City's Housing Element and/or Consolidated Plan (ConPlan). Stated need for project and proposed project are supported by letters from community members or local organizations other than applicant. Proposed project would provide significant public benefits compared to competing proposals, and/or addresses an urgent housing need in the community.</li> <li>• Up to half of the points in this category will be awarded only to proposals committing to reserve at least 15% of the units for special needs tenants, which may include: seniors, developmentally disabled adults, other adults with a serious physical or mental disability, and/or adults transitioning out of homelessness, youth aging out of foster care, or other special needs groups identified in Housing Element and/or ConPlan. Proposals must address how units reserved for such tenants will be made affordable to such tenants based on current information about the average income level of the particular special needs group identified in applicant's proposal (i.e., through use of project-based subsidies or other operating subsidies, etc.).</li> </ul>	<p><b>15</b></p>
<p><b>3. Project Objectives</b></p> <ul style="list-style-type: none"> <li>• Degree to which project meets the Development Parameters and General Project Requirements listed in Sections III and IV of RFP;</li> <li>• Project concept (physical, programmatic, and operational) is cost-effective, feasible, compatible with the neighborhood, consistent with the DSP, provides significant public benefits, effectively utilizes the Project Site, and addresses the goals stated in the RFP and related City goals.</li> <li>• Quality and effectiveness of community outreach plan; effectiveness of proposed tenant selection plan in addressing Sunnyvale housing needs.</li> </ul>	<p><b>20</b></p>

Category	Maximum Points
<p><b>4. Budget and Financial Capacity</b></p> <ul style="list-style-type: none"> <li>Financial capacity points based on applicant's strong record of financial and regulatory compliance at other projects owned or managed by applicant, availability of staff with requisite expertise in development financing, rental property management, and fiscal matters on applicant's team.</li> <li>Budget scores based on realistic cost estimates and budget for development and operation of project, and projected competitiveness of project in obtaining proposed sources of matching funds.</li> </ul>	10
<p><b>5. Leverage</b></p> <p>Points awarded based on percent of Total Project Cost to be funded with <b>non-City</b>* sources, multiplied by the number of points available (15). Total Project Cost must include the full market value of the City land (even if City assistance is requested to cover part or all of the land cost). City assistance, regardless of form (direct funding or land write-down) <u>does not count as leverage</u>.</p> <p><i>* Federal funds controlled by the City (CDBG, HOME) are also considered City sources.</i></p> <p><i>Example: Total project cost = \$50 million, including \$8 million in land cost. Proposer's financing plan shows City assistance for the project in the amount of \$10 million, and other, non-City sources for the remaining \$40 million required for the project. In this example, the project's Leverage ratio equals 80%:</i>  <math>\\$40 \text{ million} / \\$50 \text{ million} = 0.80</math>  <math>0.80 \times 15 = 12 \text{ points}</math></p> <p>The staff scoring committee, in its sole discretion, may opt to modify the formula or method for awarding Leverage points, so long as the modified method is applied consistently to all proposals and is substantially similar in intent to the above formula.</p>	15
<p><b>6. Affordability Level</b></p> <p>Percentage of units in the project that will be reserved for extremely low income (ELI) and very low income (VLI) households. Points will be awarded as follows: Up to 10 points shall be awarded for the percentage of ELI units, and up to 10 points for the percent of VLI units. In each category, 1 point will be awarded for every 5 percent of ELI/VLI units, as applicable, up to a maximum of 10 points for 50% ELI or VLI units, as applicable (e.g., to earn a score of 20 points, the project would need to include 50% ELI and 50% VLI units). Unit affordability is based on restricted rent limits, not current occupants' income levels.</p>	20
<b>Total Points Available</b>	<b>100</b>





# City of Sunnyvale

## Agenda Item

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**16-0036**
**Agenda Date: 1/12/2016**


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Study Session Summary of December 15, 2015 - Discussion of Potential Uses of City-owned Property located on Charles Street and Mathilda Avenue near Iowa Avenue

### **Call to Order:**

Vice-Mayor Martin-Milius called the meeting to order at 6 p.m.

### **City Councilmembers Present:**

Mayor Jim Griffith  
 Vice Mayor Tara Martin-Milius  
 Councilmember David Whittum  
 Councilmember Pat Meyering  
 Councilmember Jim Davis  
 Councilmember Glenn Hendricks  
 Councilmember Gustav Larsson

### **City Councilmembers Absent:**

None

### **Study Session Summary:**

Assistant City Manager Hanson Hom summarized the status of the Downtown Specific Plan and discussed possible land use options for the City-owned Charles Street property and the process for sale or lease of the property.

Councilmembers made the following comments:

- Define the success criteria for the future use of the property.
- Seek public input from adjacent residents on the future use of the property as it will affect the neighborhood.
- Some Councilmembers expressed interest in renting out the existing dwellings during the interim period, while others felt the dwellings should be removed.
- A suggestion was made to explore having Habitat for Humanity purchase the isolated single-family lot, but it was cautioned that this might impede the future development of the block.
- Preference was expressed for holding onto the property as a long-term asset and entering into a long-term ground lease rather than selling.
- Priority should be placed on establishing a use that would provide a public benefit instead of just selling the property (e.g. for market rate housing).
- The existing residential designation in the Downtown Specific Plan should be retained, but it may not be suitable to develop the property at the maximum capacity allowed in the Plan.

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**16-0036****Agenda Date: 1/12/2016**

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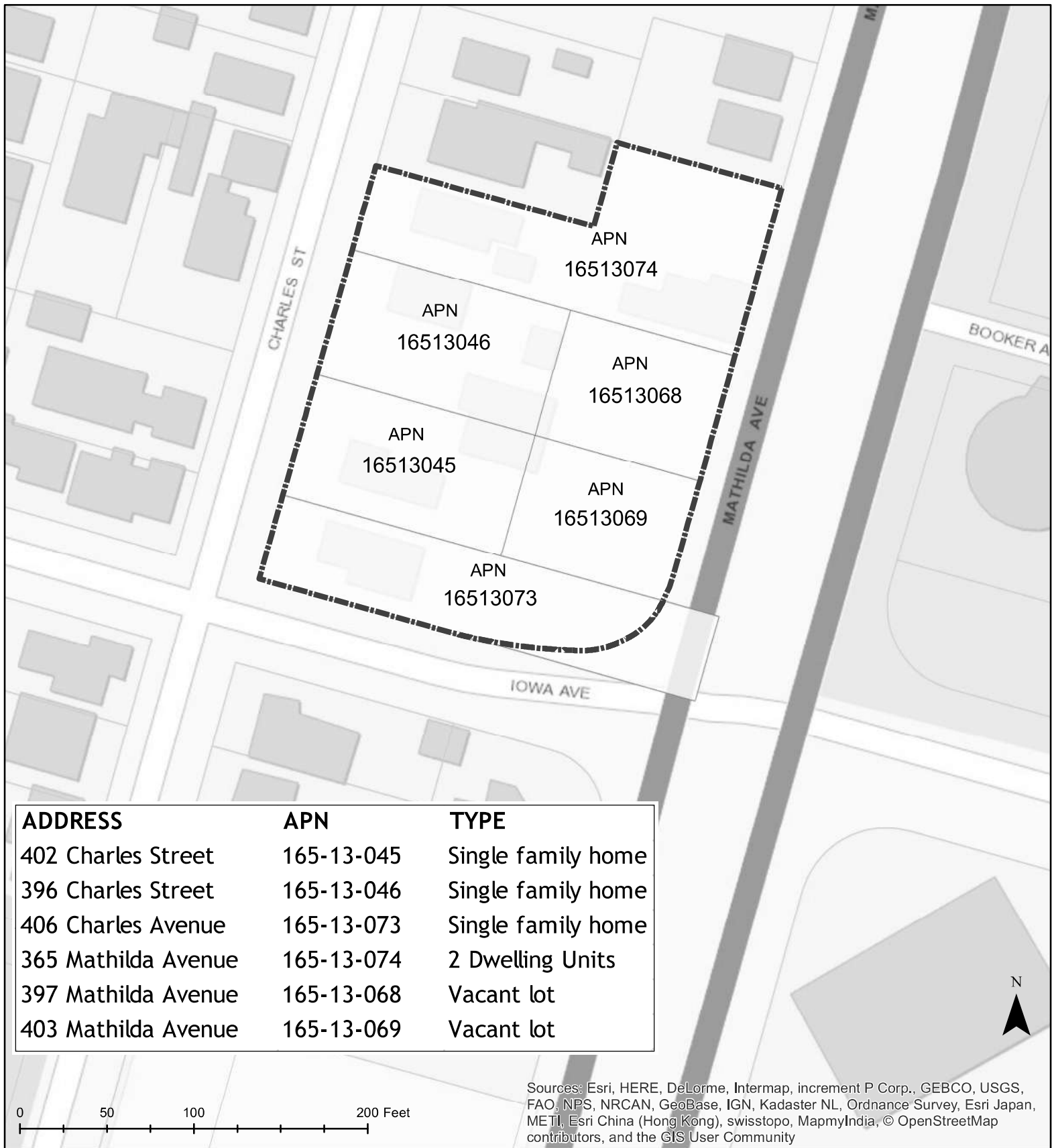
- Preference was expressed for affordable housing, either a senior housing project or a mixed project with a portion targeted for seniors. Housing for developmentally or physically disabled seniors should be considered. Councilmembers were interested in seeing proposals.
- Ambivalence was expressed about County involvement in the project.
- Consider a financing strategy similar to the Armory site where the long-term ground lease would be funded with Housing Mitigation Funds, which would then be deposited into the General Fund.
- Consider holding onto the property for property appreciation and acquiring and assembling adjacent parcels as the opportunities arise. Consider for a possible land swap also.
- Regarding number of potential residents, if the units are smaller (e.g. studios) the occupancy will be lower. Density can be deceiving as it depends on the type and size of the units.
- Site is not a good location for a park.

**Public Comment:**

- The site is unique and would be ideal for affordable housing and could serve several client groups.
- With the rise in rents, there is a strong need for affordable rental housing in the community.
- Pleased to hear the Council's interest in prioritizing the site for affordable housing.
- Consider housing for extremely low income (less than 30% average median income) to meet the City's Housing Element goals.
- Site is at a great location with good walkability and transit.

**Adjournment:**

Vice-Mayor Martin-Milius adjourned the study session at 6:50 pm.

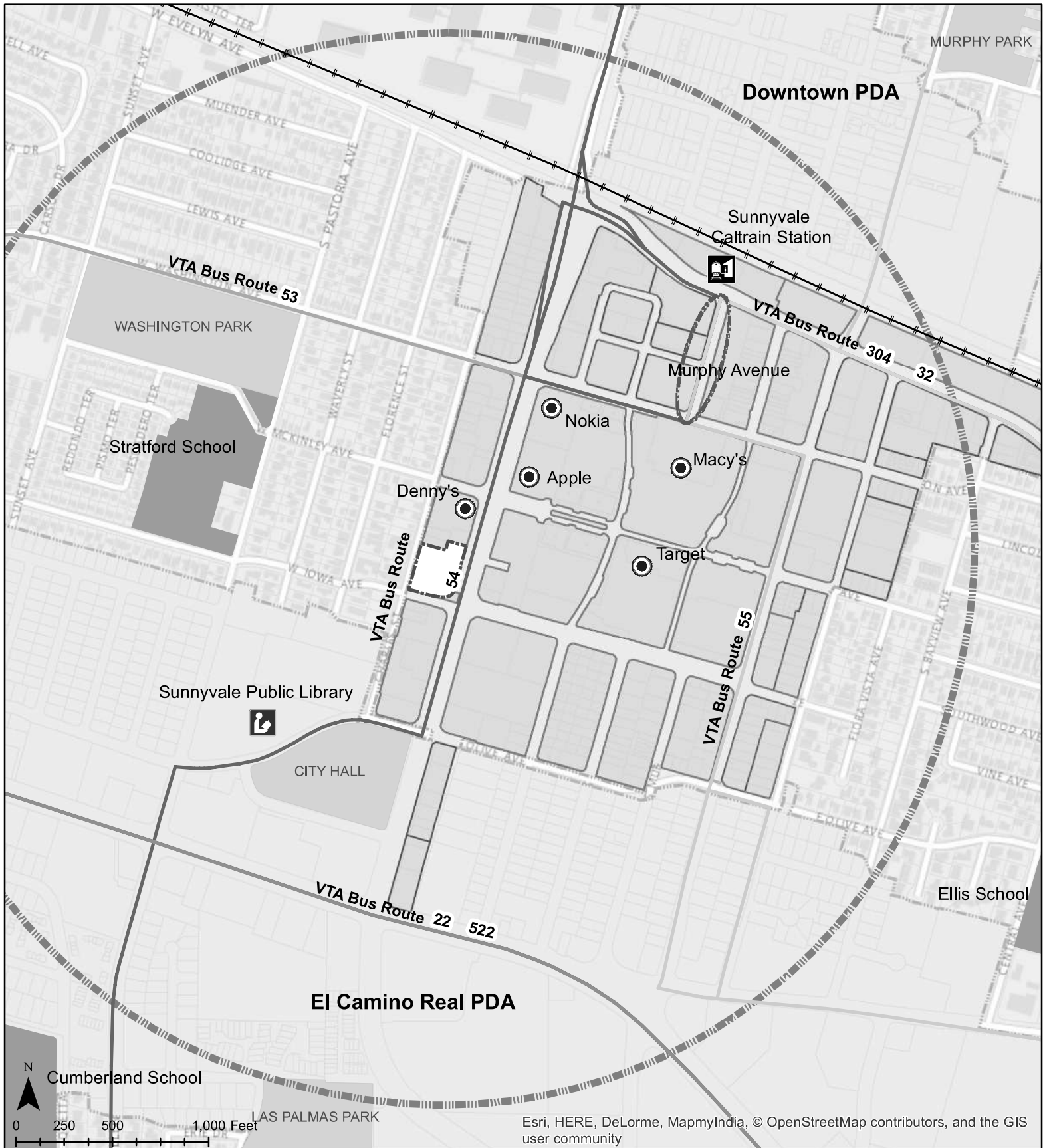


# Project Site Map

## *In Block 15 of the Downtown Specific Plan*

- 1.44 acres (62,533 sq. ft.)
- \$7.82 million appraisal value (December 2014)





# Vicinity Map

## In Downtown Specific Plan Area



# County of Santa Clara

Office of the County Executive

County Government Center, East Wing  
70 West Hedding Street  
San Jose, California 95110  
(408) 299-5105



November 16, 2015

Deanna J. Santana  
City Manager  
City of Sunnyvale  
456 W. Olive Avenue  
Sunnyvale, CA 94086

Deanna:

In December of 2014, the Board of Supervisors adopted a series of policies for addressing the affordable housing crisis and homelessness throughout Santa Clara County. The Board placed a priority on the development of housing for extremely low-income and special needs populations.

Since that time, County staff have been seeking partnerships with cities and affordable housing developers to implement the Board's priorities. For example, the County agreed to lease County-owned land to Charities Housing Development Corporation and committed \$12 million to develop 160 units of supportive housing at 2500 Senter Road in San Jose. In addition, the County has been working with staff from cities to facilitate the development of more affordable and supportive housing. These efforts include two projects proposed by First Community Housing in downtown San Jose - North San Pedro Apartments containing 135 mixed income units and South Second Street Studios containing 134 permanent supportive housing units.

I have been made aware that property within the City of Sunnyvale known as "Block 15" has no specific development plan at the current time. I also understand that a study session is scheduled in December with the City Council to discuss potential development options for the Block 15 site. The County believes this site could represent a great opportunity to partner and create a supportive and affordable housing development project that is consistent with Sunnyvale's Downtown Specific Plan. I would like to indicate that the County is very interested in exploring how we can work together to make this happen and would be happy to participate in whatever process the City of Sunnyvale deems appropriate.

Feel free to contact me at (408)299-5180 or Ky Le at (408)793-0551 to discuss next steps or what information you need from us to move forward. Thank you.

