



# City of Sunnyvale

## Notice and Agenda

### City Council

---

Tuesday, October 4, 2016

5:30 PM

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

---

Special Meeting-Study Session-5:30 PM | Regular Meeting-7 PM

#### **5:30 P.M. SPECIAL COUNCIL MEETING (Study Session)**

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

**2 Roll Call**

**3 Public Comment**

**4 Study Session**

[16-0192](#)

Board and Commission Interviews

**5 Adjourn Special Meeting**

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

*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**

#### **SPECIAL ORDERS OF THE DAY**

[16-0471](#)

SPECIAL ORDER OF THE DAY - October is National Arts and Humanities Month

[16-0943](#)

SPECIAL ORDER OF THE DAY - October 16 - 22 is Freedom from Workplace Bullying Week

### **PRESENTATION**

[16-0846](#)

PRESENTATION - Update by County Office of Supportive Housing on Improvements to County Facility at 999 Hamlin Court for Cold Weather Shelter Program

### **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**    [16-0646](#)            Approve City Council Meeting Minutes of September 20, 2016

**Recommendation:** Approve the City Council Meeting Minutes of September 20, 2016 as submitted.

**1.B**    [16-0789](#)            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**    [16-0862](#)            Award of Contract for the Mary Avenue Overcrossing Environmental Impact Report (F16-119) and Approval of Budget Modification No. 14 to Appropriate \$686,125 in Traffic Impact Fee Funding for the Project

**Recommendation:** 1) Award a contract, in substantially the same form as Attachment 1 to the report in an amount not-to-exceed \$623,750 to Kimley-Horn Associates, Inc.; 2) approve a 10% contract contingency in the amount of \$62,375; and 3) Approve Budget Modification No. 14 to appropriate \$686,125 in Traffic Impact Fee Revenue to provide project funding.

- 1.D [16-0831](#) Approve Budget Modification 10 to Appropriate \$203,719 to Reimburse Foothill-De Anza Community College District for Demolition and Remediation Costs at the Onizuka City-Owned Parcels

**Recommendation:** Approve Budget Modification 10 to Appropriate \$203,719 to Reimburse Foothill-De Anza Community College District for Demolition and Remediation Costs at the Onizuka City Property.

- 1.E [16-0616](#) Approve City Position on Proposed League of California Cities' 2016 Annual Conference Resolution

**Recommendation:** Approve a support position for the proposed Resolution #1, Vision Zero and authorize the City's voting delegate/alternates to cast votes consistent with the City Council's adopted position.

- 1.F [16-0869](#) Modify an Existing Contract for Services Associated with Land Development Plan Review (F17-015)

**Recommendation:** Authorize the City Manager to execute an amendment to the existing contract with Wilsey Ham adding \$25,000 and increasing the not-to-exceed amount from \$99,000 to \$124,000, in substantially the same form as Attachment 1 to the report.

- 1.G [16-0870](#) Endorse the Slate of Candidates for the League of California Cities Peninsula Division Executive Committee 2016-17 Election of Officers

**Recommendation:** Endorse the slate of candidates for the Peninsula Division Executive committee for 2016-17:  
President: Alicia Aguirre, Council Member, Redwood City  
Vice President: Marilyn Librers, Council Member, Morgan Hill  
Treasurer: Larry Moody, Council Member, East Palo Alto  
Secretary: Charles Stone, Council Member, Belmont  
Board Director (Two Year Term): Liz Kniss, Council Member, Palo Alto  
San Mateo County: Shelly Masur, Council Member, Redwood City  
Santa Clara County: Cory Wolbach, Council Member, Palo Alto

- 1.H    [16-0887](#)    Adopt Resolutions Approving Amendments to the City's Contribution for CalPERS Medical Insurance for Management, SEA/Confidential and SEIU Employees and Annuitants (Retirees)

**Recommendation:** Adopt two resolutions: (1) fixing the employer's contribution under the Public Employee's Medical and Hospital Care Act ("PEMHCA") for 2017, and (2) amending Salary Resolution No. 190-05 to modify the City's contribution for medical insurance for Management, SEA/Confidential and SEIU employees and annuitants.

- 1.I    [16-0933](#)    Authorize the Issuance of a Purchase Order for a Three-year Subscription for Microsoft Office O365 (F17-034)

**Recommendation:** 1) Authorize the issuance of a three-year purchase order, in substantially the same form as Attachment 1 to the report in the amount of \$683,100 to Softchoice Corporation; and 2) Authorize the City Manager to renew the purchase order for two (2) additional one-year periods, not-to-exceed budgeted amounts.

- 1.J    [16-0936](#)    Adopt a Pledge of Revenues Resolution and a Resolution Approving an Installment Sale Agreement in Support of the State Revolving Fund Financing for the Sunnyvale Clean Water Program

**Recommendation:** Adopt a Pledge of Revenues Resolution and a Resolution Approving an Installment Sale Agreement and authorizing the City Manager, or her designee, to execute the Agreement in support of the State revolving fund financing for the Sunnyvale Clean Water Program.



- 1.K    [16-0853](#)    Approve Budget Modification No. 13 to Appropriate \$12,832 of Federal Fiscal Year (FFY) 2016 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Grant Funds for Front Line Law Enforcement Equipment

**Recommendation:** Approve Budget Modification No. 13 to appropriate FFY2016 Edward Byrne Memorial Justice Assistance Grant (JAG) funds in the amount of \$12,832 to a new project, FFY2016 JAG Grant.

- 1.L    [16-0948](#)    Adopt Ordinance No. 3095-16 Adding Section 19.27.040 (Peery Park Specific Plan District) to Title 19 (Zoning) of the Sunnyvale Municipal Code, Rezoning Encinal Park from Industrial and Service (MS) to Public Facilities (PF), and Making Related Changes to Other Sunnyvale Municipal Code Provisions to Implement the Peery Park Specific Plan

**Recommendation:** Adopt Ordinance No. 3095-16.

## **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        [16-0910](#)        Proposed Project: Introduction of Ordinance to REZONE 28 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)  
File #: 2016-7431  
Location: 662-678 Vanderbilt Drive (Assessor Parcel Numbers 202-06-026 through 202-06-030), 1202-1204 Sesame Drive (202-08-003 through 202-08-006), 1218-1234 Sesame Court (202-08-001, 202-08-002 and 202-06-043 through 202-06-048) and 661-677 Winggate Drive (202-06-034 through 202-06-042)  
Zoning: R-1  
Applicant / Owner: Baerbel Schumacher (plus multiple owners)  
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) (the general rule that CEQA only applies

to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA).

**Recommendation:** Alternatives 1 and 2: 1) Find the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 and 15061(b)(3) ; and, 2) Find that the zoning amendment (rezoning) is deemed to be in the public interest as set forth in Attachment 6 to the report and Introduce an Ordinance to Rezone 28 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).

**3**      [16-0911](#)

Proposed Project: Introduction of Ordinance to REZONE 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)  
File #: 2016-7523

Location: 576-598 West Remington Drive (APNs: 202-01-001 through 202-01-007), 575-595 Rockport Drive (APNs: 202-01-016 through 202-01-024), 585-595 Templeton Court (APNs: 202-01-025 through 202-01-028 and 202-08-035), 1104-1132 Spinosa Drive (APNs: 202-01-029 through 202-01-033, and 202-08-032 through 202-08-034), 1126-1138 Strawberry Court (APNs: 202-08-036 through 202-08-040), 1143-1153 Tangerine Way (APNs: 202-08-041 through 202-08-043)

Zoning: R-1

Applicant / Owner: Stephen Meier (plus multiple owners)

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) (the general rule that CEQA only applies to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA).

**Recommendation:** Alternatives 1 and 2: 1) Find the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3) and, 2) that the zoning amendment (rezoning) is deemed to be in the public interest (as set forth in Attachment 6 to the report) and Introduce an Ordinance to Rezone 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).

- 4      [16-0615](#)      Adopt Positions on State and Local Ballot Measures for the November 8, 2016 Election

**Recommendation:** Alternatives 1, 2, 3 and 4:

1. Adopt the following staff-recommended positions on the ballot measures deemed City business, including one item where staff recommends that Council remain neutral (take no position):

## State Ballot Measures

\* OPPOSE Proposition 53 Revenue Bonds. Statewide Voter Approval.

\* TAKE NO POSITION Proposition 63 Safety for All Act of 2016.

\* OPPOSE Proposition 64 Marijuana Legalization.

\* OPPOSE Proposition 65 Carryout Bags. Charges.

\* SUPPORT Proposition 67 Ban on Single-Use Plastic Bags. Local Ballot Measures

\* SUPPORT Measure A, Santa Clara County Housing Bond.

\* SUPPORT Measure B, Valley Transportation Authority Tax.

\* SUPPORT Measure N, Utility Users Tax.

2. Consider taking a position on a ballot measure deemed City business, where staff is not recommending a specific position:

## Local Ballot Measures

\* Measure M Public Lands for Public Use Act

3. Consider taking positions on remaining ballot measures which are deemed not City business:

## State Ballot Measures

\* Proposition 51 School Bonds. Funding For K-12 School and Community College Facilities

\* Proposition 52 Medi-Cal Hospital Fee Program

\* Proposition 54 Legislature. Legislation and Proceedings

\* Proposition 55 Tax Extension to Fund Education and Healthcare

\* Proposition 56 Cigarette Tax to Fund Healthcare, Tobacco Use Prevention, Research, and Law Enforcement

\* Proposition 57 Criminal Sentences. Parole. Juvenile Criminal Proceedings And Sentencing

\* Proposition 58 English Proficiency. Multilingual Education

\* Proposition 59 Corporations. Political Spending. Federal Constitutional Protections

\* Proposition 60 Adult Films. Condoms. Health Requirements

\* Proposition 61 State Prescription Drug Purchases. Pricing Standards

\* Proposition 62 Death Penalty

\* Proposition 66 Death Penalty. Procedures  
Local Ballot Measures

\* Measure BB Sunnyvale School District Parcel Tax

4. Affirm that, as required by State law, no public funds have been or will be used to campaign for or against any of these measures.

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

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

-Council

-City Manager

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

<a href="#">16-0826</a>	Tentative Council Meeting Agenda Calendar
<a href="#">16-0834</a>	Information/Action Items
<a href="#">16-0937</a>	Study Session Summary of September 13, 2016 - El Camino Real Corridor Plan Presentation of Vision and Land Use Alternatives

### **ADJOURNMENT**

### **NOTICE TO THE PUBLIC**

*The agenda reports to council (RTCs) may be viewed on the City's website 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

---

**16-0192**

**Agenda Date:** 10/4/2016

---

Board and Commission Interviews



# City of Sunnyvale

## Agenda Item

---

**16-0471**

**Agenda Date:** 10/4/2016

---

SPECIAL ORDER OF THE DAY - October is National Arts and Humanities Month





# City of Sunnyvale

## Agenda Item

---

**16-0943**

**Agenda Date:** 10/4/2016

---

SPECIAL ORDER OF THE DAY - October 16 - 22 is Freedom from Workplace Bullying Week



# City of Sunnyvale

## Agenda Item

---

**16-0846**

**Agenda Date:** 10/4/2016

---

PRESENTATION - Update by County Office of Supportive Housing on Improvements to County Facility at 999 Hamlin Court for Cold Weather Shelter Program



# City of Sunnyvale

## Agenda Item

---

**16-0646**

**Agenda Date:** 10/4/2016

---

**SUBJECT**

Approve City Council Meeting Minutes of September 20, 2016

**RECOMMENDATION**

Approve the City Council Meeting Minutes of September 20, 2016 as submitted.



# City of Sunnyvale

## Meeting Minutes - Draft City Council

---

Tuesday, September 20, 2016

6:00 PM

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

---

**Special Meeting: Workshop-6 P.M. | Regular Meeting-7 P.M.**

### **6 P.M. SPECIAL COUNCIL MEETING (Study Session)**

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

Vice Mayor Larsson called the meeting to order at 6 p.m.

#### **2 Roll Call**

Present: 6 - Mayor Glenn Hendricks  
Vice Mayor Gustav Larsson  
Councilmember Jim Griffith  
Councilmember Tara Martin-Milius  
Councilmember Jim Davis  
Councilmember Larry Klein

Absent: 1 - Councilmember Pat Meyering

#### **3 Public Comment**

#### **4 Presentation**

[16-0757](#) New City Logo & Brand Workshop

#### **5 Adjourn Special Meeting**

Vice Mayor Larsson adjourned the meeting at 6:40 p.m.

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

#### **CALL TO ORDER**

Mayor Hendricks called the meeting to order.

#### **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 Pat Meyering  
Councilmember Jim Davis  
Councilmember Larry Klein

**SPECIAL ORDER OF THE DAY**

[16-0866](#) SPECIAL ORDER OF THE DAY - October is National Breast Cancer Awareness Month

Mayor Hendricks presented a proclamation in honor of National Breast Cancer Awareness Month to Bobbe Smirni, New Frontiers in Prevention of Breast Cancer.

**ORAL COMMUNICATIONS**

City Manager Deanna Santana introduced Director of Information Technology Kathleen Boutté Foster.

Councilmember Davis announced board and commission recruitment and an upcoming application deadline.

Councilmember Davis announced an upcoming Sunnyvale Technology Expo.

Ron Banks addressed the Council regarding affordable housing and mobile homes.

Jeanine Stanek spoke regarding current events at the Sunnyvale Heritage Park Museum and presented older model telephones on display.

Ellen Huynh, SummerHill, announced the upcoming 2016 Turkey Trot fundraising event.

Michael Goldman spoke regarding Measure M and provided a PowerPoint presentation.

Peter Cirigliano spoke regarding Measure M.

Phyllis Freeman spoke regarding increased traffic on East Duane Avenue between Fair Oaks and Mathilda, and increased airplane traffic in the area.

Ann Davis spoke regarding a mailed notification regarding Maude Avenue (Public Comment taken at 7:53 p.m.).

### **CONSENT CALENDAR**

Councilmember Meyering pulled Items 1.A, 1.B, 1.C and 1.E and stated his vote will not be on Item 1.D. due to the proximity of his home to Peery Park.

MOTION: Vice Mayor Larsson moved and Councilmember Klein seconded the motion to approve Consent Calendar Items 1.D and 1.F.

The motion carried by the following vote:

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

**No: 0**

**1.A**     [16-0082](#)     Approve City Council Meeting Minutes of September 13, 2016

Public Hearing opened at 10:35 p.m.

No speakers.

Public Hearing closed at 10:35 p.m.

MOTION: Councilmember Meyering moved to deny approval of the minutes until a summary of the positions expressed by dissenting voters is included.  
The motion died due to lack of a second.

MOTION: Vice Mayor Larsson moved and Councilmember Davis seconded the motion to approve the City Council Meeting Minutes of September 13, 2016 as submitted.

The motion carried by the following vote:

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

**No:** 1 - Councilmember Meyering

**1.B**      [16-0788](#)      Approve the List(s) of Claims and Bills Approved for Payment by the City Manager

Public Hearing opened at 10:35 p.m.

No speakers.

Public Hearing closed at 10:35 p.m.

MOTION: Councilmember Meyering moved to deny payment of the claims until Council is provided copies of bills upon request.  
The motion died due to lack of a second.

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 Davis  
Councilmember Klein

**No:** 1 - Councilmember Meyering

**1.C**      [16-0654](#)      Award of a Multi-year Contract for Consultant Services Associated with the Development of Recycled Water and Potable Re-use Projects (F16-145) and Approve Budget Modification No. 11 to Appropriate \$250,000 to a new project titled Recycled & Potable Water Plan Development.

Public Hearing opened at 10:37 p.m.

No speakers.

Public Hearing closed at 10:37 p.m.

MOTION: Vice Mayor Larsson moved and Councilmember Davis seconded the motion to 1) Award a three year contract, in substantially the same form as Attachment 2 of the report and in the amount not to exceed \$250,000 to CDM Smith, Inc.; 2) Approve Budget Modification No. 11 to appropriate \$250,000 from the Water and Wastewater Rate Stabilization Reserves to a new project Recycled & Potable Water Plan Development; and 3) delegate authority to the City Manager to renew the contract for a period of up to two years, subject to available funding

and acceptable pricing/service.

AMENDMENT: Councilmember Meyering moved to amend the motion so that the consultant provides quarterly reports about how much time was spent and the activities they were spent on and what the dollar amount was for the charge for that activity.

The motion to amend died due to lack of a second.

The main motion carried by the following vote:

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

**No:** 1 - Councilmember Meyering

**1.D**      [16-0808](#)      Increase the Contract Contingency for the Peery Park Specific Plan and Environmental Impact Report and Approval of Budget Modification No. 12 in the Amount of \$30,000 (F17-008)

MOTION: Vice Mayor Larsson moved and Councilmember Klein seconded the motion to 1) Approve Budget Modification No. 12 in the amount of \$30,000 to accept the developer contribution from Lane Partners to provide additional project funding; and 2) approve a \$20,000 increase in the contract contingency, from \$40,502 to \$60,502, to the contract with Freedman, Tung & Sasaki, increasing the total contract value from \$590,000 to \$610,000.

The motion carried by the following vote:

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

**No:** 0

**Recused:** 1 - Councilmember Meyering

**1.E**      [16-0903](#)      Award of Services Agreement to Implement Microsoft Office 365 for Enhanced Communication and Collaboration Systems



(F17-032)

Public Hearing opened at 10:38 p.m.

No speakers.

Public Hearing closed at 10:38 p.m.

MOTION: Councilmember Meyering moved to deny the contingency amount until Council is provided with oversight reports as to when and for what contingencies the money was used.

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 an amount not-to-exceed \$425,000, in substantially the same form as Attachment 1 to the report, to Convergent Computing; and 2) approve a 10% contract contingency in the amount of \$42,500.

The motion carried by the following vote:

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

**No:** 1 - Councilmember Meyering

- 1.F**      [16-0915](#)      Adopt Ordinance No. 3094-16 to Repeal Section 19.22.035 (Requirements for High-Intensity Industrial Development) of Chapter 19.22 (Industrial Zoning Districts) of Title 19 (Zoning) and to add Chapter 19.45 (Transportation Demand Management) to Title 19 (Zoning) related to Transportation Demand Management Programs in High-Intensity Industrial and Office Developments and Multi-Family Residential Developments

Adopt Ordinance No. 3094-16.

## **PUBLIC HEARINGS/GENERAL BUSINESS**

- 2**            [16-0907](#)      Adopt the PEERY PARK SPECIFIC PLAN (2013-7653) and related actions:  
-Adopt a resolution to certify the EIR with errata #1 and #2, make the CEQA findings, adopt the statement of overriding considerations, mitigation monitoring and reporting program,

- water supply assessment and other related items;
- Adopt a resolution to adopt the Peery Park Specific Plan and make related amendments to the General Plan;
- Introduce an ordinance to create the Peery Park Specific Plan district and rezone the parcels in the Plan Area;
- Adopt a resolution to establish fees for Peery Park;
- Adopt a motion to prioritize the flexible community benefits;
- Appropriate \$100,000 of City Funds to provide a portion of the local match for the Peery Park Rides Grant Program; and
- Direct staff to undertake the appropriate environmental analysis and community outreach and return to Planning Commission and City Council to consider whether the Peery Park Specific Plan should be amended to include additional housing opportunities on two sites.

Councilmember Meyering left the room. City Attorney John Nagel reported Councilmember Meyering was recused for the same reason as stated regarding Consent Item 1.D, due to the proximity of his home to Peery Park.

Director of Community Development Trudi Ryan and Principal Planner Amber Blizinski presented the staff report. Planner Officer Andy Miner, Director of Public Works Manuel Pineda, City Manager Santana and Erika Leachman, AMEC Foster Wheeler, provided additional information.

Public Hearing opened at 8:24 p.m.

Dave King spoke in opposition to the proposed openings in the wall on Ferndale Avenue citing concerns for safety and privacy in the SNAIL neighborhood, and reiterated an earlier request to remove the additional bicycle and pedestrian connectivity on Ferndale and Duane and include alternatives for improved connectivity.

Ron Banks expressed concerns regarding impacts of increased traffic and requested consideration of the shuttle and involvement of VTA.

John Cordes, Bicycle and Pedestrian Advisory Commission member speaking for himself, spoke regarding significant and unavoidable impacts to traffic, air quality and greenhouse gases and in support of net zero new cars in the plan.

Curt Setzer, Simeon Commercial Properties, owner of four properties in Peery Park, spoke in support of approval of the Peery Park Specific Plan (PPSP) and regarding sensitivity to developers regarding appropriate levels of providing

community benefits.

Craig Hine, Spear Street Capital, spoke in support of the plan and regarding the benefits to the community.

Sharon McKnight requested removal of the breaks in the wall citing privacy and security concerns for the SNAIL neighborhood.

Ann Davis spoke in support of landscaping on the east side of Mathilda, in opposition to the breaks in the wall, in support of the housing project on San Aleso and in support of improved connectivity in alternative ways.

Dwight Davis spoke in opposition to breaks in the wall on Duane and expressed concern regarding parking issues.

Tarik Peterson, Chairman of SNAIL neighborhood association and a cyclist, expressed members' concerns regarding the holes in the wall. Speaking for himself, Peterson stated the holes in the wall are not essential to the plan.

Valerie Soares, Vice Chair of SNAIL neighborhood association speaking for herself, spoke in opposition to the openings in the wall citing parking concerns and in support of the Peery Park project.

Phyllis Freeman spoke in opposition Peery Park development due to concerns with traffic and air quality, but stated if developed, she would like to see more benefits to the SNAIL neighborhood such as restaurants. Freeman spoke in opposition to the hole in the wall.

Peter Hellmann, Calatlantic Homes, spoke in support of the plan, and stated the overwhelming response to the neighborhood outreach has been opposition to the holes in the wall. Hellmann stated they are prepared to proceed with or without the holes in the wall.

Public Hearing closed at 8:57 p.m.

MOTION: Councilmember Griffith moved and Councilmember Klein seconded the motion to approve Alternatives 1, 2, 3, 4, 5, and 6:

1. Adopt a Resolution (Attachment 3 to the report) to:
  - a. Certify the EIR;
  - b. Make the Findings Required by the California Environmental Quality Act;
  - c. Adopt the Statement of Overriding Considerations and Mitigation Monitoring and

Reporting Program;

d. Adopt the Water Supply Assessment;

e. Amend the General Plan to Create the Peery Park General Plan Designation;

f. Update the General Plan Map to Reflect the Peery Park Plan Area;

g. Adopt the Peery Park Specific Plan, with Modifications;

h. Adopt the Peery Park Specific Plan Community Benefits Table;

i. Repeal the Southern Pacific Corridor Specific Plan Site 2; and

j. Accept the errata to the EIR (Attachment 28) and find that none of the circumstances triggering recirculation of the EIR or subsequent environmental review have occurred under CEQA Guidelines Sections 15088.5 and 15162.

2. Introduce an Ordinance (Attachment 4 to the report) to:

a. Amend Sunnyvale Municipal Code (SMC) Section 19.16.020 (Zoning Districts Creation), repeal SMC Section 19.16.070 (Perry Park District Review Process);

Add SMC Section 19.27.040 (Peery Park Specific Plan District);

b. Amend the Precise Zoning Plan Zoning Districts Map to add the Peery Park Specific Plan District and Rezone the Parcels in the Peery Park Specific Plan Area to Peery Park Specific Plan District; and

c. Rezone the Encinal Park Parcel to Public Facilities.

3. Adopt a Resolution (Attachment 5) to:

a. Amend Resolution No. 762 16 (Master Fee Schedule) to add the Peery Park Plan Review Fees, Peery Park Conditional Use Permit Fees, a Peery Park Specific Plan Fee, and Peery Park Wastewater Infrastructure Fee;

b. Authorize the City to impose Peery Park Sense of Place and Water Infrastructure Fees on a project specific basis.

4. Make a Motion to Prioritize the Flexible Community Benefits as recommended by staff.

5. Direct staff to include a new project for \$100,000 to provide matching funds for the Peery Park Rides Grant Program in the FY 2017/18 Recommended Budget.

6. Direct staff to undertake the appropriate environmental analysis and community outreach and return to Planning Commission and City Council to consider whether the Peery Park Specific Plan should be amended to include additional housing opportunities. Further direct that the PPSP housing amendment study for the California Avenue and Hermosa Court sites be completed within three years of the adoption of the PPSP and that, if formal applications to amend the Plan to include housing have not been submitted by either of the owners of the two properties within one year, staff will return to City Council for consideration of a Budget Modification for staff to proceed with the housing amendment study;

With the following changes: remove Sections 4.3.3 (C) Ferndale Avenue Bike Pedestrian Connection and (D) Duane Avenue Bike Pedestrian Connection from the Peery Park Specific Plan, and additional direction that community benefits are not going toward ongoing expenses.

City Attorney Nagel stated that the sections cited in the motion are not the only sections pertaining to the connectivity through the wall and recommended a minor modification to the motion to refer to “any other sections...” that reference the connectivity through the wall.

The maker of the motion and second accepted the recommended modification.

City Clerk Kathleen Franco Simmons read the ordinance title.

The motion carried by the following vote:

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

**No:** 0

**Recused:** 1 - Councilmember Meyering

Council recessed at 9:45 p.m.

Council reconvened at 9:50 p.m. with all Councilmembers present.

**3**      [16-0844](#)      City-wide Residential Food Scraps Collection Program for Single-Family Households and Small Businesses that Use Commercial Cart Service

Director of Environmental Services John Stufflebean provided the staff report. Environmental Programs Manager Karen Gissibl and Director of Finance Tim Kirby provided additional information.

Public Hearing opened at 10:15 p.m.

Dan Hafeman spoke in support of the program.

Public Hearing closed at 10:17 p.m.

MOTION: Vice Mayor Larsson moved and Councilmember Griffith seconded the motion to approve Alternative 1: Direct staff to implement a split cart curbside collection program to collect food scraps along with garbage for single family households and small businesses that use commercial cart service.

The motion carried by the following vote:

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

**No: 0**

- 4**      [16-0913](#)      Amend the Salary Resolution to Update Various Benefits and the Schedule of Pay to Provide Salary Increases for Pay Plan Category G (Unrepresented Classified Confidential Employees)

Director of Human Resources Teri Silva provided the staff report. Director of Finance Kirby provided additional information.

Public Hearing opened at 10:27 p.m.

No speakers.

Public Hearing closed at 10:27 p.m.

MOTION: Vice Mayor Larsson moved and Councilmember Davis seconded the motion to approve Alternative 1: Adopt the Resolution to Amend the Salary Resolution to Update Various Benefits and the Schedule of Pay to Provide Salary Increases for Pay Plan Category G (Unrepresented Classified Confidential Employees).

The motion carried by the following vote:

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

**No: 1 -** Councilmember Meyering

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

Councilmember Griffith reported his attendance at a meeting of the Silicon Valley

Clean Energy Authority in which an office location was identified at 333 W. Mathilda and branding was discussed.

Councilmember Davis reported his attendance at a meeting of the ABAG Executive Committee in which an assessment of assets, the passing of SB 32, ABAG finances, Proposition AA the resignation of the ABAG Executive Director were discussed.

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

#### **-Council**

Councilmember Davis inquired if Council would consider on a future agenda an exemption to the City's ordinance which would allow a research organization to research the growing of marijuana, not to be sold or consumed, and to be destroyed on the property.

City Manager Santana provided information.

Mayor Hendricks stated he will work with the City Manager to see if it is appropriate to bring the issue back to Council.

#### **-City Manager**

City Manager Santana noted the upcoming Joint Study Session with Board and Commission Chairs and Vice Chairs on October 25.

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

[16-0755](#) Tentative Council Meeting Agenda Calendar

[16-0739](#) Information/Action Items

### **ADJOURNMENT**

Mayor Hendricks adjourned the meeting at 10:46 p.m.



# City of Sunnyvale

## Agenda Item

16-0789

Agenda Date: 10/4/2016

### 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
833	09/04/16 through 09/10/16	\$2,563,940.68
834	09/11/16 through 09/17/16	\$4,562,628.24

#### **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, 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



9/20/2016

City of Sunnyvale

**LIST # 833**

Page 1

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/4/2016 through 9/10/2016**

Sorted by Payment Number

Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
xxx284288	9/6/16	APPLEONE EMPLOYMENT SERVICES	01-4160356	Contracts/Service Agreements	1,248.64	0.00	1,248.64	<b>\$1,248.64</b>
xxx284289	9/6/16	BOUND TREE MEDICAL LLC	82249343	Inventory Purchase	2,158.15	0.00	2,158.15	<b>\$4,148.27</b>
			82254673	Inventory Purchase	1,990.12	0.00	1,990.12	
xxx284290	9/6/16	CONTAINER SOLUTIONS INC	129323	Miscellaneous Equipment	3,153.75	0.00	3,153.75	<b>\$3,153.75</b>
xxx284292	9/6/16	ELIZABETH J STRAIN	ES2016JULY	Rec Instructors/Officials	902.00	0.00	902.00	<b>\$902.00</b>
xxx284293	9/6/16	EMPIRE SAFETY & SUPPLY	0082806-IN	Inventory Purchase	292.45	0.00	292.45	<b>\$292.45</b>
xxx284294	9/6/16	FERGUSON ENTERPRISES INC 1423	1200506	Inventory Purchase	788.44	7.25	781.19	<b>\$781.19</b>
xxx284295	9/6/16	GALE/CENGAGE LEARNING	58551213	Library Acquisitions, Books	29.57	0.00	29.57	<b>\$29.57</b>
xxx284296	9/6/16	GARDENLAND POWER EQUIPMENT	408484	Misc Equip Maint & Repair - Materials	237.05	0.00	237.05	<b>\$396.19</b>
			408818	Misc Equip Maint & Repair - Materials	159.14	0.00	159.14	
xxx284297	9/6/16	GOLDEN GATE PETROLEUM	685643	Inventory Purchase	1,800.60	0.00	1,800.60	<b>\$14,587.15</b>
			972026	Inventory Purchase	12,786.55	0.00	12,786.55	
xxx284298	9/6/16	ITRON INC	422620	Inventory Purchase	8,676.00	0.00	8,676.00	<b>\$8,676.00</b>
xxx284299	9/6/16	INGRAM LIBRARY SERVICES INC	94614352	Library Acquisitions, Books	578.89	0.00	578.89	<b>\$22,630.31</b>
			94614353	Library Acquisitions, Books	8,324.31	0.00	8,324.31	
			94614353	Library Materials Preprocessing	532.90	0.00	532.90	
			94614354	Library Acquisitions, Books	4,439.49	0.00	4,439.49	
			94614354	Library Materials Preprocessing	328.37	0.00	328.37	
			94614355	Library Acquisitions, Books	7,632.16	0.00	7,632.16	
			94614355	Library Materials Preprocessing	794.19	0.00	794.19	
xxx284300	9/6/16	INTERNATIONAL CONTACT INC	O-01738	General Supplies	150.00	0.00	150.00	<b>\$150.00</b>
xxx284301	9/6/16	MIDWEST TAPE	94283539	Library Periodicals/Databases	5,541.17	0.00	5,541.17	<b>\$5,541.17</b>
xxx284303	9/6/16	R E P NUT N BOLT GUY	27606	Inventory Purchase	122.84	0.00	122.84	<b>\$122.84</b>
xxx284304	9/6/16	READYREFRESH BY NESTLE	16H5740146005	Miscellaneous Services	164.12	0.00	164.12	<b>\$164.12</b>
xxx284305	9/6/16	REDGWICK CONSTRUCTION CO	MARYAVEBIKE #01	Construction Services	86,357.85	0.00	86,357.85	<b>\$86,357.85</b>
xxx284306	9/6/16	SAN JOSE BOILER WORKS	INV-23324	Bldg Maint Matls & Supplies	142.35	0.00	142.35	<b>\$142.35</b>
xxx284307	9/6/16	SIMPLEX GRINNELL	82832534	Facilities Maint & Repair - Labor	1,485.00	0.00	1,485.00	<b>\$1,903.69</b>
			82832534	Facilities Maint & Repair - Materials	418.69	0.00	418.69	

**List of All Claims and Bills Approved for Payment**

For Payments Dated 9/4/2016 through 9/10/2016

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>
xxx284308	9/6/16	SPENCON CONSTRUCTION INC	SDEWLKCRBS1	Construction Services	133,512.82	0.00	133,512.82	<b>\$133,512.82</b>
			7#0					
xxx284309	9/6/16	SUPPLYWORKS	376765350	Inventory Purchase	648.67	5.96	642.71	<b>\$642.71</b>
xxx284310	9/6/16	VERIZON WIRELESS	9000057165	Communication Equipment	35.99	0.00	35.99	<b>\$35.99</b>
xxx284311	9/6/16	WHCI PLUMBING SUPPLY	S2139783.001	Bldg Maint Matls & Supplies	303.88	0.00	303.88	<b>\$303.88</b>
xxx284312	9/6/16	WECO INDUSTRIES LLC	0037096-IN	General Supplies	24,203.89	0.00	24,203.89	<b>\$24,203.89</b>
xxx284314	9/8/16	ACOM SOLUTIONS INC	0288736-IN	Printing & Related Services	670.05	0.00	670.05	<b>\$670.05</b>
xxx284315	9/8/16	ALEXANDER BATESTIN	23570166126	DED Services/Training - Support Services	105.00	0.00	105.00	<b>\$105.00</b>
xxx284316	9/8/16	ANDERSON PACIFIC ENGINEERING	WPCPCHLRINE	Construction Services	152,324.65	0.00	152,324.65	<b>\$152,324.65</b>
			#14					
xxx284318	9/8/16	BSI EHS SERVICES & SOLUTIONS	36784	Professional Services	17,119.50	0.00	17,119.50	<b>\$20,601.30</b>
			36971	Professional Services	3,481.80	0.00	3,481.80	
xxx284319	9/8/16	BAKER & TAYLOR	4011688931	Library Acquisitions, Books	252.95	0.00	252.95	<b>\$661.47</b>
			4011688931	Library Materials Preprocessing	8.28	0.00	8.28	
			4011691116	Library Acquisitions, Books	383.68	0.00	383.68	
			4011691116	Library Materials Preprocessing	16.56	0.00	16.56	
xxx284320	9/8/16	BAY AREA POLYGRAPH	688	Investigation Expense	1,975.00	0.00	1,975.00	<b>\$1,975.00</b>
xxx284321	9/8/16	BIGGS CARDOSA ASSOC INC	69987	Consultants	16,181.45	0.00	16,181.45	<b>\$16,181.45</b>
xxx284322	9/8/16	BURKE WILLIAMS & SORENSEN LLP	204069	Legal Services	33,910.04	0.00	33,910.04	<b>\$34,473.67</b>
			204285	Legal Services	563.63	0.00	563.63	
xxx284323	9/8/16	CSG CONSULTANTS INC	8441	Consultants	8,700.00	0.00	8,700.00	<b>\$12,812.50</b>
			8559	Miscellaneous Services	4,112.50	0.00	4,112.50	
xxx284324	9/8/16	CALCON SYSTEMS INC	38506	Equipment Maintenance & Repair Labor	1,998.00	0.00	1,998.00	<b>\$1,998.00</b>
xxx284325	9/8/16	CALIFORNIA DEPT OF GENERAL SERVICES	1410213	Utilities - Gas	16,352.82	0.00	16,352.82	<b>\$16,352.82</b>
xxx284326	9/8/16	CALTRONICS BUSINESS SYSTEMS	2055006	Equipment Rental/Lease	12,024.32	0.00	12,024.32	<b>\$12,024.32</b>
xxx284327	9/8/16	CORIX WATER PRODUCTS (US) INC	17613023853	Inventory Purchase	1,223.00	11.25	1,211.75	<b>\$1,211.75</b>
xxx284328	9/8/16	COUNTY OF ALAMEDA	NOV/14-SEPT/15	Contracts/Service Agreements	32,149.26	0.00	32,149.26	<b>\$32,149.26</b>
xxx284329	9/8/16	D & M TRAFFIC SERVICES INC	48817	Inventory Purchase	554.63	0.00	554.63	<b>\$554.63</b>
xxx284331	9/8/16	DISCOUNT SCHOOL SUPPLY	W26036690103	Furniture	541.54	0.00	541.54	<b>\$541.54</b>
xxx284332	9/8/16	EMPIRE SAFETY & SUPPLY	0082996-IN	Inventory Purchase	649.89	0.00	649.89	<b>\$649.89</b>
xxx284333	9/8/16	FIX AIR	328800	Bldg Maint Matls & Supplies	232.00	0.00	232.00	<b>\$232.00</b>

**List of All Claims and Bills Approved for Payment**

For Payments Dated 9/4/2016 through 9/10/2016

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>
xxx284334	9/8/16	FOSTER BROS SECURITY SYSTEMS INC	281913	Bldg Maint Matls & Supplies	67.01	0.00	67.01	<b>\$136.68</b>
			281928	Bldg Maint Matls & Supplies	69.67	0.00	69.67	
xxx284335	9/8/16	GRAINGER	9211595674	Inventory Purchase	179.44	0.00	179.44	<b>\$179.44</b>
xxx284336	9/8/16	HACH CO INC	10073524	Miscellaneous Equipment Parts & Supplies	1,091.34	0.00	1,091.34	<b>\$1,091.34</b>
xxx284337	9/8/16	HANSON ASSOC	1545	Consultants	4,537.50	0.00	4,537.50	<b>\$4,537.50</b>
xxx284339	9/8/16	HIGH LINE CORP	19826	Computer Software	900.00	0.00	900.00	<b>\$900.00</b>
xxx284340	9/8/16	HINDERLITER DE LLAMAS & ASSOC	0026056-IN	Sales And Use Tax	12,287.36	0.00	12,287.36	<b>\$14,537.36</b>
			0026056-IN	Financial Services	2,250.00	0.00	2,250.00	
xxx284341	9/8/16	HUMANSIZE CORP	2188958	Supplies, Office 1	659.55	0.00	659.55	<b>\$659.55</b>
xxx284342	9/8/16	INFRASTRUCTURE ENGINEERING CORP	9212	Engineering Services	3,363.75	0.00	3,363.75	<b>\$3,363.75</b>
xxx284343	9/8/16	INGRAM LIBRARY SERVICES INC	93910953	Library Acquisitions, Books	-201.08	0.00	-201.08	<b>\$7,653.84</b>
			94579626	Library Acquisitions, Books	-19.55	0.00	-19.55	
			94614356	Library Acquisitions, Books	7,052.45	0.00	7,052.45	
			94614356	Library Materials Preprocessing	822.02	0.00	822.02	
xxx284344	9/8/16	JJR CONSTRUCTION INC	CRBSSDWLK16	Construction Services	281,567.96	0.00	281,567.96	<b>\$281,567.96</b>
			#06					
xxx284345	9/8/16	JOBTRAIN	JULY2016	Contracts/Service Agreements	14,996.00	0.00	14,996.00	<b>\$14,996.00</b>
xxx284346	9/8/16	JUMBO SHRIMP VOLLEYBALL LLC	TV2016JULY	Rec Instructors/Officials	2,370.00	0.00	2,370.00	<b>\$2,370.00</b>
xxx284347	9/8/16	KMVT COMMUNITY TELEVISION	6890	Engineering Services	5,104.63	0.00	5,104.63	<b>\$5,104.63</b>
xxx284348	9/8/16	KOHLWEISS AUTO PARTS INC	01OY4472	Inventory Purchase	155.30	3.11	152.19	<b>\$152.19</b>
xxx284349	9/8/16	LA OFERTA	32786	Advertising Services	2,292.00	0.00	2,292.00	<b>\$2,292.00</b>
xxx284350	9/8/16	LANDCARE USA LLC	8127781	Services Maintain Land Improv	485.00	0.00	485.00	<b>\$485.00</b>
xxx284351	9/8/16	LEVEL 3 COMMUNICATIONS LLC	45796659	Telecommunication Services	8,186.24	0.00	8,186.24	<b>\$16,372.48</b>
			46488482	Telecommunication Services	8,186.24	0.00	8,186.24	
xxx284352	9/8/16	LEXISNEXIS RISK SOLUTIONS	1409790-160731	Financial Services	135.50	0.00	135.50	<b>\$135.50</b>
xxx284353	9/8/16	LIEBERT CASSIDY WHITMORE	1425690	Legal Services	952.00	0.00	952.00	<b>\$952.00</b>
xxx284354	9/8/16	MACIAS GINI AND OCONNELL LLP	231001	Financial Services	4,630.50	0.00	4,630.50	<b>\$4,630.50</b>
xxx284355	9/8/16	MATRIX CONSULTING GROUP	16-33 #3	Financial Services	7,700.00	0.00	7,700.00	<b>\$7,700.00</b>
xxx284356	9/8/16	MIKE DAVIS LANDSCAPE SERVICES	1016	Services Maintain Land Improv	2,003.00	0.00	2,003.00	<b>\$2,003.00</b>
xxx284357	9/8/16	MITCHELL I	39881620	Software Licensing & Support	2,200.00	0.00	2,200.00	<b>\$2,200.00</b>
xxx284358	9/8/16	NEXTEL COMMUNICATIONS	223865314-177	Utilities - Mobile Phones - City Mobile Phones	151.96	0.00	151.96	<b>\$151.96</b>

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/4/2016 through 9/10/2016**

**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</b>	<b>Taken</b>	<b>Amount Paid</b>	<b>Payment Total</b>
xxx284359	9/8/16	PAYFLEX SYSTEMS USA INC	128934-878588	Insurances - Depend Care & Health Care	720.50		0.00	720.50	<b>\$720.50</b>
				Rmb Admin Fees					
xxx284360	9/8/16	RASH CURTIS & ASSOC	517400000158	Financial Services	44.55		0.00	44.55	<b>\$1,074.82</b>
			517500000113	Financial Services	91.86		0.00	91.86	
			519200000026	Financial Services	244.91		0.00	244.91	
			661900000132	Financial Services	693.50		0.00	693.50	
xxx284361	9/8/16	REED & GRAHAM INC	869787	Materials - Land Improve	80.08		0.00	80.08	<b>\$475.60</b>
			870053	Materials - Land Improve	395.52		0.00	395.52	
xxx284362	9/8/16	SCUSD TRANSPORTATION	14-15	Travel Related Services	450.81		0.00	450.81	<b>\$8,151.16</b>
			17-02	Travel Related Services	2,039.10		0.00	2,039.10	
			17-03	Travel Related Services	3,509.52		0.00	3,509.52	
			17-04	Travel Related Services	2,151.73		0.00	2,151.73	
xxx284363	9/8/16	SRN INC	393223	Miscellaneous Equipment	5,197.00		0.00	5,197.00	<b>\$5,197.00</b>
xxx284364	9/8/16	SAFEWAY INC	722153-090616	Inventory Purchase	118.23		0.00	118.23	<b>\$177.15</b>
			726899-082416	General Supplies	58.92		0.00	58.92	
xxx284365	9/8/16	SANTA CLARA VLY TRANSPORTATION AUTHORITY	0000016952	DED Services/Training - Transportation	370.00		0.00	370.00	<b>\$370.00</b>
xxx284366	9/8/16	SARAH GRAVES	SG2016JULY	Rec Instructors/Officials	608.58		0.00	608.58	<b>\$608.58</b>
xxx284367	9/8/16	SECURITY CONTRACTOR SERVICES INC	510530A-IN	Materials - Land Improve	76.97		0.00	76.97	<b>\$76.97</b>
xxx284368	9/8/16	SPORTS TURF MANAGEMENT	18669	Services Maintain Land Improv	855.00		0.00	855.00	<b>\$855.00</b>
xxx284369	9/8/16	STUDIO EM GRAPHIC DESIGN	16225	Graphics Services	217.50		0.00	217.50	<b>\$217.50</b>
xxx284370	9/8/16	SUBURBAN PROPANE	2059425	Materials - Land Improve	139.96		0.00	139.96	<b>\$139.96</b>
xxx284371	9/8/16	SUNNYVALE BUILDING MAINTENANCE	98981	Professional Services	20,646.59		0.00	20,646.59	<b>\$20,646.59</b>
xxx284372	9/8/16	SUSAN GUZZETTA & CO	08232016	City Training Program	5,500.00		0.00	5,500.00	<b>\$5,500.00</b>
xxx284373	9/8/16	THE LEW EDWARDS GROUP	2025	Consultants	6,500.00		0.00	6,500.00	<b>\$6,500.00</b>
xxx284374	9/8/16	US SECURITY ASSOC INC	1379734	Professional Services	450.00		0.00	450.00	<b>\$450.00</b>
xxx284375	9/8/16	UNITED STATES POSTAL SERVICE	BOX3707-090616	Equipment Rental/Lease	1,280.00		0.00	1,280.00	<b>\$1,280.00</b>
xxx284377	9/8/16	VIKING SHRED LLC	5079860	General Supplies	1,600.00		0.00	1,600.00	<b>\$1,600.00</b>
xxx284378	9/8/16	WATERTRAX USA INC	4006 50588	Software As a Service	15,600.65		0.00	15,600.65	<b>\$15,600.65</b>
xxx284379	9/8/16	MEDINAS CATERING	437	Food Products	2,134.68		0.00	2,134.68	<b>\$2,134.68</b>
xxx284380	9/8/16	PACIFIC GAS & ELECTRIC CO	03958470700816	Utilities - Electric	4,086.12		0.00	4,086.12	<b>\$9,095.99</b>

**List of All Claims and Bills Approved for Payment**

For Payments Dated 9/4/2016 through 9/10/2016

Sorted by Payment Number

Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
			53350770050816	Fuel, Oil & Lubricants	61.90	0.00	61.90	
			89805160050816	Utilities - Electric	10.82	0.00	10.82	
			91290311060816	Utilities - Electric	76.13	0.00	76.13	
			97322830180816	Utilities - Electric	385.03	0.00	385.03	
			97322834740816	Utilities - Electric	12.73	0.00	12.73	
			SVVT1362020716	Utilities - Electric	4,463.26	0.00	4,463.26	
xxx284381	9/8/16	SOUTH BAY REGIONAL PUBLIC SAFETY	100316-101416	Training and Conferences	250.00	0.00	250.00	<b>\$250.00</b>
xxx284382	9/8/16	WORLDWIDE GROUND TRANSPORTATION	627046	Travel Related Services	611.60	0.00	611.60	<b>\$611.60</b>
xxx284383	9/8/16	ALLSTATE	BL071576EXEMPT	Business License Tax	118.68	0.00	118.68	<b>\$118.68</b>
xxx284384	9/8/16	ERM-WEST INC	BL071308-2016	Business License Tax	29.29	0.00	29.29	<b>\$29.29</b>
xxx284385	9/8/16	RACHEL COXON	157649-21766	Refund Utility Account Credit	192.81	0.00	192.81	<b>\$192.81</b>
xxx284386	9/8/16	STOLOSKI & GONZALEZ	M#11508620	Deposits Payable - Hydrant Meter	2,303.00	0.00	2,303.00	<b>\$2,221.06</b>
			M#11508620	Water Sales - Metered	-10.82	0.00	-10.82	
			M#11508620	Damage to City Property	-71.12	0.00	-71.12	
xxx002517	9/6/16	PUBLIC EMPLOYEES RETIREMENT SYSTEM	950002517	Retirement Benefits - Deferred Comp - City Portion	1,441.42	0.00	1,441.42	<b>\$168,370.23</b>
			950002517	Retirement Benefits - Misc Tier 1 & 2 Employer Required Cont.	40.31	0.00	40.31	
			950002517	Retirement Benefits - Misc Tier 1&2 Employer Paid Member Cont.	72,774.26	0.00	72,774.26	
			950002517	Retirement Benefits - Safety Tier 1&2 Emplr Paid Member Cont	94,114.24	0.00	94,114.24	
xxx100608	9/8/16	SPECIALTY SOLID WASTE & RECYCLING INC	AUG2016	Franchise - Specialty Garbage	-159,007.76	0.00	-159,007.76	<b>\$1,304,066.05</b>
			AUG2016	Refuse Serv Fees - Specialty	-200,472.20	0.00	-200,472.20	
			AUG2016	Pymt to Franch Garb Collector	1,663,546.01	0.00	1,663,546.01	
xxx906088	9/6/16	EMPLOYMENT DEVELOPMENT DEPT		Insurances - Unemployment	17,590.00	0.00	17,590.00	<b>\$17,590.00</b>
<b>Grand Total Payment Amount</b>								<b><u>\$2,563,940.68</u></b>

**List of All Claims and Bills Approved for Payment**

For Payments Dated 9/11/2016 through 9/17/2016

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>
xxx284387	9/13/16	ADVANCED CHEMICAL TRANSPORT INC	111200	HazMat Disposal - Hazardous Waste Disposal	77.98	0.00	77.98	<b>\$77.98</b>
xxx284388	9/13/16	AIR EXCHANGE INC	39020	Facilities Maintenance & Repair Labor	210.00	0.00	210.00	<b>\$210.00</b>
xxx284389	9/13/16	AIR LIQUIDE AMERICA SPECIALTY GASES LLC	65497485	Equipment Rental/Lease	184.77	0.00	184.77	<b>\$184.77</b>
xxx284390	9/13/16	ALPINE AWARDS INC	5511914	Customized Products	243.69	0.00	243.69	<b>\$243.69</b>
xxx284391	9/13/16	ARNE SIGN & DECAL CO INC	16-9555	Materials - Land Improve	837.38	0.00	837.38	<b>\$837.38</b>
xxx284392	9/13/16	BLX GROUP LLC	6124463/081116	Financial Services	2,000.00	0.00	2,000.00	<b>\$2,000.00</b>
xxx284393	9/13/16	BAY AREA NEWS GROUP DIGITAL FIRST MEDIA	0005792673	Advertising Services	177.00	0.00	177.00	<b>\$177.00</b>
xxx284394	9/13/16	BAY-VALLEY PEST CONTROL INC	0209896	Services Maintain Land Improv	58.00	0.00	58.00	<b>\$248.00</b>
			0210366	Facilities Maintenance & Repair Labor	64.00	0.00	64.00	
			0210398	Services Maintain Land Improv	58.00	0.00	58.00	
			0210404	Services Maintain Land Improv	68.00	0.00	68.00	
xxx284395	9/13/16	BEE FRIENDLY HONEY BEE MGMT SOLUTIONS	304	Services Maintain Land Improv	650.00	0.00	650.00	<b>\$3,500.00</b>
			305	Facilities Maintenance & Repair Labor	750.00	0.00	750.00	
			314	Services Maintain Land Improv	600.00	0.00	600.00	
			315	Services Maintain Land Improv	750.00	0.00	750.00	
			316	Services Maintain Land Improv	375.00	0.00	375.00	
			318	Services Maintain Land Improv	375.00	0.00	375.00	
xxx284396	9/13/16	BERT S ESPINOSA	BLAUG2016	Medical Services	3,750.00	0.00	3,750.00	<b>\$3,750.00</b>
xxx284397	9/13/16	BOETHING TREELAND FARMS INC	SI-1083814	Materials - Land Improve	1,279.99	0.00	1,279.99	<b>\$1,279.99</b>
xxx284398	9/13/16	BRUCE BARTON PUMP SERVICE INC	0089584-IN	Services Maintain Land Improv	5,610.09	0.00	5,610.09	<b>\$5,610.09</b>
xxx284399	9/13/16	CDW-GOVERNMENT INC	FGK5692	Software Licensing & Support	15,864.00	0.00	15,864.00	<b>\$15,864.00</b>
xxx284400	9/13/16	CALCON SYSTEMS INC	38508	Equipment Maintenance & Repair Labor	1,998.00	0.00	1,998.00	<b>\$1,998.00</b>
xxx284401	9/13/16	CALIFORNIA COOKING INC	13714	Miscellaneous Services	150.08	0.00	150.08	<b>\$150.08</b>
xxx284402	9/13/16	CALIFORNIA JOINT POWERS RISK MANAGEMENT	APD-SNYVL16/17	Insurances - Property and Fire	39,706.00	0.00	39,706.00	<b>\$794,626.00</b>
			LIABSNYVL16/17	Insurances - Public Liability	645,657.00	0.00	645,657.00	

**List of All Claims and Bills Approved for Payment**

For Payments Dated 9/11/2016 through 9/17/2016

Sorted by Payment Number

Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
			PROPSNYVL1617	Insurances - Property and Fire	109,263.00	0.00	109,263.00	
xxx284403	9/13/16	CALIFORNIA SPORTS CENTER	CSC0716	Rec Instructors/Officials	29,328.48	0.00	29,328.48	<b>\$29,328.48</b>
xxx284404	9/13/16	CALLANDER ASSOC	15045-10	Architectural and Design Services	6,034.29	0.00	6,034.29	<b>\$6,034.29</b>
xxx284405	9/13/16	CENTURY GRAPHICS	44948	Clothing, Uniforms & Access	223.26	0.00	223.26	<b>\$433.69</b>
			44949	Clothing, Uniforms & Access	210.43	0.00	210.43	
xxx284406	9/13/16	CITY OF SANTA CLARA MUNICIPAL UTILITIES	SEPT2016	Utilities - Electric	529.68	0.00	529.68	<b>\$529.68</b>
xxx284407	9/13/16	CITYGATE ASSOCIATES LLC	24074	Consultants	8,326.45	0.00	8,326.45	<b>\$8,326.45</b>
xxx284408	9/13/16	COAST PERSONNEL SERVICES INC	243821	Contracts/Service Agreements	870.48	0.00	870.48	<b>\$9,288.20</b>
			243822	Contracts/Service Agreements	967.20	0.00	967.20	
			243823	Contracts/Service Agreements	835.75	0.00	835.75	
			243824	Contracts/Service Agreements	1,063.92	0.00	1,063.92	
			243825	Contracts/Service Agreements	1,063.92	0.00	1,063.92	
			243998	Contracts/Service Agreements	967.20	0.00	967.20	
			243999	Contracts/Service Agreements	652.86	0.00	652.86	
			244000	Contracts/Service Agreements	967.20	0.00	967.20	
			244001	Contracts/Service Agreements	835.75	0.00	835.75	
			244002	Contracts/Service Agreements	1,063.92	0.00	1,063.92	
xxx284414	9/13/16	COMCAST	09/07-10/06/16	Miscellaneous Services	76.31	0.00	76.31	<b>\$76.31</b>
xxx284415	9/13/16	CONTRACT OFFICE GROUP INC	43097	Professional Services	353.44	0.00	353.44	<b>\$353.44</b>
xxx284416	9/13/16	CONTRACTOR COMPLIANCE & MONITORING INC	7424	Consultants	2,000.00	0.00	2,000.00	<b>\$2,000.00</b>
xxx284417	9/13/16	CONTROL TECH WEST INC	CTW1886	Engineering Services	74,335.76	0.00	74,335.76	<b>\$74,335.76</b>
xxx284418	9/13/16	CORIX WATER PRODUCTS (US) INC	17613024558	Construction Services	629.03	0.00	629.03	<b>\$4,217.06</b>
			17613024843	Inventory Purchase	2,953.86	27.16	2,926.70	
			17613024876	Water Meters	60.88	0.00	60.88	
			17613024888	Services Maintain Land Improv	600.45	0.00	600.45	
xxx284419	9/13/16	CUNNINGHAM ELECTRIC INC	8582	Facilities Maintenance & Repair Labor	300.00	0.00	300.00	<b>\$300.00</b>
xxx284420	9/13/16	CYBERSOURCE CORP	235957411967	Software As a Service	75.00	0.00	75.00	<b>\$75.00</b>
xxx284421	9/13/16	DA LUBRICANT CO INC	2016-52738-00	Fuel, Oil & Lubricants	2,054.56	0.00	2,054.56	<b>\$2,054.56</b>
xxx284422	9/13/16	DANCE FORCE LLC	1109	Rec Instructors/Officials	5,217.60	0.00	5,217.60	<b>\$5,217.60</b>

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
xxx284423	9/13/16	DAPPER TIRE CO INC	43612142	Inventory Purchase	1,189.50	0.00	1,189.50	<b>\$1,189.50</b>
xxx284424	9/13/16	DELL MARKETING LP	XK18K2369	Computer Hardware	1,826.67	0.00	1,826.67	<b>\$54,557.55</b>
			XK18KRPJ7	Computer Hardware	2,000.26	0.00	2,000.26	
			XK18PWTM8	Computer Hardware	48,006.13	0.00	48,006.13	
			XK1JFTCN2	Computer Hardware	2,724.49	0.00	2,724.49	
xxx284425	9/13/16	DELTA DENTAL INSURANCE CO	BE001788912	Insurances - Dental	1,624.26	0.00	1,624.26	<b>\$1,624.26</b>
xxx284426	9/13/16	DISCOUNT SCHOOL SUPPLY	W26341350101	General Supplies	337.57	0.00	337.57	<b>\$337.57</b>
xxx284427	9/13/16	DMITRY SMIRNOV	060916PURCHA	DED Services/Training - Books	33.01	0.00	33.01	<b>\$80.13</b>
			SE					
			091915PURCHA	DED Services/Training - Books	47.12	0.00	47.12	
			SE					
xxx284428	9/13/16	DU-ALL SAFETY	18108	Occupational Health and Safety Services - Other	3,281.25	0.00	3,281.25	<b>\$3,281.25</b>
xxx284429	9/13/16	ESBRO	29167	Chemicals	1,140.87	0.00	1,140.87	<b>\$2,478.93</b>
			29836	Chemicals	1,338.06	0.00	1,338.06	
xxx284430	9/13/16	EVERBRIDGE INC	M30553	Software As a Service	7,650.00	0.00	7,650.00	<b>\$7,650.00</b>
xxx284431	9/13/16	FEDERAL EXPRESS CORP	5-518-30124	Mailing & Delivery Services	4.80	0.00	4.80	<b>\$4.80</b>
xxx284432	9/13/16	FOSTER BROS SECURITY SYSTEMS INC	282065	Bldg Maint Matls & Supplies	97.44	0.00	97.44	<b>\$97.44</b>
xxx284433	9/13/16	FRANCISCO & ASSOC INC	2736	Financial Services	2,000.00	0.00	2,000.00	<b>\$2,000.00</b>
xxx284434	9/13/16	FRANCISCO & ASSOC INC	2738	Financial Services	1,050.00	0.00	1,050.00	<b>\$2,550.00</b>
			2740	Financial Services	1,500.00	0.00	1,500.00	
xxx284435	9/13/16	FRIENDS OF VISION LITERACY	2	Outside Group Funding	5,000.00	0.00	5,000.00	<b>\$5,000.00</b>
xxx284436	9/13/16	GARDA	10235748	Financial Services	2,975.32	0.00	2,975.32	<b>\$2,975.32</b>
xxx284437	9/13/16	GARDENLAND POWER EQUIPMENT	410156	Misc Equip Maint & Repair - Materials	152.83	0.00	152.83	<b>\$1,870.24</b>
			410419	Misc Equip Maint & Repair - Materials	1,717.41	0.00	1,717.41	
xxx284438	9/13/16	GOODYEAR COMMERCIAL TIRE & SERVICE CTR	189-1092399	Inventory Purchase	3,470.62	0.00	3,470.62	<b>\$3,470.62</b>
xxx284439	9/13/16	GOOGLE INC	CAT1118	Food Products	1,172.50	0.00	1,172.50	<b>\$1,172.50</b>
xxx284440	9/13/16	GORILLA METALS	186537	Materials - Land Improve	224.03	0.00	224.03	<b>\$251.22</b>
			186650	Materials - Land Improve	27.19	0.00	27.19	
xxx284441	9/13/16	GRANITEROCK CO	982081	Materials - Land Improve	518.62	0.00	518.62	<b>\$15,015.51</b>
			982474	Materials - Land Improve	4,231.50	0.00	4,231.50	



**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
			982545	Materials - Land Improve	9,252.94	0.00	9,252.94	
			983003	Materials - Land Improve	1,012.45	0.00	1,012.45	
xxx284442	9/13/16	GRAYBAR ELECTRIC CO INC	986028264	Comm Equip Maintain & Repair - Materials 2	628.31	0.00	628.31	<b>\$628.31</b>
xxx284443	9/13/16	HEALTHIER KIDS FOUNDATION SANTA CLARA CO	2	Outside Group Funding	5,000.00	0.00	5,000.00	<b>\$5,000.00</b>
xxx284444	9/13/16	HENRY & LEMOINE ELECTRIC INC	16-1104	Miscellaneous Services	6,450.00	0.00	6,450.00	<b>\$6,855.00</b>
			16-1107	Miscellaneous Services	405.00	0.00	405.00	
xxx284446	9/13/16	HOI MAN NIP	082116PURCHASE	DED Services/Training - Books	33.66	0.00	33.66	<b>\$33.66</b>
xxx284448	9/13/16	HULA HALAU'O P'I'LANI	082916	Rec Instructors/Officials	594.00	0.00	594.00	<b>\$594.00</b>
xxx284449	9/13/16	IDEXX DISTRIBUTION GROUP	3006446302	General Supplies	674.21	0.00	674.21	<b>\$837.09</b>
			3006631572	General Supplies	162.88	0.00	162.88	
xxx284450	9/13/16	ICE CENTER OF CUPERTINO	00072015	Rec Instructors/Officials	2,500.00	0.00	2,500.00	<b>\$2,500.00</b>
xxx284451	9/13/16	IMPERIAL SPRINKLER SUPPLY	2682611-01	Materials - Land Improve	466.15	0.00	466.15	<b>\$2,240.48</b>
			2688438-00	Materials - Land Improve	99.27	0.00	99.27	
			2690006-00	Materials - Land Improve	1,002.45	0.00	1,002.45	
			2690006-01	Materials - Land Improve	641.97	0.00	641.97	
			2703479-00	Materials - Land Improve	30.64	0.00	30.64	
xxx284452	9/13/16	INFORMATION SERVICES DEPT	ISD-38616	Software As a Service	1,872.00	0.00	1,872.00	<b>\$1,872.00</b>
xxx284453	9/13/16	INFOSEND INC	108444	Mailing & Delivery Services	939.08	0.00	939.08	<b>\$12,219.24</b>
			108445	Postage	1,861.20	0.00	1,861.20	
			109047	Mailing & Delivery Services	1,170.96	0.00	1,170.96	
			109048	Postage	2,067.12	0.00	2,067.12	
			109248	Financial Services	1,936.06	0.00	1,936.06	
			109673	Mailing & Delivery Services	1,503.31	0.00	1,503.31	
			109674	Postage	2,741.51	0.00	2,741.51	
xxx284456	9/13/16	INSIGHT PUBLIC SECTOR INC	1100494101	Computer Software	952.17	0.00	952.17	<b>\$952.17</b>
xxx284457	9/13/16	INTERNATIONAL PAPER CO	P0008179-01	General Supplies	78.75	0.00	78.75	<b>\$78.75</b>
xxx284458	9/13/16	IRON MOUNTAIN	9DJ1560	Recycling Services	1,087.50	0.00	1,087.50	<b>\$1,000.00</b>
			9DM4319	Recycling Services	-10.88	0.00	-10.88	
			9DM6339	Recycling Services	-1,087.50	0.00	-1,087.50	

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
			9DM6340	Recycling Services	1,000.00	0.00	1,000.00	
			MXW7003	Recycling Services	10.88	0.00	10.88	
xxx284459	9/13/16	JILL YOUNGBERG	060816PURCHA SE	DED Services/Training - Books	48.88	0.00	48.88	<b>\$48.88</b>
xxx284460	9/13/16	JOBTRAIN	JULY2016	Contracts/Service Agreements	29,004.00	0.00	29,004.00	<b>\$29,004.00</b>
xxx284461	9/13/16	JOINT VENTURE SILICON VALLEY	385SVCCEP	Miscellaneous Services	2,875.00	0.00	2,875.00	<b>\$2,875.00</b>
xxx284463	9/13/16	KELLY MOORE PAINT CO INC	820-302772	Miscellaneous Equipment Parts & Supplies	58.73	0.00	58.73	<b>\$58.73</b>
xxx284464	9/13/16	KELLY PAPER CO	8128886	General Supplies	579.75	0.00	579.75	<b>\$579.75</b>
xxx284466	9/13/16	KOHLWEISS AUTO PARTS INC	01OY6194	Inventory Purchase	524.73	10.49	514.24	<b>\$921.44</b>
			01OY6363	Inventory Purchase	64.99	1.30	63.69	
			01OY6375	Inventory Purchase	350.52	7.01	343.51	
xxx284467	9/13/16	KRYSTAL RUDDY	100	Professional Services	90.00	0.00	90.00	<b>\$90.00</b>
xxx284468	9/13/16	L N CURTIS & SONS INC	INV47738	Clothing, Uniforms & Access	5,300.20	0.00	5,300.20	<b>\$6,078.45</b>
			INV49642	Inventory Purchase	778.25	0.00	778.25	
xxx284469	9/13/16	LC ACTION POLICE SUPPLY	354974	General Supplies	208.80	0.00	208.80	<b>\$208.80</b>
xxx284470	9/13/16	LANGUAGE SELECT LLC	35090	Miscellaneous Services	108.00	0.00	108.00	<b>\$108.00</b>
xxx284471	9/13/16	LAWSON PRODUCTS INC	9304332393	Miscellaneous Equipment Parts & Supplies	37.19	0.00	37.19	<b>\$254.20</b>
			9304348700	Miscellaneous Equipment Parts & Supplies	90.62	0.00	90.62	
			9304348701	Miscellaneous Equipment Parts & Supplies	126.39	0.00	126.39	
xxx284472	9/13/16	LIFEMOVES	1516-827550 #3	Outside Group Funding	21,489.39	0.00	21,489.39	<b>\$40,011.40</b>
			1516-827550 #4	Outside Group Funding	18,522.01	0.00	18,522.01	
xxx284473	9/13/16	LYNGSO GARDEN MATERIALS INC	920940	Materials - Land Improve	2,751.38	0.00	2,751.38	<b>\$2,751.38</b>
xxx284474	9/13/16	MUFG UNION BANK NA	030116-053116	Financial Services	16,131.03	0.00	16,131.03	<b>\$16,131.03</b>
xxx284475	9/13/16	MALLORY SAFETY & SUPPLY LLC	4136303	Inventory Purchase	28.28	0.00	28.28	<b>\$1,357.34</b>
			4136525	Inventory Purchase	645.98	0.00	645.98	
			4136914	Inventory Purchase	71.78	0.00	71.78	
			4137809	Inventory Purchase	310.06	0.00	310.06	
			4137813	Inventory Purchase	261.00	0.00	261.00	
			4140722	Inventory Purchase	40.24	0.00	40.24	
xxx284476	9/13/16	MCMaster CARR SUPPLY CO	76910128	Miscellaneous Equipment Parts & Supplies	284.36	0.00	284.36	<b>\$1,912.52</b>
			77427796	General Supplies	96.93	0.00	96.93	

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
xxx284477	9/13/16	MIDWEST TAPE	77541588	Miscellaneous Equipment Parts & Supplies	37.26	0.00	37.26	<b>\$1,617.79</b>
			77558764	Miscellaneous Equipment Parts & Supplies	1,358.27	0.00	1,358.27	
			78191818	Hand Tools	135.70	0.00	135.70	
			94260191	Library Acquis, Audio/Visual	334.23	0.00	334.23	
			94261382	Library Acquis, Audio/Visual	817.38	0.00	817.38	
			94261384	Library Acquis, Audio/Visual	266.81	0.00	266.81	
			94261964	Library Acquis, Audio/Visual	55.46	0.00	55.46	
			94261966	Library Acquis, Audio/Visual	59.81	0.00	59.81	
xxx284478	9/13/16	MISSION LINEN SERVICE	94287940	Library Materials Preprocessing	84.10	0.00	84.10	<b>\$1,886.84</b>
			502996390	Laundry & Cleaning Services	53.39	0.00	53.39	
			503001557	Laundry & Cleaning Services	54.30	0.00	54.30	
			503018020	Laundry & Cleaning Services	61.02	0.00	61.02	
			503018021	Laundry & Cleaning Services	76.54	0.00	76.54	
			503018022	Laundry & Cleaning Services	60.96	0.00	60.96	
			503018031	Laundry & Cleaning Services	76.54	0.00	76.54	
			503044139	Laundry & Cleaning Services	53.39	0.00	53.39	
			503051806	Laundry & Cleaning Services	54.30	0.00	54.30	
			503063135	Laundry & Cleaning Services	61.02	0.00	61.02	
			503063136	Laundry & Cleaning Services	76.54	0.00	76.54	
			503063137	Laundry & Cleaning Services	60.96	0.00	60.96	
			503063146	Laundry & Cleaning Services	76.54	0.00	76.54	
			503094035	Laundry & Cleaning Services	53.39	0.00	53.39	
			503106053	Laundry & Cleaning Services	54.30	0.00	54.30	
			503112728	Laundry & Cleaning Services	61.02	0.00	61.02	
			503112729	Laundry & Cleaning Services	76.54	0.00	76.54	
			503112730	Laundry & Cleaning Services	60.96	0.00	60.96	
			503112739	Laundry & Cleaning Services	76.54	0.00	76.54	
			503141316	Laundry & Cleaning Services	53.39	0.00	53.39	
			503149146	Laundry & Cleaning Services	49.25	0.00	49.25	
			503166064	Laundry & Cleaning Services	54.30	0.00	54.30	
			503166065	Laundry & Cleaning Services	76.54	0.00	76.54	

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
			503166066	Laundry & Cleaning Services	62.64	0.00	62.64	
			503166075	Laundry & Cleaning Services	76.54	0.00	76.54	
			503186431	Laundry & Cleaning Services	53.39	0.00	53.39	
			503195510	Laundry & Cleaning Services	49.25	0.00	49.25	
			503205625	Laundry & Cleaning Services	49.25	0.00	49.25	
			503205626	Laundry & Cleaning Services	76.54	0.00	76.54	
			503205627	Laundry & Cleaning Services	60.96	0.00	60.96	
			503205636	Laundry & Cleaning Services	76.54	0.00	76.54	
xxx284481	9/13/16	MOHAMED ELMOGHANY	11913242	DED Services/Training - Books	104.02	0.00	104.02	<b>\$104.02</b>
xxx284482	9/13/16	MOUNTAIN VIEW GARDEN CENTER	84879	Materials - Land Improve	228.21	0.00	228.21	<b>\$3,630.46</b>
			84893	Materials - Land Improve	65.14	0.00	65.14	
			84937	Materials - Land Improve	287.92	0.00	287.92	
			84958	Materials - Land Improve	304.28	0.00	304.28	
			85107	Materials - Land Improve	287.92	0.00	287.92	
			85142	Materials - Land Improve	304.28	0.00	304.28	
			85165	Materials - Land Improve	65.14	0.00	65.14	
			85169	Materials - Land Improve	76.07	0.00	76.07	
			85173	Materials - Land Improve	231.80	0.00	231.80	
			85201	Materials - Land Improve	287.92	0.00	287.92	
			85216	Materials - Land Improve	287.92	0.00	287.92	
			85243	Materials - Land Improve	97.71	0.00	97.71	
			85246	Materials - Land Improve	97.71	0.00	97.71	
			85256	Materials - Land Improve	290.15	0.00	290.15	
			85259	Materials - Land Improve	122.07	0.00	122.07	
			85260	Materials - Land Improve	43.45	0.00	43.45	
			85278	Materials - Land Improve	122.07	0.00	122.07	
			85289	Materials - Land Improve	245.99	0.00	245.99	
			85357	Materials - Land Improve	32.57	0.00	32.57	
			85363	Materials - Land Improve	152.14	0.00	152.14	
xxx284484	9/13/16	MOUNTAIN VIEW LOS ALTOS ADULT SCHOOL	062216MA	DED Services/Training - Training	855.00	0.00	855.00	<b>\$1,012.50</b>
			080616	DED Services/Training - Training	157.50	0.00	157.50	

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
xxx284485	9/13/16	MYERS TIRE SUPPLY CO	61705104	Parts, Vehicles & Motor Equip	148.23	0.00	148.23	<b>\$148.23</b>
xxx284486	9/13/16	NV5 INC	50110	Consultants	31,763.23	0.00	31,763.23	<b>\$31,763.23</b>
xxx284487	9/13/16	NATIONAL ACADEMY OF ATHLETICS	722	Rec Instructors/Officials	2,671.20	0.00	2,671.20	<b>\$2,671.20</b>
xxx284488	9/13/16	NET TRANSCRIPTS INC	0009140-IN	Investigation Expense	439.79	0.00	439.79	<b>\$439.79</b>
xxx284489	9/13/16	NEWCOMB MECHANICAL INC	9894	Facilities Maint & Repair - Labor	945.00	0.00	945.00	<b>\$4,243.79</b>
			9894	Facilities Maint & Repair - Materials	3,298.79	0.00	3,298.79	
xxx284490	9/13/16	OCLC INC	000484055	Lib Database Services (OCLC)	2,172.20	0.00	2,172.20	<b>\$2,172.20</b>
xxx284491	9/13/16	OVERDRIVE INC	0910-135944087	Library Periodicals/Databases	443.79	0.00	443.79	<b>\$860.68</b>
			0910-140425817	Library Periodicals/Databases	416.89	0.00	416.89	
xxx284492	9/13/16	PAYFLEX SYSTEMS USA INC	000316141	Miscellaneous Payment	1,268.90	0.00	1,268.90	<b>\$1,268.90</b>
xxx284493	9/13/16	PACIFIC ELECTRIC CONTRACTING INC	DUANEBRITTN #06	Construction Services	4,470.74	0.00	4,470.74	<b>\$4,470.74</b>
xxx284494	9/13/16	PACIFIC JANITORIAL SUPPLY CO	30038385	Inventory Purchase	618.57	0.00	618.57	<b>\$618.57</b>
xxx284495	9/13/16	PENINSULA BATTERY INC	117945	Inventory Purchase	219.24	0.00	219.24	<b>\$219.24</b>
xxx284496	9/13/16	PINE CONE LUMBER CO INC	655572	Materials - Land Improve	89.28	0.00	89.28	<b>\$221.08</b>
			658186	Materials - Land Improve	131.80	0.00	131.80	
xxx284497	9/13/16	PITNEY BOWES INC	1001703811	Equipment Rental/Lease	208.80	0.00	208.80	<b>\$208.80</b>
xxx284498	9/13/16	PORTNOV COMPUTER SCHOOL	08-05-16	DED Services/Training - Training	595.00	0.00	595.00	<b>\$595.00</b>
xxx284499	9/13/16	PRAXAIR DISTRIBUTION INC	55567878	General Supplies	443.99	0.00	443.99	<b>\$443.99</b>
xxx284500	9/13/16	PRECISION SURVEY SUPPLY LLC	18831	Miscellaneous Equipment	29,984.51	0.00	29,984.51	<b>\$29,984.51</b>
xxx284501	9/13/16	QUALITY ALARM SERVICE	127206	Services Maintain Land Improv	490.00	0.00	490.00	<b>\$490.00</b>
xxx284502	9/13/16	REED & GRAHAM INC	870210	Materials - Land Improve	384.99	0.00	384.99	<b>\$1,168.73</b>
			870326	Materials - Land Improve	426.44	0.00	426.44	
			870516	Materials - Land Improve	357.30	0.00	357.30	
xxx284503	9/13/16	REEDS INDOOR RANGE	436416	Real Property Rental/Lease	96.00	0.00	96.00	<b>\$96.00</b>
xxx284504	9/13/16	ROBERT HALF TECHNOLOGY	46544883	Contracts/Service Agreements	5,200.00	0.00	5,200.00	<b>\$5,200.00</b>
xxx284505	9/13/16	ROSILENE MARTINS	RECPT2524094	DED Services/Training - Support Services	150.00	0.00	150.00	<b>\$150.00</b>
xxx284506	9/13/16	ROSS RECREATION EQUIPMENT CO INC	99242	Materials - Land Improve	301.61	0.00	301.61	<b>\$301.61</b>
xxx284507	9/13/16	S & L FENCE CO	03713	Engineering Services	1,628.34	0.00	1,628.34	<b>\$5,453.68</b>
			03714	Engineering Services	816.70	0.00	816.70	
			03715	Engineering Services	776.99	0.00	776.99	

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
			03716	Engineering Services	1,454.66	0.00	1,454.66	
			03717	Engineering Services	776.99	0.00	776.99	
xxx284508	9/13/16	SC FUELS	3141184	Inventory Purchase	15,123.26	0.00	15,123.26	<b>\$15,123.26</b>
xxx284509	9/13/16	SFO REPROGRAPHICS	33334	Printing & Related Services	923.33	0.00	923.33	<b>\$3,718.75</b>
			33335	Printing & Related Services	758.25	0.00	758.25	
			33336	Printing & Related Services	741.74	0.00	741.74	
			33337	Printing & Related Services	1,121.43	0.00	1,121.43	
			33503	Printing & Related Services	174.00	0.00	174.00	
xxx284510	9/13/16	SAFETY KLEEN SYSTEMS INC	71337391	Chemicals	45.00	0.00	45.00	<b>\$45.00</b>
xxx284511	9/13/16	SAFEWAY INC	801521-090416	Food Products	88.49	0.00	88.49	<b>\$268.56</b>
			802111-090616	Food Products	25.95	0.00	25.95	
			804516-090116	Food Products	41.08	0.00	41.08	
			806758-090616	Food Products	75.52	0.00	75.52	
			808717-082916	Food Products	37.52	0.00	37.52	
xxx284512	9/13/16	SAGE DESIGNS INC	1608451	Electrical Parts & Supplies	1,807.81	0.00	1,807.81	<b>\$1,807.81</b>
xxx284513	9/13/16	SAN DIEGO POLICE EQUIPMENT CO	624212	Ammunition	6,431.07	0.00	6,431.07	<b>\$6,431.07</b>
xxx284514	9/13/16	SAN FRANCISCO BAY BIRD OBSERVATORY	991	Water Lab Services	1,569.00	0.00	1,569.00	<b>\$1,569.00</b>
xxx284515	9/13/16	SAN FRANCISCO STATE UNIVERSITY	755214-A	DED Services/Training - Training	284.50	0.00	284.50	<b>\$334.50</b>
			755774	DED Services/Training - Training	50.00	0.00	50.00	
xxx284516	9/13/16	SAN JOSE CONSERVATION CORPS	6515	General Supplies	4,166.67	0.00	4,166.67	<b>\$4,166.67</b>
xxx284517	9/13/16	SANTA CLARA COUNTY CITIES MANAGERS ASSN	STEFFENS071316	Meetings	32.00	0.00	32.00	<b>\$32.00</b>
xxx284518	9/13/16	SANTA CLARA VALLEY WATER DISTRICT	GM013342	Taxes & Licenses - Misc	18,384.80	0.00	18,384.80	<b>\$18,384.80</b>
xxx284519	9/13/16	SECURITY CONTRACTOR SERVICES INC	514234A-IN	Materials - Land Improve	82.31	0.00	82.31	<b>\$82.31</b>
xxx284520	9/13/16	SILICON VALLEY POLYTECHNIC INSTITUTE	09072016-350	DED Services/Training - Training	200.00	0.00	200.00	<b>\$2,765.00</b>
			09072016-351	DED Services/Training - Training	2,565.00	0.00	2,565.00	
xxx284521	9/13/16	SILICON VALLEY SECURITY & PATROL INC	2028608	Miscellaneous Services	249.60	0.00	249.60	<b>\$249.60</b>
xxx284522	9/13/16	SMART & FINAL INC	108095-090616	Food Products	12.57	0.00	12.57	<b>\$12.57</b>
xxx284523	9/13/16	STEVE MASON CONCRETE CONSTRUCTION INC	3132	Services Maintain Land Improv	4,200.00	0.00	4,200.00	<b>\$5,700.00</b>
			3133	Services Maintain Land Improv	1,500.00	0.00	1,500.00	

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
xxx284524	9/13/16	SUNBELT RENTALS INC	62469803-001	Equipment Rental/Lease	4,204.19	0.00	4,204.19	<b>\$4,467.48</b>
			62670437-001	Equipment Rental/Lease	263.29	0.00	263.29	
xxx284525	9/13/16	SUNNYVALE FORD	479142	Inventory Purchase	115.54	0.00	115.54	<b>\$115.54</b>
xxx284526	9/13/16	T-MOBILE USA INC	9271871486	Utilities - Mobile Phones - City Mobile Phones	663.00	0.00	663.00	<b>\$663.00</b>
xxx284527	9/13/16	TAMCO - BV LLC	1229	Consultants	19,090.00	0.00	19,090.00	<b>\$19,090.00</b>
xxx284528	9/13/16	TALBOTS STEAM CLEANING	1166	Professional Services	200.00	0.00	200.00	<b>\$200.00</b>
xxx284529	9/13/16	TRINH LE	0033-5345-3232	DED Services/Training - Support Services	150.00	0.00	150.00	<b>\$150.00</b>
xxx284530	9/13/16	US BANK VOYAGER FLEET SYSTEMS INC	869323279635	Fuel, Oil & Lubricants	474.41	0.00	474.41	<b>\$474.41</b>
xxx284531	9/13/16	UNITED STATES POSTAL SERVICE	P#584-090816	Postage	326.36	0.00	326.36	<b>\$326.36</b>
xxx284532	9/13/16	UNIVERSITY OF CALIFORNIA SANTA CRUZ	56953	DED Services/Training - Training	491.50	0.00	491.50	<b>\$491.50</b>
xxx284533	9/13/16	WALTS CYCLE	391	General Supplies	410.19	0.00	410.19	<b>\$410.19</b>
xxx284534	9/13/16	WESTERN STATES TOOL & SUPPLY CORP	088823	Inventory Purchase	976.79	0.00	976.79	<b>\$976.79</b>
xxx284535	9/13/16	WINSUPPLY OF SILICON VALLEY	663124 00	Materials - Land Improve	94.18	0.00	94.18	<b>\$401.84</b>
			663129 00	Miscellaneous Equipment Parts & Supplies	180.84	0.00	180.84	
			663281 01	Miscellaneous Equipment Parts & Supplies	68.73	0.00	68.73	
			663559 00	Bldg Maint Matls & Supplies	58.09	0.00	58.09	
xxx284536	9/13/16	YAMAHA GOLF CARS OF CALIFORNIA INC	L22007	Misc Equip Maint & Repair - Labor	474.52	0.00	474.52	<b>\$594.52</b>
			L22007	Misc Equip Maint & Repair - Materials	120.00	0.00	120.00	
xxx284537	9/13/16	Z-CON SPECIALTY SERVICES INC	C-2016-1021	Facilities Maintenance & Repair Labor	800.00	0.00	800.00	<b>\$800.00</b>
xxx284538	9/13/16	CALIFORNIA DEPT OF FISH & WILDLIFE	5/1/16-11/1/17	Environmental Services	1,833.25	0.00	1,833.25	<b>\$1,833.25</b>
xxx284539	9/13/16	KAZU GORAI	319848	Refund Recreation Fees	1,000.00	0.00	1,000.00	<b>\$1,000.00</b>
xxx284540	9/13/16	RUPA MARYA	091716	Special Events	2,700.00	0.00	2,700.00	<b>\$2,700.00</b>
xxx284541	9/13/16	UNITED STATES POSTAL SERVICE	P#190-091216	Postage	9,589.73	0.00	9,589.73	<b>\$9,589.73</b>
xxx284542	9/13/16	AMANJOT SINGH	323136	Refund Recreation Fees	58.00	0.00	58.00	<b>\$58.00</b>
xxx284543	9/13/16	DOLORES SANDERS	321231	Refund Recreation Fees	89.00	0.00	89.00	<b>\$89.00</b>
xxx284544	9/13/16	GORDON GADSBY	322777	Refund Recreation Fees	238.00	0.00	238.00	<b>\$238.00</b>
xxx284545	9/13/16	JOAN DECESARE	321811	Refund Recreation Fees	80.00	0.00	80.00	<b>\$80.00</b>
xxx284546	9/13/16	KENT ROOFING COMPANY	2016-3735	Permit - Building	263.50	0.00	263.50	<b>\$281.50</b>
			2016-3735	Technology Surcharge	18.00	0.00	18.00	
xxx284547	9/13/16	MARIA REBOLLEDO REVUELTA	320587	Refund Recreation Fees	350.00	0.00	350.00	<b>\$350.00</b>

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
xxx284548	9/13/16	PATRICK WANG	321418	Refund Recreation Fees	11.00	0.00	11.00	<b>\$11.00</b>
xxx284549	9/13/16	SAMUEL LOPEZ	321832	Refund Recreation Fees	44.00	0.00	44.00	<b>\$44.00</b>
xxx284550	9/13/16	SUNNYVALE PHOTO CLUB	320302	Refund Recreation Fees	30.00	0.00	30.00	<b>\$30.00</b>
xxx284551	9/13/16	SUREKHA TANDON	321918	Refund Recreation Fees	350.00	0.00	350.00	<b>\$350.00</b>
xxx284552	9/15/16	ACCLAMATION INSURANCE MANAGEMENT	108422	Workers' Compensation - Administration	25,320.53	0.00	25,320.53	<b>\$25,320.53</b>
xxx284553	9/15/16	ACUSHNET CO	902806086	Inventory Purchase	156.37	0.00	156.37	<b>\$156.37</b>
xxx284554	9/15/16	AL CLANCY & ASSOC	COS16102	Environmental Services	1,245.00	0.00	1,245.00	<b>\$1,245.00</b>
xxx284555	9/15/16	ALPINE AWARDS INC	5511623	Customized Products	9.66	0.00	9.66	<b>\$9.66</b>
xxx284556	9/15/16	AMFASOFT CORP	ADAMZACHS-02	DED Services/Training - Training	550.00	0.00	550.00	<b>\$550.00</b>
xxx284557	9/15/16	APPLEONE EMPLOYMENT SERVICES	01-4171876	Contracts/Service Agreements	995.12	0.00	995.12	<b>\$1,705.82</b>
			01-4175770	Contracts/Service Agreements	710.70	0.00	710.70	
xxx284558	9/15/16	ASSOCIATED INFRASTRUCTURE MGMT SERVICES	2016-015	Consultants	6,336.00	0.00	6,336.00	<b>\$6,336.00</b>
xxx284559	9/15/16	BSI EHS SERVICES & SOLUTIONS	37059	Professional Services	3,695.05	0.00	3,695.05	<b>\$3,695.05</b>
xxx284560	9/15/16	BADGER METER INC	1112789	Water Meters	3,419.04	0.00	3,419.04	<b>\$8,468.40</b>
			1117580	Water Meters	5,049.36	0.00	5,049.36	
xxx284561	9/15/16	BAKER & TAYLOR	0002853943	Library Acquisitions, Books	-30.21	0.00	-30.21	<b>\$517.12</b>
			0002853943	Library Materials Preprocessing	-1.26	0.00	-1.26	
			4011701173	Library Acquisitions, Books	519.31	0.00	519.31	
			4011701173	Library Materials Preprocessing	29.28	0.00	29.28	
xxx284562	9/15/16	BAY PRO LANDSCAPE SERVICES INC	M4474	General Supplies	711.00	0.00	711.00	<b>\$711.00</b>
xxx284563	9/15/16	BAY-VALLEY PEST CONTROL INC	0211502	Facilities Maintenance & Repair Labor	42.00	0.00	42.00	<b>\$1,948.00</b>
			0211825	Facilities Maintenance & Repair Labor	59.00	0.00	59.00	
			0211826	Facilities Maintenance & Repair Labor	59.00	0.00	59.00	
			0211827	Facilities Maintenance & Repair Labor	59.00	0.00	59.00	
			0211828	Facilities Maintenance & Repair Labor	59.00	0.00	59.00	
			0211829	Facilities Maintenance & Repair Labor	72.00	0.00	72.00	
			0211832	Facilities Maintenance & Repair Labor	32.00	0.00	32.00	
			0211833	Facilities Maintenance & Repair Labor	56.00	0.00	56.00	
			0211835	Facilities Maintenance & Repair Labor	42.00	0.00	42.00	



**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
			0211836	Facilities Maintenance & Repair Labor	120.00	0.00	120.00	
			0211837	Facilities Maintenance & Repair Labor	42.00	0.00	42.00	
			0211838	Facilities Maintenance & Repair Labor	120.00	0.00	120.00	
			0211839	Facilities Maintenance & Repair Labor	42.00	0.00	42.00	
			0211840	Facilities Maintenance & Repair Labor	120.00	0.00	120.00	
			0211841	Facilities Maintenance & Repair Labor	42.00	0.00	42.00	
			0211842	Facilities Maintenance & Repair Labor	120.00	0.00	120.00	
			0211843	Facilities Maintenance & Repair Labor	42.00	0.00	42.00	
			0211845	Facilities Maintenance & Repair Labor	42.00	0.00	42.00	
			0211846	Facilities Maintenance & Repair Labor	120.00	0.00	120.00	
			0211867	Services Maintain Land Improv	120.00	0.00	120.00	
			0211879	Services Maintain Land Improv	120.00	0.00	120.00	
			0212123	Facilities Maintenance & Repair Labor	186.00	0.00	186.00	
			0212161	Facilities Maintenance & Repair Labor	146.00	0.00	146.00	
			0212179	Facilities Maintenance & Repair Labor	86.00	0.00	86.00	
xxx284565	9/15/16	BERLITZ LANGUAGE CENTER	001633-1600041	Bilingual Testing Fees	150.00	0.00	150.00	<b>\$150.00</b>
xxx284566	9/15/16	BRIGHTVIEW TREE CO	5118000	Materials - Land Improve	3,947.65	0.00	3,947.65	<b>\$3,947.65</b>
xxx284567	9/15/16	CALIFORNIA COOKING INC	13715	Equipment Rental/Lease	216.41	0.00	216.41	<b>\$216.41</b>
xxx284568	9/15/16	CENTURY GRAPHICS	45195	Clothing, Uniforms & Access	1,459.41	0.00	1,459.41	<b>\$1,459.41</b>
xxx284569	9/15/16	CLAY PLANET	217220	General Supplies	56.55	0.00	56.55	<b>\$56.55</b>
xxx284570	9/15/16	COAST PERSONNEL SERVICES INC	243931	Contracts/Service Agreements	967.20	0.00	967.20	<b>\$5,526.67</b>
			243932	Contracts/Service Agreements	1,015.56	0.00	1,015.56	
			243933	Contracts/Service Agreements	967.20	0.00	967.20	
			243934	Contracts/Service Agreements	835.75	0.00	835.75	
			243935	Contracts/Service Agreements	870.48	0.00	870.48	
			243936	Contracts/Service Agreements	870.48	0.00	870.48	
xxx284574	9/15/16	CODY ANDERSON WASNEY ARCHITECTS INC	0816.14006	Consultants	18,901.97	0.00	18,901.97	<b>\$18,901.97</b>
xxx284575	9/15/16	CORIX WATER PRODUCTS (US) INC	17613020785	Materials - Land Improve	434.13	0.00	434.13	<b>\$586.38</b>
			17613023589	Materials - Land Improve	152.25	0.00	152.25	
xxx284576	9/15/16	DCSE INC	BL006938-1	Consultants	15,330.00	0.00	15,330.00	<b>\$15,330.00</b>
xxx284577	9/15/16	DEL GAVIO GROUP						<b>\$3,381.45</b>

**List of All Claims and Bills Approved for Payment**

For Payments Dated 9/11/2016 through 9/17/2016

Sorted by Payment Number

Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
			7956	Consultants	941.85	0.00	941.85	
			7959	Consultants	2,439.60	0.00	2,439.60	
xxx284578	9/15/16	DISCOUNT SCHOOL SUPPLY	W26317940101	General Supplies	176.83	0.00	176.83	<b>\$785.48</b>
			W26341870101	Furniture	608.65	0.00	608.65	
xxx284579	9/15/16	EOA INC	SU43-0716	Consultants	13,082.96	0.00	13,082.96	<b>\$13,082.96</b>
xxx284580	9/15/16	EP 21	0056543-IN	General Supplies	46.00	0.00	46.00	<b>\$46.00</b>
xxx284581	9/15/16	ERT INC	RF1607-31	Occupational Health and Safety Services	975.00	0.00	975.00	<b>\$975.00</b>
xxx284582	9/15/16	ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE	93174746	Software Licensing & Support	15,100.00	0.00	15,100.00	<b>\$15,100.00</b>
xxx284583	9/15/16	FAST RESPONSE ON-SITE TESTING INC	13440	Medical Services	770.00	0.00	770.00	<b>\$1,820.00</b>
			13440	Contracts/Service Agreements	1,050.00	0.00	1,050.00	
xxx284584	9/15/16	FERGUSON ENTERPRISES INC 1423	1207181	Inventory Purchase	613.35	5.64	607.71	<b>\$1,528.97</b>
			1209774	Inventory Purchase	929.81	8.55	921.26	
xxx284585	9/15/16	FIRST PLACE INC	85047	Customized Products	177.36	0.00	177.36	<b>\$177.36</b>
xxx284586	9/15/16	FISHER SCIENTIFIC CO LLC	4767559	General Supplies	700.24	0.00	700.24	<b>\$700.24</b>
xxx284587	9/15/16	FOSTER BROS SECURITY SYSTEMS INC	282231	Bldg Maint Matls & Supplies	795.54	0.00	795.54	<b>\$1,142.81</b>
			282260	Miscellaneous Equipment Parts & Supplies	6.53	0.00	6.53	
			282261	Bldg Maint Matls & Supplies	340.74	0.00	340.74	
xxx284588	9/15/16	FREMONT UNION HIGH SCHOOL DISTRICT	V081716	DED Services/Training - Training	184.50	0.00	184.50	<b>\$220.50</b>
			V081816	DED Services/Training - Training	36.00	0.00	36.00	
xxx284589	9/15/16	GALE/CENGAGE LEARNING	58670502	Library Acquisitions, Books	24.36	0.00	24.36	<b>\$24.36</b>
xxx284590	9/15/16	GLASS EXPANSION INC	054893	General Supplies	1,640.00	0.00	1,640.00	<b>\$1,640.00</b>
xxx284591	9/15/16	GORILLA METALS	186723	Parts, Vehicles & Motor Equip	292.78	0.00	292.78	<b>\$292.78</b>
xxx284592	9/15/16	GRANICUS INC	80014	Software As a Service	5,040.00	0.00	5,040.00	<b>\$13,376.55</b>
			80017	Software As a Service	4,763.25	0.00	4,763.25	
			80021	Software As a Service	3,573.30	0.00	3,573.30	
xxx284593	9/15/16	GRANITEROCK CO	978605	Materials - Land Improve	20,702.09	0.00	20,702.09	<b>\$20,702.09</b>
xxx284594	9/15/16	H T HARVEY & ASSOC	42725	Miscellaneous Services	75.50	0.00	75.50	<b>\$75.50</b>
xxx284595	9/15/16	HANSON ASSOC	1546	Consultants	2,126.00	0.00	2,126.00	<b>\$2,126.00</b>
xxx284596	9/15/16	HIGH LINE CORP	19811	Computer Software	9,652.50	0.00	9,652.50	<b>\$9,652.50</b>
xxx284597	9/15/16	HUMANE SOCIETY SILICON VALLEY	76542	Contracts/Service Agreements	42,922.88	0.00	42,922.88	<b>\$82,922.88</b>

**List of All Claims and Bills Approved for Payment**

For Payments Dated 9/11/2016 through 9/17/2016

Sorted by Payment Number

Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
xxx284598	9/15/16	HYBRID COMMERCIAL PRINTING INC	76543	Contracts/Service Agreements	40,000.00	0.00	40,000.00	
			25900	Printing & Related Services	1,027.69	0.00	1,027.69	<b>\$3,953.88</b>
			25902	Printing & Related Services	538.31	0.00	538.31	
			25903	Printing & Related Services	498.89	0.00	498.89	
			25904	Printing & Related Services	193.58	0.00	193.58	
			25906	Printing & Related Services	1,695.41	0.00	1,695.41	
xxx284599	9/15/16	HYDROSCIENCE ENGINEERS INC	262001074	Professional Services	1,725.00	0.00	1,725.00	<b>\$4,035.00</b>
			262013025	Professional Services	2,310.00	0.00	2,310.00	
xxx284600	9/15/16	ID WHOLESALER	1264831	Bldg Maint Matls & Supplies	106.97	0.00	106.97	<b>\$106.97</b>
xxx284601	9/15/16	JEFFERSON UNION HIGH SCHOOL DISTRICT	1837	Contracts/Service Agreements	46,532.28	0.00	46,532.28	<b>\$58,663.11</b>
			1912	Contracts/Service Agreements	12,130.83	0.00	12,130.83	
xxx284602	9/15/16	JERONIMOS LITHOCRAFT	16-9501	Printing & Related Services	87.00	0.00	87.00	<b>\$87.00</b>
xxx284603	9/15/16	KELLY PAPER CO	8089896	General Supplies	372.14	0.00	372.14	<b>\$854.45</b>
			8137274	General Supplies	482.31	0.00	482.31	
xxx284604	9/15/16	LC ACTION POLICE SUPPLY	353601	Ballistic Equipment - Body Armor/Vests	788.44	0.00	788.44	<b>\$6,949.84</b>
			353718	Clothing, Uniforms & Access	103.26	0.00	103.26	
			353780	Clothing, Uniforms & Access	52.31	0.00	52.31	
			353781	Clothing, Uniforms & Access	52.31	0.00	52.31	
			353782	Clothing, Uniforms & Access	109.80	0.00	109.80	
			353783	Clothing, Uniforms & Access	49.92	0.00	49.92	
			353784	Clothing, Uniforms & Access	26.63	0.00	26.63	
			353785	Clothing, Uniforms & Access	372.93	0.00	372.93	
			353786	Clothing, Uniforms & Access	394.07	0.00	394.07	
			353862	Clothing, Uniforms & Access	170.50	0.00	170.50	
			353902	Ballistic Equipment - Body Armor/Vests	788.44	0.00	788.44	
			354317	Clothing, Uniforms & Access	170.50	0.00	170.50	
			354318	Clothing, Uniforms & Access	258.04	0.00	258.04	
			354463	Clothing, Uniforms & Access	932.06	0.00	932.06	
			354464	Clothing, Uniforms & Access	250.20	0.00	250.20	
			354568	Clothing, Uniforms & Access	43.50	0.00	43.50	
			354569	Clothing, Uniforms & Access	312.57	0.00	312.57	

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
			354570	Clothing, Uniforms & Access	226.98	0.00	226.98	
			354571	Clothing, Uniforms & Access	274.95	0.00	274.95	
			354572	Clothing, Uniforms & Access	287.01	0.00	287.01	
			354573	Clothing, Uniforms & Access	483.27	0.00	483.27	
			354574	Clothing, Uniforms & Access	462.50	0.00	462.50	
			354575	Clothing, Uniforms & Access	339.65	0.00	339.65	
xxx284607	9/15/16	LAWSON PRODUCTS INC	9304353324	Miscellaneous Equipment Parts & Supplies	274.49	0.00	274.49	<b>\$274.49</b>
xxx284608	9/15/16	LINKEDIN CORP	4046053	Professional Services	3,000.00	0.00	3,000.00	<b>\$3,000.00</b>
xxx284609	9/15/16	LINKO TECHNOLOGY INC	4799	Software Licensing & Support	2,695.00	0.00	2,695.00	<b>\$2,695.00</b>
xxx284610	9/15/16	MALLORY SAFETY & SUPPLY LLC	4139972	Inventory Purchase	193.96	0.00	193.96	<b>\$335.68</b>
			4139995	Inventory Purchase	141.72	0.00	141.72	
xxx284611	9/15/16	MCMASTER CARR SUPPLY CO	78391212	Electrical Parts & Supplies	508.29	0.00	508.29	<b>\$508.29</b>
xxx284612	9/15/16	MICHAEL BERNICK	AUGUST2016	Contracts/Service Agreements	2,500.00	0.00	2,500.00	<b>\$2,500.00</b>
xxx284613	9/15/16	MIDWEST TAPE	94282490	Library Acquis, Audio/Visual	887.67	0.00	887.67	<b>\$1,947.41</b>
			94282492	Library Acquis, Audio/Visual	238.75	0.00	238.75	
			94282493	Library Acquis, Audio/Visual	152.43	0.00	152.43	
			94283124	Library Acquis, Audio/Visual	148.94	0.00	148.94	
			94284650	Library Acquis, Audio/Visual	291.33	0.00	291.33	
			94295729	Library Acquis, Audio/Visual	146.75	0.00	146.75	
			94295960	Library Acquis, Audio/Visual	81.54	0.00	81.54	
xxx284614	9/15/16	MOUNTAIN VIEW LOS ALTOS ADULT SCHOOL	061516	DED Services/Training - Training	244.00	0.00	244.00	<b>\$244.00</b>
xxx284615	9/15/16	P&R PAPER SUPPLY CO INC	30095837-00	Inventory Purchase	188.05	0.00	188.05	<b>\$188.05</b>
xxx284616	9/15/16	PAYFLEX SYSTEMS USA INC	130534-880520	Professional Services	150.00	0.00	150.00	<b>\$200.00</b>
			130536-880522	Professional Services	50.00	0.00	50.00	
xxx284617	9/15/16	PATSONS MEDIA GROUP	201422	Printing & Related Services	451.31	0.00	451.31	<b>\$1,847.66</b>
			201430	Printing & Related Services	1,082.06	0.00	1,082.06	
			201431	Printing & Related Services	314.29	0.00	314.29	
xxx284618	9/15/16	PINE CONE LUMBER CO INC	661877	Inventory Purchase	530.23	5.30	524.93	<b>\$524.93</b>
xxx284619	9/15/16	RAFT RESOURCE AREA FOR TEACHERS	2016-9-2039	General Supplies	135.00	0.00	135.00	<b>\$135.00</b>
xxx284620	9/15/16	REED & GRAHAM INC	870868	Materials - Land Improve	1,743.40	0.00	1,743.40	<b>\$1,743.40</b>
xxx284621	9/15/16	ROGER D HIGDON						<b>\$696.96</b>

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
			2016-15306F	Consultants	696.96	0.00	696.96	
xxx284622	9/15/16	SFO REPROGRAPHICS	33330	Printing & Related Services	182.16	0.00	182.16	<b>\$1,058.68</b>
			33331	Printing & Related Services	227.83	0.00	227.83	
			33332	Printing & Related Services	136.48	0.00	136.48	
			33333	Printing & Related Services	147.90	0.00	147.90	
			33522	Printing & Related Services	364.31	0.00	364.31	
xxx284623	9/15/16	SSA LANDSCAPE ARCHITECTS INC	5518	Engineering Services	1,322.50	0.00	1,322.50	<b>\$1,322.50</b>
xxx284624	9/15/16	SAFEWAY INC	808182-090816	Food Products	99.90	0.00	99.90	<b>\$99.90</b>
xxx284625	9/15/16	SUNNYVALE FORD	478618	Inventory Purchase	194.75	0.00	194.75	<b>\$194.75</b>
xxx284626	9/15/16	SUPPLYWORKS	377918628	Inventory Purchase	896.54	8.24	888.30	<b>\$888.30</b>
xxx284627	9/15/16	THE COVELLO GROUP INC	2015.003-16	Engineering Services	58,762.50	0.00	58,762.50	<b>\$58,762.50</b>
xxx284628	9/15/16	TOGOS EATERY	489373	Food Products	130.00	0.00	130.00	<b>\$245.48</b>
			490457	Food Products	115.48	0.00	115.48	
xxx284629	9/15/16	TRI DIM FILTER CORP	1789278-1	Bldg Maint Matls & Supplies	636.10	0.00	636.10	<b>\$636.10</b>
xxx284630	9/15/16	TRICOR AMERICA INC	M631591	General Supplies	201.25	0.00	201.25	<b>\$938.25</b>
			M632438	Contracts/Service Agreements	737.00	0.00	737.00	
xxx284631	9/15/16	TURF & INDUSTRIAL EQUIPMENT CO	IV18146	Inventory Purchase	217.50	0.00	217.50	<b>\$217.50</b>
xxx284632	9/15/16	US SECURITY ASSOC INC	1396246	Professional Services	200.00	0.00	200.00	<b>\$200.00</b>
xxx284633	9/15/16	UNIQUE MANAGEMENT SERVICES INC	432278	Financial Services	456.45	0.00	456.45	<b>\$456.45</b>
xxx284634	9/15/16	UNITED SITE SERVICES INC	114-4372041	Equipment Rental/Lease	349.44	0.00	349.44	<b>\$349.44</b>
xxx284635	9/15/16	UNIVAR USA INC	SJ770595	Chemicals	2,677.75	0.00	2,677.75	<b>\$2,677.75</b>
xxx284636	9/15/16	UNIVERSITY OF CALIFORNIA SANTA CRUZ	57264	DED Services/Training - Training	2,623.50	0.00	2,623.50	<b>\$2,623.50</b>
xxx284637	9/15/16	VWR INTERNATIONAL LLC	8046006296	General Supplies	12.40	0.00	12.40	<b>\$1,153.60</b>
			8046013188	General Supplies	52.68	0.00	52.68	
			8046038942	General Supplies	257.54	0.00	257.54	
			8046053420	General Supplies	74.30	0.00	74.30	
			8046082016	General Supplies	756.68	0.00	756.68	
xxx284638	9/15/16	W-TRANS	18107	Engineering Services	940.33	0.00	940.33	<b>\$4,040.33</b>
			18157	Engineering Services	3,100.00	0.00	3,100.00	
xxx284639	9/15/16	WINSUPPLY OF SILICON VALLEY	663129 02	Miscellaneous Equipment Parts & Supplies	642.17	0.00	642.17	<b>\$642.17</b>
xxx284640	9/15/16	ZEP MANUFACTURING CO						<b>\$5,611.01</b>

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
xxx284641	9/15/16	WAITER.COM INC	9002422149	Materials - Land Improve	5,611.01	0.00	5,611.01	
			G0824492834	Food Products	59.10	0.00	59.10	<b>\$632.87</b>
			G0830505439	Food Products	77.01	0.00	77.01	
			G0831505438	Food Products	97.91	0.00	97.91	
			G0901507768	Food Products	93.18	0.00	93.18	
			G0907509857	Food Products	213.10	0.00	213.10	
			G0907518459	Food Products	92.57	0.00	92.57	
xxx284642	9/15/16	ENERGY REDUCTION SOLUTIONS	092016	Materials - Land Improve	6,797.78	0.00	6,797.78	<b>\$6,797.78</b>
xxx284643	9/15/16	FIRST AMERICAN TITLE GUARANTY CO	4312-5244057	Customer Loans Disbursed	50,000.00	0.00	50,000.00	<b>\$50,000.00</b>
xxx284644	9/15/16	HEART START CPR	10/03-07/2016	Training and Conferences	560.00	0.00	560.00	<b>\$560.00</b>
xxx284645	9/15/16	JEREMIAH DARSON	CR16-5288	Return of Seized, Forfeiture or Found Funds	427.00	0.00	427.00	<b>\$427.00</b>
xxx284646	9/15/16	MEDINAS CATERING	472	Food Products	1,361.25	0.00	1,361.25	<b>\$1,361.25</b>
xxx284647	9/15/16	OFFICEMAX CONTRACT INC	55700408222016	Supplies, Office 1	28.29	0.00	28.29	<b>\$11,939.99</b>
			60250808252016	Supplies, Office 1	42.50	0.00	42.50	
			70608008172016	Supplies, Office 1	3.55	0.00	3.55	
			72057708232016	Supplies, Office 1	106.55	0.00	106.55	
			72715408182016	Supplies, Office 1	26.64	0.00	26.64	
			72953508182016	Supplies, Office 1	10.66	0.00	10.66	
			73678808192016	Supplies, Office 1	26.64	0.00	26.64	
			76631808152016	Supplies, Office 1	12.55	0.00	12.55	
			76673408162016	Supplies, Office 1	18.21	0.00	18.21	
			76681808162016	Supplies, Office 1	36.34	0.00	36.34	
			76821908152016	Supplies, Office 1	81.24	0.00	81.24	
			76900208152016	Supplies, Office 1	203.75	0.00	203.75	
			76985108152016	Supplies, Office 1	123.86	0.00	123.86	
			77026208172016	Supplies, Office 1	9.75	0.00	9.75	
			77641408152016	Supplies, Office 1	222.55	0.00	222.55	
			77882508162016	Supplies, Office 1	-59.69	0.00	-59.69	
			77922708162016	Supplies, Office 1	59.69	0.00	59.69	
			78289808162016	Supplies, Office 1	59.65	0.00	59.65	

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
			78560408162016	Supplies, Office 1	1,014.83	0.00	1,014.83	
			78914908172016	Supplies, Office 1	195.05	0.00	195.05	
			78968808172016	Supplies, Office 1	356.53	0.00	356.53	
			79057508172016	Supplies, Office 1	40.87	0.00	40.87	
			79062208172016	Supplies, Office 1	22.41	0.00	22.41	
			79166708172016	Supplies, Office 1	109.68	0.00	109.68	
			79267108172016	Supplies, Office 1	56.41	0.00	56.41	
			79334708172016	Supplies, Office 1	102.54	0.00	102.54	
			79691408172016	Supplies, Office 1	92.21	0.00	92.21	
			80040108182016	Supplies, Office 1	73.64	0.00	73.64	
			80193808182016	Supplies, Office 1	86.45	0.00	86.45	
			80282508182016	Supplies, Office 1	147.08	0.00	147.08	
			80305208182016	Supplies, Office 1	53.27	0.00	53.27	
			80426108182016	Supplies, Office 1	133.16	0.00	133.16	
			80703008182016	Supplies, Office 1	-15.87	0.00	-15.87	
			80822008182016	Supplies, Office 1	68.74	0.00	68.74	
			80824608182016	Supplies, Office 1	324.47	0.00	324.47	
			81236708192016	Supplies, Office 1	57.46	0.00	57.46	
			81291308192016	Supplies, Office 1	48.37	0.00	48.37	
			81429008192016	Supplies, Office 1	4.49	0.00	4.49	
			81442608192016	Supplies, Office 1	5.43	0.00	5.43	
			81484508262016	Supplies, Office 1	24.08	0.00	24.08	
			81569708192016	Supplies, Office 1	789.75	0.00	789.75	
			81642308192016	Supplies, Office 1	189.55	0.00	189.55	
			81885508192016	Supplies, Office 1	999.00	0.00	999.00	
			81917008242016	Supplies, Office 1	35.35	0.00	35.35	
			82152708222016	Supplies, Office 1	956.96	0.00	956.96	
			82190108222016	Supplies, Office 1	1,005.42	0.00	1,005.42	
			82208008222016	Supplies, Office 1	68.49	0.00	68.49	
			82453108232016	Supplies, Office 1	-434.17	0.00	-434.17	
			83446108232016	Supplies, Office 1	49.80	0.00	49.80	

**List of All Claims and Bills Approved for Payment**  
**For Payments Dated 9/11/2016 through 9/17/2016**

**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>
			83490208232016	Supplies, Office 1	58.36	0.00	58.36	
			83752908232016	Supplies, Office 1	74.21	0.00	74.21	
			83820208242016	Supplies, Office 1	3.65	0.00	3.65	
			83917308232016	Supplies, Office 1	-36.34	0.00	-36.34	
			84430308242016	Supplies, Office 1	79.85	0.00	79.85	
			84582708242016	Supplies, Office 1	61.92	0.00	61.92	
			84669308242016	Supplies, Office 1	168.65	0.00	168.65	
			84776308242016	Supplies, Office 1	604.28	0.00	604.28	
			85204108252016	Supplies, Office 1	27.09	0.00	27.09	
			85514208252016	Supplies, Office 1	56.00	0.00	56.00	
			86018608312016	Supplies, Office 1	20.13	0.00	20.13	
			86316408262016	Supplies, Office 1	404.57	0.00	404.57	
			86319708262016	Supplies, Office 1	3.18	0.00	3.18	
			86425508262016	Supplies, Office 1	84.79	0.00	84.79	
			86429208262016	Supplies, Office 1	369.73	0.00	369.73	
			86809108262016	Supplies, Office 1	19.52	0.00	19.52	
			86829108262016	Supplies, Office 1	660.74	0.00	660.74	
			86877408262016	Supplies, Office 1	64.67	0.00	64.67	
			86878808262016	Supplies, Office 1	92.01	0.00	92.01	
			86925108262016	Supplies, Office 1	13.22	0.00	13.22	
			87371408292016	Supplies, Office 1	70.00	0.00	70.00	
			87638408292016	Supplies, Office 1	57.59	0.00	57.59	
			88352408302016	Supplies, Office 1	54.65	0.00	54.65	
			88720308302016	Supplies, Office 1	64.40	0.00	64.40	
			88923008302016	Supplies, Office 1	37.78	0.00	37.78	
			89225508302016	Supplies, Office 1	185.67	0.00	185.67	
			89230208312016	Supplies, Office 1	53.27	0.00	53.27	
			89238008302016	Supplies, Office 1	402.35	0.00	402.35	
			89287608302016	Supplies, Office 1	437.10	0.00	437.10	
			89420508312016	Supplies, Office 1	56.45	0.00	56.45	
			90321808312016	Supplies, Office 1	16.32	0.00	16.32	



### Sorted by Payment Number

Payment No.	Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount	Taken	Amount Paid	Payment Total
xxx284654	9/15/16	PACIFIC GAS & ELECTRIC CO	05225890200816	Utilities - Gas	20.59		0.00	20.59	\$7,920.34
			05225892760816	Utilities - Electric	2,535.04		0.00	2,535.04	
			100023460916	Utilities - Electric	1,354.20		0.00	1,354.20	
			43142590150816	Utilities - Gas	8.93		0.00	8.93	
			43142590250816	Utilities - Gas	947.72		0.00	947.72	
			43142590300816	Utilities - Gas	8.11		0.00	8.11	
			43142597200816	Utilities - Electric	1,271.20		0.00	1,271.20	
			43142597640816	Utilities - Electric	1,774.55		0.00	1,774.55	
xxx284655	9/15/16	SOUTH BAY REGIONAL PUBLIC SAFETY	RCPT#96662	Training and Conferences	395.00		0.00	395.00	\$395.00
xxx284656	9/15/16	BORIS SHPITSER	165725-73232	Refund Utility Account Credit	94.57		0.00	94.57	\$94.57
xxx284657	9/15/16	MICHAEL HONG	16ALARMPER MIT	DPS Alarm Permit Fee	35.00		0.00	35.00	\$35.00
xxx000515	9/12/16	CALIFORNIA PUBLIC EMP RETIREMENT SYSTEM		Insurances - Medical	1,195,083.40		0.00	1,195,083.40	\$1,605,006.76
				Insurances - Retiree Medical - PERS	409,923.36		0.00	409,923.36	
xxx100609	9/13/16	SANTA CLARA VALLEY WATER DISTRICT	TI002032	Water for Resale	889,536.28		0.00	889,536.28	\$889,536.28
xxx906090	9/12/16	ACCLAMATION INSURANCE MANAGEMENT		Workers' Compensation - Claims	123,616.10		0.00	123,616.10	\$123,616.10
xxx906093	9/12/16	ACCLAMATION INSURANCE MANAGEMENT		Workers' Compensation - Claims	-123,616.10		0.00	-123,616.10	-\$123,616.10
xxx906094	9/12/16	ACCLAMATION INSURANCE MANAGEMENT		Workers' Compensation - Claims	123,616.10		0.00	123,616.10	\$123,616.10
Grand Total Payment Amount									\$4,562,628.24



# City of Sunnyvale

## Agenda Item

---

**16-0862**

**Agenda Date: 10/4/2016**

---

### **REPORT TO COUNCIL**

#### **SUBJECT**

Award of Contract for the Mary Avenue Overcrossing Environmental Impact Report (F16-119) and Approval of Budget Modification No. 14 to Appropriate \$686,125 in Traffic Impact Fee Funding for the Project

#### **REPORT IN BRIEF**

Approval is requested to award a contract to Kimley-Horn Associates, Inc. of Pleasanton in an amount not-to-exceed \$623,750 to prepare the Mary Avenue Overcrossing Environmental Impact Report (EIR) and associated traffic analyses, and for a 10% contract contingency in the amount of \$62,375. Approval is also requested for Budget Modification No. 14 to provide \$686,125 in Traffic Impact Fee funding for the project.

#### **EXISTING POLICY**

Consistent with the provision of Sunnyvale Municipal Code Chapter 2.08, contracts for the procurement of services are awarded pursuant to a Request for Proposals (RFP) process, unless otherwise exempt from the competitive bidding.

#### **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)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

#### **BACKGROUND AND DISCUSSION**

On April 5, 2016, Council authorized the release of a Request for Proposals (RFP) to analyze and environmentally clear four options for the Mary Avenue Overcrossing project (RTC No. 16-0219):

- A four-lane Mary Avenue with dedicated bike lanes and sidewalks
- A two-lane Mary Avenue with enhanced bike lanes and sidewalks
- A bicycle and pedestrian crossing
- Remove the extension from the General Plan

Prior to this, staff conducted a Council Study Session on August 18, 2015 to review the City's transportation priorities, including the Mary Avenue project, and submitted a follow up informational RTC ( No. 15-0953) in November 2015 to cover prior history and background on Mary Avenue, and to propose the release of the RFP.

The RFP was issued in May 2016, with two proposals received in June from Ascent Environmental and Kimley-Horn Associates. The proposals were evaluated by staff from the Departments of

Community Development and Public Works. Kimley-Horn was selected as the top-ranked team for several reasons. They presented the most in-depth understanding of past, present and potential future environmental issues associated with Mary Avenue, and demonstrated their ability to assist the City in obtaining environmental clearance for the four options. The Kimley-Horn team also proposed a more comprehensive approach to community outreach.

Both firms proposed initial base costs of approximately \$440,000, but neither proposal included sufficient scope for the level of technical studies and community outreach that staff feels will be required for the project. This necessitated adding scope and cost to the Kimley-Horn proposal. The final agreed-upon fee is \$623,750, substantially below the City's initial cost estimate of \$900,000. Completion of the EIR will require approximately 14-18 months and would be presented for Council consideration in late 2017 or early 2018.

### **FISCAL IMPACT**

The City's Transportation Strategic Program (TSP), the financial basis for the City's current land use and transportation plan, identifies Mary Avenue Extension as an unfunded project in the FY 2016/17 Adopted Projects Budget. Budget Modification No. 14 has been prepared to appropriate funding of \$686,125 to a new project, Mary Avenue Overcrossing Environmental Impact Report (EIR) and Traffic Analysis, funded by Traffic Impact Fees collected by the City.

#### **Budget Modification No. 14 FY 2016/17**

	<u>Current</u>	<u>Increase/ (Decrease)</u>	<u>Revised</u>
<b>Capital Projects Fund</b>			
<u>Expenditures</u>			
New Project: Mary Avenue Overcrossing Environmental Impact Report (EIR) and Traffic Analysis	\$0	\$686,125	\$686,125
<u>Reserves</u>			
Capital Projects Fund / Traffic Impact Fees Sub-Fund - Capital Reserve	\$19,557,403	(\$686,125)	\$18,871,278

### **Funding Source**

The funding source is the Traffic Impact Fee Sub-fund of the Capital Projects 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**

1) Award a contract, in substantially the same form as Attachment 1 to the report in an amount not-to

-exceed \$623,750 to Kimley-Horn Associates, Inc.; 2) approve a 10% contract contingency in the amount of \$62,375; and 3) Approve Budget Modification No. 14 to appropriate \$686,125 in Traffic Impact Fee Revenue to provide project funding.

Prepared by: Pete Gonda, Purchasing Officer

Reviewed by: Timothy J. Kirby, Director of Finance

Reviewed by: Trudi Ryan, Director of Community Development

Reviewed by: Manuel Pineda, Director of Public Works

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENT**

1. Draft Consultant Services Agreement

## ATTACHMENT 1

### DRAFT CONSULTANT SERVICES AGREEMENT BETWEEN THE CITY OF SUNNYVALE AND KIMLEY-HORN AND ASSOCIATES INC. FOR THE MARY AVENUE OVERCROSSING ENVIRONMENTAL IMPACT REPORT

THIS AGREEMENT dated \_\_\_\_\_ is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and Kimley-Horn and Associates, Inc., a North Carolina corporation ("CONSULTANT").

WHEREAS, CITY is in need of specialized services for the preparation of an Environmental Impact Report (EIR) for the Mary Avenue Overcrossing project; and

WHEREAS, CONSULTANT possesses the skill and expertise to provide the required services;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services by CONSULTANT

CONSULTANT shall provide services in accordance with Exhibit "A" attached and incorporated by reference. CONSULTANT shall determine the method, details and means of performing the services.

2. Time for Performance

The term of this Agreement shall be from the date of execution through project completion, unless otherwise terminated. CONSULTANT shall deliver the agreed upon services to CITY as specified in Exhibit "A". Extensions of time may be granted by the City Manager upon a showing of good cause.

3. Duties of CITY

CITY shall supply any documents or information available to City required by CONSULTANT for performance of its duties. Any materials provided shall be returned to CITY upon completion of the work.

4. Compensation

Payments shall be made to CONSULTANT on a monthly basis based on monthly billings for work outline in Exhibit "B", Fee Schedule. Compensation will not be due until said detailed billing is submitted to CITY within a reasonable time before payment is expected to allow for normal CITY processing. An estimate of the percent of total completion associated with the various categories of the services shall be furnished by CONSULTANT with said billing. When applicable, copies of pertinent financial records will be included with the submission of billing(s) for all direct reimbursables. Compensation shall not exceed the amounts set forth in Exhibit "B" for each phase of work. In no event shall the total compensation payable under this agreement exceed

the sum of Six Hundred Twenty Three Thousand Seven Hundred Fifty and No/100 Dollars (\$623,750.00), unless upon written modification of this Agreement.

All invoices, including detailed backup, shall be sent to City of Sunnyvale, attention Accounts Payable, P.O. Box 3707, Sunnyvale, CA 94088-3707.

5. Ownership of Documents

CITY shall have full and complete access to CONSULTANT's working papers, drawings and other documents during progress of the work. All documents of any description prepared by CONSULTANT shall become the property of the CITY at the completion of the project and upon payment in full to the CONSULTANT. CONSULTANT may retain a copy of all materials produced pursuant to this Agreement.

6. Conflict of Interest

CONSULTANT shall avoid all conflicts of interest, or appearance of conflict, in performing the services and agrees to immediately notify CITY of any facts that may give rise to a conflict of interest. CONSULTANT is aware of the prohibition that no officer of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement CONSULTANT shall not accept employment or an obligation which is inconsistent or incompatible with CONSULTANT'S obligations under this Agreement.

7. Confidential Information

CONSULTANT shall maintain in confidence and at no time use, except to the extent required to perform its obligations hereunder, any and all proprietary or confidential information of CITY of which CONSULTANT may become aware in the performance of its services.

8. Compliance with Laws

- A. CONSULTANT shall not discriminate against, or engage in the harassment of, any City employee or volunteer or any employee of CONSULTANT or applicant for employment because of an individual's race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, cancer or HIV/AIDS-related medical condition, genetic characteristics, and physical or mental disability (whether perceived or actual). This prohibition shall apply to all of CONSULTANT's employment practices and to all of CONSULTANT's activities as a provider of services to the City.
- B. CONSULTANT shall comply with all federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.

9. Independent Contractor

CONSULTANT is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONSULTANT. CONSULTANT is responsible for paying all required state and federal taxes.

10. Indemnity

CONSULTANT shall indemnify and hold harmless CITY and its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses, including attorney fees, arising out of the performance of the work described herein, to the extent caused by any negligent act or omission of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of CITY.

11. Insurance

CONSULTANT shall take out and maintain during the life of this Agreement policies of insurance as specified in Exhibit "C" attached and incorporated by reference, and shall provide all certificates or endorsements as specified in Exhibit "C."

12. CITY Representative

Manuel Pineda, as the City Manager's authorized representative, shall represent CITY in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

13. CONSULTANT Representative

Alex Jewell shall represent CONSULTANT in all matters pertaining to the services and materials to be rendered under this Agreement; all requirements of CONSULTANT pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the CONSULTANT representative.

14. Notices

All notices required by this Agreement, other than invoices for payment which shall be sent directly to Accounts Payable, shall be in writing, and sent by first class with postage prepaid, or sent by commercial courier, addressed as follows:

To CITY: Manuel Pineda, Director of Public Works  
CITY OF SUNNYVALE  
P. O. Box 3707  
Sunnyvale, CA 94088-3707

To CONSULTANT: Alex H. Jewell, AICP, LEED AP  
Kimley-Horn and Associates, Inc.  
100 West San Fernando Street, Suite 250  
San Jose, CA 95113

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by email or fax, to accomplish timely communication. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three business days after mailing.

15. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

16. Termination

- A. If CONSULTANT defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of satisfactory services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.
- B. Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.
- C. If CITY fails to pay CONSULTANT, CONSULTANT at its option may terminate this Agreement if the failure is not remedied by CITY within (30) days after written notification of failure to pay.

17. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced in writing signed by all parties.



18. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SUNNYVALE ("CITY")

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

By \_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

KIMLEY-HORN AND ASSOCIATES INC.  
("CONSULTANT")

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

By \_\_\_\_\_  
\_\_\_\_\_  
Name and Title

By \_\_\_\_\_  
\_\_\_\_\_  
Name and Title

## EXHIBIT "A"

### Scope of Services

Kimley-Horn and Associates, Inc. (Kimley-Horn) agrees to perform the following Scope of Services for City of Sunnyvale (City), to provide an Environmental Impact Report (EIR) and related technical studies for the extension of Mary Avenue from its terminus at Almanor Avenue, north over US 101 and SR 237 to 11<sup>th</sup> Avenue at E Street in Sunnyvale, California.

Kimley-Horn has submitted this proposal to prepare a EIR to assess potential impacts and identify mitigation measures for the proposed project. The Draft EIR, Final EIR, and associated work products will be prepared in accordance with the criteria, standards and provisions of the California Environmental Quality Act of 1970, Section 21000 et. sec. of the State CEQA Guidelines (California Administrative Code Section 15000), the City of Sunnyvale Environmental Guidelines, and the regulations requirements and procedures of other responsible Public Agencies with jurisdiction by law. Each of the issues is approached thoroughly in order to fully assess all potential impacts, establish thresholds, and identify mitigation measures.

### 1.0 PROJECT SCOPING

#### 1.1 RESEARCH AND INVESTIGATION

Kimley-Horn will obtain and review available data for the project area as well as policy documentation from the City Sunnyvale, state and federal agencies, and other agencies which may be affected by the project. This information, along with environmental data and information available from the City and other nearby jurisdictions, will become part of the foundation of the EIR and will be reviewed and incorporated into the analysis, as deemed appropriate.

#### 1.2 AGENCY CONSULTATION AND SCOPING

As indicated in Section 15083 of the State CEQA Guidelines, many public agencies have found that early consultation solves many potential conflicts that could arise in more serious forms later in the review process. Although the Notice of Preparation (NOP) and Public Scoping session meeting will provide that opportunity, Kimley-Horn will conduct additional discussions with local, state, and federal agencies which will assist in the early stages of the analysis and issue delineation.

#### 1.3 NOTICE OF PREPARATION (NOP)

Kimley-Horn will prepare a NOP for review and approval by the City. Once approved, Kimley-Horn will send the NOP to the appropriate state and federal agencies and distribute the document with a cover letter to cooperating, responsible, trustee, and other interested/relevant agencies as identified on a mailing list to be provided by the City. Kimley-Horn assumes that posting in the local newspaper and any radius mailing will be provided by the City. Comments received in response to the NOP will be evaluated during preparation of the EIR.

Kimley-Horn will assist the County in consulting with California Native American tribes under Assembly Bill 52 (AB 52). Kimley-Horn will draft the required notification letters, coordinate tribal meetings, maintain the AB 52 administrative record, and provide technical support to the agency in determining whether Tribal

Cultural Resources will be significantly impacted by the project. Kimley-Horn will document the consultation process and comments discussed, and advise the lead agency on how to come to a conclusion to the consultation, as specified by AB 52.

With regards to the AB 52 Consultation, this scope of work represents a “best efforts” approach. If the consultation requests from the tribes require more effort that will exceed the proposed budget, then a contract change order would be required to complete the scope and AB 52 consultation. The Traditional Tribal Cultural Places Bill of 2004 (SB 18) requires local governments to consult with Native California groups at the earliest point in the local government land use planning process. The consultation intends to establish a meaningful dialogue regarding potential means to preserve Native American places of prehistoric, archaeological, cultural, spiritual, and ceremonial importance. It allows for tribes to hold conservation easements and for tribal cultural places to be included in open space planning. As such, Kimley-Horn will assist the City in consulting with California Native American tribes under Senate Bill 18 (SB 18).

## 2.0 PREPARATION OF TECHNICAL STUDIES

### 2.1 TRANSPORTATION IMPACT ANALYSIS

#### Task 2.1.1 – Data collection

The study area will consist of Mary Avenue between Almanor Avenue and El Camino Real, Mathilda Avenue between 1st Avenue-Bordeaux Drive and El Camino Real, 11th Avenue between Enterprise Way and Innovation Way, and Moffett Park Drive between Enterprise Way and Innovation Way. Up to 42 intersections and 6 freeway segments within the overall study area may be quantitatively analyzed as deemed necessary by the City to evaluate the project alternatives. These intersections are shown in **Figure 1** below. Any additional intersections, roadway segments, or freeway segments will be analyzed, if needed, as an additional service.

Kimley-Horn will coordinate with City staff to obtain available traffic count data for intersections and freeway segments within the study area. **Table 2.1** indicates if Kimley-Horn has traffic counts or if traffic counts will be needed for the study intersections. It is anticipated that a limited number of additional counts may be required to be performed. Up to \$5,625 in traffic count data collection (15 intersections) is included as part of the scope. Many of the locations proposed for this study have counts completed in the last 2 years for proposed development projects in the City. Kimley-Horn will utilize freeway volumes from the most recent VTA Congestion Management Program report.

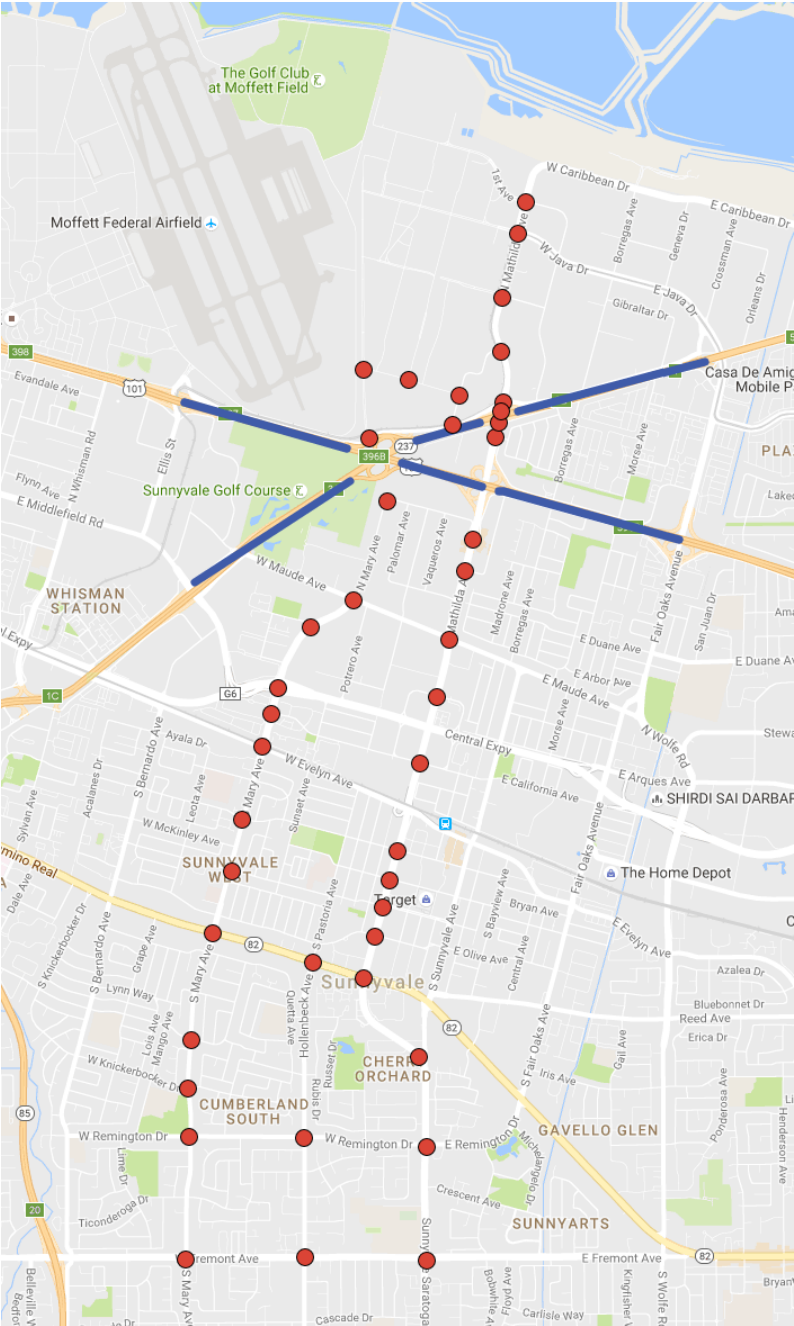
*Table 2.1: Counts for Study Intersections*

#	Intersection		#	Intersection	
1	Mathilda Ave / 1st Ave - Bordeaux Way	Have Counts	27	Mary Ave / Almanor Ave	Need to Collect Counts
2	Mathilda Ave / Lockheed Martin - Java Way	Have Counts	28	Mary Ave / Maude Ave	Have Counts

#	Intersection		#	Intersection	
3	Mathilda Ave / 5th Ave	Have Counts	29	Mary Ave / Corte Madera Ave	Have Counts
4	Mathilda Ave / Innovation Way	Have Counts	30	Mary Ave / Central Expy	<b>Need to Collect Counts</b>
5	Mathilda Ave / Moffett Park Dr	Have Counts	31	Mary Ave / California Ave	<b>Need to Collect Counts</b>
6	Mathilda Ave / SR-237 WB Ramps	Have Counts	32	Mary Ave / Evelyn Ave	Have Counts
7	Mathilda Ave / SR-237 EB Ramps	Have Counts	33	Mary Ave / Washington Ave	<b>Need to Collect Counts</b>
8	Mathilda Ave / Ross Dr	Have Counts	34	Mary Ave / Iowa Ave	<b>Need to Collect Counts</b>
9	Mathilda Ave / Almanor Ave - Ahwanee Ave	Have Counts	35	Mary Ave / El Camino Real	Have Counts
10	Mathilda Ave / San Aleso Ave	Have Counts	36	Mary Ave / Heatherstone Ave	<b>Need to Collect Counts</b>
11	Mathilda Ave / Maude Ave	Have Counts	37	Mary Ave / Knickerbocker Ave	<b>Need to Collect Counts</b>
12	Mathilda Ave / Indio Way	Have Counts	38	Mary Ave / Remington Dr	<b>Need to Collect Counts</b>
13	Mathilda Ave / California Ave	Have Counts	39	Mary Ave / Fremont Ave	<b>Need to Collect Counts</b>
14	Mathilda Ave / Washington Ave	Have Counts	40	Pastoria Ave - Hollenbeck Ave / El Camino Real	<b>Need to Collect Counts</b>
15	Mathilda Ave / McKinley Ave	Have Counts	41	Hollenbeck Ave / Remington Dr	<b>Need to Collect Counts</b>
16	Mathilda Ave / Iowa Ave	Have Counts	42	Hollenbeck Ave / Fremont Ave	<b>Need to Collect Counts</b>
17	Mathilda Ave / Olive Ave	Have Counts	43	Optional Intersection	<b>Need to Collect Counts</b>
18	Mathilda Ave / El Camino Real	Have Counts	44	Optional Intersection	<b>Need to Collect Counts</b>
19	Mathilda Ave / Talisman Dr - Sunnyvale Saratoga Rd	Have Counts	45	Optional Intersection	<b>Need to Collect Counts</b>
20	Sunnyvale Saratoga Rd / Remington Dr	<b>Need to Collect Counts</b>	46	Optional Intersection	<b>Need to Collect Counts</b>
21	Sunnyvale Saratoga Rd / Fremont Ave	<b>Need to Collect Counts</b>	47	Optional Intersection	<b>Need to Collect Counts</b>
22	Innovation Way / 11th Ave	Have Counts	48	Optional Intersection	<b>Need to Collect Counts</b>
23	Innovation Way / Moffett Park Dr	<b>Need to Collect Counts</b>	49	Optional Intersection	<b>Need to Collect Counts</b>

#	Intersection		#	Intersection	
24	Enterprise Way / Manila Dr - Moffett Park Dr	Have Counts	50	Optional Intersection	Need to Collect Counts
25	Enterprise Way / 11th Ave	Have Counts	51	Optional Intersection	Need to Collect Counts
26	E Street / 11th Ave	Have Counts	52	Optional Intersection	Need to Collect Counts

Figure 1: Study Intersection and Freeway Segments



Kimley-Horn will perform a site visit to observe corridor conditions in the weekday morning and evening peak periods and will document existing intersection and roadway geometrics.

This task includes an optional task order for Kimley-Horn to evaluate an additional ten (10) study intersections for an additional fee of \$4,500 per intersection. This task order will be initiated only at the request of City staff and written authorization from the City to Kimley-Horn must be provided prior to Kimley-Horn commencing any work under this optional task.

#### **Task 2.1.2 – Traffic Modeling**

As a subconsultant to Kimley-Horn, Hexagon Transportation Consultants, Inc. will develop weekday AM and PM peak hour forecast plots of the study area for one near-term and one horizon year scenario. The forecasts will be utilized to grow existing traffic volumes to represent near-term and horizon year conditions. It is assumed that circulation network modifications to the model will be required to develop project trips for Alternatives 3 and 4.

Kimley-Horn will utilize model plots provided by Hexagon Transportation Consultants to develop near-term and horizon year baseline turning movement volumes within the study area. Future year volumes will be calculated by growing existing count data using modeled link volume growth and the Furness method, a methodology for balancing approach and departure volumes for each intersection leg.

#### **Task 2.1.3 – Baseline Traffic Analysis**

City staff will identify and provide any transportation network improvements that should be assumed in the near-term or cumulative scenario.

Kimley-Horn will analyze Existing (2016), Near-term (Construction completion), and Cumulative (2035) traffic conditions for the study intersections and freeway segments using count data collected in Task 3. Traffic analysis will include analysis for intersection level of service (LOS) and queuing, freeway LOS, and transit delay.

Intersection LOS and queueing will be evaluated using Highway Capacity Manual (HCM) 2000 methodology within the Traffix software. Additional progression analysis along Mathilda Avenue and Mary Avenue corridors will be conducted using Synchro software. LOS for freeway segments will be evaluated using HCM 2010 methodology within the HCS software.

#### **Task 2.1.4 –Plus Project Alternatives Traffic Analysis**

Kimley-Horn will analyze the potential transportation effect of four (4) project alternatives. The four (4) alternatives will consist of the following lane configurations for the Mary Avenue Extension:

- Alternative 1 – Mary Avenue Extension will be four-lane road with sidewalks and bike lanes
- Alternative 2 – Mary Avenue Extension will be two-lane road with enhanced bike lanes and sidewalks
- Alternative 3 – Mary Avenue Extension will be a pedestrian and bicycle crossing, no vehicle access is allowed OR Mary Avenue Extension will allow only shuttle/buses and HOV

- Alternative 4 – Mary Avenue Extension is removed from the General Plan

Kimley-Horn will identify changes in circulation and traffic volumes associated with each alternative. Kimley-Horn will adjust existing, near-term, and cumulative baseline volumes accordingly to identify with project near-term and horizon year volumes.

Once the City approves trip generation, distribution, and assignment, Kimley-Horn will analyze existing plus Alternative, Near-Term plus Alternative, and Cumulative plus Alternative traffic conditions for all four (4) proposed project alternatives. Traffic analysis will include analysis for intersection LOS and queuing, freeway LOS, and transit delay as conducted in Task 3.1.3.

Kimley-Horn will prepare a VISSIM model using the Synchro model export of Mary Avenue (11<sup>th</sup> Avenue to Fremont Avenue) and Mathilda Avenue (11<sup>th</sup> Avenue to Sunnyvale-Saratoga Avenue) for existing, near-term, and cumulative scenarios for each alternative. The VISSIM model will use an aerial background and is not assumed to include 3D visual components representing buildings or other physical elements.

#### **Task 2.1.5 – VMT Analysis**

For informational purposes, Kimley-Horn will conduct a vehicle miles traveled (VMT) analysis to evaluate the change in VMT for each of the project alternatives. Based on a defined set of corridors and segment boundaries, Kimley-Horn will utilize model plots obtained in Task 2.1.2 for baseline and project link volumes. Change in VMT will be determined by comparing baseline and project link volumes in an excel spreadsheet. While the intersection evaluation will be focused on the Mary Avenue corridor and the parallel Mathilda Avenue corridor, the VMT reporting will be conducted for a larger area bounded generally by the following but delineated in Figure 2 as the following:

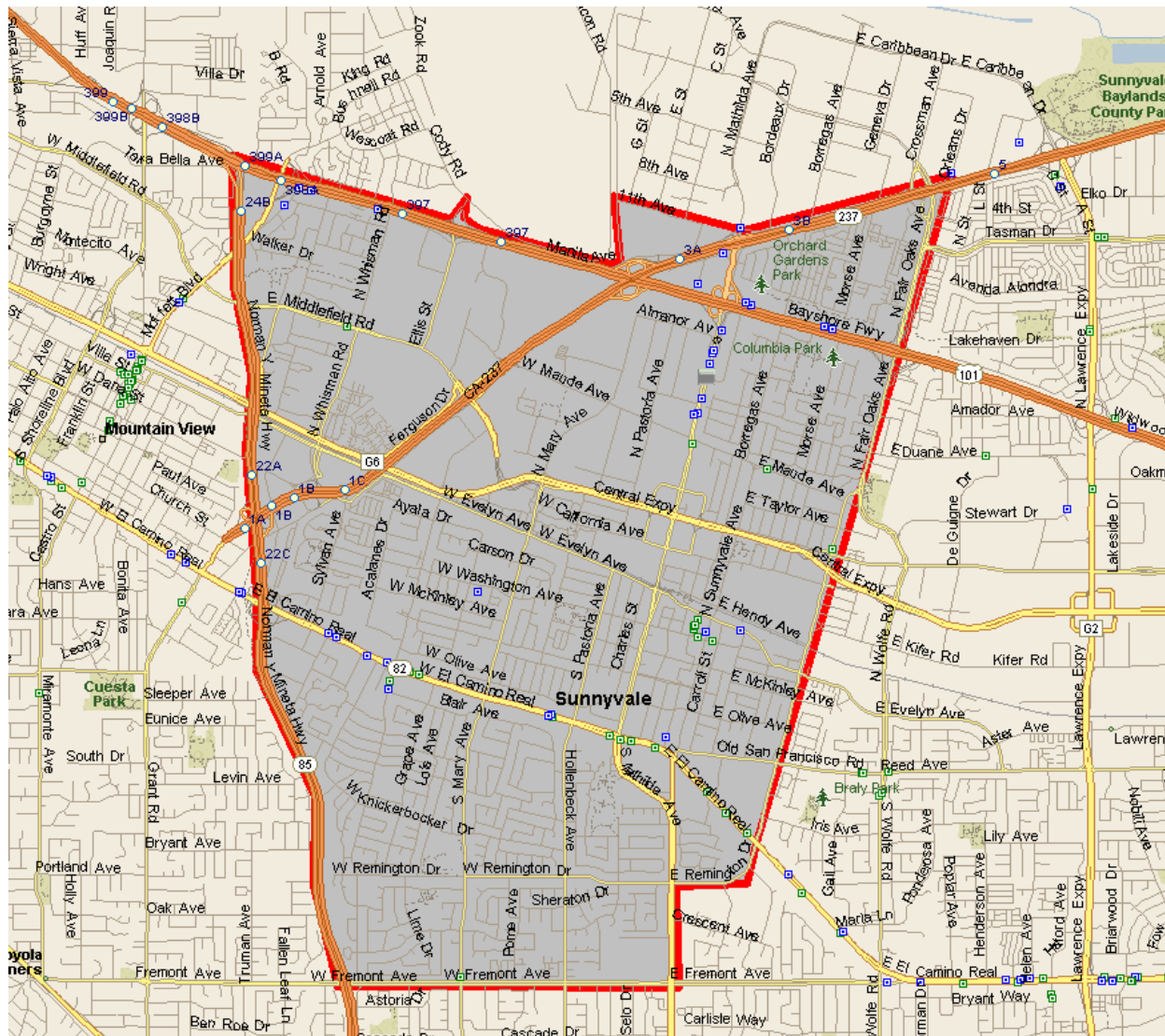
- 11<sup>th</sup> Avenue to the North
- Fremont Avenue to the South
- SR-85 to the west
- Fair Oaks Avenue to the east

#### **Task 2.1.6 – Cost Estimation/Engineering Support**

Kimley-Horn will review previous mitigations from the Mary Avenue Extension 2008 EIR to see if previous mitigation measures are still applicable and to make revisions, as necessary. It is assumed that the general methodology of the previous designed regarding bridge terminus points on each side of the freeways, clearances from each freeway and VTA light rail, and max bridge slopes will be reviewed but likely much of these original design elements retained. It is assumed that up to 160 hours of professional time will be associated with this task to define project limits of work, make refinements to the conceptual design, cross sections, and cost estimates for the proposed extension. An additional 40 hours is programmed for the conceptual design of intersection mitigations, should any intersections be identified for impact during the traffic impact analysis.

This task includes an optional task order for an additional 100 hours of staff time for additional review or multiple iterations of the cost estimates and engineering support described above. This task order will be initiated only at the request of City staff and written authorization from the City to Kimley-Horn must be provided prior to Kimley-Horn commencing any work under this optional task.

Figure 2: VMT Study Area



#### Task 2.1.7 – Administrative Draft Report

Kimley-Horn will prepare an Administrative Draft Transportation Impact Analysis (TIA) Report for preliminary review. The Admin Draft report will include text, charts, and figures describing the process, assumptions, and results. The maps will be prepared to be compatible with the City's GIS system. Graphics will be prepared in a mutually agreed upon format (e.g., CAD). The report will specifically detail impacts from project traffic and recommended mitigation measures. Kimley-Horn will provide four (4) copies of the report Administrative Draft Report.

#### Task 2.1.8 – Draft Report

Based on comments received on the Administrative Draft TIA Report from the City, the report will be revised and the Draft TIA Report will be submitted for use in the environmental review process and for VTA review. Kimley-Horn will provide eight (8) copies of the Draft Report.



### **Task 2.1.9 – Final Report**

Subsequent to the completion of the environmental review process and VTA review of the Draft TIA Report, the report will be revised and the Final TIA Report will be submitted for use in the environmental review process and for VTA review. Kimley-Horn will provide six (6) copies of the Final Report.

## **2.2 AIR QUALITY**

As a subconsultant to Kimley-Horn, Michael Baker International will prepare the air quality analysis for the project. The air quality analysis will include the following tasks:

### **Existing Conditions/Regulatory Framework**

The project is located within the San Francisco Bay Area Air Basin (SFBAAB), which is under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). Baseline meteorological and air quality data developed through the California Air Resources Board (CARB) will be utilized for the description of existing ambient air quality. Air quality data from the nearest representative air quality monitoring stations will be included to help highlight existing air quality local to the project area.

### **Construction-Related Emissions**

Construction emissions for each design option will be quantified with the California Emissions Estimator Model version 2013.2.2 (CalEEMod). A general description of the major phases of construction and their timing will be required. The air pollutant emissions during construction will be compared to the BAAQMD thresholds of significance. Naturally occurring asbestos impacts will also be discussed qualitatively.

### **Long-Term Emissions**

Operational (i.e., mobile source) emissions associated with existing conditions and each roadway extension design option will be quantified and the emissions increases over existing conditions will be compared to the BAAQMD operational thresholds of significance. Primary sources of emissions will be related to vehicle miles traveled data identified in the Traffic Impact Report. Vehicle emissions will be calculated with CARB's EMFAC2014 database. The analysis will also address toxic air contaminants based on the proximity of the proposed roadway to sensitive receptors as well as the number of trucks projected to use the roadway. It should be noted that it is not anticipated that the proposed roadway would accommodate a substantial number of trucks. Project consistency with the latest BAAQMD Clean Air Plan will be evaluated.

## **2.3 BIOLOGICAL RESOURCES**

Live Oak and Associates, as a subconsultant to Kimley-Horn will conduct a field visit to characterize existing conditions and assess general biological constraints including potential habitat for special status plant and wildlife species and the potential presence of wetlands/Waters of the U.S. The investigation will include a query of the California Department of Fish and Wildlife's California Natural Diversity Data Base and soils data. Live Oak will prepare a report of findings summarizing the results of the investigation, a vegetation map, and will recommend any required mitigation measures, if necessary.

## **2.4 CULTURAL RESOURCES**

As a subconsultant to Kimley-Horn, WSA will prepare a records search and archaeological/historical survey for the proposed project area. The cultural resources analysis includes the following tasks:

### **Records/Literature Search**

WSA will contact the California Historical Resources Information System, Northwest Information Center (NWIC) at Sonoma State University and request a records search of the Mary Avenue project area in the City of Sunnyvale, CA. The search will cover the entire project area and a minimum one-quarter mile radius adjacent

thereto. All previous cultural resource surveys, known historic or prehistoric sites, and listed or properties eligible for the National Register of Historic Places (NRHP) or the California Register of Historical Resources (CRHR) within the area of the literature search will be identified. Copies of applicable site records and survey reports for cultural resources identified within a ¼ mile radius of the project area will be made as necessary, and site locations will be plotted on USGS quad sheets. State and local historic site inventories will also be reviewed to identify the presence of any listed sites in the project vicinity. Additional literature on file at WSA on the history, prehistory and ethnography of the project areas will also be consulted. The NWIC's typical response time for records search requests is four to five weeks, but a Rapid Response service is available for a 50% surcharge. A Rapid Response request normally provides results in two to three weeks. For purposes of this scope of work, WSA recommends the Rapid Response service.

#### **Native American Heritage Commission Consultation**

WSA will contact the Native American Heritage Commission (NAHC) in Sacramento by letter with a description of the proposed project and a request for a listing of local, interested Native American representatives. The NAHC will be asked to review their Sacred Lands file for information on traditional or cultural lands within the project areas and vicinity. WSA will contact the individuals or tribal members on the contact list via certified letter and will provide a description of the project and a project area map. Input and comment will be solicited regarding individual knowledge about sacred sites or traditional lands within the project area. Follow-up phone calls will be made as necessary. A table indicating the results of contact and comments will be prepared and inserted into the Cultural Resources Report.

#### **AB-52**

Under AB 52, a project that may cause a substantial adverse change in the significance of a tribal cultural resource is defined as a project that may have a significant effect on the environment. In such an instance, the lead agency's environmental document must discuss the impact and whether a feasible alternative or mitigation measures could avoid or substantially lessen the impact. AB 52 requires lead agencies to provide notice to tribes that are traditionally or culturally affiliated with the geographic area of a project if they have requested notice of projects proposed within that area. If the tribe requests consultation within 30 days of receipt of the notice, the lead agency must consult with the tribe (Chou 2014).

On behalf of the project, and assuming the lead agency has received requests from Native American tribes that are traditionally or culturally affiliated with the project area for project notifications, WSA will prepare the required notification letters to the tribal entities who have contacted the lead agency, and will assist in coordinating other matters relative to this consultation.

#### **Archaeological Survey**

The majority of the project area has already been developed. The only unpaved areas are those within the Caltrans ROW. WSA will work with Kimley-Horn to access those areas within the ROW so they can be examined through a pedestrian archaeological survey. In accordance with CEQA Sections 15064.5 and 15126.4 and requirements in NHPA Section 106, unless recently surveyed by a qualified archaeologist as evidenced by a competent and current report on file at the NWIC, the unpaved portions of the project area will be examined by an archaeologist meeting federal criteria under 36 CFR 61 [Caltrans Environmental Handbook, Appendix B-1, Exhibit 4]. This is intended to be an intensive survey of the project area conducted to meet the requirements of CEQA and Section 106 and will be conducted to evaluate potential project impacts to cultural resources. The survey will be conducted at a maximum survey transect interval of 15 meters, if possible. Any newly discovered

historic (over 50 years of age) or prehistoric archaeological sites identified during the survey must be recorded, as required, on appropriate Department of Parks and Recreation Primary Record (DPR 523) and associated (e.g., Building-Structure-Object) forms. Any previously recorded archaeological sites identified within the project area as part of the NWIC records search must be re-located and a DPR 523-L Continuation/Update form must be prepared for each. For purposes of this proposal, it is assumed that only one previously recorded archaeological resource (CA-SCL-12/H) is present in the project area, and that no previously unknown archaeological sites will be identified during the survey. Any cultural resources discovered during the survey will be evaluated for significance (California Register of Historic Resources [CRHR] and National Register of Historic Places [NRHP] eligibility) in accordance with the criteria in 36 CFR 60.4. No subsurface testing will be conducted as part of this proposal.

### **Cultural Resources Assessment Report**

WSA will prepare a Cultural Resources Assessment Report (CRAR) that will serve as the technical document in support of the EIR. The CRAR will include an environmental, cultural, and historic setting section, a description of the results of the literature and record search, the results of the archaeological survey, conclusions, recommendations, and rationale for further study, if necessary. If warranted, recommended mitigation measures will also be provided.

Upon the City's acceptance and approval of the report, a copy will be submitted, as required, to the Northwest Information Center at Sonoma State University.

## **2.5 GREENHOUSE GAS EMISSIONS**

As a subconsultant to Kimley-Horn, Michael Baker International will prepare the greenhouse gas emissions analysis for the project. The greenhouse gas emissions analysis will include the following tasks:

### **Greenhouse Gas Emissions**

Michael Baker will review the land use data and will prepare an inventory of the greenhouse gas (GHG) emissions (i.e., nitrous oxide, methane, and carbon dioxide) from direct (i.e., construction and operational mobile sources) for each design option. As this project involves a roadway extension, emissions from indirect sources (i.e., energy/water consumption and wastewater/solid waste generation) would not occur. In addition, total GHG emissions from construction activities will be amortized into the GHG emissions inventory. CalEEMod will be used to quantify construction GHG emissions and operational emissions will be quantified with CARB's EMFAC2014 database. Impacts will be determined based on compliance with the City's *Climate Change Action Plan* (May 2014), the Moffett Park Specific Plan, as well as with applicable policies within the *General Plan*. Mitigation measures will be identified and incorporated, as necessary, to reduce potentially significant project GHG impacts.

### **Energy Conservation**

The energy implications of the project will be assessed pursuant to Public Resources Code Section 21100(b)(3) and Appendix F of the CEQA Guidelines. These statutes and guidelines require an EIR to describe, where relevant, the wasteful, inefficient, and unnecessary consumption of energy caused by a project. The analysis will address energy consumption associated with short-term construction activities, long-term operations of the roadway facility. Additionally, if necessary, the assessment of environmental impacts on energy resources will include mitigation measures to reduce inefficient and unnecessary consumption of energy.

## 2.6 NOISE

As a subconsultant to Kimley-Horn, Michael Baker International will prepare the noise analysis for the project. The noise analysis will include the following tasks:

### **Existing Conditions**

The applicable noise and land use compatibility criteria for the project area will be reviewed and noise standards regulating noise impacts will be discussed for land uses on and adjacent to the project site. A site visit will be conducted and short-term noise level measurements will be taken along the project area. The noise monitoring survey will be conducted at up to four separate locations to establish baseline noise levels in the project area. Noise recording lengths are anticipated to require approximately 10 minutes at each location. This scope excludes long-term (24-hour) measurements.

### **Construction-Related Noise and Vibration**

Construction would occur during implementation of the proposed project. Noise impacts from construction sources will be analyzed based on the anticipated equipment to be used, length of a specific construction task, equipment power type (gasoline or diesel engine), horsepower, load factor, and percentage of time in use. The construction noise impacts will be evaluated in terms of hourly equivalent continuous noise levels (Leq) and the frequency of occurrence at adjacent sensitive locations. An analysis of vibration impacts will be based on the Federal Transit Administration's vibration analysis guidance. Analysis requirements will be based on the sensitivity of the area, specific construction activities, and Noise Ordinance specifications.

### **Operational Noise Sources**

On- and off-site noise impacts from vehicular traffic from each design option will be assessed using the U.S. Federal Highway Traffic Noise Prediction Model (FHWA-RD-77-108). The 24-hour weighted Community Noise Equivalent Levels (CNEL) will be presented in a tabular format. Impacts will be determined based on the noise contribution of each design option in combination with the City's Land Use Noise and Compatibility Matrix and Interior/Exterior Noise Guidelines.

## 2.7 PROJECT VISUAL SIMULATIONS

Kimley-Horn proposes up to four photosimulations to determine the project's impacts related to the potential change in character/quality. Professional photographs will be taken from multiple locations with a Fuji GX617 Panoramic camera, providing a 2.25 x 6-inch film transparency. Back-up shots will be taken using a Nikon D1X digital camera. Kimley-Horn will provide the City with the preliminary photographs, at which time the City will comment and approve up to four Key View photographs, which will then be simulated for the project.

Three-dimensional (3D) computer models will be prepared to simulate the project from up to four Key Views for three of the four project alternatives. This scope of work assumes that no photosimulations will be prepared for the "Removal of the extension from the General Plan" alternative. Site topography, paving, and landscape will be modeled at a level of detail that includes vegetation removal, topographic changes, exposed earth, and other significant objects. The simulated models will be masked onto the site photography described above. This task is limited to four photographic locations specified above. All modeled objects will be colored and textured utilizing advanced mapping techniques such as decals, transparency, and reflective maps. All available resources are used to create a depiction of the subject that is as close to photorealism as possible. This includes multiple light sources, shadows, and other creative

techniques. The rendered subject is superimposed into the photograph utilizing masking techniques that blend the two together seamlessly. Other items are also superimposed such as landscaping, trees, cars, and people as necessary to achieve realism.

### **3.0 PREPARATION OF ADMINISTRATIVE DRAFT EIR**

#### **3.1 INTRODUCTION AND PURPOSE**

The Introduction section will cite the provisions of CEQA and the City of Sunnyvale CEQA implementation procedures for which the proposed project is subject to. This section will identify the purpose of the study and statutory authority as well document scoping procedures, summary of the EIR format, listing of responsible and trustee agencies, and documentation incorporated by reference.

#### **3.2 EXECUTIVE SUMMARY**

Kimley-Horn will provide an Executive Summary for the EIR including a Project Summary, an overview of project impacts, mitigation and levels of significance after mitigation, summary of project alternatives, and areas of controversy and issues to be resolved. The Environmental Summary will be presented in a columnar format.

#### **3.3 PROJECT DESCRIPTION**

The Project Description section of the EIR will detail the project location, background and history of the project, discretionary actions, characteristics, goals and objectives, phasing, agreements, and permits and approvals which are required for the project based on available information. This section will include a summary of the local environmental setting for the project. Exhibits depicting the regional and site vicinity will be included in this section. An aerial photograph will be included within the Project Description.

#### **3.4 CUMULATIVE PROJECTS TO BE CONSIDERED**

In accordance with Section 15130(b)(1)(a) of CEQA, this section provides a detailed listing of cumulative projects and actions under consideration for the analysis. Cumulative Impacts, the likelihood of occurrence and level of severity will be studied. The purpose of this section is to present a listing and description of projects, past, present and anticipated in the reasonably foreseeable future. The potential for impact and levels of significance are contingent upon the radius or area of interaction with the proposed development. Kimley-Horn will consult with City staff and other applicable local jurisdictions to define the appropriate study area for the cumulative analysis.

#### **3.5 ENVIRONMENTAL ANALYSIS**

Kimley-Horn will evaluate the necessary information with respect to the existing conditions, the potential adverse effects of project implementation (both individual [direct/indirect] and cumulative), and measures to mitigate such effects. Environmental issues raised during the scoping process (Notice of Preparation responses, Public Scoping Meeting; and any other relevant and valid informative sources) also will be evaluated. The analyses will be based upon all available data, results from additional research, and an assessment of existing technical data. The Environmental Analysis section of the EIR will thoroughly discuss the existing conditions for each environmental issue area, and will identify short-term and long-term

environmental impacts associated with the project, along with their levels of significance. Feasible mitigation measures will be recommended to reduce the significance of impacts and identify areas of unavoidable significant adverse impacts even after mitigation.

The environmental documentation will assist in identifying constraints, modifications, and improvements which may be incorporated into the land planning process. This section will include analysis for the following environmental issue areas:

### **Aesthetics/Light and Glare**

Kimley-Horn will evaluate the necessary information with respect to the potential adverse effects upon project implementation based on client-provided information. This section will identify potential short-term construction and long-term visual impacts associated with the project, potential light and glare, and the resultant levels of significance. Feasible mitigation measures will be recommended to reduce the significance of impacts and identify areas of unavoidable significant adverse impacts even after mitigation/minimizations.

This scope of work assumes that any visual simulations or renderings for the project will be prepared by the project's architect and provided electronically to Kimley-Horn. Kimley-Horn can provide visual simulations for the project upon request and authorization of an approved scope of work by the City.

Kimley-Horn also will address the potential for significant/adverse impacts from light and glare associated with project implementation. This analysis will include a light and glare impact discussion on any neighboring sensitive uses during construction (i.e., vehicle headlights and security lighting). Kimley-Horn will review and incorporate existing City policies and guidelines regarding light and glare for inclusion within the EIR.

### **Air Quality and Greenhouse Gases**

Kimley-Horn will prepare the Draft EIR section addressing air quality and GHG/climate change aspects of the project. The section will discuss the existing environment; applicable laws, ordinances, regulations, and standards; applicable significance criteria and thresholds; the analysis methodology used; the analysis itself; the resulting impact findings related to CEQA significance and regulatory compliance; mitigation measures; and conclusions. Refer to Task 2.1, above, for additional information.

### **Biological Resources**

This section of the EIR will evaluate the biological conditions of the project site. Most of the project area has been previously disturbed from development and is surrounding by urban uses and developed areas. This section will discuss key issues related to biological resources within the Caltrans right-of-way; including, tree removal, and nitrogen deposition. The analysis will recommend mitigation measures as appropriate to reduce potential impacts.

### **Cultural Resources**

This section of the EIR will address the potential cultural resources impacts associated with construction and operation of the proposed project. It will describe the cultural background and setting of the project

area, the regulatory setting, and will provide the results of cultural resources surveys and analyses conducted for the proposed project. Potential impacts on cultural resources that could result from the project, including prehistorical and historical archaeological sites and paleontological discoveries, will also be discussed and feasible mitigation measures will be provided. This section will be prepared based on information and analysis contained in the applicant's Cultural Resources Study.

### **Geologic Hazards**

Kimley-Horn will address potential impacts to geology, soils and seismicity based on information provided in the City's General Plan, and any preliminary geotechnical investigation prepared for the site. Kimley-Horn will draw upon the EIRs prepared for the Mary Avenue Extension, Peery Park, and Moffett Park Specific Plan to identify the existing regional geology and soils constraints (such as compressible soils, landslide hazards, disruptions, displacements, compaction, or over covering of the soil, and areas subject to subsidence), areas potentially subject to significant grading impacts, seismic hazards, existing topography, landform modifications, drainage wind and/or water erosion potential of the soils on the project site and surrounding area.

### **Hazards and Hazardous Materials**

This section of the EIR will incorporate updated hazardous materials data provided by the project applicant. This analysis will include any relevant historical data from the Mary Avenue Extension, Peery Park, and Moffett Towers II EIRs. This section will be prepared consistent with the significance criteria given in Appendix G of the CEQA Guidelines and applicable federal, state, and local standards. Mitigation measures will be provided, as appropriate, to reduce potential project impacts.

### **Hydrology and Water Quality**

Water quality issues and mitigation will be incorporated into a Hydrology and Water Quality section that will address the potential impacts to water quality from the proposed development. This section will address areas of potential impacts to water quality and provide remediation measures (best management practices) that would reduce the presence of contaminants in runoff water and groundwater infiltration from the project site both during construction and post development.

### **Land Use Compatibility**

Kimley-Horn will analyze the relationship of the project to all applicable ordinances and planning policies. The review will be based, in part, upon the project application provided by the applicant, as well as current/applicable City ordinances and policies including the City's General Plan, Peery Park Specific Plan, and the Moffett Park Specific Plan, and zoning and environmental data available from the City.

Kimley-Horn will evaluate the appropriateness of the proposed uses at the project site in comparison to surrounding uses. The spatial relationship of on-site uses will be analyzed. Environmental plans applicable for the project area will be studied including the Moffett Field Airport Land Use Compatibility Plan, and other Policy documents, as deemed appropriate. Kimley-Horn will identify and analyze the consistencies and potential inconsistencies of the project with the surrounding uses.

Kimley-Horn intends to utilize information available from the City, as well as the NOP process and Public Scoping Session to identify particular concerns and any potential for public controversy. In addition, Kimley-

Horn will discuss the intensification of uses on-site and identify potential project and cumulative impacts. Kimley-Horn will recommend mitigation measures to reduce potential impacts to the extent feasible.

### **Noise**

This section of the EIR will address the potential noise impacts associated with construction and operation of the proposed project. The noise section will describe the existing conditions on the proposed project site, the regulatory setting, the impacts of the proposed project, and feasible mitigation measures to reduce impacts. This section will be prepared based on information and analysis contained in the Environmental Noise Assessment provided by the applicant.

### **Public Services and Utilities**

Kimley-Horn will contact potentially affected agencies to identify relevant existing conditions, project impacts and recommended mitigation measures. The discussion will focus on the potential alteration of existing facilities, extension or expansion of new facilities, the increased demand on services based on the proposed land uses.

### **Traffic and Circulation**

The purpose of this section is to evaluate existing traffic conditions and the potential traffic impacts of the proposed project. The evaluation will consider impacts on local roadways, intersections, and regional facilities, as well as proposed project access and internal circulation. Mitigation measures will be recommended to avoid or lessen impacts, as necessary. This evaluation will be based on the Final Traffic Impact Assessment to be provided by the applicant.

## **3.6 GROWTH INDUCEMENT**

Kimley-Horn will discuss potential growth-inducing impacts pursuant to the State CEQA Guidelines Section 15126.2. The analysis in this section will be based on data prepared by the Association of Bay Area Governments, Bay Area Plan, California Department of Finance, and U.S. Census data as applicable. The project's potential to induce more growth in the surrounding area will be discussed and mitigation for any potential impacts will be recommended.

## **3.7 CUMULATIVE IMPACTS**

In accordance with the State CEQA Guidelines Section 15130, Kimley-Horn will discuss cumulative impacts for each environmental issue area identified above, focusing on cumulative impacts and levels of severity in the project area at a quantitative and qualitative level. The analysis will include potential future development within the vicinity of the project site. The analysis will focus upon cumulative impacts from recently approved and/or pending projects in proximity. Kimley-Horn will work closely with City Staff to identify applicable approved and/or pending projects that should be considered for analysis within the Project Area.

## **3.8 ALTERNATIVES TO THE PROPOSED ACTION**



Pursuant to the State CEQA Guidelines Section 15126.6, Kimley-Horn will provide an analysis of up to three (3) alternatives for the proposed project. Kimley-Horn proposes to include an analysis of the “No Project/No Development” alternative, in addition to the four options to be addressed in the EIR analysis. Kimley-Horn will work with the City to identify another alternative as needed. Should additional alternatives be raised for consideration during the NOP process, Kimley-Horn will review these suggested Alternatives with the City and (as appropriate, with the Project Team) to determine whether or not they merit further consideration and analysis in the EIR.

This section will also include alternatives that were considered and eliminated from further consideration that may include, but not be limited to, a “Relocating the Project to another Area” alternative. The City will be seeking a sufficient level of detail to allow decision makers to gain a greater understanding of all alternatives should a determination be rendered to support an alternative development scenario. This alternatives section will culminate with the selection of the environmentally superior alternative in accordance with CEQA requirements.

### 3.9 ADDITIONAL SECTIONS

Kimley-Horn will provide additional sections in the EIR to meet CEQA and City requirements including the following:

***Effects Found Not To Be Significant.*** Kimley-Horn will provide a qualitative explanation of issues checked “no” in the City’s Initial Study in order to substantiate the conclusions of the Initial Study.

***Significant Environmental Effects Which Cannot be Avoided if the Proposed Project is Implemented.*** The section will be a list of unavoidable adverse impacts associated with the proposed project.

***Significant Irreversible Environmental Changes Which Would Be Involved In the Proposed Action Should It Be Implemented.*** This section will discuss changes in the environment and uses on non-renewable resource which will occur as a result of the proposed project which can be considered irreversible or irretrievable will be evaluated and discussed within this section of the EIR.

***Energy Conservation.*** This section will analyze the energy implications of the project pursuant to Public Resources Code Section 21100(b)(3) and Appendix F of the CEQA Guidelines. These statutes and guidelines require an EIR to describe, where relevant, the wasteful, inefficient, and unnecessary consumption of energy caused by a project. The analysis will analyze energy consumption associated with short-term construction activities, long-term operations, buildings, and transportation. Additionally, the assessment of environmental impacts on energy resources will include mitigation measures to reduce inefficient and unnecessary consumption of energy.

***Organizations and Persons Consulted/References.*** Any federal, state, or local agencies, other organizations and private individuals consulting in preparing the EIR will be listed in this section. Kimley-Horn will provide a complete list of reference materials used in preparation of the EIR.

### 3.10 GRAPHIC EXHIBITS

The EIR will include a maximum of twenty (20) exhibits to enhance the written text and clarify the proposed project environmental impacts. Using computer design equipment, our in-house graphic design team will

create professional quality, black and white or full color exhibits, dividers and covers for the EIR and Appendices. All exhibits will be 8.5" x 11" in size, unless otherwise requested.

## 4.0 DRAFT ENVIRONMENTAL IMPACT REPORT

### 4.1 SCREENCHECK DRAFT AND DRAFT EIR

Kimley-Horn will provide ten (10) copies of the Administrative Draft EIR and technical studies. One (1) electronic copy will also be provided in WORD or PDF format (City to determine preference for format).

Kimley-Horn will respond to a single complete set of City comments on the Administrative Draft EIR, complete necessary revisions, and prepare and publish the "Screencheck" Draft EIR. Revisions will be prepared in conformance with the Scope of Work. All revisions will be provided in strikeout/underline. The Screencheck Draft document will also be provided electronically in Word. Kimley-Horn will provide 10 copies of the Screencheck Draft EIR and technical studies.

Kimley-Horn will respond to a second complete set of City comments on the Screencheck Draft EIR, complete necessary revisions, and prepare and publish the Draft EIR for public circulation and review.

### 4.2 COMPLETION OF DRAFT EIR

Kimley-Horn will prepare the Draft EIR for the required 45-day public review period. Kimley-Horn will prepare and file 15 copies of the Draft EIR (EIR summary with EIR and technical appendices on CD) and Notice of Completion (NOC) with the Office of Planning and Research (OPR) State Clearinghouse. Kimley-Horn will provide the City with proof of submitting documents to OPR. Kimley-Horn will also work with the City to develop a distribution listing for the Notice of Availability and Draft EIR. This scope of work assumes that the City will be responsible for the distribution of the Draft EIR and Notice of Availability.

Kimley-Horn will coordinate with City staff to determine the number of copies needed to distribute the Draft EIR. This scope of work assumes Kimley-Horn will provide the City with twenty to thirty (20-30) copies of the Draft EIR (with appendices provided electronically on CD) and five (5) sets of the complete technical appendices in hard copy. Kimley-Horn will provide the City with electronic copies of all Draft documents in PDF format.

## 5.0 RESPONSE TO COMMENTS

### 5.1 PREPARE RESPONSE TO COMMENTS

Kimley-Horn will respond to all written and verbal comments received during the Draft EIR public review period. Kimley-Horn will prepare thorough, reasoned and sensitive responses to relevant environmental issues. This task includes written responses to both written and verbal comments received on the Draft EIR (includes review of hearing transcripts, as required).

The Draft Responses to Comments will be prepared and submitted for review by City staff. Following review of the Draft Responses to Comments, Kimley-Horn will finalize this section for inclusion in the Administrative Final EIR. Kimley-Horn recommends a one-day City/Kimley-Horn Team workshop to review Draft EIR comment letters and develop (and/or strategize) on responses to comments, to expedite the schedule and facilitate City review. Given the controversial nature of the project, the scope of work

assumes up to 120 hours (including 40 hours for Transportation Planning staff for comments related directly to Traffic and the TIA) to respond to the comments on the Draft EIR.

## 5.2 DISTRIBUTION TO COMMENTING AGENCIES

Following review of the Draft Responses to Comments, Kimley-Horn will finalize this section for inclusion in the Administrative Final EIR. Up to fifteen (15) copies of the responses to comments will be submitted to all commenting parties and the Planning Department in advance of the Planning Commission hearing.

## 6.0 FINAL EIR

### 6.1 ADMINISTRATIVE AND FINAL EIR

The Final EIR will consist of the revised Draft EIR text, as necessary, and the Responses to Comments section. The Draft EIR will be revised in accordance with the responses to public comments on the EIR. To facilitate City review, Kimley-Horn will format the Final EIR with underlined text for any new or modified text, and “strike out” any text that has been deleted from the Draft EIR. Kimley-Horn will incorporate the response to comments, mitigation monitoring and reporting program, and other relevant data, as determined necessary, into the Final EIR.

Kimley-Horn will prepare the Final EIR within two weeks of certification for the City. Kimley-Horn will print and mail the Final EIR with appendices and exhibits to commenting agencies pursuant to CEQA Section 21092.5, cooperating agencies and interested parties. In addition, Kimley-Horn will prepare and file the Notice of Determination (NOD) within five days following project approval.

### 6.2 FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

Kimley-Horn will provide administrative assistance to facilitate the CEQA process including the preparation of the Notice of Determination, Statement of Overriding Considerations and Findings for City use in the project review process. Kimley-Horn will prepare the Findings in accordance with the provisions of Section 15091 and 15093 of the State CEQA Guidelines and in a form specified by the City. Kimley-Horn will submit the Draft Findings for City review and will respond to one consolidated set of City comments.

### 6.3 MITIGATION MONITORING AND REPORTING PROGRAM

Following EIR certification, Kimley-Horn will prepare a Mitigation Monitoring and Reporting Plan (MMRP) as part of the Final EIR to comply with the Public Resources Code Section 21081.6 (AB 32180). The MMRP will identify, discuss, and develop appropriate monitoring programs for any impacts that may be associated with the short-term construction and/or long-term operation and maintenance of the project.

The Mitigation Monitoring and Reporting Checklist will serve as the foundation of the Mitigation Monitoring and Reporting Program for the proposed project. The Checklist indicates the mitigation measure number as outlined in the EIR, the EIR reference page (where the measure is documented), a list of Mitigation Measure/Conditions of Approval (in chronological order under the appropriate topic), the Monitoring Milestone (at what agency/department responsible for verifying implementation of the

measure), Method of Verification (documentation, field checks, etc.), and a verification section for the initials of the verifying individual date of verification, and pertinent remarks. Kimley-Horn will prepare a Draft Mitigation Monitoring and Reporting Program which will be submitted to the City for review at the Administrative Final EIR milestone submittal. Kimley-Horn will respond to one (1) consolidated set of City comments on the Draft Mitigation Monitoring and Reporting Program.

## 7.0 PROJECT MEETINGS AND COORDINATION

### 7.1 COMMUNITY OUTREACH

As a subconsultant to Kimley-Horn, Eileen Goodwin of Apex Strategies, will conduct the public outreach – community meetings in conjunction with City staff. The public outreach will consist of six Community Outreach Meetings to be held throughout the preparation of the Draft EIR. The schedule and locations for the meetings will be determined in conjunction with City staff. This task includes a Public Outreach meeting during the public review comment period for the draft EIR. The Kimley-Horn team will be responsible for the meeting materials and taking notes during the meetings.

### 7.2 PROJECT COORDINATION

Alex Jewell, Kimley-Horn Senior Project Manager, will be responsible for management and supervision of the EIR project team as well as consultation with the City Staff to incorporate City policies into the EIR. Alex Jewell will undertake consultation and coordination of the project and review the EIR for compliance with CEQA requirements and guidelines and City CEQA procedures. Kimley-Horn will coordinate with state and local agencies regarding this environmental document. Alex Jewell will coordinate with all technical staff, consultants, support staff and word processing toward the timely completion of the EIR.

### 7.3 MEETING ATTENDANCE

Laura Worthington-Forbes, Kimley-Horn Principal-in-Charge, and Alex Jewell will attend staff meetings and will represent the project team at public hearings and make presentations as necessary. Kimley-Horn anticipates several meetings with City staff, including a “kick-off meeting”, progress meetings, public meetings and hearings. Laura Worthington-Forbes and Alex Jewell along with other key Project Team personnel will also be available to attend meetings with affected jurisdictions, agencies and organizations as needed to identify issues, assess impacts and define mitigation. This scope of work assumes 100 hours for meeting attendance. Any additional amount of time beyond this initial budget will require approval from the client.

Additionally, Kimley-Horn TIA staff will participate in up to six (6) meetings with City staff and an additional ten (10) community meetings or City advisory Boards/Commissions/Council. Other coordination with agencies is assumed to occur via telephone or email. If attendance at other meetings or public hearings is requested, such attendance will be subjected to a contract amendment.

## DOCUMENT DELIVERABLES

One (1) redlined Review Copy of each Technical Study.

One (1) memorandum of Comments for each Technical Study.

Twenty-five (25) copies of the Notice of Preparation.

Ten (10) copies of the Administrative Draft Environmental Impact Report, Exhibits and Technical Appendices.

Ten (10) copies of the Screencheck Draft Environmental Impact Report, Exhibits and Technical Appendices

Fifteen (15) copies of Executive Summary attached to fifteen (15) Draft EIR CDs and fifteen (15) copies of the printed NOC form

Twenty (20) to Thirty (30) printed copies of the Draft EIR, to be decided in coordination with City Staff, with technical appendices provided on CD. Two (2) hard copies of the Draft EIR and Technical Appendices in its entirety.

One (1) camera-ready original of the Draft EIR, Exhibits, and Technical Appendices.

Ten (10) copies of the Responses to Comments.

One (1) camera-ready original of the Responses to Comments.

Notice of Determination Filing.

One (1) camera-ready Final Findings and Statement of Overriding Considerations.

One (1) camera-ready Final Mitigation Monitoring Program.

One (1) electronic copy of the Final Environmental Impact Report.

#### REIMBURSABLE EXPENSES

Kimley-Horn has included a budget amount within this proposal to cover the direct costs for the project including, but not limited to, printing, plotting, reproduction, in-house reproduction, working drawings, progress prints, mileage, messenger service, and overnight deliveries.

EXHIBIT "B"

Mary Avenue EIR  
Fee Schedule  
August 11, 2016

	Project Principal	Project Manager	Senior Design Engineer	Senior Engineer	Project Engineer	Civil Analyst II	Civil Analyst I	Senior Environmental Planner	Environmental Planner	Graphics	Production Support	Total	Subs - Tech Reports	Document Reproduction	Total
ENVIRONMENTAL SCOPE OF WORK	\$ 285.00	\$ 210.00	\$ 240.00	\$ 220.00	\$ 175.00	\$ 145.00	\$ 125.00	\$ 185.00	\$ 115.00	\$ 110.00	\$ 110.00	Hours			Cost
1.0 Project Scoping															\$ 11,770
1.1 Research and Investigation		4										4			\$ 840
1.2 Agency Consultation and Scoping/AB 52		4										4			\$ 840
1.3 Notice of Preparation	2	4						40		4	4	54		\$400	\$ 10,090
2.0 Preparation of Technical Studies															\$ 345,405
2.1 Transportation Impact Analysis															\$ 281,265
2.1.1 Data Collection				4	10	30	20				6	70	\$5,625		\$ 15,765
-Optional 10 Additional Intersection -Staff Authorization required															\$ 47,500
2.1.2 Traffic Modeling					20							20	\$11,550		\$ 15,050
2.1.3 Baseline Traffic Analysis		0		0	40	180	95	0	0	0	0	315			\$ 44,975
2.1.4 Alternatives Traffic Analysis		0		0	98	220	120	0	0	0	0	438			\$ 64,050
2.1.5 VMT Analysis				4	10	40						54			\$ 8,430
2.1.6 Cost Estimates/Engineering Design Support			40		60		100					200			\$ 32,600
-Optional Cost Estimate Task -Staff Authorization required			40		60							100			\$ 20,100
2.1.7 Admin Draft TIA				10	10	60	25				6	111		\$200	\$ 16,635
2.1.8 Draft TIA				6	10	20	10				6	52		\$200	\$ 8,080
2.1.9 Final TIA				6	10	20	10				6	52		\$200	\$ 8,080
2.2 Air Quality Study												0	\$10,100		\$ 10,100
2.3 Biological Resource Assessment												0	\$6,800		\$ 6,800
2.4 Cultural Resources Assessment												0	\$10,500		\$ 10,500
2.5 Greenhouse Gas Emissions Analysis												0	\$5,600		\$ 5,600
2.6 Noise Analysis												0	\$11,640		\$ 11,640
2.7 Visual Simulations												0	\$19,500		\$ 19,500
3.0 Preparation of Administrative Draft EIR															\$ 70,905
3.1 Introduction and Purpose		1						4			1	6			\$ 1,060
3.2 Executive Summary		1						4			1	6			\$ 1,060
3.3 Project Description		8						8			1	17			\$ 3,270
3.4 Cumulative Projects to be Considered		1						4				5			\$ 950
3.5 Environmental Analysis												0			\$ -
A. Aesthetics/Light and Glare		1						16			1	18			\$ 3,280
B. Air Quality		1							4		1	6			\$ 780
C. Biological Resources		1							8		1	10			\$ 1,240
D. Cultural Resources		4						16			1	21			\$ 3,910
E. Geology and Soils		1						11			1	13			\$ 2,355
E. Greenhouse Gas Emissions		1							4		1	6			\$ 780
F. Hazards and Hazardous Materials		1						8			1	10			\$ 1,800
G. Hydrology and Water Quality		1						8			1	10			\$ 1,800
H. Land Use Compatibility		1						8			1	10			\$ 1,800
I. Noise		1							4		1	6			\$ 780
J. Public Services and Utilities		1						12			1	14			\$ 2,540
K. Traffic and Circulation		4						36				40			\$ 7,500
3.6 Growth Inducement		3						8				11			\$ 2,110
3.7 Cumulative Impacts		8						16				24			\$ 4,640
3.8 Alternatives to the Proposed Action		1						20				21			\$ 3,910
3.9 Additional Sections		1						8			1	10			\$ 1,800
3.10 Graphic Exhibits		4						2		40		46		\$2,500	\$ 8,110
3.11 QA/QC Review	30	16									32	78			\$ 15,430
4.0 Draft Environmental Impact Report															\$ 30,100
4.1 Screencheck Draft EIR	8	12						24		4	24	72		\$2,500	\$ 14,820
4.2 Completion of the Draft EIR	8	10						20		4	16	58		\$5,000	\$ 15,280
5.0 Response to Comments															\$ 25,840
5.1 Prepare Response to Comments	4	50		10	20	20		16		4	6	130			\$ 24,300
6.2 Distribution to Commenting Agencies		1						6			2	9			\$ 1,540
6.0 Final EIR															\$ 24,420
6.1 Administrative and Final EIR	8	8						16		6	16	54		\$4,000	\$ 13,340
6.2 Findings and Statement of Overriding Considerations	2	8						24		2	1	37			\$ 7,020
6.3 Mitigation Monitoring and Reporting Program	2	8						8		2	1	21			\$ 4,060
7.0 Meetings and Coordination															\$ 100,310
7.1 Community Outreach Program	12	24		80		40		24			20	200	\$13,200		\$ 51,700
7.1 Project Coordination	16	50						10				76			\$ 16,910
7.2 Meeting Attendance	20	80		24		24					4	152			\$ 31,700
Document Reproduction														\$15,000	\$ 15,000
TOTAL HOURS	112	325	80	144	486	1054	595	377	20	66	165	3424			
*Percent of Total Labor (Hours)	3.3%	9.5%	2.3%	4.2%	14.2%	30.8%	17.4%	11.0%	0.6%	1.9%	4.8%				
SUBTOTAL LABOR COSTS	\$31,920	\$68,250	\$19,200	\$31,680	\$85,050	\$152,830	\$74,375	\$69,745	\$2,300	\$7,260	\$18,150		\$94,515	\$15,000	\$ 623,750
TOTAL LABOR COSTS															\$ 623,750

## **EXHIBIT "C"**

### **INSURANCE REQUIREMENTS FOR CONSULTANTS**

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Consultant, his agents, representatives, or employees.

Minimum Scope and Limits of Insurance. Consultant shall maintain limits no less than:

1. **Commercial General Liability:** \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage. ISO Occurrence Form CG 0001 or equivalent is required.
2. **Automobile Liability:** \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.
3. **Workers' Compensation** Statutory Limits and **Employer's Liability:** \$1,000,000 per accident for bodily injury or disease.
4. **Errors and Omissions** Liability Insurance appropriate to the Consultant's Profession: \$1,000,000 per occurrence.

#### Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared and approved by the City of Sunnyvale. The consultant shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention.

#### Other Insurance Provisions

The **general liability** policy shall contain, or be endorsed to contain, the following provisions:

1. The City of Sunnyvale, its officials, employees, agents and volunteers are to be covered as additional insureds with respects to liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Sunnyvale, its officers, employees, agents or volunteers.
2. For any claims related to this project, the Consultant's insurance shall be primary. Any insurance or self-insurance maintained by the City of Sunnyvale, its officers, officials, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Sunnyvale, its officers, officials, employees, agents or volunteers.
4. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City of Sunnyvale.

#### Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of not less than A:VII, unless otherwise acceptable to the City of Sunnyvale.

#### Verification of Coverage

Consultant shall furnish the City of Sunnyvale with original a Certificate of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City of Sunnyvale prior to commencement of work.





# City of Sunnyvale

## Agenda Item

---

16-0831

Agenda Date: 10/4/2016

---

### REPORT TO COUNCIL

#### SUBJECT

Approve Budget Modification 10 to Appropriate \$203,719 to Reimburse Foothill-De Anza Community College District for Demolition and Remediation Costs at the Onizuka City-Owned Parcels

#### BACKGROUND

On May 7, 2013, City Council authorized the City Manager to enter into a Memorandum of Agreement (Attachment 1) with Foothill-De Anza Community College District (District) to complete partial demolition and remediation within the City parcels of the Onizuka property (RTC 13-076). The District agreed that as part of the construction within their property, they would also demolish and remediate a number of buildings within the City parcels. The City would reimburse the District for the proportionate share of these costs. The Agreement included details regarding timeframes, responsibilities during construction, the level of demolition and remediation required, and cost calculations. The Agreement was not to exceed \$400,000, and the City was required to reimburse the District for the proportionate share of the cost, payable at the time of sale of the City parcels or within three years of the date of the Agreement.

#### EXISTING POLICY

##### **Council Policy 5.1.1 - Socio-Economic Goals and Policies**

Goal 5.1E Support efforts to improve the availability and quality of education made available in Sunnyvale.

#### 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

The City and District worked together to complete the demolition/remediation work on the Onizuka parcel and construction of the District's new buildings and associated public improvements. Although completion of the entire project extended beyond the original schedule, the work is now complete. The City's proportionate share is \$203,719 and a summary of the costs is included as Attachment 2. RTC 13-076 included an estimated cost of the demolition at \$290,086, so the final costs are approximately \$90,000 below estimate. At the time it was also anticipated that the demolition costs could be recouped when the property was sold.

With the work now completed, the City-owned parcels will be available for other purposes. Staff will provide Council with an RTC in November/December of this year describing possible options and next steps. This will provide an opportunity for discussion and to determine actions that staff can

bring forward for Council consideration.

### **FISCAL IMPACT**

Budget Modification No. 10 has been prepared to appropriate funding for the City's share in the amount of \$203,719 to a new project. Funding is provided from the Budget Stabilization Fund. If Council approves sale of the property, the Budget Stabilization Fund will be replenished in this amount by proceeds from the sale.

### **BUDGET MODIFICATION NO. 10**

#### **FISCAL YEAR 2016/17**

	<b>Current</b>	<b>Increase (Decrease)</b>	<b>Revised</b>
<b>GENERAL FUND</b>			
<b><u>Expenditures:</u></b>			
NEW PROJECT: Demolition and Remediation at the Onizuka City Property	\$0	\$203,719	\$203,719
<b><u>Reserves:</u></b>			
Budget Stabilization Fund Reserve	\$44,046,195	(\$203,719)	\$43,842,476

### **Funding Source**

Funding will be provided from the General Fund Budget Stabilization 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**

Approve Budget Modification 10 to Appropriate \$203,719 to Reimburse Foothill-De Anza Community College District for Demolition and Remediation Costs at the Onizuka City Property.

Prepared by: Manuel Pineda, Director, Public Works

Reviewed by: Timothy J. Kirby, Director, Finance

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Memorandum of Agreement
2. Summary of Costs

**MEMORANDUM OF AGREEMENT  
BETWEEN  
FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT  
AND THE  
CITY OF SUNNYVALE**

**THIS MEMORANDUM OF AGREEMENT** (hereinafter referred to as the "Agreement") regarding certain activities to be undertaken at Onizuka Air Force Station ("OAFS") in Sunnyvale, California, is entered into on this 15<sup>th</sup> day of May, 2013 ("Effective Date"), by and between **FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT** ("District"), and **CITY OF SUNNYVALE** ("City"). The District and the City are each sometimes referred to herein individually as a "Party" and collectively as the "Parties."

**RECITALS**

**WHEREAS**, as required by Base Realignment and Closure law, the U.S. Air Force ("USAF") is required to deactivate and excess certain properties, including OAFS, and USAF elected to subdivide OAFS into four (4) smaller parcels for conveyance to four (4) entities as depicted in the map attached hereto and incorporated herein as "Exhibit A" ("Map");

**WHEREAS**, Parcels D and E on the Map represent the land transferred to the City by USAF, and Parcel C on the Map represents the land transferred to the District by USAF;

**WHEREAS**, USAF drew the boundary lines for the parcels to be transferred, in a location such that a portion of Buildings 1004, 1005 and 1042, as shown on the Map, extend into Parcel D while the majority of those buildings lie within Parcel C;

**WHEREAS**, Buildings 1007, 1009, 1012 and 1013 on the Map are located fully on Parcels D and E;

**WHEREAS**, the City and the District desire to demolish and remove buildings on parcels C, D and E completely once they have assumed control of their respective parcels, and both parties agree that it is not practicable nor feasible to demolish the portions that lie on their respective parcels independently of one another;

**WHEREAS**, The City and the District agree that demolition activities should occur as soon as reasonably possible after the District receives control of Parcel C;

**NOW, THEREFORE**, in consideration of the foregoing premises and the respective representations, agreements, covenants and conditions herein contained,

and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

## **AGREEMENTS**

### **ARTICLE 1.**

The District hereby agrees to:

A. Contract for and manage, at minimum, the demolition activities described in the scope of work attached to this Agreement as "Exhibit B"

B. Manage and conduct the remediation of any discovered hazards in City buildings to be demolished (such as asbestos and lead paint), including but not limited to development of hazardous materials surveys and abatement specifications;

1. Should the District discover hazardous materials other than asbestos and/or lead paint, the District shall notify the City before proceeding with its removal or abatement of such materials;

2. If removal of such hazardous materials are likely to cause the cost of the District's Work to exceed the City's Proportionate Share (as defined below), the District shall not proceed with related demolition activities unless the work and additional funding are authorized by the City;

C. Remove Buildings 1004, 1005 and 1042, which lie on the property boundary between Parcel C and Parcels D;

D. Remove Buildings 1007, 1009, 1012 and 1013, which lie entirely on the City's parcels D and E;

E. Disconnect utilities on Parcel C that serve all buildings on Parcels C, D and E;

F. Once field demolition is complete, erect and maintain a fence that delineates the property boundary between Parcel C and Parcels D;

G. During the time the revocable license is in effect, provide security services for the portion of Parcels C, D and E that lie within the demolition construction area of work (all of the foregoing, the "District's Work"); and

H. Perform the District's Work in accordance with all applicable laws, codes, ordinances, and permitting requirements, including any and all environmental preservation or abatement or historic preservation requirements.

**ARTICLE 2.** City hereby agrees:

A. Upon District request, the City will grant to the District and its contractors a revocable license in the form attached to this Agreement as "Exhibit C" that allows the District and its contractors to enter Parcels D and E to undertake the District's Work.

B. The City shall assign a representative to act as its agent for acceptance of the District's Work as it is completed and communicate the City's approval of any proposed changes to the District's Work; provided, however, that only a City representative with the proper warrant shall be authorized to make any such acceptance decisions or otherwise legally bind the City.

**ARTICLE 3.** The District and the City hereby mutually agree:

A. The City shall reimburse the District for the City's Proportionate Share (as defined below) of demolition costs in an amount not to exceed Four Hundred Thousand Dollars (\$400,000), which demolition costs (the "Demolition Costs") shall include but not limited to:

1. Design and management costs: architect and project manager costs, consultants, contractor pre-construction costs, and District Bond Measure C overhead; and
2. Field demolition costs: contractor and subcontractor direct costs, construction services, contractor's overhead, and profit.
3. The City's contribution for Contractor Demolition Direct Costs are calculated per the following percentages:
  - a) 32% of the cost of building 1004
  - b) 52% of the cost of building 1005
  - c) 62% of the cost of building 1042
  - d) 100% of the cost of buildings 1007, 1009, 1012, 1013
4. City will also be responsible for the following Additional Costs required by the contractor. The percentages are applied to the City's contribution to the Contractor Demolition Direct Costs:
  - a) 5% for General Conditions
  - b) 2% for Trade Bonds and Insurance
  - c) 2.03% Contractors fee
5. The City's contribution for Hazmat Remediation Costs are calculated per the following percentages:
  - a) 32% of the cost of building 1004

- b) 52% of the cost of building 1005
- c) 100% of the cost of building 1013
- d) No hazmat remediation is anticipated for buildings 1007, 1009, 1012, 1042

6. The City's contribution for a Hazmat Remediation Consultant is estimated to be \$36,000, including \$22,150 in lump sum fees, plus hourly on-site services.

7. City is responsible for Demolition Design Services. This cost is 5% of the City's contribution to the Contractor Demolition Direct Costs and Additional Costs

8. City is responsible for Project Management Costs and District Overhead Cost. The Project Management Cost is 5% and the District Overhead Costs are 6.24% of the Contractor Demolition Direct Costs, Additional Costs, Hazmat Remediation Cost and Hazmat Consultant Cost.

9. Exhibit D provides a sample calculation. The actual costs will be based on actual construction costs.

B. The District shall support its estimated Demolition Costs by submitting documentation to the City, including, but not limited to a scope of work and a cost estimate produced by the District's contractor or prospective contractor.

C. The City shall conduct an independent estimate of the Demolition Costs and confirm them as reasonable. The District shall not finalize any contract for the District's Work that includes the City's share of costs, without first receiving prior written approval from the City that it agrees to the estimate of costs included therein. The final City-approved amount shall constitute the City's "Proportionate Share" of the field demolition costs, not to exceed Four Hundred Thousand Dollars (\$400,000).

D. Should the District, at any time during the completion of the District's Work, reasonably anticipate that the City's Proportionate Share (as defined below) of the Demolition Costs will exceed Four Hundred Thousand Dollars (\$400,000), the District shall submit a revised cost estimate and supporting documentation to the City for its review. The District shall not expend any funds described in the revised cost estimate until the City has approved of such increased costs in writing.

E. As the District progresses with the District's Work, it shall submit "invoices" to the City for the City's Proportionate Share of the District's Work that has been completed, with backup documentation evidencing the same. However, the District agrees to defer City's payment of its Proportionate Share until three years after the date of this Agreement or upon the sale of Parcel D by the City to a third party, whichever

event occurs earlier.

F. The District's Work shall be completed within one hundred eighty (180) calendar days of the date on which the District acquires control of Parcel C or of the date the District receives a revocable license from the City to conduct the District's Work, whichever is later, which completion date may be extended at the City's discretion, upon the District's request.

G. Upon notification by the District that the District's Work is complete, the City shall conduct an inspection with District personnel. Within ten (10) days of such inspection, the City shall confirm the City's acceptance of the District's Work, or shall communicate any issues preventing acceptance, in writing. Until the District's Work has been accepted as satisfactory by the City, the City and the District shall cooperate to resolve issues preventing acceptance.