Sincerely,

Gary A. Graves  
Chief Operating Officer



# City of Sunnyvale

## Agenda Item

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16-0301

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### SUBJECT

Introduce an Ordinance to Amend Titles 3 (Revenue and Finance) and 19 (Zoning) of the Sunnyvale Municipal Code related to the Transportation Impact Fee and Housing Impact Fees in Conjunction with the Study Issue to Evaluate the Timing of Park Dedication In-lieu Fee Calculation and Payment (2015-7151) (Continued from March 15 and March 29, 2016)

#### REPORT IN BRIEF

On September 30, 2014, while discussing the fair market land value for the Park Dedication In-Lieu Fee, the City Council sponsored a study issue to evaluate the timing of park dedication in-lieu fees calculation and payment. During the public hearing, members of the development community requested that mitigation or impact fees be calculated at the time a planning application is determined to be complete. On January 30, 2015, the City Council approved the study issue with an expanded scope (Attachment 1) and directed staff to provide options to simplify the process of fee calculation and collection for all development related mitigation fees.

There are four mitigation fees commonly associated with development applications: Transportation Impact Fees (TIF), Housing Impact Fees (HIF), Park Dedication In-lieu Fees (PIL) and Sense of Place (SOP) fees (currently in three geographic areas). All of these impact fees are required by the Sunnyvale Municipal Code (SMC), except for Sense of Place fees that are identified by area plans and imposed by the City Council in the annual Fee Resolution and implemented through conditions of approval. Other impact fees are project specific, or may be associated with other agencies not under City control (e.g., school impact fees). This report focuses on three mitigation fees required in the SMC: TIF, HIF, and PIL for rental (no subdivision map) housing developments. The timing of SOP fee calculation can be modified administratively, depending on City Council action. Currently, the timing for calculation of these fees varies as shown in a table within the discussion section of this report.

This report provides options on when development impact fees could be calculated, pointing out pros and cons of each option. Staff recommends the adoption of an ordinance to amend Title 3 (Revenue and Finance) and Title 19 (Zoning) of the SMC related to the TIF and HIFs to establish mitigation fee calculation at the time of building permit application (which is the current requirement for rental housing PIL and building permit fees). This approach will reduce error and streamline development processing. It is important to note that this recommendation could result in slightly lower revenue to the City; however this situation is partially offset against the cost of staff time to process applications and to correct any errors. The differences in revenue are discussed in more detail below and further demonstrated in Attachment 4.

The Planning Commission considered this item at its regular meeting on February 22, 2016 and passed a motion (7-0) to recommend Alternative 1 (staff recommendation) to the City Council. The



minutes from that hearing are included as Attachment 6.

## **BACKGROUND**

Annually, on a fiscal year basis, the Director of Community Development determines the fair market value for an acre of land in the City for the Park Dedication In-lieu Fee (PIL) and presents it to the City Council for their consideration as part of the review and adoption of fees. On September 30, 2014, the City Council sponsored the study issue the timing of calculation and payment of PIL fees (see Attachment 1) after a public hearing regarding the fair market value of land, based on requests from the development community. The minutes from that hearing are included as Attachment 5.

Staff supported this study issue in a broader form as stated in the “staff recommendation” section: “This study would allow a focus on the date in-lieu fees are established, and could provide options to simplify the process of fee collection for all development fees.” Therefore, the focus of this study was expanded to evaluate the timing of fee calculation and payment for all development in-lieu (or mitigation) fees. Staff had been discussing internally the possible need for uniformity in the timing of fee calculations before City Council prioritized this as a study issue.

## **EXISTING POLICY**

### **COUNCIL POLICY MANUAL**

#### **Chapter 7 - Legislative Management**

##### **Long Term Financial Goals**

VII. To ensure accuracy and policy consistency in City processes and reporting through regular financial and performance audits of programs.

## **7.1B REVENUE POLICIES**

B.3.4 Monthly reviews and periodic audits of all major locally administered revenue sources will be conducted.

## **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

## **DISCUSSION**

Mitigation or in-lieu fees are collected based on the recognition that development projects create impacts and therefore should contribute to the mitigation of those impacts. There are several types of mitigation programs associated with development projects, mostly fee-based; these revenues are used for a variety of mitigation efforts within the City. The following sections provide an overview of the various mitigation fee types and the current regulations on calculation and payment for each. A following section evaluates the pros and cons of different times the fees could be calculated.

### **Common Mitigation Fees Associated with Development Applications**

#### **Transportation Impact Fees (TIF)**

(SMC Chapter 3.50, see Attachment 3)

Adequate transportation improvements are needed to protect the health, safety, and general welfare of the community members to facilitate transportation, and to promote economic well-being within the city. All types of development require and use the street system (vehicles, bicycles and pedestrians).

In order to ensure that the appropriate level of service is maintained, and to promote the health, safety, and general welfare of the community, it is necessary that new development pay a fee (the TIF) representing its share of costs of the necessary improvements. The TIF is assessed for net new peak hour trips of all types of development or changes in land use. By code, the TIF fee is currently calculated at time of payment.

There are nuances to the current TIF that are worth mentioning because they effect when this fee may be calculated and paid:

1. There is opportunity to “pre-pay” the TIF for development applications based on the wording in the SMC which states, “the fee shall be paid in full to the city before any building permit is issued.” This means that the TIF could be paid at any point after a project is approved, including in an earlier fiscal year than the building permit issuance.
2. In the Moffett Park Specific Plan area, an applicant may obtain an extended, seven-year entitlement by prepayment of at least 25% of the TIF applicable to the project. Therefore, if the fees were calculated at planning application completeness and a project within the Moffett Park area did not apply for building permits for seven years the fees that would have been collected at the submittal could be 14-21% higher. Receiving the fees earlier would allow the City to put it to use for the intended mitigation earlier, or earn interest, however interest rates have been substantially lower than cost of living changes in recent years.

### **Housing Impact Fees (HIF)**

(SMC Chapter 19.75, see Attachment 3)

The payment of housing impact fees for certain types of development is used to mitigate the impact of non-residential and residential developments have on affordable housing in the City of Sunnyvale. The HIF implements the housing element of the City’s General Plan and California Government Code Section 65583(c), which expresses the state housing policy that requires cities to assist in the development of adequate housing to meet the needs of lower-income households. HIF are placed in the City’s housing mitigation fund and used to support the development of affordable housing within the city. The provisions for housing mitigation were amended in July 2015 and are assessed on market rate rental housing and for most non-residential developments on net new square footage.

### **Park and Open Space Land Dedication In-lieu Fee (Quimby Fees)**

(SMC Chapter 18.10, see Attachment 3)

This fee is related to ownership housing projects that involve subdivision maps, also known as “Quimby Fees”. It is based on the fair market value in effect at the time the final map is complete and is paid upon approval of the final map. The in-lieu fee is required when land dedication is not possible, practical or desirable or under other circumstances outlined in SMC section 18.10.020(b). When dedication is part of a subdivision application, the City obtains title to the park property as part of the recordation of the final map.

Because Quimby fees are tied to the approval of a final subdivision map, staff does not recommend changes to the timing of calculation and payment of these fees.

### **Park Dedication In-Lieu Fees for Rental Housing Projects (PIL)**

(SMC Chapter 19.74, see Attachment 3)

Additional residents from new multifamily rental housing projects affect the use and availability of parks and recreation space and facilities in the city. The required open space and recreation amenities provided in multifamily residential housing projects are generally insufficient to meet all the



park/open space needs of the residents. The PIL fees are intended to treat multifamily/rental housing developments in a similar manner as ownership residential development by requiring that such development contribute its fair share toward park land or improvements, and/or purchase and development of parks and recreational facilities. PIL fees are assessed for net new residential units when three or more units are built. Any dwelling units designated as affordable housing are exempt from the total number of dwelling units used in calculations.

### **Sense of Place Fee (SOP)**

Three geographic areas are currently subject to SOP fees (Tasman Crossing, Fair Oaks Junction and East Sunnyvale). The need for SOP fees is determined in area plans, the fees are established by City Council in the annual fee resolution and the fees are required as a Condition of Approval of planning applications. SOP fees are used to plan and construct public improvements that: enhance the quality of life for residents and employees of an area through improved pedestrian access to parks, open space, schools, retail amenities and public transportation; encourage pedestrian, bicycle, and transit use through streetscape improvements, land use planning, and architectural design; and, aim toward “complete street” designs that accommodate movements of all modes of transportation including bicycle, pedestrian and transit traffic. SOP fees and related improvements augment the site-specific sense of place improvements and also provide matching funds for grants for improvements that benefit a larger area.

SOP fees are not reviewed in this report because SOP fees are not addressed in the SMC. The process for fee calculation and collection is based on standardized language used in a condition of approval. In order to attain consistency; the Community Development Director can adjust the recommended condition of approval language to mirror action taken by City Council on the other impact fees.

### **Focus of the Discussion**

This report focuses on three mitigation fees required in the Sunnyvale Municipal Code (SMC): Transportation Impact Fees (TIF), Housing Mitigation Fees (HMF) and Park Dedication In-Lieu fees for rental housing (PIL).

### **Mitigation Fee Calculation and Payment Schedule**

The SMC sets forth the timing of calculation and payment of most development fees. The timing of building permit fee calculation is not specified in the codes. By long-standing practice, Sunnyvale and other cities in Santa Clara County calculate fees at building permit submittal; plan check fees are paid at building permit submittal and all other fees are paid when the permit (i.e., building permit, mechanical permit, and electrical permit) is issued. As shown in the table below, there are currently inconsistencies with regard to when impact fees are calculated:

Fee	Time of Fee Calculation			Time of Fee Payment	
	Building Permit Submittal	Time of Payment	Final Map Completeness	Building Permit Issuance	Approval of Final Map
Building Permits	X			X	

Park Dedication In-lieu fee for Subdivisions			X		X
Park Dedication In-lieu Fee for Rental Properties	X			X	
Housing Impact Fee		X		X	
Transportation Impact Fee		X		X	
Sense of Place Fee*	X			X	

\*The Sense of Place Fee calculation and payment requirements are stated in the project conditions of approval.

Inconsistencies in the timing of fee calculations can lead to confusion on fee rates for staff and developers, potentially resulting in errors if a project's building plan check period spans across a new fiscal year.

Calculating the mitigation fees at the time of building permit issuance (HIF and TIF) can create additional room for error based on the way a building plan check works for some projects. The calculation of the mitigation fees is completed by the project planner and the permits are issued by the building division. Often, the permit is issued several weeks or months after the project planner has calculated the fees and approved the building permit as satisfying all zoning and planning permit conditions of approval. If a project's plan check time period spans across a fiscal year the fee would need to be recalculated prior to permit issuance under current regulations. This situation can occur when a project includes multiple residential units; a master plan check is completed and then individual building permits are issued for separate buildings or units without the need to reroute the plans to multiple divisions for further review. A few times a year permits have been issued with the fees amounts that were entered in the plan check system at project submittal and the error is discovered during fee audits several months later. Staff then follows up with the applicant to collect the balance of the fees. If the fees were all calculated at the time of building permit submittal, (as the building permit fees are) there would be a smaller margin of error for staff since the rate that is in place at the time of the planner's first review would be maintained for the duration of the plan check process.

To illustrate how commonly this occurs, staff looked at the building permit records for the last five fiscal years and found that 68 projects were issued building permits that were subject to development mitigation fees described above. Of the 68 projects, 24 (35%) of the projects were in the plan check process that spanned over a fiscal year. Permits were issued with dated mitigation fees times several times. Both the building and planning staff are now aware of this potential issue and have worked to eliminate the errors.

A hallmark of Sunnyvale's economic development environment is efficient processing of applications and predictability in the process and time frames for review. These practices are also important to residents and would be relevant to this study when there is a new accessory dwelling unit on a single-family lot as TIF is required for these uses. If all of the fees are calculated up front when the building

application is submitted, the applicant has sufficient time to obtain the necessary funds and financing to pull building permits once the review is completed.

### **Other Cities**

Staff surveyed several of the other cities in the County to see when fees are generally calculated and paid. While other cities do not have exactly the same mitigation fees that Sunnyvale has, it was learned that three of four cities that imposed mitigation fees calculate or lock them in at the time of building permit submittal and require payment at building permit issuance (Mountain View, Los Gatos, Cupertino and Milpitas) as shown in the table in Attachment 7. Milpitas updates the mitigation fees prior to building permit issuance.

### **Options to Consider**

Three options are presented that create consistency in when how mitigation fees are calculated and collected.

#### ***Option A (Staff Recommendation): Modify the TIF and HMF Regulations to match the Rental Housing PIL and Calculate at the Rate in Effect at Building Permit Submittal***

Adopt an ordinance (see Attachment 2) to amend Titles 3 (Revenue and Finance) and 19 (Zoning) of the SMC related to the TIF and HIFs to match the language in SMC section 19.74.060, "The fair market value applicable to the calculation of all park in-lieu fees shall be based on the fee in effect at the time of complete building permit application submittal. The calculation of all park in-lieu fees shall be applied at building permit application submittal and payable prior to building permit issuance." Large development projects typically file for building permits over several years. Each phase of building permit applications would generate updated fee calculations for that phase.

#### **Pros:**

- Creates consistency for timing of calculation and payment for development mitigation fees and related building permit fees.
- Informs project applicants on the total fees they will pay when their building permit is issued after the first round of plan check, regardless of the duration of their plan check process (provided they are making progress on their review).
- Reduces the complexity of the current process and the possibility of staff error calculating required mitigation fees when project review spans fiscal years (and reduces auditing/collection costs if incorrect fees were collected).
- For multi-building projects with permits submitted in different fiscal years, later buildings would have higher fees.
- Creates consistency with how neighboring cities process and collect development fees.

#### **Con:**

This option could result in an approximately 3% reduction of TIF and HMF mitigation fees collected by the City for development projects where a project's plan check process spans a fiscal year. Based on a review of five years data, the approach could apply to about 35% of the projects with impact fees, or about 1% of potential revenue.

#### ***Option B: Modify the TIF, HIF and PIL to Calculate Fees based on the rate in effect when Planning Application is Determined Complete***

The development community has suggested that fees should be calculated at the time a planning application is determined to be complete (and may be scheduled for a hearing) or alternatively, calculated at the time of planning application approval. This approach would make known the project costs earlier in the process. This option would require modifications to three sections of the SMC.

**Pros:**

- Provides certainty to the development community about mitigation fees.
- If mitigation fees are ever decreased, which did occur in the 2014-15 fiscal year for the TIF fee for projects south of 237, the fees calculated earlier in the process could benefit the City. This is a rare occurrence though, usually fees increase or stay at the same rate.

**Con:**

The option would result in less revenue for all impacts fees. When there is a delay in exercising the planning permit, there could be significantly lower revenue if the fee was determined when an application was determined complete - approximately 3% for every year delay in building permit application submittal for all projects with impact fees. A project that obtains the first building permit toward the end of the entitlement period could pay fees that were calculated three or four years before building permits are issued; resulting fee is about 12-15% lower than if calculated at building permit submittal. For large multi-phased projects (or projects for which the subdivision map timeline has been extended) the calculation could have been ten or more years earlier than the last building permit issued, or 35% lower fees. If the fee is determined at time of planning application approval, this difference in fees would be a little less with this alternative.

***Option C: Maintain the Status Quo***

Continue to calculate mitigation fees in the same manner that has been shown in the table above (according to the SMC).

**Pro:**

- Revenues for TIF and HMF for projects that have building permit applications that span fiscal years would be the same as current revenues which is slightly higher than the staff recommendation option.

**Cons:**

- Continued risk of error for fees for development projects whose plan check period spans into a new fiscal year and costs for auditing follow up.
- Continued risk of errors based on the inconsistency when the TIF and HIF are calculated vs. when PIF, SOP fees and all building permit related fees are calculated.

**FISCAL IMPACT**

Changes to the timing for when fees are calculated can make a difference on the overall fees collected by the City for a development project. Generally mitigation fees increase in a new fiscal year by 2-3%. However, as Park Dedication Fees are based on land value, the change can be more substantial and has been in recent years; this fee dropped 28% (from \$96 to \$69 per square foot) in 2010 and increased back to \$96 in 2014.

In order to illustrate what the changes could mean for collection of fees, staff has created a table (see

Attachment 4) that shows the total fees collected based on the fee calculation timing from the various options outlined above.

The table shows three general project types-rental residential, for sale residential and R&D. A 100 unit rental project was selected as this is an average sized rental development in the past five years and a 25 unit for sale multi-family project was selected for review. The R&D example is reflective of a single-building permit for this use (the entire project could have more buildings where permits are submitted in different phases). If fees are calculated at the time of Planning Application completeness, the revenues are the lowest and if all fees are calculated at the time of Building Permit Issuance, the highest amount of fees would be collected by the City.

In addition, creating consistency in how fees are calculated for development projects will decrease the risk of error in calculating fees for a project whose plan check period spans into a new fiscal year-as reported, an issue that does not occur regularly.

### **PUBLIC CONTACT**

Public contact regarding these study issues was made through the following ways:

1. Posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website;
2. Publication in the *Sun* newspaper, at least 10 days prior to the hearings;
3. E-mail notification of the hearing dates sent to all interested parties, neighborhood associations and developers; and
4. One developer outreach meeting held with interested parties to discuss the study issue on October 22, 2015.

### **Developer Outreach Meeting**

Staff conducted an outreach meeting with developers on October 22, 2015. Two members of the development community attended the meeting and both were in support of the recommended changes and the creation of consistency in when fees are calculated. One of the attendees also submitted a support letter (see Attachment 8).

Public contact regarding the study issue was made through the following ways:

No one spoke on the item at the Planning Commission public hearing on February 22, 2016.

### **ALTERNATIVES**

1. Introduce an Ordinance to Amend Titles 3 (Revenue and Finance) and 19 (Zoning) of the Sunnyvale Municipal Code related to the Transportation Impact Fee and Housing Impact Fees to calculate fees at the time of building permit submittal.
2. Introduce an Ordinance to Amend Titles 3 (Revenue and Finance) and 19 (Zoning) of the Sunnyvale Municipal Code with modifications to the staff recommendation.
3. Do not introduce an Ordinance to amend Titles 3 (Revenue and Finance) and 19 (Zoning) of the Sunnyvale Municipal Code and make no changes to the current practice at this time.

### **STAFF RECOMMENDATION**

Alternative 1: Introduce an Ordinance to Amend Titles 3 (Revenue and Finance) and 19 (Zoning) of the Sunnyvale Municipal Code related to the Transportation Impact Fee and Housing Impact Fees to calculate fees at the time of building permit submittal.

The recommended modifications to the Sunnyvale Municipal Code will help create consistency in the way development mitigation fees are calculated and paid and will also make them consistent with the way building permit fees are calculated. These changes will create consistency for all development fees and ensure fees are not calculated 2-3 years (or in a few cases, more than 10 years) before the project receives a building permit. The fee consistency will also help applicants know what they will pay in fees after the first plan check comments are received, regardless of how long they are in the plan check process. Staff acknowledges that impact fee revenues will be slightly lower and finds that the consistency will streamline training and the permit issuance process.

#### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission considered this item at its regular meeting on February 22, 2016 and passed a motion (7-0) to recommend that the City Council adopt an Ordinance to Amend Titles 3 and 19 (Alternative 1).

The Planning Commission was supportive of a streamlined process for fee collection and consistency in when fees are calculated in association with development applications. They recognized that some revenue may be lost with this change, but feel that consistency will lead to less time spent by staff on updating fees and a better understanding for project applicants to know what they will be paying once they submit for a building permit.

Prepared by: Amber Blizinski, Senior Planner

Reviewed by: Andrew Miner, Planning Officer

Reviewed by: Tim Kirby, Acting Director, Finance

Reviewed by: Trudi Ryan, Director, Community Development

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

#### **ATTACHMENTS**

1. Study Issue Paper
2. Draft Ordinance
3. Sunnyvale Municipal Code Sections 3.50, 19.74, 19.75 and 18.10
4. Fee Calculation Examples
5. Excerpt of City Council Minutes from September 30, 2014
6. Excerpt of the Planning Commission Minutes from February 22, 2016
7. Table Showing when other Cities Calculate Mitigation Fees
8. Public Comment Letter from Dostart Development Company, LLC



# City of Sunnyvale

## Agenda Item

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**14-0971**
**Agenda Date: 1/30/2015**


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### 2015 COUNCIL STUDY ISSUE

#### **NUMBER**

CDD 15-14

**TITLE** Evaluate Timing of Park Dedication In-lieu Fee Calculation and Payment

#### **BACKGROUND**

**Lead Department:** Community Development  
**Support Department:** Public Works

#### **Sponsor(s):**

Councilmembers: Hendricks, Griffith

#### **History:**

1 year ago: N/A

2 years ago: N/A

#### **SCOPE OF THE STUDY**

##### **What are the key elements of the study?**

Determine the appropriate time in the development review process to establish land value for the purpose of required park dedication in-lieu fees. The study would include a review of other jurisdiction approaches, legal limitations and the effects associated with different options.

##### **What precipitated this study?**

During City Council discussion on an update to the Park Dedication in-lieu fee land valuation, questions arose about the sequencing of development review and the calculation and collection of park dedication in-lieu fees. Council is interested in understanding the options, the effects on development, the effects on the City, etc.

**Planned Completion Year:** 2015

#### **FISCAL IMPACT**

##### **Cost to Conduct Study**

Level of staff effort required (opportunity cost): Moderate

Amount of funding above current budget required: \$0

Funding Source: N/A

Explanation of Cost: N/A

14-0971

Agenda Date: 1/30/2015

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**Cost to Implement Study Results**

Unknown. Study would include assessment of potential costs.

Explanation of Cost: The study will address how various times of fee calculation and collection would affect revenues.

**EXPECTED PARTICIPATION IN THE PROCESS**

Council-approved work plan: No

Council Study Session: No

Reviewed by Boards/Commissions: Planning Commission

**STAFF RECOMMENDATION**

**Position:** Support

**Explanation:** This study would allow a focus on the date in-lieu fees are established, and could provide options to simplify the process of fee collection for all development fees.

Prepared by: Andrew Miner, Principal Planner

Reviewed by: Trudi Ryan, Planning Officer

Reviewed by: Hanson Hom, Director, Community Development

Reviewed By: Robert A. Walker, Assistant City Manager

Approved By: Deanna J. Santana, City Manager



DRAFT 2/8/16 lum

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING SECTION 3.50.070 (FEE PAYMENT) OF CHAPTER 3.50 (TRANSPORTATION IMPACT FEE) OF TITLE 3 (REVENUE AND FINANCE) AND SECTION 19.75.020 (GENERAL APPLICABILITY) OF CHAPTER 19.75 (HOUSING IMPACT FEES) OF TITLE 19 (ZONING)**

WHEREAS, pursuant to study issue CDD 15-14, the City Council has reviewed the process of development review, calculation and collection of mitigation fees, specifically park dedication in-lieu fees, housing impact fees and transportation impact fees, and desires to make certain changes to the code for the purpose of simplifying the process of fee collection for all development fees.

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 3.50.070 of Chapter 3.50 (Transportation Impact Fee) of Title 3 (Revenue and Finance) is hereby amended to read as follows:

**3.50.070. Fee calculation and payment.**

Transportation impact fees shall be calculated at the time of complete building permit application submittal and~~The fee~~ shall be paid in full to the city before any building permit is issued. If no building permit is required, the fee shall be paid before a conversion of use of an existing building may take place. The fee shall apply to any project for a change in use or receiving a building permit on or after January 1, 2004.

SECTION 2. SECTION 19.75.020 of Chapter 19.75 (Housing Impact Fees) of Title 19 (Zoning) is hereby amended to read as follows:

**19.75.020. General applicability.**

(a)-(c) [Text unchanged]

(d) Calculation and Timing of Payment. Housing impact fees shall be calculated at the time of complete building permit application submittal and~~Housing impact fees~~ shall be paid prior to issuance of the first building permit for the project. A developer may pay all or a portion of the fee owed at any time prior to issuance of the building permit, at the rate in effect at the time payment is made. For phased projects, the amount due shall be paid on a pro rata basis across the entire square footage of the approved development, and each portion shall be paid prior to the issuance of any building permit for each phase.

SECTION 3. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment.

SECTION 4. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, 2016 and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
Date of Attestation: \_\_\_\_\_

\_\_\_\_\_  
Mayor

SEAL

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**Sunnyvale Municipal Code**[Up](#)[Previous](#)[Next](#)[Main](#)[Collapse](#)[Search](#)[Print](#)[No Frames](#)[Title 3. REVENUE AND FINANCE](#)**Chapter 3.50. TRANSPORTATION IMPACT FEE**

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**3.50.010. Authority.**

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This chapter is enacted pursuant to [Government Code](#) sections 66000 - 66009 and the charter city authority provided by the Constitution of the State of California. (Ord. 2737-03 § 1).

**3.50.020. Application.**

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This chapter applies to fees charged as a condition of development approval to defray the cost of certain transportation improvements required to serve new development within the city of Sunnyvale. This chapter does not replace other subdivision map exactions or other measures required to mitigate site specific impacts of a development project including but not limited to, mitigations pursuant to the California Environmental Quality Act; regulatory and processing fees; fees required pursuant to a development agreement; funds collected pursuant to a reimbursement agreement that exceed the developer's share of public improvement costs; or assessment district proceedings, benefit assessments, or taxes. (Ord. 2737-03 § 1).

**3.50.030. Intent and purpose.**

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(a) Adequate transportation improvements are needed to protect the health, safety, and general welfare of the citizens to facilitate transportation, and to promote economic well-being within the city. Transportation improvements are provided for residents, businesses, and employees within the city. Individual traffic improvements are part of an integrated transportation system serving and providing benefits to the entire city. New development within the city will create an additional burden on the existing street system. The Level of Service (LOS) standards set forth in the Land Use and Transportation Element of the General Plan shall be the standards used for determining necessary street and intersection improvements. Improvements to the existing street system in the city are needed both to mitigate the cumulative impacts of new development and to accommodate future development by maintaining the appropriate level of service on streets and intersections, or providing offsetting sidewalk and bicycle improvements to meet Santa Clara County congestion management program requirements.

(b) All types of development require and use the street system. There are not adequate public funds available to maintain designated levels of service at all intersections in the city. In order to ensure that the appropriate level of service is maintained, and to promote the health, safety, and general welfare of the community, it is necessary that new development pay a fee representing its share of costs of the necessary improvements. The transportation impact fee is based upon the evidence that new development generates additional residents, employees, and structures which in turn place an additional cumulative burden upon the local street system and should be expected to pay a share of the new facilities.

(c) The purpose of this fee is to help provide adequate transportation-related improvements to serve cumulative development within the city. However, the fee does not replace the need for all site-specific traffic improvements that may be needed to mitigate the impact of specific projects upon the city's street system. The transportation improvements for which the fee will be used are identified in the city's Capital Improvement Program (CIP) and/or in the Sunnyvale Traffic Mitigation Program Study, as exist at the time this chapter is enacted or as subsequently amended. (Ord. 2737-03 § 1).

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**3.50.040. Definitions.**

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The following definitions apply to this chapter:

(a) Intensification of Use. “Intensification of use” occurs when a use generates a greater number of peak hour trips than the prior use, according to trip generation rates contained in the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

(b) Traffic/Transportation Improvements. “Traffic Improvements” or “Transportation Improvements” includes all street and intersection improvements and related facilities, including, for example, sidewalks, bikeways and pedestrian and bicycle bridges, and equipment.

(c) Uses. “Uses” shall be defined as set forth in Title 19. The director of community development shall determine the appropriate land use category for any use not set forth, based on similarity of use, and peak hour trip characteristics of the use as indicated in the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. (Ord. 2737-03 § 1).

**3.50.050. Fee requirement.**

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(a) General. A transportation impact fee is hereby imposed on development which generates traffic and meets the requirements of this section. The amount of the fee shall be established periodically by resolution of the city council. The fee shall be based on the percentage of the cost of the new improvements attributable to new development as determined in the Sunnyvale Traffic Mitigation Program Study prepared by Hexagon Transportation Consultants (Hexagon), and future additions and amendments to the report, all of which are incorporated in this chapter by this reference.

(b) Types of Development Subject to the Fee. The fee shall be applicable to development projects throughout the city that: require a building permit for new or additional floor area, involve expansion of floor area of an existing use that requires a planning application pursuant to Title 19, result in a change of use intensifying the number of peak hour trips generated, or results in construction of new dwelling units.

(c) Fees shall be calculated as follows:

(1) Residential. Fees shall be charged for each new dwelling unit. No fee is applicable for remodeling or for an addition to an existing unit not resulting in a new unit.

(2) Non-residential. Fees shall be charged on a per square foot basis for all new gross floor area, including additions where floor area is increased. No fee is applicable for remodeling or restoration only, where the floor area is improved or replaced but not increased and there is no intensification of use. Gross floor area is determined in accordance with Title 19. Parking area and exterior walkways are not included in the fee calculation. The director of community development shall have authority to render final determinations regarding the appropriate classification of land use and the correct calculation of gross building floor area for a particular development project. For a development subject to a planning permit, the final review authority shall render the final determination on land use.

(3) Intensification of use. Fees shall be charged upon the incremental difference between the peak hour trips generated by a prior use and the peak hour trips generated by the proposed new use. Floor area measurement to calculate peak hour trips for a portion of a building when there is an intensification of use shall be to the exterior façade of building wall planes or from the center line of party walls.

(4) Trip Reduction. The final approval authority for developments subject to the impact fee may allow for reductions in the fee on certain developments that demonstrate site design features or binding trip reduction programs which significantly reduce trip generation below levels anticipated in the formulation of this chapter. Reductions shall be based on documentation of trip reduction and costs per trip used in the impact fee formulation. (Ord. 2737-03 § 1).

**3.50.060. Fee formula.**

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The amount of the fee shall be determined by the following formula:

$$\text{Fee} = \text{APHT} \times \text{ACT} \times \text{TLUU}$$

Where

APHT = Average Peak Hour Trips per Land Use Unit, defined as the number of evening peak hour trips per Land Use Unit for each category of land use as determined by the ITE Trip Generation Manual.

ACT = Average Cost per Trip, defined as the estimated traffic improvement costs attributable to new development within the city divided by the number of new evening peak hour trips associated with new development as determined in the Traffic Mitigation Program Study or subsequent amendments to the report.

LUU = Land Use Unit, defined as dwelling units for residential uses including hotels, or as square feet for non-residential uses, or other units as defined in the ITE Trip Generation Manual.

TLUU = Total Land Use Units, defined as the total number of residential dwellings or non-residential square feet or discrete units involved in the project subject to the fee.

(Ord. 2737-03 § 1).

**3.50.070. Fee payment.**

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The fee shall be paid in full to the city before any building permit is issued. If no building permit is required, the fee shall be paid before a conversion of use of an existing building may take place. The fee shall apply to any project for a change in use or receiving a building permit on or after January 1, 2004. (Ord. 2737-03 § 1).

**3.50.080. Authority for additional mitigation.**

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Fees collected pursuant to this chapter are not intended to replace or limit requirements to provide mitigation of traffic impacts not mitigated by the fee and created by a specific project, and imposed upon development projects as part of the development review process. (Ord. 2737-03 § 1).

**3.50.090. Exemptions.**

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Public park facilities, city buildings, and those government facilities entitled to an exemption under law, are exempt from the fee. (Ord. 2737-03 § 1).

**3.50.100. Fee credit.**

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The director of public works may adjust the fee imposed pursuant to this chapter in consideration for certain on-site and off-site facilities or improvements constructed or paid for by the developer. In determining an adjustment, the director shall give a developer credit for the value of improvements if the improvement is identified in the Traffic Mitigation Program Study and the developer: dedicates land for the improvement(s) identified in the study, constructs the improvement(s), finances the improvement(s) by cash, pays the

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assessments of an assessment district, or Mello-Roos Community Facilities District, or a combination of the foregoing. (Ord. 2737-03 § 1).

**3.50.110. Accumulation and use of funds.**

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(a) Transportation Impact Fee Fund. The city shall deposit the fees collected under this chapter in a special fund, the Transportation Impact Fee Fund, designated solely for transportation improvements.