H. To the extent a revocable license exists for the purposes of the District's Work, it shall be mutually terminated once the City accepts the District's Work. Provision of security for Parcels C and D shall revert to the City upon withdrawal of the revocable license.

**ARTICLE 4. District's Representations.** The District hereby represents to the City on and as of the Effective Date of this Agreement, the District has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by the District pursuant hereto, and all required action and approvals therefore have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of the District shall be duly authorized to sign the same on the District's behalf and to bind the District thereto. This Agreement and all documents to be executed pursuant hereto by the District are and shall be binding upon and enforceable against the District in accordance with their respective terms.

**ARTICLE 5. City's Representations.** The City hereby represents to the District on and as of the Effective Date of this Agreement, the City has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by the City pursuant hereto, and all required action and approvals therefore have been duly taken and obtained with the exception of those actions that require USAF approval. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of the City shall be duly authorized to sign the same on the City's behalf and to bind the City thereto. This Agreement and all documents to be executed pursuant hereto by City are and shall be binding upon and enforceable against the City in accordance with their respective terms.

**ARTICLE 6. Notices.** Notices shall be deemed sufficient under this Agreement and made in writing and submitted to the following addresses (or to any new or

substitute address hereinafter specified, in a writing theretofore delivered in accordance with the notice procedure set forth herein by the intended recipient of such notice):

If to District: Charles Allen, Executive Director  
Foothill – De Anza Community College District  
12345 El Monte Road  
Los Altos Hills, CA 94002  
650-949-6150

If to City: Office of the City Manager  
Attn: Gary Luebbers, City Manager  
456 W. Olive Avenue, PO Box 3707  
Sunnyvale, CA 94088

**ARTICLE 7. Modification; Waivers.** This Agreement contains the entire agreement and understanding of the Parties, and may not be amended, modified or discharged nor may any of its terms be waived except by an instrument in writing signed by the Parties. A waiver of a specific provision shall not be deemed a waiver of any subsequent provision. The Parties hereto shall not be bound by any terms, conditions, statements, warranties or representations, oral or written, not contained herein.

**ARTICLE 8. Interpretation.** The headings and captions herein are inserted for convenient reference only and the same shall not limit or construe the paragraphs or sections to which they apply or otherwise affect the interpretation hereof.

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms shall refer to this Agreement, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this Agreement.

(b) Words of the masculine, feminine or neuter gender shall mean and include the correlative words of other genders, and words importing the singular number shall mean and include the plural number and vice versa.

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) The terms “include,” “including” and similar terms shall be construed as if followed by the phrase “without being limited to.”

(e) Whenever under the terms of this Agreement the time for performance of a covenant or condition falls upon a Saturday, Sunday or holiday observed by the performing party, such time for performance shall be extended to the



next business day. Otherwise all references herein to "days" shall mean calendar days.

(f) If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(g) Time is of the essence for this Agreement.

**ARTICLE 9. Further Assurances.** The District and the City shall, upon the reasonable request of the other Party, execute, cause to be executed, acknowledged or delivered any and all such further instruments and documents as may be necessary or proper, in order to carry out the intent and purpose of this Agreement.

**ARTICLE 10. Miscellaneous.**

(a) Counterparts. This Agreement may be executed in multiple counterparts and/or with the signatures of the Parties set forth on different signature sheets and all such counterparts, when taken together, shall be deemed one original.

(b) Disputes. Any provision in this Agreement that purports to assign liability or require expenditure of funds to the Government shall be governed by applicable State or Federal law.

(d) Governing Law and Parties in Interest. This Agreement shall at all times be subject to and governed by the laws of the State of California.

(e) Jurisdiction and Venue. This Agreement shall be governed by the law of California.

**ARTICLE 11. Attachments.** This Agreement shall include the following Attachments:

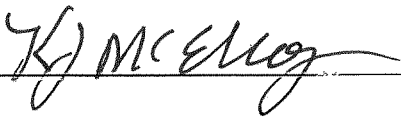
- Exhibit A: Map
- Exhibit B: Demolition Scope of Work
- Exhibit C: Revocable License
- Exhibit D: Demolition Estimate

**ARTICLE 12. Termination and Expiration.** This Agreement shall automatically

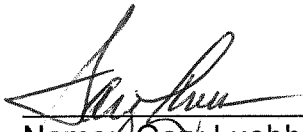
expire upon written notice from the City to the District that the demolition has been successfully completed, or upon thirty (30) days advance written notice from either party to the other party.

**IN WITNESS WHEREOF**, the Parties, intending to be legally bound, have caused their duly authorized representative to execute and deliver this Agreement as of the date first above written.

**FOOTHILL – DE ANZA COMMUNITY COLLEGE DISTRICT**

  
\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Kevin McElroy  
Vice Chancellor of Business Services

**CITY OF SUNNYVALE**

  
\_\_\_\_\_  
Name: Gary Luebbers  
Title: City Manager

**APPROVED AS TO FORM**


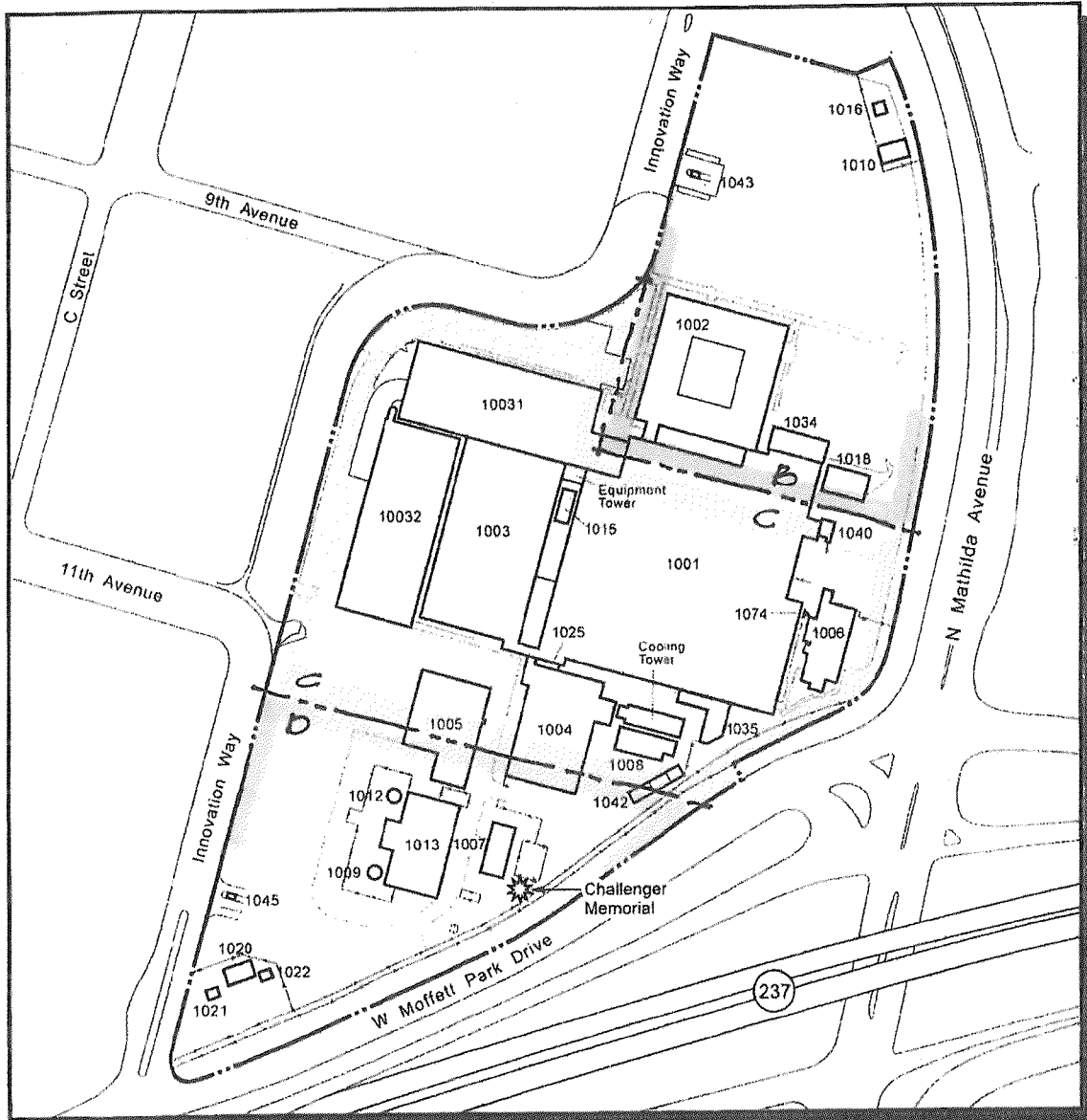
  
\_\_\_\_\_  
for City Attorney

EXHIBIT "A"

MAP

Onizuka Building Locations



**EXHIBIT “B”**Demolition Scope of Work

The District’s field demolition scope of work shall include:

**SITE DEMOLITION**

- Field Engineering: Establish and protect survey monuments; confirm property line locations; mark utilities to remain/remove/abandon;
- Improvements to remain: all structures and improvements on City’s property except those described to be removed in this Scope of Work, including but not limited to: surrounding fences and walls; Innovation Way right-of-way and sidewalk; paving not affected by demolition; buildings/improvements to be repurposed; storm drains; water supplies and hydrants needed during construction when possible;
- Electrical: Terminate power to entire Onizuka AFS site at north vault & install temporary 12kv transformer for construction power; reconnect street lights; remove unused traffic signals; power supply to City’s Parcels D and E will be terminated by the District’s Work and responsibility for providing an alternative power source, if required, shall be City’s;
- Other Utilities: Protect utilities to remain; terminate other active utilities at property line or as indicated; pull back underground electrical as found. Utilities supplying service to buildings on City’s Parcels D and E will be terminated by the District’s Work and responsibility for providing alternative service, if required, shall be City’s;
- Temporary Facilities: Temporary fence and storm drainage control at FHDA property line after field demolition is complete; new vehicle and pedestrian gate for FHDA site; construction signage; field offices for demolition and construction; minimal site lighting; temporary power as needed for construction and temporary facilities;
- Related Work: Produce and maintain accurate as-built documents; separate costs (including change order work) and invoicing for work not on District property; meet with City, VA, utility providers, SamTrans, Juniper Networks and other related entities affected by the work; track recycling and reuse for LEED certification; SWPPP for District’s parcel; clear and maintain existing storm drains on District’s parcel C.

**1004 DEMOLITION**

- Remove all of 1004 on both City and District property;
- Fill foundation voids on City property with clean uncompacted soil sloped to drain toward City property.

**1005 DEMOLITION**

- Remove all of 1005 on both City and District property;
- Fill foundation voids on City property with clean uncompacted soil sloped to drain toward City property.

1042 DEMOLITION

- Remove all of 1042 on both City and District property;
- Remove adjacent hazardous materials containment structures and improvements;
- Fill foundation voids on City property with clean uncompacted soil sloped to drain toward City property.

1007 DEMOLITION

- Remove the superstructure of 1007 to the foundation slab – slab and foundation is to remain;
- Remove adjacent fences and minor improvements and fill resulting depressions with uncompacted soil;

1009 & 1012 DEMOLITION

- Remove the superstructure of 1009 and 1012 to the foundation slab – slab and foundation is to remain;
- Remove adjacent fences and minor improvements and fill resulting depressions with uncompacted soil;

1013 DEMOLITION

- Remove the superstructure of 1013 to the foundation slab – slab and foundation is to remain;
- Remove adjacent fences and minor improvements and fill resulting depressions with uncompacted soil;

End of Exhibit "B"

**EXHIBIT C**

**FORM OF REVOCABLE LICENSE**

**CITY OF SUNNYVALE, CALIFORNIA ("City")**

\*\*\*\*\*

**REVOCABLE LICENSE TO**

**FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT ("DISTRICT")**

**FOR ENTRY ONTO AND USE OF PROPERTY CONTROLLED BY CITY, FORMERLY A  
PORTION OF THE ONIZUKA AIR FORCE STATION ("OAFS"),**

**SUNNYVALE, CALIFORNIA**

The City, hereinafter referred to as the "Grantor" hereby grants to the District, hereinafter referred to as the "Grantee" a revocable license ("License") for Grantee's entry onto and use of the property identified as Parcels D and E in Exhibit "A" attached hereto and made a part hereof, as set forth in that certain Memorandum of Agreement between the City and the District dated May 15, 2013 ("Agreement"), over, across, in and upon such land, hereinafter referred to as the "Premises."

**THIS LICENSE** is granted subject to the following conditions.

1. This License is hereby granted for a term of up to one (1) year, beginning upon execution by the Grantor, and shall be revocable upon written notice from Grantor to Grantee.
2. All correspondence and notices to be given pursuant to this License shall be addressed, if to the Grantor, to City Manager Gary Luebbers, 456 W. Olive Ave., P.O. Box 3707, Sunnyvale, CA 94088, and if to the Grantee, Director, Foothill College Bond Funded Projects, Foothill – De Anza Community College District, 12345 El Monte Road, Los Altos Hills, California 94002, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service, private courier, or delivery service.
3. The use and occupation of the Premises shall be without cost or expense to the Grantor, and under the general supervision and subject to the approval of the City or its duly authorized representative, and to such rules and regulations as may be prescribed from time to time by the City. The terms or duration of this License may be modified by the City should the agreed upon services outlined in the Agreement require such modification.
4. The Grantee acknowledges that it has inspected the Premises, knows its condition, and understands that the same is granted without any representations or warranties whatsoever, and without any obligation on the part of the Grantor.

5. Except for the activities permitted under the Agreement, any interference with the use of or damage to property under control of the Grantor, incident to the exercise of the privileges herein granted, shall be promptly corrected to the original state, by the Grantee, to meet the reasonable satisfaction of the City.

6. Upon the date of expiration of this License or its relinquishment by the Grantee, the Grantee shall vacate the Premises and remove its property therefrom. If, however, this License is revoked, the Grantee shall vacate the Premises and remove its property therefrom within such time as mutually agreed by the parties.

7. During the term of this License, the Grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances and regulations wherein the Premises are located.

8. Except as specifically provided in the Agreement, it is understood that the requirements of this License pertaining to maintenance, repair, protection, and restoration of the premises shall be effective only insofar as they do not conflict with any agreement, pertaining to such matters made between local representatives of the Grantor and Grantee in accordance with existing regulations.

9. This revocable license shall be interpreted and subject to applicable Federal, State, and local law. Where State law is applicable, it shall be the law of California.

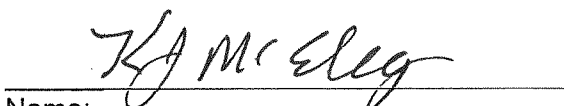
IN WITNESS whereof, I have hereunto set my hand this 16 day of MAY, 2013.

CITY OF SUNNYVALE

  
By: Gary Luebbers  
Title: City Manager

THIS PERMIT is also executed by the Grantee this 30 day of May, 2013.

FOOTHILL – DE ANZA COMMUNITY COLLEGE DISTRICT

  
Name: Kevin McElroy  
Title: Vice Chancellor of Business Services

**EXHIBIT D****Proportionate Share Cost Example**

All costs are for informational purposes only. Actual costs will be determined per bid prices. This example does not include contingencies.

**Contractor Demolition Direct Costs**

<b>Building</b>	<b>Bid Cost</b>	<b>City Share</b>	<b>City Share (\$)</b>
1004	\$113,000	32%	\$36,160
1005	\$60,000	52%	\$31,200
1042	\$4,000	62%	\$2,480
1007,9,12,13	\$84,000	100%	\$84,000
		<b>Total</b>	<b>\$153,840</b>

**Additional Costs (Based on \$153,840)**

<b>Additional Costs</b>	<b>Percentage</b>	<b>City Share (\$)</b>
General Conditions	5%	\$7,692
Trade Bonds and Insurance	2%	\$3,077
Contractors Fee	2.03%	\$3,123
	<b>Total</b>	<b>\$13,892</b>

**Hazmat Remediation Costs**

<b>Building</b>	<b>Bid Cost</b>	<b>City Share</b>	<b>City Share (\$)</b>
1004	\$95,000	32%	\$30,400
1005	\$51,500	52%	\$26,780
1013	\$6,850	100%	\$6,850
1007,9,12,	\$0	100%	\$0
		<b>Total</b>	<b>\$64,030</b>

**Demolition Design Services**

	<b>Percentage</b>	<b>City Share (\$)</b>
Contractor Demolition Direct Costs (\$153,000)	5%	\$7,650
Additional Costs (\$13,892)	5%	\$695
	<b>Total</b>	<b>\$8,345</b>



**Project Management Costs and Direct Overhead Costs**

Contractor Demolition Direct Costs	\$153,840
Additional Costs	\$13,892
Hazmat Remediation Costs	\$64,030
Hazmat Consultant Costs	\$21,430
<b>Total</b>	<b>\$253,192</b>

Projects Management Cost (\$253,192)	5%	\$12,660
District Overhead Costs (\$253,192)	6.24%	\$15,799
<b>Total</b>		<b>\$28,459</b>

**TOTAL SUNNYVALE DEMOLITION COSTS\***

Contractor Demolition Direct Costs	\$153,840
Additional Costs	\$13,892
Hazmat Remediation Costs	\$64,030
Hazmat Remediation Consultant	\$21,430
Demolition Design Services	\$8,345
Project Management Costs and Direct Overhead Costs	\$28,459
<b>Total</b>	<b>\$290,086</b>

\*Does not include Hazmat Remediation Consultants hourly on-site services

**ONIZUKA AIR FORCE STATION DEMOLITION  
Proportional Share Cost - Breakdown Summary**

**Contractor Demolition Direct Costs**

Building	Bid Cost	City Share (%)	City Share (\$)
1004	\$35,000	32%	\$11,200
1005	\$7,000	52%	\$3,640
1042	\$4,000	62%	\$2,480
1007,9,12,13	\$8,000	100%	\$8,000
		<b>Total</b>	<b>\$25,320</b>

**Additional Costs (Based on \$25,320)**

Additional Costs	Percentage	City Share (\$)
General Conditions	5%	\$1,266
Trade Bonds and Insurance	2%	\$506
Contractors Fee	2.03%	\$514
	<b>Total</b>	<b>\$2,286</b>

**Hazmat Remediation Costs**

Building	Bid Cost	City Share (%)	City Share (\$)
1004	\$83,235	32%	\$26,635
1005	\$31,849	52%	\$16,561
1042	\$2,420	62%	\$1,500
1007,9,12,13	\$43,408	100%	\$43,408
		<b>Total</b>	<b>\$88,105</b>

**Demolition Design Services**

Additional Costs	Percentage	City Share (\$)
Contractor Demolition Direct Costs (\$25,320)	5%	\$1,266
Additional Costs (\$2,286)	2%	\$506
	<b>Total</b>	<b>\$1,772</b>

**Project Management Costs and Direct Overhead Costs**

Contractor Demolition Direct Costs	\$25,320
Additional Costs	\$2,286
Hazmat Remediation Costs	\$88,105
Hazmat Consultant Costs	\$18,690
Hazmat Consultant Monitoring Costs	\$47,140
<b>Total</b>	<b>\$181,541</b>

Project Management Cost (\$)	5%	\$9,077
District Overhead Cost (\$)	6.24%	\$11,328
<b>Total</b>		<b>\$20,405</b>

**TOTAL SUNNYVALE DEMOLITION COSTS SUMMARY**

Contractor Demolition Direct Costs	\$25,320
Additional Costs	\$2,286
Hazmat Remediation Costs	\$88,105
Hazmat Remediation Consultant	\$65,830
Demolition Design Services	\$1,772
Project Management Costs and Direct Overhead Costs	\$20,405
<b>Total</b>	<b>\$203,719</b>



# City of Sunnyvale

## Agenda Item

---

16-0616

Agenda Date: 10/4/2016

---

### REPORT TO COUNCIL

#### SUBJECT

Approve City Position on Proposed League of California Cities' 2016 Annual Conference Resolution

#### BACKGROUND

The City has received the League of California Cities' (League) *Annual Conference Resolutions Packet* (Attachment 1); this year, there is one resolution presented for consideration by the League policy committees and membership. Staff has reviewed the resolution and is recommending a position consistent with City policy. This report provides guidance on how to vote on the issues as they pertain to City business for Councilmembers who serve on policy committees, on the resolutions committee, or as the City's voting delegate/alternates.

#### EXISTING POLICY

**Council Policy 7.3.1 Legislative Management - Goals and Policies, Goal 7.3C:** Participate in intergovernmental activities, including national, state, and regional groups, as a means to represent the City's interests, influence policy and legislation, and enhance awareness.

**Council Policy 7.4.14 Legislative Advocacy Positions:** City business is defined as all matters directly related to service delivery, or otherwise contributing to the City's operational success.

#### ENVIRONMENTAL REVIEW

N/A

#### DISCUSSION

This report transmits the League's *Annual Conference Resolutions Packet* (Attachment 1) which contains the proposed resolution to be considered at the League's Annual Conference in Long Beach in early October. Below is a description of the resolution, followed by staff analysis and recommendation. Staff recommendation options are: Support, Oppose, No Staff Recommendation, or Take No Position. While the meaning of Support and Oppose recommendations are clear, "No Staff Recommendation" and "Take No Position" are clarified as follows:

- No Staff Recommendation - Consistent with past practice, staff does not provide analysis or make recommendations on measures that do not impact *City business* as defined in Council Policy 7.4.14, *Legislative Advocacy Positions*.
- Take No Position - Despite a measure's ability to impact City business, Staff may recommend that Council abstain from taking a position. This recommendation to remain neutral on an issue may be made for a variety of reasons (e.g., ballot language is not clear; the pros and cons of the business impact cancel each other out; etc.). When this option is recommended, the reason will be explained in staff's analysis.

Any resolution submitted to the General Assembly must be concurred by five cities or by city officials from at least five or more cities; the concurring cities and/or officials are noted for each resolution.

**Resolution #1 Vision Zero**

**The resolved clauses in Resolution #1:** commits the League to:

1. Supporting Vision Zero, Toward Zero Deaths, and other programs, policies, or initiatives that prioritize transportation safety;
2. Encouraging cities throughout California to join in these traffic safety initiatives to pursue the elimination of death and severe injury crashes on our roadways; and
3. Encouraging the State to consider adopting transportation safety as a top priority for transportation projects and policy formulation.

**Concurrence:** Cities of Fremont; Los Angeles; Sacramento; San Diego; San Francisco; Santa Monica; and West Hollywood.

**Related City Policy:**

- General Plan, LT-5: Attain a transportation system that is effective, safe, pleasant and convenient.
- General Plan, LT-5.9: Appropriate accommodations for motor vehicles, bicycles, and pedestrians shall be determined for City streets to increase the use of bicycles for transportation and to enhance the safety and efficiency of the overall street network for bicyclists, pedestrians, and motor vehicles.
- General Plan, LT-5.10: All modes of transportation shall have safe access to City streets.
- General Plan, LT-5.12: City streets are public space dedicated to the movement of vehicles, bicycles and pedestrians. Providing safe accommodation for all transportation modes takes priority over non-transport uses.

**Analysis:** The resolution calls for comprehensive strategies to eliminate all traffic fatalities and severe injuries. The general vision Towards Zero Deaths (TZD) is a way of clearly and succinctly describing how an organization, or an individual, is going to approach safety. The TZD approach targets areas for improvement and employs proven countermeasures and strives to eliminate fatalities and serious injuries on the roadway network.

The City is in the process of formulating its own vision TZD, which will cover the policy and action items. This plan will identify the areas of concern and suggest appropriate countermeasures to reduce fatalities and serious injuries on the City's roadway network.

Additionally, the City has already adopted comprehensive safety plans/studies; 1) Bicycle Plan, 2) Pedestrian Safety and Opportunities Study, 3) Safe Route to School Study. Staff also follows complete street principles for the design of new and existing transportation facilities. These safety studies and design principles target for improving safety for all users, and help eliminate fatalities and serious injuries within the City.

In general, the City's existing policies, plans and studies were based on the principles of improving safety for all, and strive to eliminate fatalities and injuries on its transportation network, which is now being presented as Vision Zero.

**Recommended Position:** SUPPORT

**FISCAL IMPACT**

The resolutions will not have a direct fiscal impact on 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.

**STAFF RECOMMENDATION**

Approve a support position for the proposed Resolution #1, *Vision Zero* and authorize the City's voting delegate/alternates to cast votes consistent with the City Council's adopted position.

As stated, the staff recommended position is consistent with City Policy and would provide Councilmembers who serve on policy committees, on the resolutions committee, or as the City's voting delegate/alternates, guidance on how to vote on the issue as it pertains to City business.

Prepared by: Yvette Blackford, Senior Management Analyst

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENT**

1. League of California Cities Annual Conference Resolutions Packet



***Annual Conference  
Resolutions Packet***

***2016 Annual Conference Resolutions***



***Long Beach, California***

***October 5 – 7, 2016***

## INFORMATION AND PROCEDURES

**RESOLUTIONS CONTAINED IN THIS PACKET:** The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, one resolution has been introduced for consideration by the Annual Conference and referred to the League policy committees.

**POLICY COMMITTEES:** One policy committee will meet at the Annual Conference to consider and take action on the resolution referred to them. The committee is Transportation, Communication and Public Works. The committee will meet 9:00 – 10:30 a.m. on Wednesday, October 5, 2016, at the Hyatt Regency. The sponsor of the resolution has been notified of the time and location of the meeting.

**GENERAL RESOLUTIONS COMMITTEE:** This committee will meet at 1:00 p.m. on Thursday, October 6, at the Hyatt Regency in Long Beach, to consider the report of the policy committee regarding the resolution. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

**ANNUAL LUNCHEON/BUSINESS MEETING/GENERAL ASSEMBLY:** This meeting will be held at 12:00 p.m. on Friday, October 7, at the Long Beach Convention Center.

**PETITIONED RESOLUTIONS:** For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Meeting of the General Assembly. This year, that deadline is 12:00 p.m., Thursday, October 6. Resolutions can be viewed on the League's Web site: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

Any questions concerning the resolutions procedures may be directed to Meg Desmond at the League office: [mdesmond@cacities.org](mailto:mdesmond@cacities.org) or (916) 658-8224



## **GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS**

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities is through the League's eight standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

### **Guidelines for Annual Conference Resolutions**

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
  - (a) Focus public or media attention on an issue of major importance to cities.
  - (b) Establish a new direction for League policy by establishing general principals around which more detailed policies may be developed by policy committees and the board of directors.
  - (c) Consider important issues not adequately addressed by the policy committees and board of directors.
  - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

## LOCATION OF MEETINGS

### **Policy Committee Meetings**

Wednesday, October 5  
Hyatt Regency Long Beach  
200 South Pine Street, Long Beach

**9:00 – 10:30 a.m.:** Transportation, Communication & Public Works

### **General Resolutions Committee**

Thursday, October 6, 1:00 p.m.  
Hyatt Regency Long Beach  
200 South Pine Street, Long Beach

### **Annual Business Meeting and General Assembly Luncheon**

Friday, October 7, 12:00 p.m.  
Long Beach Convention Center  
300 East Ocean Boulevard, Long Beach

**KEY TO ACTIONS TAKEN ON RESOLUTIONS**

Resolutions have been grouped by policy committees to which they have been assigned.

Number	Key Word Index	Reviewing Body Action		
		1	2	3
		1 - Policy Committee Recommendation to General Resolutions Committee		
		2 - General Resolutions Committee		
		3 - General Assembly		

---



---

**TRANSPORTATION, COMMUNICATION, AND PUBLIC WORKS POLICY  
COMMITTEE**

		1	2	3
1	Vision Zero			

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League website: [www.cacities.org](http://www.cacities.org). The entire Resolutions Packet will be posted at: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

---



---

**KEY TO ACTIONS TAKEN ON RESOLUTIONS (*Continued*)**

Resolutions have been grouped by policy committees to which they have been assigned.

**KEY TO REVIEWING BODIES**

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

**KEY TO ACTIONS TAKEN**

- |   |   |
|---|---|
| A | Approve   |
| D | Disapprove                                      |
| N | No Action                                       |
| R | Refer to appropriate policy committee for study |
| a | Amend+  |

**ACTION FOOTNOTES**

\* Subject matter covered in another resolution

Aa Approve as amended+

\*\* Existing League policy

Aaa Approve with additional amendment(s)+

\*\*\* Local authority presently exists

Ra Refer as amended to appropriate policy committee for study+

Raa Additional amendments and refer+

Da Amend (for clarity or brevity) and Disapprove+

Na Amend (for clarity or brevity) and take No Action+

W Withdrawn by Sponsor

**Procedural Note:**

The League of California Cities resolution process at the Annual Conference is guided by the League Bylaws. A helpful explanation of this process can be found on the League's website by clicking on this link: [Resolution Process](#).

**1. RESOLUTION COMMITTING THE LEAGUE OF CALIFORNIA CITIES TO SUPPORTING VISION ZERO, TOWARD ZERO DEATHS, AND OTHER PROGRAMS OR INITIATIVES TO MAKE SAFETY A TOP PRIORITY FOR TRANSPORTATION PROJECTS AND POLICY FORMULATION, WHILE ENCOURAGING CITIES TO PURSUE SIMILAR INITIATIVES**

Source: City of San Jose

Concurrence of five or more cities/city officials: Cities: Fremont; Los Angeles; Sacramento; San Diego; San Francisco; Santa Monica; and West Hollywood

Referred to: Transportation, Communication and Public Works Policy Committees

Recommendation to General Resolution Committee:

**WHEREAS**, each year more than 30,000 people are killed on streets in the United States in traffic collisions; and

**WHEREAS**, traffic fatalities in America hit a seven-year high in 2015 and is estimated to have exceeded 35,000 people; with pedestrians and cyclists accounting for a disproportionate share; and

**WHEREAS** the Centers for Disease Control recently indicated that America's traffic death rate per person was about double the average of peer nations; and

**WHEREAS** Vision Zero and Toward Zero Deaths are comprehensive strategies to eliminate all traffic fatalities and severe injuries using a multi-disciplinary approach, including education, enforcement and engineering measures; and

**WHEREAS** a core principal of Vision Zero and Toward Zero Deaths is that traffic deaths are preventable and unacceptable; and

**WHEREAS** cities across the world have adopted and implemented Vision Zero and Toward Zero Deaths strategies and successfully reduced traffic fatalities and severe injuries occurring on streets and highways; and

**WHEREAS** safe, reliable and efficient transportation systems are essential foundations for thriving cities.

**RESOLVED** that the League of California Cities commits to supporting Vision Zero, Toward Zero Deaths, and other programs, policies, or initiatives that prioritize transportation safety;

**AND** encourage cities throughout California to join in these traffic safety initiatives to pursue the elimination of death and severe injury crashes on our roadways;

**AND** encourage the State of California to consider adopting safety as a top priority for both transportation projects and policy formulation.

////////

**Background Information on Resolution to Support Transportation Safety Programs**

Each year more than 30,000 people are killed on streets in the United States in traffic collisions. Traffic fatalities in America hit a seven-year high in 2015 and are estimated to have exceeded 35,000 people, with children, seniors, people of color, low-income and persons with disabilities accounting for a disproportionate share. The Centers for Disease Control recently reported that the traffic death rate per

person in the United States was about double the average of peer nations, with close to 10% of these deaths occurring in California (3,074 in 2014). California's largest city, Los Angeles, has *the* highest rate of traffic death among large U.S. cities, at 6.27 per 100,000 people.

Cities around the world have adopted traffic safety projects and policies that underscore that traffic deaths are both unacceptable and preventable. In 1997, Sweden initiated a program called Vision Zero that focused on the idea that "Life and health can never be exchanged for other benefits within the society." The World Health Organization has officially endorsed Vision Zero laying out traffic safety as an international public health crisis and the United Nations General Assembly introduced the Decade of Action for Road Safety 2011-2020 and set the goal for the decade: "to stabilize and then reduce the forecast level of road traffic fatalities around the world" by 50% by 2020.

As of this writing, 18 U.S. cities have adopted Vision Zero programs (including New York City, Boston, Ft. Lauderdale, Austin, San Antonio, Washington DC, and Seattle) to reduce the numbers of fatal crashes occurring on their roads (<http://visionzeronetWORK.org/map-of-vision-zero-cities/>). California cities lead the way, with the cities of San Jose, San Francisco, San Mateo, San Diego, Los Angeles, Long Beach and Fremont having adopted Vision Zero strategies and many others are actively considering adoption.

In 2009 a national group of traffic safety stakeholders launched an effort called "Toward Zero Deaths: A National Strategy on Highway Safety". This initiative has been supported by the Federal Highway Administration (FHWA) (<http://safety.fhwa.dot.gov/tzd/>) and states throughout the United States, including California ([http://www.ots.ca.gov/OTS\\_and\\_Traffic\\_Safety/About\\_OTs.asp](http://www.ots.ca.gov/OTS_and_Traffic_Safety/About_OTs.asp)).

This past January the U.S. Department of Transportation launched its "Mayors' Challenge for Safer People and Safer Streets." This effort calls on elected officials to partner with the USDOT and raise the bar for safety for people bicycling and walking by sharing resources, competing for awards, and taking action. The California cities of Beverly Hills, Davis, Maywood, Cupertino, Culver City, Rialto, Santa Monica, Porterville, Los Angeles, San Jose, Monterey, Glendale, Irvine, Oakland, Palo Alto, Alameda, West Hollywood and Fullerton signed on to this effort. Additionally, the Institute of Transportation Engineers (ITE), a leading organization for transportation professionals, recently launched a new initiative to aggressively advance the Vision Zero and Towards Zero Deaths movements (<http://library.ite.org/pub/ed59a040-caf4-5300-8ffc-35deb33ce03d>).

Ultimately all of these programs share the fundamental belief that a data-driven, systems-level, interdisciplinary approach can prevent severe and fatal injuries on our nation's roadways. They employ proven strategies, actions, and countermeasures across education, enforcement and engineering. Support for many of these life-saving programs extends far beyond government agencies, and includes National Association of City Transportation Officials (NACTO), American Association of State Highway and Transportation Officials (AASHTO), Kaiser Permanente, AARP, the National Safe Routes to School Partnership, and the International Association of Chiefs of Police, among many others.

There is wide-spread recognition that cities and towns need safe, efficient transportation systems to be economically prosperous. A resolution by the League of California Cities to support transportation safety policies like Vision Zero and Toward Zero Deaths, and encourage implementation of projects and programs that prioritize safety will help California elevate the health and safety of its residents and position us as a leader in national efforts to promote a culture of safe mobility for all.

////////

**League of California Cities Staff Analysis on Resolution No. 1**

Staff: Rony Berdugo  
Committee: Transportation, Communication, and Public Works

**Summary:**

The resolved clauses in Resolution No. 1: commits the League of California Cities to:

- 1) Supporting Vision Zero, Toward Zero Deaths, and other programs, policies, or initiatives that prioritize transportation safety;
- 2) Encouraging cities throughout California to join in these traffic safety initiatives to pursue the elimination of death and severe injury crashes on our roadways; and
- 3) Encouraging the State to consider adopting transportation safety as a top priority for transportation projects and policy formulation.

**Background:**

The City of San Jose notes national and international efforts to reduce fatal and severe injury traffic collisions through systematic data driven approaches, such as Vision Zero and Toward Zero Deaths. According to the World Health Organization (WHO), “Vision Zero is a traffic safety policy, developed in Sweden in the late 1990s and based on four elements: ethics, responsibility, a philosophy of safety, and creating mechanisms for change.”<sup>1</sup> Below is a summary of each Vision Zero element, according to WHO:

1. Ethics – Life and health trump all other transportation benefits, such as mobility.
2. Responsibility – Responsibility for crashes and injuries is shared between the providers of the system and the road users.
3. Safety Philosophy – Asserts that a transportation system should account for the unstable relationship of human error with fast/heavy machinery to avoid deaths/serious injury, but accept crashes/minor injuries.
4. Driving Mechanisms for Change – Asserts that road users and providers must both work to guaranteeing road safety, taking measures such as: improving levels of seat belt use, installing crash-protective barriers, wider use of speed camera technology, increasing random breathalyzer tests, and promoting safety in transportation project contracts.

**A Vision Zero City meets the following minimum standards:**

- Sets clear goal of eliminating traffic fatalities and severe injuries
- Mayor has publicly, officially committed to Vision Zero
- Vision Zero plan or strategy is in place, or Mayor has committed to doing so in clear time frame
- Key city departments (including police, transportation and public health) are engaged

**List of cities that meet the minimum Vision Zero standards nationally include:** Anchorage, AK; Austin, TX; Boston, MA; Cambridge, MA; Denver, CO; Eugene, OR; Fort Lauderdale, FL; Fremont, CA; Los Angeles, CA; New York, NY; Portland, OR; Sacramento, CA; San Antonio, TX; San Diego, CA; San Francisco, CA; San Jose, CA; Seattle, WA; Washington, DC

**List of cities that are considering adoption of Vision Zero nationally include:** Ann Arbor, MI; Bellevue, OR; Bethlehem, PA; Chicago, IL; Columbia, MO; Houston, TX; Long Beach, CA;

<sup>1</sup> [http://who.int/violence\\_injury\\_prevention/publications/road\\_traffic/world\\_report/chapter1.pdf](http://who.int/violence_injury_prevention/publications/road_traffic/world_report/chapter1.pdf)

New Orleans, CA; Philadelphia, PA; Pittsburgh, PA; San Mateo, CA; Santa Ana, CA; Santa Cruz, CA; Santa Monica, CA; St. Paul, MN; Tampa, FL<sup>2</sup>

Vision Zero – Samples:

1. San Francisco – In 2015, the City established a two-year action strategy that outlines the projects and policy changes to implement its Vision Zero goal of zero traffic deaths by 2024. The strategy adopts five core principles, such as: 1) traffic deaths are preventable and unacceptable; 2) safety for all road modes and users is the highest priority; 3) transportation system design should anticipate inevitable human error; 4) education, enforcement, and vehicle technology contribute to a safe system; and 5) transportation systems should be designed for speeds that protect human life.<sup>3</sup> The strategy focuses on engineering, enforcement, education, evaluation, and policy changes that can be made to achieve their goals. The City is working on projects, such as:
  - a. Creating protected bike lanes
  - b. Building wider sidewalks
  - c. Reducing traffic speeds<sup>4</sup>

The City is also exploring policy changes to state law that will allow the City to place traffic cameras near schools and senior centers to cite speeding drivers through automated speed enforcement.<sup>5</sup>

2. Los Angeles – the City has established a commitment to eliminate all traffic deaths by 2025. They have identified a network of streets, known as the High Injury Network (HIN)<sup>6</sup>, which maps out their areas of concern where they plan on making strategic investments in reducing deaths/severe injury. According to the City, only 6% of their city streets account for 2/3 of all deaths/severe injury for pedestrians. The City highlights the three following projects as part of their Vision Zero efforts<sup>7</sup>:
  - a. Installation of 22 new Leading Pedestrian Intervals (LPIs) at signals throughout the city, which gives pedestrians a head start against right-turning vehicles when crossing
  - b. Installation of a pedestrian scramble at the intersection of Hollywood and Highland, which stops traffic in all four-directions during pedestrian crossing.
  - c. Installation of curb extensions along Cesar E. Chavez Avenue in their HIN, which reduces the crossing distance for pedestrians, narrows the intersections, and reduces speed for turning vehicles.

San Francisco's Vision Zero Categories:

1. Engineering – implement treatments and redesign streets to reduce the frequency and severity of collisions (i.e. using/implementing: high injury network maps, signal timing, high visibility crosswalks, bus stop lengths, etc.)
2. Enforcement – use data driven approach to cite and focus on violations of the California Vehicular Code and S.F. Transportation Code that identify as causative in severe and fatal collisions (i.e. explore implementation of E-citation Pilot, reporting on traffic collision data, police training, etc.)

<sup>2</sup> <http://visionzeronetWORK.org/wp-content/uploads/2016/02/VZ-map-April-20-2016-4.jpg>

<sup>3</sup> <http://www.joomag.com/magazine/vision-zero-san-francisco/0685197001423594455?short>

<sup>4</sup> <http://visionzerosf.org/vision-zero-in-action/engineering-streets-for-safety/>

<sup>5</sup> <http://visionzerosf.org/vision-zero-in-action/public-policy-for-change/>

<sup>6</sup> <http://ladot.maps.arcgis.com/apps/MapJournal/index.html?appid=488062f00db44ef0a29bf481aa337cb3>

<sup>7</sup> <http://visionzero.lacity.org/actions/>



3. Education – coordinate among city departments to create citywide strategy for outreach and safety programs, such as Safe Routes to Schools. (i.e. education campaign includes – Safe Streets SF, large vehicle safe driving for municipal vehicles, etc.)
4. Evaluation – evaluate the impact of engineering, enforcement, education and policy efforts to provide recommendations for refinement (i.e. use of web-based data sharing and tracking systems for transparency and accountability).
5. Policy – support and mobilize local and state policy initiatives that advance Vision Zero (i.e. Advance Automated Safety Enforcement initiative at the state level, in-vehicle technology usage, partnering with state and federal agencies on administrative and legal issues, etc.)

In its annual reporting, the City has established the following measures for successful benchmarks:

- Decreasing total severe and fatal injuries
- Decreasing the proportion of severe and fatal injuries in communities of concern to address social inequities
- Decreasing medical costs at SF General Hospital relating to collisions
- Increasing the number of engineering projects and miles of streets receiving safety improvements
- Decreasing the speeds on SF streets
- Increasing investigation and prosecution of vehicular manslaughter
- Increasing public awareness of Vision Zero and traffic safety laws
- Increasing policy changes made at the state and local levels to advance Vision Zero

Toward Zero Deaths – The Federal Highway Administration (FHWA) within the United States Department of Transportation (USDOT) is committed to the vision of eliminating fatalities and serious injuries on national roadways. FHWA has a strategic goal of ensuring the “nation’s highway system provides safe, reliable, effective, and sustainable mobility for all users.”<sup>8</sup> It is essentially the national version of Vision Zero administered primarily through the Highway Safety Improvement Program (HSIP).

At the state level, the California Office of Traffic Safety (OTS) has a mission to “effectively and efficiently administer traffic safety grant funds to reduce traffic deaths, injuries, and economic losses.”<sup>9</sup> They make available grants to local and state public agencies for traffic law enforcement, public traffic safety education, and other programs aimed at reducing fatalities, injuries, and economic loss from collisions.

**Support:** City of Fremont, City of Los Angeles, City of Sacramento, City of San Francisco, City of San Jose, City of Santa Monica, and City of West Hollywood

**Opposition:** One individual

**Fiscal Impact:** Unknown. The costs to any particular city can vary tremendously depending on the level and scope of investment any particular city would seek to make. For example, the City of San Francisco has Vision Zero project costs ranging from \$30,000 for pedestrian safety treatments up to \$12,000,000 for a Streetscape project. The cost of any particular effort could be well below, above, and anywhere between those ranges for Vision Zero implementation.

<sup>8</sup> <http://safety.fhwa.dot.gov/tzd/>

<sup>9</sup> [http://www.ots.ca.gov/OTS\\_and\\_Traffic\\_Safety/About\\_OTs.asp](http://www.ots.ca.gov/OTS_and_Traffic_Safety/About_OTs.asp)

**Comment:**

- 1) Policy committee members are encouraged to consider carefully how the adoption of the resolved clause in this resolution may affect the League's future policy when it comes to advocating for transportation funding and other existing priorities. While the clause "encouraging cities throughout California to join in these traffic safety initiatives to pursue the elimination of death and severe injury crashes on our roadways" provides an opportunity to highlight strategies that can be considered to improve transportation safety, two other aspects of the resolved appear to establish new policy for the organization in that it would "commit" the League to:
  - Supporting Vision Zero, Toward Zero Deaths, and other programs, policies, or initiatives that prioritize transportation safety.
  - Encouraging the State to consider adopting transportation safety as a top priority for transportation projects and policy formulation.
- 2) Effects of various strategies to improve transportation safety can vary. According to an article published in the San Francisco Chronicle on March 26, 2016, deaths in San Francisco traffic were not falling despite Vision Zero efforts.<sup>10</sup> The article notes that there were seven deaths in 2016, while there was only one in the first 10 weeks of 2015 and seven in 2014 during the same period. The San Francisco Department of Public Health commented that despite these incidents, it's too early to make any conclusions about Vision Zero's effectiveness. In Los Angeles, however, the city has cited significant decreases in severe and fatal injuries with implementation of certain technologies, such as installation of pedestrian scrambles. The success of Vision Zero in any particular city will likely depend on the level of investment and scope of the project(s) as the projects can vary widely.
- 3) In the fifth "Whereas" clause from the top, the word "principal" should be "principle."

**Existing League Policy:** "The League supports additional funding for local transportation and other critical unmet infrastructure needs. One of the League's priorities is to support a consistent and continuous appropriation of new monies from various sources directly to cities and counties for the preservation, maintenance and rehabilitation of the local street and road system. New and additional revenues should meet the following policies:

- System Preservation and Maintenance. Given the substantial needs for all modes of transportation, a significant portion of new revenues should be focused on system preservation. Once the system has been brought to a state of good repair, revenues for maintenance of the system would be reduced to a level that enables sufficient recurring maintenance.
- Commitment to Efficiency. Priority should be given to using and improving current systems. Recipients of revenues should incorporate operational improvements and new technology in projects.
- All Users Based System. New revenues should be borne by all users of the system from the traditional personal vehicle that relies solely on gasoline, to those with new hybrid or electric technology, to commercial vehicles moving goods in the state, and even transit, bicyclists, and pedestrians who also benefit from the use of an integrated transportation network.
- Alternative Funding Mechanisms. Given that new technologies continue to improve the efficiency of many types of transportation methods, transportation stakeholders must be open to new alternative funding mechanisms. Further, the goal of reducing greenhouse gases is also expected to affect vehicle miles traveled, thus further reduce gasoline consumption and revenue from the existing gas tax. The

<sup>10</sup> <http://www.sfchronicle.com/bayarea/article/Deaths-in-S-F-traffic-not-falling-despite-Vision-7182486.php>

existing user based fee, such as the base \$0.18-cent gas tax is a declining revenue source. Collectively, we must have the political will to push for sustainable transportation revenues.

- Unified Statewide Solution. For statewide revenues, all transportation stakeholders must stand united in the search for new revenues. Any new statewide revenues should address the needs of the entire statewide transportation network, focused in areas where there is defensible and documented need.
- Equity. New revenues should be distributed in an equitable manner, benefiting both the north and south and urban, suburban, and rural areas as well as being equally split between state and local projects.
- Flexibility. Needs vary from region to region and city to city. New revenues and revenue authority should provide the flexibility for the appropriate level of government to meet the goals of the constituents.
- Accountability. All tax dollars should be spent properly, and recipients of new revenues should be held accountable to the taxpayers, whether at the state or local level.”<sup>11</sup>

Additionally, the League adopted to “Increase Funding for Critical Transportation and Water Infrastructure” as its number one strategic goal for 2016. It reads, “Provide additional state and federal financial assistance and new local financing tools to help meet the critical transportation (streets, bridges, active transportation, and transit) and water (supply, sewer, storm water, flood control, etc.) infrastructure maintenance and construction needs throughout California’s cities.”<sup>12</sup>

<sup>11</sup> <http://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Policy-Development/2016-Summary-of-Existing-Policy-and-Guiding-Princi.aspx>

<sup>12</sup> <http://www.cacities.org/Secondary/About-Us/Strategic-Priorities>

# **LETTERS OF CONCURRENCE**

Resolution No. 1

VISION ZERO

July 21, 2016

The Honorable Dennis Michael, President  
League of California Cities  
1400 K Street  
Sacramento, California 95814

RE: A RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING THE ADOPTION AND  
IMPLEMENTATION OF INITIATIVES TO PRIORITIZE TRAFFIC SAFETY THROUGHOUT CALIFORNIA

Dear President Michael,

The City of Fremont enthusiastically endorses the proposed resolution to support the implementation of initiatives to eliminate traffic deaths and severe injuries on our roadways. Fremont is among the early adopters of the Vision Zero traffic safety strategy. With City Council's approval of our Fremont Vision Zero 2020 action plan in March 2016, we are already seeing the benefits of building a safety first culture in our community.

I strongly encourage other California cities to join a growing coalition of support for Vision Zero. Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Traffic fatalities in America hit a seven-year high in 2015 and is estimated to have exceeded 35,000 people. This is about double the average of peer nations and must be addressed. Safety of our residents and visitors is paramount and this is especially true on the roads and streets of our cities. We must put safety as the top priority for all users of our streets. It is fundamental for the prosperity of California cities as safe, efficient, organized transportation systems are essential for economically vibrant and sustainable communities.

The City of Fremont has embraced Vision Zero and we are in strong support of expanded transportation safety in California cities and support the proposed Resolution.

Sincerely,



Bill Harrison  
Mayor





CITY HALL  
LOS ANGELES, CALIFORNIA 90012

August 2, 2016

The Honorable Dennis Michael  
President  
League of California Cities  
1400 K Street  
Sacramento, California 95814

RE: League of California Cities Resolution Supporting Initiatives to Prioritize Traffic Safety

Dear President Michael:

We write in support of the proposed resolution to support the adoption and implementation of Vision Zero initiatives throughout California to eliminate traffic fatalities and injuries. Vision Zero and Towards Zero Deaths strategies have been adopted in cities throughout California, including the City of Los Angeles. Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Every year, more than 200 people are killed while trying to move around Los Angeles. Nearly half of the people who die on Los Angeles streets are people walking and bicycling, and an alarming number of them are children and older adults. The safety of our residents and visitors is paramount. If we can realize Vision Zero throughout California, children will be safer walking to school, families will be safer going to the park, and commuters will be safer getting to work.

The City of Los Angeles adopted Vision Zero as part of its Transportation Strategic Plan, and an executive directive was issued in 2015 directing its implementation. We are in strong support of Vision Zero in California, and we support the proposed Resolution.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Garcetti".

ERIC GARCETTI  
Mayor

A handwritten signature in black ink, appearing to read "Joe Buscaino".

JOE BUSCAINO  
Councilmember, 15th District  
League of California Cities Representative





OFFICE OF THE  
CITY COUNCIL

CITY OF SACRAMENTO  
CALIFORNIA

JAY SCHENIRER

COUNCILMEMBER  
DISTRICT FIVE

July 27, 2016

The Honorable Dennis Michael, President  
League of California Cities  
1400 K Street  
Sacramento, California 95814

RE: RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING THE ADOPTION  
AND IMPLEMENTATION OF INITIATIVES TO PRIORITIZE TRAFFIC SAFETY  
THROUGHOUT CALIFORNIA

Dear President Michael,

The City of Sacramento supports the proposed resolution to support the adoption and implementation of initiatives to prioritize transportation safety toward eliminating death and severe injuries on our roadways. **Vision Zero** and **Towards Zero Deaths** strategies have been adopted in many cities and Sacramento is currently developing its own **Vision Zero Action Plan**.

Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Traffic fatalities in America hit a seven-year high in 2015 and are estimated to have exceeded 35,000 people. This is about double the average of peer nations and must be addressed. Safety of our residents and visitors is paramount and this is especially true on roads and streets of our cities. We must put safety as a top priority for all users of our streets. It is fundamental for prosperity of California cities as safety, efficient, organized transportation systems are essential for economically vibrant and sustainable communities.

The City of Sacramento is in strong support of prioritized and expanded transportation safety in California cities and supports the proposed Resolution.

Sincerely,

  
Jay Schenirer, Council Member  
Chair, Law & Legislation Committee



THE CITY OF SAN DIEGO

August 9, 2016

The Honorable Dennis Michael, President  
League of California Cities  
1400 K Street  
Sacramento, CA 95814

Dear President Michael:

RE: A resolution of the league of California Cities Supporting the Adoption and Implementation of Initiatives to Prioritize Traffic Safety throughout California

The City of San Diego Transportation & Storm Water Department supports the proposed resolution to support the adoption and implementation of initiatives to eliminate death and severe injuries on our roadways. Vision Zero and Towards Zero Deaths strategies have been adopted in numerous cities throughout California, including the City of San Diego (Attachment 1). Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Traffic fatalities in America hit a seven-year high in 2015 and is estimated to have exceeded 35,000 people. This is about double the average of peer nations and must be addressed. Safety of our residents and visitors is paramount and this is especially true on the roads and streets of our cities. We must put safety as the top priority for all users of our streets. It is fundamental for the prosperity of California cities as safe, efficient, organized transportation systems are essential for economically vibrant and sustainable communities.

The City of San Diego Transportation & Storm Water Department has embraced Vision Zero/Towards Zero Death and I am in strong support of expanded transportation safety in California cities and support the proposed Resolution.

Sincerely,

Kris McFadden  
Director

Attachment: A Resolution of the Council of the City of San Diego Adopting a Vision Zero Plan to Eliminate Traffic Fatalities and Serious Injuries in the Next Ten Years

cc: Katherine Johnston, Director of Infrastructure and Budget Policy, Office of the Mayor  
Kristin Tillquist, Director of State Government Affairs, Office of the Mayor  
Vic Bienes, Assistant Director, Transportation & Storm Water Department  
Linda Marabian, Deputy Director, Traffic Engineering Operations



Transportation & Storm Water Department

202 C Street, 9th Floor, MS 9A • San Diego, CA 92101  
Tel (619) 236-6594 Fax (619) 236-6570



RESOLUTION NUMBER R- 310042

DATE OF FINAL PASSAGE NOV 03 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ADOPTING A VISION ZERO PLAN TO ELIMINATE TRAFFIC FATALITIES AND SERIOUS INJURIES IN THE NEXT TEN YEARS.

WHEREAS, on average one person each day is seriously injured or killed on the road while walking, bicycling, or driving the streets of San Diego; and,

WHEREAS, the City has adopted numerous studies and plans that outline design concepts to improve safety for people walking and biking in the City including a Pedestrian Master Plan and Bicycle Master Plan; and,

WHEREAS, the City of San Diego's draft Climate Action Plan proposes to achieve 50 percent of commuter mode share for walking, biking and transit use in transit priority areas by 2050 and safer conditions for walking and biking can help implement this Plan; and,

WHEREAS, the City will increase in population by approximately 30 percent by 2050 and the majority of growth will result from infill development thereby increasing demand for safe walking and bicycling; and,

WHEREAS, communities in San Diego have prioritized infrastructure projects that improve walking and biking safety among other project types as represented by the Community Planning Committee report to Infrastructure Committee in November 2013; and,

WHEREAS, the City incurs costs to respond to lawsuits alleging the City's failure to provide safer streets; and,

WHEREAS, restoring infrastructure in the City is a priority of the Council and Mayor; and,

WHEREAS, Vision Zero provides a framework for reducing traffic deaths to zero through a combination of safe engineering measures, education, and enforcement practices; and,

WHEREAS, Vision Zero has been adopted in many cities throughout the country, most notably in New York City which has seen the lowest number of pedestrian fatalities in its first year of implementation since documentation began in 1910; and,

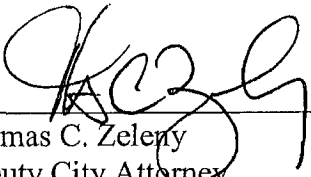
WHEREAS, Circulate San Diego is convening an Advisory Committee to advance Vision Zero Goals; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it hereby adopts a goal of eliminating traffic deaths and serious injuries by 2025; and

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, that it urges City staff from the Mayor's office, Transportation and Stormwater Department, San Diego Police Department, and a representative of the City's Bicycle Advisory Committee to attend meetings of Circulate San Diego's Vision Zero Advisory Committee for a limited time to develop a traffic safety plan that will help the City reach the goal of zero traffic deaths and serious injuries; and

BE IT FURTHER RESOLVED, that the traffic safety plan will be guided by innovative engineering solutions to improve road safety for all users, especially the most vulnerable; will measure and evaluate performance annually; and will include enforcement and education strategies to prevent the most dangerous behaviors that cause public harm, especially along the corridors where collisions are most frequent.

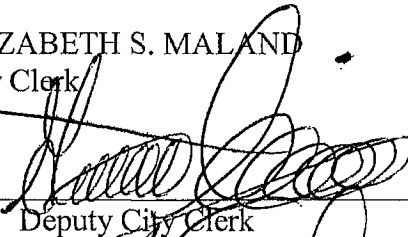
APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Thomas C. Zeleny  
Deputy City Attorney

TCZ:cfq  
September 24, 2015  
Or.Dept:Envir. Comm.  
Doc. No.: 1116742

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of Oct 27 2015.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 11/2/15  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on OCT 27 2015, by the following vote:

**ATTACHMENT 1**

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 03 2015

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 310042



August 1, 2016

The Honorable Dennis Michael  
President, League of California Cities  
1400 K Street  
Sacramento, CA 95814

**Re: Resolution of the League of California Cities Supporting the Adoption and Implementation of Initiatives to Prioritize Traffic Safety Throughout California**

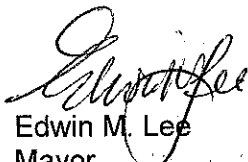
Dear President Michael,

On behalf of the City and County of San Francisco, I am writing to express my support for the proposed resolution to support the adoption and implementation of initiatives to eliminate death and severe injuries on our roadways. Vision Zero and Towards Zero Deaths strategies have been adopted in numerous cities throughout California including San Francisco, San Jose, San Mateo, San Diego, Los Angeles, Santa Barbara, and Santa Monica. Accordingly, I encourage the submission of the resolution to support Vision Zero, Toward Zero Deaths, and other initiatives that make traffic safety a priority, which will be considered by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Every year in San Francisco, approximately 30 people lose their lives and over 200 more are seriously injured while traveling on our streets. These deaths and injuries are unacceptable and preventable, and the City is strongly committed to stopping further loss of life. San Francisco adopted Vision Zero as a policy in 2014, committing to build better and safer streets, educate the public on traffic safety, enforce traffic laws, and adopt policy changes that save lives. Our goal is to create a culture that prioritizes traffic safety and to ensure that mistakes on our roadways do not result in serious injuries or deaths. The safety of our residents and the over 18 million visitors that use our streets each year is paramount, and the same holds true for cities across the California, which need safe, efficient, and organized transportation systems to support economically vibrant and sustainable communities.

The City and County of San Francisco has embraced Vision Zero, and I am in strong support of expanded transportation safety in California cities and, in turn, the proposed Resolution.

Sincerely,

  
Edwin M. Lee  
Mayor



**Mayor Tony Vazquez**  
**Mayor Pro Tempore Ted Winterer**

**ATTACHMENT 1**

**Councilmembers**

**Gleam Davis**  
**Sue Himmelrich**  
**Kevin McKeown**  
**Pam O'Connor**  
**Terry O'Day**

July 21, 2016

The Honorable Dennis Michael, President  
League of California Cities  
1400 K Street  
Sacramento, California 95814

RE: THE LEAGUE OF CALIFORNIA CITIES CONSIDERATION OF INITIATIVES TO PRIORITIZE TRAFFIC SAFETY THROUGHOUT CALIFORNIA

Dear President Michael:

The City of Santa Monica supports initiatives to eliminate death and severe injuries on our roadways. Vision Zero and Towards Zero Deaths strategies have been adopted in numerous cities throughout California, leading to the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.

The City of Santa Monica embraced Secretary Anthony Foxx's Mayor's Challenge for *Safer People, Safer Streets* in March 2015. Simultaneously, the Council directed staff to initiate work on Vision Zero and 8-80 cities – a movement created by Gil Penalosa, to make cities that work for people aged 8 to 80. Combined, these two efforts aim to create streets that are safe and comfortable for people in all modes and of all abilities. In February 2016 the Santa Monica City Council adopted a Vision Zero target in our first Pedestrian Action Plan. We are now actively working to incorporate these visionary targets into City operations.

Our City cares deeply about the safety of our people, and their ability to access good, services, education, social networks and employment. Creating a New Model for Mobility is one of the Council's Five Strategic Goals, identified to organize and advance work on our top priorities. A safe mobility network supports our urgent need to provide transportation options that reduce greenhouse gas emissions, and provide equitable access to places and activities that support community Wellbeing. Reducing and ultimately eliminating severe injury and fatal crashes part of a resilient, safe and prosperous community.

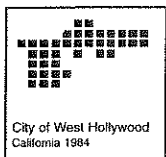
Traffic fatalities in America hit a seven-year high in 2015 and is estimated to have exceeded 35,000 people. This is about double the average of peer nations and must be addressed. Safety of our residents and visitors is paramount and this is especially true on the roads and streets of our cities. We must put safety as the top priority for all users of our streets. It is fundamental for the prosperity of California cities as safe, efficient, organized transportation systems are essential for economically vibrant and sustainable communities.

The City of Santa Monica has embraced **Vision Zero/Towards Zero Deaths** and I am in strong support of expanded transportation safety in California cities.

Sincerely,

  
Tony Vazquez  
Mayor

1685 Main Street • PO Box 2200 • Santa Monica • CA 90407-2200  
tel: 310 458-8201 • fax: 310 458-1621 • e-mail: council@smgov.net



# CITY OF WEST HOLLYWOOD

ATTACHMENT 1

CITY HALL

8300 SANTA MONICA BLVD.  
WEST HOLLYWOOD, CA

90069-6216

TEL: (323) 848-6460

FAX: (323) 848-6562

## OFFICE OF THE CITY MANAGER

PAUL AREVALO  
CITY MANAGER

July 21, 2016

The Honorable L. Dennis Michael, President  
League of California Cities  
1400 K Street  
Sacramento, California 95814

### RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES SUPPORTING THE ADOPTION AND IMPLEMENTATION OF INITIATIVES TO PRIORITIZE TRAFFIC SAFETY THROUGHOUT CALIFORNIA - SUPPORT

Dear President Michael:

The City of West Hollywood supports the proposed resolution to support the adoption and implementation of initiatives to eliminate death and severe injuries on our roadways. ***Vision Zero*** and ***Towards Zero Deaths*** strategies have been adopted in numerous cities throughout California. Accordingly, we concur in the submission of the resolution for consideration by the League of Cities General Assembly at its annual meeting on October 5, 2016.

Traffic fatalities in America hit a seven-year high in 2015, and it is estimated to have exceeded 35,000 people. This is about double the average of peer nations and must be addressed. Safety of our residents and visitors is paramount and this is especially true on the roads and streets of our cities. We must put safety as the top priority for all users of our streets. It is fundamental for the prosperity of California cities as safe, efficient, organized transportation systems are essential for economically vibrant and sustainable communities.

The City of West Hollywood is in strong support of expanded transportation safety in California cities and support the proposed Resolution.

Sincerely,

Paul Arevalo,  
**CITY MANAGER**

c: Honorable Members of the West Hollywood City Council





# City of Sunnyvale

## Agenda Item

---

16-0869

Agenda Date: 10/4/2016

---

### REPORT TO COUNCIL

#### SUBJECT

Modify an Existing Contract for Services Associated with Land Development Plan Review (F17-015)

#### REPORT IN BRIEF

Approval is requested to modify an existing contract with Wilsey Ham for on-call plan review services associated with private land development, increasing the not-to-exceed value from \$99,000 to \$124,000.

#### EXISTING POLICY

Transactions greater than \$100,000 require Council approval.

#### 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)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

#### BACKGROUND AND DISCUSSION

In 2014, the City solicited proposals from engineering firms to establish on-call contracts in a number of disciplines such as design coordination, construction management and land development improvement plan map review. These contracts were established due to the significantly increased development in the City. Wilsey Ham was selected to provide land development map review and a three-year on-call contract was awarded under the City Manager's contracting authority.

The Land Development group specifically needed firms with California licensed surveyors which could provide map technical review services for the City. There is currently not a City staff person who holds the necessary surveyor or engineering license to certify subdivision maps, as required by the Subdivision Map Act (Government Code section 66416.5).

The Wilsey Ham contract expires in June 2017. The initial three-year contract amount was \$55,000. It was anticipated that this amount would be sufficient through the contract term. However, the City has reviewed a significant number of complex maps over the last several months which have had multiple review cycles; therefore surveyor costs have been higher than anticipated. This necessitated increasing the contract to a total of \$99,000.

This request is to increase the contract with Wilsey Ham by an additional \$25,000. Approximately \$18,000 remains within the current contract. The requested increase is sufficient to have map review services through the end of June 2017. Staff anticipates renewing the contract for up to two years under the City Manager's award authority, at which time service options will be evaluated for



conducting a new competitive proposal process.

It should also be noted that Wilsey Ham has requested a 3% increase to its hourly rates. The proposed rates are in line with the current market and represent the first price increase since 2014.

### **FISCAL IMPACT**

A special project, Public Works Development Engineering Staffing (831450), was created in FY 2015/16 in the amount of \$300,000 to fund these and other development-related services. Approximately \$105,000 remains in the project, which will be sufficient for FY 2016/17. Staff will be requesting additional funding for this project during the upcoming capital budget cycle to ensure that there are available resources to meet the anticipated ongoing development review demand. The costs are fully reimbursed with development-related fees.

### **Funding Source**

This project is funded by the Development Enterprise 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**

Authorize the City Manager to execute an amendment to the existing contract with Wilsey Ham adding \$25,000 and increasing the not-to-exceed amount from \$99,000 to \$124,000, in substantially the same form as Attachment 1 to the report.

Prepared by: Pete Gonda, Purchasing Officer

Reviewed by: Timothy J. Kirby, Director of Finance

Reviewed by: Manuel Pineda, Director of Public Works

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENT**

1. Third Amendment to Consultant Services Agreement

**DRAFT THIRD AMENDMENT TO CONSULTANT SERVICES AGREEMENT  
BETWEEN THE CITY OF SUNNYVALE AND WILSEY HAM, INC. FOR ON-CALL  
SERVICES FOR LAND DEVELOPMENT PLAN REVIEW**

This Third Amendment to Consultant Services Agreement, dated \_\_\_\_\_, is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY") and WILSEY HAM, INC. ("CONSULTANT").

WHEREAS, on June 12, 2014, CITY and CONSULTANT entered into a Consultant Services Agreement whereby CONSULTANT would provide professional on-call services necessary for plan review of final maps, review of deed(s) and/or legal plat(s), and related services; and

WHEREAS, on April 6, 2016, CITY and CONSULTANT entered into an Amendment to Consultant Services Agreement whereby the total compensation payable under the Agreement was increased from \$55,000.00 to \$80,000.00; and

WHEREAS, on June 17, 2016, CITY and CONSULTANT entered into a Second Amendment to Consultant Services Agreement whereby the total compensation payable under the Agreement was increased from \$80,000.00 to \$99,000.00; and

WHEREAS, the parties now agree that a Third Amendment to said Agreement is advisable;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS THIRD AMENDMENT TO CONSULTANT SERVICES AGREEMENT:

4. Payment of Fees and Expenses  
Replace this section with the following:

Payments shall be made to CONSULTANT on a monthly basis as set forth in the attached Exhibit "A-1" entitled "Compensation Schedule." All compensation will be based on monthly billings as provided in Exhibit "A-1." Compensation will not be due until said detailed billing is submitted to CITY within a reasonable time before payment is expected to allow for normal CITY processing. An estimate of the percent of total completion associated with the various categories of the services shall be furnished by CONSULTANT with said billing. When applicable, copies of pertinent financial records will be included with the submission of billing(s) for all direct reimbursables. In no event shall the total amount of compensation payable under this agreement exceed the sum of One Hundred Twenty Four Thousand and No/Dollars (\$124,000.00) unless upon written modification of this Agreement.

All other terms and conditions remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Agreement Amendment.

ATTEST:

CITY OF SUNNYVALE ("CITY")

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

By \_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

WILSEY HAM, INC. ("CONSULTANT")

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

By \_\_\_\_\_  
\_\_\_\_\_  
Name and Title

By \_\_\_\_\_  
\_\_\_\_\_  
Name and Title

## EXHIBIT "A-1" COMPENSATION SCHEDULE

### 2016-2017 City of Sunnyvale

#### Rate Fee Schedule

#### I. Charge Rate Fee Schedule

The compensation of Wilsey Ham for work done will be on the basis of an hourly charge rate, plus incurred expenses and will be the sum of all the items set forth below:

#### A. Personnel Services

Principal Engineer/Surveyor	\$204	Per Hr	Designer/Technician II	\$126	Per Hr
Supervising Engineer	204	Per Hr	Designer/Technician I	115	Per Hr
Managing Engineer/Surveyor	177	Per Hr	Cad Operator/Drafter II	105	Per Hr
Senior Engineer/Project Mgr.	167	Per Hr	Designer/Technician	95	Per Hr
Associate Engineer	157	Per Hr	Administrative Assistant	70	Per Hr
Engineer II	146	Per Hr	Technical Assistant	54	Per Hr
Engineer I	136	Per Hr	2 Person Survey Crew	216	Per Hr
Assistant Engineer	126	Per Hr	Contract Personnel	2x	Invoice
Junior Engineer	95	Per Hr	Outside Survey Specialist	146	Per Hr
Senior Designer	130	Per Hr			

*\*Effective through June 30, 2017 and subject to no less than a 2% increase annually thereafter as agreed upon by both parties.*

#### B. Reimbursable Expenses

##### 1. Travel & Transportation Expenses:

- a) Reimbursement for actual travel and subsistence expenses paid to or on behalf of employees on business connected with the project, without markup.
- b) Fifty-four cents (\$0.54) per mile, or the current rate allowable set by the Internal Revenue Service for use of company passenger vehicles, and fifteen dollars (\$15.00) per hour for use of vehicles carrying field survey equipment or used for field inspection and supervision.

##### 2. Miscellaneous Expenses:

- a) The cost of materials, supplies, reproduction work, agency filing fees, and other services, including communication expenses, without markup.

#### C. Outside Services

- a) Invoice cost of services and expenses charged to Wilsey Ham by outside consultants, professional, or technical firms engaged in connection with the order, plus 10% handling charge.



# City of Sunnyvale

## Agenda Item

---

16-0870

Agenda Date: 10/4/2016

---

### REPORT TO COUNCIL

#### **SUBJECT**

Endorse the Slate of Candidates for the League of California Cities Peninsula Division Executive Committee 2016-17 Election of Officers

#### **BACKGROUND**

Each year the League of California Cities' Peninsula Division (Division) holds an election of Division officers at the League of California Cities' annual conference. Any incorporated city in the counties of San Francisco, San Mateo, and Santa Clara is eligible for membership in the Division. A Division member city is represented by its municipal officers. Each member city is entitled to one vote for each position.

#### **EXISTING POLICY**

##### **Council Policy 7.3.1 *Legislative Management - Goals and Policies***

**Goal 7.3C:** Participate in intergovernmental activities, including national, state, and regional groups, as a means to represent the City's interests, influence policy and legislation, and enhance awareness.

#### **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**

The Division has several functions, including:

- To conduct periodic meetings of city officials to discuss municipal problems, opportunities and legislative / governmental issues;
- To share knowledge relating to municipal government by all appropriate means and to increase interest and involvement among city officials;
- To assist the officials of the League of California Cities in formulating policies and rendering service by expressing to said League by duly adopted resolutions the recommendations of this Division; and
- To assist the representatives of the League of California Cities in formulating policies with respect to legislative matters, promoting sound legislation and opposing measures not viewed to be in the best interests of the cities.

The Division role in assisting the League of California Cities' officials in formulating policies is

important. It is also a key method towards ensuring that the City's position on legislative matters is communicated. Local area representation on this body should be a priority in the City's intergovernmental and advocacy efforts.

To assist Council in casting its vote, staff is presenting this report with the proposed slate of candidates for Division officer positions for Council consideration and action. For reference, Council may review the *LCC Peninsula Division 2016-2017 Executive Committee Officers Ballot* (Attachment 1).

The City may vote for ONE candidate in each officer position as stated in the *bylaws of the Peninsula Division, League of California Cities, Article III, Section 3*, as follows:

*"The membership of the Division shall be represented therein by the municipal officers of member cities. Active participation in the deliberations of the Division and voting on any question shall be confined to member municipalities. The representatives of each member city shall collectively cast one vote. Votes cast on questions affecting municipal policy reflect the opinion of the Division, and do not commit individual cities to the decision."*

The proposed slate of candidates is as follows, and their biographies are included for Council reference in Attachment 2:

*President:*

Alicia Aguirre, Council Member, Redwood City

*Vice President:*

Marilyn Librers, Council Member, Morgan Hill

*Treasurer:*

Larry Moody, Council Member, East Palo Alto

*Secretary:*

Charles Stone, Council Member, Belmont

*Board Director (Two Year Term):*

Liz Kniss, Council Member, Palo Alto

**At-Large - Vote for One Candidate in Each County**

*San Mateo County*

Shelly Masur, Council Member, Redwood City

*Santa Clara County*

Cory Wolbach, Council Member, Palo Alto

**FISCAL IMPACT**

There is no fiscal impact related to this report.

**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 RECOMMENDATION**

Endorse the slate of candidates for the Peninsula Division Executive committee for 2016-17:

President: Alicia Aguirre, Council Member, Redwood City

Vice President: Marilyn Librers, Council Member, Morgan Hill  
Treasurer: Larry Moody, Council Member, East Palo Alto  
Secretary: Charles Stone, Council Member, Belmont  
Board Director (Two Year Term): Liz Kniss, Council Member, Palo Alto  
San Mateo County: Shelly Masur, Council Member, Redwood City  
Santa Clara County: Cory Wolbach, Council Member, Palo Alto

Prepared by: Jennifer Nuñez, Executive Assistant to Mayor and Council  
Reviewed by: Yvette Blackford, Senior Management Analyst  
Reviewed by: Walter C. Rossmann, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. LCC Peninsula Division 2016-2017 Executive Committee Officers Ballot
2. Candidate Biographies for the 2016-2017 LCC Peninsula Division Executive Committee



**PENINSULA DIVISION  
MEMBER CITIES**

ATHERTON  
 BELMONT  
 BRISBANE  
 BURLINGAME  
 CAMPBELL  
 COLMA  
 CUPERTINO  
 DALY CITY  
 EAST PALO ALTO  
 FOSTER CITY  
 GILROY  
 HALF MOON BAY  
 HILLSBOROUGH  
 LOS ALTOS  
 LOS ALTOS HILLS  
 LOS GATOS  
 MENLO PARK  
 MILLBRAE  
 MILPITAS  
 MONTE SERENO  
 MORGAN HILL  
 MOUNTAIN VIEW  
 PACIFICA  
 PALO ALTO  
 PORTOLA VALLEY  
 REDWOOD CITY  
 SAN BRUNO  
 SAN CARLOS  
 SAN FRANCISCO  
 SAN JOSE  
 SAN MATEO  
 SANTA CLARA  
 SARATOGA  
 SOUTH SAN FRANCISCO  
 SUNNYVALE  
 WOODSIDE

**DIVISION OFFICERS**

**PRESIDENT**

LIZ KNISS  
 COUNCILMEMBER  
 CITY OF PALO ALTO

**VICE PRESIDENT**

ALICIA AGUIRRE  
 COUNCILMEMBER  
 CITY OF REDWOOD CITY

**SECRETARY/TREASURER**

MARILYN LIBRERS  
 COUNCILMEMBER  
 CITY OF MORGAN HILL

**DIRECTOR**

KIRSTEN KEITH  
 COUNCILMEMBER  
 CITY OF MENLO PARK

**AT LARGE REPRESENTATIVES**

JIM DAVIS  
 COUNCILMEMBER, SUNNYVALE

LARRY MOODY  
 VICE MAYOR, EAST PALO ALTO

**STAFF LIAISON**

SETH MILLER

EMAIL: [SMILLER@CACITIES.ORG](mailto:SMILLER@CACITIES.ORG)

**PENINSULA DIVISION  
2016-17 EXECUTIVE COMMITTEE OFFICERS BALLOT**

**CITY:**

Please return to the Peninsula Division c/o Seth Miller, 450 Taraval Street, PMB #236, San Francisco, CA 94116 by September 15<sup>th</sup> or deliver in person at the Annual Breakfast on October 7<sup>nd</sup>.

**President:**

Alicia Aguirre, Council Member, Redwood City Yes\_\_\_\_

**Vice President:**

Marilyn Librers, Councilmember, Morgan Hill Yes\_\_\_\_

**Treasurer:**

Larry Moody, Councilmember, East Palo Alto Yes\_\_\_\_

**Secretary**

Charles Stone, Councilmember, Belmont Yes\_\_\_\_

**Board Director (Two Year Term)**

Liz Kniss, Councilmember, Palo Alto Yes\_\_\_\_

**At-Large: VOTE FOR ONE CANDIDATES FOR EACH COUNTY**

**San Mateo County**

Shelly Masur, Councilmember, Redwood City Yes\_\_\_\_

**Santa Clara County**

Cory Wolbach, Councilmember, Palo Alto Yes\_\_\_\_

\_\_\_\_\_  
Name (please print)

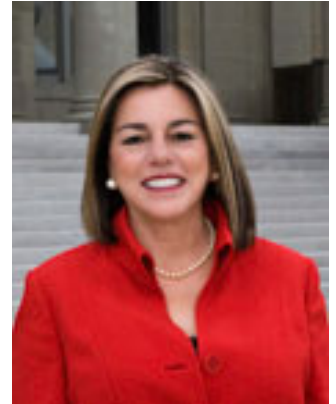
\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature



## **Alicia Carmen Aguirre**

I have served on the Redwood City Council since January 2005. Since then I have been involved and participated with the League in various capacities. I have attended Lobby Days with my colleagues from the Peninsula and I attend the annual conference every year. I am also the current President of the Latino Caucus of the League. The Peninsula Division is a very important and influential organization that brings together Mayors and Council Members together to address the specific issues and concerns of this region. I would be honored to serve as President of the Peninsula Division of the League.



## **BIO: Alicia Carmen Aguirre**

Alicia is a professor at Cañada College. She has taught there since 1988 in the English Institute and the Spanish Department. She was Coordinator of the English Institute, Chair of the District Curriculum Committee and on the District Academic Senate. She holds an M.A. from Eastern Michigan University and has done Doctoral studies in Social Anthropology at the Universidad Iberoamericana in Mexico City. She was a Fulbright Exchange Professor in Argentina.

## **Resume: Alicia Carmen Aguirre**

Alicia C. Aguirre is a former Mayor of the City Redwood City and a serving member of the City Council. She is the first Latina/o Mayor in the history of Redwood City. She was appointed in January, 2005 and was elected in November, 2005, 2007, 2011, and 2015. She served as a Trustee and the President of the Redwood City Elementary School Board.

As an active community member, she has served on numerous community boards in San Mateo County and the State of California and has received many awards, including:

- Woman of the Year 2012 State of California 21<sup>st</sup> Assembly District's by Assemblyman Rich Gordon
- Recipient of the OHTLI Award and Medal by the Mexican Government
- Madrina Award, One Million NIU (New Internet Users)

- President of the Statewide Latino Caucus Executive Board of the League of California Cities
- Inducted into the Redwood City San Mateo County Chamber Hall of Fame
- Treasurer of the Latino Political Action Committee of San Mateo County
- Chair, CCAG - City County Association of Governments Board
- Vice President of the Peninsula Division of the League of CA Cities
- Board Member of the Redwood City Chamber-San Mateo County
- Chair of the Redwood City San Mateo Chamber Leadership Committee
- Treasurer, Academic Senate, Cañada College
- Board Member of Dreamer's RoadMap
- Board Member of Kid's Vision
- Board Member of Stem Stars
- Advisory Council, Sequoia Adult Student Scholars Foundation
- Metropolitan Transportation Commissioner, representing the Cities of SMC
- President of the Board of the Service League of San Mateo County
- Former Trustee, Notre Dame De Namur University
- Former Latina Mentor Advisory Council of the San Mateo County Office of Education
- Former Board Member, Redwood City Library Foundation
- Former Board Member Shelter Network
- Former Board Member Hispanos Unidos
- Former Board Member of Mt. Carmel School Board and the Garfield Charter School Board

For more information please visit her website at [www.aliciaaguirre.com](http://www.aliciaaguirre.com)

Facebook: <https://www.facebook.com/reelectaliciaaguirre/>

Twitter: <https://twitter.com/acaguirre>

LinkedIn: <https://www.linkedin.com/in/aliciaaguirre>

### **BIO: Marilyn Librers**

Marilyn Librers was elected in November 2008 for a four year term to the City Council of Morgan Hill and re-elected in 2012 for an additional four year term. She is no stranger to Morgan Hill having lived here for over 40 years she is passionate about the City. As a retired Mt. Madonna YMCA employee she applied a wealth of knowledge as a Morgan Hill Parks and Recreation Commissioner for 6 years and served 2 consecutive terms as chairperson. This experience gave her knowledge to transition on to the City Council. Marilyn has served on many non profit boards of directors over the years and is an active member of the Morgan Hill Rotary Club. In July of 2016 she was elected as President of China Silicon Valley, a non-profit dedicated to economic commerce between China and Silicon Valley. I have been on the Executive Board for the League of California Cities serving a two year term from 2013 – 2015. Also she is currently serving as the treasurer for the Peninsula Division of the League of California Cities. Presently she is the Executive Director of the Pauchon Research Foundation and travels worldwide awarding grants for medical and scientific research.



### **Resume: Marilyn Hennessey-Librers**

Executive Director, Pauchon Research Foundation  
July 1, 2008 – Present

Executive Director of nonprofit private Foundation. The Mission is to support and fund research in the fields of science, medicine and business for the betterment of mankind. This funding can be for individuals who have achieved proven accomplishments or are working towards a project with a goal of completion. Responsibilities include daily operation of the organization, fiscal management of a two million dollar diversified portfolio, board of director interaction and public relations. Identifying grant recipients, award of grants and visitation of science labs and institutions.

Accomplishments include:

- ✓ Open first business office in 2008 and facilitating move to larger space in 2012.
- ✓ Awarding over \$100,000 in grants and materials to awardees globally.
- ✓ Establishing local science fair for students to encourage science at a young age. These science fairs are funded by fund raising efforts at no cost to the Foundation. A total of \$10,000 has been awarded to local students in the last three years.

Elected City Council Member – Council Member  
November 2008 – Present

Responsible for all facets of running and operation of the City of Morgan Hill, population 41,000 people. Elected to second four year term in November 2012. Departments include parks, roads, building, recreation, library and arts, police and fire services, legal, records, finance department, utilities, administration, tourism, youth development, public works, flood control, emergency services and economic development. City Manager, City Attorney and Police Chief report directly to the City Council. My outside committee assignments include Board of Directors of the Morgan Hill Economic Development Corporation, Sister City International, Health Foundation of Morgan Hill, Economic Development Committee liaison for Chamber of Commerce, Downtown Association, City Corporation Yard Commission, Waste Water and Flood Control Board, and Habitat Conservation Committee.

Webco Sweeping, Sales Manager, April 1995 – January 2007

Reported directly to the owner of a large service company which included the supervision of two customer service representatives. Responsible for company sales in Northern California and Nevada. Developed and implemented the first marketing plan that increased sales four times over previous year. Sales continued to increase annually at rate of at least 100% over each previous year. Responsible for generating accounting reports and monthly billings. Took on the responsibility of a first ever business budget for the company which included income and expenses. Negotiated all corporate and government sales contracts. Implemented customer services procedures and conducted ongoing training.

Dunnhill Consultants, Owner, January 1993 – January 2008

Opened and operated the only event management firm in South County specializing in non profit fund raising. Organized and run over 25 events that were all profitable to individual agencies. These varied from golf tournaments to exclusive dinner and dance events. Organized New Years Eve event for City of Morgan Hill for two consecutive years. Employed two part time employees. Upon election to City Council I closed my business so there would not be any perception of conflict of interest where City resources might be used or requested.

Affiliations

Editorial Board for Morgan Hill Today Magazine  
Santa Clara County Cities Association  
League of California Cities – Peninsula Division - Treasurer  
Silicon Valley Leadership Group – Women Executives  
China Silicon Valley Foundation – President  
Co-chair of Cobs and Robbers Ball 2013 & 2014 supporting Morgan Hill Police Department  
Safe Trick or Treat Committee for Downtown Association – ongoing each year  
Gilroy Elks Lodge – Fashion Show Chairman – since 2001 – ongoing each year

**Bio/Resume: Larry Moody**

**Vice-Mayor, City of East Palo Alto**  
**Board of Directors**  
**Bay Area Water Supply & Conservation Agency**

Larry Moody was appointed by the City of East Palo Alto to the Board of Directors of the Bay Area Water Supply and Conservation Agency in April of 2016. The city's water utility is operated and managed by a private contractor, American Water Services, Inc. The service area is a residential community with some commercial and industrial development.



Mr. Moody was elected to the City Council in 2012 and was appointed as Vice-Mayor in 2015. He serves on the Council Ad Hoc Committees for Education, Housing, and Infrastructure, and is actively involved with the League of California Cities where he serves on the Community Services Policy Committee, and was a member of the Housing Community and Economic Development.

Mr. Moody was recently appointed by Congresswoman Speier to the Select Committee on South Bay Arrivals pertaining to aircraft noise in the region. He is currently serving on the Peninsula League Executive Committee, and the San Mateo County Task Force on Jobs and Housing.

Mr. Moody was born in Hartford Connecticut and studied Political Science at Trinity College. Following a 16-year management career in the Hospitality Industry, he and his family moved to East Palo Alto in 1992, where he served as Director of Parks & Recreation for 8 years. Mr. Moody served as Director of Social Education of the Boys & Girls Club of the Peninsula, and in 2000, was selected to serve as Director of Local Ministry for Menlo Park Presbyterian Church, where he provided leadership in launching the Compassion Weekend Project which is now in its 15<sup>th</sup> year. Mr. Moody was a member of the Ravenswood City School Board from 2006 - 2010.

Mr. Moody is Executive Director at Glad Tidings Church of God in Christ, Hayward, a Board member of the Silicon Valley Black Chamber of Commerce, and a member of Omega Psi Phi Fraternity. Mr. Moody is married with four adult sons. He is a Veteran of the United States Air Force.

**Bio: Charles Stone, Esq.**

Charles Stone grew up in San Mateo County, California. Charles attended UC San Diego ('97) and Santa Clara University School of Law ('02.) He began his career as a litigator with the well-respected Redwood City, CA firm of Roger, Scott & Helmer. After moving his family from San Mateo to Belmont in 2004, Charles became active as a volunteer in the public school community and youth sports. In 2010, Charles began volunteering with the Belmont-Redwood Shores School District Education Foundation (School-Force!). In 2012, he was appointed to the School-Force! Board of Directors as Endowment Chair and helped lead an effort that resulted in new fundraising records. In 2013, Charles was elected to the Belmont City Council and currently serves as Belmont's Vice-Mayor. He was appointed to the San Mateo County Transit District ("SamTrans") Board of Directors in December, 2013. He currently serves as the Board's Finance Committee Chair. In addition to the Belmont City Council and SamTrans, Charles currently serves as a Governing Member of the San Mateo County Library JPA, a Board Member on the South Bay Waste Management Agency ("ReThink Waste,") a member of the Congestion Management and Environmental Quality sub-committee of C/CAG, and as Belmont's representative for the San Mateo County Jobs/Housing Imbalance Task Force. Recently, he was also appointed to serve on the Peninsula Clean Energy ("PCE") JPA Board.



**Resume: Charles Stone, Esq.**

**ROGER, SCOTT & HELMER, LLP, Senior Associate**, Redwood City, CA 2004 – March, 2011  
*Responsibilities:* Initial review, analysis, and set-up of cases. Created litigation plans, budgets, and recommendations. Drafted pleadings. Reviewed, analyzed, and summarized client documents, medical records, and deposition testimony. Client interface. Written Discovery. Legal research. Pre-trial motions (demurrers, motions to strike, discovery, summary adjudication/judgment.) Party, non-party and expert witness depositions. Client/percipient/expert depositions. Mediation/arbitration briefs. Mediations/Arbitrations.

**SAN MATEO/SANTA CLARA COUNTY DISTRICT ATTORNEY, Certified Law Clerk/Intern,**  
Redwood City/San Jose, CA, June 2001- December 2001  
*Areas of Experience:* Trial. Motions and opposition briefs.

***EDUCATION***

**J.D., Santa Clara University Law School, 2002; B.A., University of California, San Diego, CA 1997**

***HONORS & ACTIVITIES***

Elected to the Belmont City Council (term: November, 2013-November 2017.)  
School-Force (510(c)(3) Belmont School District Ed foundation) Board of Directors (2011-13)  
Save the Music Festival Planning Committee Member (2011-present)  
Graduate Redwood City/San Mateo County Chamber of Commerce Leadership Class (2014)  
Scorer in San Mateo County High School Mock Trial Competition (2005 –present)  
Youth Softball, Youth Basketball, and AYSO coach/referee/umpire.  
2011 and 2012 Tough Mudder Endurance Run/Obstacle Course.  
Santa Clara Law School: Criminal Law Society, Excellence in Oral Arguments Award, Honors Moot Court.  
UCSD: 1st-string UCSD Rugby team, Provost's Honors List.



## **Bio: Liz Kniss**

**Application Statement:** I have lived and worked in Palo Alto and in Santa Clara County for many years, and have served in public office since 1985. As a school board member, City Council member and Supervisor in Santa Clara County, I have been involved with each governing body's professional organization and have served in leadership on Palo Alto School Board, Palo Alto City Council and Santa Clara County Board of Supervisors, as well as many committees. I was Vice Mayor of the Palo Alto City Council in 2014. I have recently been appointed to the Employee Relations committee after being back on the PACC since 2013.



While on the City Council previously I was active in both the Peninsula League and in the League of California Cities. I am particularly interested in the "voice" that the League can have in Sacramento, and in Washington. We must establish good long term relationships with our elected officials on the Peninsula and Bay Area, and with longer terms for office in the California State legislature, we can work toward our League goals over a greatly increased period of time. Our relationships make us stronger and bring greater influence in decision making at that level.

While I was on the Board of Supervisors, I chaired the Legislative Committee for six years, and oversaw both our state and federal advocates, following the budgets, the bills, and the trends in public spending. I interacted with both our state lobbyists and the federal law firm who represented and advocated for us in Washington. We frequently visited Sacramento and DC to visit with our elected officials to work with them and their staff on issues important to our communities.

## **Council Member**

### **Education**

BS, PHN, Simmons College, Boston, MA

MPA, Public Administration and Health Care Policy, Cal State University

Graduate work in Health Policy and Economics, UC Berkeley

### **Public Service – Elected**

2013 – Present: Palo Alto City Council Member, **Vice Mayor 2014** (see pg 3)

2001 - 2012: Santa Clara County Board of Supervisors, **President 2005 and 2009**

1989 - 2000: Palo Alto City Council, Council Member, **Mayor 1994 and 2000**

1985 - 1989: Palo Alto School Board, Member, **President 1988**

### **Palo Alto City Council- 2013-15**

Elected in November 2012 (Returning after 3 terms on Board of Supervisors\*)

January - 2014, Elected Vice Mayor,

Policy Committee – 2013 Chair



### **Policy Committees**

Health and Hospital Committee; Vice-Chair 2001, Chair 2002 - 2012  
Legislative Committee; Vice-Chair 2001-2005, Chair 2006 - 2012  
Housing, Land Use, Environment, Transportation Committee; Vice-Chair 2009 – 2012  
Finance and Government Operations Committee; Vice-Chair 2006 – 2008  
Public Safety and Justice Committee; Chair 2001 Vice-Chair 2002 – 2005

### **County-Wide**

County Library District Joint Powers Authority; 2001 – 2012  
Santa Clara County Health Authority Board of Directors; 2001- 2011  
Santa Clara County Emergency Preparedness Council 2004 - 2011  
First Five Santa Clara County Board of Directors 2009  
SCC Cities Association Joint Economic Development Policy Committee; 2005-2008

### **County Internal**

County Fire Department Liaison; 2001- 2012  
County Planning Commission Liaison; 2001 - 2009  
Disaster Council 2006 – 2011  
Energy Task Force 2001  
Juvenile Detention Reform Planning Committee 2004  
Juvenile Detention Reform Oversight Committee 2005 – 2008

### **Regional Representation**

Bay Area Air Quality Management District; 2001- present  
Bay Conservation and Development Commission; 2001- 2011  
Local Agency Formation Commission; 2009 – 2012

### **Mid-Peninsula Regional Open Space District Financing Authority 2001- 2012**

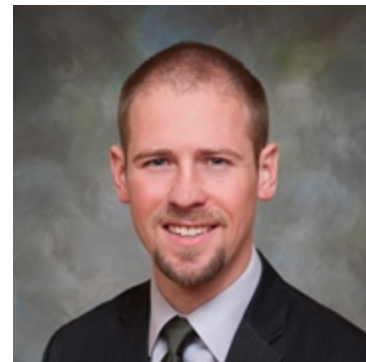
Regional Hazardous Waste Management Facility Allocation; 2001-2006  
Valley Transportation Authority; 2005 - 2012, Chair 2008

### **State and National Representation**

California State Association of Counties Board of Directors; 2006 - 2012  
California State Association of Counties; Health and Human Services Committee; Member 2003 - present, Vice-Chair 2006, Chair 2007 - 2012  
California Urban Counties Caucus; Member 2006 – present, Chair 2011  
National Association of Counties; 2006 – present, Board of Directors 2010 - 2012  
National Association of Counties; Health Steering Committee; Member 2004 - 2012, Chair 2010 - 2012  
National Association of Counties; Large Urban County Caucus Steering Committee 2006 – 2012

## **Application Statement: Cory Wolbach**

I would be honored to serve as an At-Large Member of the League of CA Cities Peninsula Division Executive Committee. Palo Alto's geography in the heart of the San Francisco Peninsula, bordering six neighboring cities and Stanford, stretching from the bay to skyline, makes our city particularly vulnerable to regional challenges. That same geography, combined with our resources, makes Palo Alto particularly well situated to be a leader in addressing those problems in close coordination with our neighbors. Particularly acute this decade are the challenges of 1) housing affordability, (2) transportation, (3) economic inequality, and (1) sea level rise resulting from climate change. Through regional collaboration, we in Palo Alto and the Peninsula can solve these most serious problems, protect and strengthen our economy and culture, and benefit current and future generations of Peninsula residents. The League of CA Cities, Peninsula Division, must play a key role in efforts to avert existential threats to our communities.



## **BIO: Cory Wolbach**

Cory Wolbach was elected to the Palo Alto City Council in November 2014, focused locally on housing affordability, income inequality, transportation, and climate sustainability and adaptation. From 2012 to 2015, Cory worked in the District Office of State Senator Jerry Hill, liaising with Peninsula communities on education policy, public safety, and other issues of local concern.

Cory earned a B.A. in Political Science/International Relations from University of California San Diego, *Cum Laude*, and an associate's degree from Santa Monica Community College. As a Public Policy Intern with People for the American Way, he worked on the early stages of the ongoing effort reduce the role of money in politics by overturning *Citizens United v. FEC (2010)*.

Cory has been active in local Democratic clubs since college. Outside of politics and public policy, Cory's hobbies include trail running, motorcycling, and martial arts. A Palo Alto native, Cory has also lived locally in Menlo Park, Mountain View, and San Jose.

## **Resume: Cory Wolbach**

### **Elected Office**

- City of Palo Alto, Council Member
  - Finance Committee Member, 2016
  - Policy and Services Committee Member, 2015
  - City/School Liaison Committee Member, 2016
  - Human Relations Commission Alternate, 2015, Liaison 2016
  - Library Advisory Commission Liaison, 2015
  - Youth Liaison Alternate, 2015, Liaison 2016
  - Association of Bay Area Governments (ABAG) Alternate, 2016

- Executive Committee
  - Application for the Position of: **At-Large Member, Santa Clara**

- League of California Cities, Peninsula Division Alternate, 2016
- Santa Clara County Cities Association Legislative Action Committee Alternate, 2016
- Palo Alto Housing Corp. Liaison, 2015, Alternate 2016
- Valley Transportation Authority, El Camino Real Bus Rapid Transit Policy Board, 2015
- Valley Transportation Authority, Policy Advisory Committee Alternate, 2015 - Present

#### **Employment (Selected)**

- California State Senate, District Office of Senator Jerry Hill
  - Field Representative, Dec. 2012 - May 2015
- California State Assembly, District Office of Assemblymember Jerry Hill
  - Field Representative, Sep. - Dec. 2012

#### **Education**

- UC San Diego
  - B.A., Political Science/International Relations, 2012, Cum Laude
- Santa Monica College
  - A.A., Liberal Arts, 2010 Honors

#### **Legislation**

**1. Neighborhood Engagement Town Halls** (Lead Author). Goal: Hold regular town halls in neighborhoods throughout the city, to better facilitate communication and understanding between city hall and residents. We have initiated the program, and held our first two town halls.

**2. Secondary Dwelling Units** (Lead Author) Goal: Update existing regulations which prohibit such housing units (also known as Accessory Dwelling Units, "in-law units" or "granny units") for most properties in the city. This initiative is currently undergoing analysis and discussion by the Planning & Transportation Commission, supported by staff.

**3. Surveillance Technology Standards** (Lead Author). Goal: Establish a standard operating procedure (SOP) for use prior to adoption of any technological tools by the City which could raise privacy concerns. The memo was unanimously referred by Council to the Policy & Services Committee for detailed discussion and recommendations back to Council. Palo Alto's chief of police, the ACLU, and the Electronic Frontier Foundation all spoke in favor of this effort to improve clarity and transparency in light of rapidly evolving technology.

**4. Minimum Wage** (Co-Author). Goal: Raise the minimum wage. Palo Alto has now set a goal of \$15/hour by 2018,

#### **Organizations (Selected)**

- Young Elected Officials (YEO) Network, Member, 2015 - Present
- Peninsula Democratic Coalition (PDC), Board Member, 2013 - Present
- Peninsula Young Democrats, President, 2013-2014
- College Democrats at UCSD, Political Director, 2011-2012

**Bio: Shelly Masur**

Shelly Masur is the CEO of Californians Dedicated to Education Foundation. She brings almost twenty years of experience working with youth-serving non-profits and in education-related leadership roles to CDEF. Shelly is a well-known and recognized leader in the education community having been named in 2013 one of the “100 Women of Influence” by the Silicon Valley Business Journal for her work in education. She is a former school board member in the Redwood City School District in San Mateo County where she served for 10 years and is currently a city councilmember in Redwood City. Shelly serves on the council’s communications committee and on Redwood City 2020, as well as on the California League of Cities Community Services



Committee, the Local Policymakers Workgroup for High Speed Rail and CalTrain Modernization, and the Public Engagement Advisory Committee of the Institute for Local Government. Shelly holds a Master’s Degree on Public Health and lives in Redwood City with her husband, two high school-aged sons and three dogs. She texts regularly with her college-aged daughter.