(b) Use of Funds. The fees and interest earned on accumulated funds shall be used only to:

(1) Complete the traffic improvement projects specified in the Capital Improvement Program and/or the Traffic Mitigation Program Study, or to reimburse the city for such construction if funds were advanced by the city from other sources; or

(2) Reimburse developers, pursuant to a reimbursement agreement, who have been required or permitted to install improvements identified in the Traffic Mitigation Program Study which are oversized in width, length, or capacity, relative to demand generated by the subject project; or

(3) Pay costs required for the administration of this chapter. (Ord. 2737-03 § 1).

**3.50.120. Refund of fee.**

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(a) If a building permit or use permit expires, is canceled, or is voided and any fees paid pursuant to this chapter have not been expended, no construction has taken place, and the use has never occupied the site. the director of community development may, upon the written request of the applicant, order return of the fee and interest earned on it, less administrative costs.

(b) During the annual review pursuant to Section [3.50.130](#), the city council shall make findings with respect to any fee revenue not expended or committed five years or more after it was paid, as called for by [Government Code](#) Section 66001 or successor legislation. If the city council finds that there is unexpended revenue, the council, at its option, may refund or redirect those revenues, consistent with Section 66001 or successor legislation. (Ord. 2737-03 § 1).

**3.50.130. Annual review.**

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The fee authorized by this chapter, implementing council resolutions, and supporting documentation, including the Traffic Mitigation Program Study, shall be reviewed annually in order to make any findings required by state law. (Ord. 2737-03 § 1).

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## Sunnyvale Municipal Code

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**19.74.010. Findings.**

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The city council hereby finds that multifamily rental housing projects have a significant effect on the use and availability of parks and recreation space and facilities, and that the limited open space and recreation amenities provided by multifamily residential housing projects are insufficient to meet the needs of the residents for open space and recreational facilities. The council further finds that increased population, regardless of the type of housing, impacts existing open space resources and increases the need to improve, expand and/or develop new parks, open space and recreation facilities. While multifamily residential complexes do provide limited open space areas and recreation amenities, they are insufficient to meet the needs of people for more and larger open space areas. The intent of this chapter is to treat multifamily/rental housing developments in the same fashion as other residential development in the city requiring that such development pay its fair share toward improvements, and/or purchase and development of parks and recreational facilities. The provisions of this chapter are enacted pursuant to Article IV of the Charter of the city of Sunnyvale and the Sunnyvale general plan. (Ord. 2623-99 § 1; prior zoning code § [19.86.010](#)).

**19.74.020. General requirements.**

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As a condition of approval of any multifamily, residential housing project, other than a subdivision as defined in Chapter [18.10](#) of this code, the owner and/or developer shall dedicate land, pay a fee, or both, at the option of the city, for park or recreational purposes according to the following standards:

(a) Dedication of Sites. Where a park or recreational facility has been designated in the open space and recreation subelement of the general plan, and the park or facility is to be located in whole or in part within a proposed multifamily residential housing project, to serve the immediate and future needs of the residents of the rental housing project, the owner and/or developer shall be required to dedicate land for park and recreational facilities sufficient in size to serve the residents of the project. The park land to be so dedicated shall conform to locations and standards set forth in the general plan. The slope, topography and geology of the site, as well as its surroundings, must be suitable for the intended park or recreation purpose. The amount of land to be provided shall be determined pursuant to the standards set forth in this chapter establishing the formula for land dedication or for payment of fees in lieu thereof.

(b) Fees In Lieu of Dedication. If there is no park or recreational facility designated or required in whole or in part within a proposed multifamily residential housing project, the owner and/or developer shall be required to pay a cash payment in lieu of the land equal to the value of the land as determined by this chapter.

A fee in lieu of land dedication hereunder shall be required when:

(1) An applicant is developing a multifamily residential unit project on land on which no park has been designated or proposed; or

(2) Dedication is impossible, impracticable, or undesirable, as determined by the city; or

(3) The proposed multifamily residential housing project contains twenty or fewer units.

(c) Dedication and Fees Required. In certain multifamily residential housing projects in excess of twenty units, a combination of land dedication and fee payment may be required. These shall be projects in which:

(1) Only a portion of the land to be developed is proposed in the general plan as the location for a park

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or recreational facility, in which case that land, or a portion thereof within the project, shall be dedicated for park purposes, and a fee shall then be required in lieu of any additional land that would have been required to be dedicated under this chapter; or

(2) A major part of the park or recreational site falling within the project has already been acquired, and only a small portion of land is needed from the applicant to complete the park or recreation site, in which case the land needed shall be required for dedication, and a fee shall then be required in lieu of the additional land that would have been required to be dedicated under this chapter.

(d) Use of and Basis for In-Lieu Fees. The money collected pursuant to this chapter is to be used only for the purpose of providing park or recreational facilities to serve the multifamily residential housing project from which the fees are collected. Fees so collected shall be used to purchase land, buy equipment or construct improvements in neighborhood and district parks and recreational facilities serving the housing project. The fee so required shall be based on the fair market value of the land that otherwise would have been required for dedication. (Ord. 2623-99 § 1; prior zoning code § [19.86.020](#)).

### **19.74.030. Land requirement.**

In accordance with the open space and recreation sub-element of the general plan, it is found and determined that the public interest, convenience, health, welfare and safety require that acres of property, as prescribed below, for each one thousand persons residing within each neighborhood planning area within the city be devoted to public park and recreational facilities. The Murphy planning area shall be divided by Fair Oaks Avenue into two sections, to be designated Murphy West and Murphy East. The table that follows prescribes the acreage requirements and their effective dates. Multifamily residential housing projects are subject to the acreage requirement in effect at the time the planning permit application is deemed complete.

Effective Date	Acres of Property Per One Thousand
	Persons
Until June 30, 2010	1.75 acres
July 1, 2010 - June 30, 2011	2.25 acres
July 1, 2011 - June 30, 2012	3.00 acres
July 1, 2012 - June 30, 2013	3.5 acres
July 1, 2013 - June 30, 2014	4.25 acres
July 1, 2014 and thereafter	5.00 acres

(Ord. 2953-11 § 3; Ord. 2951-11 § 2; Ord. 2911-09 § 3; Ord. 2623-99 § 1; prior zoning code § [19.86.030](#)).

### **19.74.040. Density formula.**

In determining dedication or in-lieu fee payment requirements under this chapter, the following table, derived from density assumptions of the general plan and prevailing household sizes, shall apply:

Dwelling Category	Dwelling Units Per	Acreage Requirement Per Dwelling Unit Within Housing Project
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	Net Acre	Until June 30, 2010	July 1, 2010 to June 30, 2011	July 1, 2011 to June 30, 2012	July 1, 2012 to June 30, 2013	July 1, 2013 to June 30, 2014	July 1, 2014 and thereafter
Low density residential	7 or fewer	0.0048125	0.0061875	0.0082500	0.009625	0.0116875	0.01375
Low- medium density residential	Over 7 to 14	0.0043750	0.0056250	0.0075000	0.00875	0.010625	0.0125
Medium density residential	Over 14 to 27	0.0031500	0.0040500	0.0054000	0.0063	0.00765	0.009
High density residential	Over 27	0.0031500	0.0040500	0.0054000	0.0063	0.00765	0.009

A deduction for the number of existing dwelling units will be allowed in calculating the land dedication or in-lieu fees required pursuant to this chapter as set forth in Section [19.74.070](#). (Ord. 2951-11 § 2; Ord. 2911-09 § 3; Ord. 2623-99 § 1; prior zoning code § [19.86.040](#)).

#### **19.74.050. Procedure.**

The planning commission shall upon approving a development permit for a multifamily residential housing project, determine the conditions necessary to comply with the requirements for park land dedication or fees in lieu thereof as set forth in this chapter, and the conditions shall be attached as conditions of permit approval. (Ord. 2623-99 § 1; prior zoning code § [19.86.050](#)).

#### **19.74.060. Calculation of fair market value and payment of in-lieu fees.**

Annually, on a fiscal year basis, the director of community development shall determine the fair market value for an acre of land in the city. The fair market value amount shall be included in the fee resolution adopted by the city council. The fair market value applicable to the calculation of all park in-lieu fees shall be based on the fee in effect at the time of complete building permit application submittal. The calculation of all park in-lieu fees shall be applied at building permit application submittal and payable prior to building permit issuance. (Ord. 2953-11 § 4; Ord. 2911-09 § 4; Ord. 2630-99 § 2; Ord. 2623-99 § 1; prior zoning code § [19.86.060](#)).

#### **19.74.070. Calculation of requirement.**

For the purposes of the formula established by this section, the following definitions shall apply:

- A — the acreage required per dwelling unit within the proposed residential housing project for park and recreational facilities from Section [19.74.040](#).
- B — the number of dwelling units in the proposed residential housing project.

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- C — the fair market value per acre of land.  
D — the number of existing dwelling units.  
F — the in-lieu fee required.  
L — the land required for dedication.

The following formula shall be used in calculating land required for dedication:

$$A \times (B-D) = L$$

The following formula shall be used in calculating fees to be paid in lieu of land dedication:

$$A \times (B-D) \times C = F$$

(Ord. 2911-09 § 4; Ord. 2630-99 § 2; Ord. 2623-99 § 1; prior zoning code § [19.86.070](#)).

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**[19.74.080. Exemption.](#)**

Any dwelling units designated as affordable housing are exempt from the total number of dwelling units used in the calculations in Section [19.74.070](#). (Ord. 2976-12 § 14; Ord. 2623-99 § 1; prior zoning code § [19.86.080](#)).

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**19.75.010. Findings and purpose.**

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(a) Findings. The city council finds that:

- (1) Regional housing prices and rents have increased at a significantly higher rate than regional wages;
- (2) The lack of affordable housing in Sunnyvale forces many residents to pay a very high percentage of their income for housing and requires many of those employed in the city to commute considerable distances, adding to air pollution and traffic congestion in Sunnyvale and adjacent communities;
- (3) New housing developments do not provide enough housing affordable to lower-income households, and continued new development which does not include housing lower-income households will serve to further aggravate the current shortage of affordable housing by reducing the scarce supply of undeveloped land;
- (4) Based on a nexus analysis to evaluate the impact of new commercial, industrial, research and development, retail, hotel/motel and market-rate rental housing developments, these new developments generate an increased demand for affordable housing which must be mitigated through the imposition of housing impact fees; and
- (5) Such housing impact fees are a necessary part of the city's efforts to meet the regional housing needs of the Bay Area as required by state law.

(b) Purpose. This chapter requires the payment of housing impact fees for certain types of development to mitigate the impact of nonresidential and residential development on the need for affordable housing in the city of Sunnyvale and to implement the housing element of the city's general plan and California [Government Code](#) Section 65583(c), which expresses the state housing policy that requires cities to assist in the development of adequate housing to meet the needs of lower-income households. Housing impact fees are placed in the city's housing mitigation fund and used to support the development of affordable housing within the city. (Ord. 3057-15 § 2).

**19.75.020. General applicability.**

---

(a) New Construction. Projects that include new nonresidential construction or new market-rate rental housing construction shall be subject to the housing impact fees required in this chapter. Payment of the housing impact fees shall be added as a condition of approval for all development projects subject to this chapter.

(b) Pipeline Projects. The following development projects shall be exempt from payment of the housing impact fees required in this chapter:

- (1) Projects for which a development application pursuant to this title has been filed and deemed complete by September 14, 2015.
- (2) Projects that have received final approval pursuant to this title by September 14, 2015, and which are subsequently the subject of a pending application for modifications to the approved plans or permit, except that any increase in floor area from the amount already approved shall be subject to the housing impact fees required by this chapter.
- (3) Pipeline projects not subject to the new housing impact fees must pay any applicable housing

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mitigation fees that were in existence at the time the application was deemed complete.

(c) Adoption of Housing Impact Fees. Housing impact fee amounts for each applicable use are established by the fee resolution adopted by the city council, which may be amended from time to time by council. The fee amounts shall be adjusted annually based on the Consumer Price Index for all urban consumers for the San Francisco-Oakland-San Jose area unless otherwise modified by council. Such fees shall not exceed the cost of mitigating the impact of developments on the need for housing for lower-income households in the city.

(d) Timing of Payment. Housing impact fees shall be paid prior to issuance of the first building permit for the project. A developer may pay all or a portion of the fee owed at any time prior to issuance of the building permit, at the rate in effect at the time payment is made. For phased projects, the amount due shall be paid on a pro rata basis across the entire square footage of the approved development, and each portion shall be paid prior to the issuance of any building permit for each phase. (Ord. 3057-15 § 2).

### **19.75.030. Housing impact fees for nonresidential development.**

---

(a) Applicability. Housing impact fees shall be imposed on all new construction of commercial, industrial, research and development, office, retail and hotel/motel development projects, regardless of zoning designation of the project site, unless otherwise exempted under this chapter. A detailed matrix of nonresidential land uses required to pay the housing impact fee is incorporated as part of the fee resolution adopted by council.

(b) Calculation of Fee. The amount of the fee, as further described in the fee resolution, is imposed on a per square foot basis for net new gross floor area. A reduced fee shall apply to the first twenty-five thousand square feet for commercial, industrial and research and development projects. The formula below shall be used in calculating the amount of the housing impact fee:

(Gross square feet nonresidential floor area) minus (existing square feet floor area) multiplied by (per square foot fee) equals (total housing impact fee).

(c) Exemptions to Net New Gross Floor Area. The following areas are exempt from the net new gross floor area used in housing impact fee calculations for nonresidential developments:

- (1) Any incidental and accessory storage, structures or appurtenances, such as sheds, trash enclosures, ground-mounted equipment enclosures, garden features, trellises or shade structures;
- (2) Architectural design features not utilized for occupancy or storage;
- (3) For industrial, research and development or office uses:
  - (A) Child care facilities for the care of children of on-site employees,
  - (B) Freestanding amenities buildings for on-site employees with uses such as cafeterias, recreational and athletic facilities, gyms, showers and locker rooms, and
  - (C) Buildings designed exclusively for the storage of hazardous materials;

(4) Existing square feet floor area of structures that were vacated or demolished no more than twelve months prior to the filing date of the development application.

(d) Alternative to Payment. As an alternative to payment of the housing impact fee, a developer may request to mitigate the housing impacts through construction of affordable residential units on an appropriate housing site, the dedication of land for affordable housing or the provision of other resources to provide affordable housing. The city council may approve this request if the proposed alternative furthers affordable housing opportunities in the city equal to the payment of the housing mitigation fee. (Ord. 3057-15 § 2).

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**19.75.040. Housing impact fees for rental housing.**

---

(a) **Applicability.** A housing impact fee shall be imposed for new market-rate rental housing developments in the city of four units or more, unless the applicant elects to provide one of the alternatives listed in subsection (d). For purposes of this chapter, new market-rate housing developments shall include developments that have recorded a condominium map but the developer intends to initially rent the units. In the event the developer has paid the fees and later sells the units within fifty-five years of the fee payment, developer shall receive credit for the housing impact fees paid against the BMR ownership obligations in Chapter 19.67, as further described in the BMR Developer Guidelines.

(b) **Calculation of Fee.** Developments of eight units or more shall pay the full fee established by council resolution. Developments consisting of four to seven units shall pay fifty percent of the fee established by council resolution. The formula below shall be used in calculating the required housing impact fee for new market-rate rental housing developments:

(New habitable square foot area of all market-rate units) minus (existing habitable square foot area of all units) multiplied by (per square foot fee) equals (total housing impact fee).

(c) **Habitable Square Foot Area.** Habitable square foot area means the total interior living area of each dwelling unit within a project, and does not include areas outside of the dwelling units such as common areas, corridors, parking facilities, outside storage lockers and shared laundry facilities.

(d) **Alternatives In Lieu of Housing Impact Fee.** As an alternative to paying the housing impact fee for rental housing developments, an applicant may request to provide affordable units on-site, dedicate land for affordable housing or provide affordable units off-site, as detailed in this section.

(1) **On-Site Units.** An applicant may request to provide a certain number of the rental units in the residential project at rents affordable to very-low income households or low income households, or a combination of both very-low income and low income units. The number of affordable rental units shall provide equivalent mitigation of the project's impact on the need for affordable housing as set forth in the fee resolution. The request to provide on-site units may be granted by the director.