**Resume: Shelly Masur**

2/2014-  
present

CEO, *Californians Dedicated to Education Foundation*, Redwood City, CA

Overall strategic and operational responsibility for programs, staff, and organizational growth for a 5-year old, \$3 million organization. Lead and support board in all aspects including developing strategic direction. Secure adequate funding to support all programmatic and administrative work including staffing. Accomplishments include:

- Implemented statewide coalitions for NGSS implementation, Common Core communications, labor-management collaboration. Members include CSBA, CTA, ACSA, and PTA.
- Directed development and distribution of Common Core communications messaging and materials currently in use by districts and organizations across the state.
- Hosted first statewide Labor Management Symposium. Exceeded attendance goals and received overwhelmingly positive evaluations. Subsequent convenings have engaged 97 district teams.
- Oversaw successful execution of 3<sup>rd</sup> annual California STEM Symposium in partnership with the CA Department of Education attended by 3,100 teachers, administrators, higher education, philanthropy and business leaders.
- Created collaboration among CA Department of Education, 4 county offices of education, local school districts & Attendance Works that increased local capacity to address chronic absence.

- 2005-2015 Trustee, *Redwood City School District*  
Elected official governing K-8 school district of 9,200 students with 16 schools and 1,000 employees. Set direction for diverse district by overseeing and approving \$80 million budget, supervising superintendent, and setting policy.
- Ensured ongoing communication and input by conducting outreach on district issues to staff and community members, meeting with constituents, and participating in community events. Represented district on issues affecting public education through regular meetings with state and local elected officials, including advisory committees for Assemblymembers, and committee testimony as requested by state legislators. Board representative to Redwood City 2020, a public-private collaborative focused on healthy children and youth. Accomplishments include:
- Served as board president two times
  - Initiated and led development of district vision, mission, and goals.
  - Initiated Call to Action Committee and conducted outreach to approximately 40 organizations and over 800 community members including parent groups, business and service organizations to garner support for the district and encourage advocacy on its behalf.
  - Co-chaired Yes On E parcel tax campaign, exceeded fundraising goals and coordinated over 200 campaign volunteers.
- 2007-2013 Principal, *SKM Consulting*. Selected Clients:
- 2013: *Clifford Moss/The Children's Partnership*: Partner engagement on ALL IN for Healthcare. A statewide campaign focused on schools as access points for health coverage enrollment under Covered California.
- 2013: *Children Now*: Local policymaker and CBO engagement to help build a statewide coalition supporting education funding policy changes passed by Legislature and signed by the Governor.
- 2010: *Fighting Back Partnership*: Proposal development and strategic planning for US Department of Education Full Service Community Schools grant resulting in ongoing collaborative focused on healthy and academically successful children and supported families.
- 2010: *Glen Price Group*: State Superintendent of Public Instruction Tom Torlakson's Transition Advisory Team. Facilitated policy work group meetings and drafted section of *Blueprint for Great Schools*; Grant proposal development for various clients, including writing sections of California's Race to the Top application.
- 2007: *Partnership for Children & Youth (formerly Bay Area Partnership)*: Local policymaker education and outreach. Supported and led policymaker convenings to develop local coalitions including goal-setting and budget planning focused on children and youth.
- 2007: *ACLU of Northern California*: Developed statewide teen health rights campaign including writing materials, creating a dissemination plan, and establishing a collaboration with major healthcare provider to provide web-based information; provided technical assistance to schools, organizations and community members to implement new sexuality education law and advised lobbyist on technical issues in legislative proposals.
- 2004-07: *California Coalition for Reproductive Freedom*: Coordinated 2006 & 2007 statewide annual lobby day for over 200 participants; authored toolkit designed to help communities implement a family communication social marketing campaign; developed and led trainings on toolkit use.
- 2010-2012 Executive Director, *Teen Talk Sexuality Education*, Redwood City, CA  
Provided overall leadership and direction to rebuild organization after fiscal crisis. Reestablished relationships with funders and community partners resulting in increased stable funding and expanded programming. Supported and provided leadership for board of directors, managed staff, responsible for all fundraising and budgeting – increased budget from \$200,000 to \$500,000 in less than two years. Served as public spokesperson and community liaison. Initiated county-wide partnership to develop and hold teen pregnancy summit.

- 2008-2009 Director, Community Youth Development Programs, *John W. Gardner Center for Youth & Their Communities*, Stanford, CA  
In a new position with a budget of \$1 million, oversaw programming that included youth development and youth advocacy programming for middle school youth, middle school reform efforts, and a community-wide plan for youth development. Directed collaborative work on development of two toolkits focused on full-service community schools. Directed research examining linkages between preschool and full-service community schools and linking summer programming with school year programming. Led efforts to develop policy-related documents focused on Federal Race to the Top funds.
- 2007-2008 Senior Director, After-School Programs, *Girls Inc. of Alameda County*, San Leandro, CA  
Set direction for and oversaw all aspects of after school and summer youth development programming serving over 600 girls, ages 5 through 18, in Oakland and San Leandro. Managed and supervised staff of 45. Developed and administered budgets of over \$2 million. Directed program evaluation and development. Served on Senior Leadership Team. Developed cross-department programming and new projects. Initiated and fostered partnerships with schools and other community-based organizations resulting in new funding and additional programming.
- 2004-2005 Director, *Adolescent Health Collaborative*, San Francisco, CA  
Oversaw all research and policy projects as well as general operations of statewide public-private partnership. Responsible for program planning and development, conducting research, preparing grant proposals, facilitating steering committee meetings, overseeing implementation of all activities conducted by staff, consultants and members. Initiated revision of statewide strategic plan for adolescent health, developed partnerships with public education campaign on teen pregnancy and with a foundation, oversaw mental health policy project that culminated in bringing young people to Sacramento to lobby elected officials.
- 1999-2003 Associate Director, *Teen Pregnancy Coalition of San Mateo County*, Redwood City, CA  
Directed all programs, including staff supervision, reporting to funders, working with schools, and evaluating programs. Implemented new family communication project, including training educators and community organizations, developing partnerships with schools and community organizations, scheduling, and budgeting, exceeded all goals in first year. Developed, secured funding for, and oversaw youth advocacy program. Initiated collaboration among agencies to create a countywide media campaign and helped secure funding. Developed and updated sexuality education curricula for middle- and high-school students and for parents. Created and implemented staff evaluation procedures and criteria. Participated in monthly board meetings; served on program, marketing and fundraising committees of board. Served as media spokesperson.
- 1998-1999 Upper School Health Education Coordinator, *Trinity School*, New York, NY
- 1996-1999 Health Education Specialist, *Phase V Communications*, New York, NY

---

## ADDITIONAL PROFESSIONAL ACTIVITIES

---

### Selected Speaking Engagements:

- *Communicating About Common Core*: California School Boards Association Annual Conference, 2014, Association of California School Administrators Superintendents Conference & Delegate Assembly, 2014
- *Developing and operating community-school & civic partnerships to leverage funding and improve outcomes for children*: California State Association of Counties Annual Conference, 2012, California School Boards Association Annual Conference 2012, 2011, 2010 & California School Boards Association Curriculum Institute 2008; Association of California School Administrators Every Child Counts Symposium 2009
- *Successful community outreach and communication*: California School Boards Association Annual Conference 2012 & 2010
- *The link between health and academic achievement*: National School Boards Association Annual Conference 2010 California School Boards Association Annual Conference 2010 & School Wellness Conference 2010
- *Working with youth advocates*, Society for Public Health Education Annual Meeting 2001 & National Organization on Adolescent Parenting and Pregnancy Prevention Annual Conference 2002
- *Featured Speaker*, California Coalition for Reproductive Freedom Lobby Day, 2005, 2004, 2003

Assistant Editor, *California Journal of Health Promotion*. As part of founding editorial board, review journal articles for topic appropriateness, validity and quality to determine publication acceptance (2002-2004)

Reviewer, *Health Promotion Practice*, Review journal articles for publication acceptance (2000-2001)

---

## EDUCATION

---

Master of Public Health, Hunter College/CUNY, New York, NY

Bachelor of Arts, Sociology, Macalester College, St. Paul, MN

---

## COMMUNITY SERVICE

---

City Councilmember, *City of Redwood City*

Board Member & Treasurer, *Partnership for Children & Youth*

Selection Advisory Council, *Green Light Fund*

Public Engagement Advisory Committee, *Institute for Local Government*

---

## AWARDS & PROFESSIONAL AFFILIATIONS

---

*100 Women of Influence 2013, Silicon Valley Business Journal*

*California School Boards Association*, Member, Annual Education Conference Planning Committee; elected Delegate for Delegate Assembly; School Health Advisory Committee.

*San Mateo County School Boards Association*, President (2009-2011); Secretary 2008.

*Cities, County, Schools Partnership of San Mateo County*. Developed and implemented a forum on statewide reform efforts and their impact on San Mateo County (2009) and a forum addressing health needs in San Mateo County (2011).



# City of Sunnyvale

## Agenda Item

16-0887

Agenda Date: 10/4/2016

### REPORT TO COUNCIL

#### **SUBJECT**

Adopt Resolutions Approving Amendments to the City's Contribution for CalPERS Medical Insurance for Management, SEA/Confidential and SEIU Employees and Annuitants (Retirees)

#### **BACKGROUND**

The City's healthcare is administered through CalPERS. CalPERS healthcare is regulated by the Public Employees' Medical and Hospital Care Act (PEMHCA), which requires participating agencies to adopt a resolution stating the employer contribution amount toward the employees' and retirees' medical plans. The resolution is adopted annually or when there are changes in bargaining unit agreements affecting amounts paid by the city toward medical coverage. PEMHCA regulations further require that medical insurance contributions for retired annuitants paid for by a contracting agency be equal to the medical insurance contributions paid for its active employees.

#### **EXISTING POLICY**

In accordance with Article 8 of PEMHCA, the City's contract with CalPERS provides that the City's contribution towards medical insurance (and the effective date of said contribution) be the same for active employees and retirees.

#### **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.

#### **DISCUSSION**

As established during negotiations with the Sunnyvale Employees Association (SEA) and the Service Employees International Union (SEIU), the existing Memoranda of Understanding for these respective bargaining units provide for annual increases in the City's contribution toward medical coverage for active employees. The total City medical and cafeteria contribution for SEA is 80% (52% for SEIU) of the average of the family level monthly premium of the Blue Shield Access+ and Kaiser medical plans. The amount for the City payment towards medical coverage is 49% of the total City medical and cafeteria contribution but not exceeding a 5% increase from the prior year. Based on the increases from CalPERS for the 2017 health plan rates, an increase is needed for the PEMHCA rate for our employees and retirees.

Additionally, Article 5.505 of the Salary Resolution provides that effective January 1 of each year, the City's contribution for medical coverage for active management employees shall be no less than the highest City contribution for any of the represented employee groups. As a result of these provisions and in order to meet the CalPERS requirement that the City's medical contribution be the same



amount for employees and retirees, the City's contribution to CalPERS for retiree medical coverage shall be increased appropriately.

Effective January 1, 2017, the City's PEMHCA contribution for medical coverage for retirees in SEA/Confidential and Management will be \$795.87, an increase of \$37.90 per retiree per month. The City contribution for medical coverage for retirees in SEIU will be \$437.75, an increase of \$20.85 per retiree per month.

### **FISCAL IMPACT**

The cost of this amendment has been included for in the FY 2016/17 budget.

### **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**

Adopt two resolutions: (1) fixing the employer's contribution under the Public Employee's Medical and Hospital Care Act ("PEMHCA") for 2017, and (2) amending Salary Resolution No. 190-05 to modify the City's contribution for medical insurance for Management, SEA/Confidential and SEIU employees and annuitants.

Prepared by: Vienne Choi, Human Resources Manager

Reviewed by: Teri Silva, Director, Human Resources

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Resolution Fixing Employer's Contribution under PEMHCA
2. Resolution Amending the Salary Resolution

## RESOLUTION NO. \_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SUNNYVALE FIXING THE EMPLOYER'S CONTRIBUTION UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT ("PEMHCA")**

WHEREAS, the City of Sunnyvale is a contracting agency under Government Code Section 22920, and subject to the Public Employees' Medical and Hospital Care Act (the "Act")

WHEREAS, Government Code Section 22892(a) provides that a contracting agency subject to the Act shall fix the amount of the employer contribution by resolution; and

WHEREAS, Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; and;

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

Section 1. (a) That the employer contribution for each employee or annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of:

<u>Code</u>	<u>Bargaining Unit</u>	<u>Contribution per Month</u>
003	Sunnyvale Employees Association	\$795.87
005	Management	\$795.87
006	Service Employees International Union	\$437.75

Plus administrative fees and Contingency Reserve Fund Assessments; and

(b) That the City of Sunnyvale has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and

(c) That the participation of the employees and annuitants of the City of Sunnyvale shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that the City of Sunnyvale would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer.

(d) That the executive body appoints and direct, and it does hereby appoint and direct the City's Director of Human Resources or her designee to file with the Board a verified copy of this resolution, and to perform on behalf of the City of Sunnyvale all functions required of it under the Act.

Section 2. This Resolution shall become effective immediately upon adoption by the City Council, however, the employer's contribution specified above will be effective on January 1, 2017.

Adopted by the City Council at a regular meeting held on \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:  
RECUSAL:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor

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

## RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF SUNNYVALE AMENDING RESOLUTION NO. 190-05,  
THE CITY'S SALARY RESOLUTION, TO MODIFY THE  
CITY'S CONTRIBUTION FOR MEDICAL INSURANCE  
FOR MANAGEMENT, SEA AND SEIU EMPLOYEES**

WHEREAS, pursuant to the current Memoranda of Understanding (MOU) between the City of Sunnyvale and the Service Employees International Union (SEIU) and the Sunnyvale Employees Association (SEA), an amendment to the City's Salary Resolution is necessary to amend the City's contribution for health insurance under the Public Employees' Medical and Hospital Care Act (PEMHCA);

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT Section 5.505 of Resolution 190-05 is hereby amended to read as follows:

1. 5.505. CITY CONTRIBUTION. MEDICAL INSURANCE. Effective January 1, 2016, the City will contribute the following amounts toward the cost of premiums for medical insurance under the Public Employees Medical and Hospital Care Act (PEMHCA) for each employee in the respective categories listed below, and his or her eligible dependents, and for each annuitant in CalPERS formerly in the respective categories listed below and his or her eligible dependents:

(a) [Text unchanged]

(b) Categories B and G. The cost of the premium or ~~\$757.97~~795.87 per month, whichever is less.

(c) [Text unchanged]

(d) Category L. The cost of the premium or ~~\$416.90~~437.75 per month, whichever is less.

(e) Categories D, E, F and K. The cost of the premium or ~~\$757.97~~795.87 per month, whichever is less. Effective January 1<sup>st</sup> each year, the City's contribution will be the lesser of the cost of the premium or the lowest cost HMO premium for single coverage available through the CalPERS Bay Area regional medical plans. Additionally, the City's contribution shall be no less than the highest City contribution for any of the employee represented units; including COA, PSOA, SEA and SEIU.

(f) Members of the City Council. The City's contribution will be the lesser of the cost of the premium or the minimum monthly contribution pursuant to Government Code Section 22892 of the Public Employees Medical and Hospital Care Act (PEMHCA). For ~~calendar year 2015, the amount is \$122.00 and for~~ calendar year 2016, the amount is \$125.00, and for calendar year 2017, the amount is \$128.00.

2. All other provisions of Resolution No. 190-05 shall remain in full force and effect.

Adopted by the City Council of the City of Sunnyvale at a regular meeting held on \_\_\_\_\_, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

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



# City of Sunnyvale

## Agenda Item

---

16-0933

Agenda Date: 10/4/2016

---

### REPORT TO COUNCIL

#### SUBJECT

Authorize the Issuance of a Purchase Order for a Three-year Subscription for Microsoft Office O365 (F17-034)

#### REPORT IN BRIEF

Approval is requested to issue a Purchase Order to Softchoice Corporation of San Francisco in the amount of \$683,100 for the purchase of a three-year subscription for Microsoft Office 365 G3 and BridgeCAL licenses. Approval is also requested to authorize the City Manager to renew the licenses subscription for two additional one-year periods, not to exceed budgeted amounts.

#### EXISTING POLICY

Chapter 2.08 of the Municipal Code requires Council approval for transaction greater than \$100,000.

#### 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(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.

#### BACKGROUND AND DISCUSSION

On September 20, 2016, Council approved the implementation of Microsoft Office 365 (O365) in order to provide the City with traditional technology tools such as email, calendaring, collaboration, instant messaging, and video conferencing (RTC No. 16-0903). In that RTC, staff discussed that the cost of the necessary Microsoft licenses was offered by authorized resellers for \$240,000 annually, which was more than the expected pricing under a cooperative procurement agreement through Riverside County. Therefore, staff decided to decouple the purchase of the O365 implementation services from the license contract in order to negotiate better pricing. As pricing options were being evaluated, staff discovered that the absolute best pricing from the Riverside County agreement was not available to Sunnyvale because that pricing is only available to jurisdictions who have executed an Enterprise Agreement (EA) with Microsoft (Riverside County established a Master Enterprise Agreement - #01E73134 - with six authorized resellers).

As a part of migrating from Google mail to O365, the City will be required to establish an EA with Microsoft for the O365 licenses. The advantage of an EA is the flexibility of hosting other infrastructure onto the cloud solution (Azure) and potential future license cost savings (e.g., Customer Relationship Management, SQL Server). The City will benefit from the entitlements to regular upgrades of Office versions.

Although staff was not able to obtain the best licensing costs available to jurisdictions with EAs in



place, staff was able to achieve a lower cost through a competitive process in the annual amount of \$227,700 with no price escalation for three years. This was accomplished by soliciting quotes from the authorized resellers on the Riverside County EA. The price quotes ranged from \$230,276 to \$234,646. The final annual cost of \$227,700 includes a 7.5% discount available through the Riverside EA, plus an additional discount negotiated through a best and final offer process.

Therefore, staff recommends entering into an Enterprise Agreement with Microsoft for O365 licenses and back-end server connectivity (BridgeCAL) licenses based on the County of Riverside Microsoft Enterprise Agreement #01E73134. Additionally, staff recommends authorizing the City Manager to renew the purchase order for two (2) additional one-year periods, not-to-exceed budgeted amounts.

### **FISCAL IMPACT**

The total three-year cost is \$683,100, to be paid in annual increments of \$227,700. Budgeted funds are available in the Information Technology Equipment Replacement Fund to purchase and implement MS Office 365. Budgeted funds for annual subscription costs are available in operating program 746, IT Services and Support. The annual subscription of \$227,700 will be offset by funds currently programmed for annual support, and various replacements and upgrades for current communication and collaboration tools. Although there still is an impact on the twenty year plan of approximately \$90,000 annually, it is less than previously estimated, and staff anticipates reducing the impact through anticipated staff efficiency gains and ongoing savings through future license cost savings.

### **Funding Source**

Funds are budgeted in the General Fund (Technology Project Funding) and the General Services, Technology and Communication Services sub-fund. Ongoing funds will be included in the General Services Fund and reimbursed by the various city-wide operating funds (e.g. General Fund, Water Fund, Development Enterprise Fund, etc.)

### **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) Authorize the issuance of a three-year purchase order, in substantially the same form as Attachment 1 to the report in the amount of \$683,100 to Softchoice Corporation; and 2) Authorize the City Manager to renew the purchase order for two (2) additional one-year periods, not-to-exceed budgeted amounts.

Prepared by: Pete Gonda, Purchasing Officer

Reviewed by: Timothy J. Kirby, Director of Finance

Reviewed by: Kathleen Boutte-Foster, Chief Information Officer

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENT**

1. Draft Purchase Order





City of Sunnyvale  
California

Draft Purchase Order NO

PO005454

<b>ORDERED FROM</b> 22124 - 001  (312) 260-9855  Softchoice Corp 314 W Superior St Ste 400 Chicago IL 60654-3538	ORDER DATE 09/22/2016	<b>BILL TO:</b>  <b>City of Sunnyvale</b> <b>Finance Department</b> <b>Accounts Payable</b> <b>PO Box 3707</b> <b>Sunnyvale, CA 94088-3707</b>
	DELIVERY DATE 12/30/2016	
	PAYMENT TERMS N/30	
	BID NO/RFQ NO	
<b>DELIVER TO</b> ITD/Information Technology Services  650 W Olive Ave Sunnyvale CA 94086 Phone: (408) 730-7557	FOB POINT	FREIGHT CHARGES
	REQ. NO RQ016815	REQUISITIONER: PPICKETT
	CHARGE/OBJ CODE(S): 746980 5155 \$683,100.00	

ITEM	DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL
1	Provide Microsoft Office 365 U.S. Government E3 and BridgeCAL licenses subscription for three year period in accordance with quote #7890822, which is attached and incorporated herein by this reference.  1. 1150 EA AAA-118943YCSDA MS Enterprise Agreement SLG - O365 G3 - \$181.00 EA -- \$208,150  2. 1150 EA AAA-124143YCSDA MS Enterprise Agreement SLG BridgeCAL O365 - \$17 EA -- \$19,550  Annual total \$227,700.00.  Payment will be made annually.  Awarded by Council, _____ RTC # _____  	683100.00	DLR	\$1.0000	\$683,100.00

Amount does not reflect applicable taxes.

**TOTAL** \$683,100.00



Document Terms:

Invoices must be sent directly to Accounts Payable by mail to the address above or by e-mail to [accountspayable@sunnyvale.ca.gov](mailto:accountspayable@sunnyvale.ca.gov) and must reference the purchase order number. Failure to comply will result in a delay in payment processing.

**BUYER:**

Vo, Lisa

**PHONE** (408) 730-7608

**FAX** (408) 730-7710



# City of Sunnyvale

## Agenda Item

---

**16-0936**

**Agenda Date: 10/4/2016**

---

### **REPORT TO COUNCIL**

#### **SUBJECT**

Adopt a Pledge of Revenues Resolution and a Resolution Approving an Installment Sale Agreement in Support of the State Revolving Fund Financing for the Sunnyvale Clean Water Program

#### **BACKGROUND**

The City is currently fully engaged in the most significant single public works program in its history, the rebuild of its aged Water Pollution Control Plant, which treats sewage from all of Sunnyvale and a small area inside the Cities of Cupertino and San Jose. Named the “Sunnyvale Clean Water Program”, current cost estimates for this program are slightly over \$450 million over approximately fifteen to twenty years.

In the planning phase for many years, the program is now under construction for the first phase of the project, which includes the facilities that handle the incoming sewage and the initial treatment process. Throughout the planning process, staff has included a placeholder in the City’s Wastewater Management Fund long-term financial plan that estimates annual debt service associated with this program. This assumption has been based on a standard utility revenue bond financing.

Upon evaluating financing alternatives, staff identified that more favorable financing is available for a portion of the program through the State of California Clean Water Revolving Fund. In order to apply for this funding Council adopted three resolutions in December of 2015. This enabled the City to complete its application, and funding is now anticipated to occur in October. One of the adopted resolutions was a Pledge of Revenues Resolution. After Council adoption, the State Division of Financial Assistance (DFA) has asked the City Council to adopt a new resolution with revised language (See Attachment 1).

#### **EXISTING POLICY**

Council Fiscal Policy 7.11 Enterprise Fund Policies, 1.1b.1 Capital improvements associated with the existing infrastructure of a utility should be primarily funded from two sources: rate revenue and debt financing.

Council Fiscal Policy 7.11 Enterprise Fund Policies, 1.1b.3 Local, state and federal funding sources, such as grants and contributions, should be pursued for utility -related capital improvement projects consistent with City priorities.

#### **ENVIRONMENTAL REVIEW**

On August 23, 2016, the City Council certified that the Programmatic Environmental Impact Report, adopted the mitigation monitoring and reporting program and the statement of overriding considerations for the Sunnyvale Clean Water Program.

**DISCUSSION**

The DFA administers the implementation of the State Water Resources Control Board's (State Water Board) financial assistance programs, which include loan and grant funding for construction of municipal sewage and water recycling facilities. The Clean Water State Revolving Fund (CWSRF) Program provides low-interest loans (less than 2% vs. the 3-5% for traditional revenue bonds) for a term of 30 years for water quality improvement projects. The Sunnyvale Clean Water Program is eligible for planning/design and construction CWSRF funding and, due to the drought and corresponding financing incentives to develop alternative water supplies, may be eligible for even lower interest financing because it produces recycled water.

The City has submitted a detailed Financial Application Package for the first phase of the program, construction of the primary treatment facilities and head works. The total estimated cost of the first phase is approximately \$130 million. Staff will evaluate funding options for the remainder of the project phases as they come up for design and construction in the future, and will apply for additional CWSRF funding if available and cost effective.

In order to complete the application process two documents require approval by City Council. They are a Pledged Revenues Resolution with the revised language requested by DFA and a Resolution approving an Installment Sale Agreement and authorizing the City Manager, or her designee, to execute the Agreement.

**Pledged Revenues and Fund Resolution**

This Resolution identifies the funding source that will be pledged to pay the ongoing obligations established through a financing agreement with the State. In this case, the funding source is revenues from the Wastewater Management Fund as defined in the Resolution. This was originally adopted in December of 2015. The State has requested an amendment to identify the pledge of "Net Revenues" opposed to just "Revenues." A redline version is provided as Attachment 1. The reason for this change is to affirm that SRF funding is on parity, meaning the new debt will not be senior to the previously issued 2010 Wastewater Revenue Bonds.

**Resolution to Approve an Installment Sale Agreement**

The Installment Sale Agreement is the agreement between the City and the State that lays out the details of the transaction and how it will be repaid. The resolution authorizes the City Manager, or her designee to execute the Agreement within certain parameters, in this case with a principal not to exceed \$1350 million and an interest rate less than 3%.

**FISCAL IMPACT**

It is anticipated that even in the current favorable rate environment, the very low rates obtained through the CWSRF Loan Program has the potential to save the City's rate payers twenty million dollars or more over the life of the loan when compared to a traditional public market financing. Taking this approach is the lowest cost option for financing the first significant phase of this project.

**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**

Adopt a Pledge of Revenues Resolution and a Resolution Approving an Installment Sale Agreement and authorizing the City Manager, or her designee, to execute the Agreement in support of the State revolving fund financing for the Sunnyvale Clean Water Program.

Prepared by: Timothy J. Kirby, Director of Finance

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Pledged Revenues Resolution
2. Resolution Approving and Authorizing Execution of an Installment Sale Agreement
3. Draft Installment Sale Agreement



## RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF SUNNYVALE DEDICATING AND PLEDGING THE  
CITY'S WASTEWATER MANAGEMENT FUND AS THE  
SPECIFIC REVENUE SOURCE FOR THE REPAYMENT  
OF ANY AND ALL STATE REVOLVING FUND  
LOAN/FINANCING FOR THE WATER POLLUTION  
CONTROL PLANT REHABILITATION – PRIMARY  
TREATMENT FACILITIES AND HEADWORKS PHASE  
1(A) PROJECT**

WHEREAS, the City of Sunnyvale owns and operates the Donald M. Somers Water Pollution Control Plant (WPCP) which is a wastewater treatment facility serving residents, businesses and industries in the city of Sunnyvale, and

WHEREAS, the WPCP is nearly 60 years old and reaching the end of its useful life; and

WHEREAS, the Sunnyvale Clean Water Program (Program) will rebuild the WPCP over the next 20 years to replace aging infrastructure, increase capacity, improve operational reliability, meet current and future regulatory standards and incorporate innovative technologies to minimize capital and operational costs for rate-payers; and

WHEREAS, the Program is now in the design phase for the Primary Treatment Facilities and Headworks Phase 1(A) Project (Project), which are the facilities that handle incoming sewage and begin the initial treatment process; and

WHEREAS, the City Council desires to apply for up to \$160 million in funding for the WPCP Rehabilitation Project from the State of California Clean Water Revolving Fund (CWSRF); and

WHEREAS, the CWSRF requires the City to establish one or more dedicated sources of revenue for the repayment of CWSRF assistance; and

WHEREAS, City wishes to dedicate revenues from the Wastewater Management Fund as the source of revenue for repayment; and

WHEREAS, the very low rates obtained through the Clean Water State Revolving Fund program will save the City's rate-payers tens of millions of dollars over the life of the loan when compared to a traditional public market financing; and

WHEREAS, the rehabilitation of the WPCP is in the interest of the City and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. The City hereby dedicates and pledges the net revenues of the City's Wastewater Management Fund, and the Wastewater Management Fund to the payment of any and all Clean Water State Revolving Fund and/or Water Recycling Funding Program financing for the WPCP – Primary Treatment Facilities and Head works Phase 1 (A) Project.~~revenues from the Wastewater Management Fund to the payment of any and all Clean Water State Revolving Fund and/or Water Recycling Funding Program financing for the WPCP – Primary Treatment Facilities and Headworks Phase 1(A) Project;~~ and

2. The City commits to collecting such revenues and maintaining such fund(s) throughout the term of such financing and until the City has satisfied its repayment obligation thereunder unless modification or change is approved in writing by the State Water Resources Control Board. So long as the financing agreement(s) are outstanding, the City's pledge hereunder shall constitute a lien in favor of the State Water Resources Control Board on the foregoing fund(s) and revenue(s) without any further action necessary. So long as the financing agreement(s) are outstanding, the City commits to maintaining the fund(s) and revenue(s) at levels sufficient to meet its obligations under the financing agreement(s).

Adopted by the City Council at a regular meeting held on \_\_\_\_\_, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

APPROVED:

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

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

#### CERTIFICATION

I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the City of Sunnyvale City Council held on \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
City Clerk  
(SEAL)





RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SUNNYVALE APPROVING INSTALLMENT SALE  
AGREEMENT AND RELATED ACTIONS**

WHEREAS, the State Division of Financial Assistance ("DFA") administers the implementation of the State Water Resources Control Board's ("State Water Board") financial assistance programs, which include loan and grant funding for construction of municipal sewage and water recycling facilities; and

WHEREAS, the Clean Water State Revolving Fund ("CWSRF") Program provides low-interest loans (less than 2%) for a term of 30 years for water quality improvement projects; and

WHEREAS, the Sunnyvale Clean Water Program is eligible for planning/design and construction CWSRF funding and, due to the drought and corresponding financing incentives to develop alternative water supplies, may be eligible for even lower interest financing because it produces recycled water; and

WHEREAS, the City of Sunnyvale ("City") has submitted a detailed Financial Application Package for the first phase of the program, construction of the primary treatment facilities and head works; and

WHEREAS, in order to complete the application process three documents require approval by the City Council, one of which is an installment sale agreement; and

WHEREAS, the City desires to enter an installment sale agreement with the State Water Board that lays out the details of the transaction and how it is to be repaid.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. **Wastewater Project.** The City intends to finance the construction of certain improvements to its wastewater treatment system known as the Headworks and Primary Treatment Project, Phase 1(A) (the "Project") with funds provided by the State of California, acting by and through the State Water Resources Control Board (the "State Water Board") through the execution of an agreement entitled "Installment Sale Agreement, Publicly Owned Treatment Works (POTW) Construction Financing, Headworks and Primary Treatment, Phase 1(A)" (the "Installment Sale Agreement") by and between the City and the State Water Board. The City Council has duly considered the Installment Sale Agreement and the transaction represented thereby, and wishes at this time to approve this transaction in the public interests of the City.

2.     **Approval of Installment Sale Agreement.** The City Council hereby approves the Installment Sale Agreement in substantially the same form as Attachment 3 to the staff report accompanying this Resolution, and authorizes the City Manager, or her designee, to execute the Installment Sale Agreement in such form, together with such additions or changes as are approved by the City Attorney, provided that (a) the principal amount represented thereby may not exceed \$160,000,000, and (b) the annual interest rate represented thereby may not exceed 3.0%.

3.     **Official Actions.** All actions heretofore taken by the officers of the City with respect to the execution of the Installment Sale Agreement are hereby approved, confirmed and ratified. The City Manager, or her designee, is hereby authorized and directed to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents, which the City Manager, or her designee, may deem necessary or advisable in order to consummate the lawful execution and performance of the Installment Sale Agreement and as may be necessary to carry out the purposes of this Resolution.

4.     **Effective date.** This Resolution shall become effective immediately.

Adopted by the City Council at a regular meeting held on the \_\_\_\_\_, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

APPROVED:

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

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

#### CERTIFICATION

I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the City of Sunnyvale City Council held on \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
City Clerk  
(SEAL)



---

CITY OF SUNNYVALE

AND

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD



INSTALLMENT SALE AGREEMENT

PUBLICLY OWNED TREATMENT WORKS (POTW) CONSTRUCTION FINANCING

HEADWORKS AND PRIMARY TREATMENT, PHASE 1(A)

CLEAN WATER STATE REVOLVING FUND PROJECT NO. [8153-110]

AGREEMENT NO. [ ]

AMOUNT: \$

ELIGIBLE START DATE: [ ]

END DATE: [ ]

DATED AS OF [DATE]

---

---

THIS PAGE INTENTIONALLY LEFT BLANK

## TABLE OF CONTENTS

ARTICLE I	DEFINITIONS .....	1
1.1	Definitions .....	1
1.2	Exhibits and Appendices Incorporated.....	4
ARTICLE II	REPRESENTATIONS, WARRANTIES, AND COMMITMENTS.....	4
2.1	General Recipient Commitments.....	4
2.2	Authorization and Validity .....	5
2.3	No Violations.....	5
2.4	No Litigation.....	5
2.5	Solvency .....	5
2.6	Legal Status and Eligibility.....	5
2.7	Financial Statements.....	5
2.8	Completion of Project.....	5
2.9	Award of Construction Contracts.....	6
2.10	Notice.....	6
2.11	Findings and Challenge .....	7
2.12	Project Access.....	8
2.13	Project Completion; Initiation of Operations.....	8
2.14	Continuous Use of Project; Lease or Disposal of Project .....	8
2.15	Project Reports.....	8
2.16	Federal Disadvantaged Business Enterprise (DBE) Reporting.....	9
2.17	Records.....	9
2.18	Audit.....	10
ARTICLE III	FINANCING PROVISIONS.....	10
3.1	Purchase and Sale of Project.....	10
3.2	Amounts Payable by the Recipient.....	10
3.3	Obligation Absolute.....	12

3.4	No Obligation of the State. ....	12
3.5	Disbursement of Project Funds; Availability of Funds.....	12
3.6	Withholding of Disbursements and Material Violations.....	13
3.7	Pledge; Rates, Fees and Charges; Additional Debt. ....	13
3.8	Financial Management System and Standards.....	14
3.9	Accounting and Auditing Standards.....	14
3.10	Other Assistance. ....	14
ARTICLE IV TAX COVENANTS .....		15
4.1	Purpose. ....	15
4.2	Tax Covenant.....	15
4.3	Governmental Unit .....	15
4.4	Financing of a Capital Project.....	15
4.5	Ownership and Operation of Project.....	15
4.6	Temporary Period. ....	15
4.7	Working Capital.....	16
4.8	Expenditure of Proceeds. ....	16
4.9	Private Use and Private Payments. ....	16
4.10	No Sale, Lease or Private Operation of the Project. ....	16
4.11	No Disproportionate or Unrelated Use.....	17
4.12	Management and Service Contracts.....	17
4.13	No Disposition of Financed Property.....	17
4.14	Useful Life of Project.....	17
4.15	Installment Payments. ....	17
4.16	No Other Replacement Proceeds.....	18
4.17	No Sinking or Pledged Fund. ....	18
4.18	Reserve Amount.....	18
4.19	Reimbursement Resolution.....	18
4.20	Reimbursement Expenditures.....	18

4.21	Change in Use of the Project. ....	19
4.22	Rebate Obligations. ....	19
4.23	No Federal Guarantee. ....	19
4.24	No Notices or Inquiries from IRS. ....	19
4.25	Amendments. ....	19
4.26	Reasonable Expectations. ....	19
4.27	No Hedge Bonds. ....	19
ARTICLE V MISCELLANEOUS PROVISIONS.....		20
5.1	Amendment. ....	20
5.2	Assignability. ....	20
5.3	Bonding. ....	20
5.4	Competitive Bidding ....	20
5.5	Compliance with Law, Regulations, etc. ....	20
5.6	Conflict of Interest. ....	21
5.7	Damages for Breach Affecting Tax-Exempt Status or Federal Compliance ....	21
5.8	Disputes. ....	21
5.9	Governing Law. ....	21
5.10	Income Restrictions. ....	21
5.11	Indemnification and State Reviews. ....	22
5.12	Independent Actor. ....	22
5.13	Leveraging Covenants. ....	22
5.14	Non-Discrimination Clause. ....	23
5.15	No Third Party Rights. ....	23
5.16	Operation and Maintenance; Insurance. ....	23
5.17	Permits, Subcontracting, and Remedies. ....	24
5.18	Prevailing Wages. ....	24
5.19	Public Funding. ....	24
5.20	Recipient's Responsibility for Work. ....	24



5.21	Related Litigation.....	24
5.22	Rights in Data.....	25
5.23	State Water Board Action; Costs and Attorney Fees. ....	25
5.24	Termination; Immediate Acceleration; Interest.....	25
5.25	Timeliness. ....	25
5.26	Unenforceable Provision.....	25
5.27	Useful Life. ....	25
5.28	Venue.....	25
5.29	Waiver and Rights of the State Water Board. ....	26

EXHIBIT A - SCOPE OF WORK & INCORPORATED DOCUMENTS

EXHIBIT A - FBA –FINAL BUDGET APPROVAL

EXHIBIT B - FUNDING AMOUNT

EXHIBIT C - PAYMENT SCHEDULE

EXHIBIT D - SPECIAL CONDITIONS

EXHIBIT E - PROGRAMMATIC CONDITIONS & CROSS-CUTTERS

EXHIBIT F - SCHEDULE OF SYSTEM OBLIGATIONS

EXHIBIT G - DAVIS-BACON REQUIREMENTS

EXHIBIT H - COMPLIANCE WITH CROSS-CUTTING STATE AUTHORITIES

This Installment Sale Agreement, including all exhibits and attachments hereto, (Agreement), by and between the State Water Resources Control Board, an administrative and regulatory agency of the State of California (State Water Board), and the local government entity identified on the cover page of this Agreement, duly organized and existing under the laws of the State of California (Recipient):

WHEREAS the United States of America, pursuant to Title VI of the federal Water Pollution Control Act as such has been and may be amended from time to time (Federal Act), requires each State to establish a water pollution control revolving fund to be administered by an instrumentality of the State as a condition to receipt of capitalization grants under the Clean Water Act; and

WHEREAS the State of California (State) has established a Clean Water State Revolving Fund (CWSRF or SRF) pursuant to Chapter 6.5 of Division 7 of the California Water Code (State Act) to be used for purposes of the Clean Water Act; and

WHEREAS the State Water Board is the state agency authorized to administer the CWSRF and provide financial assistance from the CWSRF to recipients for the construction of eligible projects, as provided in the State Act; and

WHEREAS the State Water Board determines eligibility for financial assistance, determines a reasonable schedule for financing such projects, establishes compliance with the Federal Act and the State Act, and establishes the terms and conditions of an applicable financing agreement; and

WHEREAS the Recipient has applied to the State Water Board for financial assistance, for the purpose of financing or refinancing the Project described in this Agreement, and the State Water Board has reviewed and approved said application; and

WHEREAS the Recipient has incurred or will incur costs incurred in connection with the planning, design, acquisition, construction, and installation of the Project described in this Agreement; and

WHEREAS on the basis of the Recipient's application and the representations and warranties set forth herein, the State Water Board proposes to assist in financing the costs of the Project and the Recipient desires to participate as a recipient of financial assistance from the State Water Board and evidence its obligation to pay Installment Payments, which obligation will be secured by Net Revenues, as defined herein, upon the terms and conditions set forth in this Agreement, all pursuant to the Federal Act and the State Act.

NOW, THEREFORE, in consideration of the premises and of the mutual representations, covenants and agreements herein set forth, the State Water Board and the Recipient, each binding itself, its successors and assigns, do mutually promise, covenant, and agree as follows:

## ARTICLE I DEFINITIONS

### 1.1 Definitions.

Unless otherwise specified, each capitalized term used in this Agreement has the following meaning:

"Additional Payments" means the Additional Payments described in Section 3.2(c) of this Agreement.

"Agreement" means this Installment Sale Agreement, including all exhibits and attachments hereto.

"Allowance" means an amount based on a percentage of the accepted bid for an eligible project to help defray the planning, design, and construction engineering and administration costs of the Project.

"Authorized Representative" means the duly appointed representative of the Recipient as set forth in the authorizing resolution that designates the authorized representative, by title.

"Bank" means the California Infrastructure and Economic Development Bank.

"Bond Funded Portion of the Project Funds" means any portion of the Project Funds which was or will be funded with Bond Proceeds.

"Bond Proceeds" means original proceeds, investment proceeds, and replacement proceeds of Bonds.

"Bonds" means any series of bonds issued by the Bank, the interest on which is excluded from gross income for federal tax purposes, all or a portion of the proceeds of which have been, are, or will be applied by the State Water Board to fund all or any portion of the Project Costs or that are secured in whole or in part by Installment Payments paid hereunder.

"Code" as used in Article IV of this Agreement means the Internal Revenue Code of 1986, as amended, and any successor provisions and the regulations of the U.S. Department of the Treasury promulgated thereunder.

"Completion of Construction" means the date, as determined by the Division after consultation with the Recipient, that the work of building and erection of the Project is substantially complete.

"CWSRF" means the Clean Water State Revolving Fund.

"Days" means calendar days unless otherwise expressly indicated.

"Disbursement Period" means the period during which Project Funds may be disbursed.

"Division" means the Division of Financial Assistance of the State Water Board or any other segment of the State Water Board authorized to administer this Agreement.

"Eligible Start Date" means the date set forth in Exhibit B, establishing the date on or after which construction costs may be incurred and eligible for reimbursement hereunder, subject to the 60-day look back period established in the Reimbursement Resolution.

"Enterprise Fund" means the enterprise fund of the Recipient in which Revenues are deposited.

"Fiscal Year" means the period of twelve (12) months terminating on June 30 of any year, or any other annual period selected and designated by the Recipient as its Fiscal Year in accordance with applicable law.

"Force Account" means the use of the Recipient's own employees or equipment for construction of the Project.

"GAAP" means generally accepted accounting principles, the uniform accounting and reporting procedures set forth in publications of the American Institute of Certified Public Accountants or its successor, or by any other generally accepted authority on such procedures, and includes, as applicable, the standards set forth by the Governmental Accounting Standards Board or its successor.

"Initiation of Construction" means the date that notice to proceed with work is issued for the Project, or, if notice to proceed is not required, the date of commencement of building and erection of the Project.

"Installment Payments" means Installment Payments due and payable by the Recipient to the State Water Board under this Agreement, the amounts of which are set forth as Exhibit C hereto.

"Listed Event" means, so long as the Recipient has outstanding any System Obligation subject to Rule 15c2-12, any of the events required to be reported pursuant to Rule 15c2-12(b)(5).

"Material Event" means any event that, as determined by the Division, might cause the State Water Board to violate the terms and conditions of its agreements with USEPA or its bond covenants, including any of the following: (a) revenue shortfalls; (b) unscheduled draws on the Reserve Fund, if any, or the Enterprise Fund; (c) substitution of insurers, or their failure to perform; (d) adverse findings by the Regional Water Quality Control Board; (e) litigation related to the Revenues, the System, or the Project, whether pending or anticipated; (f) any false warranty or representation made by the Recipient relevant to this Agreement; (g) loss, theft, damage, or impairment to the Revenues or the System; (h) seizure of, or levy on any collateral securing this Agreement; (i) dissolution or cessation of operations by the Recipient, termination of Recipient's existence, insolvency of Recipient, or filing of a voluntary or involuntary bankruptcy petition by or on behalf of Recipient; (j) any event set forth in section 2.10 of this Agreement.

"Material Obligation" means (a) any senior or parity obligation of the Recipient payable from Revenues as identified as of the date of this Agreement in Exhibit F, (b) the Obligation, and (c) such additional obligations as may hereafter be issued in accordance with the provisions of such obligations and this Agreement.

"Net Revenues" means, for any Fiscal Year, all Revenues received by the Recipient less the Operations and Maintenance Costs for such Fiscal Year.

"Obligation" means the obligation of the Recipient to make Installment Payments and Additional Payments as provided herein, as evidenced by the execution of this Agreement, proceeds of such obligations being used to fund the Project as specified in the Project Description in Exhibit A and Exhibit A-FBA and in the documents thereby incorporated by reference.

"Operations and Maintenance Costs" means (a) so long as there may be any pre-existing and outstanding Material Obligations, other than the Obligation, the definition of that term under such Material Obligation, and, thereafter, (b) the reasonable and necessary costs paid or incurred by the Recipient for maintaining and operating the System, determined in accordance with GAAP, including all reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the System in good repair and working order, and including all reasonable and necessary administrative costs of the Recipient that are charged directly or apportioned to the operation of the System, such as salaries and wages of employees, overhead, taxes (if any), the cost of permits, licenses, and charges to operate the System and insurance premiums; but excluding, in all cases depreciation, replacement, and obsolescence charges or reserves therefor and amortization of intangibles.

"Policy" means the State Water Board's "Policy for Implementing the Clean Water State Revolving Fund," as amended from time to time.

"Project" means the Project financed by this Agreement as described in Exhibit A, Exhibit A-FBA, and in the documents incorporated by reference herein.

"Project Completion" means the date, as determined by the Division after consultation with the Recipient, that operation of the Project is initiated or is capable of being initiated, whichever comes first.

"Project Costs" means the incurred costs of the Recipient which are eligible for financial assistance under this Agreement, which are allowable costs as defined under the Policy, and which are reasonable, necessary and allocable by the Recipient to the Project under GAAP, plus capitalized interest.

"Project Funds" means all moneys disbursed to the Recipient by the State Water Board pursuant to this Agreement and used to finance the Project.

"Recipient" means City of Sunnyvale.

“Regional Water Quality Control Board” or “Regional Water Board” means the appropriate Regional Water Quality Control Board.

“Reimbursement Resolution” means the Recipient’s reimbursement resolution identified in Exhibit A of this Agreement.

“Reserve Fund” means the reserve fund required pursuant to Exhibit D of this Agreement.

“Revenues” means, for each Fiscal Year, (a) so long as there may be any pre-existing and outstanding Material Obligations, other than the Obligation, the definition of the term Gross Revenues under such Material Obligation, and, thereafter, (b) all gross income and revenue received or receivable by the Recipient from the ownership or operation of the System, determined in accordance with GAAP, including all rates, fees, and charges (including connection fees and charges) as received by the Recipient for the services of the System, and all other income and revenue howsoever derived by the Recipient from the ownership or operation of the System or arising from the System, including all income from the deposit or investment of any money in the Enterprise Fund or any rate stabilization fund of the Recipient or held on the Recipient’s behalf, and any refundable deposits made to establish credit, and advances or contributions in aid of construction.

“Rule 15c2-12(b)(5)” means Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended.

“SRF” means the Clean Water State Revolving Fund.

“State” means State of California.

“State Water Board” means the State Water Resources Control Board, an administrative and regulatory agency of the State of California.

“System” means all wastewater collection, pumping, transport, treatment, storage, and disposal facilities, including land and easements thereof, owned by the Recipient, including the Project, and all other properties, structures, or works hereafter acquired and constructed by the Recipient and determined to be a part of the System, together with all additions, betterments, extensions, or improvements to such facilities, properties, structures, or works, or any part thereof hereafter acquired and constructed.

“System Obligation” means any long-term obligation of the Recipient payable from the Enterprise Fund, including this Obligation and obligations reflected in Exhibit F.

“Year” means calendar year unless otherwise expressly indicated.

## 1.2 Exhibits and Appendices Incorporated.

All exhibits and appendices to this Agreement, including any amendments and supplements hereto, are hereby incorporated herein and made a part of this Agreement.

## ARTICLE II REPRESENTATIONS, WARRANTIES, AND COMMITMENTS

The Recipient represents, warrants, and commits to the following as of the Eligible Start Date set forth on the first page hereof and continuing thereafter for the term of the Agreement.

### 2.1 General Recipient Commitments.

The Recipient shall comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and

commitments in its application, accompanying documents, and communications filed in support of its request for financial assistance.

## 2.2 Authorization and Validity.

The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized by the Recipient. This Agreement constitutes a valid and binding obligation of the Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.

## 2.3 No Violations.

The execution, delivery, and performance by Recipient of this Agreement, including all incorporated documents, do not violate any provision of any law or regulation in effect as of the date set forth on the first page hereof, or result in any breach or default under any contract, obligation, indenture, or other instrument to which Recipient is a party or by which Recipient is bound as of the date set forth on the first page hereof.

## 2.4 No Litigation.

There are no pending or, to Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which affect the financial condition or operations of the Recipient, the System, the Revenues, and/or the Project.

## 2.5 Solvency.

None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of Recipient. As of the date set forth on the first page hereof, Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. Recipient is able to pay its debts as they become due.

## 2.6 Legal Status and Eligibility.

Recipient is duly organized and existing and in good standing under the laws of the State of California, and will remain so during the term of this Agreement. Recipient shall at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. Recipient shall maintain its eligibility for funding under this Agreement for the term of this Agreement.

## 2.7 Financial Statements.

The financial statements of Recipient previously delivered to the State Water Board as of the date(s) set forth in such financial statements: (a) are materially complete and correct; (b) present fairly the financial condition of the Recipient; and (c) have been prepared in accordance with GAAP. Since the date(s) of such financial statements, there has been no material adverse change in the financial condition of the Recipient, nor have any assets or properties reflected on such financial statements been sold, transferred, assigned, mortgaged, pledged or encumbered, except as previously disclosed in writing by Recipient and approved in writing by the State Water Board.

## 2.8 Completion of Project.

The Recipient shall expeditiously proceed with and complete construction of the Project in substantial accordance with Exhibit A and Exhibit A-FBA.



2.9 Award of Construction Contracts.

- (a) The Recipient shall award the prime construction contract no later than the date specified in Exhibit A.
- (b) The Recipient shall promptly notify the Division in writing both of the award of the prime construction contract for the Project and of Initiation of Construction of the Project. The Recipient shall make all reasonable efforts to complete construction in substantial conformance with the terms of the contract by the Completion of Construction date established in Exhibit A. Such date shall be binding upon the Recipient unless modified in writing by the Division upon a showing of good cause by the Recipient. The Recipient shall deliver any request for extension of the Completion of Construction date no less than 90 days prior to the Completion of Construction date. The Division will not unreasonably deny a timely request, but the Division may deny requests received after this time.

2.10 Notice.

- (a) The Recipient shall notify the Division in writing within five (5) working days of the occurrence of the following:
  - (1) Material defaults on this Obligation;
  - (2) Unscheduled draws on debt service reserves held for this Obligation, if any, reflecting financial difficulties;
  - (3) Bankruptcy, insolvency, receivership or similar event of the Recipient;
  - (4) Actions taken pursuant to state law in anticipation of filing for bankruptcy;
  - (5) Other Material Events or Listed Events;
  - (6) Change of ownership of the Project or change of management or service contracts, if any, for operation of the Project; or
- (b) The Recipient shall notify the Division within 10 working days of the following:
  - (1) Material defaults on System Obligations, other than this Obligation;
  - (2) Unscheduled draws on debt service reserves held for System Obligations, other than this Obligation, if any, reflecting financial difficulties;
  - (3) Unscheduled draws on credit enhancements on System Obligations, if any, reflecting financial difficulties;
  - (4) Substitution of credit or liquidity providers, if any, or their failure to perform;
  - (5) Any litigation pending or threatened against Recipient regarding its wastewater capacity or its continued existence, circulation of a petition to challenge rates, consideration of dissolution, or disincorporation, or any other material threat to the Recipient's Revenues;
  - (6) Adverse tax opinions, the issuance by the Internal Revenue Service or proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of any tax-exempt bonds;
  - (7) Rating changes on outstanding System Obligations, if any; or

- (8) Issuance of additional parity obligations.
- (c) The Recipient shall notify the Division promptly of the following:
- (1) Any substantial change in scope of the Project. The Recipient shall undertake no substantial change in the scope of the Project until written notice of the proposed change has been provided to the Division and the Division has given written approval for the change;
  - (2) Cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more;
  - (3) Any circumstance, combination of circumstances, or condition, which is expected to or does delay Completion of Construction for a period of ninety (90) days or more beyond the estimated date of Completion of Construction previously provided to the Division;
  - (4) Discovery of any potential archeological or historical resource. Should a potential archeological or historical resource be discovered during construction of the Project, the Recipient agrees that all work in the area of the find will cease until a qualified archeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has determined what actions should be taken to protect and preserve the resource. The Recipient shall implement appropriate actions as directed by the Division;
  - (5) Discovery of any unexpected endangered or threatened species, as defined in the federal Endangered Species Act. Should a federally protected species be unexpectedly encountered during construction of the Project, the Recipient agrees to promptly notify the Division. This notification is in addition to the Recipient's obligations under the federal Endangered Species Act;
  - (6) Any Project monitoring, demonstration, or other implementation activities such that the State Water Board and/or Regional Water Quality Control Board staff may observe and document such activities;
  - (7) Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by state and federal representatives with at least ten (10) working days' notice to both the Division and USEPA Region IX. The contact for USEPA Region IX is Josh Amaris at [Amaris.josh@epa.gov](mailto:Amaris.josh@epa.gov) (415) 972-3597; or
  - (8) Completion of Construction of the Project, and actual Project Completion.

## 2.11 Findings and Challenge

Upon consideration of a voter initiative to reduce Revenues, the Recipient shall make a finding regarding the effect of such a reduction on the Recipient's ability to satisfy the rate covenant set forth in Section 3.7 of this Agreement. The Recipient shall make its findings available to the public and shall request, if necessary, the authorization of the Recipient's decision-maker or decision-making body to file litigation to challenge any such initiative that it finds will render it unable to satisfy the rate covenant set forth in Section 3.7 and its obligation to operate and maintain the Project for its useful life. The Recipient shall diligently pursue and bear any and all costs related to such challenge. The Recipient shall notify and regularly update the State Water Board regarding any such challenge.



## 2.12 Project Access.

The Recipient shall ensure that the State Water Board, the Governor of the State, the United States Environmental Protection Agency, the Office of Inspector General, any member of Congress, the President of the United States, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during Project construction and thereafter for the term of the Obligation. The Recipient acknowledges that, except for a subset of information regarding archaeological records, the Project records and locations are public records, including but not limited to all of the submissions accompanying the application, all of the documents incorporated by Exhibit A and Exhibit A-FBA, and all reports, disbursement requests, and supporting documentation submitted hereunder.

## 2.13 Project Completion; Initiation of Operations.

Upon Completion of Construction of the Project, the Recipient shall expeditiously initiate Project operations.

## 2.14 Continuous Use of Project; Lease or Disposal of Project.

The Recipient agrees that, except as provided in the Agreement, it will not abandon, substantially discontinue use of, lease, or dispose of all or a significant part or portion of the Project during the useful life of the Project without prior written approval of the Division. Such approval may be conditioned as determined to be appropriate by the Division, including a condition requiring repayment of all disbursed Project Funds of all or any portion of all remaining funds covered by this Agreement together with accrued interest and any penalty assessments that may be due.

## 2.15 Project Reports.

- (a) Status Reports. The Recipient shall provide expeditiously status reports no less frequently than quarterly, starting with the execution of this Agreement. These reports must accompany any disbursement request and are a condition precedent to any disbursement. At a minimum the reports will contain the following information:
  - (1) A summary of progress to date including a description of progress since the last report, percent construction complete, percent contractor invoiced, and percent schedule elapsed;
  - (2) A description of compliance with environmental requirements;
  - (3) A listing of change orders including amount, description of work, and change in contract amount and schedule; and
  - (4) Any problems encountered, proposed resolution, schedule for resolution, and status of previous problem resolutions.
- (b) Project Completion Report. The Recipient shall submit a Project Completion Report to the Division with a copy to the appropriate Regional Water Quality Control Board on or before the due date established by the Division and the Recipient at the time of final project inspection. The Project Completion Report must address the following:
  - (1) Describe the Project,
  - (2) Describe the water quality problem the Project sought to address,

- (3) Discuss the Project's likelihood of successfully addressing that water quality problem in the future, and
  - (4) Summarize compliance with environmental conditions, if applicable.
  - (5) If the Recipient fails to submit a timely Project Completion Report, then the State Water Board may stop processing pending or future applications for new financial assistance, withhold disbursements under this Agreement or other agreements, and begin administrative proceedings.
- (c) As Needed Reports. The Recipient shall provide expeditiously, during the term of this Agreement, any reports, data, and information reasonably required by the Division, including but not limited to material necessary or appropriate for evaluation of the funding program or to fulfill any reporting requirements of the state or federal government.

2.16 Federal Disadvantaged Business Enterprise (DBE) Reporting.

The Recipient shall report DBE utilization to the Division on the DBE Utilization Report, State Water Board Form DBE UR334. The Recipient must submit such reports to the Division annually within ten (10) calendar days following October 1 until such time as the "Notice of Completion" is issued. The Recipient shall comply with 40 CFR § 33.301.

2.17 Records.

- (a) Without limitation of the requirement to maintain Project accounts in accordance with GAAP, the Recipient shall:
- (1) Establish an official file for the Project which adequately documents all significant actions relative to the Project;
  - (2) Establish separate accounts which will adequately and accurately depict all amounts received and expended on the Project, including all assistance funds received under this Agreement;
  - (3) Establish separate accounts which will adequately depict all income received which is attributable to the Project, specifically including any income attributable to assistance funds disbursed under this Agreement;
  - (4) Establish an accounting system which will accurately depict final total costs of the Project, including both direct and indirect costs;
  - (5) Establish such accounts and maintain such records as may be necessary for the State to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations; and
  - (6) If Force Account is used by the Recipient for any phase of the Project, other than for planning, design, and construction engineering and administration provided for by allowance, accounts will be established which reasonably document all employee hours charged to the Project and the associated tasks performed by each employee. Indirect Force Account costs are not eligible for funding.
- (b) The Recipient shall maintain separate books, records and other material relative to the Project. The Recipient shall also retain such books, records, and other material for itself and for each contractor or subcontractor who performed or performs work on this project for a minimum of thirty-six (36) years after Project Completion. The Recipient shall require that such books,

records, and other material are subject at all reasonable times (at a minimum during normal business hours) to inspection, copying, and audit by the State Water Board, the Bureau of State Audits, the United States Environmental Protection Agency (USEPA), the Office of Inspector General, the Internal Revenue Service, the Governor, or any authorized representatives of the aforementioned. The Recipient shall allow and shall require its contractors to allow interviews during normal business hours of any employees who might reasonably have information related to such records. The Recipient agrees to include a similar duty regarding audit, interviews, and records retention in any contract or subcontract related to the performance of this Agreement. The provisions of this section shall survive the discharge of the Recipient's Obligation and the term of this Agreement.

2.18 Audit.

- (a) The Division may call for an audit of financial information relative to the Project if the Division determines that an audit is desirable to assure program integrity or if an audit becomes necessary because of state or federal requirements. If an audit is called for, the audit shall be performed by a certified public accountant independent of the Recipient and at the cost of the Recipient. The audit shall be in the form required by the Division
- (b) Audit disallowances will be returned to the State Water Board.

ARTICLE III FINANCING PROVISIONS

3.1 Purchase and Sale of Project.

The Recipient hereby sells to the State Water Board and the State Water Board hereby purchases from the Recipient the Project. Simultaneously therewith, the Recipient hereby purchases from the State Water Board, and the State Water Board hereby sells to the Recipient, the Project in accordance with the provisions of this Agreement. All right, title, and interest in the Project shall immediately vest in the Recipient on the date of execution and delivery of this Agreement without further action on the part of the Recipient or the State Water Board. The State Water Board's disbursement of funds hereunder is contingent on the Recipient's compliance with the terms and conditions of this Agreement.

3.2 Amounts Payable by the Recipient.

- (a) Installment Payments. Interest will accrue beginning with each disbursement. Beginning one year after Completion of Construction, repayment of the principal of the Project Funds, together with all interest accruing thereon, shall be repaid, and shall be fully amortized by the date specified in Exhibit B.

The Installment Payments are based on a standard fully amortized assistance amount with equal annual payments. The remaining balance is the previous balance, plus the disbursements, plus the accrued interest on both, less the Installment Payment. Installment Payment calculations will be made beginning one (1) year after Completion of Construction and shall be fully amortized not later than the date specified in Exhibit B. Exhibit C is a payment schedule based on the provisions of this article and an estimated disbursement schedule. Actual payments will be based on actual disbursements.

Upon Completion of Construction and submission of necessary reports by the Recipient, the Division will prepare an appropriate payment schedule and supply the same to the Recipient. The Division may amend this schedule as necessary to accurately reflect amounts due under this Agreement. The Division will prepare any necessary amendments to the payment schedule and send them to the Recipient.

The Recipient shall make each Installment Payment on or before the due date therefor. A ten (10) day grace period will be allowed, after which time a penalty in the amount of costs incurred by the State Water Board will be assessed for late payment. These costs may include, but are not limited to, lost interest earnings, staff time, bond debt service default penalties, if any, and other costs. For purposes of penalty assessment, payment will be deemed to have been made if payment is deposited in the U.S. Mail within the grace period with postage prepaid and properly addressed. Any penalties assessed will not be added to the assistance amount balance, but will be treated as a separate account and obligation of the Recipient. The interest penalty will be assessed from the payment due date.

The Recipient as a whole is obligated to make all payments required by this Agreement to the State Water Board, notwithstanding any individual default by its constituents or others in the payment to the Recipient of fees, charges, taxes, assessments, tolls or other charges ("Charges") levied or imposed by the Recipient. The Recipient shall provide for the punctual payment to the State Water Board of all amounts which become due under this Agreement and which are received from constituents or others in the payment to the Recipient. In the event of failure, neglect or refusal of any officer of the Recipient to levy or cause to be levied any Charge to provide payment by the Recipient under this Agreement, to enforce or to collect such Charge, or to pay over to the State Water Board any money collected on account of such Charge necessary to satisfy any amount due under this Agreement, the State Water Board may take such action in a court of competent jurisdiction as it deems necessary to compel the performance of all duties relating to the imposition or levying and collection of any of such Charges and the payment of the money collected therefrom to the State Water Board. Action taken pursuant hereto shall not deprive the State Water Board of, or limit the application of, any other remedy provided by law or by this Agreement.

Each Installment Payment shall be paid by check and in lawful money of the United States of America.

The Recipient shall not be entitled to interest earned on undisbursed funds. Upon execution of this Agreement, the State Water Board shall encumber an amount equal to the Obligation. The Recipient shall pay Installment Payments and Additional Payments from Net Revenues and/or other amounts legally available to the Recipient therefor. Interest on any funds disbursed to the Recipient shall begin to accrue as of the date of each disbursement.

- (b) Project Costs. The Recipient shall pay any and all costs connected with the Project including, without limitation, any and all Project Costs. If the Project Funds are not sufficient to pay the Project Costs in full, the Recipient shall nonetheless complete the Project and pay that portion of the Project Costs in excess of available Project Funds, and shall not be entitled to any reimbursement therefor from the State Water Board.
- (c) Additional Payments. In addition to the Installment Payments required to be made by the Recipient, the Recipient shall also pay to the State Water Board the reasonable extraordinary fees and expenses of the State Water Board, and of any assignee of the State Water Board's right, title, and interest in and to this Agreement, in connection with this Agreement, including all expenses and fees of accountants, trustees, staff, contractors, consultants, costs, insurance premiums and all other extraordinary costs reasonably incurred by the State Water Board or assignee of the State Water Board.

Additional Payments may be billed to the Recipient by the State Water Board from time to time, together with a statement executed by a duly authorized representative of the State Water Board, stating that the amounts billed pursuant to this section have been incurred by the State Water Board or its assignee for one or more of the above items and a copy of the invoice or statement for the amount so incurred or paid. Amounts so billed shall be paid by the Recipient within thirty (30) days after receipt of the bill by the Recipient.

- (d) The Recipient may without penalty prepay all or any portion of the outstanding principal amount of the Obligation provided that the Recipient shall also pay at the time of such prepayment all accrued interest on the principal amount prepaid through the date of prepayment.

### 3.3 Obligation Absolute.

The obligation of the Recipient to make the Installment Payments and other payments required to be made by it under this Agreement, from Net Revenues and/or other amounts legally available to the Recipient therefor, is absolute and unconditional, and until such time as the Installment Payments and Additional Payments have been paid in full, the Recipient shall not discontinue or suspend any Installment Payments or other payments required to be made by it hereunder when due, whether or not the System or any part thereof is operating or operable or has been completed, or its use is suspended, interfered with, reduced or curtailed or terminated in whole or in part, and such Installment Payments and other payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

### 3.4 No Obligation of the State.

Any obligation of the State Water Board herein contained shall not be an obligation, debt, or liability of the State and any such obligation shall be payable solely out of the moneys in the SRF encumbered pursuant to this Agreement.

### 3.5 Disbursement of Project Funds; Availability of Funds.

- (a) Except as may be otherwise provided in this Agreement, disbursement of Project Funds will be made as follows:
  - (1) Upon execution and delivery of this Agreement, the Recipient may request immediate disbursement of any eligible incurred planning and design allowance as specified in Exhibit B from the Project Funds through submission to the State Water Board of the Disbursement Request Form 260, or any amendment thereto, duly completed and executed.
  - (2) The Recipient may request disbursement of eligible construction and equipment costs consistent with budget amounts referenced in Exhibit B and Exhibit A-FBA. (Note that this Agreement will be amended to incorporate Exhibit A-FBA after final budget approval.)
  - (3) Additional Project Funds will be promptly disbursed to the Recipient upon receipt of Disbursement Request Form 260, or any amendment thereto, duly completed and executed by the Recipient for incurred costs consistent with this Agreement, along with receipt of status reports due under Section 2.15 above.
  - (4) The Recipient shall not request disbursement for any Project Cost until such cost has been incurred and is currently due and payable by the Recipient, although the actual payment of such cost by the Recipient is not required as a condition of disbursement request.
  - (5) Recipient shall spend Project Funds within 30 days of receipt. Any interest earned on Project Funds shall be reported to the State Water Board and may be required to be returned to the State Water Board or deducted from future disbursements.
  - (6) The Recipient shall not be entitled to interest earned on undisbursed planning funds.
  - (7) The Recipient shall not request a disbursement unless that Project Cost is allowable, reasonable, and allocable.



- (8) Notwithstanding any other provision of this Agreement, no disbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, policies, or regulations.
- (b) The State Water Board's obligation to disburse Project Funds is contingent upon the availability of sufficient funds to permit the disbursements provided for herein. If sufficient funds are not available for any reason, including but not limited to failure of the federal or State government to appropriate funds necessary for disbursement of Project Funds, the State Water Board shall not be obligated to make any disbursements to the Recipient under this Agreement. This provision shall be construed as a condition precedent to the obligation of the State Water Board to make any disbursements under this Agreement. Nothing in this Agreement shall be construed to provide the Recipient with a right of priority for disbursement over any other agency. If any disbursements due the Recipient under this Agreement are deferred because sufficient funds are unavailable, it is the intention of the State Water Board that such disbursement will be made to the Recipient when sufficient funds do become available, but this intention is not binding.
- 3.6 Withholding of Disbursements and Material Violations.
- (a) The State Water Board may withhold all or any portion of the funds provided for by this Agreement in the event that:
- (1) The Recipient has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or
  - (2) The Recipient fails to maintain reasonable progress toward completion of the Project.
- (b) For the purposes of this Agreement, the terms "material violation" or "threat of material violation" include, but are not limited to:
- (1) Placement on the ballot of an initiative or referendum to reduce Revenues;
  - (2) Passage of such an initiative or referendum;
  - (3) Successful challenges by ratepayer(s) to the process used by Recipient to set, dedicate, or otherwise secure Revenues; or
  - (4) Any other action or lack of action that may be construed by the Division as a material violation or threat thereof.
- 3.7 Pledge; Rates, Fees and Charges; Additional Debt.
- (a) Establishment of Enterprise Fund and Reserve Fund. In order to carry out its Material Obligations, the Recipient covenants that it shall establish and maintain or shall have established and maintained the Enterprise Fund. All Revenues received shall be deposited when and as received in trust in the Enterprise Fund. As required in Exhibit D of this Agreement, the Recipient shall establish and maintain a Reserve Fund.
- (b) Pledge of Net Revenues, Enterprise Fund, and Reserve Fund. The Obligation hereunder shall be secured by a lien on and pledge of the Enterprise Fund, Net Revenues, and any Reserve Fund specified in Exhibit D in priority as specified in Exhibit F (senior, parity, or subordinate). The Recipient hereby pledges and grants such lien on and pledge of the Enterprise Fund, Net Revenues, and any Reserve Fund specified in Exhibit D to secure the Obligation, including payment of Installment Payments and Additional Payments hereunder. The Net Revenues in the Enterprise Fund, shall be subject to the lien of such pledge without any physical delivery thereof

or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Recipient.

- (c) Application and Purpose of the Enterprise Fund. Subject to the provisions of any outstanding Material Obligation, money on deposit in the Enterprise Fund shall be applied and used first, to pay Operations and Maintenance Costs, and thereafter, all amounts due and payable with respect to the Material Obligations. After making all payments hereinabove required to be made in each Fiscal Year, the Recipient may expend in such Fiscal Year any remaining money in the Enterprise Fund for any lawful purpose of the Recipient, including payment of subordinate debt.
- (d) Rates, Fees and Charges. The Recipient shall, to the extent permitted by law, fix, prescribe and collect rates, fees and charges for the System during each Fiscal Year which are reasonable, fair, and nondiscriminatory and which will be at least sufficient to yield during each Fiscal Year Net Revenues equal to the debt service on System Obligations, including the Obligation, for such Fiscal Year, plus any coverage ratio specified in Exhibit D of this Agreement. The Recipient may make adjustments from time to time in such fees and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates, fees and charges then in effect unless the Net Revenues from such reduced rates, fees, and charges will at all times be sufficient to meet the requirements of this section.
- (e) Additional Debt Test.
  - (1) Additional Senior Debt. The Recipient's future debt that is secured by revenues pledged herein may not be senior to this Obligation, except where the new senior obligation refunds or refinances a senior obligation with the same lien position as the existing senior obligation, the new senior obligation has the same or earlier repayment term as the refunded senior debt, the new senior debt service is the same or lower than the existing debt service, and the new senior debt will not diminish the applicant's ability to repay its SRF obligations.
  - (2) Additional Parity Debt. Future debt that is secured by revenues pledged herein may be on parity with this Obligation if the reserve and coverage requirements in Exhibit D to this Agreement are met.

### 3.8 Financial Management System and Standards.

The Recipient shall comply with federal standards for financial management systems. The Recipient agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit preparation of reports required by the federal government and tracking of Project funds to a level of expenditure adequate to establish that such funds have not been used in violation of federal or state law or the terms of this Agreement. To the extent applicable, the Recipient shall be bound by, and to comply with, the provisions and requirements of the federal Single Audit Act of 1984, Office of Management and Budget (OMB) Circular No. A-133, and updates or revisions, thereto, including but not limited to Section 210(a)-(d). (Pub. L. 98-502.)

### 3.9 Accounting and Auditing Standards.

The Recipient must maintain project accounts according to GAAP as issued by the Governmental Accounting Standards Board (GASB). The Recipient shall maintain GAAP-compliant project accounts, including GAAP requirements relating to the reporting of infrastructure assets.

### 3.10 Other Assistance.

If funding for Project Costs is made available to the Recipient from sources other than this Agreement, the Recipient shall notify the Division. The Recipient may retain such funding up to an amount which equals the Recipient's local share of Project Costs. To the extent allowed by requirements of other

funding sources, excess funding shall be remitted to the State Water Board to be applied to Installment Payments due hereunder, if any.

#### ARTICLE IV TAX COVENANTS

##### 4.1 Purpose.

The purpose of this Article IV is to establish the reasonable expectations of the Recipient regarding the Project and the Project Funds, and is intended to be and may be relied upon for purposes of Sections 103, 141 and 148 of the Code and as a certification described in Section 1.148-2(b)(2) of the Treasury Regulations. This Article IV sets forth certain facts, estimates and circumstances which form the basis for the Recipient's expectation that neither the Project nor the Bond Funded Portion of the Project Funds is to be used in a manner that would cause the Obligation to be classified as "arbitrage bonds" under Section 148 of the Code or "private activity bonds" under Section 141 of the Code.

##### 4.2 Tax Covenant.

The Recipient agrees that it will not take or authorize any action or permit any action within its reasonable control to be taken, or fail to take any action within its reasonable control, with respect to the Project which would result in the loss of the exclusion of interest on the Bonds from gross income for federal income tax purposes under Section 103 of the Code.

##### 4.3 Governmental Unit.

The Recipient is a state or local governmental unit as defined in Section 1.103-1 of the Treasury Regulations or an instrumentality thereof (a "Governmental Unit") and is not the federal government or any agency or instrumentality thereof.

##### 4.4 Financing of a Capital Project.

The Recipient will use the Project Funds to finance costs it has incurred or will incur for the construction, reconstruction, installation or acquisition of the Project. Such costs have not previously been financed with the proceeds of any other issue of tax-exempt obligations.

##### 4.5 Ownership and Operation of Project.

The Recipient exclusively owns and, except as provided in Section 4.12 hereof, operates the Project.

##### 4.6 Temporary Period.

The Recipient reasonably expects that at least eighty-five percent (85%) of the Bond Funded Portion of the Project Funds will be allocated to expenditures for the Project within five (5) years of the earlier of the effective date of this Agreement or the date the Bonds are issued ("Applicable Date"). The Recipient has incurred, or reasonably expects that it will incur within six (6) months of the Applicable Date, a substantial binding obligation (i.e., not subject to contingencies within the control of the Recipient or a related party) to a third party to expend at least five percent (5%) of the Bond Funded Portion of the Project Funds on Project Costs. The completion of acquisition, construction, improvement and equipping of the Project and the allocation of the Bond Funded Portion of the Project Funds to Project Costs will proceed with due diligence. In the judgment of the Recipient and the [Architect/Engineer], the Project involves a substantial amount of construction. The Recipient hereby certifies and the [Architect/Engineer] has certified in the certificate attached to this Agreement that a five (5) year period is required for construction of the Project.



#### 4.7 Working Capital.

No operational expenditures of the Recipient or any related entity are being, have been or will be financed or refinanced with Project Funds.

#### 4.8 Expenditure of Proceeds.

The Bond Funded Portion of the Project Funds shall be used exclusively for the following purposes: (i) Reimbursement Expenditures (as defined in Section 4.20 below), (ii) Preliminary Expenditures (as defined in Section 4.20 below) in an aggregate amount not exceeding twenty percent (20%) of the Bond Funded Portion of the Project Funds, (iii) capital expenditures relating to the Project originally paid by the Recipient on or after the date hereof, (iv) interest on the Obligation through the later of three (3) years after the Applicable Date or one (1) year after the Project is placed in service, and (v) initial operating expenses directly associated with the Project in the aggregate amount not more than five percent (5%) of the Bond Funded Portion of the Project Funds.

#### 4.9 Private Use and Private Payments.

No portion of the Project Funds or the Project is being, has been or will be used in the aggregate for any activities that constitute a Private Use (as defined below). No portion of the principal of or interest with respect to the Installment Payments will be secured by any interest in property (whether or not the Project) used for a Private Use or in payments in respect of property used for a Private Use, or will be derived from payments in respect of property used for a Private Use. "Private Use" means any activity that constitutes a trade or business that is carried on by persons or entities, other than a Governmental Unit. The leasing of the Project or the access by or the use of the Project by a person or entity other than a Governmental Unit on a basis other than as a member of the general public shall constitute a Private Use. Use by or on behalf of the State of California or any of its agencies, instrumentalities or subdivisions or by any local Governmental Unit and use as a member of the general public will be disregarded in determining whether a Private Use exists. Use under an arrangement that conveys priority rights or other preferential benefits is generally not use on the same basis as the general public. Arrangements providing for use that is available to the general public at no charge or on the basis of rates that are generally applicable and uniformly applied do not convey priority rights or other preferential benefits. For this purpose, rates may be treated as generally applicable and uniformly applied even if (i) different rates apply to different classes of users, such as volume purchasers, if the differences in rates are customary and reasonable; or (ii) a specially negotiated rate arrangement is entered into, but only if the user is prohibited by federal law from paying the generally applicable rates, and the rates established are as comparable as reasonably possible to the generally applicable rates. An arrangement that does not otherwise convey priority rights or other preferential benefits is not treated, nevertheless, as general public use if the term of the use under the arrangement, including all renewal options, is greater than 200 days. For this purpose, a right of first refusal to renew use under the arrangement is not treated as a renewal option if (i) the compensation for the use under the arrangement is redetermined at generally applicable, fair market value rates that are in effect at the time of renewal; and (ii) the use of the financed property under the same or similar arrangements is predominantly by natural persons who are not engaged in a trade or business.

#### 4.10 No Sale, Lease or Private Operation of the Project.

The Project (or any portion thereof) will not be sold or otherwise disposed of, in whole or in part, to any person who is not a Governmental Unit prior to the final maturity date of the Obligation. The Project will not be leased to any person or entity that is not a Governmental Unit prior to the final maturity date of the Obligation. Except as permitted under Section 4.12 hereof, the Recipient will not enter any contract or arrangement or cause or permit any contract or arrangement to be entered with persons or entities that are not Governmental Units if that contract or arrangement would confer on such persons or entities any right to use the Project on a basis different from the right of members of the general public. The contracts

or arrangements contemplated by the preceding sentence include but are not limited to management contracts, take or pay contracts or put or pay contracts, and capacity guarantee contracts.

#### 4.11 No Disproportionate or Unrelated Use.

No portion of the Project Funds or the Project is being, have been, or will be used for a Private Use that is unrelated or disproportionate to the governmental use of the Project Funds.

#### 4.12 Management and Service Contracts.

With respect to management and service contracts, the determination of whether a particular use constitutes Private Use shall be determined on the basis of applying Section 1.141-3(b)(4) of the Treasury Regulations, Revenue Procedure 97-13, IRS Notice 2014-67, and other applicable rules and regulations. As of the date hereof, no portion of the Bond Funded Portion of the Project Funds or the Project is being used to provide property subject to contracts or other arrangements with persons or entities engaged in a trade or business (other than Governmental Units) that involve the management of property or the provision of services that do not comply with the standards of the Treasury Regulations and Revenue Procedure 97-13, as modified by IRS Notice 2014-67.

Except to the extent the Recipient has received an opinion of counsel expert in the issuance of state and local government bonds the interest on which is excluded from gross income under Section 103 of the Code ("Nationally-Recognized Bond Counsel") and satisfactory to the State Water Board and the Bank to the contrary, the Recipient will not enter into any management or service contracts with any person or entity that is not a Governmental Unit for services to be provided with respect to the Project while the Obligation is outstanding, unless the contract meets the following requirements: (i) the compensation is reasonable for the services rendered; (ii) the compensation is not based, in whole or in part, on a share of net profits from the operation of the Project; (iii) the term of the contract, including all renewal options, does not exceed five (5) years; and (iv) all of the compensation for services for each annual period during the term of the contract is based on a periodic fixed fee or all of the compensation for services is based on a stated amount, a periodic capitation fee, a capitation fee, a per unit fee, or combination of the preceding. The compensation for services may be all, or may include, a percentage of gross revenues, adjusted gross revenues, or expenses of the Project (but not both revenues and expenses). A capitation fee is a fixed periodic amount for each person for whom the service provider assumes the responsibility to provide all needed services for a specified period so long as the quantity and type of services actually provided to covered persons vary substantially, e.g., a fixed dollar amount payable per month to a service provider for each member of a plan for whom the provider agrees to provide all needed services for a specified period. A capitation fee may include a variable component of up to twenty percent (20%) of the total capitation fee designed to protect the service provider against risks such as catastrophic loss.

#### 4.13 No Disposition of Financed Property.

As of the date hereof, the Recipient does not expect to sell or otherwise dispose of any portion of the Project, in whole or in part, prior to the final maturity date of the Obligation.

#### 4.14 Useful Life of Project.

As of the date hereof, the Recipient reasonably expects that the economic useful life of the Project, commencing at Project Completion, will be at least equal to the term of this Agreement, as set forth on Exhibit B hereto.

#### 4.15 Installment Payments.

Installment Payments generally are expected to be derived from assessments, taxes, fees, charges or other current revenues of the Recipient in each year, and such current revenues are expected to equal or exceed the Installment Payments during each payment period. Any amounts accumulated in a sinking

fund or bona fide debt service fund to pay Installment Payments (whether or not deposited to a fund or account established by the Recipient) will be disbursed to pay Installment Payments within thirteen months of the initial date of accumulation or deposit. Any such fund used for the payment of Installment Payments will be depleted once a year except for a reasonable carryover amount not exceeding earnings on such fund or one-twelfth of the Installment Payments in either case for the immediately preceding year.

#### 4.16 No Other Replacement Proceeds.

The Recipient will not use any of the Bond Funded Portion of the Project Funds to replace or substitute other funds of the Recipient that were otherwise to be used to finance the Project or which are or will be used to acquire securities, obligations or other investment property reasonably expected to produce a yield that is materially higher than the yield on the Bonds.

#### 4.17 No Sinking or Pledged Fund.

Except as set forth in Section 4.18 below, the Recipient will not create or establish any sinking fund or pledged fund which will be used to pay Installment Payment on the Obligation within the meaning of Section 1.148-1(c) of the Treasury Regulations. If any sinking fund or pledged fund comes into being with respect to the Obligation before the Obligation has been fully retired which may be used to pay the Installment Payments, the Recipient will invest such sinking fund and pledged fund moneys at a yield that does not exceed the yield on the Bonds.

#### 4.18 Reserve Amount.

The State Water Board requires that the Recipient maintain and fund a separate account in an amount equal to one (1) year of debt service with respect to the Obligation (the "Reserve Amount") as set forth in Exhibit D. The Recipient represents that the Reserve Amount is and will be available to pay debt service with respect to the Obligation, if and when needed. The Reserve Amount consists solely of revenues of the Recipient and does not include any proceeds of any obligations the interest on which is excluded from gross income for federal income tax purposes or investment earnings thereon. The aggregate of the Reserve Amount, up to an amount not exceeding the lesser of (i) ten percent of the aggregate principal amount of the Obligation, (ii) the maximum annual debt service with respect to the Obligation, or (iii) 125 percent of the average annual debt service with respect to the Obligation, will be treated as a reasonably required reserve fund.

#### 4.19 Reimbursement Resolution.

The "reimbursement resolution" adopted by the Recipient is incorporated herein by reference, pursuant to Exhibit A.

#### 4.20 Reimbursement Expenditures.

Reimbursements are disallowed, except as specifically authorized in Exhibit B or Exhibit D of this Agreement. To the extent so authorized, a portion of the Bond Funded Portion of the Project Funds may be applied to reimburse the Recipient for Project costs paid before the date hereof, so long as the Project cost was (i) not paid prior to sixty (60) days before the Recipient's adoption of a declaration of official intent to finance the Project, (ii) not paid more than eighteen (18) months prior to the date hereof or the date the Project was placed-in-service, whichever is later, and (iii) not paid more than five (5) years prior to the date hereof (collectively, "Reimbursement Expenditures"), unless such cost is attributable to a "preliminary expenditure." Preliminary expenditure for this purpose means architectural, engineering, surveying, soil testing and similar costs incurred prior to the commencement of construction or rehabilitation of the Project, but does not include land acquisition, site preparation and similar costs incident to the commencement of acquisition, construction or rehabilitation of the Project. Preliminary expenditures may not exceed 20% of the Bond Funded Portion of the Project Funds.

#### 4.21 Change in Use of the Project.

The Recipient reasonably expects to use all Project Funds and the Project for the entire stated term to maturity of the Obligation. Absent an opinion of Nationally-Recognized Bond Counsel to the effect that such use of the Bond Funded Portion of the Project Funds will not adversely affect the exclusion from federal gross income of interest on the Bonds pursuant to Section 103 of the Code; the Recipient will use the Bond Funded Portion of the Project Funds and the Project solely as set forth in the Agreement.

#### 4.22 Rebate Obligations.

If the Recipient satisfies the requirements of one of the spending exceptions to rebate specified in Section 1.148-7 of the Treasury Regulations, amounts earned from investments, if any, acquired with the Bond Funded Portion of the Project Funds will not be subject to the rebate requirements imposed under Section 148(f) of the Code. If the Recipient fails to satisfy such requirements for any period, it will notify the State Water Board and the Bank immediately and will comply with the provisions of the Code and the Treasury Regulations at such time, including the payment of any rebate amount calculated by the State Water Board or the Bank.

#### 4.23 No Federal Guarantee.

The Recipient will not directly or indirectly use any of the Bond Funded Portion of the Project Funds in any manner that would cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code, taking into account various exceptions including any guarantee related to investments during an initial temporary period until needed for the governmental purpose of the Bonds, investments as part of a bona fide debt service fund, investments of a reasonably required reserve or replacement fund, investments in bonds issued by the United States Treasury, investments in refunding escrow funds or certain other investments permitted under the Treasury Regulations.

#### 4.24 No Notices or Inquiries from IRS.

Within the last 10 years, the Recipient has not received any notice of a final action of the Internal Revenue Service that determines that interest paid or payable on any debt obligation of the Recipient is or was includable in the gross income of an owner or beneficial owner thereof for federal income tax purposes under the Code.

#### 4.25 Amendments.

The provisions in this Article may be amended, modified or supplemented at any time to reflect changes in the Code upon obtaining written approval of the State Water Board and the Bank and an opinion of Nationally-Recognized Bond Counsel to the effect that such amendment, modification or supplement will not adversely affect the exclusion from federal gross income of interest on the Bonds pursuant to Section 103 of the Code.

#### 4.26 Reasonable Expectations.

The Recipient warrants that, to the best of its knowledge, information and belief, and based on the facts and estimates as set forth in the tax covenants in this Article, the expectations of the Recipient as set forth in this Article are reasonable. The Recipient is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representation made in the provisions in this Article IV.

#### 4.27 No Hedge Bonds.

As of the Applicable Date, the Recipient reasonably expects to spend the Bond Funded Portion of the Project Funds in accordance with the following schedule: (i) at least 10% spent within one (1) year of the Applicable Date; (ii) at least 30% spent within two (2) years of the Applicable Date; (iii) at least 60% spent within three (3) years of the Applicable Date; and (iv) at least 85% spent within five (5) years of the Applicable Date, as shown in the schedule attached to the certificate of the [Architect/Engineer].

## ARTICLE V MISCELLANEOUS PROVISIONS

### 5.1 Amendment.

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.

### 5.2 Assignability.

The Recipient consents to any pledge, sale, or assignment to the Bank or a trustee for the benefit of the owners of the Bonds, if any, at any time of any portion of the State Water Board's estate, right, title, and interest and claim in, to and under this Agreement and the right to make all related waivers and agreements in the name and on behalf of the State Water Board, as agent and attorney-in-fact, and to perform all other related acts which are necessary and appropriate under this Agreement, if any, and the State Water Board's estate, right, title, and interest and claim in, to and under this Agreement to Installment Payments (but excluding the State Water Board's rights to Additional Payments and to notices, opinions and indemnification under each Obligation). This Agreement is not assignable by the Recipient, either in whole or in part, without the consent of the State Water Board in the form of a formal written amendment to this Agreement.

### 5.3 Bonding.

Where contractors are used, the Recipient shall not authorize construction to begin until each contractor has furnished a performance bond in favor of the Recipient in the following amounts: faithful performance (100%) of contract value; labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$20,000.00.

### 5.4 Competitive Bidding

Recipient shall adhere to any applicable state or local ordinance for competitive bidding and applicable labor laws.

### 5.5 Compliance with Law, Regulations, etc.

The Recipient shall, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements. Without limitation of the foregoing, to the extent applicable, the Recipient shall:

- (a) Comply with the provisions of the adopted environmental mitigation plan, if any, for the term of this Agreement;
- (b) Comply with the State Water Board's Policy;
- (c) Comply with and require compliance with the list of state laws attached as Exhibit H.
- (d) Comply with and require its contractors and subcontractors on the Project to comply with federal DBE requirements; and



- (e) Comply with and require its contractors and subcontractors to comply with the list of federal laws attached as Exhibit E.

#### 5.6 Conflict of Interest.

The Recipient certifies that its owners, officers, directors, agents, representatives, and employees are in compliance with applicable state and federal conflict of interest laws.

#### 5.7 Damages for Breach Affecting Tax-Exempt Status or Federal Compliance

In the event that any breach of any of the provisions of this Agreement by the Recipient shall result in the loss of tax-exempt status for any bonds of the State or any subdivision or agency thereof, including Bonds issued on behalf of the State Water Board, or if such breach shall result in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government by reason of any arbitrage profits, the Recipient shall immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach. In the event that any breach of any of the provisions of this Agreement by the Recipient shall result in the failure of Project Funds to be used pursuant to the provisions of this Agreement, or if such breach shall result in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government, the Recipient shall immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

#### 5.8 Disputes.

- (a) The Recipient may appeal a staff decision within 30 days to the Deputy Director of the Division or designee, for a final Division decision. The Recipient may appeal a final Division decision to the State Water Board within 30 days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute.
- (b) This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law.
- (c) Recipient shall continue with the responsibilities under this Agreement during any dispute.
- (d) This section 5.8 relating to disputes does not establish an exclusive procedure for resolving claims within the meaning of Government Code sections 930 and 930.4.

#### 5.9 Governing Law.

This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

#### 5.10 Income Restrictions.

The Recipient agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Recipient under this Agreement shall be paid by the Recipient to the State Water Board, to the extent that they are properly allocable to costs for which the Recipient has been reimbursed by the State Water Board under this Agreement.

#### 5.11 Indemnification and State Reviews.

The parties agree that review or approval of Project plans and specifications by the State Water Board is for administrative purposes only, including conformity with application and eligibility criteria, and expressly not for the purposes of design defect review or construction feasibility, and does not relieve the Recipient of its responsibility to properly plan, design, construct, operate, and maintain the Project. To the extent permitted by law, the Recipient agrees to indemnify, defend, and hold harmless the State Water Board, the Bank, and any trustee, and their officers, employees, and agents for the Bonds, if any (collectively, "Indemnified Persons"), against any loss or liability arising out of any claim or action brought against any Indemnified Persons from and against any and all losses, claims, damages, liabilities, or expenses, of every conceivable kind, character, and nature whatsoever arising out of, resulting from, or in any way connected with (1) the System or the Project or the conditions, occupancy, use, possession, conduct, or management of, work done in or about, or the planning, design, acquisition, installation, or construction, of the System or the Project or any part thereof; (2) the carrying out of any of the transactions contemplated by this Agreement or any related document; (3) any violation of any applicable law, rule or regulation, any environmental law (including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the California Hazardous Substance Account Act, the Federal Water Pollution Control Act, the Clean Air Act, the Toxic Substances Control Act, the Occupational Safety and Health Act, the Safe Drinking Water Act, the California Hazardous Waste Control Law, and California Water Code Section 13304, and any successors to said laws), rule or regulation or the release of any toxic substance on or near the System; or (4) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements required to be stated therein, in light of the circumstances under which they were made, not misleading with respect to any information provided by the Recipient for use in any disclosure document utilized in connection with any of the transactions contemplated by this Agreement. The Recipient shall also provide for the defense and indemnification of the Indemnified Parties in any contractual provision extending indemnity to the Recipient in any contract let for the performance of any work under this Agreement, and shall cause the Indemnified Parties to be included within the scope of any provision for the indemnification and defense of the Recipient in any contract or subcontract. To the fullest extent permitted by law, the Recipient agrees to pay and discharge any judgment or award entered or made against Indemnified Persons with respect to any such claim or action, and any settlement, compromise or other voluntary resolution. The provisions of this section shall survive the term of this Agreement and the discharge of the Recipient's Obligation hereunder.

#### 5.12 Independent Actor.

The Recipient, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees, or agents of the State Water Board.

#### 5.13 Leveraging Covenants.

- (a) Tax Covenant. Notwithstanding any other provision hereof, the Recipient covenants and agrees that it will comply with the Tax Covenants set forth in Article IV of this Agreement.
- (b) Disclosure of Financial Information, Operating Data, and Other Information. The Recipient covenants to furnish such financial, operating and other data pertaining to the Recipient as may be requested by the State Water Board to: (i) enable the State Water Board to cause the issuance of Bonds and provide for security therefor; or (ii) enable any underwriter of Bonds issued for the benefit of the State Water Board to comply with Rule 15c2-12(b)(5). The Recipient further covenants to provide the State Water Board with copies of all continuing disclosure reports and materials concerning the Recipient required by the terms of any financing other than this Agreement and to submit such reports to the State Water Board at the same time such reports are submitted to any dissemination agent, trustee, nationally recognized municipal securities

information repository, the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (EMMA) website or other person or entity.

5.14 Non-Discrimination Clause.

- (a) During the performance of this Agreement, Recipient and its contractors and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, sexual orientation, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family care leave, or genetic information, gender, gender identity, gender expression, or military and veteran status.
- (b) The Recipient, its contractors, and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- (c) The Recipient, its contractors, and subcontractors shall comply with the provisions of the Fair Employment and Housing Act and the applicable regulations promulgated thereunder. (Gov. Code, §12990, subds. (a)-(f) et seq.; Cal. Code Regs., tit. 2, § 7285 et seq.) Such regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
- (d) The Recipient, its contractors, and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (e) The Recipient shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

5.15 No Third Party Rights.

The parties to this Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or of any duty, covenant, obligation, or undertaking established herein.

5.16 Operation and Maintenance; Insurance.

The Recipient agrees to sufficiently and properly staff, operate and maintain all portions of the System during its useful life in accordance with all applicable state and federal laws, rules, and regulations.

The Recipient will procure and maintain or cause to be maintained insurance on the System with responsible insurers, or as part of a reasonable system of self-insurance, in such amounts and against such risks (including damage to or destruction of the System) as are usually covered in connection with systems similar to the System. Such insurance may be maintained by a self-insurance plan so long as such plan provides for (i) the establishment by the Recipient of a separate segregated self-insurance fund in an amount determined (initially and on at least an annual basis) by an independent insurance consultant experienced in the field of risk management employing accepted actuarial techniques and (ii) the establishment and maintenance of a claims processing and risk management program.

In the event of any damage to or destruction of the System caused by the perils covered by such insurance, the net proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the System. The Recipient shall begin such reconstruction, repair or replacement as expeditiously as possible, and shall pay out of such net proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same shall be completed and the System shall be free and clear of all claims and liens. If such net proceeds are insufficient to enable the Recipient to pay all remaining unpaid principal portions of the Installment Payments, if any, the Recipient shall provide additional funds to restore or replace the damaged portions of the System.



Recipient agrees that for any policy of general liability insurance concerning the construction of the Project, it will cause, and will require its contractors and subcontractors to cause, a certificate of insurance to be issued showing the State Water Board, its officers, agents, employees, and servants as additional insured; and shall provide the Division with a copy of all such certificates prior to the commencement of construction of the Project.

#### 5.17 Permits, Subcontracting, and Remedies.

The Recipient shall comply in all material respects with all applicable federal, state and local laws, rules and regulations. Recipient shall procure all permits, licenses and other authorizations necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. Signed copies of any such permits or licenses shall be submitted to the Division before construction begins.

The Recipient shall not contract or allow subcontracting with excluded parties. The Recipient shall not contract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this funding is authorized. For any work related to this Agreement, the Recipient shall not contract with any individual or organization on the State Water Board's List of Disqualified Businesses and Persons that is identified as debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this funding under this Agreement is authorized. The State Water Board's List of Disqualified Businesses and Persons is located at [http://www.waterboards.ca.gov/water\\_issues/programs/ustcf/dbp.shtml](http://www.waterboards.ca.gov/water_issues/programs/ustcf/dbp.shtml).

#### 5.18 Prevailing Wages.

The Recipient agrees to be bound by all applicable provisions of State Labor Code regarding prevailing wages. The Recipient shall monitor all agreements subject to reimbursement from this Agreement to ensure that the prevailing wage provisions of the State Labor Code are being met. In addition, the Recipient agrees to comply with the provisions of Exhibit G (Davis-Bacon).

#### 5.19 Public Funding.

This Project is publicly funded. Any service provider or contractor with which the Recipient contracts must not have any role or relationship with the Recipient, that, in effect, substantially limits the Recipient's ability to exercise its rights, including cancellation rights, under the contract, based on all the facts and circumstances.

#### 5.20 Recipient's Responsibility for Work.

The Recipient shall be responsible for all work and for persons or entities engaged in work performed pursuant to this Agreement, including, but not limited to, contractors, subcontractors, suppliers, and providers of services. The Recipient shall be responsible for responding to any and all disputes arising out of its contracts for work on the Project. The State Water Board will not mediate disputes between the Recipient and any other entity concerning responsibility for performance of work.

#### 5.21 Related Litigation.

Under no circumstances may the Recipient use funds from any disbursement under this Agreement to pay costs associated with any litigation the Recipient pursues against the State Water Board or any Regional Water Quality Control Board. Regardless of the outcome of any such litigation, and notwithstanding any conflicting language in this Agreement, the Recipient agrees to repay all of the disbursed funds plus interest in the event that Recipient does not complete the project.

#### 5.22 Rights in Data.

The Recipient agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Recipient may copyright the same, except that, as to any work which is copyrighted by the Recipient, the State reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so, and to receive electronic copies from the Recipient upon request.

#### 5.23 State Water Board Action; Costs and Attorney Fees.

Any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the State Water Board as a result of breach of this Agreement by the Recipient, whether such breach occurs before or after completion of the Project, and exercise of any remedy provided by this Agreement by the State Water Board shall not preclude the State Water Board from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties hereto arising from this Agreement, it is agreed that each party shall bear its own costs and attorney fees.

#### 5.24 Termination; Immediate Acceleration; Interest.

- (a) This Agreement may be terminated by written notice during construction of the Project, or thereafter at any time prior to complete satisfaction of the Obligation by the Recipient, at the option of the State Water Board, upon violation by the Recipient of any material provision of this Agreement after such violation has been called to the attention of the Recipient and after failure of the Recipient to bring itself into compliance with the provisions of this Agreement within a reasonable time as established by the Division.
- (b) In the event of such termination, the Recipient agrees, upon demand, to immediately repay to the State Water Board an amount equal to Project Funds disbursed hereunder, accrued interest, penalty assessments, and Additional Payments. In the event of termination, interest shall accrue on all amounts due at the highest legal rate of interest from the date that notice of termination is mailed to the Recipient to the date all monies due have been received by the State Water Board.

#### 5.25 Timeliness.

Time is of the essence in this Agreement.

#### 5.26 Unenforceable Provision.

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

#### 5.27 Useful Life.

The Recipient warrants that the economic useful life of the Project, commencing at Project Completion, is at least equal to the term of this Agreement, as set forth in Exhibit B hereto.

#### 5.28 Venue.

Any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California.

5.29 Waiver and Rights of the State Water Board.

Any waiver of rights by the State Water Board with respect to a default or other matter arising under the Agreement at any time shall not be considered a waiver of rights with respect to any other default or matter.

Any rights and remedies of the State Water Board provided for in this Agreement are in addition to any other rights and remedies provided by law.

DRAFT

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

**CITY OF SUNNYVALE:**

By: \_\_\_\_\_  
Name: [Officer]  
Title: [Title1]

Date: \_\_\_\_\_

**STATE WATER RESOURCES CONTROL BOARD:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Deputy Director  
Division of Financial Assistance

Date: \_\_\_\_\_

## EXHIBIT A – SCOPE OF WORK

1. The Recipient agrees to start construction no later than the estimated date of \_\_\_\_\_.
2. The Completion of Construction date is hereby established as \_\_\_\_\_.
3. The Recipient agrees to ensure that its final Request for Disbursement is received by the Division no later than six months after Completion of Construction, unless prior approval has been granted by the Division. Otherwise, the undisbursed balance of this Agreement will be deobligated.
4. Incorporated by reference into this Agreement are the following documents:
  - (a) the Final Plans & Specifications, dated \_\_\_\_\_, which are the basis for the construction contract to be awarded by the Recipient (Agreement will be amended to incorporate such document);
  - (b) the Waste Discharge Requirement Order No. \_\_\_\_\_ (and/or National Pollutant Discharge Elimination System Permit No. \_\_\_\_\_); and
  - (c) the Recipient's Reimbursement Resolution No. \_\_\_\_\_ dated \_\_\_\_\_.
5. Reporting. Status Reports due at least quarterly.
6. Scope of Work.

[insert scope]

7. Signage.

The Recipient shall place a sign at least four feet tall by eight feet wide made of ¾ inch thick exterior grade plywood or other approved material in a prominent location on the Project site and shall maintain the sign in good condition for the duration of the construction period. The sign must include the following disclosure statement and color logos (available from the Division):



“Funding for this \$x.x million [name of] project has been provided in full or in part by the Clean Water State Revolving Fund through an agreement with the State Water Resources Control Board. California's Clean Water State Revolving Fund is capitalized through a variety of funding sources, including grants from the United States Environmental Protection Agency and state bond proceeds.”

The Project sign may include another agency's required promotional information so long as the above logos and disclosure statement are equally prominent on the sign. The sign shall be prepared in a professional manner.

The Recipient shall include the following disclosure statement in any document, written report, or brochure prepared in whole or in part pursuant to this Agreement:

## EXHIBIT A – SCOPE OF WORK

“Funding for this project has been provided in full or in part through an agreement with the State Water Resources Control Board. California’s Clean Water State Revolving Fund is capitalized through a variety of funding sources, including grants from the United States Environmental Protection Agency and state bond proceeds. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

## EXHIBIT B – FUNDING AMOUNT

1. Estimated Reasonable Cost. The estimated reasonable cost of the total Project, including associated planning and design costs is Written Dollar Amount dollars and no cents (\$Dollar Amount).
2. Project Financing. Subject to the terms of this Agreement, the State Water Board agrees to provide Project Funds in the amount of up to Written Dollar Amount dollars and no cents (\$Dollar Amount). The estimated amount of principal that will be due to the State Water Board under this Agreement is Written Dollar Amount dollars and no cents (\$Dollar Amount).
3. Payment, Interest Rate, and Charges. The Recipient agrees to make all Installment Payments according to the schedule in Exhibit C at an interest rate of Written Interest Rate % (X%) per annum. The Recipient agrees to pay an Administrative Service Charge in lieu of interest as reflected in Exhibit C. The Recipient agrees to pay a Small Community Grant Fund Charge in lieu of interest as reflected in Exhibit C.
4. [Reserved].
5. [Reserved].
6. [Reserved].
7. The term of this agreement is from                     (Eligible Start Date) to                      .
8. Budget costs are contained in the Project Cost Table below, which is part of Exhibit A-FBA. (This Agreement will be amended to incorporate Exhibit A-FBA.)
9. Preliminary budget costs are as follows:

Planning and design allowances: \$

Construction costs and disbursements are not available until after this Agreement has been amended to incorporate Exhibit A-FBA. Construction costs incurred prior to the Eligible Start Date on the cover page of this Agreement are not eligible for reimbursement. Failure to begin construction according to the timelines set forth in Exhibit A may require the Recipient to repay to the State Water Board all disbursed Project Funds, including planning and design allowances.

## EXHIBIT C – PAYMENT SCHEDULE

See the attached preliminary Payment Schedule dated **Date**. The final Payment Schedule will be forwarded to the Recipient after all disbursements have been paid and construction of the Project has been completed.



## EXHIBIT D – SPECIAL CONDITIONS

Recipient acknowledges and agrees to the following special conditions:

### Financial Special Conditions:

Rates and Charges. Net Revenues shall at least equal 120% of debt service on all outstanding System Obligations.

Additional Parity Debt. Future debt secured by revenues pledged herein may be on a parity with this Obligation if annual Net Revenues at least equal 120% of debt service on all then-outstanding System Obligations and the debt to be issued.

Reserve Fund. The Recipient shall establish a restricted reserve fund equal to one year's debt service prior to the execution of an agreement. The restricted reserve fund shall be maintained for the full term of the Finance Agreement and shall be subject to lien and pledge as security for the Obligation.

### Environmental Special Conditions:

The documents identified below are incorporated by reference and the Recipient shall comply with the conditions and recommendations therein:

1. The letter dated April 27, 2016, from Julianne Polanco at the Office of Historic Preservation (OHP), Department of Parks and Recreation to Gary Scholze regarding Section 106 of the Historic Preservation Act consultation regarding the Project.
2. The Clean Water Act (CWA) Section 404 Permit dated February 3, 2016, from John C. Morrow of the United States Army Corps of Engineers (ACE) to Craig Mobeck of the City of Sunnyvale.
3. The CWA 401 Certification dated December 9, 2015, from Bruce Wolfe of the San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Regional Water Board) to Craig Mobeck of the City of Sunnyvale.
4. The May 5, 2015 Mitigation Monitoring and Reporting Program, including but not limited to the following mitigation measures:
  - AIR-1 for air quality,
  - BIO-1a through BIO-4 for biological resources, and
  - CUL-1 through CUL-2 for cultural resources.
5. The Recipient shall obtain and submit a copy of the San Francisco Bay Conservation and Development Commission (BCDC) permit to the State Water Board prior to start of Project construction activities.

The Recipient shall make no changes in the Project, construction area, or special conditions, without obtaining the appropriate and necessary prior approval(s) from the State Water Board, the OHP, the San Francisco Bay Regional Water Board, the ACE and the BCDC.

### REPORTING TO THE STATE WATER BOARD

The Recipient shall include the status of its environmental compliance with the measures identified in this Exhibit D in the Project Status Reports under Section 2.15, and shall report its environmental compliance

## EXHIBIT D – SPECIAL CONDITIONS

efforts with these measures identified herein in the Project Completion Report for submittal to the State Water Board after the completion of the Project construction.

## EXHIBIT E – PROGRAMMATIC CONDITIONS & CROSS-CUTTERS

The Recipient agrees to comply with the following federal conditions:

(A) Federal Award Conditions

- (1) American Iron and Steel. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient shall not purchase “iron and steel products” produced outside of the United States on this Project. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient hereby certifies that all “iron and steel products” used in the Project were or will be produced in the United States. For purposes of this section, the term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. “Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.
- (2) Wage Rate Requirements (Davis-Bacon). The Recipient shall include in full the language provided in Exhibit G of this Agreement in all contracts and subcontracts.
- (3) Signage Requirements. The Recipient shall comply with the USEPA’s Guidelines for Enhancing Public Awareness of SRF Assistance Agreements, dated June 3, 2015, as otherwise specified in this Agreement.
- (4) Public or Media Events. The Recipient shall notify the State Water Board and the EPA contact as provided in the notice provisions of this Agreement of public or media events publicizing the accomplishment of significant events related to this Project and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days’ notice.
- (5) EPA General Terms and Conditions (USEPA GTCs). The Recipient shall comply with applicable EPA general terms and conditions found at <http://www.epa.gov/ogd>, including but not limited to the following:
  - (a) DUNS. No Recipient may receive funding under this Agreement unless it has provided its DUNS number to the State Water Board.
  - (b) Executive Compensation. The Recipient shall report the names and total compensation of each of its five most highly compensated executives for the preceding completed fiscal year, as set forth in the USEPA GTCs.
  - (c) Contractors, Subcontractors, Debarment and Suspension, Executive Order 12549; 2 CFR Part 180; 2 CFR Part 1532. The Recipient shall comply with Subpart C of 2 CFR Part 180 and shall ensure that its contracts include compliance. The Recipient shall not subcontract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, “Debarment and Suspension”. The Recipient shall not subcontract with any individual or organization on USEPA’s List of Violating Facilities. The Recipient shall certify

EXHIBIT E – PROGRAMMATIC CONDITIONS & CROSS-CUTTERS

that it and its principals, and shall obtain certifications from its contractors that they and their principals:

- i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
  - ii. Have not within a three (3) year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
  - iv. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.
  - v. Suspension and debarment information can be accessed at <http://www.sam.gov>. The Recipient represents and warrants that it has or will include a term or conditions requiring compliance with this provision in all of its contracts and subcontracts under this Agreement. The Recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the termination, delay or negation of this Agreement, or pursuance of legal remedies, including suspension and debarment.
- (d) Conflict of Interest. Within 10 days, the Recipient shall disclose to the State Water Board any potential conflict of interest consistent with section 4.0 of USEPA's Revised Interim Financial Assistance Conflict of Interest Policy at [http://www.epa.gov/ogd/epa\\_revised\\_interim\\_financial\\_assistance\\_coi\\_policy\\_5\\_2\\_2\\_15.htm](http://www.epa.gov/ogd/epa_revised_interim_financial_assistance_coi_policy_5_2_2_15.htm) . A conflict of interest may result in disallowance of costs.
- (e) Copyright and Patent.
- i. USEPA and the State Water Board have the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement.
  - ii. Where an invention is made with Project Funds, USEPA and the State Water Board retain the right to a worldwide, nonexclusive, nontransferable,

EXHIBIT E – PROGRAMMATIC CONDITIONS & CROSS-CUTTERS

irrevocable, paid-up license to practice the invention owned by the Recipient. The Recipient must utilize the Interagency Edison extramural invention reporting system at <http://iEdison.gov> and shall notify the Division when an invention report, patent report, or utilization report is filed.

- (f) Credit. The Recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this Agreement shall contain the following statement:

“This project has been funded wholly or in part by the United States Environmental Protection Agency and the State Water Resources Control Board. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency or the State Water Resources Control Board, nor does the EPA or the Board endorse trade names or recommend the use of commercial products mentioned in this document.”

- (g) Electronic and Information Technology Accessibility. The Recipient is encouraged to follow guidelines established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194, with respect to enabling individuals with disabilities to participate in its programs supported by this Project.
- (h) Trafficking in Persons. The Recipient, its employees, contractors and subcontractors and their employees may not engage in severe forms of trafficking in persons during the term of this Agreement, procure a commercial sex act during the term of this Agreement, or use forced labor in the performance of this Agreement. The Recipient must include this provision in its contracts and subcontracts under this Agreement. The Recipient must inform the State Water Board immediately of any information regarding a violation of the foregoing. The Recipient understands that failure to comply with this provision may subject the State Water Board to loss of federal funds. The Recipient agrees to compensate the State Water Board for any such funds lost due to its failure to comply with this condition, or the failure of its contractors or subcontractors to comply with this condition. The State Water Board may unilaterally terminate this Agreement if the Recipient that is a private entity is determined to have violated the foregoing. Trafficking Victims Protection Act of 2000.

- (B) Super Cross-Cutters - Civil Rights Obligations. The Recipient must comply with the following federal non-discrimination requirements:

- (1) Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP). (EPA XC HB)
- (2) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities. (EPA XC HB)
- (3) The Age Discrimination Act of 1975, which prohibits age discrimination. (EPA XC HB)
- (4) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex. (EPA XC HB)
- (5) 40 CFR Part 7, as it relates to the foregoing (EPA XC HB)

## EXHIBIT E – PROGRAMMATIC CONDITIONS & CROSS-CUTTERS

### (C) WRRDA Conditions

- (1) Architectural and engineering contracts. Where the Recipient contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services, the Recipient shall ensure that such any such contract is negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based requirement as determined by the State Water Board.
- (2) Fiscal sustainability. The Recipient certifies that it has developed and is implementing a fiscal sustainability plan for the Project that includes an inventory of critical assets that are a part of the Project, an evaluation of the condition and performance of inventoried assets or asset groupings, a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan, and a plan for maintaining, repairing, and, as necessary, replacing the Project and a plan for funding such activities.

### (D) Cross-Cutters

- (1) Executive Order No. 11246. The Recipient shall include in its contracts and subcontracts related to the Project the following provisions:

*"During the performance of this contract, the contractor agrees as follows:*

*"(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.*

*"(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.*

*"(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.*

*"(d) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.*

*"(e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the*

## EXHIBIT E – PROGRAMMATIC CONDITIONS & CROSS-CUTTERS

*Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.*

*"(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.*

*"(g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."*

- (2) Disadvantaged Business Enterprises (40 CFR Part 33). The Recipient agrees to comply with the requirements of USEPA's Program for Utilization of Small, Minority and Women's Business Enterprises. The DBE rule can be accessed at [www.epa.gov/osbp](http://www.epa.gov/osbp) . The Recipient shall comply with, and agrees to require its prime contractors to comply with 40 CFR Section 33.301, and retain all records documenting compliance with the six good faith efforts. (IUP)
- (3) Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans; 42 USC § 7606; 33 USC § 1368. Except where the purpose of this Agreement is to remedy the cause of the violation, the Recipient may not procure goods, services, or materials from suppliers excluded under the federal System for Award Management: <http://www.sam.gov/> .
- (4) Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended; 42 USC §§4601-4655. The Recipient must comply with the Act's implementing regulations at 49 CFR 24.101 through 24.105.
- (5) Debarment and Suspension Executive Order No. 12549 (1986). The Recipient certifies that it will not knowingly enter into a contract with anyone who is ineligible under the 40 CFR Part 32 to participate in the Project. Contractors on the Project must provide a similar certification prior to the award of a contract and subcontractors on the project must provide the general contractor with the certification prior to the award of any subcontract.

# EXHIBIT F – SCHEDULE OF SYSTEM OBLIGATIONS

Except for the following and the Obligation evidenced by this Agreement, the Recipient certifies that it has no outstanding System Obligations and that it is in compliance with all applicable additional debt provisions of the following:

The following outstanding debt is senior to the Obligation:

Title	Total Amount	End Date
None		

The following outstanding debt is on parity with the Obligation:

Title	Total Amount	End Date
Wastewater Revenue Bonds, Series 2010	\$35,380,000	4/1/2040

The following outstanding debt is subordinate to the Obligation:

Title	Total Amount	End Date
Interfund Loan to General Fund	10,620,773	N/A



## EXHIBIT G – DAVIS-BACON REQUIREMENTS

For purposes of this Exhibit only, “subrecipient” or “sub recipient” means the Recipient as defined in this Agreement.

For purposes of this Exhibit only, “recipient” means the State Water Board.

### **I. Requirements For Sub recipients That Are Governmental Entities:**

If a sub recipient has questions regarding when Davis-Bacon (DB) applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact the State Water Board. The recipient or sub recipient may also obtain additional guidance from DOL’s web site at <http://www.dol.gov/whd/>

#### **1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.**

DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund and to any construction project carried out in whole or in part by assistance made available by a drinking water treatment revolving loan fund. If a sub recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub recipient must discuss the situation with the recipient State before authorizing work on that site.

#### **2. Obtaining Wage Determinations.**

(a) Sub recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub recipient shall monitor [www.wdol.gov](http://www.wdol.gov) weekly to ensure that the wage determination contained in the solicitation remains current. The sub recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub recipient.

(ii) If the sub recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub recipient shall monitor [www.wdol.gov](http://www.wdol.gov) on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the sub recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub recipient shall insert the appropriate DOL wage determination from [www.wdol.gov](http://www.wdol.gov) into the ordering instrument.

(c) Sub recipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

## EXHIBIT G – DAVIS-BACON REQUIREMENTS

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The sub recipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

### 3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the sub recipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF or the DWSRF - financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or -FY 2016 Consolidated and Continuing Appropriations Act, the following clauses:

#### (1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. Sub recipients may obtain wage determinations from the U.S. Department of Labor's web site, [www.dol.gov](http://www.dol.gov).

(ii)(A) The sub recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

## EXHIBIT G – DAVIS-BACON REQUIREMENTS

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub recipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The sub recipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the

## EXHIBIT G – DAVIS-BACON REQUIREMENTS

contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

### (3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the sub recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub recipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either

## EXHIBIT G – DAVIS-BACON REQUIREMENTS

directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

### (4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program,



## EXHIBIT G – DAVIS-BACON REQUIREMENTS

the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and sub recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

## EXHIBIT G – DAVIS-BACON REQUIREMENTS

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

### 4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The sub recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub recipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section. (b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen,

## EXHIBIT G – DAVIS-BACON REQUIREMENTS

working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the USEPA and the Department of Labor and the State Water Board, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

### 5. Compliance Verification

(a) The sub recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The sub recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c) The sub recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the sub recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Sub recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the sub recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The sub recipient shall periodically review contractors' and subcontractors' use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/whd/america2.htm>.



## EXHIBIT H – COMPLIANCE WITH CROSS-CUTTING STATE AUTHORITIES

### 1. EMERGENCY DROUGHT REGULATIONS

The Recipient certifies that it complies with and shall continue to comply with the State Water Board's Drought Emergency Water Conservation regulations in Article 22.5 of Chapter 2 of Division 3 of Title 23 of the California Code of Regulations. The Recipient will include a discussion of its implementation in reports submitted pursuant to Section 2.15 of this Agreement.

### 2. CALIFORNIA DEBT INVESTMENT ADVISORY COMMISSION (CDIAC)

Where Recipient is a public entity, Recipient acknowledges its responsibility to file debt obligations with the CDIAC. Recipient understands that CDIAC has waived filing fees for State Water Board SRF debt.

### 3. COMPLIANCE WITH STATE REQUIREMENTS

Recipient represents that is in in compliance with the following conditions precedent and agrees that it will continue to maintain compliance during the term of this Agreement:

#### (a) Monthly Water Diversion Reporting

If Recipient is a water diverter, Recipient must maintain compliance with Water Code section 5103, subdivision (e)(2)(A) by submitting monthly diversion reports to the Division of Water Rights of the State Water Resources Control Board.

#### (b) Public Works Contractor Registration with Department Of Industrial Relations

To bid for public works contracts, Recipient and Recipient's subcontractors must register with the Department of Industrial Relations as required by Labor Code sections 1725.5 and 1771.1.

#### (c) Volumetric Pricing & Water Meters

If Recipient is an "urban water supplier" as defined by Water Code section 10617, Recipient must charge each customer for actual water volume measured by water meter according to the requirements of Water Code sections 526 and 527. Section 527 further requires that such suppliers not subject to section 526 install water meters on all municipal and industrial service connections within their service area by 2025.

#### (d) Urban Water Management Plan

If Recipient is an "urban water supplier" as defined by Water Code section 10617, the Recipient certifies that this Project complies with the Urban Water Management Planning Act (Water Code, § 10610 et seq.). This shall constitute a condition precedent to this Agreement.

#### (e) Urban Water Demand Management

If Recipient is an "urban water supplier" as defined by Water Code section 10617, Recipient must comply with water conservation measures established by SBx7-7. (Water Code, Sec. 10608.56.)

#### (f) Delta Plan Consistency Findings

If Recipient is a state or local public agency and the proposed action is covered by the Delta Plan, Recipient must submit certification of project consistency with the Delta Plan to the Delta

## EXHIBIT H – COMPLIANCE WITH CROSS-CUTTING STATE AUTHORITIES

Stewardship Council according to the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.

### (g) Agricultural Water Management Plan Consistency

If Recipient is an agricultural water supplier as defined by Water Code section 10608.12, Recipient must comply with Agricultural Water Management Planning requirements as mandated by Water Code section 10852.

### (h) Charter City Project Labor Requirements

If Recipient is a charter city as defined in Labor Code section 1782, subdivision (d)(2), Recipient will comply with the requirements of Labor Code section 1782 and Public Contract Code section 2503 as discussed in the following subparts (1) and (2).

#### (1) Prevailing Wage

Recipient certifies that it is eligible for state funding assistance notwithstanding Labor Code section 1782.

Specifically Recipient certifies that no charter provision nor ordinance authorizes a construction project contractor not to comply with Labor Code's prevailing wage rate requirements, nor, within the prior two years (starting from January 1, 2015 or after) has the city awarded a public works contract without requiring the contractor to comply with such wage rate requirements according to Labor Code section 1782.

#### (2) Labor Agreements

Recipient certifies that no charter provision, initiative, or ordinance limits or constrains the city's authority or discretion to adopt, require, or utilize project labor agreements that include all the taxpayer protection antidiscrimination provisions of Public Contract Code section 2500 in construction projects, and that Recipient is accordingly eligible for state funding or financial assistance pursuant to Public Contract Code section 2503.





# City of Sunnyvale

## Agenda Item

16-0853

Agenda Date: 10/4/2016

---

### REPORT TO COUNCIL

#### SUBJECT

Approve Budget Modification No. 13 to Appropriate \$12,832 of Federal Fiscal Year (FFY) 2016 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Grant Funds for Front Line Law Enforcement Equipment

#### GRANT SUMMARY

On August 17, 2016 the Department of Public Safety (DPS) was awarded grant funds from the U.S. Department of Justice, Bureau of Justice Assistance, in the amount of \$12,832 for the purchase of front line law enforcement equipment.

The Federal Fiscal Year 2016 (FFY2016) JAG allocation will allow the City of Sunnyvale to purchase vital equipment and supplies necessary to support front line law enforcement which will enhance the Department's capabilities. Purchase of the equipment and supplies will be funded primarily with FFY2016 JAG funds, with costs in excess of grant funds (estimated to be \$245) to be absorbed by the DPS operating budget. The City's documented procurement procedures and policy will be adhered to for the purchase of all equipment listed.

The following equipment has been approved by the Department of Justice for purchase with FFY2016 JAG grant funds:

- One (1) Crime Scene trailer with trailer hitch, locks, shelving
- Two (2) Crime Scene lighting systems with stands
- Four (4) LED Dimmable light systems with stands for use at Crime Scenes
- Forty (40) Tremco Police Anti-Theft devices, to be installed in all DPS patrol vehicles
- Miscellaneous supplies for the Arson/Accelerant Detection K-9

For detail regarding the functionality and use of the equipment, please refer to Attachment 2. The Bureau of Special Operations, Division of Strategic Services in the Department of Public Safety will be responsible for the management of the grant.

#### Granting Agency

U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (OJP/BJA)

#### EXISTING POLICY

The law enforcement equipment purchased with grand funds supports **General Plan Goal SN-3 - 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.

#### **Council Policy 7.1.5 Donations, Contributions and Sponsorships:**

The City Manager may apply for grants of any dollar amount, but shall notify the Council when grants are being pursued. Council approval of a budget modification to appropriate grant monies is required before funds can be expended by staff. Such a budget modification shall include the use to which the grant would be placed; the objectives or goals of the City which will be achieved through use of the grant; the local match required, if any, plus the source of the local match; any increased cost to be locally funded upon termination of the grant; and the ability of the City to administer the grant. For grants under the amount of \$5,000 that do not have any external reporting requirements or any local match requirement, Council approval of a budget modification is not required. The City Manager is authorized to accept and administratively appropriate the grant funds.

This grant does not meet all of the criteria to be administratively appropriated by the City Manager; therefore a budget modification is required. Grant funds from Department of Justice, Bureau of Justice Assistance have external reporting requirements and fall under the federal single audit guidelines.

### **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 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 Source

There is no net impact to the General Fund by appropriating these grant funds. Expenditures for this equipment are reimbursable up to a cumulative total of the \$12,832 appropriation.

This equipment is supplemental to similar equipment currently in use. The budgeted expenses for this project are estimated to be \$13,077, exceeding the grant allocation by \$245 which can be absorbed. When equipment purchased with this grant reaches the end of its useful life, staff will either seek grant funding or add the replacement cost to the replacement schedule. The exception to this will be additional anti-theft devices for new patrol vehicles, the expense of which will be added to the acquisition cost of new vehicles.

#### Required Local Match

NONE

#### Increased Cost To City Upon Grant Termination

The grant period terminates on September 30, 2017. At the end of the grant term, there will be ongoing maintenance costs that will impact the DPS operating budget. The crime scene trailer will require some ongoing minor maintenance totaling less than \$500 every five years. Anti-theft devices will be added to new patrol cars as they are acquired, increasing the purchase price for each new vehicle by approximately \$100 per vehicle; current replacement schedules project that DPS will make approximately 150 vehicle replacements over the next twenty years, resulting in an increased cost of \$15,000 over that period.

Budget Modification No. 13 has been prepared to appropriate FFY2016 Edward Byrne Memorial Justice Assistance Grant funds in the amount of \$12,832 for the purchase of front line law

enforcement equipment to a new project, FFY2016 JAG Grant.

**Budget Modification No. 13  
FY 2016/17**

	Current	Increase/ (Decrease)	Revised
<b>General Fund</b>			
<u>Expenditures</u>			
New Project - FFY2016 JAG Grant	\$ 0	\$ 12,832	\$ 12,832
<u>Revenues</u>			
Edward Byrne Memorial Justice Assistance Grant	\$ 0	\$ 12,832	\$ 12,832

**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 Budget Modification No. 13 to appropriate FFY2016 Edward Byrne Memorial Justice Assistance Grant (JAG) funds in the amount of \$12,832 to a new project, FFY2016 JAG Grant.

Prepared by: Elaine Ketell, Management Analyst

Reviewed by: Chief Frank Grgurina, Director, Department of Public Safety


Reviewed by: Timothy J. Kirby, Director of Finance

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Grant Award
2. 2016 JAG Budget Narrative

 <p><b>U.S. Department of Justice</b>  <b>Office of Justice Programs</b>  <b>Bureau of Justice Assistance</b></p>		<p><b>Grant</b></p>		<p>PAGE 1 OF 13</p>																	
<p><b>1. RECIPIENT NAME AND ADDRESS (Including Zip Code)</b></p> <p>City of Sunnyvale  456 W. Olive Avenue P.O. Box 3707  Sunnyvale, CA 94088-3707</p>		<p><b>4. AWARD NUMBER:</b> 2016-DJ-BX-0132</p> <p><b>5. PROJECT PERIOD:</b> FROM 10/01/2015 TO 09/30/2017  <b>BUDGET PERIOD:</b> FROM 10/01/2015 TO 09/30/2017</p> <p><b>6. AWARD DATE</b> 08/17/2016</p> <p><b>7. ACTION</b> Initial</p>																			
<p><b>2a. GRANTEE IRS/VENDOR NO.</b> 946000497</p> <p><b>2b. GRANTEE DUNS NO.</b> 047897863</p>		<p><b>8. SUPPLEMENT NUMBER</b> 00</p> <p><b>9. PREVIOUS AWARD AMOUNT</b> \$ 0</p>																			
<p><b>3. PROJECT TITLE</b> JAG Program</p>		<p><b>10. AMOUNT OF THIS AWARD</b> \$ 12,832</p> <p><b>11. TOTAL AWARD</b> \$ 12,832</p>																			
<p><b>12. SPECIAL CONDITIONS</b></p> <p>THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).</p>																					
<p><b>13. STATUTORY AUTHORITY FOR GRANT</b></p> <p>This project is supported under FY16(BJA - JAG) 42 USC 3750, et seq.</p>																					
<p><b>14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)</b></p> <p>16.738 - Edward Byrne Memorial Justice Assistance Grant Program</p>																					
<p><b>15. METHOD OF PAYMENT</b></p> <p>GPRS</p>																					
<p><b>AGENCY APPROVAL</b></p>		<p><b>GRANTEE ACCEPTANCE</b></p>																			
<p><b>16. TYPED NAME AND TITLE OF APPROVING OFFICIAL</b></p> <p>Denise O'Donnell Director</p>		<p><b>18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL</b></p> <p>Frank Grgurina Director of Public Safety</p>																			
<p><b>17. SIGNATURE OF APPROVING OFFICIAL</b></p> <p><i>Denise O'Donnell</i></p>		<p><b>19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL</b></p> <p><i>[Signature]</i></p>		<p><b>19A. DATE</b></p> <p>8-23-16</p>																	
<p><b>AGENCY USE ONLY</b></p>																					
<p><b>20. ACCOUNTING CLASSIFICATION CODES</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>FISCAL YEAR</th> <th>FUND CODE</th> <th>BUD. ACT.</th> <th>OFC.</th> <th>DIV. REG.</th> <th>SUB.</th> <th>POMS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>X</td> <td>B</td> <td>DJ</td> <td>80</td> <td>00</td> <td>00</td> <td></td> <td>12832</td> </tr> </tbody> </table>				FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REG.	SUB.	POMS	AMOUNT	X	B	DJ	80	00	00		12832	<p><b>21. RDJUGT0316</b></p>	
FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REG.	SUB.	POMS	AMOUNT														
X	B	DJ	80	00	00		12832														

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)



U.S. Department of Justice  
Office of Justice Programs  
**Bureau of Justice Assistance**

**AWARD CONTINUATION  
SHEET**  
**Grant**

PAGE 2 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

***SPECIAL CONDITIONS***

**1. Applicability of Part 200 Uniform Requirements**

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by the Department of Justice (DOJ) in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this 2016 award from the Office of Justice Programs (OJP).

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this 2016 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded in 2014 or earlier years), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this 2016 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the Office of Justice Programs (OJP) website at <http://ojp.gov/funding/Part200UniformRequirements.htm>.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

**2. Compliance with DOJ Grants Financial Guide**

The recipient agrees to comply with the Department of Justice Grants Financial Guide as posted on the OJP website (currently, the "2015 DOJ Grants Financial Guide"), including any updated version that may be posted during the period of performance.

**3. Required training for Point of Contact and all Financial Points of Contact**

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2015, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <http://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

*FOB*





U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

**AWARD CONTINUATION  
SHEET  
Grant**

PAGE 3 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

***SPECIAL CONDITIONS***

**4. Requirements related to "de minimis" indirect cost rate**

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

**5. Requirement to report potentially duplicative funding**

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

**6. Requirements related to System for Award Management and Unique Entity Identifiers**

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <http://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <http://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

**7. All subawards ("subgrants") must have specific federal authorization**

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <http://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: Award Condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

*CSB*



U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

AWARD CONTINUATION  
SHEET  
Grant

PAGE 4 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

*SPECIAL CONDITIONS*

8. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$150,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$150,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <http://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$150,000)), and are incorporated by reference here.

9. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <http://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

10. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "2015 DOJ Grants Financial Guide").

11. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of activities under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act, and other applicable laws.

12. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <http://ojp.gov/funding/ojptrainingguidingprinciples.htm>.

f56



U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

AWARD CONTINUATION  
SHEET  
Grant

PAGE 5 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

*SPECIAL CONDITIONS*

13. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

14. The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

15. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

16. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries. Part 38 of 28 C.F.R., a DOJ regulation, was amended effective May 4, 2016.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

17. Restrictions on "lobbying"

Federal funds may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government.

Should any question arise as to whether a particular use of Federal funds by a recipient (or subrecipient) would or might fall within the scope of this prohibition, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

FSB



U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

**AWARD CONTINUATION  
SHEET**  
**Grant**

PAGE 6 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

***SPECIAL CONDITIONS***

**18. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2016)**

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2016, are set out at <http://ojp.gov/funding/Explore/FY2016-AppropriationsLawRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

**19. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct**

The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 950 Pennsylvania Avenue, N.W. Room 4706, Washington, DC 20530; (2) e-mail to: [oig.hotline@usdoj.gov](mailto:oig.hotline@usdoj.gov); and/or (3) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <http://www.usdoj.gov/oig>.

56



U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

**AWARD CONTINUATION  
SHEET**  
**Grant**

PAGE 7 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

***SPECIAL CONDITIONS***

**20. Restrictions and certifications regarding non-disclosure agreements and related matters**

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

**1. In accepting this award, the recipient--**

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

**2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--**

**a. it represents that--**

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

*FTB*





U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

AWARD CONTINUATION  
SHEET  
Grant

PAGE 8 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

*SPECIAL CONDITIONS*

21. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

22. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

23. The recipient agrees to comply with OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The recipient agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

24. Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

25. In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the grantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Grantee shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: [http://www.it.ojp.gov/gsp\\_grantcondition](http://www.it.ojp.gov/gsp_grantcondition). Grantee shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

26. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.



U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

**AWARD CONTINUATION  
SHEET  
Grant**

PAGE 9 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

***SPECIAL CONDITIONS***

27. The recipient agrees that any information technology system funded or supported by OJP funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). Recipient may not satisfy such a fine with federal funds.
28. Grantee agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.
29. Grantee agrees to comply with all confidentiality requirements of 42 U.S.C. section 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. Grantee further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23.
30. Award recipients must verify Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.
31. The grantee agrees that within 120 days of award acceptance, each current member of a law enforcement task force funded with these funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, will complete required online (internet-based) task force training. Additionally, all future task force members are required to complete this training once during the life of this award, or once every four years if multiple awards include this requirement. The training is provided free of charge online through BJA's Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)). This training addresses task force effectiveness as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. When BJA funding supports a task force, a task force personnel roster should be compiled and maintained, along with course completion certificates, by the grant recipient. Additional information is available regarding this required training and access methods via BJA's web site and the Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)).
32. The recipient agrees to participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon BJA's request.
33. Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the Office of Justice Programs (OJP) program office prior to obligation or expenditure of such funds.



U.S. Department of Justice  
Office of Justice Programs  
**Bureau of Justice Assistance**

**AWARD CONTINUATION  
SHEET**  
**Grant**

PAGE 10 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

***SPECIAL CONDITIONS***

34. The grantee agrees to assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these grant funds, either directly by the grantee or by a subgrantee. Accordingly, the grantee agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the grant, the grantee agrees to contact BJA.

The grantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the grantee, a subgrantee, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The grantee understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The grantee further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <http://www.ojp.usdoj.gov/BJA/resource/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Special Condition to Grantee's Existing Programs or Activities: For any of the grantee's or its subgrantees' existing programs or activities that will be funded by these grant funds, the grantee, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

35. The recipient is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the grant funds in the trust fund (including any interest earned) during the period of the grant and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to the Office of Justice Programs at the time of closeout.
36. JAG funds may be used to purchase vests for an agency, but they may not be used as the 50% match for purposes of the Bulletproof Vest Partnership (BVP) program.
37. Ballistic-resistant and stab-resistant body armor purchased with JAG funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the vests have been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and are listed on the NIJ Compliant Body Armor Model List (<http://nij.gov>). In addition, ballistic-resistant and stab-resistant body armor purchased must be American-made. The latest NIJ standard information can be found here: <http://www.nij.gov/topics/technology/body-armor/safety-initiative.htm>.





U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

**AWARD CONTINUATION  
SHEET**  
**Grant**

PAGE 11 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

***SPECIAL CONDITIONS***

38. The recipient agrees to submit a signed certification that all law enforcement agencies receiving vests purchased with JAG funds have a written "mandatory wear" policy in effect. Fiscal agents and state agencies must keep signed certifications on file for any subrecipients planning to utilize JAG funds for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any JAG funding can be used by the agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.
39. The recipient agrees to monitor subawards under this JAG award in accordance with all applicable statutes, regulations, OMB circulars, and guidelines, including the DOJ Financial Guide, and to include the applicable conditions of this award in any subaward. The recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of JAG funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.
40. The recipient agrees that funds received under this award will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.
41. Award recipients must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA), P.L. 103-62, applicants who receive funding under this solicitation must provide data that measure the results of their work. Therefore, quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) website ([www.bjaperformancetools.org](http://www.bjaperformancetools.org)). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.
42. Any law enforcement agency receiving direct or sub-awarded JAG funding must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.
43. BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to your My BJA account at <https://www.bja.gov/Login.aspx> to access the Success Story Submission form. If you do not yet have a My BJA account, please register at <https://www.bja.gov/profile.aspx>. Once you register, one of the available areas on your My BJA page will be "My Success Stories". Within this box, you will see an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the new BJA Success Story web page at <https://www.bja.gov/SuccessStoryList.aspx>.
44. Recipient understands and agrees that award funds may not be used for items that are listed on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, without explicit written prior approval from BJA. The Controlled Expenditure List, and instructions on how to request approval for purchase or acquisitions may be accessed here: <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>



U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

AWARD CONTINUATION  
SHEET  
Grant

PAGE 12 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

*SPECIAL CONDITIONS*

45. The recipient understands that, pursuant to recommendation 2.1 of Executive Order 13688, law enforcement agencies that acquire controlled equipment through Federal programs must adopt robust and specific written policies and protocols governing General Policing Standards and Specific Controlled Equipment Standards. General Policing Standards includes policies on (a) Community Policing; (b) Constitutional Policing; and (c) Community Input and Impact Considerations. Specific Controlled Equipment Standards includes policies specifically related to (a) Appropriate Use of Controlled Equipment; (b) Supervision of Use; (c) Effectiveness Evaluation; (d) Auditing and Accountability; and (e) Transparency and Notice Considerations. Upon OJP's request, the recipient agrees to provide a copy of the General Policing Standards and Specific Controlled Equipment Standards, and any related policies and protocols.
46. Recipient understands and agrees that the purchase or acquisition of any item on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, with award funds by an agency will trigger a requirement that the agency collect and retain (for at least 3 years) certain information about the use of 1) any federally-acquired Controlled Equipment in the agency's inventory, and 2) any other controlled equipment in the same category as the federally-acquired controlled equipment in the agency's inventory, regardless of source; and make that information available to BJA upon request. Details about what information must be collected and retained may be accessed here: [https://www.whitehouse.gov/sites/default/files/docs/le\\_equipment\\_wg\\_final\\_report\\_final.pdf](https://www.whitehouse.gov/sites/default/files/docs/le_equipment_wg_final_report_final.pdf)
47. Recipient understands and agrees that failure to comply with conditions related to Prohibited or Controlled Expenditures may result in a prohibition from further Controlled Expenditure approval under this or other federal awards.
48. Recipient understands and agrees that award funds may not be used for items that are listed on the Prohibited Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time. The Prohibited Expenditure list may be accessed here: <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>.
49. Recipient understands and agrees that, notwithstanding 2 CFR § 200.313, no equipment listed on the Controlled Expenditure List that is purchased under this award may be transferred or sold to a third party, except as described below:
- a. Agencies may transfer or sell any controlled equipment, except riot helmets and riot shields, to a Law Enforcement Agency (LEA) after obtaining prior written approval from BJA. As a condition of that approval, the acquiring LEA will be required to submit information and certifications to BJA as if it was requesting approval to use award fund for the initial purchase of items on the Controlled Expenditure List.
  - b. Agencies may not transfer or sell any riot helmets or riot shields purchased under this award.
  - c. Agencies may not transfer or sell any Controlled Equipment purchased under this award to non-LEAs, with the exception of fixed wing aircraft, rotary wing aircraft, and command and control vehicles. Before any such transfer or sale is finalized, the agency must obtain prior written approval from BJA. All law enforcement-related and other sensitive or potentially dangerous components, and all law enforcement insignias and identifying markings must be removed prior to transfer or sale.
- Recipient further understands and agrees to notify BJA prior to the disposal of any items on the Controlled Expenditure List purchased under this award, and to abide by any applicable laws and regulations in such disposal.
50. Recipient understands that the initial period of availability of funds for this award is two years. Recipient further understands that any requests for additional time for performance of this award, up to two additional years, will be granted automatically, pursuant to 42 U.S.C. § 3751(f) and in accordance with current fiscal year solicitation. Requests for additional time beyond a four year grant period will be subject to the discretion of the Director of the Bureau of Justice Assistance.



U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

**AWARD CONTINUATION  
SHEET  
Grant**

PAGE 13 OF 13

PROJECT NUMBER 2016-DJ-BX-0132

AWARD DATE 08/17/2016

*SPECIAL CONDITIONS*

51. Recipient may not expend or drawdown funds until the Bureau of Justice Assistance (BJA) has received documentation demonstrating that the state or local governing body review requirements have been met and a Grant Adjustment Notice (GAN) has been approved releasing this special condition.

56



**U.S. Department of Justice**

Office of Justice Programs

*Bureau of Justice Assistance*

---

Washington, D.C. 20531

**Memorandum To:** Official Grant File

**From:** Orbin Terry, NEPA Coordinator

**Subject:** Incorporates NEPA Compliance in Further Developmental Stages for City of Sunnyvale

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <https://www.bja.gov/Funding/nepa.html>.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.



U.S. Department of Justice  
Office of Justice Programs  
Bureau of Justice Assistance

**GRANT MANAGER'S MEMORANDUM, PT. I:  
PROJECT SUMMARY**

**Grant**

PROJECT NUMBER

2016-DJ-BX-0132

PAGE 1 OF 1

This project is supported under FY16(BJA - JAG) 42 USC 3750, et seq.

**1. STAFF CONTACT (Name & telephone number)**

Patrick Fines  
(202) 353-0587

**2. PROJECT DIRECTOR (Name, address & telephone number)**

Elaine Ketell  
Management Analyst  
P.O. Box 3707  
Sunnyvale, CA 94088-3707  
(408) 730-7234

**3a. TITLE OF THE PROGRAM**

2016 Edward Byrne Memorial Justice Assistance Grant Program

**3b. POMS CODE (SEE INSTRUCTIONS  
ON REVERSE)**

**4. TITLE OF PROJECT**

JAG Program

**5. NAME & ADDRESS OF GRANTEE**

City of Sunnyvale  
456 W. Olive Avenue P.O. Box 3707  
Sunnyvale, CA 94088-3707

**6. NAME & ADDRESS OF SUBGRANTEE**

**7. PROGRAM PERIOD**

FROM: 10/01/2015 TO: 09/30/2017

**8. BUDGET PERIOD**

FROM: 10/01/2015 TO: 09/30/2017

**9. AMOUNT OF AWARD**

\$ 12,832

**10. DATE OF AWARD**

08/17/2016

**11. SECOND YEAR'S BUDGET**

**12. SECOND YEAR'S BUDGET AMOUNT**

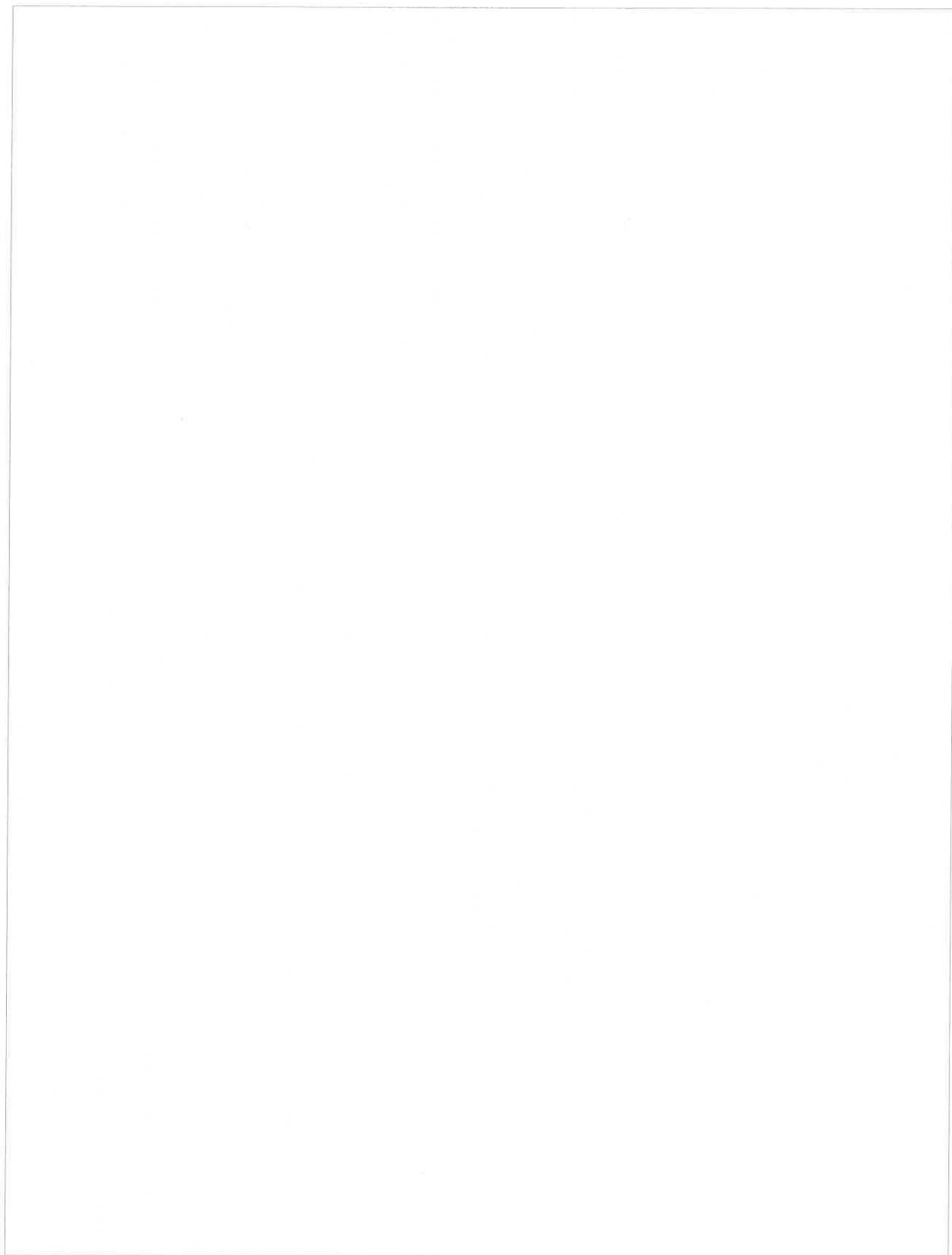
**13. THIRD YEAR'S BUDGET PERIOD**

**14. THIRD YEAR'S BUDGET AMOUNT**

**15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)**

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following program areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; and 7) crime victim and witness programs (other than compensation).

The grant recipient will use the JAG funds to purchase a crime scene trailer, lighting system, anti-theft devices, and training supplies for the city police department.  
NCA/NCF



<b>CENPoTREMOPOLICEPMisFY2016/17 JAG ALLOCATION</b>	
<b>FOR: SUNNYVALE DEPARTMENT OF PUBLIC SAFETY SUNNYVALE, CALIFORNIA</b>	<b>PROGRAM AND BUDGET WORKSHEET AND NARRATIVE</b>
	PROGRAM NARRATIVE (ATTACHMENT 1)

The Sunnyvale Department of Public Safety proposes to purchase necessary equipment for front-line law enforcement utilizing the allocation of \$12,832 in FY 2016/17 Justice Assistance Grant (JAG) funding. The Department's law enforcement capabilities will be enhanced by using the supplies and equipment listed below. Ongoing budgetary constraints have made it necessary to acquire grant funding for the purchase of this vital equipment.

**BUDGET CATEGORY: EQUIPMENT**

Item #1: One (1) Cargo Trailer/Crime Scene Unit ..... \$ 3,387.00

In recent years, the Crime Scene Unit has experienced an increased demand to participate in investigations of major crime scenes and vehicle collisions. The large-sized equipment required to process crime scenes is presently stored in the CSI Lab, and is loaded into a prisoner transport van when transport to a crime scene is required. This requires an additional staff person be attached to the detail, and takes the prisoner transport van out of service for the duration of the investigation.

The acquisition of an enclosed trailer would serve the unit by providing storage for larger equipment, eliminating the need to take a prisoner transport van out of service, assuring that all equipment necessary to process a crime scene is accessible when needed, and adding an efficient means for transporting crime scene evidence to headquarters.

The estimated cost for the Crime Scene Trailer includes the purchase of an enclosed 5' x 8' trailer, addition of an identifying Sunnyvale Department of Public Safety Logo to the trailer, and purchase and installation of a ball hitch and puck lock and interior shelving.

- Enclosed 5' x 8' trailer \$ 2,268.00
- Ball hitch and puck lock (installed) \$ 719.00

- Interior Shelving \$ 200.00
- Logo \$ 200.00

Item #2: Two (2) Powermoon SL lighting systems w/tripod ..... \$ 3,480.00

During hours of diminished or absent lighting, investigating and processing an outdoor crime scene becomes difficult and the risk of bypassing evidentiary items is increased. The addition of high quality lighting would mitigate that risk and would enhance the capability of crime scene investigators. This equipment would also increase efficiency of operations. Currently, in order to provide adequate lighting at an outdoor crime scene, a fire apparatus and two (2) personnel are committed to the event (and out of service for firefighting/EMS operations) for the duration of the crime scene processing.

The proposed lighting is lightweight, portable, and appropriate for law enforcement work. The LED lights have a substantial life expectancy; the fiberglass tripod is sturdy and lightweight, and the system can be powered by a portable generator or a vehicle inverter installed in the CSI vehicles.

Item #3: Four (4) LED Dimmable Light boxes and stands.....\$ 264.00

One of the most challenging conditions for Crime Scene photography occurs when natural light is diminished or absent. At these times, the only means for obtaining high-quality photography is to employ both constant external light sources and external flashes.

The Sunnyvale Department of Public Safety Crime Scene Investigation unit currently uses external-mounted flash devices with each of its camera kits, but lacks sufficient equipment to provide a constant source of light that can be controlled.

The purchase of four (4) Neewer 160 LED CN-160 external light boxes, with four PBL 10' Heavy Duty Light Stands, will greatly enhance the CSI unit's ability to collect high-quality photographic evidence at night-time or dimly lit crime scenes.

Item #4: Forty (40) Tremco Police Auto Anti-Theft Devices ..... \$ 3,960.00



In the course of law enforcement activity, it is sometimes necessary to leave a police vehicle unattended with the engine running to provide charging current to police accessories. The incidence of automobile theft is on the rise and police patrol cars present a tantalizing target for criminals and petty thieves. The Tremco Police Anti-Theft device solves the problem of police vehicle theft when the engine is left running, and it also provides 24-hour protection when the vehicle is not in service.

Sunnyvale Department of Public Safety will use grant funds to purchase forty (40) anti-theft devices to outfit each of its patrol vehicles. The devices are plug in systems and will not require any additional cost for installation.

BUDGET CATEGORY: SUPPLIES

Item #1: Miscellaneous supplies for Arson K-9 deployment .....\$ 750.00

In FY 2014/15, Sunnyvale Department of Public Safety was able to acquire and train, through Santa Clara County Office of Emergency Services SHSGP grant funding, a specialty K-9 for deployment in Arson detection. The K-9 and his handler have been deployed numerous times throughout Santa Clara County, and are available for other agencies as this is the only Law Enforcement/Public Agency K-9 with this capability in the greater San Francisco Bay/Northern California area.

The ongoing training and support of the Arson K-9 requires a variety of incidental equipment, such as paint cans, rags, and sample accelerants. Sunnyvale Department of Public Safety will use grant funds to purchase and maintain a sufficient inventory of supplies to keep up with training and field requirements.

BUDGET CATEGORY: OTHER

Item #1: State and Local Sales Taxes..... \$ 1,036.00

State and local sales tax will apply to all purchases: the federal share of sales taxes is \$991.00, calculated as follows:

Equipment Purchases	\$ 11,091
Supplies	750

Taxable Total:	\$ 11,841
Sales tax @ 8.75%	1,036
Federal Share	999
Non-Federal Amount	45

Item #2: Estimated Shipping Costs .....\$ 200.00

Vendor estimated shipping costs total \$200 for the equipment and supplies proposed.

Performance metrics associated with the equipment purchased will be in the form of performance evaluations conducted by department personnel. The evaluations will answer the following questions:

- a) Does the equipment improve or enhance readiness in the field or in training exercises?
- b) Does the equipment create any efficiencies in terms of response time or capability?
- c) Did use of this equipment present any unexpected challenges? If so, how could those challenges be overcome in the future?
- d) Was there any feedback from the public or media regarding deployment of this equipment?

<b>FY2016/17 JAG ALLOCATION</b>	
<b>FOR: SUNNYVALE DEPARTMENT OF PUBLIC SAFETY SUNNYVALE, CALIFORNIA</b>	<b>PROGRAM AND BUDGET WORKSHEET AND NARRATIVE</b>
	<b>BUDGET AND BUDGET NARRATIVE (ATTACHMENT 2)</b>

Purchase of the equipment and supplies will be funded primarily with 2016 JAG funds with remaining funding to be acquired from other external sources, including funds transferred from the City's General Fund. The City's documented procurement procedures and policy will be adhered to for the purchase of all equipment listed.

#### Budget Summary

<u>Budget Category</u>	<u>Amount</u>
A. Personnel	N/A
B. Fringe Benefits	N/A
C. Travel	N/A
D. Equipment	\$ 11,091
One (1) Crime Scene trailer w/hitch, locks, shelving	\$ 3,386
Two (2) Crime Scene lighting systems with stands	\$ 3,480
Four (4) LED Dimmable light systems with stands	\$ 264
Forty (40) Tremco Police Anti-Theft devices	\$ 3,960
E. Supplies – Arson/Accelerant Detection K-9	\$ 750
F. Construction	N/A
G. Consultant	N/A
H. Other	
a. Sales Tax	\$ 1,036
b. Shipping	\$ 200
TOTAL COSTS	\$ 13,077
Federal Request	\$ 12,832
Non-Federal Amount	\$ 245

<b>FY2016/17 JAG ALLOCATION</b>	
<b>FOR: SUNNYVALE DEPARTMENT OF PUBLIC SAFETY SUNNYVALE, CALIFORNIA</b>	<b>PROGRAM AND BUDGET WORKSHEET AND NARRATIVE</b>
	REVIEW NARRATIVE (ATTACHMENT 3)

The City of Sunnyvale has an established policy for reviewing grant opportunities that support City programs, events, and services. Review of FY 2016/2017 JAG application for use of the \$12,832 in grant monies to purchase supplies and equipment falls under this policy. Specifically, Council Policy 7.1.5 — Donations, Contributions and Sponsorships, Section 2 states:

“The city manager may apply for grants of any dollar amount, but shall notify the Council when grants are being pursued pursuant to Council Policy 7.1.1 (Fiscal –Long Range Goals and Financial Policies), B.4. (Grants and Intergovernmental Assistance). The city manager may accept and appropriate grant funds up to \$100,000 that do not require a local match or obligate the City to any ongoing expenses, through an administrative budget modification... The budget modification shall include the use to which the grant will be placed; the objectives or goals of the City that will be achieved through use of the grant; the local match required, if any, plus the source of the local match; any increased cost to be locally funded upon termination of the grant; and the ability of the City to administer the grant.”

In June 2016, the city manager was notified that the Department of Public Safety is applying for the FY 2016/2017 JAG Allocation of \$12,832. When the grant is awarded, the Department of Public Safety will request an appropriation of funds from the city manager that will include all information relevant to the grant (title, goals, strategies, performance metrics, etc.). In addition, information regarding the grant will appear in the city manager’s bi-weekly report that is published for public view via the City of Sunnyvale website.

<b>FY2016/17 JAG ALLOCATION</b>	
<b>FOR: SUNNYVALE DEPARTMENT OF PUBLIC SAFETY SUNNYVALE, CALIFORNIA</b>	<b>PROGRAM AND BUDGET WORKSHEET AND NARRATIVE</b>
	ABSTRACT (ATTACHMENT 4)

Purchase of the equipment and supplies will be funded primarily with 2016 JAG funds: remaining funding will be acquired from other external sources, including funds transferred from the City's General Fund.

The City's documented procurement procedures and policy will be adhered to with regard to the purchase of all equipment listed. The Department's front-line law enforcement capabilities will be enhanced by using the equipment included in this grant. Further, the equipment meets qualifications under the following identifiers:

Equipment – General

Equipment – Tactical

<b>FY2016/17 JAG ALLOCATION</b>	
<b>FOR: SUNNYVALE DEPARTMENT OF PUBLIC SAFETY SUNNYVALE, CALIFORNIA</b>	<b>PROGRAM AND BUDGET WORKSHEET AND NARRATIVE</b>
	<b>DISCLOSURE OF PENDING APPLICATIONS (ATTACHMENT 5)</b>

The City of Sunnyvale does not have any pending applications for federal funding and/or grants for the project detailed in this grant application, other than the FY 2016/2017 JAG Allocation application, of which this document is a part. The table required by the grant solicitation appears as follows:

FEDERAL OR STATE FUNDING AGENCY	SOLICITATION NAME/PROJECT NAME	NAME/PHONE/E-MAIL FOR POINT OF CONTACT AT FUNDING AGENCY
None	n/a	n/a



# City of Sunnyvale

## Agenda Item

---

**16-0948**

**Agenda Date:** 10/4/2016

---

### **SUBJECT**

Adopt Ordinance No. 3095-16 Adding Section 19.27.040 (Peery Park Specific Plan District) to Title 19 (Zoning) of the Sunnyvale Municipal Code, Rezoning Encinal Park from Industrial and Service (MS) to Public Facilities (PF), and Making Related Changes to Other Sunnyvale Municipal Code Provisions to Implement the Peery Park Specific Plan

### **RECOMMENDATION**

Adopt Ordinance No. 3095-16.

### **ATTACHMENT**

1. Ordinance No. 3095-16

## ORDINANCE NO. 3095-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE ADDING SECTION 19.27.040 (PEERY PARK SPECIFIC PLAN DISTRICT) TO TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE, REZONING ENCINAL PARK FROM INDUSTRIAL AND SERVICE (MS) TO PUBLIC FACILITIES (PF), AND MAKING RELATED CHANGES TO OTHER SUNNYVALE MUNICIPAL CODE PROVISIONS TO IMPLEMENT THE PEERY PARK SPECIFIC PLAN

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 19.16.020 AMENDED. Section 19.16.020 (Zoning Districts-Creation) of Chapter 19.16 (Zoning Districts, Uses and Related Development Regulations) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**19.16.020. Zoning districts—Creation.**

In order to carry out the purposes and provisions of this title, the city of Sunnyvale and the Sunnyvale planning area are divided into zoning districts designated as follows:

Symbol	Zoning District
R-0	Low Density Residential Zoning District
R-1	Low Density Residential Zoning District
R-1.5	Low Medium Density Residential Zoning District
R-1.7/PD	Low Medium Density Residential Zoning District
R-2	Low Medium Density Residential Zoning District
R-3	Medium Density Residential Zoning District
R-4	High Density Residential Zoning District
R-5	High Density Residential and Office Zoning District
R-MH	Residential-Mobile Home Zoning District
O	Administrative-Professional Office Zoning District
P-F	Public Facilities Zoning District
DSP	Downtown Specific Plan District
C-1	Neighborhood Business Zoning District
C-2	Highway Business Zoning District
C-3	Regional Business Zoning District
C-4	Service Commercial Zoning District
M-S	Industrial and Service Zoning District
M-3	General Industrial Zoning District
MP	Moffett Park Specific Plan District Moffett Park Subdistricts



<b>Symbol</b>	<b>Zoning District</b>
MP-I	General Industrial
MP-TOD	Transit Oriented Development
MP-C	Commercial
LSP	Lakeside Specific Plan District
PPSP	Peery Park Specific Plan District

**SECTION 2. SECTION 19.16.070 REPEALED.** Section 19.16.070 (Peery Park District Review Process) of Chapter 19.16 (Zoning Districts, Uses and Related Development Regulations) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby repealed in its entirety.

**SECTION 3. SECTION 19.27.040 ADDED.** Section 19.27.040 (Peery Park Specific Plan District) of Chapter 19.27 (Site and Project-Based Specific Plan Districts) of Title 19 (Zoning) is hereby added to read as follows:

**19.27.040. Peery Park specific plan district.**

A zoning district entitled the “Peery Park Specific Plan” district (PPSP) is established as shown on the official precise zoning plan, zoning district map, city of Sunnyvale, on file in the office of the city clerk and incorporated by reference. The PPSP zoning district implements the Peery Park specific plan, incorporated by reference, a copy of which is on file in the office of the city clerk.

**SECTION 4. AMENDMENT OF PRECISE ZONING PLAN – PEERY PARK SPECIFIC PLAN DISTRICT.** The Peery Park District as established on October 22, 2013, by Ordinance No. 3003-13, is hereby repealed and the Precise Zoning Plan, Zoning Districts Map, City of Sunnyvale (Section 19.16.050 of the Sunnyvale Municipal Code) is amended to include and re-zone certain property within the Peery Park Specific Plan District, which property is currently zoned MS/PPD (Industrial and Service-Peery Park District) and C1 (Neighborhood Business-Peery Park District). The location of the property is shown on the scale drawing attached as Exhibit “A.”

**SECTION 5. AMENDMENT OF PRECISE ZONING PLAN – ENCINAL PARK.** The Precise Zoning Plan, Zoning Districts Map, City of Sunnyvale (Section 19.16.050 of the Sunnyvale Municipal Code) is hereby amended to re-zone the property known as Encinal Park located at 972 Corte Madera (Assessor’s Parcel No. 165-33-012) from MS (Industrial and Service) to PF (Public Facilities). The location of the property is set forth on the scale drawing attached as Exhibit “A.”

**SECTION 6. CEQA.** The environmental effects of the proposed amendment to the Precise Zoning Plan and Zoning District Map were analyzed in the Program Environmental Impact Report for the Peery Park Specific Plan (SCH#2015062013) (Program EIR). The City Council reviewed the Program EIR and found that it reflects the independent judgment of the City Council and its staff, and is an adequate and extensive assessment of the environmental impacts of the proposed amendment. The City Council certified the Program EIR as having been prepared in compliance with the requirements of the California Environmental Quality Act

(“CEQA”), made necessary findings, adopted a statement of overriding considerations, and adopted a Mitigation Monitoring and Reporting Program (Resolution No. 778-16). The City Council incorporates by this reference the findings contained in the Program EIR as to the environmental effects of the proposed amendment, together with the additional findings contained in the Resolution.

SECTION 7. 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 8. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 9. 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 September 20, 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)

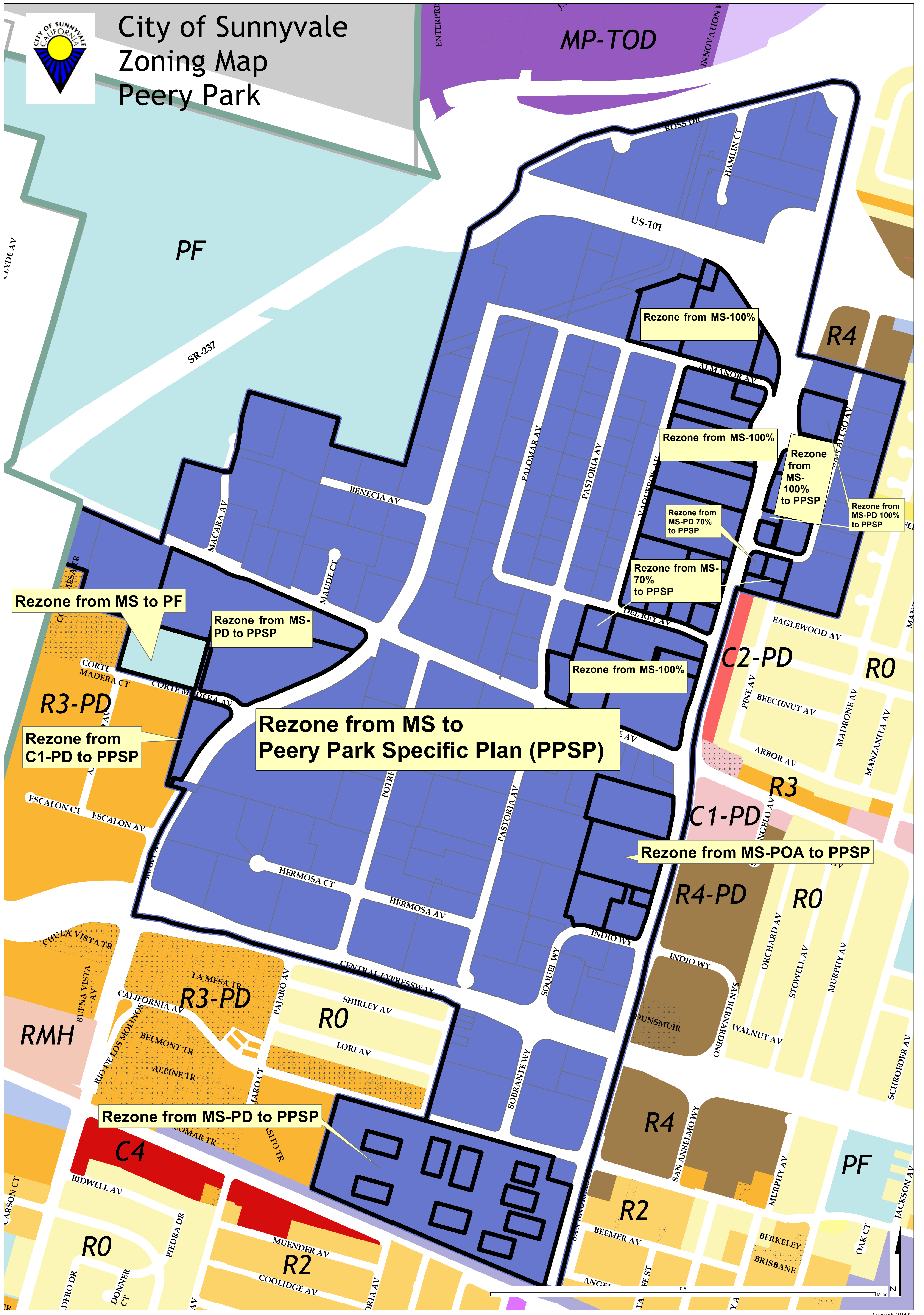
APPROVED AS TO FORM:

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





# City of Sunnyvale Zoning Map Peery Park







# City of Sunnyvale

## Agenda Item

16-0910

Agenda Date: 10/4/2016

---

### REPORT TO COUNCIL

#### **SUBJECT**

**Proposed Project:** Introduction of Ordinance to **REZONE** 28 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)

**File #:** 2016-7431

**Location:** 662-678 Vanderbilt Drive (Assessor Parcel Numbers 202-06-026 through 202-06-030), 1202-1204 Sesame Drive (202-08-003 through 202-08-006), 1218-1234 Sesame Court (202-08-001, 202-08-002 and 202-06-043 through 202-06-048) and 661-677 Winggate Drive (202-06-034 through 202-06-042)

**Zoning:** R-1

**Applicant / Owner:** Baerbel Schumacher (plus multiple owners)

**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) (the general rule that CEQA only applies to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA).

**Project Planner:** Gerri Caruso (408) 730-7591, gcaruso@sunnyvale.ca.gov

#### **SUMMARY OF PLANNING COMMISSION ACTION**

On September 12, 2016, the Planning Commission considered this request from several property owners to rezone 28 single-family properties to the R-1/S zoning designation to limit homes in the area to single story. The rezoning would only affect the 28 homes included in the application area, and would prohibit future additions resulting in two stories.

Four individuals spoke in favor of the rezone, including two property owners in the affected area. Five people spoke against the rezoning raising issues that it limits the potential use of properties, reduces property values, and is undesirable for future buyers. Some residents also voiced concerns over the City's process for reviewing rezoning requests for the Single-Story Combining District; these speakers suggested changes to the process.

The Planning Commission voted 5-2 to recommend to Council to rezone the properties to R-1/S. The dissenters stated they could not make the finding that the rezoning was in the public interest. Planning Commission Minutes are in Attachment 9.

#### **POLICY CONSIDERATIONS**

Municipal Code Section 19.26.200(b) states that the single-story combining district may be established at the discretion of the City Council to combine with the R-0, R-1 or R-2 zoning districts. Submittal of the minimum application requirements does not guarantee nor imply an automatic approval. The City Council may approve a zoning amendment upon finding that the amendment, as proposed, changed or modified is deemed to be in the public interest. The language of the finding is

broad and undefined and the City Council can take into consideration any aspect of the rezoning that it considers in the public interest.

Recently members of the public have questioned if the current application process is sufficient to assure residents understand the implications of single-story zoning. There is a suggestion that a more rigorous application process, such as an independent poll of property owners by staff, would better validate interest by property owners in the proposed zoning district. Based on the feedback, staff plans to modify a few administrative processes and request that property owners confirm their interest or opposition to the rezoning request after the outreach meeting and prior to scheduling the Planning Commission and City Council public hearings. There have also been requests to analyze the effect of single-story rezonings on the citywide housing stock and property values.

The single-story combining district was created in 2000 as part of a larger study to consider changes to single-family home design criteria and development standards. The Planning Commission has considered four single-story rezoning applications this year (compared to three from 2000-2015) and five other applications are pending. Staff recently conducted a study session for the Planning Commission about the history and current project review process. Due to the number of single-story applications this year and after hearing comments made by the public at the study session, the Planning Commission has forwarded a study issue for consideration in 2017 to relook at the process and to determine what factors should be considered as part of determining "in the public interest."

### **ALTERNATIVES**

1. Find the project exempt from CEQA pursuant to CEQA Guidelines Section 15305 and 15061(b)(3)
2. Find that the zoning amendment (rezoning) is deemed to be in the public interest (as set forth in Attachment 6) and Introduce an Ordinance to Rezone 28 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).
3. Introduce an Ordinance to Rezone fewer properties.
4. Deny the rezone.

### **STAFF RECOMMENDATION**

Alternatives 1 and 2: 1) Find the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 and 15061(b)(3) ; and, 2) Find that the zoning amendment (rezoning) is deemed to be in the public interest as set forth in Attachment 6 to the report and Introduce an Ordinance to Rezone 28 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).

Prepared by: Gerri Caruso, Principal Planner

Reviewed by: Andrew Miner, Planning Officer

Reviewed by: Trudi Ryan, Director of Community Development

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. **Report to Planning Commission, September 12, 2016**
2. Vicinity and Noticing Maps
3. List of addresses and APNs within the proposed district

4. Applicant's letter
5. Draft Ordinance
6. Recommended Finding
7. Letter from City to property owners in proposed district
8. **Letters from property owners and residents (updated for Report to Council)**

**Additional Attachments for Report to Council**

9. Excerpt of Planning Commission Minutes, September 12, 2016



# City of Sunnyvale

## Agenda Item

16-0731

Agenda Date: 9/12/2016

### REPORT TO PLANNING COMMISSION

#### SUBJECT

**Proposed Project:** Introduction of Ordinance to **REZONE** 28 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)

**File #:** 2016-7431

**Location:** 662-678 Vanderbilt Drive (Assessor Parcel Numbers 202-06-026 through 202-06-030), 1202-1204 Sesame Drive (202-08-003 through 202-08-006), 1218-1234 Sesame Court (202-08-001, 202-08-002 and 202-06-043 through 202-06-048) and 661-677 Winggate Drive (202-06-034 through 202-06-042)

**Zoning:** R-1

**Applicant / Owner:** Baerbel Schumacher (plus multiple owners)

**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) (a general rule that CEQA only applies to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA).

**Project Planner:** Gerri Caruso (408) 730-7591, gcaruso@sunnyvale.ca.gov

#### REPORT IN BRIEF

**General Plan:** Residential Low Density

**Existing Site Conditions:** A cohesive residential neighborhood block consisting of 28 single-story homes, one existing two-story home and one approved design review for one new two-story home.

#### **Surrounding Land Uses**

North: Single family homes across Vanderbilt Drive

South: Utility yard and church

East: Fremont High School

West: Single family homes

**Issues:** Preservation of a single-family neighborhood of predominantly single-story Eichler homes.

**Staff Recommendation:** Planning Commission recommend to City Council: find the project exempt from CEQA, introduce an ordinance and approve the rezoning.

#### BACKGROUND

The application has been submitted by 25 property owners (89 percent) in the 28-lot project area. As indicated on the vicinity and noticing map (Attachment 2), the project area consists of a cohesive neighborhood bounded by Vanderbilt Drive on the north side and non-Eichler homes, several public and quasi-public uses to the south and to the east (Fremont Union High School District administrative offices, CalWater storage yard and well site, two child care centers and a church), and Conway Road



---

**16-0731****Agenda Date: 9/12/2016**

---

to the west. The project area includes homes on both sides of the southern end of Sesame Drive and Sesame Court, and both sides of Winggate Drive (Attachment 2). A list of all the properties included is in Attachment 3.

The request is to modify the current R-1 zoning designation (Low Density Residential) by combining it with an “S” single-story zoning designation for R-1/S. This would limit the existing single family homes in the project area to one story and 45 percent Floor Area Ratio (FAR). Other City site development standards and density would remain the same. The proposed district consists of 21 single-story homes, four two-story homes (three Eichlers and one non-Eichler). Attachment 2 includes a map of the larger neighborhood indicating: other approved and pending single-story combining districts; existing two-story homes; and the non-Eichler home in the project area.

A project description letter from the applicant is in Attachment 4.

A draft ordinance with the proposed district map is in Attachment 5 and the recommended finding for the rezoning is in Attachment 6.

This application represents the sixth Single-Story combining district application to be considered by the City since the enabling zoning code changes became effective January 1, 2001. The existing single-story districts include:

- 54 Eichler homes on Wright Avenue, Edmonton Avenue and La Salle Drive on July 31, 2001
- 25 homes on Bobolink Circle and Bobwhite Avenue on June 11, 2002
- 116 Eichler homes located between Fremont Avenue and Ticonderoga Drive and between Pome Avenue and Mary Avenue on May 15, 2007
- 36 Eichler homes on Dartshire Way and Devonshire Way on April 19, 2016
- 48 Eichler homes between Vanderbilt Drive and Torrington Drive on August 9, 2016 (adjacent to the subject site).

The City Council is scheduled to consider this item on October 4, 2016.

### **EXISTING POLICY**

#### **Sunnyvale Municipal Code 19.26.200**

The intent of the Council’s action creating the Single-Story Combining District was to “modify the site development regulations of the R-0, R-1, and R-2 residential zoning districts to preserve and maintain single-family neighborhoods of predominantly single-story character.”

### **ENVIRONMENTAL REVIEW**

The action being considered is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15305 as it is a minor alteration in land use in an area with an average slope of less than 20% and will not result in any changes in land use of density. In addition, the Ordinance is exempt under the general rule that CEQA only applies to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA. (Section 15061(b)(3)).

### **DISCUSSION**

**16-0731****Agenda Date: 9/12/2016**

The action under consideration is a rezoning to add a Single-Story combining district to an existing R-1 single-family neighborhood. The following items must be met in order to consider an application for a Single-Story combining district:

1. The zoning for the underlying district must be R-0, R-1 or R-2;
2. The application must be signed by at least 55 percent of the property owners in the proposed district;
3. The proposed district must be clearly delineated in the application and must consist of at least 20 homes;
4. At least 75 percent of the homes in the proposed district must be one-story; and
5. To the extent feasible, the proposed district shall follow a recognizable feature such as a street, stream, or tract boundary.

If adopted, the single-story combining district will remain in effect unless district owners initiate a similar application process to request that it be removed.

The proposed application meets all of the code requirements and is in an R-1 neighborhood. There are 28 properties, which exceeds the minimum of 20 properties. By using the City's GIS system and County Assessor information, staff has confirmed that 25 (89 percent) of the property owners have joined this application, exceeding the minimum 55% required. The proposed boundaries follow logical street boundaries creating a solid residential block. There are four existing two-story homes in the neighborhood which make up 14% of homes in the proposed district, less than the 25% maximum allowed.

A letter was sent to the property owners in the proposed district providing them with a detailed outline of the new development limits for a single-story district (Attachment 7). The following development regulations will apply:

#### Single Story Limit

- There will be a limit of one habitable floor (story). Habitable areas are interiors conditioned for human occupancy (e.g. meet standards for heat, insulation, light and minimum ceiling heights).
- Lofts, mezzanines and similar areas will be prohibited as well as attics that meet habitable standards.
- The one story limit will apply to all proposed structures on the property, including detached structures such as garages, accessory living units, etc.

#### Building Height Limit

- The maximum building height will be 17 feet (currently 30 feet).

#### Maximum Gross Floor Area

- The maximum floor area ratio (FAR) of each home will be 45 percent, the same for any one story home in the R-1 zoning district.
- No future home additions beyond 45 percent FAR will be permitted unless a Variance is granted.
- A basement is not considered a story unless it extends more than two feet above the ground; it would then be counted towards the floor area limit.

Legal Non-Conforming Homes

- Existing legally constructed homes that exceed 45 percent FAR or 17 feet in height will be considered legal and non-conforming if the properties are rezoned.
- Legal non-conforming homes can be maintained and repaired subject to City building permits as long as the non-conformity is not increased.

Existing Two-Story Homes

- Existing two-story homes that were legally constructed with City building permits will be considered legal and non-conforming.
- Existing second stories cannot be expanded or increased in height but can be maintained and repaired subject to City building permits.
- Additions can be made to the first floor; however, the FAR of the entire home will be limited to 45 percent.
- The approved Design Review for a two-story home at 1169 Sesame Drive must be vested by securing a building permit within two years of the approval date on May 16, 2016.

Neighborhood Density

- The proposed single-story rezoning area is an R-1 single-family zone where only one dwelling units is allowed per lot. The new zoning designation will be R-1/S. The area will remain a single-family area with only one dwelling unit allowed on each lot. Accessory dwelling units are allowed on lots over 9,000 square feet, but must also meet the single story limitation.

Eichler Design Guidelines

The area proposed for rezoning is primarily an Eichler neighborhood and is therefore subject to the adopted Sunnyvale Eichler Design Guidelines. The non-Eichler home is two stories and 45 percent FAR and would not be able to make any additions. Modifications to the exterior of this house requiring Design Review, would be evaluated for compatibility with the neighborhood based on the Citywide Single-Family Home Design Techniques.

By rezoning the proposed district to R-1/S, no impacts are expected to immediate surrounding properties or those in the vicinity of the proposed district.

**FISCAL IMPACT**

There is no development related to this application. No fiscal impacts other than normal fees and taxes associated with owning a single-family home are expected.

**PUBLIC CONTACT**

Public contact was made through posting of the Planning Commission agenda on the City's official notice bulletin board, on the City's website, and the availability of the agenda and report in the Office of the City Clerk. 171 notices were sent to the project area and surrounding property owners. The block was posted with hearing notices. A neighborhood information meeting was conducted by staff on September 1, 2016 at the Community Center for the 28 property owners in the proposed single-story district. Seven people attended the meeting. All attendees were from the Fairbrae neighborhood area. An information letter outlining the restrictions of the Single-Story Combining District was sent to the property owners in the proposed district so that those who did not attend the information meeting would have complete information (Attachment 7).

---

16-0731Agenda Date: 9/12/2016

---

Staff has also received letters in opposition to single-story combining districts within the City (Attachment 8).

**ALTERNATIVES**

Recommend to City Council:

1. Find the project exempt from CEQA pursuant to CEQA Guidelines Section 15305 and 15061 (b)(3).
2. Introduce an Ordinance to Rezone 28 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).
3. Introduce an Ordinance to Rezone fewer properties.
4. Deny the rezone.

**STAFF RECOMMENDATION**

Recommend to City Council: Alternatives 1 and 2: 1) Find the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 and 15061(b)(3); and, 2) Introduce an Ordinance to Rezone 28 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).

Prepared by: Gerri Caruso, Principal Planner

Reviewed by: Andrew Miner, Planning Officer

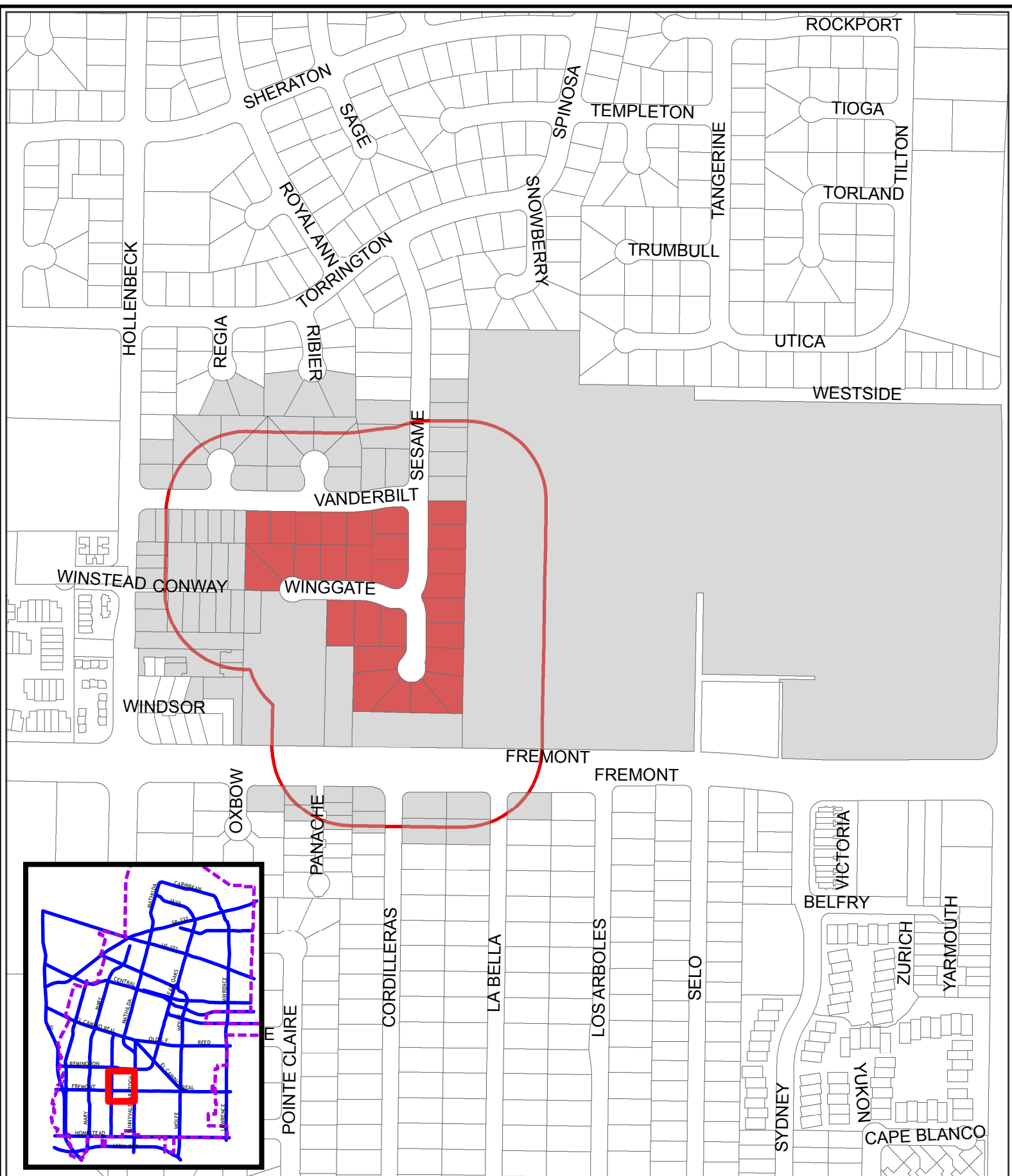
Reviewed by: Trudi Ryan, Director of Community Development

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. *Not Used*
2. Vicinity and Noticing Maps
3. List of addresses and APNs within the proposed district
4. Applicant's letter
5. Draft Ordinance
6. Recommended Finding
7. Letter from City to property owners in proposed district
8. Letters of Opposition



2016-7431

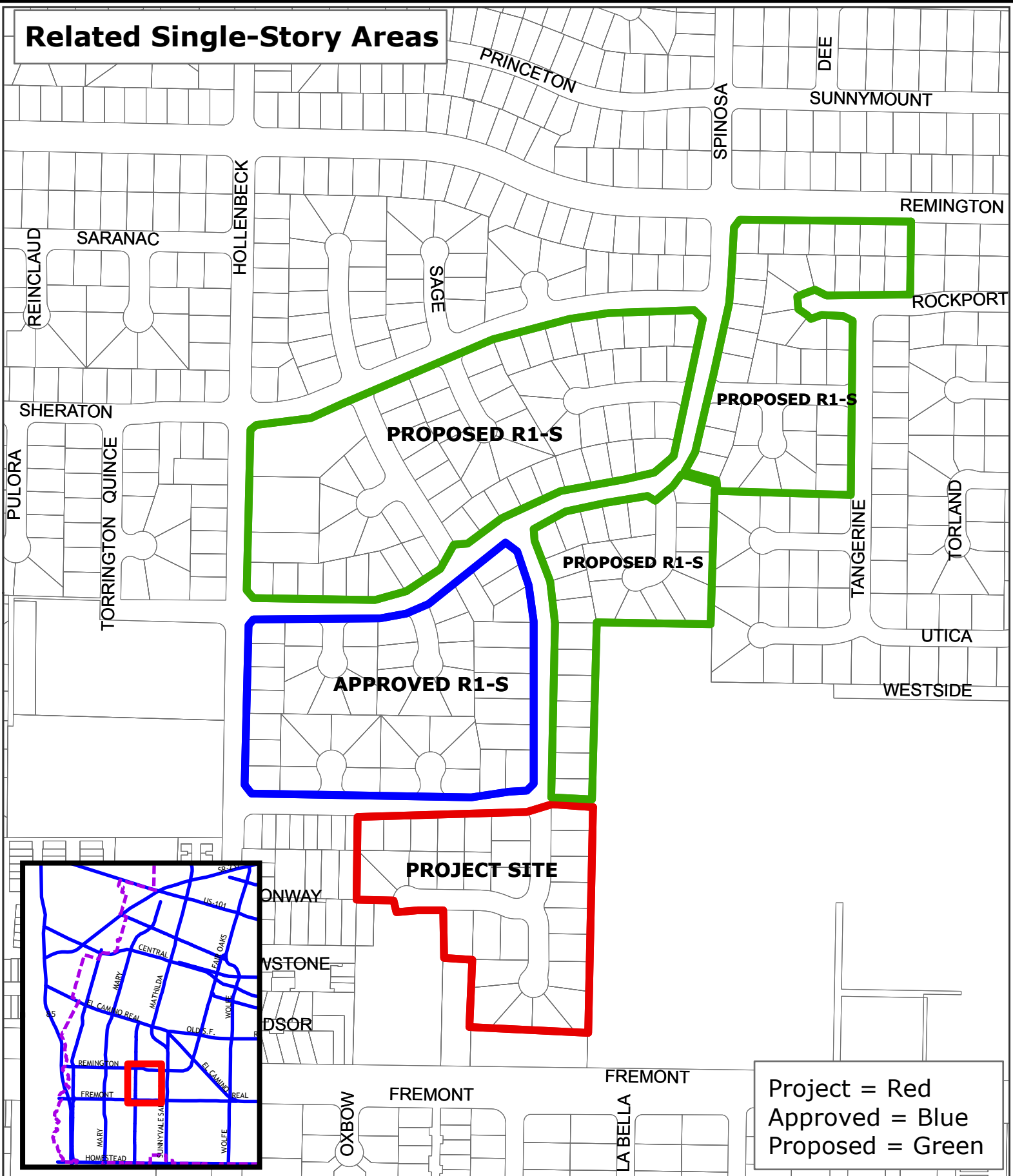
662-678 Vanderbilt Dr., 1202-1214 Sesame Dr., 1218-1234 Sesame Ct.,  
 661-677 Wingate Dr.

Proposed Single-Story Combining District

0 120 240 480 Feet



# Related Single-Story Areas

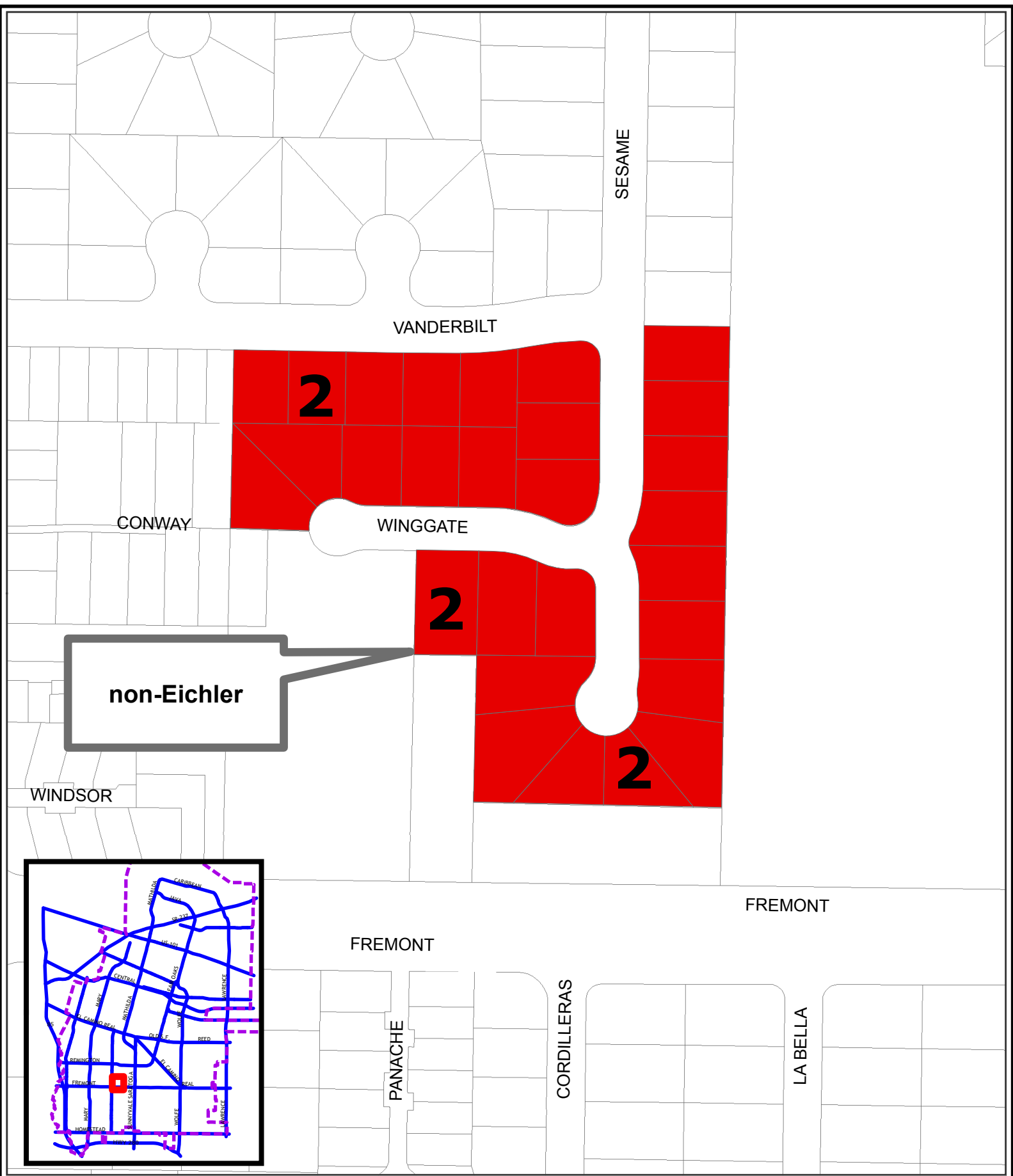


Project = Red  
Approved = Blue  
Proposed = Green

2016-7431  
662-678 Vanderbilt Dr., 1202-1214 Sesame Dr., 1218-1234 Sesame Ct.,  
661-677 Winggate Dr.  
Proposed Single-Story Combining District

0 115 230 460 Feet





2016-7431  
 662-678 Vanderbilt Dr., 1202-1214 Sesame Dr., 1218-1234 Sesame Ct.,  
 661-677 Winggate Dr.  
 Proposed Single-Story Combining District

0 50 100 200 Feet



## 2016-7431 Single-Story Rezoning

APN	Address	Street	Land Sq Ft	Building Sq Ft	GarageSqFt	FAR	TransferDate
20206026	678	Vanderbilt	7884	1948	334	29%	03/27/78
20206027	674	Vanderbilt	7866	2915	525	44%	04/03/15
20206028	670	Vanderbilt	7866	1948	334	29%	12/02/94
20206029	666	Vanderbilt	7870	1957	519	31%	07/24/80
20206030	662	Vanderbilt	8225	1866	550	29%	11/30/01
20206031	1201	Sesame	8006	1957	519	31%	06/13/06
20206032	1207	Sesame	8030	1948	334	28%	10/14/11
20206033	1213	Sesame	8573	2332	501	33%	06/19/03
20206034	661	Winggate	7650	2215	261	32%	09/04/14
20206035	665	Winggate	7600	1952	501	32%	02/05/15
20206036	669	Winggate	7379	2524	334	39%	05/05/03
20206037	673	Winggate	9058	1648	465	23%	02/21/14
20206038	677	Winggate	8845	1866	550	27%	05/02/14
20206040	666	Winggate	11544	3191	440	31%	03/24/92
20206041	662	Winggate	10343	1952	501	24%	07/22/08
20206042	658	Winggate	9865	1948	334	23%	07/06/09
20206043	1225	Sesame	10254	1486	504	19%	12/29/86
20206044	1229	Sesame	11922	1559	273	15%	06/30/05
20206045	1233	Sesame	7522	1862	375	30%	04/09/97
20206046	1234	Sesame	7522	2997	420	45%	12/14/15
20206047	1230	Sesame	10855	1559	273	17%	07/19/13
20206048	1226	Sesame	8220	1486	504	24%	07/09/12
20208001	1224	Sesame	8852	2060	501	29%	06/07/02
20208002	1218	Sesame	8666	1957	519	29%	07/25/03
20208003	1214	Sesame	8774	1948	334	26%	05/26/15
20208004	1210	Sesame	8336	1952	501	29%	01/10/12
20208005	1206	Sesame	8336	1866	550	29%	04/01/11
20208006	1202	Sesame	8336	1957	519	30%	06/14/10

Existing Two-Story Home



Baerbel Schuhmacher  
1207 Sesame Drive  
Sunnyvale, CA 94087  
408-738-6928

May 3<sup>rd</sup>, 2016

The Planning Commission  
City of Sunnyvale  
456 W Olive Avenue  
Sunnyvale, CA 94086

Dear Commissioners,

Please find enclosed a re-zoning application for a residential Single Story Combining District (SSCD) for the Sunnyvale neighborhood outlined in the attached map. This neighborhood consists of 24 single story Eichler homes, 3 two-story Eichler homes, and 1 non-Eichler two-story home.

The intent of application is to protect the unique and historic character of our neighborhood without the restrictiveness of creating a historic district, to help maintain the sense of community among the neighbors by preventing animosity over monster homes and second story additions, and to preserve the original vision of Eichler homes to create a living space that combines openness and privacy.

I have discussed the proposed application with all but one owner of the 28 homes in our neighborhood. The overwhelming majority of 89% (25 owners) are in favor of the application. Of the two owners not in favor, one owner felt she should not support as they had bought their house because it is a two-story home and the second owner wants to retain the option of adding on to their home in the future.

It is the majority opinion of the neighbors that a SSCD will preserve the legacy and character of our neighborhood and will protect the privacy of each individual homeowner in our neighborhood.

On behalf of my neighbors, thank you in advance for your serious consideration of this application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Baerbel' followed by a stylized flourish.

Baerbel Schuhmacher

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING THE PRECISE ZONING PLAN, ZONING DISTRICTS MAP, TO REZONE CERTAIN 28 CONTIGUOUS PROPERTIES LOCATED ON SESAME DRIVE, SESAME COURT, VANDERBILT DRIVE AND WINGGATE DRIVE FROM R-1 (LOW DENSITY RESIDENTIAL) ZONING DISTRICT TO R-1/S (LOW DENSITY RESIDENTIAL/SINGLE-STORY) ZONING DISTRICT**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF PRECISE ZONING PLAN. The Precise Zoning Plan, Zoning Districts Map, City of Sunnyvale (Section 19.16.050 of the Sunnyvale Municipal Code) hereby is amended to rezone certain 28 contiguous properties located at 662-678 Vanderbilt Drive (Assessor Parcel Numbers 202-06-026 through 202-06-030), 1202-1204 Sesame Drive (202-08-003 through 202-08-006), 1218-1234 Sesame Court (202-08-001, 202-08-002 and 202-06-043 through 202-06-048) and 661-677 Winggate Drive (202-06-034 through 202-06-042) to the R-1/S (Low Density Residential/Single-Story) Zoning District. The location of the properties are set forth on the scale drawing attached as Exhibit A.