(2) **Off-Site Units or Dedication of Land.** As an additional alternative, the applicant may request to designate affordable units in an off-site location or to dedicate land for the construction of affordable units. The city priority shall be for a location that is accessible to public transit. Any off-site units shall be either new or renovated to near-new conditions. Such requests shall be granted in the sole discretion of the city council if the city council determines that the proposed alternative will mitigate the impact of the project on the need for affordable housing.

(3) In calculating the number of required affordable rental units either on-site or off-site, any fraction of a whole unit shall be satisfied by either developing one additional affordable unit or by paying the remaining fee amount as further described in the fee resolution.

(4) All affordable units developed either on-site or off-site must remain affordable for a minimum period of fifty-five years.

(5) To ensure compliance with the Costa-Hawkins Rental Housing Act and city requirements, the applicant must enter into an affordable housing developer agreement with the city to be recorded against the property prior to recordation of a final or parcel map or issuance of any building permit, acknowledging that the affordable units or land dedication are provided in consideration for a direct financial contribution from the city in the form of a waiver of the housing impact fee. The affordable units shall be administered in accordance with

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Chapter [19.69](#) and the Affordable Housing Developer Guidelines. (Ord. 3057-15 § 2).

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**[19.75.050. Waiver.](#)**

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Notwithstanding any other provision of this chapter, the requirement to pay the housing impact fee may be waived, adjusted or reduced by the city council if an applicant shows, based on substantial evidence, that there is no reasonable relationship between the impact of the proposed development and the requirement to pay the housing impact fee, or that applying the requirements of this chapter would take property in violation of the United States Constitution or California Constitution or would result in any other unconstitutional result. (Ord. 3057-15 § 2).

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**[19.75.060. Enforcement.](#)**

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The provisions of this chapter shall apply to all agents, successors and assigns of an applicant proposing or constructing a development governed by this chapter. The city may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including but not limited to, actions to revoke, deny or suspend any permit, including a development approval, building permit or certificate of occupancy. The city shall be entitled to costs and expenses for enforcement of the provisions of this chapter, or any agreement pursuant thereto, as awarded by the court, including reasonable attorneys' fees. (Ord. 3057-15 § 2).

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**[19.75.070. Severability.](#)**

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If any portion of this chapter is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, that decision will not affect the validity of the remaining portions of this zoning code. The city council declares that this chapter and each portion would have been adopted without regard to whether any portion of this chapter would be later declared invalid, unconstitutional, or unenforceable. (Ord. 3057-15 § 2).

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**18.10.010. Subdivision map defined.**

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“Subdivision map” means any map filed pursuant to any proceedings for subdivision which creates any additional parcel capable of residential development. (Ord. 2194-86 § 1).

**18.10.020. General requirements.**

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As a condition of approval of any final subdivision map or parcel map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the city, for park or recreational purposes according to the following standards:

(a) **Dedication of Sites.** Where a park or recreational facility has been designated in the open space and recreation subelement of the general plan, and the park or facility is to be located in whole or in part within a proposed subdivision, to serve the immediate and future needs of the residents of the subdivision, the subdivider shall be required to dedicate land for park and recreational facilities sufficient in size to serve the residents of the subdivision area. The park land to be so dedicated shall conform to locations and standards set forth in the general plan. The slope, topography and geology of the site, as well as its surroundings, must be suitable for the intended park or recreation purpose. The amount of land to be provided shall be determined pursuant to the standards set forth in Sections [18.10.030](#) through [18.10.070](#), inclusive, of this chapter establishing the formula for land dedication or for payment of fees in lieu thereof.

(b) **Fees In Lieu of Dedication.** If there is no park or recreational facility designated or required in whole or in part within a proposed subdivision, the subdivider shall be required to pay a cash payment in lieu of the land equal to the value of the land as determined by Sections [18.10.030](#) through [18.10.070](#), inclusive, of this chapter.

A fee in lieu of land dedication hereunder shall be required when:

- (1) A subdivider is subdividing land on which no park has been designated or proposed; or
- (2) When dedication is impossible, impractical, or undesirable, as determined by the city; or
- (3) When the proposed subdivision contains fifty or fewer parcels of land.

(c) **Dedication and Fees Required.** In certain subdivisions in excess of fifty parcels of land, a combination of land dedication and fee payment may be required. These shall be subdivisions in which: (1) only a portion of the land to be subdivided is proposed in the general plan as the location for a park or recreational facility, in which case that land, or a portion thereof within the subdivision, shall be dedicated for park purposes, and a fee shall then be required in lieu of any additional land that would have been required to be dedicated under this chapter; or (2) a major part of the park or recreational site falling within the subdivision has already been acquired, and only a small portion of land is needed from the subdivider to complete the park or recreation site, in which case the land needed shall be required for dedication, and a fee shall then be required in lieu of the additional land that would have been required to be dedicated under this chapter.

(d) **Use of and Basis for In Lieu Fees.** The money collected pursuant to this chapter is to be used only for the purpose of providing park or recreational facilities to serve the subdivision from which fees are collected. Fees so collected shall be used to purchase land, buy equipment or construct improvements in neighborhood and district parks and recreational facilities serving said subdivision. The fee so required shall be based on the fair market value of the land that otherwise would have been required for dedication. (Ord. 2194-86 § 1).



## ATTACHMENT 3

**18.10.030. Land requirement.**

In accordance with the open space and recreation subelement of the general plan; it is hereby found and determined that the public interest, convenience, health, welfare and safety require that acres of property, as prescribed below, for each one thousand persons residing within each neighborhood planning area within the city of Sunnyvale be devoted to public park and recreational facilities. The Murphy planning area shall be divided by Fair Oaks Avenue into two sections to be designated Murphy West and Murphy East. The table below prescribes the acreage requirements and their effective dates. Subdivisions are subject to the acreage requirement in effect at the time the tentative map application is deemed complete.

<b>Effective Date</b>	<b>Acres of Property Per One Thousand Persons</b>
Until June 30, 2010	1.75 acres
July 1, 2010 - June 30, 2011	2.25 acres
July 1, 2011 - June 30, 2012	3.00 acres
July 1, 2012 - June 30, 2013	3.5 acres
July 1, 2013 - June 30, 2014	4.25 acres
July 1, 2014 and thereafter	5.00 acres

(Ord. 2953-11 § 1; Ord. 2951-11 § 1; Ord. 2911-09 § 1; Ord. 2194-86 § 1).

**18.10.040. Density formula.**

In determining dedication or in lieu fee payment requirements under this chapter, the following table, derived from density assumptions of the general plan and prevailing household sizes shall apply:

<b>Dwelling Category</b>	<b>Dwelling Units Per Net Acre</b>	<b>Acreage Requirement Per Dwelling Unit Within Subdivision</b>					
		<b>Until June 30, 2010</b>	<b>July 1, 2010 to June 30, 2011</b>	<b>July 1, 2011 to June 30, 2012</b>	<b>July 1, 2012 to June 30, 2013</b>	<b>July 1, 2013 to June 30, 2014</b>	<b>July 1, 2014 and thereafter</b>
Low density residential	7 or fewer	0.0048125	0.0061875	0.0082500	0.009625	0.0116875	0.01375



## ATTACHMENT 3

Low-medium density residential	Over 7 to 14	0.0043750	0.0056250	0.0075000	0.00875	0.010625	0.0125
Medium density residential	Over 14 to 27	0.0031500	0.0040500	0.0054000	0.0063	0.00765	0.009
High density residential	Over 27	0.0031500	0.0040500	0.0054000	0.0063	0.00765	0.009

A deduction for the number of existing dwelling units will be allowed in calculating the land dedication or in-lieu fees required pursuant to this chapter as set forth in Section [18.10.070](#).

The value of any park and recreational improvements and equipment to the dedicated land shall be credited against the payment of fees or dedication of land required pursuant to this chapter. (Ord. 2951-11 § 1; Ord. 2911-09 § 1; Ord. 2194-86 § 1).

#### **18.10.050. Procedure.**

The planning commission shall, upon approving a tentative map, determine the conditions necessary to comply with the requirements for park land dedication or fees in lieu thereof as set forth in this chapter and said conditions shall be attached as conditions of approval of the map. (Ord. 2194-86 § 1).

#### **18.10.060. Calculation of fair market value and payment of in-lieu fees.**

Annually, on a fiscal year basis, the director of community development shall determine the fair market value for an acre of land in the city. The fair market value amount shall be included in the fee resolution adopted by the city council. The fair market value applicable to the calculation of all park in-lieu fees shall be based on the fee in effect at the time the final map is complete. The calculation of all park in-lieu fees shall be applied and payable upon approval of the final map. (Ord. 2953-11 § 2; Ord. 2911-09 § 2; Ord. 2630-99 § 1; Ord. 2194-86 § 1).

#### **18.10.070. Calculation of requirement.**

For the purposes of the formula established by this section, the following definitions shall apply:

- A — the acreage required per dwelling unit within the proposed subdivision for park and recreational facilities from Section [18.10.040](#).
- B — the number of dwelling units in the proposed subdivision.
- C — the fair market value per acre of land from Section [18.10.060](#).
- D — the number of existing dwelling units.
- L — the land required for dedication in proposed subdivision.
- F — the fee required.

The following formula shall be used in calculating land required for dedication under this section:

## ATTACHMENT 3

$$A \times (B-D) = L$$

The following formula shall be used in calculating in lieu of fees required to be paid under this chapter:

$$A \times (B-D) \times C = F$$

(Ord. 2911-09 § 2; Ord. 2630-99 § 2; Ord. 2194-86 § 1).

**18.10.080. Exclusions.**

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The provisions of this chapter shall not apply to commercial or industrial subdivisions or to condominium projects or stock cooperatives which consist of subdivision of airspace in an existing apartment building which is more than five years old when no dwelling units are added. (Ord. 2194-86 § 1).

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View the [mobile version](#).

## Fee Calculation Examples

	Timing of Calculation for Mitigation Fees			
	Complete Planning Application	Planning Approval	Building Permit Application Submittal <sup>1</sup>	Issuance of Building Permit <sup>1</sup>
	Based on Project Completeness	+1 FY	+2 FY	+3 FY
<b>25 Unit (net new) Multi-Family Residential For-Sale Project</b>				
Transportation Impact Fee (calculated as South of 237)	\$ 52,175.00	\$ 53,740.25	\$ 55,352.46	\$ 57,013.03
Park Dedication Fee	(paid at Final Map)	(paid at Final Map)	(paid at Final Map)	(paid at Final Map)
Housing Impact Fee	(BMRs Required)	(BMRs Required)	(BMRs Required)	(BMRs Required)
<b>100 Unit (net new) Multi-Family Residential Rental Project</b>				
Transportation Impact Fee (calculated as South of 237)	\$ 130,400.00	\$ 134,312.00	\$ 138,341.36	\$ 142,491.60
Park Dedication Fee for Rental Projects <sup>2</sup>	\$ 3,763,584.00	\$ 3,876,491.52	\$ 3,992,786.27	\$ 4,112,569.85
Housing Impact Fee <sup>2</sup>	\$ 1,530,000.00	\$ 1,575,900.00	\$ 1,623,177.00	\$ 1,671,872.31
<b>150,000 sq. ft. (net new) Research &amp; Development Project</b>				
Transportation Impact Fee (calculated as South of 237)	\$ 309,150.00	\$ 318,424.50	\$ 327,977.24	\$ 337,816.55
Park Dedication Fee	n/a	n/a	n/a	n/a
Housing Impact Fee	\$ 2,250,000.00	\$ 2,317,500.00	\$ 2,387,025.00	\$ 2,458,635.75
1. Most large development projects are built in phases and may take 2-10+ years to submit (and obtain) building permits after Planning Approval.				
2. Not imposed on affordable housing units (about 1/2 of new units).				

## FEES

	FY 2015-16	+3% OF PRIOR YEAR	+3% OF PRIOR YEAR	+3% OF PRIOR YEAR
TIF Single Family	\$2,087.00	\$2,149.61	\$2,214.10	\$2,280.52
TIF Multi Family	\$1,304.00	\$1,343.12	\$1,383.41	\$1,424.92
TIF R&D (S of 237) per 1000 s.f.	\$2,061.00	\$2,122.83	\$2,186.51	\$2,252.11
PIL 18 du/acres	\$37,635.84	\$38,764.92	\$39,927.86	\$41,125.70
HIF (residential) net new sf	\$17.00	\$17.51	\$18.04	\$18.58
HIF (non residential net new sf	\$15.00	\$15.45	\$15.91	\$16.39

Following action on this item, Mayor Griffith returned to the room and took his seat at the dais.

**4**      [14-0607](#)      Lawrence Expressway Grade Separations Study -  
Consideration of Conceptual Alternative

Director of Public Works Manuel Pineda presented the staff report.

Public Hearing opened at 7:54 p.m.

Dave Jones, Chair of the Bicycle and Pedestrian Advisory Commission, presented the recommendations of the commission and requested access for bicyclists and pedestrians be considered.

Public Hearing closed at 7:55 p.m.

MOTION: Vice Mayor Davis moved and Councilmember Whittum seconded the motion to approve Alternative 1: Endorse the Recommended Final Concept for Lawrence Expressway Grade Separations for inclusion in the County Expressway Plan. The motion carried by the following vote:

**Yes: 7 -** Mayor Griffith  
Vice Mayor Davis  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Martin-Milius  
Councilmember Hendricks  
Councilmember Larsson

**No: 0**

**5**      [14-0762](#)      Adopt a Resolution to Amend Annual Fee Resolution to  
update FY 2014/15 Park Dedication In-Lieu Fee Land  
Valuation

Planning Officer Trudi Ryan presented the staff report.

Public Hearing opened at 8:16 p.m.

Don Babbitt, Director of Forward Planning, D.R.Horton, stated they are not in opposition to the \$96 per square foot fee but requested consideration for projects already in the pipeline by phasing it in over three years.

Dennis Martin, representing BIA Bay Area, stated that fee increases should be

given a minimum of 14 days' notice and they were only given seven days; the fee is to be retroactive to last fiscal year which causes problems for builders pro forma and the increase is too great an increase at one time and requested consideration of a phase in of the fee. Martin requested projects in the pipeline receive more leeway and recommended consideration of adopting a credit system for privately provided recreational open space facilities to mitigate the fee increase and incentivize developers to provide quality amenities.

Rodger Miller, Warmington Residential, provided information regarding a project which is in plan check right now. Miller inquired as to the definition of when the final map is considered complete and requested to pay the current fee at the end of the 60 day period.

Public Hearing closed at 8:49 p.m.

**MOTION:** Councilmember Whittum moved and amendment and Councilmember Meyering seconded to approve Alternative 1: Adopt a Resolution Amending the Annual Fee Resolution setting the Park Land Valuation for FY 2014/15 at \$96 per square foot.

**FRIENDLY AMENDMENT:** Councilmember Martin-Milius offered a friendly amendment to extend the timeframe to 90 days.

Councilmember Whittum stated he would accept the friendly amendment, but suggested it be made a regular amendment to allow everyone an opportunity to speak to it.

**AMENDMENT:** Councilmember Martin-Milius moved an amendment and Councilmember Larsson seconded to extend the timeframe to 90 days. The motion to amend carried by the following vote:

**Yes: 4 -** Mayor Griffith  
Councilmember Whittum  
Councilmember Martin-Milius  
Councilmember Larsson

**No: 3 -** Vice Mayor Davis  
Councilmember Meyering  
Councilmember Hendricks

The main motion as amended carried by the following vote:

**Yes:** 6 - Mayor Griffith  
Councilmember Whittum  
Councilmember Meyering  
Councilmember Martin-Milius  
Councilmember Hendricks  
Councilmember Larsson

**No:** 1 - Vice Mayor Davis

Councilmember Hendricks proposed a study issue to look at what is the appropriate time in the planning process to tie to when we lay in the fees. Mayor Griffith co-sponsored the study issue.

**6**      [14-0568](#)      Consider Requirements for Budget Issue Sponsorship Similar to Study Issue Sponsorship

Mayor Griffith presented the report.

Public Hearing opened at 9:16 p.m.

No speakers.

Public Hearing closed at 9:16 p.m.

MOTION: Councilmember Hendricks moved and Councilmember Martin-Milius seconded the motion to approve Alternative 2) Approve the addition of a Council Policy on Budget Items and direct staff to draft the policy, based on the language provided in Attachment 1 with modifications to revise the language to refer to the "Council Study/Budget Issues Workshop" and reflect the intent that a budget issue be written up in advance of the Study/Budget Issues Workshop.

**Yes:** 6 - Mayor Griffith  
Vice Mayor Davis  
Councilmember Whittum  
Councilmember Martin-Milius  
Councilmember Hendricks  
Councilmember Larsson

**No:** 1 - Councilmember Meyering

MOTION: Councilmember Hendricks moved and Councilmember Larsson seconded the motion to approve Alternative 3: Approve as part of the new policy a change to require co-sponsorship of Budget Issue papers.

AMENDMENT: Councilmember Whittum moved an amendment and Mayor Griffith seconded to approve as part of the new policy a change to require co-sponsorship to get a staff write-up of a Budget Issue paper.

- 4      [15-0393](#)      Forward a recommendation to the City Council to adopt an Ordinance to Amend Titles 3 (Revenue and Finance) and 19 (Zoning) of the Sunnyvale Municipal Code related to the Transportation Impact Fee and Housing Impact Fees in conjunction with the Evaluate the Timing of Park Dedication In-lieu Fee Calculation and Payment Study Issue (2015-7151).

Senior Planner Amber Blizinski presented the staff report and answered Commissioner questions.

Commissioner Klein referred to Option A, page 6 of 9, and inquired about fee calculations for phased large scale projects.

Commissioner Simons inquired about assessing fees based on the progress of the project.

Chair Melton opened the public hearing.

No speakers.

Chair Melton closed the public hearing.

MOTION: Commissioner Klein moved and Vice Chair Harrison seconded the motion Alternative 1: Forward a recommendation to the City Council to adopt an Ordinance to Amend Titles 3 (Revenue and Finance) and 19 (Zoning) related to the Transportation Impact Fee and Housing Impact Fees to calculate fees at the time of building permit submittal.

The motion carried by the following vote:

**Yes: 7 -**    Chair Melton  
                 Vice Chair Harrison  
                 Commissioner Olevson  
                 Commissioner Klein  
                 Commissioner Rheaume  
                 Commissioner Simons  
                 Commissioner Weiss

**No: 0**

	Time of Mitigation Fee Calculation		
City	Building Permit Submittal	Building Permit Issuance	Combination of Both
Sunnyvale			X
Mountain View	X		
Cupertino	X		
Los Gatos	X		
Milpitas		X	



January 22, 2016

City of Sunnyvale  
Planning Commission  
C/O Amber El-Hajj, Senior Planner  
456 West Olive Avenue  
Sunnyvale, CA 94088

Re: Timing of Development Fee Calculations

Dear Amber,

We appreciate the work you have put into studying the timing of development fee calculations. We understand this issue is being evaluated by the Planning Commission on January 25 and would like to express our support for staff's recommendation to simplify the fee calculations.

By calculating the Transportation Impact Fee and Housing Mitigation Fee at the same time as the Sense of Place and Park – Rental Fees, you will provide more certainty for developers and utilize less staff time in performing the calculations.

We believe this is a positive change that will be of long term benefit to Sunnyvale and to those who wish to develop within the community.

Sincerely,

Dostart Development Company, LLC



# City of Sunnyvale

## Agenda Item

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15-1031

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### **SUBJECT**

Consideration of Options for Implementation of an Auxiliary Restroom at the Las Palmas Park / Tennis Center

#### **BACKGROUND**

Las Palmas Park is located at 850 Russet Drive. The 24-acre park is an active community park which includes tennis courts, a dog park, tot and youth play areas, a water play area, a recreation building, picnic area and a large multi-use field.

There are currently two restroom facilities on the park site. One restroom is located in the recreation building that is situated on the western boundary of the park. This restroom is available for general public use. The second restroom is located in the Tennis Center building, at the northern boundary of the park and is mainly utilized by the public using the Tennis Center.

In 2014, while City staff was working on the Dog Park Study Issue, interest was expressed in a new auxiliary restroom facility at Las Palmas Park that would be located near the Tennis Center and dog park area (Location A on Attachment 1). As a result of this request, Council approved Budget Supplement #3 - Las Palmas Park/Tennis Center Auxiliary Restroom (Attachment 2) as part of the approval of the FY 2014/15 Budget. The budget issue provided \$300,000 to design and construct a new auxiliary restroom located between the Las Palmas dog park and the tennis center.

Staff has determined that the project as originally scoped cannot be constructed within the \$300,000 budget and has developed three alternatives for consideration: proceed with the project and increase the budget, proceed with the project in an alternate location which requires an increase to the budget (Location B on Attachment 1), or delay of the project to add the auxiliary restroom scope to the major park renovation in FY 2023/24. Staff's recommendation is to defer the project and add the possible inclusion of an auxiliary restroom into the comprehensive review of Las Palmas Park renovation in FY 2023/24.

The Parks and Recreation Commission considered this item at a noticed public hearing on March 9, 2016. The Commission voted 3-0 to support staff's recommendation of Alternative 3 - Recommend to the City Council to direct staff to defer the auxiliary restroom for consideration as part of the community outreach process for the Las Palmas Park Renovation and Enhancement project in FY 2023/24 and increase the project budget during the next capital project budget cycle to reflect the additional restroom scope, (see Attachment 3).

#### **EXISTING POLICY**

***General Plan, Chapter 3, Goal Land Use and Transportation- 8 - Adequate and Balanced Open***

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**Space**

Provide and maintain adequate and balanced open space and recreation facilities for the benefit of maintaining a healthy community based on community needs and the ability of the City to finance, construct, maintain and operate these facilities now and in the future.

**General Plan, Chapter 3, Policy Land Use and Transportation- 8.12**

Utilize design and development guidelines for all park types within the City's open space system.

**ENVIRONMENTAL REVIEW**

Obtaining City Council direction on the project design does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. It is anticipated that the new auxiliary restroom will be a Class 3 Categorical Exemption under CEQA Guidelines section 15303, "New Construction or Conversion of Small Structures". The CEQA approval for the restroom project will occur with the construction award to the low bid contractor.

**DISCUSSION**

Staff hired Harris Design as the architect for the project with the intent to design and construct a new restroom that is central to both the Tennis Center and Dog Park area to serve those users. As part of the conceptual analysis, it was determined that the available funding was not sufficient to meet the project goals. Staff reviewed different options to manage the costs including relocating the restroom to a less central location. This staff report summarizes the findings.

**Project Cost**

As part of the preliminary design phase, the consultant explored the details of the project and developed a preliminary construction cost estimate which is approximately \$440,000 over the existing available project budget of \$300,000 with a total cost of \$740,000. The cost increase is primarily due to three reasons: higher consultant design costs than originally estimated, lengthy utility connections, and difficult site access.

Consultant design costs were approximately twice as high as the originally anticipated amount, as architects in this area are very busy and turning away work. This has been a growing trend for various consultant proposals received in the last few months and reflects the strong economy.

Utility connection costs are also significantly higher than originally estimated. After reviewing the possibilities for utility connections, it was determined that the most feasible sanitary sewer connection is a connection to Mathilda Avenue, which is approximately 700 feet away from the proposed restroom.

Access to the restroom location is from Spinosa Drive, which has a walkway around the dog park. This walkway is too constrained for crane access which is required to deliver the prefabricated restroom. Therefore, the building would have to be fabricated in pieces and assembled on-site so that a smaller delivery operation can be utilized, resulting in a higher cost for the restroom building.

**Additional Options**

As a result of the additional costs needed to complete the project, City staff and the design consultant discussed lower cost options and have identified two additional options for consideration.

The first option is to place the restroom at an alternate location at the Tennis Center Drive parking lot area (Location B on Attachment 1). This location is approximately 150 feet further from the dog park than the original location but is accessible via an existing paved walkway. This option is less costly because utility service connections to Mathilda Avenue are within fairly close proximity (approximately 250 feet from Mathilda Avenue) and the location is accessible by a crane for the delivery of a pre-fabricated restroom. The additional cost to complete the restroom at this location is approximately \$260,000 for a total cost of \$560,000, which reflects the above-mentioned increase in consultant costs and current rising costs of prefabricated restroom structures.

Staff contacted the tennis center operator regarding the potential location change and the operator has concerns with restroom facilities being situated so closely to the front entrance of the tennis center. Staff shares the same concern as the restroom would be the first view of the tennis facility. If this option is selected, staff would engage in more detailed discussions with the tennis center operator to mitigate those concerns.

The second option is to defer construction of the restroom and include it as part of the major modifications that will be done under the Las Palmas Park Renovation and Enhancement project scheduled to start in Fiscal Year 2023/24 (capital project number 830380). The current scope of the project includes: athletic field replacement, recreation and maintenance building renovations, park lighting, renovation of the ornamental pond and water play features, landscaping/irrigation/pumping, park fixtures, a new basketball court and other maintenance. If this option is selected, the location of a new auxiliary restroom would become part of the public input process for the major renovation project. Formal studies to track and document restroom usage were not performed prior to development of this budget issue and staff's recent discussions with the tennis center operator did not indicate a problem with the existing restroom situation that requires immediate resolution.

### **FISCAL IMPACT**

There is \$300,000 included in the FY 2015/16 Budget for this project. If construction of the restroom is deferred until the project to fund the major renovation of Las Palmas Park, staff would include the costs of the new auxiliary restroom into the project budget as part of the next capital project budget cycle.

If Council moves forward with constructing the restroom, then additional funding will be required. The additional funds anticipated for completing the project at the original preferred location are \$440,000 and the additional funds for completing the project at the alternate location (adjacent to tennis center parking lot) are estimated to be \$260,000. The final amount of necessary funding for either of these two alternatives will be determined after bid opening and a budget modification will be brought forward for Council approval with the construction contract award.

Funding for this project is provided by the Park Dedication Fund. Ongoing operating costs are funded by the General Fund.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

Commission Review

The Commissioners had questions regarding future costs for the restroom, other possible locations for the restroom and who was likely to use the restroom in the different locations. Desire for greater community involvement in the process was also discussed. There were no public comments.

Community meetings

A community meeting was held on November 10, 2015 to introduce the project and obtain public input for the proposed restroom. Notifications for the community meeting were via direct mailers within a 1,000 foot radius and an article in the City Manager's Bi-Weekly Report. Two residents attended the meeting but one left prior to the meeting start. The other resident stayed for the entire meeting. He expressed concerns regarding noise by park patrons at the end of the parking lot on Spinosa Drive and preferred the alternative restroom location adjacent to the tennis center parking lot.

A second community meeting was held on December 1, 2015. The purpose of the meeting was to discuss two building concepts prepared by the architect. No members from the public attended the meeting. Parks and Engineering staff selected a building concept which could be brought to the Parks and Recreation Commission for review if the project proceeds at this time.

**ALTERNATIVES**

1. Direct staff to proceed with design of a new restroom facility at the preferred location in between the dog park and tennis center and acknowledge that a budget modification will be required at the time of the construction award to fund the increase in construction costs.
2. Direct staff to proceed with design of a new restroom facility at an alternate location adjacent to the tennis center parking lot and acknowledge that a budget modification will be required at the time of construction award to fund the increase in construction costs.
3. Direct staff to defer the auxiliary restroom for consideration as part of the community outreach process for the Las Palmas Park Renovation and Enhancement project in FY 2023/24 and increase the project budget during the next capital project budget cycle to reflect the additional restroom scope.
4. Direct staff to proceed with a different alternative.

**RECOMMENDATION**

Alternative 3: Direct staff to defer the auxiliary restroom for consideration as part of the community outreach process for the Las Palmas Park Renovation and Enhancement project in FY 2023/24 and increase the project budget during the next capital project budget cycle to reflect the additional restroom scope.

Based on the significant difference between the current cost estimates for the project and the existing budget, staff believes that it would be best to consider this restroom as part of the future, larger project. This decision would allow for further consideration on the need for the restroom and if needed, the restroom location to be considered along with future park improvements. Also, based on the extent of those future improvements, staff expects a larger community involvement than just the one individual who participated in the last two public outreach efforts. Constructing the restroom now will not only require additional money, but the location of the restroom may not be ideal when taking into consideration future improvements.

Prepared by: Jennifer Ng, Assistant City Engineer

Reviewed by: Manuel Pineda, Director of Public Works

Reviewed by: Cynthia E. Bojorquez, Director of Library and Community Services

Reviewed by: Timothy J. Kirby, Acting Director, Finance

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Location Map
2. Budget Supplement #3 - Las Palmas Park/Tennis Center Auxiliary Restroom
3. Excerpt of Draft PRC Minutes of March 9, 2016



[illegible]

**BUDGET SUPPLEMENT NO: 3****May 2, 2014****SUBJECT: Las Palmas Park/Tennis Center Auxiliary Restroom****BUDGET SUPPLEMENT REQUEST SUMMARY**

This budget supplement provides for the design and construction of a modular type restroom building to be installed in the northeast corner of Las Palmas Park near the Sunnyvale Tennis Center. Staff recommends approval based on current needs at both facilities.

**BACKGROUND**

Public interest in an additional or "auxiliary" restroom facility located in Las Palmas Park and near the Tennis Center has recently been expressed by representatives of the Sunnyvale Tennis Club and attendees of public meetings that were part of the study issue titled "DPW 13-14 Feasibility of Establishing Additional Dog Parks and Alternatives in Sunnyvale's Park System". Both groups have a twofold concern including restroom capacity and distance from facilities to existing restrooms at Las Palmas Park and the Sunnyvale Tennis Center. This interest resulted in a proposed budget issue that Council voted on February 7, 2014, at the annual Budget/Study Issues workshop to refer to the recommended budget.

**EXISTING POLICY****General Plan**

**Goal LT-8** Adequate and Balanced Open Space. Provide and maintain adequate and balanced open space and recreation facilities for the benefit of maintaining a healthy community based on community needs and the ability of the city to finance, construct, maintain and operate these facilities now and in the future.

**DISCUSSION****Features**

Proposed building amenities include separate men's and women's areas with the men's side having one toilet stall, one urinal and one sink and the women's area having two toilet stalls (one for handicapped and one for regular use) and one sink. General standards for park restrooms would be met and newer features would be utilized including low energy and low water use fixtures as well as compliance with all laws and codes including the Americans with Disability Act.

**Capacity**

There are no national, state or local standards concerning how many restrooms are required at a public park and recreation facility. Sunnyvale currently requires a minimum of one individual restroom per 250 people at a community special event and that is based on Federal Emergency Management Agency requirements for outdoor special events, but this does not directly relate to park use. Las Palmas Park has one restroom facility that is part of the recreation building and contains separate areas for men and women with each having one toilet stall and the men's also having one urinal. The park may serve up to 500 people at one time on the weekends from May to October when all building, picnic and athletic field facilities are permitted and there is also significant drop-in or casual use by the public. Although no statistics



have been kept, there are usually a few customer concerns related to the limited amount of restrooms each year at this site. The Tennis Center has separate men's and women's restrooms to serve up to 200 people during a tournament.

### **Usability/Convenience**

It can be inconvenient for children and elderly facility users to have to walk too far to access a restroom. Distances from a restroom would be significantly reduced for park users at the dog park, playgrounds and picnic areas and for Tennis Center patrons utilizing the east side of the site. Although the reduction would be measured in feet and not miles, even short distances can prove challenging for those who are elderly or with small children. At the Tennis Center the existing restroom is at the top of a hill that also makes it difficult for those with handicaps to access.

### **SERVICE LEVEL IMPACT**

An additional restroom building at Las Palmas Park that would also serve the Tennis Center would increase the combined service level for restroom availability at both sites by 33%.

### **FISCAL IMPACT**

The estimated cost to design and build the project is \$300,000 and is funded by the Park Dedication Fund. Project design would be scheduled for FY 2014/15 with construction completed in FY 2015/16. Park Dedication Fee revenues have exceeded budgeted levels; therefore the project can be accommodated without affecting other project budgets currently planned in the Park Dedication Fund. Operating costs are estimated to be \$11,000 annually and will be absorbed by the current operating budget for program 267 Neighborhood Parks and Open Space.