SECTION 2. CEQA - EXEMPTION. The City Council finds that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305 of Title 14 of the California Code of Regulations (minor alterations in land use limitations that do not result in any changes in land use or density). In addition, the ordinance is exempt under the general rule that CEQA only applies to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA. (Section 15061(b)(3)). The Council therefore directs that the Planning Division may file a Notice of Exemption with the Santa Clara County Clerk in accordance with the Sunnyvale Guidelines for the implementation of CEQA adopted by Resolution No. 118-04.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 4. 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: \_\_\_\_\_

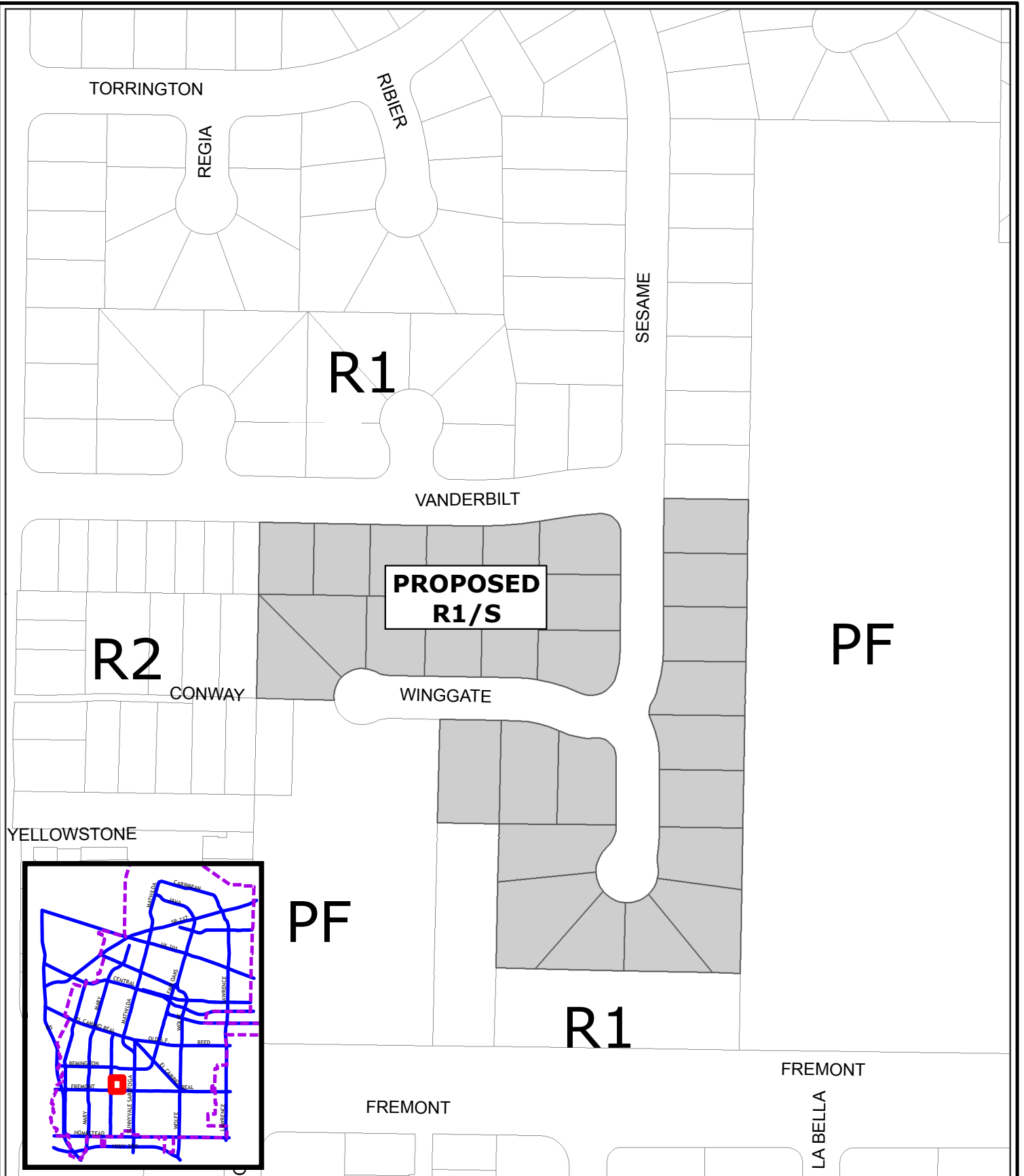
\_\_\_\_\_  
Mayor

(SEAL)

APPROVED AS TO FORM:

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

**EXHIBIT A**



2016-7431  
662-678 Vanderbilt Dr., 1202-1214 Sesame Dr., 1218-1234 Sesame Ct.,  
661-677 Winggate Dr.  
Proposed Single-Story Combining District

0      55      110                  220 Feet



**Finding Rezoning:** The city council may approve a general plan or zoning amendment upon finding that the amendment, as proposed, changed or modified is deemed to be in the public interest. (SMC 19.92.080)

The proposed rezoning for the use of the Single-Story combining district is in the public interest as it would achieve the preservation of a predominantly R-1, single-story residential neighborhood where the property owners in the proposed district desire a single-story character. The intent of the Council's action creating the Single-Story combining district was to modify the site development regulations of the R-0, R-1, and R-2 residential zoning districts to preserve and maintain single-family neighborhoods of predominantly single-story character.



August 19, 2016

**Re: City of Sunnyvale Rezoning Application 2016-7431 – Requesting a residential single-story zoning designation for a block of 28 contiguous properties including 662-678 Vanderbilt Drive, 1202-1214 Sesame Drive, 1218-1234 Sesame Court and 661-677 Winggate Drive.**

Dear Property Owner:

An application has been filed to change the zoning for your home to limit it to a single story. If approved, the zoning will be changed from R-1 (Low Density Residential) to R-1/S (Low Density Residential-Single Story).

This application was not initiated by the City. It has been initiated by 89% of property owners in the proposed single-story district. If adopted by the Sunnyvale City Council this revised zoning will apply to the entire block described above, including existing and approved 2-story homes, regardless if you were party to the application.

The proposed zoning change will not be in effect until it is considered and approved at public hearings by both the Sunnyvale Planning Commission on September 12, 2016 and the City Council on October 4, 2016. You will be mailed a separate notice of the hearing dates. If the rezoning is approved the following is an outline of the proposed changes and how they will affect the use of your property:

#### **Neighborhood Density**

- The proposed R-1/S area will remain a single-family zoning district. One dwelling unit is allowed per lot.

#### **Single Story Limit**

- There will be a limit of one habitable floor (story). Habitable areas are interiors conditioned for human occupancy (e.g. meet standards for heat, insulation, light and minimum ceiling heights).
- Lofts, mezzanines and similar areas will be prohibited as well as attics that meet habitable standards.

#### **Building Height Limit**

- The maximum building height will be 17 feet (currently 30 feet).
- Any proposed building height exceeding 17 feet will require approval of a Variance by the City. A Variance can only be granted due to specific hardships. Variances require a public hearing and can be denied. Notice of Variance hearings will be provided to surrounding property owners.

### **Maximum Gross Floor Area**

- The maximum floor area ratio (FAR) of each home will be limited to 45%. FAR is the ratio of building square feet/lot area. Example - a 4,500 s.f. home on a 10,000 s.f. lot = 45% FAR.
- No future home additions or new homes beyond 45% FAR will be permitted unless a Variance is granted.
- Although a basement is not considered a story, a basement that extends more than two feet above the ground will be counted towards the maximum 45% FAR.

### **Legal Non-Conforming Homes**

- Existing homes that are already two stories or existing homes that exceed 45% FAR or 17 feet in height will be considered legal and non-conforming if they were constructed with City permits.
- No changes are required to legal and non-conforming homes as a result of the single-story rezoning if they were legally constructed with City building permits.
- Legal non-conforming homes can be maintained and repaired subject to City building permit requirements.

### **Existing Two-Story Homes**

- Existing two-story homes that were legally constructed with City building permits will be considered legal and non-conforming.
- Existing two-story homes do not need to be modified if the single-story zoning is approved.
- Existing second stories cannot be expanded or increased in height but can be maintained and repaired subject to City building permit requirements.
- Additions can be made to the first floor up to the maximum 45% FAR for the entire home.

### **Eichler Design Guidelines**

- The area proposed for rezoning is an Eichler neighborhood. New additions, architectural changes and new homes are subject to the adopted Sunnyvale Eichler Design Guidelines.

If you have any questions about the proposed R-1/S zoning change and how it affects your property or how the public hearing process will occur, please contact me at (408) 730-7591 or [gcaruso@sunnyvale.ca.gov](mailto:gcaruso@sunnyvale.ca.gov). I will be happy to clarify this information and answer any questions.

Regards,

Gerri Caruso  
Principal Planner

# Comments from Residents Outside Proposed Rezoning Area



From: Eran Dor  
587 Templeton Dr.  
Sunnyvale, CA  
94087

To: City of Sunnyvale, Planning commission

Ref: SSCD petitions on the agenda for 09/12/2016

Honorable Planning Commission,

Next week a rezoning request for the neighborhood my family lives in will come before the commission for a hearing.

Lately more and more of these rezoning requests from R-1 to R-1S have been coming up in Sunnyvale and also surrounding cities.

I have conducted a short case study about the property values on 2 Palo Alto neighborhoods:

1. Greer Park – SSCD was approved
2. Royal Manor – SSCD was requested and later rejected

To de-clutter the data that I have collected we can divide the residence types into a 3 types:

1. Large lots, ~8000sqft and above – most of Greer Park has large lots
2. Medium lots, ~7000-8000 – many of these lots in Royal Manor
3. Small lots, ~7000sqft and smaller

The size of the house on the lot also plays a role, but this is much more obvious than lot sizes – properties with larger livable space are valued higher than those with less livable space.

The properties under petition 2016-7523 (contrary to the ones under 2016-7431) fall mostly under medium lots category with medium sized livable space.

The property value trend seen for Palo Alto Greer Park was very simple, the property values did not really change because of the SSCD.

For Royal Manor the situation was quite different (all data from [www.zillow.com](http://www.zillow.com), details can be provided):

1. When the SSCD petition came up for discussion for the Royal Manor neighborhood the property value immediately dropped for medium lots
2. During the discussions the property value of these homes stayed about \$250K lower than similar homes in Palo Alto.
3. Once the SSCD petition was rejected / revoked the property values of these homes bounced back again and almost recovered
4. During the same timeframe, the value of the larger lots went up

From analyzing the trends and understanding the rules of setbacks for livable space one can conclude easily that these trends are dominated by the potential a certain property has, namely:

1. If the lot is large, there is plenty of space to add livable space while maintaining a fair sized backyard.
2. If the lot is medium, there is no real way to expand on the ground level while maintaining a good sized backyard.

Without an SSCD, every house can be expanded sideways or with the help of a 2<sup>nd</sup> floor, all the options are open.

Following the rationale above the medium sized lots practically lose their potential of being considered attractive properties once an SSCD is enforced since an expansion on the ground floor is a worse tradeoff with respect to large lots.

I have raised the question about property values in the community meeting held Thursday 09/05/2016 in the Sunnyvale Community Center Ballroom, but it seems that the city has no data on the property values of properties that are affected by an SSCD. Further I understand that no study was done by the city of Sunnyvale to understand the actual tradeoffs an SSCD creates generally (Economy, Demographics, etc.) and property values in particular.

The fact that no data is available about the tradeoffs we are facing here is a very big concern to me since I find it impossible for me (or for any other property owner) to make an informed decision whether to support the SSCD or not without have an understanding of what this actually means in terms of what the neighborhood will actually be like once an SSCD is approved.

Further, another item that I would like the Planning Commission to take into account is that the main sponsors of petition 2016-7523 and 2016-7431 have larger lots and larger livable space than many of the other properties in the area (8287sqft/1835sqft and 8025sqft/1948sqft respectively, data from [www.zillow.com](http://www.zillow.com)).

My request is to put the SSCD requests that the Planning Commission has on its agenda on hold and ask for adequate research that enable the property owners make informed decision rather than decisions based on feelings alone.

In addition, following the short case study above I would like to ask the Planning Commission to prevent property owners with larger lots to make use of the SSCD process to add value to their property at the cost of their neighbors.

Sincerely

Eran Dor

Sep 6, 2016

Dear Members of the Sunnyvale Planning Commission,

We wish to express our opposition to the SSO proposal currently under discussion for our neighborhood. Our family has lived at 1143 Tangerine Way for six years and does not have any plans to add a second story. But we are saddened by and opposed to the unnecessary assault on individual property rights represented by the proposal and process.

**Existing regulations are sufficient to protect our neighborhood**

We understand that in a neighborhood or community, zoning and other laws are necessary to keep one neighbor's choices about his or her property from unduly harming other neighbors property value or neighborhood experience. However, as members of an Eichler Neighborhood, we already have an abundance of general Sunnyvale zoning laws to comply with as well as the Eichler Guidelines. In our opinion, these guidelines are sufficient to protect both us and our neighbors from poor decisions with regard to remodels or other modifications, and explicitly include guidelines for second stories. Ironically, there is evidence from nearby cities that SSO zones depress property rights by eliminating the option value associated with upward development freedoms.

**The SSO aggressively vetoes projects before they are even proposed**

The stated objective of the SSO is to prevent second stories. This is not an unreasonable objective in a neighborhood of glass houses. But the implementation is overly broad and anonymous. Citizens are able to pre-emptively veto all proposals before such proposals are even contemplated by the homeowners, let alone designed and brought for planning review.

**The SSO structure allows the preferences of neighbors who are not actually affected by a proposal to drown out the voices of those who are**

The SSO provides a mechanism for a large group of unaffected neighbors to drown the voices of the handful of directly affected neighbors whose opinions should be weighed more heavily any building proposal with privacy issues. If we want to build a second story and can secure the approval of our immediately adjacent neighbors through landscape and architectural concessions, why not let us build? Why should 25 or 50 other neighbors, none of whom is close enough to be impacted by a project, drown out the preferences of the landowner who has found a way to improve his or her property with the blessing of all those neighbors who are directly impacted?

In summary, the SSO represses the rights of property owners without sufficient due process or benefit incremental to our existing zoning regulations. We appeal to the better judgment of the planning commission and city council to reject this misguided effort.

Paul and Amy Bankhead

## Chair and Members of the Planning Commission,

I am writing to you regarding the wave of single story combining district (SSCD) petitions that is sweeping our Fairbrae neighborhood. As a resident of Fairbrae, I am deeply concerned with this development.

### 1. The Process

The process by which SSCD petition signatures are collected and the SSCD is ultimately passed is itself deeply flawed and undemocratic. A cornerstone of our democracy is a concept of a secret ballot – it prevents tyranny of the majority rule by providing the minority with rights of free speech without coercion and intimidation. In the case of SSCD petition, however, local activists collect the signatures door-to-door – at times, by applying peer pressure tactics. After the initial signatures are collected, the residents of the affected (and surrounding) neighborhood have no opportunity to express their honest opinion without a fear of becoming neighborhood pariah. In almost every other instance of the political process, a signature on the petition means support for bringing the issue to the debate and eventual vote – not an automatic vote for the subject of the petition. Under the pressure of the neighborhood, many people choose to just sign the petition in order to avoid conflicting with their neighbors, whom they see daily and with who's children their kids go to school.

The Planning Commission should evaluate and recommend to City Council alternatives to the current SSCD process. At a minimum, Sunnyvale should follow a process similar to the one in Los Altos – where the last step (after the City Council votes to support the petition) is a ballot mailed to every affected property owner. The property owners can then vote in the privacy of their own home and without fear of reprisal – and only if the super-majority votes for the SSCD, the re-zoning happens.

Further, for such a significant restriction of property rights, a mere 55% is a very low bar to pass. Palo Alto sets the bar at 70%; Los Altos at 67%. My belief is that even if there is only one vote against the SSCD, it is unfair to abridge their property rights (in the absence of any demonstrated public benefit) without some form of compensation. The notion of just compensation for forfeiture of property rights is so foundational to our society, that it is codified in the last sentence of the 5<sup>th</sup> Amendment to the US Constitution.

## 2. Long Term Impact

Today, the impact of the SSCDs is not clearly understood by anyone. Both the supporters and the opponents of the SSCD do so based on their personal fears and biases. While this is a natural way for people to react, fear and knee-jerk reactions are poor way to manage public policy. I would like to request that the Planning Commission forward the study issue to the City Council to investigate the long-term impact of the SSCDs. Some of the questions I would like to see addressed are:

- Long-term impact on property values in the SSCD neighborhood and surrounding neighborhoods.
- Long-term impact on property tax revenues to the City.
- Long term impact on the vibrancy of the neighborhood – percentage of owner-occupied vs rental, number of remodels, number of home sales.
- Long-term impact on diversity within the neighborhood.

Once such study is conducted, we all can have factual basis for the discussion.

The city has an overall development plan. It is carefully thought out and well balanced. The SSCDs, however, are done in an *ad-hoc* fashion – any neighborhood can spontaneously decide to re-zone itself. But is this the right way forward for the city and what are the long-term impacts of such patchwork of re-zonings?

## 3. SSCD Motivation

The stated goal of the SSCD is protection of privacy. However, *prima facie*, the SSCD does very little to protect privacy. A 17' house with a 5' basement - as allowed by the SSCD rules - has first floor level at 6' above grade – that is only 3' below the floor level of a well-designed second story. Someone standing in that tall single story house would easily be able to see into their neighbors' yards and windows. Privacy is not a function of one or two story construction, but rather how well thought-out is the project. Indeed, the two-story house we are currently building on our property has not impacted privacy of any of our neighbors (based on their own statements) and has improved the privacy of two most immediate neighbors. At best, the SSCD

can hope to impact privacy by simply discouraging any remodel (by making it un-attractive or un-economical).

Regardless of the original motivation behind SSCD, I fear the real impact may be far more damaging to the fabric of our city. We live in a multi-cultural society. Some cultures (in particular, many of the Asian cultures) value large families living together. Additionally, today's economic realities often force children to live under their parents' roof for longer or many elderly parents living with their grown children. All of these families require a larger house – exactly the kind that is being restricted by the SSCD. The real impact of SSCD on our neighborhood is not control of what kinds of houses are built in the neighborhood, but rather what kinds of people live here.

It is all eerily similar to the ordinance passed in Manassas (Fairfax County, Virginia) in 2005. That ordinance redefined the term “family” in a very thinly veiled attempt to drive out Latinos from the neighborhood. Needless to say, that ordinance was struck down – but not until many Latino families were forced to move out. I sincerely hope that Sunnyvale is not moving in that direction.

#### 4. Fairness to the Rest of Sunnyvale

One of the long-term impacts of SSCD may be reduction of property tax revenues to the city. This seems logical – at the very least, the single-story houses are smaller than larger two-story ones, which would suggest lower property tax revenues. That is without accounting for the potentially lower desirability and, therefore, lower fluidity and lower transaction prices in the neighborhoods affected by SSCD. This is, of course, only a conjecture – a long-term study would be able to answer this question definitively.

If the SSCD does indeed results in reduction of property tax revenues to the city, then SSCD petitioners are clearly asking for the rest of the city to subsidize their ultra low density zoning. The rest of Sunnyvale residents will end up paying a higher proportion of the property tax revenues necessary to operate our schools, parks, and public safety. There is nothing inherently wrong with such subsidy – but, since it impacts the rest of the city, it would only be fair to let everyone in Sunnyvale vote on each particular SSCD – not just residents of a particular neighborhood, who want the benefit without paying their fair share. Alternatively, an additional property tax scheme may

be devised, to be levied on those who desire the SSCD — to compensate the city for the lost property tax revenues.

## 5. Architectural Vibrancy

I would like to finish this letter on a purely personal note. Eichler preservation is not the explicit goal of the SSCD, but it is clearly one of the forces that motivate the movement. I feel that the desire to preserve Eichlers at all costs is a bad thing for our city as a whole. Eichlers are beautiful and interesting homes - but they were cheaply made as an affordable housing of the sixties. A designed lifespan of an Eichler is about 50 years. Today, most of them are older than that - and falling apart. Lets project this desire to preserve Eichlers into the next 200 years - while all other buildings will be replace by something different (that we cannot even imagine today), will Fairbrae be covered with 250 year old Eichlers? Architecture is a living art. It is sad to see that any kind of architectural artistic exploration in our neighborhood has to be rigidly constrained to a particular narrow interpretation of an idea that was avant-garde in the sixties.

## 6. Conclusion

I would like to request that the Planning Commission do the following:

1. Evaluate and implement a more democratic process for SSCD.
2. Forward a study issue to the City Council regarding long-term impact of SSCDs.
3. Clearly articulate how SSCDs fit into the long-term vision for Sunnyvale.
4. Hold all current SSCD petitions pending resolution of the items above.

I love Sunnyvale. I have been a resident here for 20 years. My children were born here and are going to local public schools. Having recently dealt with the Planning Commission for my own project, I have full confidence that the Commission will evaluate all options and come up with the best course of action. I am looking forward to living many more years in our beautiful, vibrant, and multi-cultural city.

*Alik Eliashberg  
1169 Sesame Drive  
Sunnyvale, CA*

Dear Members of the Sunnyvale Planning Commission,

Our family resides in a two-story Eichler at 615 Templeton Ct, purchased in 1984. We can attest to the fact that the neighborhood was always a friendly place. But now emotions have been stirred up by a single two-story project which was recently approved. This process demonstrated the city's ability to address specific concerns of immediate neighbors through a formal, established and orderly process. We strongly object to the proposed SSO for many reasons, some of which are listed below.

### **Issue #1 Privacy**

Windows of a two-story house have privacy implications for a very limited number of the immediate neighbors. An arduous approval process that is already in place for any new construction/remodel guarantees a fair hearing for affected neighbors. Other "concerned" residents of the neighborhood have no standing, except moral support to the involved parties, in respect to the specific project's privacy issue. Section 3.3 of the Eichler Guidelines specifically focuses on the privacy issue. City of Sunnyvale demonstrated that its approval process is a fair and sufficient mechanism to address privacy concerns. SSO is not a proper tool to deal with such disputes.

### **Issue #2 Architectural integrity**

Sunnyvale Eichler Guidelines clearly state that a two-story construction is not contradictory to the Eichler style. Joseph Eichler and his architects who worked with him employed harmonious variety in the original design. Through the years Eichler home's residents made changes, reflecting modern needs and trends, while keeping up with the spirit of the original design. Examples are:

- Aluminum-and glass garage doors
- Variety of wooden fence designs, e.g. horizontal-plank fences,
- Variety of landscaping (e.g. "desert-like" landscaping)
- Newly re-built houses that blend in the neighborhood (e.g. one on Sheraton Dr.)

SSO contradicts the Eichler's vision of dynamism and vitality. And, again, City of Sunnyvale has demonstrated full competence to assure architectural integrity through implementing the Eichler Guidelines and thorough review of design through the approval process.

SSO proposal demonstrates distrust in the skills of the professional architects, taste and decency of our neighbors, and city staff's diligence.

### **Issue #3 Future owners**

20 years ago neighborhood looked differently. Landscaping was mostly grass lawns. There were no solar panels on the roofs. Things clearly changed.



Children who inherit our homes might have different needs, tastes and financial situation. The approval of SSO will affect their life and the lives of their families. Do we have a legitimate reason to make a decision for them? We think not.

#### **Issue #4 Petition process**

In the current process a signature on a petition replaces a secret ballot. This denies an expression of a freely given and informed opinion, making the process undemocratic, considering the petition is signed:

- Under pressure by a friendly neighbor often requesting to sign on a spot.
- In absence of any explanation that signing constitutes the "final vote".
- With reasoning provided only by one side's advocates. This is contrary to a traditional process where both sides can present their arguments and each side can offer a rebuttal.
- In absence of an independent analysis about possible implications for each owner (e.g. provided by the city)

The process denies an opportunity to object to the petition in private. Opposition can be expressed either by **public** refusal to sign, **public** letter to the Planning Commission, or **publicly** speaking at the hearing. Many residents may feel uncomfortable to show public opposition to the issue.

A similar process was thoroughly criticized in Palo Alto SSO procedures, according to Mercury News on May 5, 2016 and in several Palo Alto Weekly articles. Los Altos, on the other hand, implemented a process where a petition is followed by a secret mail-in-ballot.

Based on our concerns we expressed above, we request the Commission to review an existing process and to put all current petitions on hold pending the review of the rezoning process.

Respectfully,

Julia Filippova and Gene Manheim  
615 Templeton Ct, Sunnyvale, CA 94087

Dear Planning Commissioners,

There are several applications that are currently under the consideration for re-zoning parts of Sunnyvale into single story overlay regions. I am troubled by the process that is set in place for re-zoning. I would like you to consider putting the current applications for re-zoning on hold, and forwarding a recommendation to the City Council for studies on how the process can be improved, and on the economic implications of these re-zonings for the city of Sunnyvale.

My husband and I recently received approval for our plans to build a new two-story house in Fairbrae. We have followed every rule and every guideline on the books, and have agreed to every concession that was asked of us by our immediate neighbors. At the end of the design process not one neighbor had a privacy concern for themselves. Indeed, the new plan preserves our neighbors' privacy better than the current house. A few residents of Fairbrae have strong dislike of new homes that are different in any way, than what has been already designed in the Fairbrae tract in the 60s. The re-zoning application process for several of these regions was born out of the disagreement with the city's planning approval of our project. The process of collecting signatures for re-zoning turned into a very personal door-to-door negative campaign against our family. We were presented as the boogeyman, the likes of which the residents must protect themselves against in the future. Our private lives have been intruded upon in an unprecedented and an uncivil manner. Outlandish rumors were spread, and the city's process was turned into a tool of harassment and bullying of our family.

I would like to offer a few suggestions on how the process can be improved:

1. It would be better if the information about re-zoning is collected by an impartial party (planning department?) via a mail-in questionnaire.
2. The timing of distribution of such questionnaire may be restricted to a certain time of the year, or once in several years, so as not to coincide with any particular application for home renovation.
3. In order to avoid a contentious process of back and forth re-zonings often, a time limit should be put in place, after the expiration of which, the residents can decide on whether to renew their SSO, or automatically let it lapse back into an R-1 zone.
4. A mail-in ballot should be distributed by the city, so that each household can vote in the privacy of their home, and without a fear of becoming a pariah in the neighborhood for going against a majority's opinion.
5. The cost of applying for re-zoning should also be brought in line with the actual costs, since it is very labor intensive for the staff of the planning department, whose resources are already stretched by the many public and residential projects that are submitted for review.

There is also a question of the broader impact on the city. The creation of SSO regions fundamentally restricts expansion of square footage while making new construction more difficult and less economically feasible - essentially creating many super-low density residential areas. The Bay Area is facing a housing crisis. Creating an ad-hoc patchwork of super-low density regions, thereby restricting

the number of multigenerational families and families with more than one or two kids is not desirable. I believe it is discriminatory, exclusionary, and it goes counter to the goal of creating a vibrant community.

We have a current situation where on one side there is a fear of change – which is driving these SSO applications. On the opposing side of the SSO issue, there is a fear of diminishing property values and anger of not being able to expand, as some families have planned to do. Fear or emotion alone should not guide long term policy decisions. The economic impact of these re-zonings should be studied. Possible questions that need answering are the following:

1. A zoning change of residential areas is usually adopted in order to create a public benefit. Who is benefitting? Is the whole community of Sunnyvale benefitting? Is there a cost to such benefits? Was the harm that the current zoning created proven? Is this harm substantial enough for the majority to take away minority's (current or future occupants of SSO regions) opportunity to expand or substantially change their homes?
2. Will restricting the square footage affect the tax base collected by the city for schools, police, fire protection, and social services, as compared with R-1 neighborhoods?
3. Will the city require a reassessment, or a different tax rate be applied for living in these regions?
4. Will the property values be affected, and the property tax rate be lowered, or increased?
5. Will the demographic make-up of the city be affected?
6. Will large businesses be deterred, or attracted to the city, where there are bigger issues with finding housing for the employees, as compared to other cities?
7. What is the general plan for Sunnyvale going to be in the future? If super-low density regions are desired, where should they be located?

Our personal experience suggests that the current process can be made safer for those few homeowners who decide to substantially renovate their homes at any given time. However, the process of re-zoning is bigger than one family and one project. The City Council may be interested in broader implications of this process for the city. The study on the economic and demographic impact may be very useful, when planning for the future of Sunnyvale. Please recommend these, or similar studies done for the City Council's review, and put the current process for re-zoning on hold.

Thank you very much for considering this issue in depth.

Respectfully,

Lena Govberg

September 6, 2016

Dear Members of the Planning Commission,

We are 12-year homeowners and residents of Fairbrae Addition, and we do not support the SSCD process as it is currently implemented.

We would like to implore the Planning Commission to consider tabling all pending applications for SSCDs, and to consider forwarding a request for a Study Issue to the City Council.

We would like the Study Issue to address the long-term impact of the SSCD on neighborhoods in all aspects (how the make-up of the community will change, how property tax revenue might change, how property values might change) and how the SSCD regulations can be written to ensure that no property owner within an SSCD bears a disproportionate restriction on the right to enjoy his or her property.

Apart from that request, we'd like to elaborate on a few of our objections to the SSCD:

The SSCD results in a disproportionate restriction on owners with smaller lots. The city's set-back requirements for R-0/1 makes the only possible first-story addition a strip along one side of a home, or a strip along the back of a home. In either case, the strip is few to 10 feet in width, given the typical Eichler floor plan and position on its lot. It's not possible to construct a pleasant room (extra bedroom, home office, guest bedroom) within those parameters. Thus, the SSCD effectively eliminates the possibility to expand small-lot homes at all. It's completely understandable that in a neighborhood with 9,000 sq ft or larger lots, it would be nice to keep the homes all at one story and everybody would have plenty of room to spread out into the yard. But the Eichler neighborhoods in Sunnyvale are not so generous nor consistent in lot sizing.

The city already has a robust process in place to address neighborhood concerns about home construction or additions. The city has had comprehensive Eichler Design Guidelines in place for many years. They address many concerns that might arise in any new home construction or additions. Any homeowners wishing to construct a second-story addition will have to go through a public comment process. Any privacy issues for immediate neighbors can, and have been, successfully addressed through this existing process.

The SSCD will perpetuate a gap between the needs of today's families and what Sunnyvale's housing stock has to offer.

Neighborhoods such as Fairbrae Addition continue to attract a diverse set of people from all over the county, state, country and the world. This makes for a great environment to raise a family. However, children are separated geographically from grandparents or other family from far away. Visits become problematic, though, since the existing homes may *not* offer a spare bedroom.

In many families, both parents are employed. But, thanks to modern communications, sometimes those parents can work from home. This benefits the children of our community, when their parents are more available to them, and when parents are able to "duck out" to

volunteer at school or in community programs such as Sunnyvale Youth Basketball or Cub Scouts. But the existing homes may *not* offer an office space for the working parent.

Of course, anyone who purchased a home in Fairbrae Addition or similar neighborhood in the last twenty years would be well aware of these issues. But, zoning requirements at the time of purchase made it conceivable that as family needs and resources change over time, the home could be reconfigured to meet those changing needs. The SSCD eliminates this possibility for some owners, especially those on smaller lots.

In summary, we believe that families have serious and legitimate reasons to wish to expand their living quarters; homes were purchased with the right to enjoy that possibility; some properties lend themselves better to single-story expansions than others; the existing SSCD regulations unfairly and disproportionately impair the ability of some homeowners to enjoy the full use of their properties; the process put forth in Sunnyvale Municipal Code Title 19, Article 3, Chapter 19.26 allows a majority to infringe the rights of a minority; no clear public good for Sunnyvale has been articulated or demonstrated as an outcome of an SSCD.

We close by imploring again for a Study Issue in order to bring forth and publicly debate, with appropriate gravity, seriousness, and inclusiveness of all affected parties, what we are actually undertaking with the implementation of an SSCD, in all respects.

Sincerely,

Nathan Gardner  
Andrea Georgelos  
*689 Torrington Drive*  
*Sunnyvale*

To the Sunnyvale City Council and Planning Commission: (Sept. 19, 2016)

I'm responding to a recent letter to the Planning Commission submitted by neighbor Alik Eliashberg, who expressed his deep concern about the "wave of single story combining district (SSCD) petitions that is sweeping our Fairbrae neighborhood." This four-page protest letter consists of 6 sections which I'll respond to in order, using Alik's section titles.

### **1. The Process**

Alik contends that the current process previously approved by the City Council regarding the SSCD process, especially the collection of signatures for the SSCD application, is "deeply flawed and undemocratic." He further contends it lends itself to the "tyranny of the majority" and even deprives a homeowner desiring to build a two-story dwelling of "just compensation for forfeiture of property rights" guaranteed at the end of Amendment V of the U.S. Constitution.

That's quite an indictment, ranging from an undemocratic process to a violation of the U.S. Constitution. The 5<sup>th</sup> Amendment covers rights in criminal cases and includes at the end the issue of public condemnation of private property that Alik apparently identifies with Sunnyvale's SSCD ordinance prohibiting an owner from building a two-story house. That's a constitutional stretch!

However, I'd like to address Alik's accusation that "activists," which means those like myself who, following the SSCD application guidelines, went door-to-door collecting signatures "at times, by applying peer pressure tactics." According to this accusation, "residents of the affected (and surrounding) neighborhood have no opportunity to express their honest opinion without a fear of becoming [a] neighborhood pariah." Further, according to Alik, property owners should be able to "vote in the privacy of their own home and without fear of reprisal." This is a gross distortion, at best, of the current application process!

Take for example the process Stephen Meier used in seeking an SSCD for his Eicher neighborhood. Prior to soliciting signatures, he sent out a letter asking his neighbors for their opinion on the desirability of having a SSCD. His letter objectively stated "possible reasons" for supporting and rejecting a SSCD. Only after this open ended inquiry resulted in support for a SSCD, did Meier and supporters seek the required application signatures. Clearly, there was no intimidation involved.

It appears to me that Alik and his supporters have taken an essentially elitist position—that you can't trust the average homeowner's ability to make an objective decision, based on their values and thinking process, when presented with an important choice or decision. That homeowners, like myself, can be intimidated by other neighbors down the street. This picture bears no resemblance to the well-educated and informed Eichler homeowners I know in the Fairbrae neighborhood. There is no proof offered for these accusations, only elitist suppositions.

Alik has taken the position “even if there is only one vote against the SSCD, it is unfair to abridge their property rights (in the absence of any demonstrated public benefit) without some form of compensation.” The overall accusation has long been debated in legislatures and courts, so I’ll just focus on the parenthetical qualifier, “in the absence of any demonstrated public benefit.” The implication is a SSCD has no “public benefit.” That’s not so. The SSCD process serves multiple community purposes: reducing homeowner animosities, avoiding law suits, involving homeowners in determining their own property rights, and educating homeowners in the civic processes laid down by our Sunnyvale governing and regulatory bodies. That’s grassroots democracy at work.

## **2. Long Term Impact**

Alik’s opening contention is that currently the “SSCDs is not clearly understood by anyone,” and “the supporters and the opponents of the SSCD” make decisions “based on their personal fears and biases.” He finds this “fear and knee-jerk reactions are [a] poor way to manage public policy.” This characterization of how Alex and I, and all our Eichler neighbors, vote for or against a SSCD again comes from an elitist viewpoint that distrusts those most immediately involved in the process. It implies that none of us can make an informed vote under the current application process approved by the City Council. Further, Alik sees these currant SSCD application processes as “done in an *ad-hoc* fashion,” because “any neighborhood can spontaneously decide to re-zone itself,” which results in a “patchwork of re-zonings.”

He has misunderstood the purpose of a SSCD and the legal process of attaining this rezoning. As conceived by the City Council, the purpose of creating a process for neighborhoods to voluntarily put themselves under a SSCD was to avoid controversy, rancor, and lawsuits when some homeowner decides to build a two-story dwelling in a predominantly single-story neighborhood. This was a sensitive issue especially in a Eichler neighborhood (I refer to the contentious mess that occurred on Wright Ave. some years ago). Further, the purpose was to involve defined neighborhoods in determining their future housing, either single-story or two-story. The intent was to be a grassroots process involving those homeowners most affected, which Alik has characterized as “*ad-hoc*” and a “patchwork.” I question if he really understands the purpose of a SSCD.

## **3. SSCD Motivation**

Alik begins this section with the “stated goal of the SSCD is protection of privacy.” Again, he seems to miss that “protection of privacy” is only one aspect of the purpose of a SSCD, as I’ve pointed out above. Alik goes on to claim, in a convoluted way, that the existing building code for a single-story home leads to more privacy invasion than his proposed two-story home.

This gets personal, for my home has the most backyard exposure to his planned two-story home. As I have publically stated to the Planning Division, Alik and Lena, with the best of intentions, have tried their utmost to minimize intrusion on our privacy by increasing the height of our mutual back fence and retaining the shrubs and trees along this fence. But I will still see the top of a second story blocking a once blue sky. Contrary to what Alik has written, one of the neighbors remains very bitter about his second story and the impact on their privacy.

Next, Alik goes on to twist things by stating, “I fear the real impact may be far more damaging to the fabric of our city,” because an SSCD deprives some ethnic groups who “value large families living together” from residing in a one-story Eichler neighborhood. He then goes on to assert that “the real impact of SSCD on our neighborhood” would be on “what kind of people live here.” At the end of this section, Alik implies the city with its SSCD provision might even be moving in the direction of discriminating against Latino families.

Alik has turned the SSCD process into ethnic discrimination. He seems to say that the SSCD is a racist process. That’s preposterous! I live on a cul-de-sac with a delightful ethnic and nationality mix. Far from discriminating, an Eichler SSCD allows wider living accommodation choices for our citizens of any ethnic background. There are ample two-story dwellings all over Sunnyvale for anyone desiring two-story neighborhoods. You don’t have to turn an Eichler one-story neighborhood into a two-story one.

#### **4. Fairness to the Rest of Sunnyvale**

In this section, Alik casts the specter of Sunnyvale facing reduced property tax revenues due to SSCDs which means that “SSCD petitioners are clearly asking for the rest of the city to subsidize their ultra low density zoning.” What evidence is there that designates single-story Eichler neighborhoods as “ultra low density zoning?”

Likening SSCDs to a subsidy, he goes on to assert that “since it impacts the rest of the city, it would only be fair to let everyone in Sunnyvale vote on each particular SSCD – not just residents of a particular neighborhood, who want the benefit without paying their fair share.” He suggests that “an additional property tax scheme may be devised, to be levied on those who desire the SSCD – to compensate the city for the lost property tax revenues.”

What he’s advocating here is a tax penalty imposed on any SSCD neighborhood. Another words, if you go through the city approved application process for a SSCD, and are duly approved by the City Council, all dwellers within the SSCD should be penalized with increased property taxes. Does this tax penalty include homeowners within a SSCD who may have not signed the application and may have not approved of it? How would this fit with SSCD homeowners covered by Proposition 13 taxation? Can you imagine the outcry against something like this! It’s pure discrimination against single-story homeowners.



## **5. Architectural Vibrancy**

Alik is correct in stating that preservation of Eichler single-story homes is what motivates these homeowners to attain a SSCD. And then he goes on to state “that the desire to preserve Eichlers at all costs is a bad thing for our city as a whole.” He finds them “cheaply made as an affordable housing of the sixties,” with a “designed lifespan of an Eichler is about 50 years.” “Today,” he claims “most are older than that – and falling apart.” I find it outlandish to proclaim that “most” Eichlers are “falling apart.”

My wife and I have lived 50 years in a 57 year old Eichler. Like any prudent homeowner, we have kept our Eichler structurally sound and well maintained, nearly in original form. Others in our cul-de-sac have remodeled and in three cases have totally rebuilt their Eichlers, keeping to the post-and-beam, all back glass windows, and atrium original design.

Facetiously, Alik projects 200 years and asks, “will Fairbrae be covered with 250 year old Eichlers?” Perhaps he is unaware that the current code allows property owners within a SSCD, should they desire, to apply for removal of this zoning designation.

Alik appears not to grasp how committed we single-story Eichler owners are to the uniqueness of our homes and the desire to preserve that uniqueness. In fact, this Eichler fondness has become stronger than ever, and is flourishing all around the Bay Area.

## **6. Conclusion**

Alik and his supporters are requesting a full review of the purpose and function of the city’s SSCD ordinance. There’s nothing wrong for any group to request this. It’s always desirable for existing laws and ordinances to be periodically evaluated for improvements.

However, Alik and supporters are proposing that the city “Hold all current SSCD petitions pending resolution” of his list of concerns. In effect, they are requesting that the city suspend its SSCD ordinance and prevent the current crop of SSCD applicants, who have followed the SSCD application process in good faith, including submission of all fees, from their right of due process. That appears to be a request by a small elite group for the city to remove the legal rights of a majority. That is not only an unsupportable request but would establish an undemocratic precedent.

Donald Buck  
1158 Ribier Court  
Sunnyvale, CA 94087

3. [16-0731](#) Proposed Project: Introduction of Ordinance to REZONE 28 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)  
File #: 2016-7431  
Location: 662-678 Vanderbilt Drive (Assessor Parcel Numbers 202-06-026 through 202-06-030), 1202-1204 Sesame Drive (202-08-003 through 202-08-006), 1218-1234 Sesame Court (202-08-001, 202-08-002 and 202-06-043 through 202-06-048) and 661-677 Winggate Drive (202-06-034 through 202-06-042)  
Zoning: R-1  
Applicant / Owner: Baerbel Schumacher (plus multiple owners)  
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) (a general rule that CEQA only applies to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA).
- Project Planner: Gerri Caruso (408) 730-7591,  
gcaruso@sunnyvale.ca.gov

Principal Planner Gerri Caruso presented the staff report.

Vice Chair Rheaume commented on the varying lot sizes in the project area and confirmed with Principal Planner Caruso that if the rezone is approved each home would be subject to the 45 percent maximum Floor Area Ratio (FAR) rule so that, theoretically, a 10,000 square foot lot could have a 4,500 square foot home built upon it. He also confirmed the lead applicant's address, and that City Council did not discuss a limit on the number of single-story overlay applications to be considered in their original Ordinance discussion.

Commissioner Melton verified with Principal Planner Caruso that this application meets all of the requirements laid out in the Municipal Code, and that the decision of the Planning Commission would be based upon whether the finding can be made that approving the application would be an overall community benefit to Sunnyvale. They confirmed that a group of property owners following the same application criteria could apply to have the single-story overlay removed, and Principal Planner Caruso noted that there was originally a sunset rule that required

applicants to reapply for the overlay after seven years that was subsequently removed. Commissioner Melton discussed with Principal Planner Caruso how the properties were combined into a single application, and he commented on a smaller number of houses in an application being easier to review.

Commissioner Klein discussed with Principal Planner Caruso whether consideration was given to having the City do the outreach to neighbors to collect signatures for an application and Principal Planner Caruso described a previously undone alternative process for outreach and signature collection. Planning Officer Andrew Miner added that a study issue could be proposed to review the cost and implementation of alternative processes. Commissioner Klein verified the fee for a single-story overlay application in Los Altos with Principal Planner Caruso .

Commissioner Weiss discussed with staff how much staff time is dedicated to each application, and confirmed with Planning Officer Miner that the fee has not been increased since initially adopted, except for annual cost of living increases. Commissioner Weiss confirmed with Principal Planner Caruso that the thresholds for participation are 75 percent in Palo Alto and two-thirds in Los Altos.

Chair Harrison opened the Public Hearing.

Applicant Baerbel Schumacher presented information about the project application.

Peter Gaudette, Sunnyvale resident, discussed his support of the single-story overlay application and the privacy issues second story homes create for Eichler homes.

Gene Manheim, Sunnyvale resident, discussed his concern with the process of obtaining signatures for an application and suggested the decision on this application and other single-story overlay applications be put on hold until an improved process emerges.

Commissioner Simons discussed with Mr. Manheim his recommendation for anonymous voting.

Julia Filippova, Sunnyvale resident, said the process does not fairly measure residents' will and should be revised. She said the decision on rezoning should be placed on hold until a new process is available.

Lena Govberg, Sunnyvale resident, said she opposes the rezoning and that the process should be revised as it creates conflict within the community. She

suggested a third party study the costs, benefits and long term impacts of single-story overlays to inform residents' decisions, and said privacy can be achieved through thoughtful design.

Commissioner Simons and Ms. Govberg discussed her approved second story home being grandfathered in to the neighborhood if the rezone is approved, and Ms. Govberg discussed her concern with restricting residents to single-story homes, particularly those on small lots.

Eran Dor, Sunnyvale resident, noted the number of two-story homes in the neighborhood and the varying lot sizes, and said owners of larger lots keep the potential of their property when an overlay is in place, while owners of small lots lose their property's potential.

D.J. Defrospero, Fairbrae neighborhood resident, encouraged a recommendation to City Council for approval of the application.

Alik Eliashberg, Sunnyvale resident, suggested a secret ballot to improve a flawed process that impacts individual property rights.

Carole Pappas, Sunnyvale resident, discussed her concern with two-story homes infringing on the privacy of Eichler homes.

Mike Serrone, Sunnyvale resident, said all of the rules were followed in completing the application, and he encouraged a recommendation to City Council for approval of the application.

Vice Chair Rheume confirmed with Mr. Serrone his home's address.

Applicant Baerbel Schumacher said she appreciates having this process, that there will always be tension between desires to change and preserve communities and that there is sufficient housing styles in the Bay Area for each to coexist.

Chair Harrison closed the Public Hearing.

Vice Chair Rheume confirmed with Planning Officer Miner that a study issue could initiate Council's review of the single-story overlay application process.

Commissioner Melton discussed with staff whether results of a secret ballot could be kept confidential.

Chair Harrison discussed with Planning Officer Miner whether there is a process by which a property owner can request a rezone for their property, and discussed the limits to changing buildings in a heritage district. They also discussed the process by which a property becomes part of a heritage district.

Commissioner Weiss confirmed with Planning Officer Miner that the Planning Commission could recommend to City Council a moratorium on single-story overlay district applications until a study issue on the process is completed.

MOTION: Commissioner Melton moved and Commissioner Klein seconded the motion to recommend to City Council Alternatives:

- 1) Find the project exempt from CEQA pursuant to CEQA Guidelines Section 15305 and 15061(b)(3); and,
- 2) Introduce an Ordinance to Rezone 28 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).

Commissioner Melton said this application has gone through the appropriate process and the Planning Commission must make the finding that it is in the public interest, which he has concluded it is. He said a number of interesting questions have been brought up by members of the public that may need to be discussed in a separate conversation, that the application is in line with City policy and that this provides an opportunity for the Planning Commission to declare that we are seeing a lot of single-story overlay applications and we need to take a look at the process.

Commissioner Klein said he was able to make the findings and that the applicants followed the process, paid the fees and had 89 percent support. He said he understands the issues raised by the public about the process and restricting homes, but that many of the properties are very large and have space to add square footage while staying within zoning requirements. He said he can see some issues with the process creating conflict, such as a two-story homeowner not being a part of the process, and that there are corrections City Council can make, which requires a study issue by staff. He stated that the Eichler Design Guidelines are not the same as zoning standards and many things can be done to a redeveloping home that may make it incompatible with the surrounding neighborhood. He noted that the single-story overlay district was a solution brought about 15 years ago and is a process put in place to protect the vision of neighborhoods.

Vice Chair Rheume said he does not support the motion, and that while he agrees with enforcing policy, rezoning needs to be based on what is in the best interest of the public. He said this application is dividing the community and it is the responsibility of the Planning Commission to help put in place a process that works

best for everyone in the community before moving forward with single-story overlays. He said the Dartshire and Devonshire Ways overlay application consisted of same sized lots of perfect rectangles and everyone within the area in agreement, but that some lots in this application are 60 percent larger than others and he questions whether it is in the best interest of the public to hold them to the same rules. He noted that one applicant states she is looking for privacy and openness, which can still be achieved without the overlay. He said the City does not have anything in place that determines that there are too many overlays, that Sunnyvale needs more housing and we are now limiting the size of homes in different neighborhoods. He added that he cannot make the findings.

Commissioner Olevson said neighbors in opposition to the application have raised substantial points that need to be explored, but changing the rules midstream is not the way government should act toward citizens. He said he appreciates the homeowners who feel they are being restricted from future improvement of their own property, but that we have rules put in place 15 years ago implemented by the people those rules are for so there would be a process we could count on to make changes. He said he is supporting the motion because 89 percent of people signed the petition and followed all of the rules.

Commissioner Simons said he supports the motion, and complimented the initiating applicant for obtaining 89 percent of support within the group. He said the value in an Eichler neighborhood is based on having privacy, which becomes compromised by new two-story homes. He commended the members of the public who voiced their opposition to the application, noted that 55 percent support may be too low and said his concern with changing the process is that it may make it more expensive for neighbors to pursue an overlay. He said it was quite a burden for the applicants to get to where they are tonight and that there should be a process to support a certain style of living in Sunnyvale. He added that a 4,000 square foot home would still be allowed under this zoning with only one story.

Commissioner Weiss said she appreciates and values privacy and shares concerns about living next door to a monster house, but that she is uncomfortable with the recent trend of increasingly more Eichler neighborhoods applying to be rezoned from R-1 to R-1/S. She said the future implication of these applications is that southwest of El Camino Real Sunnyvale will have more exclusive neighborhoods into the indefinite future at a time when we are actively looking for ways to increase housing stock by less obvious means, such as accessory dwelling units. She said this type of zoning eliminates many such possibilities except where the lot size is unusually large, and that rezoning is only one tool to combat the lack of privacy or construction of monster homes. She said because the applicants have

completely followed the process she will be voting yes, and added that this is a multifaceted issue that needs to be studied.

Chair Harrison said she is not supporting the motion, and that while the applicants have followed all of the steps in the process, she cannot make the finding that this application is in the public interest. She said there are many democratic implications to these applications, that when a parcel owner requests a rezone for only their property it does not affect their neighbors, but that here we have parcel owners requesting to rezone their neighbors. She said the process has not been studied thoroughly and that we do not have data on whether a two-story home negatively affects the property value of its neighbors.

The motion carried by the following vote:

**Yes: 5 -** Commissioner Klein  
Commissioner Melton  
Commissioner Olevson  
Commissioner Simons  
Commissioner Weiss

**No: 2 -** Chair Harrison  
Vice Chair Rheaume



# City of Sunnyvale

## Agenda Item

---

16-0911

Agenda Date: 10/4/2016

---

### REPORT TO CITY COUNCIL

#### SUBJECT

**Proposed Project:** Introduction of Ordinance to **REZONE** 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)

**File #:** 2016-7523

**Location:** 576-598 West Remington Drive (APNs: 202-01-001 through 202-01-007), 575-595 Rockport Drive (APNs: 202-01-016 through 202-01-024), 585-595 Templeton Court (APNs: 202-01-025 through 202-01-028 and 202-08-035), 1104-1132 Spinosa Drive (APNs: 202-01-029 through 202-01-033, and 202-08-032 through 202-08-034), 1126-1138 Strawberry Court (APNs: 202-08-036 through 202-08-040), 1143-1153 Tangerine Way (APNs: 202-08-041 through 202-08-043)

**Zoning:** R-1

**Applicant / Owner:** Stephen Meier (plus multiple owners)

**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) (the general rule that CEQA only applies to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA).

**Project Planner:** Aastha Vashist, (408) 730-7458, avashist@sunnyvale.ca.gov

#### SUMMARY OF PLANNING COMMISSION ACTION

On September 12, 2016, the Planning Commission considered this request to rezone 37 single-family properties to the R-1/S zoning designation to limit homes in that area to single stories. The rezoning would only affect the 37 homes included in the application area, and would prohibit future additions resulting in two stories.

One property owner in the affected area spoke in favor of the rezone. Eight individuals spoke against the rezoning, including two property owners within the affected area, stating that the Single Story Combining District (SSCD) limits the potential use of the properties especially for smaller size lots, limits the expansion to meet the needs of the families with young children or aging parents, intrudes on property rights, reduces property values, and is unattractive for future buyers. Two of the individuals also discussed concerns with the information in the letter used to obtain support for the application. Several of the speakers recommended that the City Council consider a study issue about the process and impacts of SSCD before making any more decisions on these types of applications.

Four of the seven Planning Commissioners voted to recommend to Council to rezone the properties to R-1/S. The remaining three Commissioners voted against recommending the rezone as they were unable to make the required finding that the zoning amendment is in the public interest. One Commissioner voiced concern about the integrity of the process and information provided to



residents. The Planning Commission Minutes are in Attachment 10.

### **POLICY CONSIDERATIONS**

Municipal Code Section 19.26.200(b) states that the single-story combining district may be established at the discretion of the City Council to combine with the R-0, R-1 or R-2 zoning districts. Submittal of the minimum application requirements does not guarantee nor imply an automatic approval. The City Council may approve a zoning amendment upon finding that the amendment, as proposed, changed or modified is deemed to be in the public interest. The language of the finding is broad and undefined and the City Council can take into consideration any aspect of the rezoning that it considers in the public interest.

Recently members of the public have questioned if the current application process is sufficient to assure residents understand the implications of single-story zoning. There is a suggestion that a more rigorous application process, such as an independent poll of property owners by staff, would better validate interest by property owners in the proposed zoning district. Based on the feedback, staff plans to modify a few administrative processes and request that property owners confirm their interest or opposition to the rezoning request after the outreach meeting and prior to scheduling the Planning Commission and City Council public hearings. There have also been requests to analyze the effect of single-story rezonings on the citywide housing stock and property values.

The single-story combining district was created in 2000 as part of a larger study to consider changes to single-family home design criteria and development standards. The Planning Commission has considered four single-story rezoning applications this year (compared to three from 2000-2015) and five other applications are pending. Staff recently conducted a study session for the Planning Commission about the history and current project review process. Due to the number of single-story applications this year and after hearing comments made by the public at the study session, the Planning Commission has forwarded a study issue for consideration in 2017 to relook at the process and to determine what factors should be considered as part of determining "in the public interest."

### **ALTERNATIVES**

1. Find the project exempt from CEQA pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3) and that the zoning
2. Make the finding that the zoning amendment (rezoning) is deemed to be in the public interest (as set forth in Attachment 6) and Introduce an Ordinance to Rezone 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story) (Attachment 5).
3. Introduce an Ordinance to Rezone fewer properties.
4. Deny the rezone.

### **STAFF RECOMMENDATION**

Alternatives 1 and 2: 1) Find the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3) and, 2) that the zoning amendment (rezoning) is deemed to be in the public interest (as set forth in Attachment 6 to the report) and Introduce an Ordinance to Rezone 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).

The draft ordinance with a map of the area is in Attachment 5.

Prepared by: Aastha Vashist, Assistant Planner  
Reviewed by: Gerri Caruso, Principal Planner  
Reviewed by: Andrew Miner, Planning Officer  
Reviewed by: Trudi Ryan, Director of Community Development  
Reviewed by: Kent Steffens, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

- 1. Report to Planning Commission, September 12, 2016 (without attachments)**
2. Vicinity and Noticing Maps
3. List of addresses and APNs within the proposed district
4. Applicant's letter
5. Draft Ordinance
6. Recommended Finding
7. Letter from City to property owners in proposed district
8. Submittal from property owner opposing rezoning
- 9. Letters from Property Owners/Residents (updated for Report to Council)**

**Additional Attachments for Report to Council**

10. Planning Commission Minutes, September 12, 2016



# City of Sunnyvale

## Agenda Item

16-0772

Agenda Date: 9/12/2016

### REPORT TO PLANNING COMMISSION

#### SUBJECT

**Proposed Project:** Introduction of Ordinance to **REZONE** 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)

**File #:** 2016-7523

**Location:** 576-598 West Remington Drive (APNs: 202-01-001 through 202-01-007), 575-595 Rockport Drive (APNs: 202-01-016 through 202-01-024), 585-595 Templeton Court (APNs: 202-01-025 through 202-01-028 and 202-08-035), 1104-1132 Spinosa Drive (APNs: 202-01-029 through 202-01-033, and 202-08-032 through 202-08-034), 1126-1138 Strawberry Court (APNs: 202-08-036 through 202-08-040), 1143-1153 Tangerine Way (APNs: 202-08-041 through 202-08-043)

**Zoning:** R-1

**Applicant / Owner:** Stephen Meier (plus multiple owners)

**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) (a general rule that CEQA only applies to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA).

**Project Planner:** Aastha Vashist, (408) 730-7458, avashist@sunnyvale.ca.gov

#### REPORT IN BRIEF

**General Plan:** Residential Low Density

**Existing Site Conditions:** A cohesive residential neighborhood block consisting of 36 single-story homes and one two-story home.

#### **Surrounding Land Uses**

**North:** Single family homes across West Remington Drive

**South:** Single family homes across Trumbull Court

**East:** Single family homes across Tangerine Way

**West:** Single family homes across Spinosa Drive

**Issues:** Preservation of a single-family neighborhood of predominantly single-story Eichler homes.

**Staff Recommendation:** Planning Commission recommend to City Council: find the project exempt from CEQA, introduce an ordinance and approve the rezoning.

#### BACKGROUND

The application has been submitted by 28 property owners (75.6 percent) in the 37-lot project area. As indicated on the vicinity and noticing map (Attachment 2), the project area consists of a cohesive neighborhood bounded by West Remington Drive on the north side, Tangerine Way on the east side, Trumbull Court on the south side, Spinosa Drive on the west side and includes Templeton Drive,

---

16-0772Agenda Date: 9/12/2016

---

Rockport Drive and Strawberry Court (Attachment 2). A list of all the properties is included in Attachment 3. A project description letter from the applicant is in Attachment 4.

The request is to modify the current R-1 zoning designation (Low Density Residential) by combining it with an “S” single-story zoning designation for R-1/S. This would limit the existing single family homes in the project area to one story and 45 percent Floor Area Ratio (FAR). Other City site development standards and density would remain the same. Attachment 2 includes maps of the larger neighborhood indicating other approved and pending single-story combining districts and an existing two-story house.

A draft ordinance with the proposed district map is in Attachment 5 and the recommended finding for the rezoning is in Attachment 6.

This application represents the sixth Single-Story combining district application to be considered by the City since the enabling zoning code changes became effective January 1, 2001. The existing single-story districts include:

- 54 Eichler homes on Wright Avenue, Edmonton Avenue and La Salle Drive on July 31, 2001
- 25 homes on Bobolink Circle and Bobwhite Avenue on June 11, 2002
- 116 Eichler homes located between Fremont Avenue and Ticonderoga Drive and between Pome Avenue and Mary Avenue on May 15, 2007
- 36 Eichler homes on Dartshire Way and Devonshire Way on April 19, 2016
- 48 Eichler homes between Vanderbilt Drive and Torrington Drive on August 9, 2016 (adjacent to the subject site)

City Council is scheduled to consider this item on October 4, 2016.

### **EXISTING POLICY**

#### **Sunnyvale Municipal Code 19.26.200**

The intent of the Council’s action creating the Single-Story Combining District was to “modify the site development regulations of the R-0, R-1, and R-2 residential zoning districts to preserve and maintain single-family neighborhoods of predominantly single-story character.”

### **ENVIRONMENTAL REVIEW**

The action being considered is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15305 as it is a minor alteration in land use in an area with an average slope of less than 20% and will not result in any changes in land use or density. In addition, the Ordinance is exempt under the general rule that CEQA only applies to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA. (Section 15061(b)(3)).

### **DISCUSSION**

The action under consideration is a rezoning to add a Single-Story combining district to an existing R-1 single-family neighborhood. The following items must be met in order to consider an application for a Single-Story combining district:

---

16-0772Agenda Date: 9/12/2016

---

1. The zoning for the underlying district must be R-0, R-1 or R-2;
2. The application must be signed by at least 55 percent of the property owners in the proposed district;
3. The proposed district must be clearly delineated in the application and must consist of at least 20 homes;
4. At least 75 percent of the homes in the proposed district must be one-story; and
5. To the extent feasible, the proposed district shall follow a recognizable feature such as a street, stream, or tract boundary.

If adopted, the single-story combining district will remain in effect unless district owners initiate a similar application process to request that it be removed.

The proposed application meets all of the code requirements and is in an R-1 neighborhood. There are 37 properties in the rezoning application, which exceeds the minimum of 20 properties. By using the City's GIS system and County Assessor information, staff has confirmed that 28 (75.6 percent) of the property owners have joined this application, exceeding the minimum 55% required. The proposed boundaries follow logical street boundaries creating a solid residential block. There is only one existing two-story home in the neighborhood (586 Rockport Drive).

A letter was sent to the property owners in the proposed district providing them with a detailed outline of the new development limits for a single-story district (Attachment 7). The following development regulations will apply:

#### Single Story Limit

- There will be a limit of one habitable floor (story). Habitable areas are interiors conditioned for human occupancy (e.g. meet standards for heat, insulation, light and minimum ceiling heights).
- Lofts, mezzanines and similar areas will be prohibited as well as attics that meet habitable standards.
- The one story limit will apply to all proposed structures on the property, including detached structures such as garages, accessory living units, etc.

#### Building Height Limit

- The maximum building height will be 17 feet (currently 30 feet).

#### Maximum Gross Floor Area

- The maximum floor area ratio (FAR) of each home will be 45 percent, the same for any one story home in the R-1 zoning district.
- No future home additions beyond 45 percent FAR will be permitted unless a Variance is granted.
- A basement is not considered a story unless it extends more than two feet above the ground; it would then be counted towards the floor area limit.

#### Legal Non-Conforming Homes

- Existing legally constructed homes that exceed 45 percent FAR or 17 feet in height will be considered legal and non-conforming if the properties are rezoned.

---

16-0772Agenda Date: 9/12/2016

---

- Legal non-conforming homes can be maintained and repaired subject to City building permits as long as the non-conformity is not increased.

#### Existing Two-Story Homes

- Existing two-story homes that were legally constructed with City building permits will be considered legal and non-conforming.
- Existing second stories cannot be expanded or increased in height but can be maintained and repaired subject to City building permits.
- Additions can be made to the first floor; however, the FAR of the entire home will be limited to 45 percent.

#### Neighborhood Density

- The proposed single-story rezoning area is an R-1 single-family zone where only one dwelling unit is allowed per lot. The new zoning designation will be R-1/S. The area will remain a single-family area with only one dwelling unit allowed on each lot. Accessory dwelling units are allowed on lots over 9,000 square feet, but must also meet the single story limitation.

#### Eichler Design Guidelines

- The area proposed for rezoning is an Eichler neighborhood and is therefore subject to the adopted Sunnyvale Eichler Design Guidelines.

By rezoning the proposed district to R-1/S, no impacts are expected to immediate surrounding properties or those in the vicinity of the proposed district.

#### **FISCAL IMPACT**

There is no development related to this application. No fiscal impacts other than normal fees and taxes associated with owning a single-family home are expected.

#### **PUBLIC CONTACT**

Public contact was made through posting of the Planning Commission agenda on the City's official-notice bulletin board, on the City's website, and the availability of the agenda and report in the Office of the City Clerk. There were 160 notices sent to the project area and surrounding property owners. The block was posted with hearing notices. A neighborhood information meeting was conducted by staff on September 1, 2016 at the Community Center for the 37 property owners in the proposed single-story district. Seven people attended the meeting. All attendees were from the Fairbrae neighborhood area. An information letter outlining the restrictions of the Single-Story Combining District was sent to the property owners in the proposed district so that those who did not attend the information meeting would have complete information (Attachment 7).

At the time of writing the report one letter, from a property owner within the boundaries of the proposed district opposing the rezoning to R-1/S, was received. The property owner in opposition notes concerns about loss of property value and potential of future expansion for smaller-size lots. The letter is included in Attachment 8. Staff has also received letters in opposition to the single-story combining districts within the City and the letters are included in the Attachment 9.

#### **ALTERNATIVES**

Recommend to City Council:

---

16-0772Agenda Date: 9/12/2016

---

1. Find the project exempt from CEQA pursuant to CEQA Guidelines Sections 15305 and 15061 (b)(3).
2. Introduce an Ordinance to Rezone 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).
3. Introduce an Ordinance to Rezone fewer properties.
4. Deny the rezone.

**STAFF RECOMMENDATION**

Recommend to City Council: Alternatives 1 and 2: 1) Find the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3); and, 2) Introduce an Ordinance to Rezone 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).

Prepared by: Aastha Vashist, Assistant Planner

Reviewed by: Gerri Caruso, Principal Planner

Reviewed by: Andrew Miner, Planning Officer

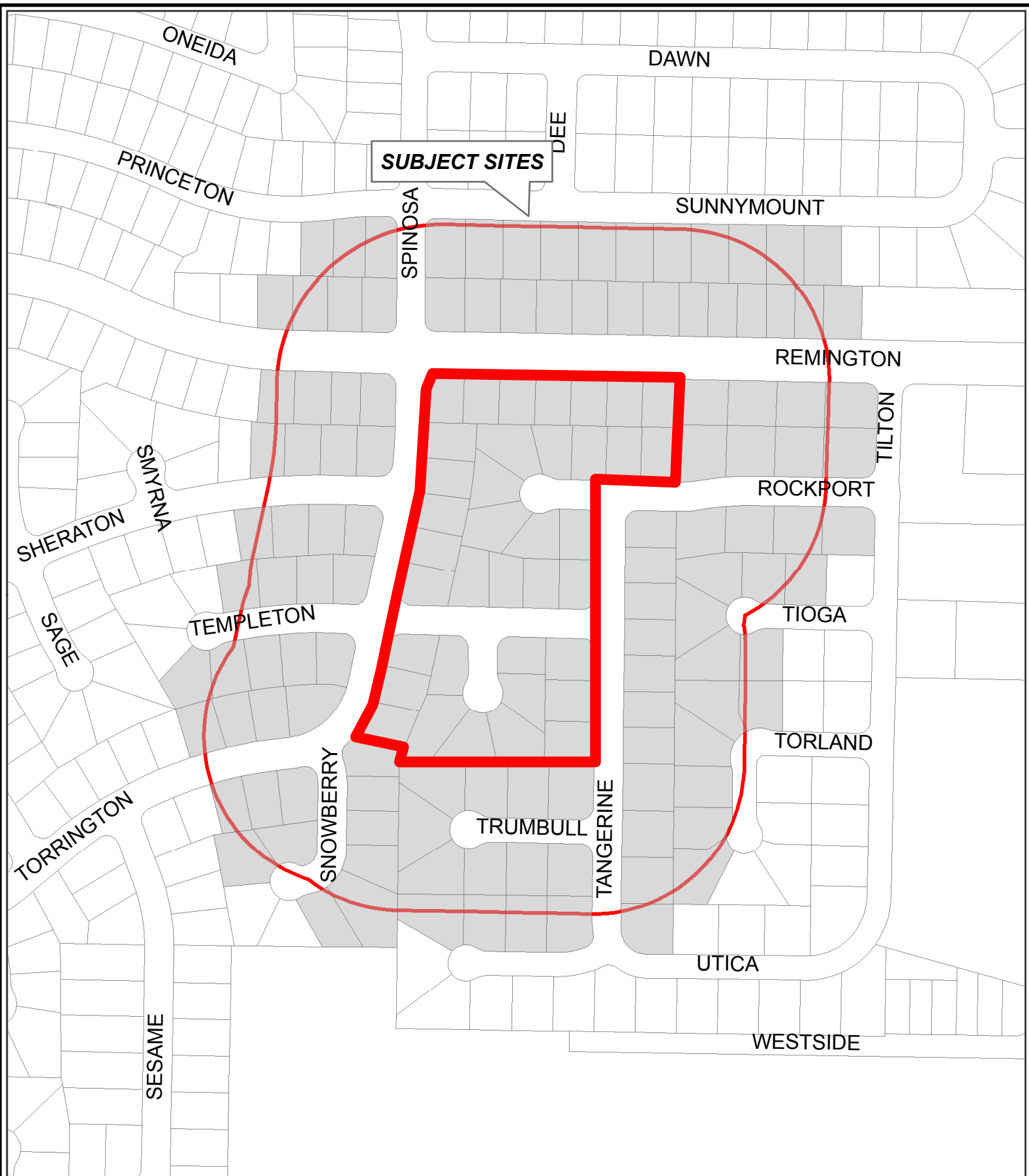
Reviewed by: Trudi Ryan, Director of Community Development

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. *Not Used*
2. Vicinity and Noticing Maps
3. List of addresses and APNs within the proposed district
4. Applicant's letter
5. Draft Ordinance
6. Recommended Finding
7. Letter from City to property owners in proposed district
8. Letter from property owner opposing rezoning
9. Letters of Opposition to Single-Story Overlays



2016-7523

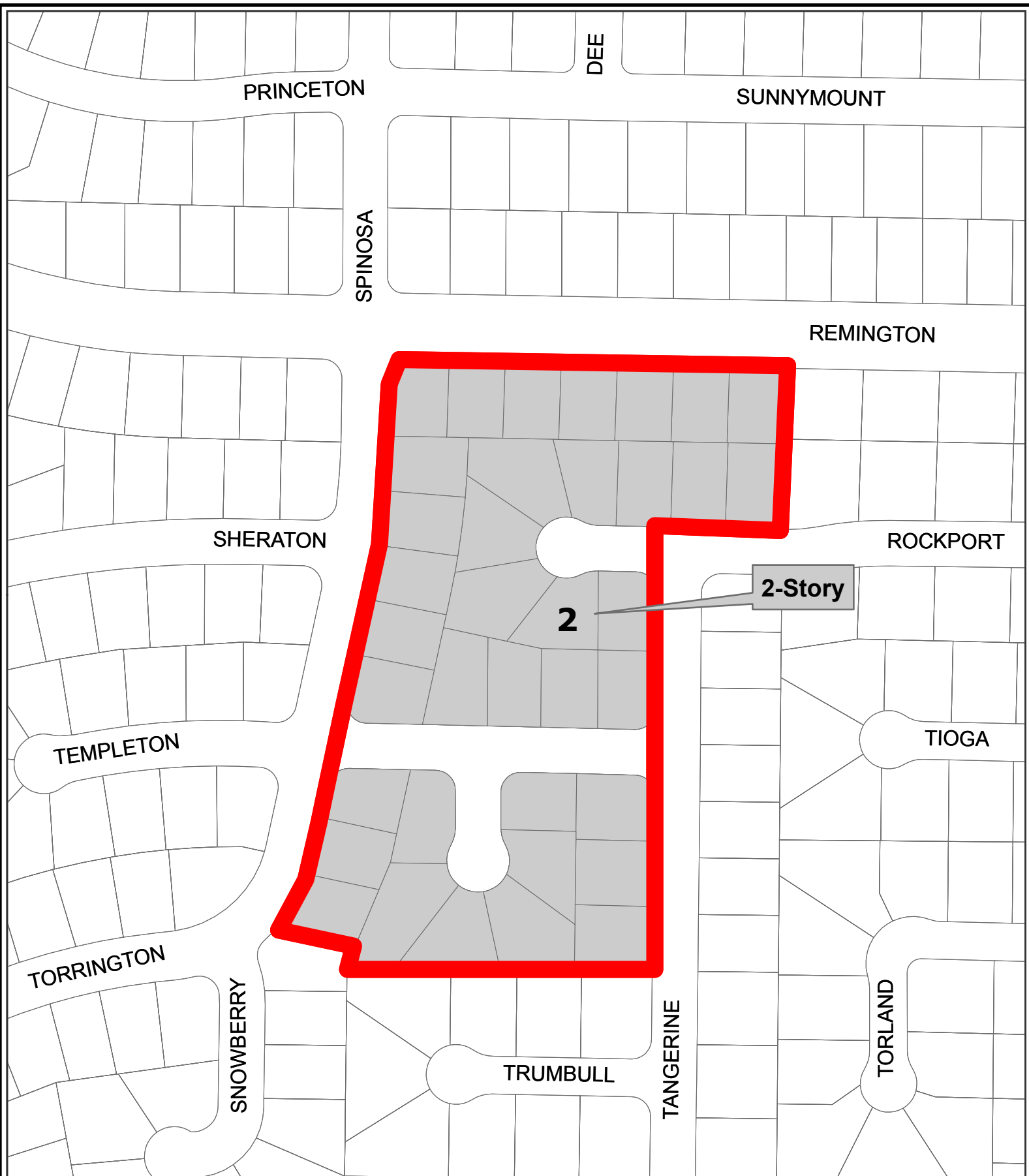
37 contiguous single-family lots from R-1 to R-1/S (Single Story)

300-ft area map

0 140 280 560 Feet







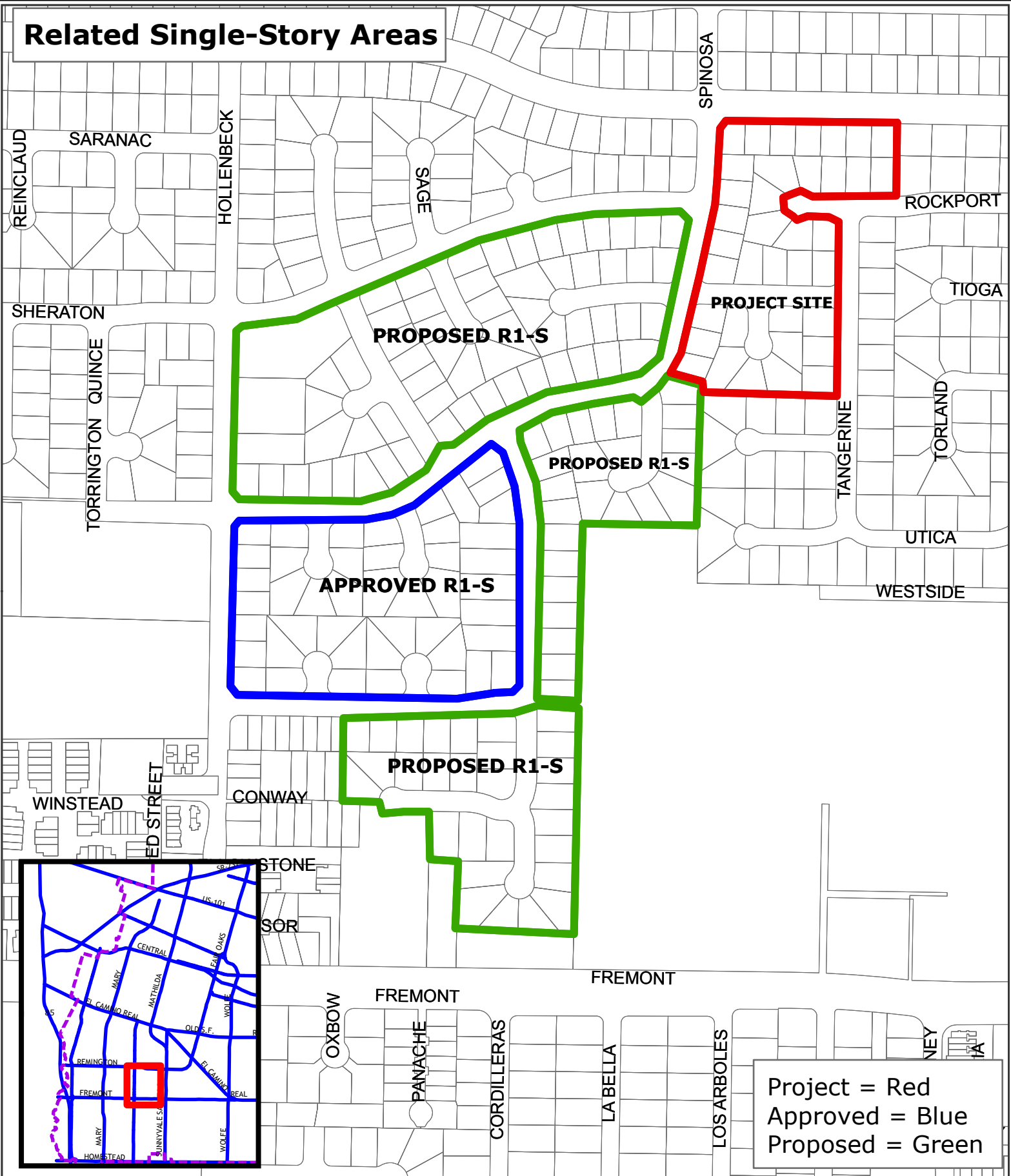
2016-7523

37 contiguous single-family lots from R-1 to R-1/S (Single Story)

0 90 180 360 Feet



# Related Single-Story Areas



2016-7523

Rezone 37 contiguous single-family lots from R-1 to R-1/S (Single Story)  
Proposed Single-Story Combining District

0 115 230 460 Feet



**Attachment 3**  
**List of Addresses**  
**2016-7523**  
**Single-story Rezone**

APN	Address	Lot Area	Living Area	Garage Area	Floor Area	Floor Area Ratio (FAR)	Stories	Transfer Date	Notes
		(Square Feet)				(Percent)			
20201001	598 W Remington	7,272	1,409	504	1,913	26%	1	05/14/79	
20201002	594 W Remington	7,171	1,660	299	1,959	27%	1	09/18/13	
20201003	590 W Remington	7,171	1,755	399	2,154	30%	1	12/09/10	
20201004	586 W Remington	7,171	1,657	299	1,956	27%	1	10/05/06	
20201005	584 W Remington	7,171	1,755	399	2,154	30%	1	04/16/13	
20201006	580 W Remington	7,171	1,409	504	1,913	27%	1	10/20/15	
20201007	576 W Remington	7,171	1,660	299	1,959	27%	1	12/10/15	
20201016	575 Rockport	7,280	1,755	399	2,154	30%	1	04/21/05	
20201017	579 Rockport	7,280	1,660	299	1,959	27%	1	07/22/04	
20201018	583 Rockport	7,176	1,755	399	2,154	30%	1	05/22/09	
20201019	585 Rockport	7,742	1,660	299	1,959	25%	1	09/05/14	
20201020	591 Rockport	9,450	1,660	299	1,959	21%	1	04/07/09	
20201021	595 Rockport	7,125	1,469	480	1,949	27%	1	05/02/14	
20201022	592 Rockport	9,500	1,661	260	1,921	20%	1	10/23/09	
20201023	586 Rockport	8,811	2,363	399	2,762	31%	2	10/29/03	Existing Two Story
20201024	580 Rockport	7,227	1,755	399	2,154	30%	1	03/30/84	
20201025	585 Templeton	5,670	1,660	299	1,959	35%	1	03/05/13	
20201026	587 Templeton	7,200	1,755	399	2,154	30%	1	02/20/13	
20201027	591 Templeton	7,276	1,660	299	1,959	27%	1	12/03/99	
20201028	595 Templeton	8,160	1,835	399	2,234	27%	1	03/12/09	
20201029	1120 Spinosa	5,785	1,660	299	1,959	34%	1	10/06/15	
20201030	1116 Spinosa	7,200	1,220	437	1,657	23%	1	09/15/04	
20201031	1112 Spinosa	7,200	1,722	525	2,247	31%	1	07/20/79	
20201032	1108 Spinosa	7,800	1,660	299	1,959	25%	1	09/07/12	
20201033	1104 Spinosa	7,200	1,755	399	2,154	30%	1	05/21/10	
20208032	1132 Spinosa	7,500	1,755	399	2,154	29%	1	11/06/13	
20208033	1128 Spinosa	7,030	1,755	399	2,154	31%	1	08/14/14	
20208034	1124 Spinosa	7,469	1,755	399	2,154	29%	1	04/11/13	
20208035	594 Templeton	8,850	1,409	504	1,913	22%	1	04/17/13	
20208036	1133 Strawberry	9,750	1,927	299	2,226	23%	1	08/08/08	
20208037	1138 Strawberry	8,500	1,755	399	2,154	25%	1	10/01/96	
20208038	1134 Strawberry	9,660	1,985	260	2,245	23%	1	08/13/96	
20208039	1130 Strawberry	8,550	1,496	399	1,895	22%	1	08/09/95	
20208040	1126 Strawberry	7,373	1,755	399	2,154	29%	1	04/30/07	
20208041	1143 Tangerine	7,802	1,755	399	2,154	28%	1	08/13/13	
20208042	1149 Tangerine	7,802	1,755	0	1,755	22%	1	04/20/94	

**Attachment 3**  
**List of Addresses**  
**2016-7523**  
**Single-story Rezone**

APN	Address	Lot Area	Living Area	Garage Area	Floor Area	Floor Area Ratio (FAR)	Stories	Transfer Date	Notes
		(Square Feet)				(Percent)			
20208043	1153 Tangerine	7,802	1,755	399	2,154	28%	1	11/03/15	

1 of 4

**Residential Single-Story Combining District - Fairbrae Eichler Neighborhood NE**  
**Written by Stephen Meier May 9, 2016**

The purpose of this form is to determine if there is interest in creating a Single-Story Combining District (SSCD) among residents of the north eastern sunnyvale fairbrae eichler neighborhood, bounded by Spinosa, Remington, Rockport, Tangerine and Templeton Drives. (see attached map) The Sunnyvale planning commission supports Eichler neighborhood areas to petition for single story overlay zoning from R-0 to R-0S.

There has recently been a proposed 2 story remodel on 1169 Sesame Drive which has many neighbors concerned about loss of privacy and lack of preserving Eichler neighborhood. Also recently the Sunnyvale planning commission approved an SSCD proposal for 36 homes in Fairwood on Dartshire and Devonshire roads.

Possible reasons you might support an SSCD:

- An adjacent second-story house would create significant privacy and noise issues for your home.
- You believe an adjacent second-story house would negatively impact your property value.
- You support preservation of Eichler neighborhoods and home styles.

Possible reasons you might reject an SSCD:

- You believe limiting second-story development would negatively impact property values.
- You might need to expand your home and feel that a second-story is the best option.

Your response to this form is informational-only. If there is a positive response, we will use the contact information you provide below to follow up during the actual application process.

---

Do you support creating an SSCD for the Fairbrae neighborhood ? (Yes/No):

Are you willing to help organize and solicit participation ? (Yes/No):

Reason: (optional)

Name:

Address:

Public Comments (may be shared with the City):

---

Information below this line will not be shared with anyone except for the purpose of following up to contact you on questions or comments and is optional.

Email:

Phone:

Private Comments:

Please return to Stephen Meier, 595 Templeton Drive. Alternately, feel free to email your response to [stevemeier853@gmail.com](mailto:stevemeier853@gmail.com)

Stephen Meier  
595 Templeton Drive  
Sunnyvale CA, 94087  
May 13, 2016

Email: [stevemeier853@gmail.com](mailto:stevemeier853@gmail.com)  
Phone: 408-393-8246

Dear Fairbrae Eichler Neighbor,

With neighbors Kristen Robins, Carrie Levin and Bertrand Chevalier we are soliciting your input regarding single story combining district. The purpose of this letter is to determine if there is interest in creating a Single-Story Combining District (SSCD) among residents of the Northeast Sunnyvale Fairbrae Eichler neighborhood.

Two years ago, a property on Vanderbilt Dr was remodeled into a second story against opposition from neighbors. The resulting house is a poor fit for the neighborhood recently sold on the market.

In January, 1169 Sesame started the permit application process to tear down their existing home and rebuild a two-story structure. The proposed design includes second-story windows and a second-story patio deck with a sliding glass door. The windows and patio would look into private spaces at the rear of neighbors home -- into the living room, dining room, master bedroom and bath. Several adjacent homes are similarly affected.

My neighbors and I all feel this is unacceptable, yet the planning department approved the project even though it violates Eichler Design Guidelines.

In addition to the loss of personal privacy, a local Eichler realtor has estimated that this construction could reduce the property value of neighboring homes by up to \$100,000.

Creating an SSCD will stop future second-story proposals from consideration.

In order to designate a neighborhood as an SSCD, 55% of the residents must approve of the change. Once there are enough signatures for the City to accept the application, there is a fee of roughly \$143 per lot, and possibly higher depending on participation rate.

I would like to collect your informal feedback on this issue by May 31st, 2016. We are also planning to schedule a community meeting during the first week of June.

Please see the attached form. You can return this to me via the included envelope. Alternately you can drop it off in my mailbox, or send me your response via email at [stevemeier853@gmail.com](mailto:stevemeier853@gmail.com).

Best Regards,  
Stephen Meier

## Background Details

SSCD - Single story conversion district is an overlay zoning to modify the underlying zoning and restrict to allow construction of only single story homes.

### Summary of Sunnyvale SSCD - Single Story Conversion District Process

- Group of homes should be at least 20 homes, but not too large.
- Group of homes should be logically related and follow geographic boundaries and tract boundaries
- Requires notification and support by signature of a large majority of homeowners. (>55%), but ideally a participation rate of greater than 75%
- Existing 2nd story homes to remain as is, grandfather clause
- Rezoning fee is required, the currently adopted fee is \$143 per lot, fee is required whether owner participates or not.
- Requires review and approval of both Sunnyvale Planning Commission and Sunnyvale City Council

### Resources:

-----  
City Manager Blog -

<http://sunnyvale.ca.gov/Portals/0/Sunnyvale/OCM/CMBlog/2015/Oct12/2015-1008-SSCD-App-History.pdf>

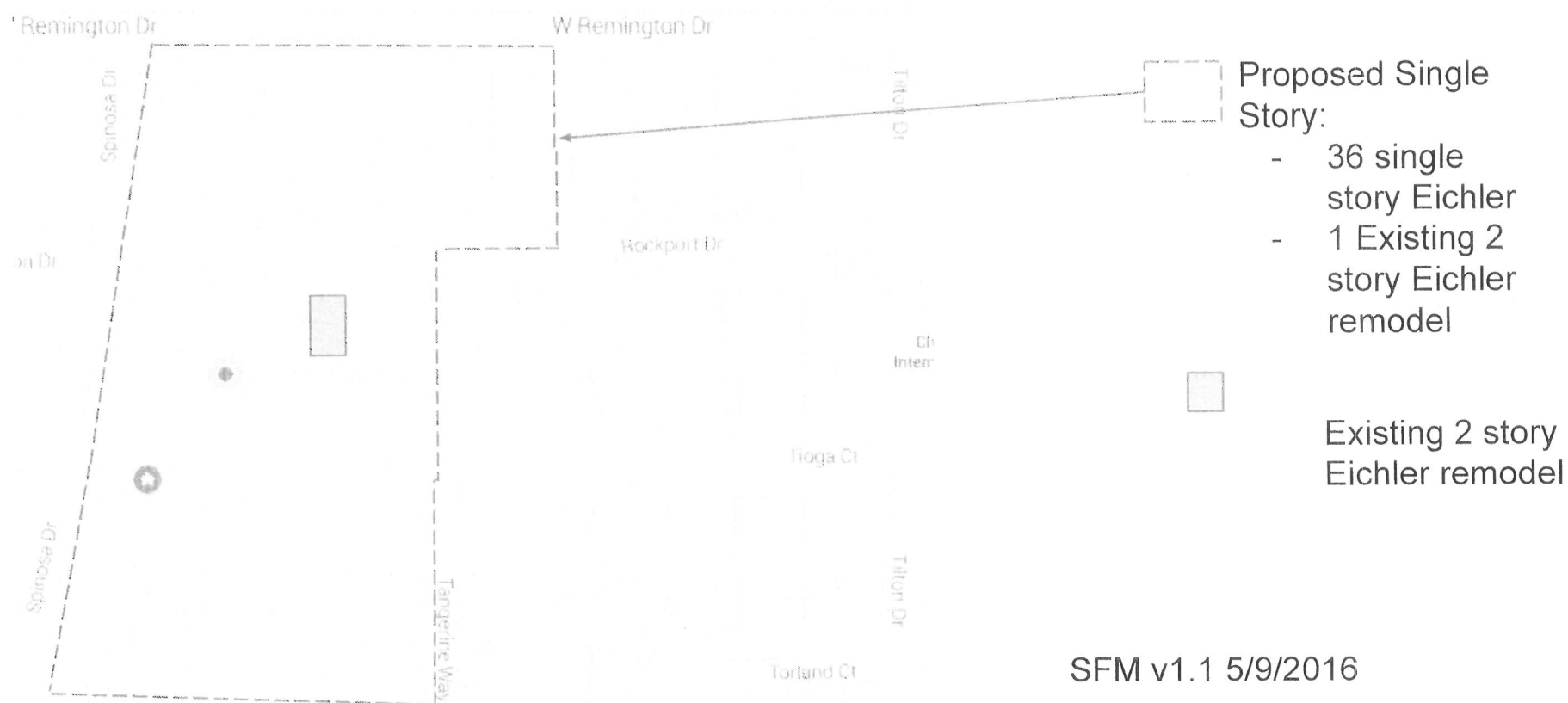
City of Sunnyvale Municipal Code -

[http://qcode.us/codes/sunnyvale/view.php?topic=19-3-19\\_26-19\\_26\\_200](http://qcode.us/codes/sunnyvale/view.php?topic=19-3-19_26-19_26_200)

Mercury News article -

[http://www.mercurynews.com/news/ci\\_29822295/sunnyvale-eichler-neighborhood-asks-be-free-two-story](http://www.mercurynews.com/news/ci_29822295/sunnyvale-eichler-neighborhood-asks-be-free-two-story)

# Eichler Single Story Combining District - Petition Map: Spinosa - Remington - Rockport - Tangerine - Templeton



4 of 4



DRAFT 8/16/16 *rum*

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING THE PRECISE ZONING PLAN, ZONING DISTRICTS MAP, TO REZONE CERTAIN 37 CONTIGUOUS PROPERTIES LOCATED ON WEST REMINGTON DRIVE, ROCKPORT DRIVE, TEMPLETON COURT, SPINOSA DRIVE, STRAWBERRY COURT AND TANGERINE WAY FROM R-1 (LOW DENSITY RESIDENTIAL) ZONING DISTRICT TO R-1/S (LOW DENSITY RESIDENTIAL/SINGLE-STORY) ZONING DISTRICT**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF PRECISE ZONING PLAN. The Precise Zoning Plan, Zoning Districts Map, City of Sunnyvale (Section 19.16.050 of the Sunnyvale Municipal Code) hereby is amended to rezone certain 37 contiguous properties located at 576-598 West Remington Drive (Assessor Parcel Number: 202-01-001 through 202-01-007), 575-595 Rockport Drive (Assessor Parcel Number: 202-01-016 through 202-01-024), 585-595 Templeton Court (Assessor Parcel Number: 202-01-025 through 202-01-028 and 202-08-035), 1104-1132 Spinosa Drive (Assessor Parcel Number: 202-01-029 through 202-01-033, and 202-08-032 through 202-08-034), 1126-1138 Strawberry Court (Assessor Parcel Number: 202-08-036 through 202-08-040), 1143-1153 Tangerine Way (Assessor Parcel Number: 202-08-041 through 202-08-043) to the R-1/S (Low Density Residential/Single-Story) Zoning District. The location of the property is set forth on the scale drawing attached as Exhibit A.

SECTION 2. CEQA - EXEMPTION. The City Council finds that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305 of Title 14 of the California Code of Regulations (minor alterations in land use limitations that do not result in any changes in land use or density). In addition, the ordinance is exempt under the general rule that CEQA only applies to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA. (Section 15061(b)(3)). The Council therefore directs that the Planning Division may file a Notice of Exemption with the Santa Clara County Clerk in accordance with the Sunnyvale Guidelines for the implementation of CEQA adopted by Resolution No. 118-04.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 4. 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 newspaper for 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:

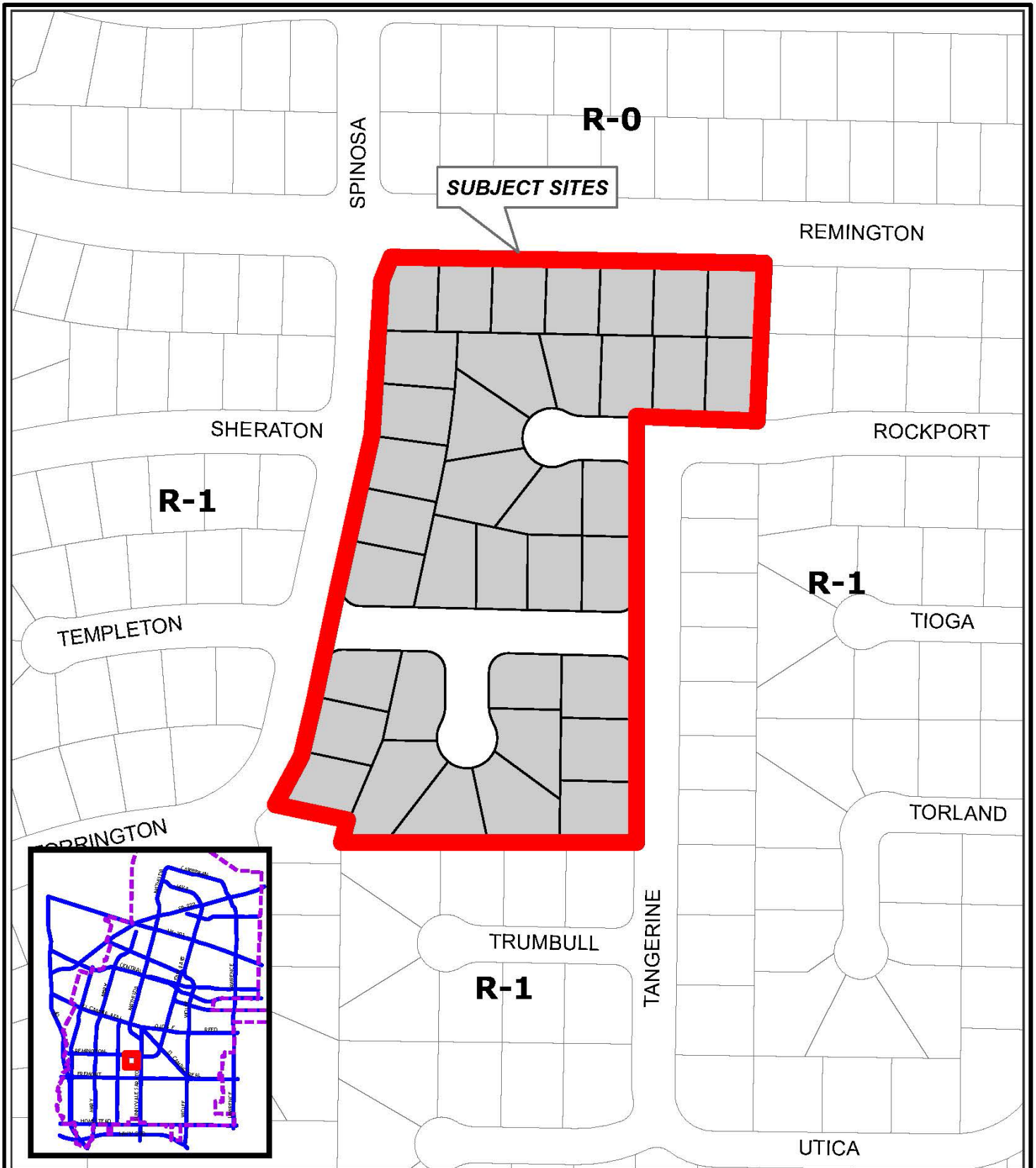
\_\_\_\_\_  
City Clerk  
Date of Attestation: \_\_\_\_\_

\_\_\_\_\_  
Mayor

(SEAL)

APPROVED AS TO FORM:

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



REZONE MAP

Planning File 2016-7523

37 contiguous single-family lots from R-1 to R-1/S (Single Story)

0 75 150 300 Feet

0 90 180 360 Feet



**Finding Rezoning:** *The city council may approve a general plan or zoning amendment upon finding that the amendment, as proposed, changed or modified is deemed to be in the public interest. (SMC 19.92.080)*

The proposed rezoning for the use of the Single-Story combining district is in the public interest as it would achieve the preservation of a predominantly R-1, single-story residential neighborhood where the property owners in the proposed district desire a single-story character. The intent of the Council's action creating the Single-Story combining district was to modify the site development regulations of the R-0, R-1, and R-2 residential zoning districts to preserve and maintain single-family neighborhoods of predominantly single-story character.



August 19, 2016

**Re: City of Sunnyvale Rezoning Application 2016-7523 – Requesting a residential single-story zoning designation for the 37 properties bound by West Remington Drive on the north, Spinsoa Drive on the west, and Tangerine Way on the east.**

Dear Property Owner:

An application has been filed to change the zoning for your home to limit it to a single story. If approved, the zoning will be changed from R-1 (Low Density Residential) to R-1/S (Low Density Residential-Single Story).

This application was not initiated by the City. It has been initiated by 75.6% of property owners in the proposed single-story district. If adopted by the Sunnyvale City Council this revised zoning will apply to the entire block described above, including existing and approved two-story homes, regardless if you were party to the application.

The proposed zoning change will not be in effect until it is considered and approved at public hearings by both the Sunnyvale Planning Commission on September 12, 2016 and the City Council on October 4, 2016. You will be mailed a separate notice of the hearing dates. If the rezoning is approved the following is an outline of the proposed changes and how it will affect the use of your property:

#### **Neighborhood Density**

- The proposed R-1/S area will remain a single-family zoning district. One dwelling unit is allowed per lot.

#### **Single Story Limit**

- There will be a limit of one habitable floor (story). Habitable areas are interiors conditioned for human occupancy (e.g. meet standards for heat, insulation, light and minimum ceiling heights).
- Lofts, mezzanines and similar areas will be prohibited as well as attics that meet habitable standards.

#### **Building Height Limit**

- The maximum building height will be 17 feet (currently 30 feet).
- Any proposed building height exceeding 17 feet will require approval of a Variance by the City. A Variance can only be granted due to specific hardships. Variances require a public hearing and can be denied. Notice of Variance hearings will be provided to surrounding property owners.

### **Maximum Gross Floor Area**

- The maximum floor area ratio (FAR) of each home will be limited to 45%. FAR is the ratio of building square feet/lot area. Example - a 4,500 s.f. home on a 10,000 s.f. lot = 45% FAR.
- No future home additions or new homes beyond 45% FAR will be permitted unless a Variance is granted.
- Although a basement is not considered a story, a basement that extends more than two feet above the ground will be counted towards the maximum 45% FAR.

### **Legal Non-Conforming Homes**

- Existing homes that are already two stories or existing homes that exceed 45% FAR or 17 feet in height will be considered legal and non-conforming if they were constructed with City permits.
- No changes are required to legal and non-conforming homes as a result of the single-story rezoning if they were legally constructed with City building permits.
- Legal non-conforming homes can be maintained and repaired subject to City building permit requirements.

### **Existing Two-Story Homes**

- Existing two-story homes that were legally constructed with City building permits will be considered legal and non-conforming.
- Existing two-story homes do not need to be modified if the single-story zoning is approved.
- Existing second stories cannot be expanded or increased in height but can be maintained and repaired subject to City building permit requirements.
- Additions can be made to the first floor up to the maximum 45% FAR for the entire home.

### **Eichler Design Guidelines**

- The area proposed for rezoning is an Eichler neighborhood. New additions, architectural changes and new homes are subject to the adopted Sunnyvale Eichler Design Guidelines.

If you have any questions about the proposed R-1/S zoning change and how it affects your property or how the public hearing process will occur, please contact me at (408) 730-7458 or [avashist@sunnyvale.ca.gov](mailto:avashist@sunnyvale.ca.gov). I will be happy to clarify this information and answer any questions.

Regards,

Aastha Vashist  
Assistant Planner



Aastha Vashist <avashist@sunnyvale.ca.gov>

---

## Re: SSCD in the area of Templeton Dr.

---

Eran Dor [REDACTED]

Thu, Jul 14, 2016 at 1:10 PM

To: Aastha Vashist <avashist@sunnyvale.ca.gov>, Andrew Miner <aminers@sunnyvale.ca.gov>, Gerri Caruso <gcaruso@sunnyvale.ca.gov>

Hi Aastha,  
Thanks for taking the time to meet with me this morning.  
To re-iterate the points that i want to convey:

1. Looking at a similar case of SSCD in Palo Alto (Royal Manor) the smaller lots with mid sized houses (like most of the houses in the case of our neighborhood) suffered a value loss of \$200K-\$300K only because of the loss of potential. The City of Palo Alto decided against the SSCD, and the houses gained most of their value back but never fully recovered. The larger lots kept their values and even increased their values since they still kept a good potential of enlarging the houses sideways while still keeping a nice sized backyard. This kind of scenario would be very problematic in our neighborhood. Merely as an anecdote to consider - In the planning commission meeting this last Monday Mr. Buck from the adjacent neighborhood said in his closing arguments that in Ribier Ct. a few very nice remodels have been done without adding a 2nd floor. Which is 100% true, the only item omitted was that most of the lots on Ribier Ct. are very large so that they had all the possibilities in the world to grow their living space sideways. I am asking the planning staff of the city of Sunnyvale to consider lot sizes and potential living space expansion while keeping a decent sized backyard as one of the criterias.
2. From talking with the neighbors i am not sure that all of them understand the ripple effect that an SSCD might have
3. There are solutions to the privacy issues that are being raised - the house behind my house is a 2 story house and we mitigate the privacy issue by vegetation.
4. The petition was filed right at the beginning of the school vacation and it seems that the schedule to settle the SSCD is also during the summer months. The direct consequence of this is that the owners that have young families and that are most affected by this decision are practically bypassed.
5. My Questions/ requests:
  1. What is the procedure to revoke a signature?
  2. What is the process that i need to go through to file an appeal?
  3. Please move any further activity and meetings with regards to SSCD until after kids go back to school.

Thanks  
Eran  
[Quoted text hidden]



Aastha Vashist <avashist@sunnyvale.ca.gov>

---

## Re: SSCD in the area of Templeton Dr.

---

Eran Do [REDACTED]  
To: Aastha Vashist <avashist@sunnyvale.ca.gov>

Thu, Jul 21, 2016 at 9:41 PM

Hi Aastha,

Thanks for working and including my input, i appreciate this very much.

I have attached a flier of a short case study that i have performed that explains the financial risk of approving an SSCD on smaller lots.

Further i have attached a summary of a Mountain View city council meeting that approved a single story overlay in 2001 - it can clearly be seen that the city planners have given a significant amount of attention to:

1. The lot sizes
2. Liveable space
3. Options to expand the homes

I will provide more input over the weekend.

Thanks

Eran

[Quoted text hidden]

---

### 2 attachments



**Case Study.docx**  
52K



**Item 5.1 - Rezoning of Lincoln Drive to Single-Story Overlay Zone.pdf**  
1127K



# Single Story Overlay (SSO) Case Study – Palo Alto

**Mid 2015 – Greer Park Neighborhood files for SSO and a few activists in the Royal Manor Neighborhood start lobbying for SSO as well.**

**Greer Park lots are large, Royal Manor lots are smaller.**

**End 2015 – Greer Park gets the SSO approved and Royal Manor real estate values drop.**

**Lots of 8000sqft or lower with houses of ~1700sqft get hit hardest - \$200K-\$300K.**

**Larger lots keep and add value**

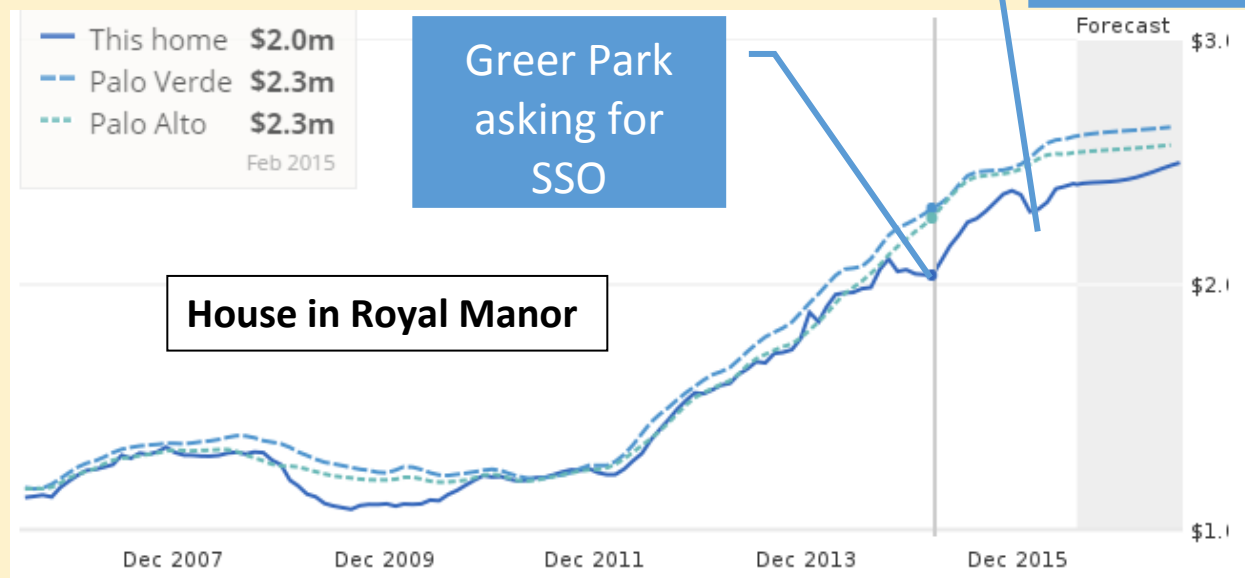
**April 2016 – the city council decides against SSO in Royal Manor – Real estate Values are recovering – until now no full recovery**

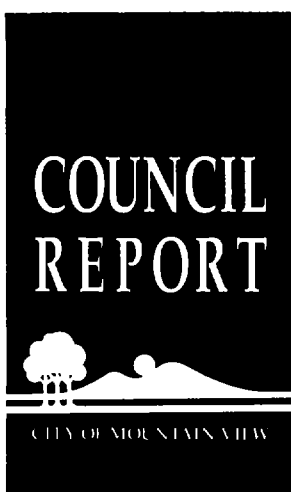
**In our proposed SSO:**

**27 lots of 8000sqft or smaller (73%)**

**10 lots 8000sqft and larger (27%)**

Royal Manor  
in debate at  
City Council





AGENDA: June 27, 2001

CATEGORY: Public Hearing

DEPT.: Community Development

TITLE: Rezoning of Lincoln Drive to Single-Story Overlay Zone

### **RECOMMENDATION**

Introduce AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF MOUNTAIN VIEW TO REZONE 23 PARCELS ON LINCOLN DRIVE FROM THE R1-8L DISTRICT TO THE R1-8L-H1S DISTRICT, to be read in title only, further reading waived and set a second reading for July 10, 2001.

**FISCAL IMPACT**—None.

### **BACKGROUND AND ANALYSIS**

This is an application to rezone a single-family neighborhood to the Single-Story Overlay Zone. Second stories would not be allowed, but all other R1 zoning regulations would remain in effect. Lincoln Drive is a phase of the Gest Ranch subdivision, which recently received approval of a single-story overlay.

The proposed Overlay Zone encompasses 23 single-family homes on Lincoln Drive. All of the homes are single-story. Most of homes range in size from approximately 2,100 square feet to 2,900 square feet.

To qualify for single-story overlay zoning, an area must meet certain criteria and follow a specific process. The criteria and process, and how the area complies with them, are summarized below:

1. The area must be a reasonable geographic unit. The homes under consideration face opposite one another along the street. This meets the Zoning Ordinance requirement of definable geographic area.
2. An application for rezoning must be filed by at least 50 percent of the parcels that would be subject to the Overlay Zone. The rezoning petition was signed by the owners of 15 of the 23 parcels on Lincoln Drive (65 percent).
3. At least 51 percent of the parcels must currently comply with the proposed height limit. All of the 23 homes on Lincoln Drive are single-story.

APPROVED BY THE MOUNTAIN VIEW  
CITY COUNCIL ON 6/27/01

---

## **Description of Neighborhood**

The proposed overlay zone encompasses 23 single-family homes on Lincoln Dr. All of the homes are single-story. Most of the lots are 8,000 square feet. A few are slightly larger. According to the County Assessor records, all but two of the homes range in size from approximately 2,100 square to 2,900 square feet. The two larger homes are approximately 3,000 square feet and 3,500 square feet respectively.

Lincoln Dr. is located adjacent to the Guest Ranch subdivision which recently received approval of a single-story overlay. The two areas share a consistent ranch style architectural design. The attached location map depicts the relationship between Lincoln Dr. and the Guest Ranch neighborhood.

## **ANALYSIS**

The application complies with the Height (H) zone requirements and the rezoning process described above. The area must be definable as a geographic unit including, but not limited to, one or more entire City blocks or one or more entire subdivision tracts or streets faces opposite one another. The 23 homes on Lincoln Dr. meet this requirement. Lincoln Dr. is a City block and the homes involved face opposite one another.

The application for rezoning to add the H zone was filed by owners of at least 50 percent of the parcels that would be subject to the overlay zone. After reviewing the petition and checking it against other records, staff has determined that the owners of 15 parcels (65 percent) favor the rezoning. Eight property owners have submitted a letter in opposition to the rezoning (this includes three property owners who originally signed the petition in favor of the rezoning later changed their mind and filed a letter in opposition).

More than 51 percent of houses must be one-story to comply with the rezoning process. All the homes on Lincoln Dr. are one-story. If the area is rezoned as proposed, the height will be limited to one-story.

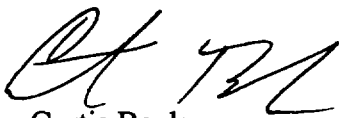
The single story limitation would not prevent property owners on Lincoln Dr. from constructing additions to their homes. As stated above, most of the homes on Lincoln Dr. are on 8,000 square foot lots and range in size from approximately 2,100 square feet to 2,900 square feet (with two homes being 3000 square and 3,500 square feet respectively). The average home size on Lincoln Dr. is 2,600 square feet and could add approximately 800 square feet under the base FAR of .42 and an additional 336 square feet with a FAR exception (a FAR exception allows a 10% increase in allowable floor area for unusual circumstances). Only one home on Lincoln Dr. exceeds the allowable base FAR. Even that home could add some floor area with a FAR exception. Also, the owner of that home has signed the petition supporting the rezoning.

The next step in the process, following the Commission's recommendation, is to mail a ballot to the 23 property owners on Lincoln Dr. Before Council action, 67 percent of the property owners, who respond to the ballot, must indicate support for the zone change. However, the City Council reserves the right to approve the rezoning with or without the 67 percent support.

## CONCLUSION

The Height overlay zone was adopted as a tool for neighborhoods that want to prevent second story additions. This neighborhood complies with the requirements of the Height zone, at least 50 percent of the homes are one-story and it is a logical geographic area as defined by the zoning ordinance. Further there is adequate support neighborhood support. Therefore, it is recommended that this area be rezoned from R1-8L to R1-8L-H1S (single-story overlay) subject to confirmation of neighborhood support prior to the City Council hearing.

Prepared by:



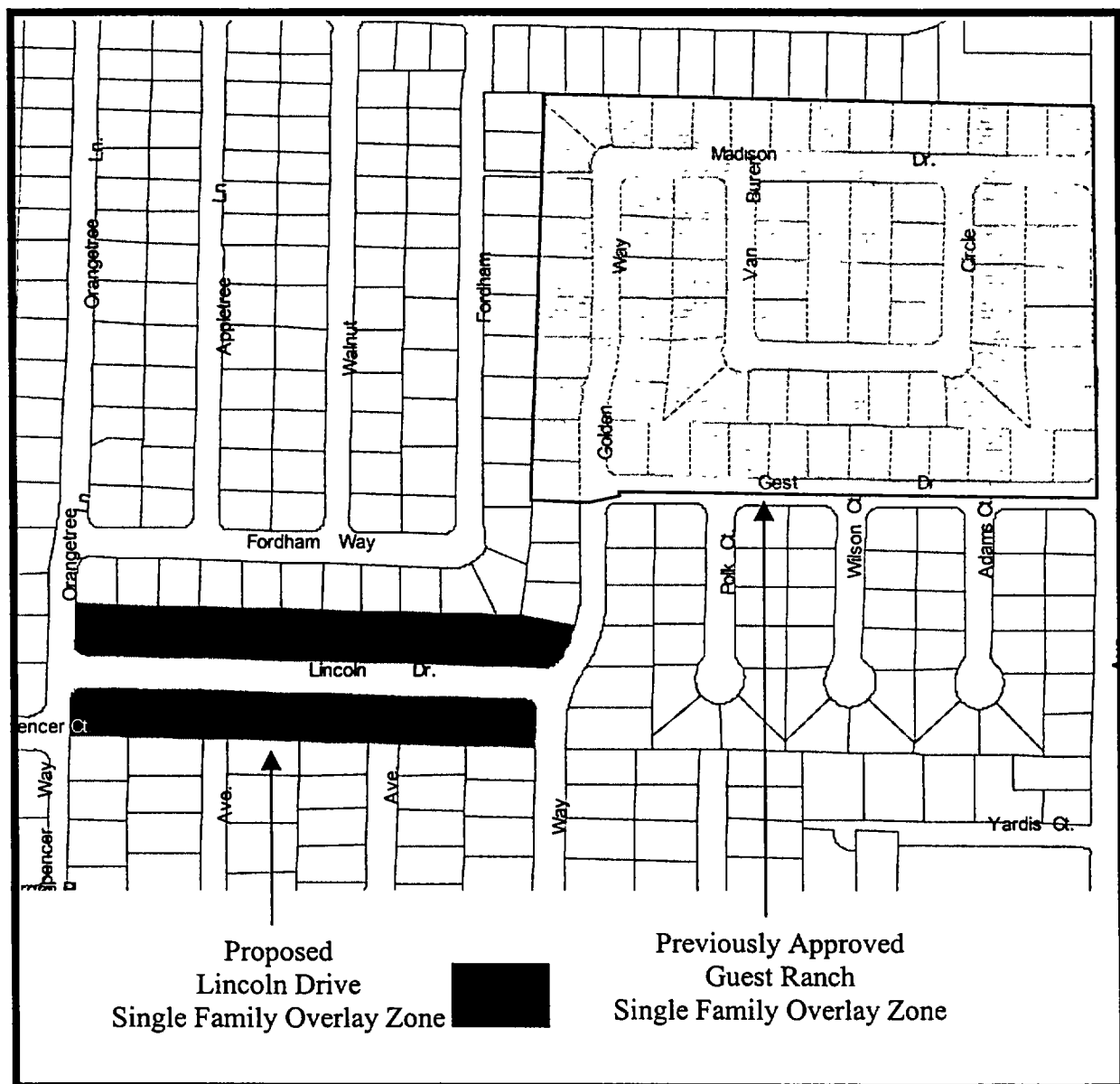
Curtis Banks  
Senior Planner

### Attachments:

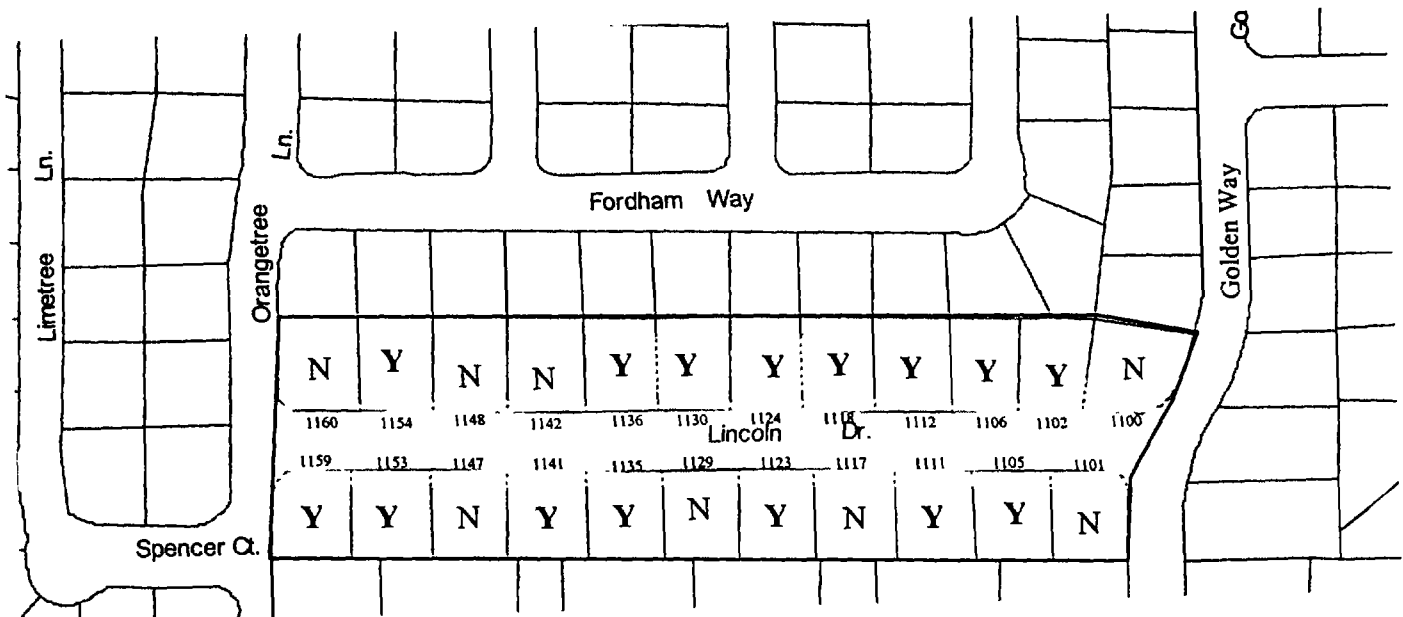
1. Location Map
2. Petition to Rezone Lincoln Dr.
3. Letters in Opposition to the Rezone
4. Map with Petition Results

## LOCATION MAP

### LINCOLN DR. SINGLE STORY OVERLAY ZONE



# Proposed Lincoln Dr. Single Story Overlay Zone Petition Results



Item No. 5.1  
Date: 6/27/01

**(Petition)**

**Attachments are located with the  
original Council Report**

## Attachment 4

### 5. PUBLIC HEARINGS

#### 5.1 Consideration of Neighborhood Application for Single-Story Overlay Rezoning for Lincoln Drive (Gest Ranch Neighborhood)

Mr. Banks presented the staff report, noting that this application was submitted by property owners in an R1-8L District consisting of 23 houses fronting on Lincoln Drive. If the rezoning is approved, a second story would not be allowed.

Mr. Banks described the criteria and process for a neighborhood-initiated rezoning and described how this application related to those criteria. The first criterion is that the application must represent one or more blocks of properties and must form a reasonable geographic unit. This application is from 23 properties on Lincoln Drive which face one another across the street along the block. The second criterion requires that at least 50 percent of the total must be in support to gain Planning Commission approval, with two-thirds in support before the item goes to the City Council. Fifteen (15) of the 23 properties signed the petition requesting the rezoning, representing 65 percent of the total. The third requirement is that 51 percent of the existing houses must comply with the proposed height limit restriction: 100 percent of the houses in this neighborhood are one story.

Mr. Banks continued that the next step after the Planning Commission's recommendation would be to mail a ballot to the 23 property owners. A response from 67 percent must be in support for the EPC recommendation to go forward to the City Council. Mr. Banks explained the overlay rezoning would not prevent adding floor area to the existing houses. He pointed out that most of the lots are about 8,000 square foot in size and houses may have a maximum FAR of 0.42. The existing homes average about 2,600 square feet in size, which would allow about a 800 square foot addition on most houses. In addition, the R1 zoning allows a possible 10 percent floor area bonus if architectural review indicates quality design merits the bonus. This would allow an approximate bonus of 330 square feet so that the maximum floor area would approach 3,700 square feet. Additions would be required to meet all other zoning regulations of the R1-8L District. Mr. Banks said staff recommends that the Commission recommend that the area be rezoned since the application meets all of the criteria specified in the Zoning Ordinance.

Commissioner WEAVER noted the ordinance requires two-thirds of the ballots that are returned to be in favor for the zoning to go forward. To date, we have 65 percent. Does this make the Commission's action moot? Mr. Banks affirmed that the Zoning Ordinance does set the two-thirds standard, which is based on the ballots returned after the Commission has made their recommendation, not on the survey that initiated the rezoning. He also noted that the City Council could rezone the property even if the full 67 percent ballot vote is not achieved.



Commissioner LESTI understood that the 10 percent bonus floor area is not automatic. An application must be reviewed by the Zoning Administrator to assure it meets design criteria. Mr. Banks confirmed that the bonuses are reviewed on a case-by-case basis.

Chairman FRANKUM opened the public input portion of the hearing.

Herb Fielden, 1111 Lincoln Drive, said he has been a homeowner since 1974. He clarified that Lincoln Drive area is part of the Gest Ranch subdivision, which was built in several phases. He stated that the neighborhood wishes to gain the same benefits as the 75 houses located in the first second-story overlay zone, referred to as Gest Ranch 1. He clarified that 18 of the 23 property owners had signed the petition, but today 3 have withdrawn their support and 15 wished to be included.

Bernt Jonzzon, 1129 Lincoln Drive, stated his lot is 7,900 square feet, and his house has 1,690 square feet of floor area. He stated he could not readily expand his house because of setback and other zoning requirements. His Lincoln Drive property backs up to a house in Los Altos, which is on a much larger lot. He noted the zoning in Los Altos still allows two-story houses. If a neighbor adds a second story, he would get a lower property value. Who would be responsible for the loss of up to \$500,000? He felt that with the advent of home offices and other needs of modern living, it is necessary to maximize the size of the house. In his case, he felt the cost of adding floor area would be too high unless they could add a second story.

Commissioner GREENE asked about the zoning regulations in Los Altos, and several members of the audience replied that the area behind Lincoln Drive is zoned R1 with lots at least 10,000 square feet in size. Two-story houses are currently allowed, but neighbors in Los Altos in this area are circulating a petition in their area to adopt a similar one-story height limit.

Commissioner GALIOTTO spoke of the need to preserve the nature and character of the neighborhood while respecting neighbors' rights. He wondered what if the majority changed their minds and asked when individual property rights end. He asked what the process was for rescinding the neighborhood height limit. Staff responded that a group rezoning would have to go back through the same neighborhood rezoning process to remove the height limit. Commissioner WEAVER asked if the second rezoning would have to come back with exactly the same geographic area to reverse the zone change. Staff replied that generally it would need to be the same area. However, the core principle is that neighborhood-initiated rezonings must meet the criteria of having a logical geographic area. Generally, this would mean the same logical geographical area that created the overlay zone, but there may be circumstances where a different set of boundaries would still meet this criterion. Staff noted that if the full original area was not

taken out of the overlay zone, both the area being removed and the area still retaining the overlay would both need to meet the logical area criteria.

Gordon Hamachi, 1117 Lincoln Drive, said their street is like a community, and there is privacy. He, too, claimed that second-story additions would reduce property value of neighbors' property. However, he was not convinced that an absolute one-story height limit was the right answer. He agreed there is need for a community meeting to review the pros and cons. A majority is not always correct. We should explore other options and possible solutions. Commissioner GREENE asked him if his wife had signed the original petition. Mr. Hamachi acknowledged this but said they had discussed it and decided to withdraw from the petition.

Scott Stauter, 1154 Lincoln Drive, said they bought in 1970 because they liked the look and style of the houses. His backyard also adjoins Los Altos, but it was important to retain the character of their neighborhood.

Esther Pham, 1101 Lincoln Drive, suggested a time limit on the overlay zone with a review every five years. She stated that she was also concerned about placing a height limit on her neighborhood when the adjacent properties in Los Altos did not have a height limit.

Mr. Jonzzon spoke again to add that he thought that neighbors would support the rezoning if there was a review after a 10-year period.

Bill Stetler, 1124 Lincoln Drive, told the Commission he was very concerned about privacy. It is a classic California ranch-style neighborhood. Even with the recently amended guidelines for second-story additions, he felt that two-story homes would not fit their neighborhood.

There being no one else wishing to speak, Chairman FRANKUM closed the public input portion of the hearing.

Commissioner LESTI asked about Mr. Jonzzon's comments about compensation. Is there any way this overlay rezoning would be considered a taking? Has staff considered the affect on property values? Mr. Percy replied that zoning is an exercise of police power. A taking only occurs if the property is acquired for a public purpose like a park or a street, which clearly does not apply to this neighborhood rezoning. No information was collected regarding possible loss of property value, although Mr. Percy noted that during the Gest Ranch 1 rezoning, people made comments that retaining the homogeneity of the neighborhood was believed to enhance property values.

Chairman FRANKUM asked about a sunset provision of 5 or 10 years. Mr. Banks replied that staff would suggest that, if the Commission wanted to consider

alternatives to how a neighborhood rezoning could be reversed, it be done on a more comprehensive basis rather than being specific to this application. Staff has some general concerns about sunset clauses from the standpoint of administrative equity and fairness across all similar rezonings in the City. If the Commission wants to consider ways of limiting or reversing neighborhood overlay rezonings, staff would suggest tabling this application and coming back with alternatives, emphasizing a uniform process.

Commissioner WEAVER thanked the people representing the neighborhood. He said he attended a Los Altos hearing one year ago, when they considered a single-story overlay. About one-half of the 400 people present favored the restriction. He felt the idea of a sunset clause is an interesting idea that should be explored further. As we have only had one neighborhood rezoning so far, a review how such zonings can be reversed would be timely before more groups petition. He noted that the petition for this rezoning did not have a two-thirds favorable vote and asked what happens after the Commission's vote. Mr. Percy replied that the neighborhood rezoning goes through a two-step process to allow further discussion and review by the neighborhood. The first step for consideration is that there must be majority support to get the application before the Planning Commission. The second step is for 67 percent support to go before the Council, with time for the neighborhood to gather more support or opposition now that the application is "more real" with the Commission's recommendation. He noted that the second step vote is based on a ballot sent out by the City and the votes are counted based on the ballots returned.

Commissioner GREENE noted the neighborhood is intermixed with yes and no. He supports the concept of an overlay zone as a powerful tool for a neighborhood to control its own destiny, but it is important that this tool be supported by a super-majority of the neighborhood so this tool is used to build neighborhood consensus, not serve as a point of division. He wondered if it would be better to continue this item so this neighborhood could build a better consensus.

Commissioner LESTI noted the owners are concerned about the value of their home. He felt the overlay could limit how much floor area could be added if the yard is to be preserved. He suggested that the rules for a floor area bonus be revised to allow them more easily in areas with a height limit overlay zone.

Commissioner WEAVER agreed that there perhaps should be some tradeoff in setbacks or FAR to offset the limits of a height restriction. Mr. Percy replied that, regarding a floor area bonus, the height limitation zone did not restrict one's ability to apply for a floor area bonus. The additional 10 percent floor area review is based on criteria set forth in the Zoning Ordinance related to design compatibility with the neighborhood, superior design of the house with the addition and need for the added floor area. The bonus is not tied one way or the other to the

number of stories. He felt that the bonus should continue to go through a special review, noting the extensive community study that established the current zoning limits on house size and setbacks. Mr. Banks read the specific language of the Zoning Ordinance related to the added floor area. Ms. Emerson commented that the Commission should be cautious about changing setbacks and floor area, noting that the review that established the current regulations involved a lot of public input which emphasized the impacts of buildings on adjacent properties. Ms. Emerson added that side yard setback regulations preserve character and privacy by assuring light and air. After further discussion, including review of the existing ordinance language, the Commission concluded that the existing language was appropriate and did allow suitable flexibility on floor area.

Motion:

M/S GALIOTTO/WEAVER  
Carried 5-0; MOHOLT,  
SHOWALTER absent

Recommend approval of the rezoning application as recommended by staff.

Commissioner GALIOTTO commented it was more likely that this rezoning would make the second step if the neighborhood could get a stronger majority.

Chairman FRANKUM advised the audience to go back and talk with their neighbors. Mr. Percy suggested a response within a 90-day period since the Commission's recommendation must be forwarded to the City Council within this time frame.

6. NEW BUSINESS—None.

7. COMMISSION/STAFF ANNOUNCEMENTS, QUESTIONS AND COMMITTEE REPORTS

7.1 Possible Upcoming Agenda Items

Mr. Percy announced that the April 4 Planning Commission meeting would consider two Housing Element topics:

1. A Housing Needs background report which will discuss specific State requirements and the groups who need to be served with special housing programs; and
2. Key Issues of the Housing Element, the definitive subjects that must be addressed. These issues include State law requirements, issues from the existing Housing Element and issues raised during the Housing Element kickoff meeting on January 31, 2001. Ultimately, the issues list from Planning Commission will be forwarded to the City Council for their approval to

**AGENDA:** June 27, 2001

**PAGE:** 2

4. The Environmental Planning Commission must hold a public hearing and make a recommendation to the City Council (standard for all rezonings). The Commission held a public hearing on March 28 and recommended approval by a 5-0 vote (with two Commissioners absent).
5. Before City Council action, 67 percent of the property owners in the area subject to the rezoning who respond to a mailed ballot must indicate support for a zone change. A postcard ballot and background material were sent to all property owners. Twenty-two (22) responses were received, with the result that 15 voted yes (68 percent) and 7 voted no (32 percent).

In summary, this neighborhood has met (and exceeded) the City criteria for rezoning to a Single-Story Overlay Zone, qualifying this proposal for Council consideration. If the area is rezoned, most homeowners can still make fairly large additions to their houses. The average home on Lincoln Drive is 2,600 square feet and could add approximately 800 square feet under the base FAR of .42.

During the EPC discussion of the request, some Lincoln Drive residents who did not support the rezoning suggested they would be supportive with the inclusion of a sunset provision. Staff noted that regardless of any sunset clause, if the overlay zone is approved and if a majority of the neighborhood changes their mind, they could go through the same rezoning neighborhood process to rescind the height limit. The EPC did not recommend inclusion of a sunset clause.

Although the EPC did not include a sunset clause in their recommendation, at the request of the neighborhood, the ballot sent to property owners included questions about support of the rezoning with a sunset clause. Three property owners that voted no would support the rezoning with a sunset clause. Two property owners who support the rezoning do not support a sunset clause.

Should the Council wish to consider alternatives to how a neighborhood rezoning could be reversed, it is suggested that it be done on a more comprehensive basis rather than being specific to this application. There are general concerns about sunset clauses from an administrative standpoint and also issues with equity and fairness across all similar rezonings in the City. If the Council wants to consider ways of limiting or reversing neighborhood overlay rezonings, it is suggested that the item be tabled and staff directed to prepare alternatives emphasizing a uniform process.

### **ALTERNATIVES**

1. Retain the R1-8L zoning and not approve the Single-Story Overlay Zone.

**SAN JOSE POST-RECORD**

~ SINCE 1910 ~

90 N. First Street, Suite 100, San Jose, California 95113-1225  
Telephone (408) 287-4866 / Fax (408) 287-2544

PATTY JUANES  
MOUNTAIN VIEW, CITY OF  
P.O. BOX 7540  
MOUNTAIN VIEW, CA 94039--754

**PROOF OF PUBLICATION**

(2015.5 C.C.P.)

State of California )  
County of Santa Clara ) ss

Notice Type: GMV MOUNTAIN VIEW

Ad Description: TO CONSIDER REZONING 23 PARCELS ON LINCOLN  
DRIVE

I am a citizen of the United States; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer and publisher of the SAN JOSE POST-RECORD, a newspaper published in the English language in the City of San Jose, and adjudged a newspaper of general circulation as defined by the laws of the State of California by the Superior Court of the County of Santa Clara, State of California, under date of February 3, 1922, Case No. 27,844. That the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

06/15/01

Executed on: 06/15/01  
At Los Angeles, California

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

  
Signature

This space for filing stamp only

SJ#: 261899

**CITY OF MOUNTAIN VIEW  
NOTICE OF PUBLIC HEARING  
CITY COUNCIL**

NOTICE IS HEREBY GIVEN that Wednesday, the 27th day of June, 2001, at the hour of 7:30 p.m. or as soon thereafter as the matter can be heard in the Council Chambers at City Hall, 500 Castro Street, Mountain View, has been set as the time and place for public hearing on the following items:

1. To consider rezoning 23 parcels on Lincoln Drive to the single-story overlay zone. The application complies with the Height (H) Zone requirements and the rezoning process to establish the single-story overlay zone. All the houses proposed for rezoning are single-story.

2. To consider amending the floor area limit for Area 1 to 0.35 FAR for office uses to the North Shoreline Precise Plan. Interested parties may appear and be heard. Written statements may be submitted to the City Clerk, P.O. Box 7540, Mountain View, California, 94039. Legal challenges may be limited to those issues or objections raised at the public hearing orally or in written correspondence delivered to the City Clerk at, or prior to, the public hearing. Dated this 15th day of June, 2001.  
Angelita M. Salvador  
City Clerk  
06/15/01

SJ- 261899#

**CITY OF MOUNTAIN VIEW  
NOTICE OF PUBLIC HEARING  
CITY COUNCIL**

**Rezoning Lincoln Drive to Single-Story Overlay Zone**

The Mountain View City Council will hold a public hearing to consider rezoning 23 parcels on Lincoln Drive to the single-story overlay zone. The application complies with the Height (H) Zone requirements and the rezoning process to establish the single-story overlay zone. All the houses proposed for rezoning are single-story.

**APPLICANT:** City of Mountain View  
**DATE & TIME:** June 27, 2001 at 7:30 p.m.  
**PLACE:** Council Chambers at City Hall, 500 Castro Street

Interested parties may appear and be heard. Written statements may be submitted to the City Clerk, P.O. Box 7540, Mountain View, California, 94039. More information and plans on this item may be reviewed at the Community Development Department, 500 Castro Street, or call (650) 903-6306. Legal challenges may be limited to those issues or objections raised at the public hearing orally or in written correspondence delivered to the City Clerk at, or prior to, the public hearing.

Dated: June 15, 2001

I, Angellita M. Salvador, do hereby certify  
that I caused this Notice to be mailed on  
6/15/01 to the property owners within 300 ft  
feet of the area involved, as shown on  
"Exhibit B" attached.

DATED: 6/26/01   
City Clerk

189-21-012  
 RONALD M & MARY A MENDE  
 1887 APPLETREE LN  
 MOUNTAIN VIEW CA 94040-4007

189-21-023  
 RANDY & LYNDA GOODMAN  
 1882 WALNUT DR  
 MOUNTAIN VIEW CA 94040-4004

189-21-024  
 GEORGE F & FRANCES L HEATH  
 1881 WALNUT DR  
 MOUNTAIN VIEW CA 94040-4003

189-21-034  
 VICTOR & NELLIE C CALVO  
 1880 FORDHAM WAY  
 MOUNTAIN VIEW CA 94040-4002

189-21-048  
 THOMAS J & PAMELA J FLETCHER  
 1885 LIMETREE LN  
 MOUNTAIN VIEW CA 94040-4018

189-21-059  
 DAVID T & MIYOKON TAKEGAMI  
 1888 ORANGETREE LN  
 MOUNTAIN VIEW CA 94040-4036

189-21-071  
 TOM M & IRIS K MORAN  
 1912 LIMETREE LN  
 MOUNTAIN VIEW CA 94040-4021

189-21-072  
 RICHARD G SANDERS  
 1920 LIMETREE LN  
 MOUNTAIN VIEW CA 94040-4021

189-21-073  
 DEAN L & ELAINE E HANSON  
 1928 LIMETREE LN  
 MOUNTAIN VIEW CA 94040-4021

189-21-074  
 LUCINDA I & LATHAN W REA  
 1934 LIMETREE LN  
 MOUNTAIN VIEW CA 94040-4021

189-21-075  
 KENNETH W & PHYLLIS A BILLMAN  
 1942 LIMETREE LN  
 MOUNTAIN VIEW CA 94040-4021

189-21-076  
 ROSEMARY L HAUSLER  
 1170 SPENCER CT  
 MOUNTAIN VIEW CA 94040-4051

189-21-077  
 JAMES A & SAHAKIAN-APFFEL JU  
 APFFEL JR  
 1925 LIMETREE LN  
 MOUNTAIN VIEW CA 94040-4020

189-21-078  
 MILLARD J & FRANCES M  
 CHERRSTROM  
 1917 LIMETREE LN  
 MOUNTAIN VIEW CA 94040-4020

189-21-079  
 NIR & LINDA MERRY  
 1909 LIMETREE LN  
 MOUNTAIN VIEW CA 94040-4020

189-21-080  
 RENS B & KAREN D BOORSMA  
 1901 LIMETREE LN  
 MOUNTAIN VIEW CA 94040-4020

189-21-081  
 KENNETH E & JESSIE D SMITH  
 1900 ORANGETREE LN  
 MOUNTAIN VIEW CA 94040-4038

189-21-082  
 EDUARDO H & PAULA K CUE  
 1908 ORANGETREE LN  
 MOUNTAIN VIEW CA 94040-4038

189-21-083  
 ANDREW S & LIANA D CAUZ  
 1916 ORANGETREE LN  
 MOUNTAIN VIEW CA 94040-4038

189-21-084  
 LUIS C ANCAJAS  
 1924 ORANGETREE LN  
 MOUNTAIN VIEW CA 94040-4038

189-21-085  
 1166 SPENCER CT  
 MOUNTAIN VIEW CA 94040-4051

189-21-086  
 ANNE ALMEIDA  
 372 N MOUNTAIN VIEW RD  
 BISHOP CA 93514-2119

189-21-087  
 ROBERT E RINGER  
 4931 WOODHAVEN DR  
 SALT LAKE CITY UT 84123-4317

189-21-088  
 STEPHEN J & JUDITH P SPELMAN  
 1147 LINCOLN DR  
 MOUNTAIN VIEW CA 94040-4022

189-21-089  
 ALEX & DOROTHY T DZIGURSKI  
 TTEE THE  
 1141 LINCOLN DR  
 MOUNTAIN VIEW CA 94040-4022

189-21-090  
 M H JR TR REEVES  
 1135 LINCOLN DR  
 MOUNTAIN VIEW CA 94040-4022

189-21-091  
 BERNT M & KATHRYN M JONZZON  
 1129 LINCOLN DR  
 MOUNTAIN VIEW CA 94040-4022

189-21-092  
 FRANK & YOSHIKO C HOSHIDA  
 1123 LINCOLN DR  
 MOUNTAIN VIEW CA 94040-4022

189-21-093  
 GORDON T & AMY N HAMACHI  
 1117 LINCOLN DR  
 MOUNTAIN VIEW CA 94040-4022

189-21-094  
 HERBERT R FIELDEN  
 1111 LINCOLN DR  
 MOUNTAIN VIEW CA 94040-4022



189-21-095  
JAMES L & DOROTHY J WEAVER  
1105 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4022

189-21-096  
DONALD T & CATHERINE M PEGLOW  
1102 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4023

189-21-097  
FRANCES NARDONE  
1106 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4023

189-21-098  
PHYLLIS L & WILLIAM H REED  
1112 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4023

189-21-099  
BERNICE M TRICOLI  
1118 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4023

189-21-100  
WILLIAM M & PEGGY J STETLER  
1124 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4023

189-21-101  
MARK A & SUSAN J KRUEGER  
1130 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4023

189-21-102  
RAYMOND L & LYNN D TOLLNER  
1136 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4023

189-21-103  
R A & P G TRU PERKINS

189-21-104  
LAWRENCE BYRD  
1148 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4023

189-21-105  
SCOTT L & JUNE STAUTER  
1154 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4023

189-21-106  
JOAQUIN J & SOOSAN PINTO  
1160 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4023

189-21-107  
PETER & JANE E VERZIC  
1961 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4009

189-21-109  
ROBERT A & ARLINE GOLDSTEIN  
1905 ORANGETREE LN  
MOUNTAIN VIEW CA 94040-4037

189-21-111  
TADASHI T & GRACE S KAGAWA  
1883 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4001

189-21-112  
FRANK J & NANCY A HORA  
1887 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4001

189-21-113  
PATRICIA H DUNAH  
1901 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4009

189-21-114  
STEVE T & ALISON K REMPEL  
1903 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4009

189-21-115  
VERNON & LILY WONG  
1905 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4009

189-21-116  
JAMES O & DEBRA L STOUT JR  
1909 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4009

189-21-117  
JACK W & DEBORAH KOHN  
1913 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4009

189-21-118  
EMMETT CASEY JR  
1917 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4009

189-21-119  
CLAIRE TR DONOHOE  
1921 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4009

189-21-120  
WILLIAM C BARNHOLT  
1925 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4009

189-21-121  
LELAND & KAY F GREENWALD  
1929 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4009

189-21-122  
DENIS CHOW  
1933 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4009

189-21-123  
PATRICIA J DOWDLE  
1886 APPLETREE LN  
MOUNTAIN VIEW CA 94040-4008

189-21-124  
MARIE K MAGINA  
1893 APPLETREE LN  
MOUNTAIN VIEW CA 94040-4007

189-21-125  
MICHAEL A & MARY A LUCIANO JR  
1886 WALNUT DR  
MOUNTAIN VIEW CA 94040-4004

189-21-126  
JON S & JOAN H KLINE  
1887 WALNUT DR  
MOUNTAIN VIEW CA 94040-4003

189-21-127  
SIMONS MARY L TRUST  
1886 FORDHAM WAY  
MOUNTAIN VIEW CA 94040-4002

189-55-015  
FLORENCE L KOUBA  
1902 GOLDEN WAY  
MOUNTAIN VIEW CA 94040-4017

189-55-018  
ROBERT A & EILEEN L FEICHTMEIR  
1100 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4023

189-55-021  
JOHN C & CATHERINE E DEMARTINI  
1951 GOLDEN WAY  
MOUNTAIN VIEW CA 94040-4016

189-55-024  
RANDY J & DEBRAA ARRILLAGA  
1915 GOLDEN WAY  
MOUNTAIN VIEW CA 94040-4016

189-55-027  
DAVID C LEE  
1910 POLK CT  
MOUNTAIN VIEW CA 94040-4039

189-55-030  
ERIC J & LUANNE COHEN  
1940 POLK CT  
MOUNTAIN VIEW CA 94040-4039

189-21-136  
RICHARD W & JILL D BRIDGES  
1889 ORANGETREE LN  
MOUNTAIN VIEW CA 94040-4035

189-55-016  
BERNARD & KAREY GUTIERREZ  
1914 GOLDEN WAY  
MOUNTAIN VIEW CA 94040-4017

189-55-019  
THANG T & ESTHER T PHAM  
1101 LINCOLN DR  
MOUNTAIN VIEW CA 94040-4022

189-55-022  
WILLIAM M & LOUISE I LOWNEY  
1945 GOLDEN WAY  
MOUNTAIN VIEW CA 94040-4016

189-55-025  
TED E & ESTHER M DAVIS  
1901 GOLDEN WAY  
MOUNTAIN VIEW CA 94040-4016

189-55-028  
R M & LYNN A MOMBOISSE  
1920 POLK CT  
MOUNTAIN VIEW CA 94040-4039

189-55-031  
JAMES A & NORMA L MARSHALL  
1950 POLK CT  
MOUNTAIN VIEW CA 94040-4039

Date: Fri  
09 Mar 2001 22:52:18 GMT  
Rezoning Lincoln Dr to Single-Story  
Overlay  
300' Radius

189-55-014  
HELEN V TISH  
15 FARM RD  
LOS ALTOS HILLS CA 94024-7059

189-55-017  
JOHN C & PATRICIA J O KEEFE  
1932 GOLDEN WAY  
MOUNTAIN VIEW CA 94040-4017

189-55-020  
CHARLES & DOROTHEA M GORDON  
1963 GOLDEN WAY  
MOUNTAIN VIEW CA 94040-4016

189-55-023  
MAUD M SHERIDAN  
1933 GOLDEN WAY  
MOUNTAIN VIEW CA 94040-4016

189-55-026  
LUIS M & MARIA A HUIX  
1900 POLK CT  
MOUNTAIN VIEW CA 94040-4039

189-55-029  
RAYMOND L & MARY J HUDSON  
1930 POLK CT  
MOUNTAIN VIEW CA 94040-4039

**AGENDA:** June 27, 2001

**PAGE:** 3

2. Table the item and direct staff to prepare alternatives to how a neighborhood rezoning could be reversed.
3. Approve the rezoning with a sunset clause.

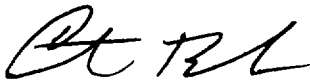
### **CONCLUSION**

The criteria for rezoning were established by the City Council to ensure that there was strong neighborhood support for the additional restriction imposed by the Single-Story Overlay Zone and that support was sustained throughout the process. The postcard ballot demonstrates there is strong support (70 percent) and for the rezoning. However, as with any rezoning application, the final decision to rezone is the prerogative of the City Council.

### **PUBLIC NOTICING**

Public hearing notices were mailed to all property owners on Lincoln Drive and within 300' of the area. The notice was also provided through the standard agenda posting.

Prepared by:



Curtis Banks  
Senior Planner

Approved by:



Michael J. Percy  
Principal Planner



Elaine Costello  
Community Development Director



Kevin C. Duggan  
City Manager

CB/9/CAM  
876-06-27-01M-E^

- Attachments:
1. Map Showing Ballot Results
  2. Ordinance
  3. Staff Report from March 28, 2001 EPC Meeting
  4. Minutes from March 28, 2001 EPC Meeting

## Attachment 1

### Proposed Lincoln Dr. Single Story Overlay Zone Ballot Results

Lincoln Dr.											
N	Y	N	Y	Y	*	Y	Y	Y	Y	Y	N
1160	1154	1148	1142	1136	1130	1124	1118	1112	1106	1102	1100
Lincoln Dr.											
1159	1153	1147	1141	1135	1129	1123	1117	1111	1105	1101	
Y	Y	N	Y	Y	N	Y	N	Y	Y	N	

\* Ballot not returned

## Attachment 2

### ORDINANCE NO.

#### AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF MOUNTAIN VIEW TO REZONE 23 PARCELS ON LINCOLN DRIVE FROM THE R1-8L DISTRICT TO R1-8L-H1S DISTRICT

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY  
ORDAIN:

Section 1. Zoning Change. The Zoning Map of the City of Mountain View is hereby amended to indicate as follows:

That 23 parcels of land on Lincoln Drive with Assessor's Parcel Numbers and Addresses as more specifically shown on Exhibit "A," the parcel list, attached hereto and incorporated by reference herein, are hereby rezoned from the Single-Family Residential, 8,000 Square Foot Minimum Lot Area (R1-8L) District to the R1-8L—Height One-Story (R1-8L-H1S) District, all as is more specifically shown on Exhibit "B," the map, attached hereto and incorporated by reference herein.

Section 2. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 3. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one section or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

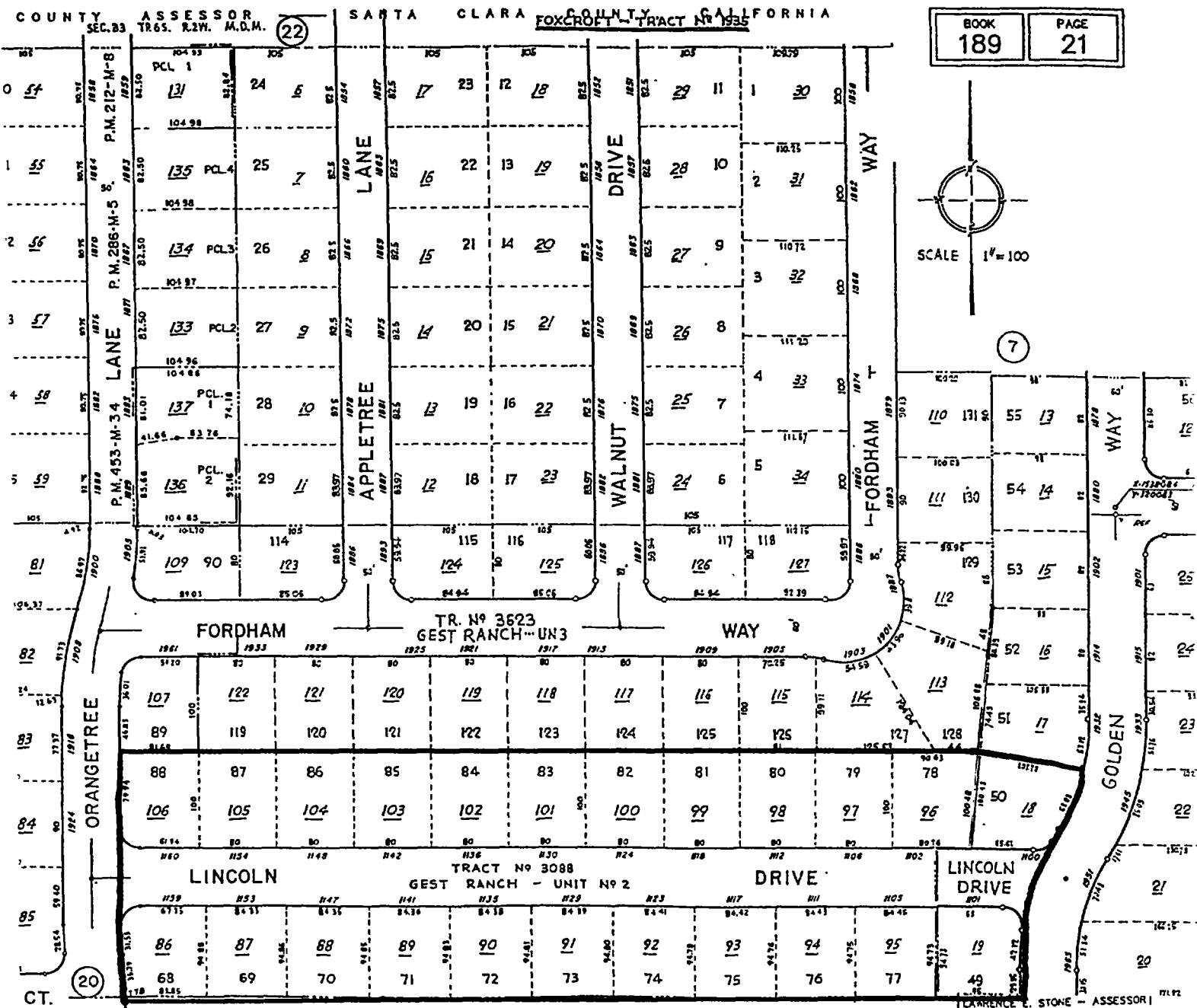
Section 4. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction and a list of the places where copies of the proposed ordinance are posted.

-----

**PARCELS TO BE REZONED TO R1-8L-HIS**

<b>Address</b>	<b>Assessor's Parcel Number</b>
1100 Lincoln Drive	189-55-018
1101 Lincoln Drive	189-55-019
1102 Lincoln Drive	189-21-096
1105 Lincoln Drive	189-21-095
1106 Lincoln Drive	189-21-097
1111 Lincoln Drive	189-21-094
1112 Lincoln Drive	189-21-098
1117 Lincoln Drive	189-21-093
1118 Lincoln Drive	189-21-099
1123 Lincoln Drive	189-21-092
1124 Lincoln Drive	189-21-100
1129 Lincoln Drive	189-21-091
1130 Lincoln Drive	189-21-101
1135 Lincoln Drive	189-21-090
1136 Lincoln Drive	189-21-102
1141 Lincoln Drive	189-21-089
1142 Lincoln Drive	189-21-103
1147 Lincoln Drive	189-21-088
1148 Lincoln Drive	189-21-104
1153 Lincoln Drive	189-21-087
1154 Lincoln Drive	189-21-105
1159 Lincoln Drive	189-21-086
1160 Lincoln Drive	189-21-106

EXHIBIT "B"



## **Attachment 3**

# **CITY OF MOUNTAIN VIEW**

## **ENVIRONMENTAL PLANNING COMMISSION**

### **STAFF REPORT**

**March 28, 2001**

#### **5. PUBLIC HEARINGS**

- 5.1 Consideration of application for rezoning 23 parcels on Lincoln Dr. to Single-Story Overlay Zone.

#### **RECOMMENDATION**

That the Environmental Planning Commission recommend that the zoning of 23 parcels on Lincoln Dr. be changed from R1-8L to R1-8L-H1S (single story overlay).

#### **PUBLIC NOTIFICATION**

Public hearing notices were mailed to all property owners in the area considered for the rezoning as well as property owners within 300 feet of the 23 parcels. The public notice was also placed in a newspaper and the agenda is on the City's Internet Homepage and advertised on Cable TV Channel 26.

#### **ENVIRONMENTAL STATUS**

This rezoning is exempt from the California Environmental Quality Act as a Class 5 project (minor alterations in land use limitations which do not result in any changes in land use or intensity).

#### **SUGGESTED MEETING PROCEDURE**

1. Report from staff
2. Questions and clarifications from Commissioners about the staff report
3. Public comment
4. Commission discussion of proposed rezoning
5. Motion to approve to disapprove the application

#### **OTHER PROJECTS IN THE AREA**

There are no development projects in the area.



## **BACKGROUND**

The City has received a petition from the owners of a majority of the 23 parcels on Lincoln Dr. (see map) requesting that the area be rezoned to the single-story overlay zone. All the housing proposed for rezoning are all single story.

This is the second application for a single-story overlay since the Residential Densities Study was completed in June 2000. Controlling second-story additions was a major issue in that study. During the Commission's public hearings, some residents expressed a desire to prevent second-story additions in primarily single-story neighborhoods. The Height overlay zone had been in the City's zoning ordinance for some time, but had not been used to control the height of single-family homes. Also, the application process was not clear. As part of the Residential Densities Study, the Height limitation (H) overlay zone was updated and the process for rezoning to the H zone was amended.

### **Height Zone Regulations**

The purpose of the H zone is to "establish height limits for structures that are different from those normally applied..., where determined to be desirable because of specific neighborhood characteristics." The area must be definable as a geographic unit including, but not limited to, one or more entire City blocks or one or more entire subdivision tracts or streets faces opposite one another.

A single-story restriction is indicated on the zoning map by the notation – H1S (Height, one story). The underlying zoning on this street would remain R1-8L (8 refers to the requirement for an 8,000 square-foot minimum lot size) and, except for the limit on the number of stories, the standard R1 regulations would remain in effect.

### **Rezoning Process**

Applications to apply the single-story overlay zone are subject to the following requirements:

- An application for rezoning to add the H zone may be filed by the owners of at least 50 percent of the parcels that would be subject to the overlay zone.
- At least 51 percent of the parcels must comply with the proposed height limit.
- Prior to City Council action on the rezoning, 67 percent of the property owners in the area subject to the overlay zone, who respond to a mailed ballot, must indicate support for the zone change. However, the City Council reserves the right to approve the rezoning with or without the 67 percent support.

# Comments from Residents Within Proposed Rezoning Area

From: Eran Dor  
587 Templeton Dr.  
Sunnyvale, CA  
94087

To: City of Sunnyvale, Planning commission

Ref: SSCD petitions on the agenda for 09/12/2016

Honorable Planning Commission,

Next week a rezoning request for the neighborhood my family lives in will come before the commission for a hearing.

Lately more and more of these rezoning requests from R-1 to R-1S have been coming up in Sunnyvale and also surrounding cities.

I have conducted a short case study about the property values on 2 Palo Alto neighborhoods:

1. Greer Park – SSCD was approved
2. Royal Manor – SSCD was requested and later rejected

To de-clutter the data that I have collected we can divide the residence types into a 3 types:

1. Large lots, ~8000sqft and above – most of Greer Park has large lots
2. Medium lots, ~7000-8000 – many of these lots in Royal Manor
3. Small lots, ~7000sqft and smaller

The size of the house on the lot also plays a role, but this is much more obvious than lot sizes – properties with larger livable space are valued higher than those with less livable space.

The properties under petition 2016-7523 (contrary to the ones under 2016-7431) fall mostly under medium lots category with medium sized livable space.

The property value trend seen for Palo Alto Greer Park was very simple, the property values did not really change because of the SSCD.

For Royal Manor the situation was quite different (all data from [www.zillow.com](http://www.zillow.com), details can be provided):

1. When the SSCD petition came up for discussion for the Royal Manor neighborhood the property value immediately dropped for medium lots
2. During the discussions the property value of these homes stayed about \$250K lower than similar homes in Palo Alto.
3. Once the SSCD petition was rejected / revoked the property values of these homes bounced back again and almost recovered
4. During the same timeframe, the value of the larger lots went up

From analyzing the trends and understanding the rules of setbacks for livable space one can conclude easily that these trends are dominated by the potential a certain property has, namely:

1. If the lot is large, there is plenty of space to add livable space while maintaining a fair sized backyard.
2. If the lot is medium, there is no real way to expand on the ground level while maintaining a good sized backyard.

Without an SSCD, every house can be expanded sideways or with the help of a 2<sup>nd</sup> floor, all the options are open.

Following the rationale above the medium sized lots practically lose their potential of being considered attractive properties once an SSCD is enforced since an expansion on the ground floor is a worse tradeoff with respect to large lots.

I have raised the question about property values in the community meeting held Thursday 09/05/2016 in the Sunnyvale Community Center Ballroom, but it seems that the city has no data on the property values of properties that are affected by an SSCD. Further I understand that no study was done by the city of Sunnyvale to understand the actual tradeoffs an SSCD creates generally (Economy, Demographics, etc.) and property values in particular.

The fact that no data is available about the tradeoffs we are facing here is a very big concern to me since I find it impossible for me (or for any other property owner) to make an informed decision whether to support the SSCD or not without have an understanding of what this actually means in terms of what the neighborhood will actually be like once an SSCD is approved.

Further, another item that I would like the Planning Commission to take into account is that the main sponsors of petition 2016-7523 and 2016-7431 have larger lots and larger livable space than many of the other properties in the area (8287sqft/1835sqft and 8025sqft/1948sqft respectively, data from [www.zillow.com](http://www.zillow.com)).

My request is to put the SSCD requests that the Planning Commission has on its agenda on hold and ask for adequate research that enable the property owners make informed decision rather than decisions based on feelings alone.

In addition, following the short case study above I would like to ask the Planning Commission to prevent property owners with larger lots to make use of the SSCD process to add value to their property at the cost of their neighbors.

Sincerely

Eran Dor

Sep 6, 2016

Dear Members of the Sunnyvale Planning Commission,

We wish to express our opposition to the SSO proposal currently under discussion for our neighborhood. Our family has lived at 1143 Tangerine Way for six years and does not have any plans to add a second story. But we are saddened by and opposed to the unnecessary assault on individual property rights represented by the proposal and process.

**Existing regulations are sufficient to protect our neighborhood**

We understand that in a neighborhood or community, zoning and other laws are necessary to keep one neighbor's choices about his or her property from unduly harming other neighbors property value or neighborhood experience. However, as members of an Eichler Neighborhood, we already have an abundance of general Sunnyvale zoning laws to comply with as well as the Eichler Guidelines. In our opinion, these guidelines are sufficient to protect both us and our neighbors from poor decisions with regard to remodels or other modifications, and explicitly include guidelines for second stories. Ironically, there is evidence from nearby cities that SSO zones depress property rights by eliminating the option value associated with upward development freedoms.

**The SSO aggressively vetoes projects before they are even proposed**

The stated objective of the SSO is to prevent second stories. This is not an unreasonable objective in a neighborhood of glass houses. But the implementation is overly broad and anonymous. Citizens are able to pre-emptively veto all proposals before such proposals are even contemplated by the homeowners, let alone designed and brought for planning review.

**The SSO structure allows the preferences of neighbors who are not actually affected by a proposal to drown out the voices of those who are**

The SSO provides a mechanism for a large group of unaffected neighbors to drown the voices of the handful of directly affected neighbors whose opinions should be weighed more heavily any building proposal with privacy issues. If we want to build a second story and can secure the approval of our immediately adjacent neighbors through landscape and architectural concessions, why not let us build? Why should 25 or 50 other neighbors, none of whom is close enough to be impacted by a project, drown out the preferences of the landowner who has found a way to improve his or her property with the blessing of all those neighbors who are directly impacted?

In summary, the SSO represses the rights of property owners without sufficient due process or benefit incremental to our existing zoning regulations. We appeal to the better judgment of the planning commission and city council to reject this misguided effort.

Paul and Amy Bankhead

## Comments from Residents Outside Proposed Rezoning Area

## Chair and Members of the Planning Commission,

I am writing to you regarding the wave of single story combining district (SSCD) petitions that is sweeping our Fairbrae neighborhood. As a resident of Fairbrae, I am deeply concerned with this development.

### 1. The Process

The process by which SSCD petition signatures are collected and the SSCD is ultimately passed is itself deeply flawed and undemocratic. A cornerstone of our democracy is a concept of a secret ballot – it prevents tyranny of the majority rule by providing the minority with rights of free speech without coercion and intimidation. In the case of SSCD petition, however, local activists collect the signatures door-to-door – at times, by applying peer pressure tactics. After the initial signatures are collected, the residents of the affected (and surrounding) neighborhood have no opportunity to express their honest opinion without a fear of becoming neighborhood pariah. In almost every other instance of the political process, a signature on the petition means support for bringing the issue to the debate and eventual vote – not an automatic vote for the subject of the petition. Under the pressure of the neighborhood, many people choose to just sign the petition in order to avoid conflicting with their neighbors, whom they see daily and with who's children their kids go to school.

The Planning Commission should evaluate and recommend to City Council alternatives to the current SSCD process. At a minimum, Sunnyvale should follow a process similar to the one in Los Altos – where the last step (after the City Council votes to support the petition) is a ballot mailed to every affected property owner. The property owners can then vote in the privacy of their own home and without fear of reprisal – and only if the super-majority votes for the SSCD, the re-zoning happens.

Further, for such a significant restriction of property rights, a mere 55% is a very low bar to pass. Palo Alto sets the bar at 70%; Los Altos at 67%. My belief is that even if there is only one vote against the SSCD, it is unfair to abridge their property rights (in the absence of any demonstrated public benefit) without some form of compensation. The notion of just compensation for forfeiture of property rights is so foundational to our society, that it is codified in the last sentence of the 5<sup>th</sup> Amendment to the US Constitution.

## 2. Long Term Impact

Today, the impact of the SSCDs is not clearly understood by anyone. Both the supporters and the opponents of the SSCD do so based on their personal fears and biases. While this is a natural way for people to react, fear and knee-jerk reactions are poor way to manage public policy. I would like to request that the Planning Commission forward the study issue to the City Council to investigate the long-term impact of the SSCDs. Some of the questions I would like to see addressed are:

- Long-term impact on property values in the SSCD neighborhood and surrounding neighborhoods.
- Long-term impact on property tax revenues to the City.
- Long term impact on the vibrancy of the neighborhood – percentage of owner-occupied vs rental, number of remodels, number of home sales.
- Long-term impact on diversity within the neighborhood.

Once such study is conducted, we all can have factual basis for the discussion.

The city has an overall development plan. It is carefully thought out and well balanced. The SSCDs, however, are done in an *ad-hoc* fashion – any neighborhood can spontaneously decide to re-zone itself. But is this the right way forward for the city and what are the long-term impacts of such patchwork of re-zonings?

## 3. SSCD Motivation

The stated goal of the SSCD is protection of privacy. However, *prima facie*, the SSCD does very little to protect privacy. A 17' house with a 5' basement - as allowed by the SSCD rules - has first floor level at 6' above grade – that is only 3' below the floor level of a well-designed second story. Someone standing in that tall single story house would easily be able to see into their neighbors' yards and windows. Privacy is not a function of one or two story construction, but rather how well thought-out is the project. Indeed, the two-story house we are currently building on our property has not impacted privacy of any of our neighbors (based on their own statements) and has improved the privacy of two most immediate neighbors. At best, the SSCD



can hope to impact privacy by simply discouraging any remodel (by making it un-attractive or un-economical).

Regardless of the original motivation behind SSCD, I fear the real impact may be far more damaging to the fabric of our city. We live in a multi-cultural society. Some cultures (in particular, many of the Asian cultures) value large families living together. Additionally, today's economic realities often force children to live under their parents' roof for longer or many elderly parents living with their grown children. All of these families require a larger house – exactly the kind that is being restricted by the SSCD. The real impact of SSCD on our neighborhood is not control of what kinds of houses are built in the neighborhood, but rather what kinds of people live here.

It is all eerily similar to the ordinance passed in Manassas (Fairfax County, Virginia) in 2005. That ordinance redefined the term “family” in a very thinly veiled attempt to drive out Latinos from the neighborhood. Needless to say, that ordinance was struck down – but not until many Latino families were forced to move out. I sincerely hope that Sunnyvale is not moving in that direction.

#### 4. Fairness to the Rest of Sunnyvale

One of the long-term impacts of SSCD may be reduction of property tax revenues to the city. This seems logical – at the very least, the single-story houses are smaller than larger two-story ones, which would suggest lower property tax revenues. That is without accounting for the potentially lower desirability and, therefore, lower fluidity and lower transaction prices in the neighborhoods affected by SSCD. This is, of course, only a conjecture – a long-term study would be able to answer this question definitively.

If the SSCD does indeed results in reduction of property tax revenues to the city, then SSCD petitioners are clearly asking for the rest of the city to subsidize their ultra low density zoning. The rest of Sunnyvale residents will end up paying a higher proportion of the property tax revenues necessary to operate our schools, parks, and public safety. There is nothing inherently wrong with such subsidy – but, since it impacts the rest of the city, it would only be fair to let everyone in Sunnyvale vote on each particular SSCD – not just residents of a particular neighborhood, who want the benefit without paying their fair share. Alternatively, an additional property tax scheme may

be devised, to be levied on those who desire the SSCD — to compensate the city for the lost property tax revenues.

## 5. Architectural Vibrancy

I would like to finish this letter on a purely personal note. Eichler preservation is not the explicit goal of the SSCD, but it is clearly one of the forces that motivate the movement. I feel that the desire to preserve Eichlers at all costs is a bad thing for our city as a whole. Eichlers are beautiful and interesting homes - but they were cheaply made as an affordable housing of the sixties. A designed lifespan of an Eichler is about 50 years. Today, most of them are older than that - and falling apart. Lets project this desire to preserve Eichlers into the next 200 years - while all other buildings will be replaced by something different (that we cannot even imagine today), will Fairbrae be covered with 250 year old Eichlers? Architecture is a living art. It is sad to see that any kind of architectural artistic exploration in our neighborhood has to be rigidly constrained to a particular narrow interpretation of an idea that was avant-garde in the sixties.

## 6. Conclusion

I would like to request that the Planning Commission do the following:

1. Evaluate and implement a more democratic process for SSCD.
2. Forward a study issue to the City Council regarding long-term impact of SSCDs.
3. Clearly articulate how SSCDs fit into the long-term vision for Sunnyvale.
4. Hold all current SSCD petitions pending resolution of the items above.

I love Sunnyvale. I have been a resident here for 20 years. My children were born here and are going to local public schools. Having recently dealt with the Planning Commission for my own project, I have full confidence that the Commission will evaluate all options and come up with the best course of action. I am looking forward to living many more years in our beautiful, vibrant, and multi-cultural city.

*Alik Eliashberg  
1169 Sesame Drive  
Sunnyvale, CA*

Dear Members of the Sunnyvale Planning Commission,

Our family resides in a two-story Eichler at 615 Templeton Ct, purchased in 1984. We can attest to the fact that the neighborhood was always a friendly place. But now emotions have been stirred up by a single two-story project which was recently approved. This process demonstrated the city's ability to address specific concerns of immediate neighbors through a formal, established and orderly process. We strongly object to the proposed SSO for many reasons, some of which are listed below.

### **Issue #1 Privacy**

Windows of a two-story house have privacy implications for a very limited number of the immediate neighbors. An arduous approval process that is already in place for any new construction/remodel guarantees a fair hearing for affected neighbors. Other "concerned" residents of the neighborhood have no standing, except moral support to the involved parties, in respect to the specific project's privacy issue. Section 3.3 of the Eichler Guidelines specifically focuses on the privacy issue. City of Sunnyvale demonstrated that its approval process is a fair and sufficient mechanism to address privacy concerns. SSO is not a proper tool to deal with such disputes.

### **Issue #2 Architectural integrity**

Sunnyvale Eichler Guidelines clearly state that a two-story construction is not contradictory to the Eichler style. Joseph Eichler and his architects who worked with him employed harmonious variety in the original design. Through the years Eichler home's residents made changes, reflecting modern needs and trends, while keeping up with the spirit of the original design. Examples are:

- Aluminum-and glass garage doors
- Variety of wooden fence designs, e.g. horizontal-plank fences,
- Variety of landscaping (e.g. "desert-like" landscaping)
- Newly re-built houses that blend in the neighborhood (e.g. one on Sheraton Dr.)

SSO contradicts the Eichler's vision of dynamism and vitality. And, again, City of Sunnyvale has demonstrated full competence to assure architectural integrity through implementing the Eichler Guidelines and thorough review of design through the approval process.

SSO proposal demonstrates distrust in the skills of the professional architects, taste and decency of our neighbors, and city staff's diligence.

### **Issue #3 Future owners**

20 years ago neighborhood looked differently. Landscaping was mostly grass lawns. There were no solar panels on the roofs. Things clearly changed.

Children who inherit our homes might have different needs, tastes and financial situation. The approval of SSO will affect their life and the lives of their families. Do we have a legitimate reason to make a decision for them? We think not.

#### **Issue #4 Petition process**

In the current process a signature on a petition replaces a secret ballot. This denies an expression of a freely given and informed opinion, making the process undemocratic, considering the petition is signed:

- Under pressure by a friendly neighbor often requesting to sign on a spot.
- In absence of any explanation that signing constitutes the "final vote".
- With reasoning provided only by one side's advocates. This is contrary to a traditional process where both sides can present their arguments and each side can offer a rebuttal.
- In absence of an independent analysis about possible implications for each owner (e.g. provided by the city)

The process denies an opportunity to object to the petition in private. Opposition can be expressed either by **public** refusal to sign, **public** letter to the Planning Commission, or **publicly** speaking at the hearing. Many residents may feel uncomfortable to show public opposition to the issue.

A similar process was thoroughly criticized in Palo Alto SSO procedures, according to Mercury News on May 5, 2016 and in several Palo Alto Weekly articles. Los Altos, on the other hand, implemented a process where a petition is followed by a secret mail-in-ballot.

Based on our concerns we expressed above, we request the Commission to review an existing process and to put all current petitions on hold pending the review of the rezoning process.

Respectfully,

Julia Filippova and Gene Manheim

615 Templeton Ct, Sunnyvale, CA 94087

Dear Planning Commissioners,

There are several applications that are currently under the consideration for re-zoning parts of Sunnyvale into single story overlay regions. I am troubled by the process that is set in place for re-zoning. I would like you to consider putting the current applications for re-zoning on hold, and forwarding a recommendation to the City Council for studies on how the process can be improved, and on the economic implications of these re-zonings for the city of Sunnyvale.

My husband and I recently received approval for our plans to build a new two-story house in Fairbrae. We have followed every rule and every guideline on the books, and have agreed to every concession that was asked of us by our immediate neighbors. At the end of the design process not one neighbor had a privacy concern for themselves. Indeed, the new plan preserves our neighbors' privacy better than the current house. A few residents of Fairbrae have strong dislike of new homes that are different in any way, than what has been already designed in the Fairbrae tract in the 60s. The re-zoning application process for several of these regions was born out of the disagreement with the city's planning approval of our project. The process of collecting signatures for re-zoning turned into a very personal door-to-door negative campaign against our family. We were presented as the boogeyman, the likes of which the residents must protect themselves against in the future. Our private lives have been intruded upon in an unprecedented and an uncivil manner. Outlandish rumors were spread, and the city's process was turned into a tool of harassment and bullying of our family.

I would like to offer a few suggestions on how the process can be improved:

1. It would be better if the information about re-zoning is collected by an impartial party (planning department?) via a mail-in questionnaire.
2. The timing of distribution of such questionnaire may be restricted to a certain time of the year, or once in several years, so as not to coincide with any particular application for home renovation.
3. In order to avoid a contentious process of back and forth re-zonings often, a time limit should be put in place, after the expiration of which, the residents can decide on whether to renew their SSO, or automatically let it lapse back into an R-1 zone.
4. A mail-in ballot should be distributed by the city, so that each household can vote in the privacy of their home, and without a fear of becoming a pariah in the neighborhood for going against a majority's opinion.
5. The cost of applying for re-zoning should also be brought in line with the actual costs, since it is very labor intensive for the staff of the planning department, whose resources are already stretched by the many public and residential projects that are submitted for review.

There is also a question of the broader impact on the city. The creation of SSO regions fundamentally restricts expansion of square footage while making new construction more difficult and less economically feasible - essentially creating many super-low density residential areas. The Bay Area is facing a housing crisis. Creating an ad-hoc patchwork of super-low density regions, thereby restricting

the number of multigenerational families and families with more than one or two kids is not desirable. I believe it is discriminatory, exclusionary, and it goes counter to the goal of creating a vibrant community.

We have a current situation where on one side there is a fear of change – which is driving these SSO applications. On the opposing side of the SSO issue, there is a fear of diminishing property values and anger of not being able to expand, as some families have planned to do. Fear or emotion alone should not guide long term policy decisions. The economic impact of these re-zonings should be studied. Possible questions that need answering are the following:

1. A zoning change of residential areas is usually adopted in order to create a public benefit. Who is benefitting? Is the whole community of Sunnyvale benefitting? Is there a cost to such benefits? Was the harm that the current zoning created proven? Is this harm substantial enough for the majority to take away minority's (current or future occupants of SSO regions) opportunity to expand or substantially change their homes?
2. Will restricting the square footage affect the tax base collected by the city for schools, police, fire protection, and social services, as compared with R-1 neighborhoods?
3. Will the city require a reassessment, or a different tax rate be applied for living in these regions?
4. Will the property values be affected, and the property tax rate be lowered, or increased?
5. Will the demographic make-up of the city be affected?
6. Will large businesses be deterred, or attracted to the city, where there are bigger issues with finding housing for the employees, as compared to other cities?
7. What is the general plan for Sunnyvale going to be in the future? If super-low density regions are desired, where should they be located?

Our personal experience suggests that the current process can be made safer for those few homeowners who decide to substantially renovate their homes at any given time. However, the process of re-zoning is bigger than one family and one project. The City Council may be interested in broader implications of this process for the city. The study on the economic and demographic impact may be very useful, when planning for the future of Sunnyvale. Please recommend these, or similar studies done for the City Council's review, and put the current process for re-zoning on hold.

Thank you very much for considering this issue in depth.

Respectfully,

Lena Govberg

September 6, 2016

Dear Members of the Planning Commission,

We are 12-year homeowners and residents of Fairbrae Addition, and we do not support the SSCD process as it is currently implemented.

We would like to implore the Planning Commission to consider tabling all pending applications for SSCDs, and to consider forwarding a request for a Study Issue to the City Council.

We would like the Study Issue to address the long-term impact of the SSCD on neighborhoods in all aspects (how the make-up of the community will change, how property tax revenue might change, how property values might change) and how the SSCD regulations can be written to ensure that no property owner within an SSCD bears a disproportionate restriction on the right to enjoy his or her property.

Apart from that request, we'd like to elaborate on a few of our objections to the SSCD:

The SSCD results in a disproportionate restriction on owners with smaller lots. The city's set-back requirements for R-0/1 makes the only possible first-story addition a strip along one side of a home, or a strip along the back of a home. In either case, the strip is few to 10 feet in width, given the typical Eichler floor plan and position on its lot. It's not possible to construct a pleasant room (extra bedroom, home office, guest bedroom) within those parameters. Thus, the SSCD effectively eliminates the possibility to expand small-lot homes at all. It's completely understandable that in a neighborhood with 9,000 sq ft or larger lots, it would be nice to keep the homes all at one story and everybody would have plenty of room to spread out into the yard. But the Eichler neighborhoods in Sunnyvale are not so generous nor consistent in lot sizing.

The city already has a robust process in place to address neighborhood concerns about home construction or additions. The city has had comprehensive Eichler Design Guidelines in place for many years. They address many concerns that might arise in any new home construction or additions. Any homeowners wishing to construct a second-story addition will have to go through a public comment process. Any privacy issues for immediate neighbors can, and have been, successfully addressed through this existing process.

The SSCD will perpetuate a gap between the needs of today's families and what Sunnyvale's housing stock has to offer.

Neighborhoods such as Fairbrae Addition continue to attract a diverse set of people from all over the county, state, country and the world. This makes for a great environment to raise a family. However, children are separated geographically from grandparents or other family from far away. Visits become problematic, though, since the existing homes may *not* offer a spare bedroom.

In many families, both parents are employed. But, thanks to modern communications, sometimes those parents can work from home. This benefits the children of our community, when their parents are more available to them, and when parents are able to "duck out" to

volunteer at school or in community programs such as Sunnyvale Youth Basketball or Cub Scouts. But the existing homes may *not* offer an office space for the working parent.

Of course, anyone who purchased a home in Fairbrae Addition or similar neighborhood in the last twenty years would be well aware of these issues. But, zoning requirements at the time of purchase made it conceivable that as family needs and resources change over time, the home could be reconfigured to meet those changing needs. The SSCD eliminates this possibility for some owners, especially those on smaller lots.

In summary, we believe that families have serious and legitimate reasons to wish to expand their living quarters; homes were purchased with the right to enjoy that possibility; some properties lend themselves better to single-story expansions than others; the existing SSCD regulations unfairly and disproportionately impair the ability of some homeowners to enjoy the full use of their properties; the process put forth in Sunnyvale Municipal Code Title 19, Article 3, Chapter 19.26 allows a majority to infringe the rights of a minority; no clear public good for Sunnyvale has been articulated or demonstrated as an outcome of an SSCD.

We close by imploring again for a Study Issue in order to bring forth and publicly debate, with appropriate gravity, seriousness, and inclusiveness of all affected parties, what we are actually undertaking with the implementation of an SSCD, in all respects.

Sincerely,

Nathan Gardner  
Andrea Georgelos  
*689 Torrington Drive*  
*Sunnyvale*



To the Sunnyvale City Council and Planning Commission: (Sept. 19, 2016)

I'm responding to a recent letter to the Planning Commission submitted by neighbor Alik Eliashberg, who expressed his deep concern about the "wave of single story combining district (SSCD) petitions that is sweeping our Fairbrae neighborhood." This four-page protest letter consists of 6 sections which I'll respond to in order, using Alik's section titles.

### **1. The Process**

Alik contends that the current process previously approved by the City Council regarding the SSCD process, especially the collection of signatures for the SSCD application, is "deeply flawed and undemocratic." He further contends it lends itself to the "tyranny of the majority" and even deprives a homeowner desiring to build a two-story dwelling of "just compensation for forfeiture of property rights" guaranteed at the end of Amendment V of the U.S. Constitution.

That's quite an indictment, ranging from an undemocratic process to a violation of the U.S. Constitution. The 5<sup>th</sup> Amendment covers rights in criminal cases and includes at the end the issue of public condemnation of private property that Alik apparently identifies with Sunnyvale's SSCD ordinance prohibiting an owner from building a two-story house. That's a constitutional stretch!

However, I'd like to address Alik's accusation that "activists," which means those like myself who, following the SSCD application guidelines, went door-to-door collecting signatures "at times, by applying peer pressure tactics." According to this accusation, "residents of the affected (and surrounding) neighborhood have no opportunity to express their honest opinion without a fear of becoming [a] neighborhood pariah." Further, according to Alik, property owners should be able to "vote in the privacy of their own home and without fear of reprisal." This is a gross distortion, at best, of the current application process!

Take for example the process Stephen Meier used in seeking an SSCD for his Eicher neighborhood. Prior to soliciting signatures, he sent out a letter asking his neighbors for their opinion on the desirability of having a SSCD. His letter objectively stated "possible reasons" for supporting and rejecting a SSCD. Only after this open ended inquiry resulted in support for a SSCD, did Meier and supporters seek the required application signatures. Clearly, there was no intimidation involved.

It appears to me that Alik and his supporters have taken an essentially elitist position—that you can't trust the average homeowner's ability to make an objective decision, based on their values and thinking process, when presented with an important choice or decision. That homeowners, like myself, can be intimidated by other neighbors down the street. This picture bears no resemblance to the well-educated and informed Eichler homeowners I know in the Fairbrae neighborhood. There is no proof offered for these accusations, only elitist suppositions.

Alik has taken the position “even if there is only one vote against the SSCD, it is unfair to abridge their property rights (in the absence of any demonstrated public benefit) without some form of compensation.” The overall accusation has long been debated in legislatures and courts, so I’ll just focus on the parenthetical qualifier, “in the absence of any demonstrated public benefit.” The implication is a SSCD has no “public benefit.” That’s not so. The SSCD process serves multiple community purposes: reducing homeowner animosities, avoiding law suits, involving homeowners in determining their own property rights, and educating homeowners in the civic processes laid down by our Sunnyvale governing and regulatory bodies. That’s grassroots democracy at work.

## **2. Long Term Impact**

Alik’s opening contention is that currently the “SSCDs is not clearly understood by anyone,” and “the supporters and the opponents of the SSCD” make decisions “based on their personal fears and biases.” He finds this “fear and knee-jerk reactions are [a] poor way to manage public policy.” This characterization of how Alex and I, and all our Eichler neighbors, vote for or against a SSCD again comes from an elitist viewpoint that distrusts those most immediately involved in the process. It implies that none of us can make an informed vote under the current application process approved by the City Council. Further, Alik sees these current SSCD application processes as “done in an *ad-hoc* fashion,” because “any neighborhood can spontaneously decide to re-zone itself,” which results in a “patchwork of re-zonings.”

He has misunderstood the purpose of a SSCD and the legal process of attaining this rezoning. As conceived by the City Council, the purpose of creating a process for neighborhoods to voluntarily put themselves under a SSCD was to avoid controversy, rancor, and lawsuits when some homeowner decides to build a two-story dwelling in a predominantly single-story neighborhood. This was a sensitive issue especially in a Eichler neighborhood (I refer to the contentious mess that occurred on Wright Ave. some years ago). Further, the purpose was to involve defined neighborhoods in determining their future housing, either single-story or two-story. The intent was to be a grassroots process involving those homeowners most affected, which Alik has characterized as “*ad-hoc*” and a “patchwork.” I question if he really understands the purpose of a SSCD.

## **3. SSCD Motivation**

Alik begins this section with the “stated goal of the SSCD is protection of privacy.” Again, he seems to miss that “protection of privacy” is only one aspect of the purpose of a SSCD, as I’ve pointed out above. Alik goes on to claim, in a convoluted way, that the existing building code for a single-story home leads to more privacy invasion than his proposed two-story home.

This gets personal, for my home has the most backyard exposure to his planned two-story home. As I have publically stated to the Planning Division, Alik and Lena, with the best of intentions, have tried their utmost to minimize intrusion on our privacy by increasing the height of our mutual back fence and retaining the shrubs and trees along this fence. But I will still see the top of a second story blocking a once blue sky. Contrary to what Alik has written, one of the neighbors remains very bitter about his second story and the impact on their privacy.

Next, Alik goes on to twist things by stating, "I fear the real impact may be far more damaging to the fabric of our city," because an SSCD deprives some ethnic groups who "value large families living together" from residing in a one-story Eichler neighborhood. He then goes on to assert that "the real impact of SSCD on our neighborhood" would be on "what kind of people live here." At the end of this section, Alik implies the city with its SSCD provision might even be moving in the direction of discriminating against Latino families.

Alik has turned the SSCD process into ethnic discrimination. He seems to say that the SSCD is a racist process. That's preposterous! I live on a cul-de-sac with a delightful ethnic and nationality mix. Far from discriminating, an Eichler SSCD allows wider living accommodation choices for our citizens of any ethnic background. There are ample two-story dwellings all over Sunnyvale for anyone desiring two-story neighborhoods. You don't have to turn an Eichler one-story neighborhood into a two-story one.

#### **4. Fairness to the Rest of Sunnyvale**

In this section, Alik casts the specter of Sunnyvale facing reduced property tax revenues due to SSCDs which means that "SSCD petitioners are clearly asking for the rest of the city to subsidize their ultra low density zoning." What evidence is there that designates single-story Eichler neighborhoods as "ultra low density zoning?"

Likening SSCDs to a subsidy, he goes on to assert that "since it impacts the rest of the city, it would only be fair to let everyone in Sunnyvale vote on each particular SSCD – not just residents of a particular neighborhood, who want the benefit without paying their fair share." He suggests that "an additional property tax scheme may be devised, to be levied on those who desire the SSCD – to compensate the city for the lost property tax revenues."

What he's advocating here is a tax penalty imposed on any SSCD neighborhood. Another words, if you go through the city approved application process for a SSCD, and are duly approved by the City Council, all dwellers within the SSCD should be penalized with increased property taxes. Does this tax penalty include homeowners within a SSCD who may have not signed the application and may have not approved of it? How would this fit with SSCD homeowners covered by Proposition 13 taxation? Can you imagine the outcry against something like this! It's pure discrimination against single-story homeowners.

## **5. Architectural Vibrancy**

Alik is correct in stating that preservation of Eichler single-story homes is what motivates these homeowners to attain a SSCD. And then he goes on to state “that the desire to preserve Eichlers at all costs is a bad thing for our city as a whole.” He finds them “cheaply made as an affordable housing of the sixties,” with a “designed lifespan of an Eichler is about 50 years.” “Today,” he claims “most are older than that – and falling apart.” I find it outlandish to proclaim that “most” Eichlers are “falling apart.”

My wife and I have lived 50 years in a 57 year old Eichler. Like any prudent homeowner, we have kept our Eichler structurally sound and well maintained, nearly in original form. Others in our cul-de-sac have remodeled and in three cases have totally rebuilt their Eichlers, keeping to the post-and-beam, all back glass windows, and atrium original design.

Facetiously, Alik projects 200 years and asks, “will Fairbrae be covered with 250 year old Eichlers?” Perhaps he is unaware that the current code allows property owners within a SSCD, should they desire, to apply for removal of this zoning designation.

Alik appears not to grasp how committed we single-story Eichler owners are to the uniqueness of our homes and the desire to preserve that uniqueness. In fact, this Eichler fondness has become stronger than ever, and is flourishing all around the Bay Area.

## **6. Conclusion**

Alik and his supporters are requesting a full review of the purpose and function of the city’s SSCD ordinance. There’s nothing wrong for any group to request this. It’s always desirable for existing laws and ordinances to be periodically evaluated for improvements.

However, Alik and supporters are proposing that the city “Hold all current SSCD petitions pending resolution” of his list of concerns. In effect, they are requesting that the city suspend its SSCD ordinance and prevent the current crop of SSCD applicants, who have followed the SSCD application process in good faith, including submission of all fees, from their right of due process. That appears to be a request by a small elite group for the city to remove the legal rights of a majority. That is not only an unsupportable request but would establish an undemocratic precedent.

Donald Buck  
1158 Ribier Court  
Sunnyvale, CA 94087

4. [16-0772](#) Proposed Project: Introduction of Ordinance to REZONE 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)  
File #: 2016-7523  
Location: 576-598 West Remington Drive (APNs: 202-01-001 through 202-01-007), 575-595 Rockport Drive (APNs: 202-01-016 through 202-01-024), 585-595 Templeton Court (APNs: 202-01-025 through 202-01-028 and 202-08-035), 1104-1132 Spinosa Drive (APNs: 202-01-029 through 202-01-033, and 202-08-032 through 202-08-034), 1126-1138 Strawberry Court (APNs: 202-08-036 through 202-08-040), 1143-1153 Tangerine Way (APNs: 202-08-041 through 202-08-043)  
Zoning: R-1  
Applicant / Owner: Stephen Meier (plus multiple owners)  
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) (a general rule that CEQA only applies to projects that 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 action may have a significant effect on the environment, the activity is not subject to CEQA).  
Project Planner: Aastha Vashist, (408) 730-7458, [avashist@sunnyvale.ca.gov](mailto:avashist@sunnyvale.ca.gov)

Assistant Planner Aastha Vashist presented the staff report.

Chair Harrison opened the Public Hearing.

Applicant Stephen Meier provided information about the project application.

Lowell Gass, Fairbrae neighborhood resident, discussed his opposition to the application, said the 55 percent threshold is too low and property owners should have the right to build a second story.

Gene Manheim, Sunnyvale resident, discussed his opposition to the application and suggested expediting the study issue on the application process while putting on hold all future single-story overlay applications.

Alik Eliashberg, Sunnyvale resident, suggested the City holistically study the impact of single-story overlays to better inform residents' decisions.

Lena Govberg, Sunnyvale resident, discussed her opposition to the application and suggested the process be revised and include a sunset clause.

Eran Dor, Sunnyvale resident, discussed his opposition to the application and said it creates the risk of decreasing property values and is not in the public interest.

Nathan Gardner, Torrington Drive resident, urged the Planning Commission to recommend that future applications are set aside until a study issue is completed.

Paul Bankhead, Tangerine Way resident, spoke in opposition to the application and said single-story overlays restrict property rights and that the Eichler Design Guidelines contain protections for privacy. He said a group of unaffected neighbors outweigh the voices of direct neighbors affected by projects.

Kristen Robins, Sunnyvale resident, said it is important to preserve the character of Eichler homes and encouraged the approval of the application.

Julia Filippova, Sunnyvale resident, spoke in opposition to the application and said privacy concerns can be addressed by other means.

Nancy Lane, Sunnyvale resident, spoke in support of the application and said two-story homes create valid privacy concerns for Eichler homeowners.

Applicant Stephen Meier provided additional information about the application and addressed several concerns of neighbors.

Chair Harrison closed the Public Hearing.

MOTION: Commissioner Melton moved and Commissioner Klein seconded the motion to recommend to City Council Alternatives:

- 1) Find the project exempt from CEQA pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3); and,
- 2) Introduce an Ordinance to Rezone 37 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story).

Commissioner Melton said the Planning Commission enforces the policy of the City, ensures rules are followed and the application is in good order, and then focuses on whether findings can be made. He noted that people interpret public interest differently, that if somebody was applying for the entire City to be converted to have a single-story overlay it would not be in the public interest, but that this

application is for a small subset of houses in a certain neighborhood and, given that, he finds that it is in the public interest to rezone these homes. He said very interesting questions have been raised about impacts and the worthiness of the policy and process that need to be investigated, and noted the original version of the single-story overlay district had a sunset policy that was removed by City Council. He added that he looks at the merits of each application on its own, and he believes this is not an instance of confirmation bias in his decision.

Commissioner Klein said these neighbors are going through the appropriate process to protect the qualities of their neighborhood with a smaller percentage of support than seen on the previous agenda item, but with more than the City requires. He said the application is for a set of single-story homes, that there were qualifications of paying fees and looking at how many two-story homes are in the neighborhood, and that the policy may be reevaluated.

Vice Chair Rheume said he is not supporting the motion and that while the job of the Planning Commission is to enforce City policy, one of those policies is to determine whether a rezone application is in the best interest of the public. He said the more we discuss it the less it seems to be in the best interest of the public, and that because Sunnyvale is continually changing, the definition of 'best interest' continually changes. He said there may be needed changes to the process but that determining whether an application is in the best interest of the public does not need to change and he cannot make that finding.

Commissioner Weiss said she will not be supporting the motion and cannot make the findings because all of the rules were not followed. She said the process depends on integrity and honesty, that all Planning Commissioners were present when we voted on the 1169 Sesame project and there are items here presented as truths that we all know are not so. She said it makes her wonder about what else was presented to neighbors to convince them to sign the petition, and that approving this application jeopardizes the whole process.

Commissioner Olevson said he will be supporting the motion, and noted that the Planning Commission consists of volunteer citizens ensuring applicants follow the policies and procedures of the City. He said in this case the policy is a single-story overlay that has a specific process to be approved, which the applicants have followed. He added that the process could be substantially improved to better protect homeowners who are negatively affected by it.

Commissioner Simons said he supports the motion, and said there was a reference to policies in other cities and that with one in particular the process involved those

who wanted to do an addition getting their neighbor's approval. He said one problem with that is that one neighbor may allow a second story next to their home and then be denied when they wanted to add a small bedroom by that same neighbor, and that we want to remove those emotional factors and make it measurable with rules. He said it was a good idea to come up with second story guidelines but that the amount of effort to specify every possible thing people might want to do for their second story was too difficult. He said it is unfortunate that the discussion has gone in an unreasonable direction and he does not buy into the idea that second stories should be allowed because it is a property right. He said these are relatively large lots that will allow the construction of large homes or additions on just a single story, and that this may be an alert to Eichler homeowners about the conflict between them and people wanting to build density for the justification of getting extra housing. He said you can add a lot of square footage to homes and that will not turn them into multi-family homes and that this neighborhood will remain single family. He said he hopes the same mistakes made previously do not occur now due to inexperience.

Chair Harrison said she is not supporting the motion because it is not in the public interest. She said approval of this application requires different criteria than an Environmental Impact Report, and that there are no facts on whether the public will be positively or negatively affected by this situation. She said we do not know the resale values of homes in this situation, what future market conditions will be like, the affect on the maintenance of the properties or the desireability of the neighborhood. She said she understands that a majority of people living here now like it the way it is, but that without a sunset provision we do not know what effect this will have on this tract or the City.

The motion carried by the following vote:

**Yes: 4 -** Commissioner Klein  
Commissioner Melton  
Commissioner Olevson  
Commissioner Simons

**No: 3 -** Chair Harrison  
Vice Chair Rheume  
Commissioner Weiss





# City of Sunnyvale

## Agenda Item

16-0615

Agenda Date: 10/4/2016

### REPORT TO COUNCIL

#### SUBJECT

Adopt Positions on State and Local Ballot Measures for the November 8, 2016 Election

#### REPORT IN BRIEF

This report provides an opportunity for the Sunnyvale City Council to take positions on state and local measures on the November 8, 2016 Ballot. The report summarizes each measure, provides the City's adopted policy on the measure (if any), and a staff recommendation, when appropriate.

**As required by state law, no public funds have been or will be used to campaign for or against any of these measures.**

Staff recommends Alternatives 1, 2, 3 and 4:

1. Adopt the following staff-recommended positions on the ballot measures deemed *City business*, including one item where staff recommends that Council remain neutral (take no position):

#### State Ballot Measures

- **OPPOSE Proposition 53** Revenue Bonds. Statewide Voter Approval.
- **TAKE NO POSITION Proposition 63** Safety for All Act of 2016.
- **OPPOSE Proposition 64** Marijuana Legalization.
- **OPPOSE Proposition 65** Carryout Bags. Charges.
- **SUPPORT Proposition 67** Ban on Single-Use Plastic Bags.

#### Local Ballot Measures

- **SUPPORT Measure A**, Santa Clara County Housing Bond.
- **SUPPORT Measure B**, Valley Transportation Authority Tax.
- **SUPPORT Measure N**, Utility Users Tax.

2. Consider taking a position on a ballot measure deemed *City business*, where staff is not recommending a specific position:

#### Local Ballot Measures

- **Measure M** Public Lands for Public Use Act

3. Consider taking positions on remaining ballot measures which are deemed not *City business*:

#### State Ballot Measures

- **Proposition 51** School Bonds. Funding For K-12 School and Community College Facilities
- **Proposition 52** Medi-Cal Hospital Fee Program
- **Proposition 54** Legislature. Legislation and Proceedings
- **Proposition 55** Tax Extension to Fund Education and Healthcare
- **Proposition 56** Cigarette Tax to Fund Healthcare, Tobacco Use Prevention, Research, and Law Enforcement
- **Proposition 57** Criminal Sentences. Parole. Juvenile Criminal Proceedings And Sentencing
- **Proposition 58** English Proficiency. Multilingual Education
- **Proposition 59** Corporations. Political Spending. Federal Constitutional Protections
- **Proposition 60** Adult Films. Condoms. Health Requirements
- **Proposition 61** State Prescription Drug Purchases. Pricing Standards
- **Proposition 62** Death Penalty
- **Proposition 66** Death Penalty. Procedures

#### Local Ballot Measures

- **Measure BB** Sunnyvale School District Parcel Tax

4. Affirm that, as required by State law, no public funds have been or will be used to campaign for or against any of these measures.

#### **BACKGROUND**

Council Policy 7.4.16 *Ballot Measure Positions*, states that staff will provide analysis and a position recommendation on only those ballot measures that directly impact *City business*. *City business* is defined as all matters directly related to service delivery, or otherwise contributing to the City's operational success (Per Council Policy 7.4.14 *Legislative Advocacy Positions*).

The *Ballot Measures Positions* policy also states that review of measures prior to the publishing of the Santa Clara County Registrar of Voter's *Voter Information Pamphlet* (Pamphlet), will most likely not include staff analysis. As of the publishing of this Report, the Pamphlet is not yet publicly available. Some of the analysis provided below is based on limited information.

Staff's recommendations are generally based on existing City policies from documents such as the General Plan, Legislative Advocacy Positions, and impact on City services and/or operations.

Staff recommendation options are: Support, Oppose, No Staff Recommendation, or Take No Position. While the meaning of Support and Oppose recommendations are clear, "No Staff Recommendation" and "Take No Position" are clarified as follows:

*No Staff Recommendation* - Consistent with City policy, staff does not provide analysis or make recommendations on measures that do not impact *City business* as defined in Council Policy 7.4.14, *Legislative Advocacy Positions*.