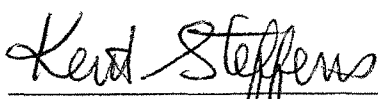
### **ALTERNATIVES**

1. Approve the supplement as proposed.
2. Other direction as Council deems appropriate.

### **STAFF RECOMMENDATION**

Staff recommends approval of the supplement as proposed based on current and future capacity needs at Las Palmas Park and the Tennis Center. There is already an approved capital project to provide a major renovation to Las Palmas Park in FY 2023/24 that includes an additional restroom building within the scope of work. Staff recommends adding the restroom building earlier than planned to meet current needs and improve the usability of both facilities.

Reviewed by:



Kent Steffens, Director of Public Works

Prepared by: Scott Morton, Superintendent of Parks and Golf

February 10, 2016

Commissioner Alexander III moved and Chair Pasqua seconded the motion to approve the consent calendar. The motion carried by the following vote:

**Yes:** 2 - Chair Pasqua  
Commissioner Alexander III

**No:** 0

**Absent:** 2 - Vice Chair Kenton  
Commissioner Pochowski

**Abstain:** 1 - Commissioner Din

**PUBLIC HEARINGS/GENERAL BUSINESS**

- 2**      16-0143      Provide Recommendation to the City Council on the Implementation of an Auxiliary Restroom at the Las Palmas Park / Tennis Center

Superintendent of Parks and Golf, James Stark, provided the staff report. He answered Commissioners' questions: 1) can staff estimate the cost of construction in 2023; 2) which segments of the public are most likely to use the bathroom in each of the proposed locations; and 3) was consideration given to more cost effective options or other locations than those proposed in this report?

Chair Pasqua opened the public hearing. There were no public comments and he closed the public hearing.

Commissioner Din moved, and Commissioner Alexander III seconded the motion, to adopt Alternative 3 - Recommend to the City Council to direct staff to defer the auxiliary restroom for consideration as part of the community outreach process for the Las Palmas Park Renovation and Enhancement project in FY 2023-24 and increase the project budget during the next capital project budget cycle to reflect the additional restroom scope. The motion carried by the following vote:

**Yes:** 3 - Chair Pasqua  
Commissioner Alexander III  
Commissioner Din

**No:** 0

**Absent:** 2 - Vice Chair Kenton  
Commissioner Pochowski

Commissioner Din expressed his rationale for his vote and stated he would like to see greater community involvement in the process. He stated that since the Tennis Center operator did not see an immediate concern with the restroom availability that it would be acceptable to wait until 2023-24 to consider this item as part of the park master plan renovation.

**STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES**

**3      16-0249      Discussion and Action to Clarify Scope for Proposed 2017  
Teen Center Study Issue**

Superintendent Wax reviewed the scope of the proposed Teen Center Study Issue and requested Commissioner's feedback.

Chair Pasqua opened the public hearing. There were no public comments and he closed the public hearing.

Commissioners requested that the scope of the Study Issue include the following: the amount of teens that access other local Teen Centers and activities which have been successful at those centers; the funding costs of a Teen Center; staffing models; an assessment of middle and high school student program needs and the needs of their parents; an assessment of security considerations; an assessment of transportation options for visitors to the center especially for those who do not drive; and which social services have been successful at Teen Centers such as job search, work permit assistance, health resources, and tutoring assistance.

Commissioner Alexander III moved, and Commissioner Din seconded the motion, to revise the scope of the study issue. The motion carried by the following vote:

**Yes: 3 -**    Chair Pasqua  
                 Commissioner Alexander III  
                 Commissioner Din

**No: 0**

**Absent: 2 -**    Vice Chair Kenton  
                 Commissioner Pochowski

No further Study Issues were presented.

**NON-AGENDA ITEMS & COMMENTS**

**-Commissioner Comments**



# City of Sunnyvale

## Agenda Item

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**16-0351**

**Agenda Date: 4/12/2016**

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Tentative Council Meeting Agenda Calendar



# City of Sunnyvale

## Tentative Council Meeting Agenda Calendar

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### Tuesday, April 19, 2016 - City Council

#### Special Order of the Day

- 16-0127** SPECIAL ORDER OF THE DAY - Department of Public Safety Special Awards

#### Public Hearings/General Business

- 16-0106** Introduce an Ordinance to Amend Title 19 (Zoning) of the Sunnyvale Municipal Code (SMC) and Update the Water-Efficient Landscaping Regulations per California Governor's Executive Order B-29-15 and make a Finding that the Project is Exempt from the Requirements of the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Sections 15307 and 15308  
(Planning File: 2016-7032)
- 16-0169** File #: 2015-78091  
Location: 748-838 Dartshire Way and 747-837 Devonshire Way (APNs 309-28-001, 309-28-002, 308-28-003, 309-28-036)  
Zoning: R-0  
Proposed Project: Introduction of Ordinance to Rezone 36 contiguous single family home lots from R-0 (Low Density Residential) to R-0/S (Low Density Residential/Single-Story)  
Applicant / Owner: Martin Griffiths  
Environmental Review: The Ordinance being considered is categorically exempt from review pursuant to CEQA Guidelines Section 15305 (minor alteration in land use) and Section 15061(b)(3) (not a project that may have a significant effect on the environment).
- 16-0243** Steps to Achieving a Silver Level Designation in the League of American Bicyclists - Bicycle Friendly Communities (Study Issue)
- 16-0291** Conduct a Public Hearing and Adopt a Resolution confirming the Downtown Sunnyvale Business Improvement District Annual Report for FY 2016/17 and to Levy and Collect an Annual Assessment for the Downtown Sunnyvale Business Improvement District
- 16-0358** File #: 2015-7275  
Location: 1111 Lockheed Martin Way (APNs: 110-01-036 and 110-01-038)  
Proposed Project: Discussion and possible actions on related applications for a 47.4 acre parcel at 1111 Lockheed Martin Way:  
SPECIFIC PLAN AMENDMENT for two parcels from Moffett Park General Industrial (MP-I) to Moffett Park Transit Oriented Development (MP-TOD)

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and associated text changes;  
REZONING Introduction of an Ordinance to Rezone two parcels from MP-I (Moffett Park Industrial) to MP-TOD (Moffett Park Transit Oriented Development).  
ENVIRONMENTAL DOCUMENT: Subsequent Environmental Impact Report.

- 16-0383** Adopt a Resolution Declaring the Vacancy of City Councilmember Seat No. 4; and Adopt a Resolution Calling a Special Municipal Election for August 16, 2016 for the Election of Councilmember for Seat No. 4 to Fill the Unexpired Term and Request County Services

**Tuesday, May 3, 2016 - City Council**

**Closed Session**

- 16-0196** 6 P.M. SPECIAL COUNCIL MEETING (Closed Session)  
Closed Session held pursuant to California Government Code Section 54957.6: CONFERENCE WITH LABOR NEGOTIATORS  
Agency designated representatives: Teri Silva, Director of Human Resources; Deanna J. Santana, City Manager  
Employee organization: Public Safety Officers Association (PSOA)  
Employee organization: Sunnyvale Employees Association (SEA)

**Special Order of the Day**

- 16-0101** SPECIAL ORDER OF THE DAY - 2016 Earth Day Poster Contest Winners
- 16-0103** SPECIAL ORDER OF THE DAY - Recognition of Green Businesses
- 16-0340** SPECIAL ORDER OF THE DAY - Municipal Clerks Week

**Public Hearings/General Business**

- 16-0041** Consider Draft Housing and Urban Development (HUD) Action Plan and Proposed Human Services Grants for FY 2016-17
- 16-0163** Authorize the City Manager to Execute a Concession License Agreement between the City of Sunnyvale and KemperSports Management (dba KSM Sunnyvale, LLC.) for Certain Facilities at Sunnyvale Golf Course
- 16-0197** FILE #: 2016-7068  
Location: 160 Aries Way (APN 209-07-007)  
Proposed Project: DOWNTOWN SPECIFIC PLAN AMENDMENT  
INITIATION: Request to study a change to the land use designation of Block 1a of the Downtown Specific Plan from very high density residential to retail and office, as well as increase the allowable height from 85 feet to 100 feet.  
Applicant/Owner: Andy Kasik  
Environmental Review: Exempt from the California Environmental Quality

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Act ("CEQA") pursuant to CEQA Guidelines section 15061 (b) (3).

**16-0258** Accept the Climate Action Plan Biennial Progress Report 2016 and Find that the Action is Exempt from Environmental Review Under CEQA Guidelines Section 15378(b)(5) (Rescheduled from April 19, 2016)

**16-0386** Adoption of a Resolution Approving An Exception to the CalPERS 180 Day Waiting Period and Interim Appointment of Information Technology Department Director

**Tuesday, May 10, 2016 - City Council**

**Study Session**

**16-0054** 6 P.M. SPECIAL COUNCIL MEETING ONLY (Study Session) -  
NO REGULAR COUNCIL MEETING  
Board and Commission Interviews

**Wednesday, May 11, 2016 - City Council**

**Study Session**

**16-0055** 6 P.M. SPECIAL COUNCIL MEETING ONLY (Study Session)  
Board and Commission Interviews

**Tuesday, May 17, 2016 - City Council**

**Study Session**

**16-0325** 5:30 P.M. SPECIAL COUNCIL MEETING (Study Session)  
Review Performance Evaluation Tools for the City Manager and City Attorney

**Special Order of the Day**

**16-0102** SPECIAL ORDER OF THE DAY - Schools Goin' Green Update

**Public Hearings/General Business**

**16-0317** 6 P.M. REGULAR COUNCIL MEETING (SPECIAL START TIME)  
Location: Council Chambers

**16-0083** Appoint Applicants to Boards and Commissions

**16-0077** Receive Civic Center Modernization Project and Utility User Tax Polling Results and Provide Direction to Staff on Next Steps

**16-0044** File #: 2015-7530 and 2015-7936  
Location: 521 E. Weddell Drive (APN: 110-14-196), 531 E. Weddell Drive (APN: 110-14-186), 539 E. Weddell Drive (APN: 110-14-158), 1010 Morse Ave. (APN: 110-14-202)

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Proposed Project:

GENERAL PLAN AMENDMENT: Proposed land use designation change from Industrial to School on three parcels (521, 531, and 539 E. Weddell Drive) and from Industrial to Residential/Medium to High Density to Park on one parcel (1010 Morse Ave. - Seven Seas Park); and REZONING from MS-POA (Industrial and Service - Places of Assembly Combining District) on three parcels (521, 531 and 539 E. Weddell Drive) and MS-ITR-R3-PD (Industrial and Service - Industrial to Residential/Medium Density Residential/Planned Development) on one parcel (1010 Morse Ave. - Seven Seas Park) to PF (Public Facilities) zoning.

Applicant / Owner: Sunnyvale International Church and Summit School (applicants) / Sunnyvale International Church (owner - 521 and 539 E. Weddell Drive), 1st Morning Light Chinese Christian Church (owner - 531 E. Weddell Drive), and City of Sunnyvale (owner - 1010 Morse Ave.)  
Environmental Review: Negative Declaration

- 16-0221** Adopt a Resolution to Amend the Salary Table of the City's Salary Resolution to Follow Section 3.80.040 of the Sunnyvale Municipal Code for scheduled increases to the Minimum Wage
- 16-0357** Provide a Recommendation to the City Council on the Roadway Allocation Study for Conceptual Design Development of Maude Avenue Bikeways and Streetscapes Project

**Thursday, May 26, 2016 - City Council**

**Public Hearings/General Business**

- 16-0056** 8:30 A.M. SPECIAL COUNCIL MEETING  
Budget Workshop

**Tuesday, June 14, 2016 - City Council**

**Special Order of the Day**

- 16-0074** SPECIAL ORDER OF THE DAY - Ceremonial Oath of Office for Board and Commission Members

**Public Hearings/General Business**

- 16-0114** File #: 2015-7275  
Location: 1111 Lockheed Martin Way (APNs: 110-01-036 and 110-01-038)  
Proposed Project: Discussion and possible actions on:  
SPECIAL DEVELOPMENT PERMIT to demolish existing buildings and construct five eight-story buildings, three four-story parking structures, and a two-story amenities building resulting in approximately 1.65 million square feet of office use.  
Environmental Review: An Environmental Impact Report (EIR) has been prepared in compliance with California Environmental Quality Act



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provisions and City Guidelines.

Applicant / Owner: Jay Paul Company/ Lockheed Missiles and Space Co., Inc.

- 16-0135** Annual Public Hearing on FY 2016-17 Budget and Resource Allocation Plan and Establishment of Appropriations Limit
- 16-0136** Public Hearing - Annual Review of Proposed Fees and Charges for Fiscal Year 2016/17
- 16-0240** Explore Expanding Friendship City Relationship with Iizuka, Japan to a Sister City Relationship (Study Issue)
- 16-0364** Adopt Resolutions Calling a General Municipal Election for November 8, 2016 for the Submission to the Voters a Ballot Measure Question Relating to the Initiative Ordinance Petition to Require Voter Approval for Any Sale, Lease, Lease Extension, Lease Renewal, Land Swap, or Transfer of Property Owned, Leased, or Used by the City as a Public Park or Community Service Amenity ("Public Lands for Public Use Act" Initiative); Requesting Consolidation with the Statewide General Election; Requesting the Board of Supervisors of the County of Santa Clara to Render Services to the City to Conduct the Election; Directing the City Attorney to Prepare an Impartial Analysis and Setting Priorities for Filing Written Arguments
- 16-0380** Proposed Utility Rate Increases for FY 2016/17 Rates of 25% for Water, 8% for Wastewater, and 3.5% for Solid Waste Utilities for Services Provided to Customers Within and Outside City Boundaries; Finding of CEQA Exemption Pursuant to CEQA Guideline 15273

**Tuesday, June 28, 2016 - City Council**

**Closed Session**

- 16-0326** 4 P.M. SPECIAL COUNCIL MEETING (Closed Session)  
Closed Session held pursuant to California Government Code Section 54957:  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Title: City Manager
- 16-0327** 5 P.M. SPECIAL COUNCIL MEETING (Closed Session)  
Closed Session held pursuant to California Government Code Section 54957:  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Title: City Attorney

**Study Session**

- 16-0370** 6 P.M. SPECIAL COUNCIL MEETING (Study Session)  
Mobile Home Park Policies

**Public Hearings/General Business**

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- 14-0273** Optimization of Wolfe Road for Neighborhood and Commuters via Reconfiguration and Signalization (Study Issue)
- 15-0717** Consider Multi-family Residential Transportation Demand Management Programs
- 16-0137** Adoption of the FY 2016/17 Budget, Fee Schedule, and Appropriations Limit
- 16-0241** Solar Access Requirements (Study Issue)

**Tuesday, July 12, 2016 - City Council**

**Closed Session**

- 16-0328** 6 P.M. SPECIAL COUNCIL MEETING (Closed Session)  
Closed Session held pursuant to California Government Code Section 54957:  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Title: City Manager

**Public Hearings/General Business**

- 15-0603** Lawrence Station Area Plan and Final Environmental Impact Report

**Tuesday, July 26, 2016 - City Council**

**Public Hearings/General Business**

- 16-0058** Agenda items pending - to be scheduled

**Tuesday, August 9, 2016 - City Council**

**Public Hearings/General Business**

- 16-0191** Quarterly General Plan Amendment Initiation

**Tuesday, August 16, 2016 - City Council**

**Public Hearings/General Business**

- 16-0062** TBD - meeting to be held only if necessary

**Tuesday, August 23, 2016 - City Council**

**Study Session**

- 16-0082** 6 P.M. SPECIAL COUNCIL MEETING (Study Session)  
Board and Commission Interviews (as necessary)

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**Presentation**

**16-0060** PRESENTATION - Update from Foothill-De Anza Community College District

**Public Hearings/General Business**

**15-0588** Peery Park Specific Plan and Environmental Impact Report

**Tuesday, September 13, 2016 - City Council**

**Public Hearings/General Business**

**15-0605** Land Use and Transportation Element and Environmental Impact Report

**16-0084** Appoint Applicants to Boards and Commissions

**Tuesday, September 20, 2016 - City Council**

**Public Hearings/General Business**

**16-0063** TBD - meeting to be held only if necessary

**Tuesday, September 27, 2016 - City Council**

**Special Order of the Day**

**16-0085** SPECIAL ORDER OF THE DAY - Ceremonial Oath of Office for Board and Commission Members

**Public Hearings/General Business**

**16-0081** Agenda items pending - to be scheduled

**Tuesday, October 4, 2016 - City Council**

**Public Hearings/General Business**

**16-0064** TBD - meeting to be held only if necessary

**Tuesday, October 11, 2016 - City Council**

**Special Order of the Day**

**16-0100** SPECIAL ORDER OF THE DAY - 2016 Fire Safety Poster Contest Awards

**Public Hearings/General Business**

**16-0066** Agenda items pending - to be scheduled

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**Tuesday, October 25, 2016 - City Council**

**Public Hearings/General Business**

**16-0067**                      Agenda items pending - to be scheduled

**Tuesday, November 1, 2016 - City Council**

**Public Hearings/General Business**

**16-0192**                      Quarterly General Plan Amendment Initiation

**Tuesday, November 15, 2016 - City Council**

**Closed Session**

**16-0329**                      6 P.M. SPECIAL COUNCIL MEETING (Closed Session)  
Closed Session held pursuant to California Government Code Section  
54957:  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Title: City Attorney

**Public Hearings/General Business**

**16-0069**                      Agenda items pending - to be scheduled

**Tuesday, December 6, 2016 - City Council**

**Public Hearings/General Business**

**16-0070**                      Agenda items pending - to be scheduled

**Tuesday, December 13, 2016 - City Council**

**Closed Session**

**16-0330**                      5 P.M. SPECIAL COUNCIL MEETING (Closed Session)  
Closed Session held pursuant to California Government Code Section  
54957:  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Title: City Attorney

**16-0331**                      6 P.M. SPECIAL COUNCIL MEETING (Closed Session)  
Closed Session held pursuant to California Government Code Section  
54957:  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Title: City Manager

**Public Hearings/General Business**

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16-0071                      Agenda items pending - to be scheduled

**Tuesday, January 10, 2017 - City Council**

**Public Hearings/General Business**

16-0072                      Agenda items pending - to be scheduled

**Thursday, January 26, 2017 - City Council**

**Public Hearings/General Business**

16-0059                      8:30 A.M. SPECIAL COUNCIL MEETING  
Strategic Session-Prioritization & Policy Priorities Update

**Friday, January 27, 2017 - City Council**

**Public Hearings/General Business**

16-0076                      8:30 A.M. SPECIAL COUNCIL MEETING  
Strategic Session-Prioritization & Policy Priorities Update

**Tuesday, January 31, 2017 - City Council**

**Public Hearings/General Business**

16-0065                      TBD - meeting to be held only if necessary

16-0073                      Agenda items pending - to be scheduled

**Friday, February 3, 2017 - City Council**

**Public Hearings/General Business**

16-0057                      8:30 A.M. SPECIAL COUNCIL MEETING  
Study/Budget Issues Workshop

**Tuesday, February 7, 2017 - City Council**

**Study Session**

16-0087                      6 P.M. SPECIAL COUNCIL MEETING (Study Session)  
Board and Commission Interviews (as necessary)

**Public Hearings/General Business**

16-0193                      Quarterly General Plan Amendment Initiation

**Tuesday, February 28, 2017 - City Council**

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**Public Hearings/General Business**

- 16-0086** Appoint Applicants to Boards and Commissions
- 16-0242** Individual Lockable Storage Requirements for Multi-Family Housing (Study Issue)

**Date to be Determined - City Council****Public Hearings/General Business**

- 14-0035** Pilot Bicycle Boulevard Project on East-West and North-South Routes (Study Issue, Deferred to January 2017)
- 14-0429** Resolution Forming Homestead Road Underground Utility District - Public Hearing
- 16-0271** File #: 2015-7399  
Location: 777 Sunnyvale-Saratoga Road (APN: 201-36-002)  
Zoning: C-2/ECR  
Proposed Project: Appeal by a member of the public of a decision by the Planning Commission to conditionally allow a:  
SPECIAL DEVELOPMENT PERMIT to allow an approximately 11,600 square foot new commercial building (grocery store) on an existing commercial site. The project replaces a portion (approx. 7,599 s.f.) of the Orchard Supply Hardware building and storage area.  
Appellant / Applicant / Owner: Michael Howland (appellant) / Ware Malcomb (applicant) / Mardit Properties, LP (owner)  
Environmental Review: Mitigated Negative Declaration  
Project Planner: Ryan Kuchenig, (408) 730-7431, rkuchenig@sunnyvale.ca.gov



# City of Sunnyvale

## Agenda Item

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**16-0324**

**Agenda Date: 4/12/2016**

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Information/Action Items

## **2016 INFORMATION/ACTION ITEMS** **COUNCIL DIRECTIONS TO STAFF**

<b>No.</b>	<b>Date Assigned</b>	<b>Directive/Action Required</b>	<b>Dept</b>	<b>Due Date</b>	<b>Date Completed</b>
1.	8/18/15	Look for potential matching funds for the Lawrence/Wildwood project and adjust TIF assumptions as needed	DPW	September 2016	
2.	12/1/15	UUT Study Session follow up (will be presented as a Report to Council)	FIN	5/17/16	
3.	2/23/16	Evaluate and bring back staff analysis on the request to grandfather in hookah use at an existing downtown restaurant	DPS/ OCA	May 2016	
4.	3/29/16	Provide a Biweekly Report item on Water Enterprise Fund Debt and expected savings when a portion of the debt is retired.	FIN		
5.	4/5/16	Prepare a Biweekly Report item to provide more information on the PERS regulation that requires equal pay for casual classifications. Provide an estimate of the annual fiscal impact of the salary schedule changes made at this Council meeting (coordinate with Finance)	HR/ FIN		



# **NEW STUDY/BUDGET ISSUES SPONSORED BY COUNCIL IN 2016**

No.	Date Requested	Study Issue Title	Requested By	Dept	Issue Paper Approved by City Manager
		No new Council-sponsored study issues.			



# City of Sunnyvale

## Agenda Item

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16-0359

Agenda Date: 4/12/2016

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### REPORT TO COUNCIL

#### **SUBJECT**

Update on City Position as Part of Envision Silicon Valley and the Proposed 2016 Transportation Ballot Measure (Information Only)

#### **BACKGROUND**

On August 18, 2015, the City held a four topic Council Study Session, including a discussion on "Transportation Initiatives and Proposed Ballot Measure." As part of that discussion staff provided updates on the proposed 2016 transportation ballot measure, the Envision Silicon Valley process, the City's priorities for transportation funding, and an update on coordination with the North County and West Valley cities. The City priorities for funding are as follows:

- Construction funding for 101/237/Mathilda Interchange
- Lawrence Expressway grade separations within Sunnyvale
- Bike and pedestrian funding
- Maximize pavement/flexible funding
- Competitive funding for Cal train grade separations

On February 9, 2016, staff provided an update on a proposal developed by the North County and West Valley Cities. The proposal included an advocacy position for funding categories and levels (Attachment 1) as part of the proposed measure. Council supported the categories as listed in the proposal, but not any specific funding allocations. In addition, Council supported adding a category for low/wage earner social justice issues.

Staff participates on a monthly basis in the Valley Transportation Authority (VTA) Technical Advisory Committee (TAC). As part of the TAC, staff has continued to work with other cities in the County to develop a draft category and funding proposal for the proposed measure. Ultimately the TAC proposal would be forwarded to VTA commission and the VTA Board for their consideration.

#### **EXISTING POLICY**

**General Plan, Chapter 3, *Land Use and Transportation*, Goal LT-1** - Coordinated Regional Planning - Protect and sustain high quality of life in Sunnyvale by participating in coordinated land use and transportation planning in the region

**General Plan, Chapter 3, *Land Use and Transportation*, Goal LT-5** - Effective, Safe, Pleasant, and Convenient Transportation - Attain a transportation system that is effective, safe, pleasant, and convenient.

**General Plan, Chapter 3, *Land Use and Transportation*, Policy LT-5.7** - Pursue local, state, and

federal transportation funding sources to finance City transportation capital improvement projects consistent with City priorities.

### **ENVIRONMENTAL REVIEW**

This is an information report only and no action is being taken by the City Council and no environmental review under the California Environmental Quality Act ("CEQA") is required.

### **DISCUSSION**

As part of the TAC, staff has met over the last few months to discuss the proposed ballot measure. Based on previous discussions with Council, staff has advocated for funding and categories that align with City priorities. At this time the following draft TAC proposal has been developed:

<b>Category</b>	<b>Allocation (in Millions)</b>
BART*	\$1,400
Local Streets**	\$1,200
Core Transit***	\$300
Congestion Relief (Highway 85)****	\$400
Active Transportation	\$350
Caltrain	\$900
Highways	\$700
Expressways	\$750
<b>Total</b>	<b>\$6,000</b>

\*BART would receive an additional \$100 million if revenues exceed \$6,000 million.

\*\*Revenues over \$6,100 million would be directed to Local Streets.

\*\*\*Projects that strengthen current routes provide first and last mile connections to active transit routes, serve all segments of the population (including senior, low income, disabled, and students).

\*\*\*\*To include \$25 million for Comprehensive Study.

Staff believes the draft TAC proposal provides the appropriate categories and funding levels to support City priorities and aligns with Council direction. Staff still expects modifications as part of the TAC process, however, the categories and funding levels are expected to stay within the same range. Two items to highlight are the BART and Congestion Relief categories. Funding from those categories could shift from one to the other, however as long as Local Streets is maintained above \$1,000M and Core Transit is maintained above \$200M, the City's goals will still be met. Unless significant changes are made that could affect City priorities, staff is planning to express that the above proposal aligns with Council direction at the TAC meeting. Given the tight schedule and the established City Council direction on funding ranges and categories, staff also proposes not to return to Council for further consideration unless there is a significant departure that requires further Council direction. The City Council could always direct City staff to return with an update and we will certainly continue to keep the City Council updated through regular information updates.

It is important to note that any TAC recommendation will go through a full VTA Committee and Board process as part of Envision Silicon Valley. In addition, a community outreach process will be completed. Ultimately the VTA Board will make a final determination on the proposed categories, funding levels, and any specific projects that will be included.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

Prepared: Manuel Pineda, Director, Public Works

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENT**

1. North County and West Valley Cities February 9 Proposal

# ATTACHMENT 1

## Draft Preferred Allocation of 2016 Transportation Sales Tax Measure Funds

Expenditure Category	Allocation (\$ millions)	Allocation (Percent)
<b>BART</b> (Phase II of BART Silicon Valley Extension)	\$1,200	20.0
<b>Caltrain</b> (Santa Clara County portion of costs to expand capacity, improve reliability, and major station upgrades and improvements)	400	6.7
<b>Congestion Relief/Transit/Mode Shift*</b>	500	8.3
<b>Rail/Road Grade Separations</b> (Caltrain and VTA light rail rail/road separations – similar to Measure A program in San Mateo County)	900	15.0
<b>Expressways</b> (Funding for projects identified in the County Expressway 2040 Plan)	1,000	16.7
<b>Streets and Highways</b> (Key interchange and operational projects)	500	8.3
<b>Local Streets and Roads</b> (Agencies would have flexibility to focus on maintenance or other local needs)	1,000	16.7
<b>Bicycle/Pedestrian</b> (Bicycle and pedestrian improvement projects)	500	8.3
<b>TOTAL</b>	<b>\$6,000</b>	<b>100.0</b>

\* Expanded transit and other innovative strategies focused on congested commute corridors based on the results of a comprehensive, systemwide study and plan. Potential projects include express commuter bus service, new transit options, last mile strategies (e.g., bike share), and other commute alternatives.

These strategies would be aimed at supporting the continued economic vitality and employment growth in the Silicon Valley, further reducing reliance on single-occupancy vehicle use for commuting, and providing new options to get people from where they live to where they work.



# City of Sunnyvale

## Agenda Item

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**16-0352**

**Agenda Date: 4/12/2016**

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Board/Commission Meeting Minutes



# City of Sunnyvale

## Meeting Minutes - Draft

### Housing and Human Services Commission

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Wednesday, March 23, 2016

7:00 PM

West Conference Room, City Hall, 456 W.  
Olive Ave., Sunnyvale, CA 94086

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#### **CALL TO ORDER**

Chair Evans called the meeting to order at 7:03 p.m.

#### **SALUTE TO THE FLAG**

Chair Evans led the salute to the flag.

#### **ROLL CALL**

**Present:** 5 - Chair Patti Evans  
Commissioner Dennis Chiu  
Commissioner Younil Jeong  
Commissioner Minjung Kwok  
Commissioner Narendra Pathak

**Absent:** 2 - Vice Chair Barbara Schmidt  
Commissioner Diana Gilbert

**Council Liaison Whittum (absent)**  
**Commissioner Gilbert (excused absence)**  
**Vice Chair Schmidt (excused absence)**

#### **ORAL COMMUNICATIONS**

Chair Evans read an announcement from the City Clerk's office regarding the upcoming board and commission application deadline for the summer recruitment to fill current, or anticipated commission openings due to terms expiring at the end of June. She noted that applications must be received by 5 p.m. on Friday April 15, in order to be interviewed by City Council in early May.

Staff announced the upcoming fair housing presentation by Project Sentinel on April 18 at 6 p.m. in the Sunnyvale Library Program Room. This event is free and open to the general public.

#### **CONSENT CALENDAR**

**1.A**      [16-0264](#)      Approve the Housing and Human Services Commission

Meeting Minutes of February 24, 2016.

Chair Evans asked if anyone wanted to discuss the item on the consent calendar, or for a motion to approve.

Commissioner Pathak moved and Commissioner Jeong seconded the motion to Approve the Housing and Human Services Commission Minutes of February 24, 2016, as submitted. The motion carried by the following vote:

**Yes:** 5 - Chair Evans  
Commissioner Chiu  
Commissioner Jeong  
Commissioner Kwok  
Commissioner Pathak

**No:** 0

**Absent:** 2 - Vice Chair Schmidt  
Commissioner Gilbert

**PUBLIC HEARINGS/GENERAL BUSINESS**

**2**      [16-0266](#)      Funding Recommendations for FY 2016-17 CDBG/HOME  
Capital Projects

Housing Officer Suzanne Isé gave a short overview of the funding recommendations presented for the commissioners consideration.

Chair Evans opened the public hearing at 7:32 p.m.

MidPen Housing Project Manager Matt Lewis thanked the commissioners for their consideration of the two proposed projects submitted by MidPen: a new 66-unit affordable rental housing project at 460 Persian Drive and a sidewalk extension project.

Sunnyvale Community Services Executive Director Marie Bernard and Downtown Streets Team Project Manager Greg Pensinger shared some success stories from the first several years of their program's operations, answered questions, and encouraged the commissioners to support their proposal for the Work First Sunnyvale program.

Chair Evans closed the public hearing at 7:54 p.m.

Commissioner Pathak moved and Commissioner Chiu seconded the motion to approve Alternative 1: Recommend funding the capital project proposals in the



amounts recommended by staff, as shown in the table in the staff report and as explained in detail in Attachment 1 of the staff report. The motion carried by the following vote:

**Yes:** 5 - Chair Evans  
Commissioner Chiu  
Commissioner Jeong  
Commissioner Kwok  
Commissioner Pathak

**No:** 0

**Absent:** 2 - Vice Chair Schmidt  
Commissioner Gilbert

#### **STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES**

Commissioner Pathak suggested considering the topic of rent control as a possible study issue. Commissioners discussed the idea briefly, and reached consensus to add this topic and any others that may be suggested in future meetings to a list of potential study issue topics to be considered and voted on at a future meeting.

#### **NON-AGENDA ITEMS & COMMENTS**

##### **-Commissioner Comments**

None.

##### **-Staff Comments**

None.

#### **ADJOURNMENT**

Chair Evans adjourned the meeting at 8:14 p.m.