*Take No Position* - Despite a measure's ability to impact *City business*, Staff may recommend that Council abstain from taking a position. This recommendation to remain neutral on an

issue may be made for a variety of reasons (e.g., ballot language is not clear; the pros and cons of the business impact cancel each other out; etc.). The reason for recommending this position will be explained as part of the staff analysis.

### **EXISTING POLICY**

**Council Policy 7.4.16 *Ballot Measure Positions*:** As soon as possible following the release of the Secretary of State's *Official Voter Information Guide* or the Santa Clara County Registrar of Voter's *Voter Information Pamphlet*, staff will present to Council a report reviewing proposed ballot measures.

### **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 (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.

### **DISCUSSION**

A brief analysis of each measure follows including a measure summary and, for statewide measures only, the California Legislative Analyst's estimate of state and local government fiscal impact; for those measures deemed *City business*, City staff analysis by the appropriate department, existing City policy citation (if any), and, as appropriate, a staff recommendation are also provided.

### **Measures Deemed City Business**

#### **State Ballot Measures**

**Proposition 53:** Revenue Bonds. Statewide Voter Approval.

Summary: Requires statewide voter approval before any revenue bonds can be issued or sold by the state for certain projects if the bond amount exceeds \$2 billion.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact: Fiscal impact on state and local governments is unknown and would depend on which projects are affected by the measure, whether they are approved by voters, and whether any alternative projects or activities implemented by government agencies have higher or lower costs than the original project proposal.

City of Sunnyvale Staff Analysis (Department of Finance): The measure will take away local control and add delays to crucial infrastructure projects, by requiring statewide votes for some local projects. Cities, counties and other local Bay Area agencies that want to partner with the State to finance the construction of critical public infrastructure projects (such as bridge safety repairs, water delivery systems, etc.) would have to put their project on a statewide ballot. Voters in other distant regions would have the right to reject local projects in the Bay Area. Additionally, it could impair the ability to rebuild critical infrastructure following emergencies and natural disasters because the measure does not contain any exemptions.

Existing City Policy: *Long-term Advocacy Position 7.0 Fiscal Management (3)* Oppose any

legislation that reduces or erodes local revenues or local control.

Staff Recommendation: **OPPOSE.** The Cities Association of Santa Clara County and the League of California Cities have taken an oppose position on this measure.

**Proposition 63:** Firearms. Ammunition Sales.

Summary: Requires background check and California Department of Justice authorization to purchase ammunition. Prohibits possession of large-capacity ammunition magazines. Establishes procedures for enforcing laws prohibiting firearm possession by specified persons. Requires California Department of Justice's participation in federal National Instant Criminal Background Check System (NICS).

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased state and local court and law enforcement costs, potentially in the tens of millions of dollars annually, related to a new court process for removing firearms from prohibited persons after they are convicted.
- Potential increase in state costs, not likely to exceed the millions of dollars annually, related to regulating ammunition sales. These costs would likely be offset by fee revenues.
- Potential net increase in state and local correctional costs, not likely to exceed the low millions of dollars annually, related to changes in firearm and ammunition penalties.

City of Sunnyvale Staff Analysis (Department of Public Safety):

In 2013, Sunnyvale voters passed Measure C, adopting a gun safety ordinance that was the basis for SMC Section 9.44.060. Proposition 63 mirrors some of the requirements of SMC Section 9.44.060, but it also creates new court processes with the potential to increase state and local law enforcement costs. While the intended outcomes of this measure are in line with one City policy, the breadth of the measure and associated costs resulting from new processes conflict with the City's fiscal policy to preserve and protect revenue sources. For this reason, staff recommends "Take No Position" on this measure.

It is likely that Proposition 63 would be found to preempt related provisions in Sunnyvale Measure C. Furthermore, SB1446 was recently signed into law by the Governor. SB1446 makes the possession of large capacity magazines an infraction and an argument can be made that SB1446 would preempt related provisions in Sunnyvale Measure C.

Existing City Policy:

Long-term Advocacy Position 4.1 *Law Enforcement*, (1) Support Legislation that imposes stricter guidelines for the sale and/or purchase of weapons, and limits the availability of high capacity weapons and ammunition and encourage stricter sentences for conviction involving firearms. Support adequate safeguards prior to purchases.

Long-term Advocacy Position 7.0(B) *Fiscal Management*, (5) Ensure local governments' revenue sources are protected and predictable.

Staff Recommendation: **TAKE NO POSITION.** The Cities Association of Santa Clara County has taken a support position on this measure; the League of California Cities has taken no position on this measure.

**Proposition 64: Marijuana Legalization.**

Summary: Legalizes marijuana under state law, for use by adults 21 or older. Imposes state taxes on sales and cultivation. Provides for industry licensing and establishes standards for marijuana products. Allows local regulation and taxation.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- The size of the measure's fiscal effects could vary significantly depending on:
  - (1) how state and local governments choose to regulate and tax marijuana,
  - (2) whether the federal government enforces federal laws prohibiting marijuana, and
  - (3) how marijuana prices and consumption change under the measure.
- Net additional state and local tax revenues that could eventually range from the high hundreds of millions of dollars to over \$1 billion annually. Most of these funds would be required to be spent for specific purposes such as youth programs, environmental protection, and law enforcement.
- Net reduced costs potentially in the tens of millions of dollars annually to state and local governments primarily related to a decline in the number of marijuana offenders held in state prisons and county jails.

City of Sunnyvale Staff Analysis (Department of Public Safety): The City opposes the legalization/decriminalization of all controlled substances as defined by Title 21 of the United States Code. As recently as August 12, 2016, the Department of Justice Drug Enforcement Administration denied a petition to initiate proceedings to reschedule Marijuana, citing that there is no substantial evidence that Marijuana should be removed from Schedule 1. Although other states have passed laws to decriminalize Marijuana, those laws are still in direct conflict with federal law.

In April, 2016, Council adopted Ordinance No. 3077-16, amending Sunnyvale Municipal Code Chapter 9.86, and expressly prohibiting the cultivation, delivery, distribution and other commercial activity related to medical marijuana in Sunnyvale. The ordinance cites public safety concerns, among them fire hazards created by indoor growing and processing of marijuana, and the negative impact on public health reported in California cities where cultivation, processing and distribution are allowed. These same concerns would apply to cultivation, delivery and distribution of marijuana for recreational use. Proposition 64 prohibits local government from banning indoor cultivation intended for allowed personal use. Based on the prohibition of local controls and the health and safety concerns raised by this proposition, opposition would be consistent with Council policy framework related to medical marijuana.

Staff notes that the California Public Safety Institute has expressed further issues of concern with this measure: it contains insufficient restrictions to prevent convicted felons from becoming licensed to cultivate, process, and sell marijuana; it fails to include any quantitative measures of impairment for individuals driving under the influence of marijuana; it does not

allow local governments to stop delivery of marijuana on public roads; it does not mandate funding for DUI enforcement programs or environmental cleanup resulting from cultivation and processing.

Existing City Policy:

Long-term Advocacy Position 4.1 *Law Enforcement*, (2) Oppose the legalization and or decriminalization of all controlled substances as defined by Title 21 of the US Code.

Staff Recommendation: **OPPOSE.** The Cities Association of Santa Clara County and the League of California Cities have taken no position on this measure.

**Proposition 65:** Carryout Bags. Charges.

Summary: Redirects money collected by grocery and certain other retail stores through mandated sale of carryout bags. Requires stores to deposit bag sale proceeds into a special fund to support specified environmental projects.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact: Potential state revenue of several tens of millions of dollars annually under certain circumstances. Revenue would be used to support certain environmental programs.

City of Sunnyvale Staff Analysis (Environmental Services Department): Proposition 65 was placed on the ballot by the "American Progressive Bag Alliance," the same coalition of bag manufacturers that qualified Proposition 67 for the ballot.

If both bag propositions pass and Proposition 65 receives more votes than Proposition 67, bag charge proceeds in areas of the state that currently lack a bag ban would be redirected to a state fund administered by the Wildlife Conservation Board. In this outcome, Proposition 65 would allow jurisdictions like Sunnyvale to amend their ordinances to require stores to pay bag charges to the state fund. Absent such an action by the City, passage of either or both propositions would not appear to change how bag charges are handled in Sunnyvale. Revenue from charges (currently ten cents per paper or reusable bag) collected by stores in Sunnyvale would continue to be retained by stores.

Further, if both bag propositions pass and Proposition 65 receives more votes, Proposition 65 might block implementation of SB 270, depending on how courts interpret the wording of the propositions. This is due to wording in Section 6(a) of Proposition 65, which reads, "In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void." Resolving this in court could further delay implementation of the state bag ban, which has already been stalled for 16 months by the Proposition 67 referendum.

If both propositions pass and Proposition 67 receives more votes, then bag charges collected in jurisdictions affected by the state bag law will be retained by stores, as specified by SB 270, the 2015 state bag law that was the subject of the Proposition 67 referendum.

Guidelines for receiving grants from the state fund that would receive the bag charges are to be developed by a Wildlife Conservation Board established if this proposition is approved. It is

unclear whether those future regulations would allow Sunnyvale, whose retailers retain the bag charges and would not pay into the state fund, would be allowed to apply for grants.

Staff recommends an Oppose position on Proposition 65. Certain provisions of Proposition 65, if it passes with more votes than Proposition 67, threaten further delay in statewide implementation of a plastic bag ban that is generally consistent with Sunnyvale's ordinance. The City, its consumers and businesses will be best served by consistency between the local ordinance and state law.

Existing City Policy: *Council Policy 3.2.4 - Zero Waste* - Lobby regional, state and federal legislators to implement laws, policies and regulations that promote Zero Waste.

*General Plan Policy EM-10.4* - Support legislation and regulations that will reduce or eliminate pollutants of concern at the source.

Staff Recommendation: **OPPOSE.** The Cities Association of Santa Clara County and the League of California Cities have taken an oppose position on this measure.

#### **Proposition 67: Ban on Single-Use Plastic Bags.**

Summary: A "Yes" vote approves, and a "No" vote rejects, a statute that prohibits grocery and other stores from providing customers single-use plastic or paper carryout bags but permits sale of recycled paper bags and reusable bags.

Summary of Legislative Analyst's Estimate of Net State and Local Government

Fiscal Impact: Relatively small fiscal effects on state and local governments. Minor increase of less than a million dollars annually for state administrative costs, offset by fees. Possible minor savings to local governments from reduced litter and waste management costs.

City of Sunnyvale Staff Analysis (Environmental Services Department): The City adopted a similar local bag ban in 2011 and updated it in 2013. Local surveys indicate that the ordinance has reduced total retail bag use by approximately 80%. Approval of this proposition will leave the City ordinance in place and unchanged. Approval will reduce litter, waste disposal and stormwater impacts caused by plastic carryout bags imported from jurisdictions that currently allow single-use bags. The state law would limit future changes to the City's ordinance. Approval will result in standardized bag rules for retailers throughout the state and consistent expectations regarding bags for their customers. Staff believes that implementation of the state ban will enhance the effectiveness of Sunnyvale's ban and recommends a "Yes" position on Proposition 67.

Existing City Policy: *Council Policy 3.2.4 - Zero Waste* - Lobby regional, state and federal legislators to implement laws, policies and regulations that promote Zero Waste.

*General Plan Policy EM-10.4* - Support legislation and regulations that will reduce or eliminate pollutants of concern at the source.

Staff Recommendation: **SUPPORT.** The Cities Association of Santa Clara County and the League of California Cities have taken a support position on this measure (to retain the plastic bag ban).

Local Ballot Measures**Measure A:**

*To provide affordable local housing for vulnerable populations including veterans, seniors, the disabled, low and moderate income individuals or families, foster youth, victims of abuse, the homeless and individuals suffering from mental health or substance abuse illnesses, which housing may include supportive mental health and substance abuse services, shall the County of Santa Clara issue up to \$950 million in general obligation bonds to acquire or improve real property subject to independent citizen oversight and regular audits?*

The full text of Measure A also includes the following language regarding governance and accountability:

Accountability Safeguards

*Statement of Purpose: The specific purposes of the bond are to fund the acquisition or improvement of real property in order to provide affordable local housing for vulnerable populations including veterans, seniors, the disabled, low and moderate income individuals or families, victims of abuse, the homeless and individuals suffering from mental health or substance abuse illnesses, which housing may include supportive mental health and substance abuse services. The proceeds of any bonds issued pursuant to this bond measure will be applied only to these specific purposes.*

*Special Bond Proceeds Account: The proceeds of the bonds issued pursuant to this measure shall be deposited in a special account created by the County.*

*Annual Report: The County will ensure that an annual report pursuant to Government Code section 53411 describing the amount of funds collected and expended, and the status of any project required or authorized to be funded, shall be filed with its governing body.*

*Independent Citizens' Oversight Committee: A Citizens' Oversight Committee will be established and will review the annual report each year to ensure fiscal accountability.*

*Independent and External Audit: An independent, external auditor will review the County's spending of bond proceeds to ensure accountability.*

Existing City Policy: *Housing Element Goal A, Policy A.7 1) 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.*

*Housing Element Goal E, Policy E.6 2) Participate in the County Collaborative on Affordable Housing and Homeless Issues to support its efforts to prevent and end homelessness. Facilitate and sponsor the provision of permanent supportive housing for homeless people.*

City of Sunnyvale Staff Analysis (Community Development Department):

This measure requires a two-thirds majority to pass. If approved, the bond would be issued by the County of Santa Clara in three phases, each providing about \$316 million for housing projects, not to exceed an aggregate principal amount of \$950 million. The first bond issuance would be scheduled for September 2017, with the next phases coming in 2021 and 2025.



According to the full text of the measure, the bonds would bear an interest rate not to exceed 12% annually; the total indebtedness shall not exceed 1.25% of the total assessed valuation of the taxable property within the County, as shown by the last equalized assessment roll; and the proceeds of the bond issuance would be deposited into a special account of the County.

The bond would be repaid by a new parcel tax levied by the County on all taxable properties in the County. According to the estimates provided by the County, the bond is expected to require an assessment of \$12.66 per \$100,000 of assessed property value for all taxable properties on the County tax rolls in fiscal year 2017-18, dropping to \$10.76 per \$100,000 of assessed value in fiscal year 2025-26. The bond is expected to be fully paid off by 2055. The total debt service, including principal and interest, to be repaid if all the bonds are issued and sold, is \$1.9 billion. The tax rate statement within this measure also includes the following statement: *"...the foregoing information is based upon the County's projections and estimates only, which are not binding upon the County."*

**Governance of the Bond Proceeds:** As a general obligation bond of the County, proceeds of the bond would be placed in a special fund managed and controlled by the County Board of Supervisors. The County will issue an annual report describing the amount of funds collected and expended, and the status of any project required or authorized to be funded by the bond proceeds. A citizens' oversight committee will be established by the County and will review the annual report each year to ensure fiscal accountability, and an independent auditor would also be hired by the County to audit the fund. At the time this Report was published, the County Board had yet to finalize its action regarding the composition of the oversight board; therefore staff cannot comment or analyze the governance structure fully at this time. The Board is tentatively scheduled to consider the composition of an oversight board on October 4; if available, staff will provide a verbal update on to the Council on the evening of October 4. The Council may also consider deferring this particular issue and adopt a position at the October 25, 2016 Council meeting.

The need for affordable housing around the county is significant. Any increase in available affordable housing stock around the county would benefit all county residents by providing affordable housing to some of the most vulnerable households such as the homeless and reduce the negative impacts of homelessness and displacement on other local residents, businesses, etc. According to a recent County study, the County currently spends approximately \$500 million annually on services for homeless residents, most of which went to health care services or justice system expenses. (For Study, See <https://www.sccgov.org/sites/opa/nr/Pages/Nation%E2%80%99s-Most-Comprehensive-Report->

The text of the measure states: "The Board of Supervisors intends to distribute the new affordable housing units within the County...." It is expected that most of the affordable housing funded by these bonds would be built or acquired within incorporated cities, as much of the County unincorporated areas are zoned for open space or farmland. Approximately 16% of the funding is proposed for first time home buyer assistance and moderate income housing, while roughly 74% is proposed for housing for homeless and other vulnerable populations as defined in the text of the measure, above. The remaining 10% will be for very low income households. The measure also allows an unspecified portion of the funds to be used for supportive services to treat mental health and substance abuse conditions of the

residents of the affordable housing.

The City supports efforts to increase aggregate housing development in the region. The governance details are still being developed and staff cannot fully analyze the impacts. However, even absent the ability to assess the governance details, staff recommends that the Council support Measure A. Staff is optimistic that the County will be mindful of working collaboratively with cities to ensure that potential housing sites are compatible with the neighborhood and relevant general plan and that the process will include a robust community engagement effort. Staff will continue to monitor the County's progress to develop the governance details and will update the Council as they are available.

Staff Recommendation: **SUPPORT.** The Cities Association of Santa Clara County has taken a support position on this measure.

### Measure B

*To relieve traffic, repair potholes; shall VTA enact a 30-year half-cent sales tax to:*

- *Repair streets, fix potholes in all 15 cities;*
- *Finish BART extension to downtown San Jose, Santa Clara;*
- *Improve bicycle/pedestrian safety, especially near schools;*
- *Increase Caltrain capacity, easing highway congestion, improving safety at crossings;*
- *Relieve traffic on all 9 expressways, key highway interchanges;*
- *Enhance transit for seniors, students, disabled;*

*Mandating annual audits by independent citizens watchdog committee to ensure accountability.*

Existing City Policy: *General Plan, Chapter 3, Land Use and Transportation Element Policies: LT-1.1: Advocate the City's interests to regional agencies that make land use and transportation system decisions that affect Sunnyvale.*

*LT-1.8: Support statewide, regional and sub-regional efforts that provide for an effective transportation system.*

City of Sunnyvale Staff Analysis (Department of Public Works): Measure B will help facilitate construction of many City priority transportation projects including the Mathilda/US101/SR237 interchange project. Staff has presented information to City Council a number of times regarding Measure B and the City Council has previously expressed support.

Staff Recommendation: **SUPPORT.** The Cities Association of Santa Clara County has taken a support position on this measure.

### Measure N

*Sunnyvale Essential Services Protection Measure. To maintain Sunnyvale's financial stability without increasing the existing 2% tax rate, and fund essential City services including police, fire and 911 emergency response, and pothole, street, sidewalk, and neighborhood park maintenance/repairs, shall Sunnyvale modernize its existing utility users tax to treat telecommunication taxpayers equally regardless of technology used, providing approximately \$1,500,000 annually on an ongoing basis, until ended by voters, with independent audits, and all funds used locally?*

Impartial Analysis by the Office of the City Attorney: This measure is proposed by the Sunnyvale City Council to update the City's existing Utility Users Tax ("UUT") ordinance to be consistent with current practice and modern telecommunications technologies, so every customer is treated the same whether they use the latest telecommunications technology or older telephone services.

The UUT is levied on utility users in the City. Sunnyvale has imposed the UUT on telephone, gas and electric utilities since 1969. The proceeds of the UUT can only be spent on City services and cannot be taken away by the State. Revenue generated by the tax goes to the City's General Fund to provide essential local government services including, but not limited to police, fire and paramedic services; street, sidewalk and tree maintenance; library, and parks and recreation.

Since the UUT was first enacted in 1969, the definitions of telephone services and telephone technology have changed significantly, resulting in inconsistent application of the tax. This measure would update the UUT ordinance by incorporating definitions commonly used in the telecommunications industry and anticipating new telecommunications technologies and services. Wired and wireless, paid and prepaid wireless, private networks for providing such services, and intrastate, interstate and international calls would be treated the same, regardless of the technology used to provide those services.

In recent years, many cities have modernized the telecommunications part of their UUT ordinances to respond to changes in federal law and to reflect the shift from landline telephones to digital communication technologies such as wireless and VOIP. Approximately 90% of the cities in the state that have a UUT use similar voter-approved definitions of telecommunications services that are proposed in this ordinance.

The current 2% rate of the UUT will stay the same, as will the existing categories of utilities subject to the UUT. This measure would not apply to charges for internet access, or internet downloads of music, video and other information unrelated to telecommunications. Voter approval would be required for any future increase in the rate or the scope of services subject to the UUT.

The ordinance will become effective if a majority of those voting on the measure vote for it.

A "yes" vote is a vote in favor of adopting the updated UUT ordinance to modernize the telecommunications provisions and maintain the existing 2% rate. A "no" vote will leave in place the existing UUT ordinance.

Existing City Policy: *Long-term Advocacy Position 7.0 Fiscal Management (5)* Ensure local governments' revenue sources are protected and predictable.

City of Sunnyvale Staff Analysis (Department of Finance): Updating the Utility Users Tax (UUT) is not a tax rate increase nor does it create a new tax. The City has not significantly updated its UUT ordinance in over 40 years, and many provisions are outdated and do not reflect changes in the telecommunications industry in that time. The changes proposed in the measure would ensure that all taxpayers, regardless of the technology they use, will be treated fairly so that everyone pays their fair share. All funds generated by the UUT will

continue to maintain the City of Sunnyvale's financial stability and support services that maintain our quality of life by supporting local services such as public safety, park maintenance and street repair.

Staff Recommendation: **SUPPORT**

**Measure deemed City business with staff not recommending a specific position**

**Measure M**

*Shall an ordinance be adopted to require the City to conduct a citywide special or general election requesting approval from a majority of voters for any sale, lease, lease extension, lease renewal, land swap, or transfer of any property, facility, or land that the City owns, leases, or uses for government administration, recreation, public park, or similar community purposes?*

Impartial Analysis by the Office of the City Attorney: This measure was placed on the ballot by a petition signed by the requisite number of voters. It proposes to adopt an ordinance amending the existing provisions of Sunnyvale Municipal Code ("SMC") sections 2.07.030 and 2.07.040 to require prior approval of voters in a citywide special or general election for some types of City real property transactions.

Current Requirements. Currently, SMC Chapter 2.07 contains the following approval requirements related to purchases, sales or leases of City property:

- The City Council approves purchases, sales, or leases of real property for the City when the purchase price, sales price, lease cost or lease value is greater \$75,000; the City Manager approves such transactions valued at \$75,000 or less.
- The City Manager approves leases that result in revenue to the City and are for periods less than or equal to 55 years.
- The City Council approves leases of City property that have terms in excess of 55 years, subject to additional procedural requirements including a public hearing, adoption of a resolution, and terms providing for periodic review of the lease provisions.

Under state law (Brown Act), all City Council approvals must occur in noticed, open and public meetings. City Manager approval is administrative.

Proposed Changes. The measure would change the provisions of SMC Chapter 2.07 in the following key areas:

- Define two new categories of City property:
  - "Community Service Amenity," defined as types of facilities and land "whose primary purpose is to provide the public a place of city government administration, recreation, education, exercise, or enjoyment."
  - "Public Park," defined as "land set apart for recreation of the public and to maintain open space in the City, including City-owned land shared by agreement with adjacent public schools to augment the public school's outdoor recreation area."
- Require prior approval of a majority of voters in a citywide special or general election for the following types of real property transactions:
  - Any "sale, lease, lease extension, lease renewal, land swap, or transfer,"

regardless of the amount of the transaction, involving any land “owned, leased, or used” by the City as a Public Park or Community Service Amenity (including land otherwise transferred to the City for such purposes, and the rights to use land for such purposes).

- Leases in excess of 55 years affecting Public Park or Community Service Amenity land owned, held or controlled by the City.

The Measure includes a priority clause stating that the Measure prevails over all conflicting City ordinances, resolutions and administrative policies.

The City currently acquires, leases, or uses property, and allows others to use City property, through many different types of transactions. How the voter approval requirement applies to these types of transactions may be subject to interpretation.

City of Sunnyvale Analysis: The City of Sunnyvale retained Management Partners in May of 2015 to prepare a report in accordance with the provisions of California Election Code Section 9212(a). (Final Report to Council, See Attachment 1). The report, issued in July 2015, contained Management Partners’ independent analysis and identified resulting impacts that Management Partners believed the City may experience if the initiative was approved by the voters.

The Report’s Executive Summary includes analysis regarding the positive and/or negative impacts the initiative may have on the City. (See Attachment 2)

Staff Recommendation: **No Staff Recommendation.**

### **Measures Deemed Not City Business**

All measures deemed not *City business* are presented for potential Council action; however, do not include staff analysis or recommendation.

### **State Ballot Measures**

**Proposition 51:** School Bonds. Funding For K-12 School and Community College Facilities.

Summary: Authorizes \$9 billion in general obligation bonds for new construction and modernization of K-12 public school facilities; charter schools and vocational education facilities; and California Community Colleges facilities.

**Proposition 52:** Medi-Cal Hospital Fee Program.

Summary: Extends indefinitely an existing statute that imposes fees on hospitals to fund Medi-Cal health care services, care for uninsured patients, and children’s health coverage.

**Proposition 54:** Legislature. Legislation and Proceedings.

Summary: Prohibits Legislature from passing any bill unless published on Internet for 72 hours before vote. Requires Legislature to record its proceedings and post on Internet. Authorizes use of recordings.

**Proposition 55:** Tax Extension to Fund Education and Healthcare.

---

Summary: Extends by twelve years the temporary personal income tax increases enacted in 2012 on earnings over \$250,000, with revenues allocated to K-12 schools, California Community Colleges, and, in certain years, healthcare.

**Proposition 56:** Cigarette Tax to Fund Healthcare, Tobacco Use Prevention, Research, and Law Enforcement.

Summary: Increases cigarette tax by \$2.00 per pack, with equivalent increase on other tobacco products and electronic cigarettes containing nicotine.

**Proposition 57:** Criminal Sentences. Parole. Juvenile Criminal Proceedings And Sentencing.

Summary: Allows parole consideration for nonviolent felons. Authorizes sentence credits for rehabilitation, good behavior, and education. Provides juvenile court judge decides whether juvenile will be prosecuted as adult.

**Proposition 58:** English Proficiency. Multilingual Education.

Summary: Preserves requirement that public schools ensure students obtain English language proficiency. Requires school districts to solicit parent/community input in developing language acquisition programs. Requires instruction to ensure English acquisition as rapidly and effectively as possible. Authorizes school districts to establish dual-language immersion programs for both native and non-native English speakers.

**Proposition 59:** Corporations. Political Spending. Federal Constitutional Protections.

Summary: Asks whether California's elected officials should use their authority to propose and ratify an amendment to the federal Constitution overturning the United States Supreme Court decision in Citizens United v. Federal Election Commission. Citizens United ruled that laws placing certain limits on political spending by corporations and unions are unconstitutional.

**Proposition 60:** Adult Films. Condoms. Health Requirements.

Summary: Requires adult film performers to use condoms during filming of sexual intercourse. Requires producers to pay for performer vaccinations, testing, and medical examinations. Requires producers to post condom requirement at film sites.

**Proposition 61:** State Prescription Drug Purchases. Pricing Standards.

Summary: Prohibits state from buying any prescription drug from a drug manufacturer at price over lowest price paid for the drug by United States Department of Veterans Affairs. Exempts managed care programs funded through Medi-Cal.

**Proposition 62:** Death Penalty.

Summary: Repeals death penalty and replaces it with life imprisonment without possibility of parole. Applies retroactively to existing death sentences. Increases the portion of life inmates' wages that may be applied to victim restitution.

**Proposition 66:** Death Penalty. Procedures.

Summary: Changes procedures governing state court challenges to death sentences. Designates superior court for initial petitions and limits successive petitions. Requires appointed attorneys who take noncapital appeals to accept death penalty appeals. Exempts prison officials from existing regulation process for developing execution methods.

Local Ballot Measures**Measure BB:** Sunnyvale School District Parcel Tax

Summary: To renew the Sunnyvale School District parcel tax to support classroom programs including math, English, science and technology; to attract and retain quality teachers and keep class size small; shall Sunnyvale School District be authorized to renew its existing \$59 per parcel tax providing \$1 million annually for seven years beginning July 1, 2018, with exemptions for senior citizens and all expenditures audited and reviewed by a citizens' oversight committee with no funds spent on administrators?

**FISCAL IMPACT**

As required by state law, no public funds have been or will be used to campaign for or against any of these measures and therefore there is no fiscal impact to this report.

**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. Adopt the following staff-recommended positions on the ballot measures deemed *City business*, including one item where staff recommends that Council remain neutral (take no position):

State Ballot Measures

- **OPPOSE Proposition 53** Revenue Bonds. Statewide Voter Approval.
- **TAKE NO POSITION Proposition 63** Safety for All Act of 2016.
- **OPPOSE Proposition 64** Marijuana Legalization.
- **OPPOSE Proposition 65** Carryout Bags. Charges.
- **SUPPORT Proposition 67** Ban on Single-Use Plastic Bags.

Local Ballot Measures

- **SUPPORT Measure A**, Santa Clara County Housing Bond.
- **SUPPORT Measure B**, Valley Transportation Authority Tax.
- **SUPPORT Measure N**, Utility Users Tax.

2. Consider taking a position on a ballot measure deemed *City business*, where staff is not recommending a specific position:

Local Ballot Measures

- **Measure M** Public Lands for Public Use Act

3. Consider taking positions on remaining ballot measures which are deemed not *City business*:

State Ballot Measures

- **Proposition 51** School Bonds. Funding For K-12 School and Community College Facilities
- **Proposition 52** Medi-Cal Hospital Fee Program
- **Proposition 54** Legislature. Legislation and Proceedings
- **Proposition 55** Tax Extension to Fund Education and Healthcare
- **Proposition 56** Cigarette Tax to Fund Healthcare, Tobacco Use Prevention, Research, and Law Enforcement
- **Proposition 57** Criminal Sentences. Parole. Juvenile Criminal Proceedings And Sentencing
- **Proposition 58** English Proficiency. Multilingual Education
- **Proposition 59** Corporations. Political Spending. Federal Constitutional Protections
- **Proposition 60** Adult Films. Condoms. Health Requirements
- **Proposition 61** State Prescription Drug Purchases. Pricing Standards
- **Proposition 62** Death Penalty
- **Proposition 66** Death Penalty. Procedures

#### Local Ballot Measures

- **Measure BB** Sunnyvale School District Parcel Tax

4. Affirm that, as required by State law, no public funds have been or will be used to campaign for or against any of these measures.
5. Adopt alternative positions on the ballot measures.
6. Other action as directed by Council.

#### **STAFF RECOMMENDATION**

Alternatives 1, 2, 3 and 4:

1. Adopt the following staff-recommended positions on the ballot measures deemed *City business*, including one item where staff recommends that Council remain neutral (take no position):

#### State Ballot Measures

- **OPPOSE Proposition 53** Revenue Bonds. Statewide Voter Approval.
- **TAKE NO POSITION Proposition 63** Safety for All Act of 2016.
- **OPPOSE Proposition 64** Marijuana Legalization.
- **OPPOSE Proposition 65** Carryout Bags. Charges.
- **SUPPORT Proposition 67** Ban on Single-Use Plastic Bags.

#### Local Ballot Measures

- **SUPPORT Measure A**, Santa Clara County Housing Bond.
- **SUPPORT Measure B**, Valley Transportation Authority Tax.
- **SUPPORT Measure N**, Utility Users Tax.

2. Consider taking a position on a ballot measure deemed *City business*, where staff is not recommending a specific position:

#### Local Ballot Measures

- **Measure M** Public Lands for Public Use Act



3. Consider taking positions on remaining ballot measures which are deemed not *City business*:  
State Ballot Measures
- **Proposition 51** School Bonds. Funding For K-12 School and Community College Facilities
  - **Proposition 52** Medi-Cal Hospital Fee Program
  - **Proposition 54** Legislature. Legislation and Proceedings
  - **Proposition 55** Tax Extension to Fund Education and Healthcare
  - **Proposition 56** Cigarette Tax to Fund Healthcare, Tobacco Use Prevention, Research, and Law Enforcement
  - **Proposition 57** Criminal Sentences. Parole. Juvenile Criminal Proceedings And Sentencing
  - **Proposition 58** English Proficiency. Multilingual Education
  - **Proposition 59** Corporations. Political Spending. Federal Constitutional Protections
  - **Proposition 60** Adult Films. Condoms. Health Requirements
  - **Proposition 61** State Prescription Drug Purchases. Pricing Standards
  - **Proposition 62** Death Penalty
  - **Proposition 66** Death Penalty. Procedures
- Local Ballot Measures
- **Measure BB** Sunnyvale School District Parcel Tax
4. Affirm that, as required by State law, no public funds have been or will be used to campaign for or against any of these measures.

Prepared by: Yvette Blackford, Senior Management Analyst  
Reviewed by: Walter C. Rossmann, Assistant City Manager  
Approved by: Deanna J. Santana, City Manager

#### **ATTACHMENTS**

1. RTC No. 15-0747, *Consider Actions Related 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")*, August 11, 2015 [hyperlink]
2. Report on Impacts of 'Public Lands for Public Use Act' Initiative Under California Election Code Section 9212

**City of Sunnyvale**

**Report on Impacts of “Public Lands for Public Use  
Act” Initiative Under California Election Code  
Section 9212**

**July 2015**

**Management  
Partners**







July 31, 2015

Ms. Deanna Santana  
City Manager  
City of Sunnyvale  
456 W. Olive Avenue  
Sunnyvale, CA 94086

Dear Ms. Santana:

Management Partners is pleased to transmit our report containing results of our analysis of the proposed ballot initiative that would amend the City's Municipal Code regarding certain real property transactions in Sunnyvale. The City has received a proposed initiative that would require that 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 be approved in advance by a majority of voters in a citywide municipal election. State law allows the City Council to receive a report regarding various impacts of the proposed initiative to help inform its decision whether to adopt the initiative or place it on the ballot.

In this report we provide you with a summary of our analysis of the proposed initiative in accordance with California Election Code Section 9212(a). As part of the analysis, we have reviewed various real property types and real property transaction types as to whether they are covered under the proposed initiative. This analysis concludes that a significant number of real estate transactions routinely completed in the course of business by the City would be subject to the initiative's prior vote requirement. This would create additional costs, notably for holding an election, and add processing time. Property transactions subject to the initiative would become more expensive and time consuming for the City, rendering it less nimble in being able to take advantage of grant and economic development opportunities, and potentially deterring the City from pursuing transactions that may be of value. On the other hand, by subjecting transactions involving park land or land with a community service amenity to a public vote, such property will be preserved in the current use – a goal of the initiative drafters – and unless or until the majority of voters elect to change that use.

Administration of the initiative provisions will be a fairly complex new regulatory requirement which the City will be obligated to manage. While not every real property transaction will be impacted, a significant number arguably will be affected. This will impact other city priorities because of our limited resources for management and administration of the City. Finally it must be noted that, as with every piece of legislation, there are unknowns and uncertainties which will only be resolved with time and experience.

While one can debate the public policy ramifications, there is no doubt that approval of the initiative would make a variety of transactions much more complex, expensive and uncertain in Sunnyvale than in comparable municipalities without such restrictions.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald E. Newfarmer".

Gerald E. Newfarmer  
President and CEO



## Table of Contents

---

<b>Executive Summary .....</b>	<b>1</b>
Project Approach.....	2
Summary of Impacts.....	2
<i>Financial</i> .....	2
<i>Operations</i> .....	3
<i>Real Property Categories/Covered Property</i> .....	3
<i>Real Property Transactions</i> .....	4
<i>Impacts under California Election Code §9212(a)</i> .....	5
<b>Background .....</b>	<b>8</b>
Overview of Ballot Initiative and Impact on Existing Municipal Code .....	8
Provisions of California Election Code Section 9212(a) .....	9
Project Approach.....	10
Types of Properties .....	11
Overview of Leases, Licenses, Joint Use and other Agreements.....	12
<b>Analysis .....</b>	<b>13</b>
Real Property Types Subject to Initiative .....	14
<i>Property Types Covered by the Initiative</i> .....	15
Real Property Transactions Subject to Initiative .....	21
<i>Lease</i> .....	21
<i>License</i> .....	22
<i>Easement</i> .....	23
<i>Agreement or Use Agreement</i> .....	24
<i>Land Swap</i> .....	24
<i>Transfers</i> .....	24
<i>Concession Agreements</i> .....	25
<i>Ambiguous Transactions</i> .....	25
<i>Real Property Transactions Categories Subject to the Initiative</i> .....	26
Impacts Analysis Provided by Cal. Elec. Code §9212(a) .....	28

---

<i>Fiscal Impacts [Cal Elec. Code §9212(a)(1)] .....</i>	<i>29</i>
<i>Consistency with General Plan and Housing Element [Cal Elec. Code §9212(a)(2)] .....</i>	<i>34</i>
<i>Land Use and Housing [Cal Elec. Code §9212(a)(3)] .....</i>	<i>37</i>
<i>Infrastructure Impacts [Cal Elec. Code §9212(a)(4)] .....</i>	<i>37</i>
<i>Business Attraction, Retention, and Employment [Cal Elec. Code §9212(a)(5)] .....</i>	<i>38</i>
<i>Vacant Land [Cal Elec. Code §9212(a)(6)] .....</i>	<i>40</i>
<i>Agricultural Lands, Open Space, Traffic Conditions, Business Districts and Revitalization Areas [Cal Elec. Code §9212(a)(7)] .....</i>	<i>41</i>
<i>Other Matters Requested by City Council [Cal Elec. Code §9212(a)(8)] .....</i>	<i>44</i>
<i>Process Decision Tree – Steps for Evaluating Future Property Transactions .....</i>	<i>51</i>
<b>Conclusion.....</b>	<b>52</b>
<b>Attachment A – List of City Properties .....</b>	<b>54</b>
<b>Attachment B – List of Current and Recent Property Transactions.....</b>	<b>64</b>
<b>Attachment C: Process Decision Tree .....</b>	<b>72</b>
<b>Appendix 1 – Notice of Intent to Circulate Petition .....</b>	<b>73</b>

## Tables

---

Table 1.	Property Types Covered under Narrow and Broad Interpretations of Initiative Language .....	16
Table 2.	Real Property Types Covered by a Narrow Interpretation of the Initiative Language .....	18
Table 3.	Property Types Potentially Covered under a Broad Interpretation of Initiative Language .....	19
Table 4.	Property Types not Covered under Narrow or Broad Interpretations of Initiative Language .....	20
Table 5.	Real Property Transactions used in City of Sunnyvale .....	21
Table 6.	Property Transactions Covered under Narrow and Broad Interpretations of Initiative Language .....	26
Table 7.	Property Transactions Potentially Covered under a Broad Interpretation of the Initiative Language .....	27
Table 8.	Property Transactions Not Covered under Narrow or Broad Interpretations of Initiative Language .....	27
Table 9.	Potential Fiscal Impacts of the Initiative .....	30
Table 10.	Business Retention, Attraction and Employment Impacts .....	39
Table 11.	Priority Development Areas .....	43
Table 12.	Examples of City of Sunnyvale Current and Recently Owned Properties .....	54
Table 13.	Examples of Current and Recent City Property Transactions .....	64





## Executive Summary

The City of Sunnyvale retained Management Partners in May 2015 to prepare a report that analyzes the impacts of a proposed ballot initiative in accordance with the provisions of California Election Code Section 9212(a). This report contains Management Partners’ independent analysis and identifies the resulting impacts we believe the City may experience if the proposed initiative were approved by voters. Management Partners does not make any representation regarding legal interpretations of the proposed initiative. Advice from legal counsel should be sought for application of the proposed initiative to particular cases.

The proposed initiative would amend Chapter 2.07 of the Sunnyvale Municipal Code to require that a majority of voters in a citywide municipal election give prior approval of any “sale, lease, lease extension, lease renewal, land swap, or transfer of any real property owned, leased, or used by the City” as a “public park” or a “community service amenity.” According to the proponents of the initiative, the City is under increasing pressure to repurpose public lands for other uses, and a new tool to stem this pressure would be a desirable check. Voter approval is seen as a method to accomplish this result.

The initiative seeks to protect public lands by taking control of certain real property transactions away from elected representatives and City government, and giving it directly to the voting public. It is important to note that the initiative only guarantees a public vote; it does not guarantee the outcome of that vote and, therefore, does not guarantee the protections of public lands. And, while requiring majority approval does give resident voters control over real property decisions, it comes with a price tag: if the initiative passes, there are significant financial and administrative costs associated with the voter-approval requirement that will impact the City’s fiscal resources and limit its ability to manage its property.

## ***Project Approach***

Management Partners’ project team members conducted interviews with City staff and legal counsel, proponents of the proposed initiative, and County Registrar officials. We researched various issues that could be affected by the initiative including opportunities for grant funding, debt financing, and outcomes from other cities that have considered similar measures. We also studied various documents provided by the City including property lists, leases and other property-related agreements, the Municipal Code, and General Plan and Housing Element in developing the analysis in this report.

The following section summarizes the impacts identified in conducting our work. Please refer to the relevant Analysis Section of the report for our more detailed analysis.

## ***Summary of Impacts***

The following presents a summary of our analysis regarding the impacts the initiative may have on the City.

### **Financial**

- Each election will cost from approximately \$41,000 to \$700,000, depending on timing and other measures that may be presented before voters.
- The City stands at risk to lose nearly \$600,000 in annual lease revenues, much of which are deposited to the General Fund, by requiring that those leases go to an election prior to their renewal. A majority of this lease revenue is from leasing a portion of the City’s Sunnyvale Office Center, where all of the current leases are renewed annually or on a month-to-month basis, making renewal via an election impractical. The City oversees 112 separate property-related agreements, in which 36 of those agreement may likely be interpreted as being covered by the proposed initiative, and would likely be required to be approved as separate ballot measures. The uncertainty created from the lessees’ perspectives could erode revenue to the City’s General Fund.
- Any reduction in revenue may result in less funding for the maintenance and improvement of existing parks, open space, and facilities where community service amenities are provided.

- The City could lose grant or debt financing opportunities for future real property transactions that could benefit facilities and park lands, as in some cases those types of funding mechanisms will require voter approval. In the case of grant funding, the application windows are so limited that the City would lose out on some funding opportunities.

## **Operations**

- If the initiative passes, how it ultimately impacts city operations and capacity will be determined based on interpretation on a case-by-case basis. The City will need to dedicate time and effort to study whether each property transaction is subject to the initiative, as well as its potential impact relative to a number of factors. Due to the significant number of property-related transactions that is part of the city’s recurring operations, there is the potential that the city’s attention to its regular operations could be impaired, which could have an adverse impact on overall city service levels.

## **Real Property Categories/Covered Property**

The proposed initiative creates and applies to two categories of property: any real property owned, leased, or used by the City as (1) a “public park” or (2) a “community service amenity”.

It then defines these categories as follows:

- (1) Public park means “land set apart for recreation of the public, to promote its health and enjoyment, to maintain open space in the city and also includes city-owned public land which may be shared by agreement with adjacent public schools to augment the public school’s outdoors recreation area.”
- (2) Community service amenity (“CSA”) means “libraries, swimming pools, community centers, performing arts venues, gardens, golf courses, zoos, city hall, city administration buildings, and other similar facilities and the land on which the facilities stand, whose primary purpose is to provide the public a place of city government administration, recreation, education, exercise, or enjoyment.”

The City owns and maintains real property with various uses that range from the City Hall and public safety buildings to parks, trails, community

centers, sports fields, rights-of-way, commercial buildings, and homes used to fulfill the City’s affordable housing initiatives. While it is easy to apply the definitions to some properties, public parks, for instance, trying to determine which other properties are actually covered under the initiative raises a number of questions. For example, the initiative’s definition of CSA includes “city administration buildings” if their “primary purpose is to provide the public a place of city government administration.” Does it include all city government buildings, even those not located in the civic center or generally open to the public? Are fire stations, the corporation yard, or the water pollution control facility included?

### **Real Property Transactions**

The initiative provides that covered property may not be the subject of a “sale, lease, lease extension, lease renewal, land swap, or transfer” without prior approval by majority vote. It does not, however, define the term “lease.” The City enters into various transactions involving the use of real property in carrying out its municipal purposes, including purchases, sales, leases, easements, joint use agreements, and concessionaire agreements. Would the voter-approval requirement apply to these other types of agreements which may have some similar characteristics to leases, such as licenses, easements, franchises, concessions, use agreements, permits for use of City property, access agreements, etc.? It is not clear which of these transactions would be covered.

The proponents acknowledge that in certain cases the distinction between an agreement to use and a lease may not be clear. They suggest that use agreements would generally not be covered by the initiative, unless such agreements allow the land to be used for private purposes in a manner that prevents the public’s access to the land. This interpretation has some logical appeal; however, the language itself is susceptible to a broader interpretation that would encompass, for example, a use agreement for recreational facilities in a City park where a private or public association has exclusive use of the facilities during certain hours.

How the initiative would be interpreted would ultimately be up to the courts: the intent of the proponents is not controlling as to how the initiative should be interpreted, but it is one piece of information the courts might reference when ascribing meaning to ambiguous provisions,

particularly if that intent is carried forward into ballot arguments in favor of the initiative when it appears on the ballot.

It is clear from our analysis that this initiative will require legal expertise to analyze its application to certain scenarios, as well as to defend any legal challenges.

### **Impacts under California Election Code §9212(a)**

1. Fiscal Impacts. The most obvious fiscal impacts of the initiative are the election costs associated with placing a ballot measure before the voters in a citywide election. The direct cost per election for the City could run from approximately \$41,000 to \$700,000, depending on timing and other measures that may be presented before voters. This would cover costs charged by the Santa Clara County Registrar of Voters. Labor costs (and shifts in organizational capacity and priorities) would also result from the need to accommodate initiative provisions into the City’s operations and business processes, for example, preparing ballot measures for each transaction.

An estimated \$600,000 in annual rental income comes from leases covered by this initiative, which, if the City were not able to renew, would reduce annual revenues from the use of such property. Cost/benefit analysis of spending \$41,000 - \$700,000 for up to \$600,000 in annual lease revenue would need to be completed prior to the City preparing any ballot measures. There are currently 36 real property transactions that would possibly be subject to the election, several of which are lease agreements which would require a separate ballot measure for each transaction.

Other impacts could include legal costs to defend contested actions, opportunity costs of lost revenues or grant funding opportunities, and possible increased infrastructure or financing costs.

2. Consistency with General Plan and Housing Element. The initiative could affect the City’s ability to implement certain aspects of its General Plan policies such as promoting co-location of government activities to improve access to the community at large [General Plan Policy LT 4-14(f)], supporting acquisition or partnerships to enhance open spaces and recreational amenities

converting spaces to open space from developed use of land (LT 8.8), and leveraging co-funded and/or cooperative agreements for the provision and maintenance of programs, facilities, and services (CC 10-6).

The initiative also conflicts with a key policy of the General Plan that would allow the City to sell certain public sites and underutilized facilities to better serve underserved portions of the community or upgrade other facilities. To manage potential risks, the City would need to inventory its land in anticipation of the Housing Element update 2022 to identify any land that may no longer be used to support its need for providing additional housing.

3. Land Use and Housing. The initiative would not have a direct impact on the City’s ability to meet its housing obligations over the next seven years.
4. Infrastructure Impacts. The initiative could impact the City’s ability to find grant funding opportunities or other funding mechanisms to address acquisition related to public parks and those properties or facilities considered community service amenities. Some state and federal grants have provisions that can revert the ownership or operation of a facility to the granting agency if the City defaults on a loan or tries to sell a property.<sup>1</sup> The initiative could also place an additional burden on infrastructure maintenance costs for properties the City might otherwise wish to sell or lease due to unsustainable maintenance costs.
5. Business Attraction, Retention and Employment. There may be a positive impact in attracting residents and businesses by maintaining existing open space, park lands, and other recreational amenities. There is also the potential for an adverse impact on the business community’s view due to complications with land transactions that could result from the initiative.

---

<sup>1</sup>Accepting a grant for purchasing a covered property with such a provision gives an interest in the property to the granting agency, which could be considered a transfer of interest in the property.

6. Vacant Land. Given the relatively built-out nature of Sunnyvale, the impacts on the use of vacant land are considered negligible.
7. Agricultural Lands, Open Space, Traffic Conditions, Business Districts and Revitalization Areas. The measure has the ability to protect existing open spaces in the City. Otherwise, the impacts on other aspects are negligible.
8. Other Matters Requested by City Council. Council directed staff to analyze the impact of the initiative on a number of scenarios, based on different property types and transactions, as well as issues, past and present, specific to the City of Sunnyvale. Detailed analysis on each request by Council can be found under this section header, beginning on page 44. . Note that the impact of the initiative is determined based on when the initiative takes effect.



## Background

The Sunnyvale City Council at its meeting on April 21, 2015, directed City staff to prepare a report on the effect of a proposed initiative to amend the Municipal Code 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 (CSA). The City requested the assistance of Management Partners in completing the analysis required for that report under the provision of California Election Code Section 9212(a), and for the preparation of the report itself and presentation to the City Council.

### ***Overview of Ballot Initiative and Impact on Existing Municipal Code***

The ballot initiative proposed by the proponents of the measure (attached as Appendix 1) seeks to modify Chapter 2.07, “Purchase, Sale or Lease of Real Property” of Title 2, “Administration and Personnel” of the Sunnyvale Municipal Code. The existing ordinance specifies that the City Manager has authority to enter into real property transactions up to \$75,000, and the City Council shall authorize all transactions above \$75,000. The proposed modifications do not change these monetary thresholds. Rather, the initiative amends the provisions of Chapter 2.07 to cover:

- Land currently owned, leased or used by the City as a public park or CSA.
- Land transferred to the City to be used as a public park or CSA.
- Rights to use land for a public park or CSA, including land owned by others.
- Land or facilities including libraries, swimming pools, community centers, performing arts venues, gardens, golf courses, zoos, City Hall, City administration buildings, and other similar facilities and the land on which the facilities stand.

- Land or facilities whose primary purpose is to provide the public a place of City administration, recreation, education, exercise, or enjoyment.

Land covered by the initiative (“covered”) may not be subject to sale, lease, lease extension, lease renewal, land swap, or transfer without majority voter approval by a ballot measure in a citywide election.

### ***Provisions of California Election Code Section 9212(a)***

Chapter 3 “Municipal Elections” of Division 9 “Measures Submitted to the Voters” of the California Election Code includes the various procedures that municipalities must follow in regards to submitting initiatives to voters within a jurisdiction. Article 1, “Initiative,” spells out the procedures that must be followed when circulated by initiative petition in the city by proponents of the measure.

Section 9212 of the Election Code allows the City Council the opportunity to obtain a report on the impacts of the initiative as they pertain to eight specific areas. Elections Code Section 9212 provides:

- a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:
  - 1) Its fiscal impact.
  - 2) Its effect on the internal consistency of the city’s general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
  - 3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.
  - 4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of

- infrastructure maintenance, to current residents and businesses.
- 5) Its impact on the community’s ability to attract and retain business and employment.
  - 6) Its impact on the uses of vacant parcels of land.
  - 7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
  - 8) Any other matters the legislative body requests to be in the report.

The Code further indicates that this report must be presented to the City Council no later than 30 days after the election official certifies the sufficiency of the petition to the City.

## ***Project Approach***

Management Partners met with City staff and legal counsel to better understand the initiative being proposed. We spent several meetings with key staff understanding the nature and types of properties owned by the City and the types of real property transactions in which the City is currently engaged and/or engages on a recurring basis.

We met with the ballot initiative proponents to better understand the drafting of the language of the proposal and gain their insights about the purpose for and applicability of the measure.

The City provided us with various documents we requested during the course of our work, including:

- Real property owned by the City,
- Listing of all lease agreements currently in effect,
- Listing of all property transactions conducted in the past five years
- City’s Municipal Code,
- Policies or procedures relative to real property transactions,
- City’s General Plan and relative specific plans,
- City’s Housing Element for 2015-2023, and
- Information regarding Priority Development Areas.

We also conducted our own independent research as follows:

- Studied the City’s existing ordinances to determine any potential conflicts or impacts from other codes.

- Spoke with the Santa Clara County Registrar’s Office and the Sunnyvale City Clerk’s Office to understand election procedures and costs.
- Researched the funding application requirements of various grant funding agencies the City has used or possibly could use in the future.
- Spoke with financial consultants that provide bond financing recommendations to cities to determine potential impacts on credit ratings or funding mechanisms.

Finally, we met with City staff to discuss various aspects of our research to verify its applicability to Sunnyvale’s circumstances.

### ***Types of Properties***

To evaluate the impact on the City, the types of properties covered by the initiative needed to be determined. The City, a municipal corporation, owns, leases and uses property for a variety of municipal governmental purposes. It also leases property from other public and private entities for such uses. It leases City property to others for a variety of purposes (for municipal governmental purposes as well as commercial and residential uses). Since the Successor Agency for the Redevelopment Agency of the City of Sunnyvale (Successor Agency) is a separate entity, properties owned or leased by the Successor Agency are not City properties. Joint Powers Authorities (JPAs) are not named in the initiative, but may include the transfer of interest in a City-owned property to the JPA, which could make the underlying properties subject to the initiative. Examples of City properties owned and leased or otherwise included in existing agreements follow:

- |  |  |
|--|--|
| • Civic Center, City Hall, City administrative buildings | • Landfills  |
| • Commercial properties                                  | • Library  |
| • Community Center                                       | • Open space   |
| • Corporation yard, storage areas                        | • Parking lots   |
| • Flood control areas, sloughs, channels                 | • Parks, hiking trails,                                    |
| • Gardens  | • Pedestrian crossings and overpasses                      |
| • Golf courses   | • Public safety facilities, fire stations, police building |
| • Land banked properties                                 | • Recreation   |
|  | • Residential properties                                   |

- Roadways, sidewalks and related right-of-way uses
- School buildings and recreational areas,
- Sports fields, tennis courts, basketball courts
- Swimming pools
- Theaters
- Trails, Walking and Biking
- Vacant lots
- Water and wastewater facilities, tanks, wells, pump stations

The analysis section below provides an interpretation of which types of properties are covered by the initiative.

### ***Overview of Leases, Licenses, Joint Use and other Agreements***

The City uses a variety of transactions to acquire, sell (or otherwise dispose of), or use properties for City purposes or to allow others to purchase or use City-owned properties. These transactions needed to be clarified to determine which are covered and which are not covered by the initiative. The transactions include:

- Purchase,
- Sale,
- Swap,
- Transfer,
- Donations,
- Lease,
- Use agreement,
- Easement,
- Licenses,
- Concession Agreements; and
- Joint Use Agreements.

The analysis section below provides an interpretation of which types of arrangements are covered by the initiative.

## Analysis

To evaluate the impacts on City real property and its current and future real property transactions, the definitions of terms used in the initiative and the impacts of the initiative must be understood. In this case, the initiative proposes to change the language in City Municipal Code Section 2.07.030 regarding the awarding authority for purchases, sales, or leases of real property.

Management Partners reviewed lists of various properties currently owned or leased by the City, as well as lists of various property transactions the City has previously or is currently engaged. We discussed the lists with City staff to gain a better understanding of the underlying property uses and nature of their various agreements. We then analyzed those properties and transactions against the language provided in the proposed initiative.

The definitions and determinations of the areas impacted are based on the language of the initiative, not the subjective intent of the petitioners. The language, in several cases, is ambiguous in terms of its ultimate applicability to various property types and transactions. *Management Partners did not conduct a legal analysis of the ballot language.* However, based on our extensive experience with local government management practices, we analyzed each property against two possible interpretations:

- Narrow Interpretation. Using a strict interpretation of the language as specified in the initiative that would likely be agreed to by the City, initiative proponents, and ultimately the community.
- Broad Interpretation. Using an expansive interpretation of the language (e.g. used by other government agencies or documents) that could potentially be perceived as being subject to the initiative but is not clear based on the language provided in the initiative. In this regard it is important to note that individual City real estate transaction may have advocates and opponents. It is logical to assume that persons opposed to a transaction may

cite the initiative provisions for the purpose of delaying or preventing that transaction.

Once there is an understanding of what is covered by the initiative, the impacts provided under Cal. Elec. Code §9212(a) can be analyzed.

The results of our analysis are organized into the following sections:

- Real Property Types Subject to Initiative
- Real Property Transactions Subject to Initiative
- Impacts Analysis Provided under Cal. Elec. Code §9212(a)
  - Fiscal Impacts
  - Consistency with General Plan and Housing Element
  - Land Use and Housing
  - Infrastructure Impacts
  - Business Attraction, Retention and Employment
  - Vacant Land
  - Agricultural Lands, Open Space, Traffic Conditions, Business Districts and Revitalization Areas
  - Other Matters Requested by City Council
- Process Decision Tree – Steps for Evaluating Future Property Transactions

### ***Real Property Types Subject to Initiative***

Most of the language used in the initiative has a clearly understandable definition, such as “parks,” “libraries,” “zoos,” “city hall,” etc. However, other terms can have different interpretations, such as “city government administration,” “garden,” “community service amenity,” or what properties are for “public enjoyment.” There can be both narrow and broad interpretations of these terms.

The initiative specifies that for a property to be covered as a CSA it must be the property’s “primary use.” However, how primary use is determined is not defined.

- Is it defined as a percentage of area used, as a CSA?
- Is it defined as a percentage of people using the facility? (For example, the number of public individuals using the facility for education, exercise or enjoyment, relative to city employees?)

Other areas of potential disagreement and ambiguity could arise from property that creates some “public enjoyment” even if it is associated with a use not specifically covered by the initiative. It is impossible to

know how the definitions in the initiatives will be construed over the years, but we can be sure that those seeking to challenge any City real estate transaction may seek some ability to use the provisions of the initiative in situations not contemplated by the drafters. Thus for purposes of this analysis we assumed a narrow and a broad definition to give policy makers an idea of clearly covered properties and transactions while also showing a broader interpretation which could be arguably employed by some interested party in the future. Due to this ambiguity, impacts to operations, capacity and priority cannot be determined until such time the initiative has passed and City staff have some experience analyzing transactions on a case-by-case basis.

### **Property Types Covered by the Initiative**

Management Partners has identified real property types (Property Types) in the following tables in which the City is currently involved that may be subject to the initiative and require a vote (covered) under the following interpretation scenarios:

- Table 1 – Property Types that would be covered under both narrow and broad interpretations of the initiative language
- Table 2 – covered using the narrow interpretations of the initiative language
- Table 3 – Property Types that would potentially be covered under only a broad interpretation of the initiative language
- Table 4 – Property Types not covered under a narrow or broad interpretation of the initiative language



*Table 1. Property Types Covered under Narrow and Broad Interpretations of Initiative Language*

Term or Phrase	Narrow Interpretation	Broad Interpretation
<b>What is included in “land,” “building,” or “facility”?</b>	Land includes the buildings and facilities on the land. Buildings and facilities include the land according to the assessor parcel designation. Limited to those lands, buildings or facilities whose primary use is a covered CSA activity/function. Any land or portions of properties used for recreation (public park, trails, open space). City owned land used by an adjacent public school for the school’s outdoor recreation.	Any portion of land or building used for a covered CSA purpose, e.g., a room in a building. May be determined by a ratio of use.
<b>What is included in “City administration buildings” and “city administration”?</b>	Buildings (City Hall) and land currently used or designated for central City administrative management functions, including accounting, personnel, and other central services. Includes central City administrative management functions in other buildings (not in City Hall). Includes parking facilities/lots for City administrative management services.	Any building or facility with public access for the conduct of City business (e.g., fire stations, city corporation yard). Any City buildings and facilities where an administrative function is done.
<b>What is “public park”?</b>	Land named, designated, planned, or zoned for future park purposes if it is so designated in City Council legislation, including City Council adoption of a Park Master Plan. Land or portions of properties used for recreation, hiking, biking, or other active recreation or exercise purposes. Land with sports fields, tennis courts, basketball courts. City-owned land shared with adjacent public schools for outdoor recreation. Leases for non-City property (e.g., schools or water district) to be used for public parks, recreation, sports, hiking, biking, or other active recreation or exercise purposes. Areas used for recreational purposes, e.g., trails, are covered even though that is not the primary purpose of the land.	Same

Term or Phrase	Narrow Interpretation	Broad Interpretation
<b>What is “open space”?</b>	<p>Land or portions of land that are designated, zoned, or left open with public access. Includes “land banking” for purposes of open space or other similar uses covered under the initiative.</p> <p>U.S. Environmental Protection Agency definition: “Open space is any open piece of land that is undeveloped (has no buildings or other built structures) and is accessible to the public. Open space can include:</p> <ul style="list-style-type: none"> <li>• Green space (land that is partly or completely covered with grass, trees, shrubs, or other vegetation). Green space includes parks, community gardens, and cemeteries.</li> <li>• Schoolyards</li> <li>• Playgrounds</li> <li>• Public seating areas</li> <li>• Public plazas</li> <li>• Vacant lots</li> </ul> <p>Open space provides recreational areas for residents and helps to enhance the beauty and environmental quality of neighborhoods.”<sup>2</sup></p>	<p>Land or portions of land that are designated, zoned, or left open with <u>no</u> public access, including land banking.</p>
<b>What is included in “community service amenity” other than those specifically listed?</b>	<p>Land not currently in use for a covered purpose but purchased, leased, swapped, transferred for a covered purpose would be covered only if there is specific language in the transaction agreement(s) and/or indicated for such purposes in the proposed City Council legislation.</p>	<p>Facilities whose primary purpose is not a listed CSA but do provide a service, e.g., education classes in fire stations.</p>

<sup>2</sup> U.S. Environmental Protection Agency, [www.epa.gov/region1/eco/uep/openspace.html](http://www.epa.gov/region1/eco/uep/openspace.html)

*Table 2. Real Property Types Covered by a Narrow Interpretation of the Initiative Language*

Property/Use	Narrow Interpretation	Broad Interpretation
<b>Land zoned, designated, or reserved for a covered purpose/use but is currently used for a non-covered use</b>	Covered based on reserved purpose or use	Same
<b>Land previously purchased or leased with restricted funding sources for a covered use, such as park impact funds or grants</b>	Covered based on restricted purpose or use	Same
<b>Trails, paths, and bike trails</b>	Covered use for recreation, exercise or enjoyment	Same
<b>Land and buildings purchased or leased by the City for a future covered purpose</b>	Covered. Includes both City-owned and leased non-City-owned properties. Includes properties where the current use of the property is not a covered use, but where specific language in the transaction agreement(s) and/or the proposed City Council legislation includes a covered use.	Same
<b>Publicly accessible parking lots</b>	All are covered	Same
<b>Space adjacent to PG&amp;E lots</b>	Covered if it has publicly accessible trails, paths, or public access as open space	Covered if there is open space with no public access
<b>Landfills, sloughs, and channels</b>	Covered as “public park” and open space	Same
<b>Off-street walkways/trails</b>	Covered as “public park”	Same
<b>Publicly accessible areas around City utility properties, water tanks, wells, and pump stations</b>	Covered. Portions of City utility properties are covered if areas are set aside for open space, hiking, recreation, exercise or enjoyment.	Covered if there is open space with no public access
<b>Publicly accessible areas around water pollution control plant</b>	Covered: 400 acres of ponds (open space) and trails are covered	Covered if there is open space with no public access
<b>Residential or commercial properties</b>	Covered if purchased, leased, or planned for a covered purpose, e.g., park expansion	Same

Property/Use	Narrow Interpretation	Broad Interpretation
<b>Pledging covered property as collateral in financing arrangements</b>	Covered. Not specifically named in the initiative, but would be considered a transfer which is covered as it could result in the City’s eventual loss of title of a property.	Same
<b>Grants/loans with property reversion clauses</b>	Covered. Applying and purchasing property with grant or loan funds is not named in the initiative, but would be considered a transfer, which is covered. If the land was later reverted to the granting agency, a vote at that time would be required that would have no effect.	Same

*Table 3. Property Types Potentially Covered under a Broad Interpretation of Initiative Language*

Property/Use	Narrow Interpretation	Broad Interpretation
<b>Fire stations</b>	Not covered. Primary use is not City government administration. Could be covered if located on park land where the fire station is less than a majority use of the property.	Covered. Administration, education classes, enjoyment and other public access.
<b>City corporation yard</b>	Not covered. Primary use is to support infrastructure maintenance to provide for health, safety and welfare of the community and not as city government administration	Covered. Includes public access for administrative functions.
<b>Public streets, bike lanes, sidewalks, and median landscaping</b>	Not covered. Public streets right-of-way (ROW) use is restricted to vehicles and bicycles. Medians and sidewalks are not separate assessor parcels and cannot be separated from the roadways.	Covered in part. Bike trails not associated with ROW and similar walkways are “set apart for recreation of the public.”
<b>Any property owned by the City Redevelopment Successor Agency</b>	Not covered. Not “City” property.	Covered if City leases the property for a covered purpose.

*Table 4. Property Types not Covered under Narrow or Broad Interpretations of Initiative Language*

Property/Use	Narrow Interpretation	Broad Interpretation
<b>City utility properties, water tanks, wells, and pump stations</b>	Not covered. Not a community amenity primary purpose, and there is no public access.	Same
<b>Water pollution control plant</b>	Plant itself not covered. No public access.	Same
<b>Residential properties</b>	Not covered if purchased, leased, or planned for non-covered purpose, e.g. affordable housing	Same
<b>Commercial properties</b>	Not covered if purchased, leased, or planned for a non-covered purpose	Same
<b>Property owned by Sunnyvale Redevelopment Successor Agency</b>	Not covered if not leased by the City.	Same

Examples of current and recently owned City properties (over 150 parcels) are provided in Attachment A. The properties are designated by a narrow interpretation of properties covered by the initiative; broad interpretation; questionable whether they are covered; and those not covered by the initiative. The list shows each property and also includes assessor parcel numbers; addresses; current use; category (using the initiative terminology); and comments, such as original purpose.

## ***Real Property Transactions Subject to Initiative***

The City may be involved with several types of real property transactions to further its municipal purposes. Such agreements are identified in Table 5 below, which are compared to the transactions that are specifically called out in the initiative.

*Table 5. Real Property Transactions used in City of Sunnyvale*

Transaction type	Named in the initiative language	Not named in the initiative language
Purchases	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sales	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transfers	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Leases	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lease extension	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lease renewal	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lease amendments	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Licenses	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Easements	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Use agreements	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Land swaps	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Joint Powers Authorities	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Concession Agreements	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Regulatory Agreements	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The initiative does not require a vote for purchase of property, while sales are clearly included in the initiative language. These terms are fairly well defined. However, the remaining transaction types required further definition. These interpretations have been used in analyzing the impacts of the initiative. Specific transactions are listed after the definitions.

### **Lease**

Leases are specifically covered by the initiative.

*A lease is an agreement in which the landlord agrees to give the tenant the exclusive right to occupy real property, usually for a specific term and, in exchange, the tenant agrees to give the*

*landlord some sort of consideration. A lease transfers to the tenant a leasehold interest in the real property and, unless otherwise provided in the lease, a lease is transferable and irrevocable.<sup>3</sup>*

Consideration can be maintenance, improvements, or in-kind services. Leases do not limit the use on the property (but the use must comply with zoning and other regulations). “Agreements” limit the use.

- Anything called a “lease” or has all the characteristics of a lease.
- A lease may be indicated if the user of the property pays possessory interest tax.<sup>4</sup>
- Includes City-owned land/buildings leased to others.
- Includes land/buildings owned by others leased to the City
- Includes extensions and renewals.
- Lease “amendments” are not specifically named in the initiative, but some may be covered by the initiative, e.g., if the size of the property leased was changed.
- Allowing leases to end is not mentioned in the initiative, but could result in the loss of land used for a covered purpose (e.g., lease of the golf course property from NASA).

## License

Licenses do not appear to be covered by the initiative, but could be interpreted to be equivalent to leases in certain situations.

*A license gives the permission of the owner to an individual or an entity to use real property for a specific purpose. Unlike a lease, it does not transfer an interest in the real property. It is personal to the licensee and any attempt to transfer the license terminates it. It is (usually) revocable and can be either exclusive*

---

<sup>3</sup> University of California, Office of the President, [www.ucop.edu/terms/index.html](http://www.ucop.edu/terms/index.html)

<sup>4</sup>A taxable possessory interest may exist whenever there is a private, beneficial use of publicly-owned, non-taxable real property. Such interests are typically found where private individuals, companies or corporations lease, rent, or use local government-owned facilities and/or land for their own beneficial use. The tax is assessed by the County Assessor’s Office.

*or non-exclusive. A facility use agreement (FUA) is a short form license for very limited use of a facility.<sup>5</sup>*

- *Whether an agreement is held to be a license and not a lease will depend on the presence or absence in the agreement of the three essential characteristics of a real estate license:*
  - *A clause allowing the licensor<sup>6</sup> to revoke “at will”;*
  - *The retention by the licensor of absolute control over the premises; and*
  - *The licensor’s supplying to the licensee<sup>6</sup> all of the essential services required for the licensee’s permitted use of the premises.*
- *Courts have found licenses to be leases where any one or more of these characteristics is either missing from the agreement altogether or not sufficiently vested in the powers retained by the licensor.<sup>7</sup>*
- *... the distinction between a lease and a license is that: a lease is a conveyance of exclusive possession of specific property ... usually in consideration of the payment of rent, which vests an estate in the grantee, [while] a license, on the other hand, merely makes permissible acts on the land of another that would otherwise lack permission. A license is said to be revocable at the will of the licensor, [and] creates no estate.<sup>8</sup>*

## Easement

Easements do not appear to be covered by the initiative.

*An easement, like a license, gives the permission of the owner to use or prevent the use of the owner’s real property. However, unlike a license, it transfers to the easement holder an interest in the real property that encumbers the record title.<sup>9</sup> Example: fiber optic cabling across a property.*

---

<sup>5</sup> University of California, Office of the President, [www.ucop.edu/terms/index.html](http://www.ucop.edu/terms/index.html)

<sup>6</sup> “Licensor” owns and grants use to the property; “Licensee” uses the property.

<sup>7</sup> “Using a License Agreement Instead of a Lease”, Adam Leitman Bailey and John Desiderio

<sup>8</sup> “Friedman on Leases”, Milton R. Friedman, 1974

<sup>9</sup> University of California, Office of the President, [www.ucop.edu/terms/index.html](http://www.ucop.edu/terms/index.html)



- Easements are not named in the initiative, but an easement could be determined to be a lease if it does not limit the use on the property.

### **Agreement or Use Agreement**

Agreements and use agreements are not covered by the initiative, but could be interpreted to be leases.

- Agreements or use agreements that limits the use is not a lease. They may appear to be leases if they allow a party to have exclusive use of the property and they provide some form of consideration, e.g. rent or provide maintenance.
- Regulatory agreements associated with affordable housing projects (e.g., requiring affordability for a number of years) are not covered by the initiative.

### **Land Swap**

Land swaps, swapping one piece of land for another where the ownership title has changed, are covered by the initiative.

### **Transfers**

Transfers are covered by the initiative. Transfers include various methods of disposing of property, interest in a property, or possession of the property. It includes sale, pledge, liens, mortgage, gift, or donation of property.

Transfer of a property to the City would require approval by the voters if the City had been leasing or using the property for a covered activity prior to the transfer. The initiative states if the land was, “owned, leased, or used by the City as a public park or community service amenity” any, “sale, lease, lease extension, lease renewal, land swap, or transfer” be submitted to the voters. Thus, if non-City owned land was leased or used (e.g., by a use agreement with a school district) by the City for a covered purpose, a transfer of property to City ownership would need to be submitted to the voters for approval. In the example of school property being transferred to the City, the addition of property for a covered use would be in line with the intent of the initiative; however, advocates for retaining school properties could use the initiative to require a vote.

## Concession Agreements

Concession agreements are not covered by the initiative.

- Concession agreements are grants of rights, land, or property by a government whereby a private company (whether for-profit or non-profit) has the exclusive right to operate, maintain, and carry out public utilities or services for a given number of years.
- Some concession agreements, such as the one for the Sunnyvale Golf Course, allow the operator to use the property to provide services without a lease agreement.
- Concession agreements are not leases since the use is limited to a specific function, e.g., golf course restaurant, pro shop.
- Concession agreements that include a lease agreement (and management contract) would make the leases subject to the initiative.

## Ambiguous Transactions

Management Partners identified other types of transactions (in which the City might reasonably enter into in the future) that are ambiguous as to whether they would be subject to the initiative. These would require further legal analysis by the City.

- Would swapping City land for City land be covered if there was a change involving covered land, buildings, or use? For example, swapping a fire station with a park.
- Would the City be able to lease City administrative offices or other community service amenities in an emergency (e.g., lease property to FEMA during the aftermath of an earthquake) without requiring a vote?<sup>10</sup>
- Are facilities leased for child care considered “education”?
- Would agreements for the use of a covered property that limit the use to private use be covered? For example, a concession agreement for the golf course to be operated with private members? Or a use agreement with a sports league for exclusive use of a field for its paid teams? In both of these cases, the public is excluded and access is limited to the members.

---

<sup>10</sup> It should be noted that during an emergency, the City would likely have the ability under state law and its own ordinance to use property as necessary during an emergency.

- Would agreements that allow free standing cell towers in parks be covered? They prevent public access to part of the park. Although cell sites typically represent a small area, the public does not have access to that piece of the public park.

### Real Property Transactions Categories Subject to the Initiative

Management Partners has identified real property transactions (Property Transactions) in the following tables in which the City is currently involved that may be subject to the initiative and require a vote (covered) under the following interpretation scenarios:

- Table 6 – Property Transactions that would be covered under either a narrow or broad interpretation of the initiative language
- Table 7 – Property Transactions covered using only broad interpretations of the initiative language
- Table 8 – Property Transactions not covered by a narrow or broad interpretation of the initiative language, and therefore not subject to a vote

*Table 6. Property Transactions Covered under Narrow and Broad Interpretations of Initiative Language*

Transaction Type	Interpretation as to why Covered
Land, buildings, leased by the City for a covered purpose	Specifically stated. Includes both City-owned and non-City owned properties.
Leases with offices in Sunnyvale Office Center	Covered. Designated as future City Hall, a covered use. Up to 20 separate leases. All new leases and lease renewals are separately covered.
Cell tower leases on covered City property	Covered if they are free-standing poles that take space away from public use (most leases require ground space for an equipment shelter). Not covered if on top of a City-owned pole, e.g., ball field light pole and no ground space would be required for an equipment shelter.
Leases or property transfers/swaps with school districts	Covered.
Current covered leases/agreements that include extension clauses	Covered. Extension clauses are not grandfathered and extensions will require a vote.
Pledging covered property as collateral in financing arrangements	Covered. Not specifically named in the initiative, but would be considered a transfer. It could result in the City’s eventual loss of title of a property.

Transaction Type	Interpretation as to why Covered
<b>Grants/loans with property reversion clauses</b>	Covered. Applying for and purchasing property with grant or loan funds is not named in the initiative, but it would be considered a transfer. If the land could be reverted to the granting agency, a vote would be required at the time of reversion that would have no effect, thus it must be done before applying for the grant/loan.
<b>Land sales, swaps and transfers between City and Redevelopment Successor Agency</b>	Covered if for a covered purpose. Does not include purchase by the City.
<b>Leases between City and Redevelopment Successor Agency</b>	Covered if for a covered purpose.

Table 7. *Property Transactions Potentially Covered under a Broad Interpretation of the Initiative Language*

Transaction Type	Broad Interpretation as to Why Covered
<b>Use Agreement – City-owned property</b>	Covered if City used the property for a covered purpose use it for a covered activity and it has all the requirements to be a lease.
<b>Use Agreement – non-City owned property</b>	Covered if City uses the property for a covered purpose and it has all the requirements to be a lease.
<b>Agreements with school districts to build or improve, operate, and maintain a covered use</b>	Covered if agreement is interpreted to be a lease or property transfer/swap.
<b>Joint Powers Authorities (JPA)</b>	Covered if interpreted to be a lease or transfer (pledge) of property depending on the specific JPA.
<b>Agreements with other organizations for the funding of a covered facility</b>	Since it may be a separate action that precedes a lease, transfer or swap of covered property, a vote could be required at a later date.

Table 8. *Property Transactions Not Covered under Narrow or Broad Interpretations of Initiative Language*

Transaction Type	Why not Covered
<b>Agreements with sports leagues, clubs</b>	Not leases; no exclusive use 24/7; use is restricted
<b>Agreements with Theater groups</b>	Not leases; no exclusive use 24/7; use is restricted
<b>Agreement with Sunnyvale Historical Society and Museum Association</b>	Not a lease; use is restricted
<b>Agreement for use of Challenge Ropes Course</b>	Not a lease; use is restricted

Transaction Type	Why not Covered
Agreements with golf restaurant operations	Not a lease; use is restricted
Agreement for use of Tennis Center pro shop	Not a lease; use is restricted
Agreement for use of Arboretum Orchard	Not a lease; use is restricted
Agreement with Police Activity League	Not a lease; no exclusive use 24/7; use is restricted
Agreements with school districts to operate covered uses	Not leases; no exclusive use 24/7; use is restricted
Concession agreements	Not leases; use is restricted
Franchise agreements	Not leases; use is restricted
Licenses	Not leases; use is restricted
Easements	Not leases; use is restricted
Short term, one time rentals	Not leases; use is restricted
Purchase of land/buildings for covered use	Purchases of land for City use is not covered by the proposed revised sections of 2.07.03; however, leases of non-City owned lands/facilities for a covered use are covered.

Use agreements are not leases and are not covered by the initiative. Most use agreements are not 24/7 long term agreements and the use is limited to the specific activities listed in the use agreement. For example, the Tennis Center pro shop agreement is for the use of the building for tennis related equipment sales. If it was a lease, the lessee could use the building to sell anything legal, which might not be tennis related.

Examples of current and recent property transaction types representing over 150 parcels are provided in Attachment B. The transactions are categorized as a narrow interpretation; broad interpretation; questionable whether covered; and, not covered by the initiative.

These interpretations are for illustrative purposes and final determinations are to be made by the City Council at the time a transaction is being considered.

### ***Impacts Analysis Provided by Cal. Elec. Code §9212(a)***

Management Partners considered the language provided in the ballot initiative, the types of real property the City currently owns or could potentially own in the future, and the types of real property transactions

in which the City has entered in determining the impacts under the provisions of the Election Code.

### **Fiscal Impacts [Cal Elec. Code §9212(a)(1)]**

California Election Code §9212(a)(1) allows for an analysis regarding the fiscal impacts of the proposed measure. The Code also allows for an analysis on

*...impact on funding infrastructure of all types... (and) whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.*

There are many variables that make it difficult to accurately quantify the financial impact of the proposed measure in many areas.

Table 9 identifies the following areas in which fiscal impacts might be experienced. Some impacts such as election costs are more likely than others; all those identified as being possible have been included.

*Table 9. Potential Fiscal Impacts of the Initiative*

Category	Description	Fiscal Impact	Comments
<b>Election Costs – Santa Clara County</b>	Cost of placing measures on the ballot will vary according to frequency, if other measures are on the ballot, and timing. Placing the currently proposed initiative on the November 2016 ballot is estimated to cost approximately \$41,000 to \$80,000 dependent on whether other measures are placed on the ballot.	General Election – Single Measure: approximately \$80,000  Special and Uniform District Election Law (UDEL) Election: between about \$520,000 and \$700,000  All Elections – Additional Measure: approximately \$41,000	General elections for the City of Sunnyvale occur in November of even-numbered years. UDEL elections, which are elections counties are obligated to provide for special districts, occur in November of odd-numbered years. All other elections are considered special elections for the City. This includes, for example, March primary elections.
<b>Election Costs – City of Sunnyvale</b>	City’s costs incurred such as legal notices, translating ballot into several languages.	Election administration costs – \$4,000 to \$8,000	City Clerk, City Attorney, and City staff labor costs are excluded. Significant increases in the number of elections could require seasonal part-time staff.
<b>Legal and Administration Costs</b>	Costs incurred to analyze and litigate property transactions subject to the initiative; administration costs in preparing staff reports, resolutions, and other analyses relative to taking a transaction to voters.	Legal costs – Excess of \$100,000 each time a transaction must be defended  Administration costs – undetermined; dependent on existing capacity and increased staffing and consulting services required	N/A

Category	Description	Fiscal Impact	Comments
<b>Decision Against Transaction (net loss)</b>	If the cost of placing a measure on the ballot exceeds the revenues likely to be generated from the lease or sale, then the City may decide not to proceed with a ballot measure.	Magnitude dependent on lost revenue streams such as: <ul style="list-style-type: none"> <li>• Lease revenues</li> <li>• Sales proceeds</li> <li>• Property tax</li> <li>• Possessory interest tax</li> <li>• Sales tax</li> </ul>	N/A
<b>Time Delays/ Opportunity Costs/Lost Revenue</b>	Lost opportunities of public/private partnerships, leases, sales, and swaps on covered properties due to the time delays and uncertainties caused by the need for a public vote.	Undetermined; dependent on magnitude of lost revenue streams such as: <ul style="list-style-type: none"> <li>• Lease revenues</li> <li>• Sales proceeds</li> <li>• Property tax</li> <li>• Possessory interest tax</li> <li>• Sales tax</li> </ul>	Defeated measure may cost the City in lost rents, opportunities for beneficial land swaps, property sale income, and similar revenue. Current annual rental income from properties covered under the narrow interpretation of the initiative is approximately \$600,000.
<b>Grant Funding</b>	Property transactions such as parks acquisition or land swaps to expand open space could be the subject of grant funding from various non-profit or governmental agencies.	Undetermined; dependent on grant opportunities available. If property was pledged, it is unlikely that the City could meet application deadlines when a ballot measure is required.	While acquisitions are not specifically covered, some state and federal assistance requires reversion of property to the state or federal government in case of default; these would be considered a transfer (pledge) of property. Such a default would be in conflict with a law requiring voter approval for sale of covered properties.
<b>Cost of Funds</b>	Potential negative impact on cost of funds (interest rates) of borrowing against City property for infrastructure improvements if voter approval is required for underlying property transaction that would not have been required for the borrowing itself.	Undetermined; incremental interest costs associated with potential higher interest rates on long-term debt	City will need to address this matter with its financial advisors and/or bond legal counsel to determine potential impact on City’s Issuer Credit Rating (Moody’s Aaa; S&P AAA)



Category	Description	Fiscal Impact	Comments
<b>Funding Mechanisms</b>	While acquisition of property is not included in the initiative, leases are. If Certificates of Participation (COPs) and other funding mechanisms using leaseback financing are proposed as a funding mechanism, a ballot measure would likely be required.	Potential greater cost of land acquisition either through elections costs or use of a less cost-effective funding mechanism.	N/A
<b>Land Banking</b>	Historically, land continues to grow in value. To the extent the initiative discourages property sales in the short term, the greater the City’s net worth in the future.	Likely increase in City’s net worth over time. Also may facilitate financing of future facility needs if property is already available and does not need to be purchased.	N/A
<b>Property / Sales Tax Revenue</b>	Conversion of City property to non-public use can raise property tax revenues for the City and all other taxing entities that received property taxes; for leased property, opportunity to collect possessory interest revenues on value of lease; potential increases in sales and use taxes.	Undetermined; dependent on magnitude of lost revenue streams such as: <ul style="list-style-type: none"> <li>• Property tax</li> <li>• Possessory interest tax</li> <li>• Sales tax</li> </ul>	N/A
<b>Infrastructure Costs</b>	Inability to liquidate property in which costs of maintaining or improving infrastructure (e.g., streets, storm drains, water, wastewater, sidewalks/pathways, buildings, landscaping, other above-ground improvements) outweigh the benefits of keeping the property to provide city services.	Undetermined; dependent on magnitude of additional infrastructure maintenance costs.	N/A

### **Past Property Transaction Analysis**

One way to consider fiscal impacts is to review past property transaction data (leases, property sales and purchases, etc.) as though the initiative had been in effect at that time. In the past three years, the City of Sunnyvale received an average of about \$568,000 in annual rental income from new or renewed leases on properties that would have been subject to the initiative under the narrow interpretation described previously. A total of 16 leases fit that category, with the largest single lease rental amount of \$340,000 coming from NOVA for their main office in the Sunnyvale Office Center at 505 West Olive Avenue. Other relevant properties are smaller office rentals in the Sunnyvale Office Center and the courthouse parking lot.

As indicated in Table 14 in Attachment B to this report, the City currently oversees 110 separate property-related agreements, 36 of which might possibly be interpreted as being subject to the proposed initiative. Each agreement would likely need to be placed on the ballot as a separate measure. Since placing a measure on the ballot costs a minimum of \$41,000, and could cost significantly more if there is not another initiative on the ballot, it is unlikely the City would have placed any of these individual leases on the ballot except perhaps the main NOVA lease.

Moreover, coordinating the business needs of the various lease tenants would make such an endeavor problematic in that their individual business needs may not allow for the uncertainty associated with an election to approve a lease. The City could also have identified a master leaseholder (e.g., a commercial property manager) with whom to enter into a lease agreement that would allow that lessee to sublet the properties under the term of a longer-term lease agreement. Nevertheless, if a ballot measure failed, or the City decided it would not be cost-effective to place the leases on the ballot, the full \$568,000 would be lost.

Very short-term leases, such as three construction staging area leases during the three-year time period, are too time-sensitive and short term to go on any ballot. These leases are not included in the figures above. If the initiative passes, the City perhaps will be able to set up such short-term uses via agreements and permits rather than leases to achieve the same results. If not, this could cause additional loss of revenue and have adverse economic development impacts.

There were no sales of property that would have been subject to the initiative in the past three years except the pending sale of the Raynor Activity Center approved by the City Council in late 2013. If the initiative had been in effect, the sale would have required voter approval under the measure, requiring the City to incur election costs discussed previously. If the voters did not approve, the potential sale income of \$14,050,000 would be lost.

### **Consistency with General Plan and Housing Element [Cal Elec. Code §9212(a)(2)]**

California Election Code §9212(a)(2) allows for an analysis regarding the proposed measure’s effect on the internal consistency of the city’s general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

The City of Sunnyvale adopted a revised consolidated General Plan on July 26, 2011. As required by state law, it adopted a 2015-2023 Housing Element to its General Plan on December 16, 2014, certified as being in conformance with state law by the State Department of Housing and Community Development on January 20, 2015.

The initiative would not directly affect the use of land or establish an internal inconsistency, but it would affect the City’s ability to implement certain of its General Plan policies by establishing a significant new hurdle in regard to the City’s ability to flexibly and creatively use its’ publicly owned or leased land resources. Requiring voter approval to modify the use of a “community service amenity” could be a significant disincentive for other public institutions and private entities to make land available for public use.

In addition to the increased uncertainty associated with any voter referral, the election process would add several months to a proposed project’s timeframe, and there would be potentially significant costs associated with mounting an effective information campaign so voters are informed about the project. The increased costs and uncertainty would affect the following General Plan policies:

- *LT 4-14(f): Promote co-locating government (federal, state, county and city) activities to improve access to the community-at-large.*

This policy would generally be accomplished by relocating existing government facilities to or from other properties owned by other private or public property owners. The initiative would have a positive impact in community involvement by allowing the public to have a say in the decisions about co-location of such facilities. The initiative would, however, introduce complexities in the ability to efficiently implement this General Plan provision, and would create potential uncertainties that would be challenging for other public agencies and private property owners to participate in such opportunities.

- *LT 8.8: Support the acquisition or joint use through agreements with partners of suitable sites to enhance Sunnyvale’s open spaces and recreational facilities, based on community need and through such strategies as development of easements and rights of way for open space use, conversion of sites to open space from developed use of land.*

While it may be possible to structure agreements to expand the availability of open space and recreational facilities with the City’s private and public partners so as not to be affected by the initiative, those partners will be unlikely to engage in any agreement that would then require voter approval to modify, and may be reticent to enter into agreements with the City until the courts have fully defined the limits of the initiative’s reach.

- *CC 10-6: Leverage valuable resources by pursuing co-funded and/or cooperative agreements for provision and maintenance of programs, facilities, and services, in order to maximize benefits to the community, partners may include but are not limited to, school districts, non-profit groups, governmental agencies, and businesses.*

The comments for the previous policy also apply to this one: partners will likely want assurances that any partnership with the City involving the public use of their land will not be subject to later voter action.

The General Plan also incorporates key initiatives from 2006 and 2009 studies related to the need for increased open space and to address areas in the City with “service gaps.” The key initiatives are incorporated by reference into the General Plan (pages 3-37 and 3-38). Those studies

suggested that the City sell certain public sites and underutilized facilities and use the proceeds to purchase sites that would better serve underserved portions of the community, and/or upgrade facilities. These initiatives result from a recognition that the needs for community amenities change over time, and that the City must be prepared to creatively adjust to changing needs with its limited land and fiscal resources, and tap into other public and private sources to help meet those changing needs. The proposed ballot initiative would establish a new and potentially costly step in that process of adjustment, and, as noted above, may discourage outside parties from partnering with the City.

In regard to the Housing Element, the City has identified specific parcels where it expects to accommodate its regional share of housing for all income groups for the next eight years. The desire to provide housing for all income groups is a requirement of state law, and is also one of the Citywide Vision Goals (VI) of the General Plan.

As discussed in the Housing Element, the City was assigned a regional share of 5,452 units for the 2015-2023 planning period. The City demonstrates in its Housing Element that it has the capacity to accommodate 5,849 units, or an excess of capacity of 397 units. None of the sites identified in the Housing Element for meeting housing needs would be affected by the initiative. However, as noted in the Housing Element, there is almost no vacant land in Sunnyvale available for residential development. Almost all of the land identified to meet its regional share of housing is underutilized land.

The City is required to update its Housing Element every eight years and as the year 2022 approaches, the City will once again need to inventory its land and identify opportunities for additional housing. At that point, the initiative may constrain the City’s ability to creatively use its own land resources (such as parking lots) to address housing needs. While the initiative would not make it impossible to use City-owned properties for housing, it would establish a significant hurdle if that use involved land swaps, leases or other ways in which surplus city property is made available for housing.

Government Code Chapter 4.2, Section 65913 requires cities to provide for the affordable housing needs of the community. As discussed above in regard to the Housing Element, the initiative would not affect the City’s ability to meet its identified regional share of housing needs over the eight-year timeframe of the Housing Element.

Government Code Chapter 4.3, Section 65915 requires cities to offer density bonuses as an incentive for the provision of affordable housing. The initiative would not affect the City’s ability to comply with state density bonus provisions.

### **Land Use and Housing [Cal Elec. Code §9212(a)(3)]**

California Election Code §9212(a)(3) allows for an analysis regarding the proposed measure’s effect on the use of land, the impact on the availability and location of housing, and the ability of the City to meet its regional housing needs.

As noted above, the initiative would not have an impact on the City’s ability over the next seven years to meet its share of regional housing needs. Because the amount of land affected by the initiative is relatively small compared to the City as a whole, and because the vast majority of the land subject to the initiative would not be subject to change (e.g., most parks and community facilities) under foreseeable circumstances, the overall impact on the “use of land” is insignificant.

### **Infrastructure Impacts [Cal Elec. Code §9212(a)(4)]**

California Election Code §9212(a)(4) allows for an analysis regarding the proposed measure’s effect on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

As indicated in the Fiscal Impacts Section above [§9212(a)(1)], the initiative could have an adverse impact on the ability to fund infrastructure improvements to the extent the underlying infrastructure was considered a covered property under the measure. Impacts identified in Table 9 above that are relevant to this section include:

- Grant Funding. There may be potential delays in meeting application deadlines for grants to purchase or improve parks or other covered community service amenities. For example, grants or loans by certain federal or state agencies carry provisions where the granting agency will take over the operation or ownership if the City defaults on a loan or attempts to sell the property. Pledging such an interest in the property to the granting agency has the opportunity to convey an interest in the

real property, which could be viewed as a potential transfer of real property, and thus would be a covered transaction under the initiative requiring a vote. This could result in missing the application deadline.

- Funding Mechanisms. To the extent the infrastructure improvements on covered property would require debt financing including security in the land, there is the potential that such financing might be more difficult to obtain if having to go through an election for approval.
- Infrastructure Costs. As indicated earlier, the inability to liquidate property that has become a net financial burden to the City could increase the City’s costs in maintaining such property or infrastructure until which time voters would approve disposition or another solution to reducing the infrastructure burden were identified.

In addition, cities and school districts have begun to work more closely to share facilities, especially in the area of athletic fields, swimming pools, and playgrounds. The City currently has several joint use agreements with various schools as indicated in Attachment B to this report and as discussed earlier. To the extent the City and its various school districts wish to explore further sharing of facilities in an effort to reduce infrastructure costs, and those underlying agreements could otherwise be determined to be a transaction that is covered by this initiative, it may have the impact of delaying or, if not approved by voters, negating any potential infrastructure cost sharing that may exist between the City and school districts.

It is undetermined if the initiative would have any significant impacts of infrastructure costs directly on residents or businesses. The potential exists that should the City be unable to sell or transfer a covered property with infrastructure costs that were becoming burdensome, the City could look into establishing a funding mechanism such as a landscaping or lighting district, community facilities district, or other type of parcel-assessed revenue mechanism that assesses property owners for the upkeep of that property.

### **Business Attraction, Retention, and Employment [Cal Elec. Code §9212(a)(5)]**

California Election Code §9212(a)(5) allows for an analysis regarding the economic development impacts of the measure. Specifically, the Code

identifies the “impact on the community’s ability to attract and retain business and employment.”

While the City and the region are in the midst of strong economic expansion at nearly all-time low unemployment levels and commercial vacancy rates, such thriving conditions are likely to fluctuate with future economic cycles. Table 10 details the following impacts that could be experienced in the future.

*Table 10. Business Retention, Attraction and Employment Impacts*

Category	Description	Economic Development Impact	Comments
<b>Time Delays / Opportunity Costs</b>	Inability of the City to take advantage of opportunities to encourage economic development or fill vacancies in existing commercial space owned by the City and covered by the initiative	Potentially will negatively impact: <ul style="list-style-type: none"> <li>• Business retention</li> <li>• Employment opportunities within the community</li> <li>• Unsecured property tax</li> <li>• Possessory Interest tax</li> <li>• Sales tax</li> </ul>	Examples are the City-owned leased parcels on Olive Avenue, originally purchased for civic center expansion.
<b>Community Business Friendly Environment</b>	Possible adverse impact on companies choosing to invest in Sunnyvale due to complications with land transactions, such as land swaps, that might include even small amounts of City property that might be considered covered by the initiative.	Potentially will negatively impact: <ul style="list-style-type: none"> <li>• Business attraction</li> <li>• Business retention</li> <li>• Employment opportunities within the community</li> <li>• Property tax (secured and unsecured)</li> <li>• Sales tax</li> </ul>	Many uncertainties exist, such as whether a property is covered by the initiative and whether a ballot measure might be approved. These might discourage consideration of possible beneficial transactions and partnerships with local business, non-profits or other government agencies in support of regional economic development.



Category	Description	Economic Development Impact	Comments
<b>Public Lands Preservation</b>	Positive impact in attracting residents and businesses by maintaining existing open space, park lands, recreational amenities, and other public lands for the enjoyment of those who live or work in the community	The initiative could have positive impacts on economic development initiatives as a result of the protection of public lands such as: <ul style="list-style-type: none"><li>• Business attraction</li><li>• Business retention</li><li>• Employment opportunities within the community</li><li>• Property tax (secured and unsecured)</li><li>• Sales tax</li></ul>	The business community’s use of amenities such as athletic fields, sports facilities, bike and walking trails are supportive of the City’s business-friendly environment.

### **Vacant Land [Cal Elec. Code §9212(a)(6)]**

California Election Code §9212(a)(6) allows for an analysis regarding the impact on the uses of vacant parcels of land.

Sunnyvale is essentially a built-out community with relatively few vacant parcels of land within its municipal boundaries. In regards to City-owned vacant parcels, the City’s vacant land inventory includes parcels like the following:

- Vacant lot behind the Sunnyvale Officer Center located at Charles Street, which currently houses the Charles Street Gardens. This property would be subject to the initiative.
- Vacant lot located on Fair Oaks Way and Highway 237, which is occasionally used as a temporary construction staging area and not otherwise accessible to the public. This property is likely not covered by the initiative.
- 365 and 407 Mathilda Avenue – undeveloped parcels zoned for residential use. These properties are likely not covered by the initiative.

With regards to other vacant parcels throughout the City that are privately owned, and as discussed in regards to real property transaction types, there is the potential that the initiative could apply to the City’s desire to obtain private property either through land swaps, leases, or other agreements that might be subject to the initiative and for the purposes described.

Nevertheless, the initiative’s overall impact on the uses of vacant land are negligible for all practical purposes.

### **Agricultural Lands, Open Space, Traffic Conditions, Business Districts and Revitalization Areas [Cal Elec. Code §9212(a)(7)]**

California Election Code §9212(a)(7) allows for an analysis regarding the impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

Each of these areas is addressed below.

#### **Agricultural Lands**

Sunnyvale no longer has any prime agricultural lands covered under the Williamson Act.

#### **Open Space**

The City owns and maintains 329 park acres across 21 parks. This does not include open space accessible to the community that is owned by others.

One of the main goals of the initiative is “to maintain open space in the city.” If the initiative were adopted, it would serve to maintain open space for the enjoyment of the community by allowing the community to have a say as to whether that space should be converted to another use. The measure would have the opportunity to have a positive impact on the protection of open space.

#### **Traffic Conditions**

Traffic congestion is typically managed through city rights-of-way. The initiative does not address rights-of-way, and our analysis indicates that they would not be covered under the initiative.

Although not likely, there is the potential that the City could convert covered property to assist in relieving traffic congestion which would then require voter approval to proceed with the project, such as City properties described as excess roadway strips that are adjacent to existing roadways and are not currently part of the roadway system, but could be at some future point. These properties could be covered by the initiative depending on a number of factors that will need to be evaluated on a

case-by-case basis. For instance, the source of funds used to acquire the property, the use of the property at the time it was acquired, and the planned use of the property at the time City funds were spent to acquire it will need to be considered as to whether the property is covered by the initiative.

Multi-use trails promote recreational amenities, and also serve to provide traffic relief to allow opportunities for drivers to get out of their cars. In some regards, this initiative could serve to assist in that area by protecting opportunities for the conversion of pedways that might be used as a transportation alternative to increasing street traffic. This is consistent with the provisions of the City’s Bicycle Plan adopted in 2006.

The Land Use and Transportation Element of the City’s General Plan from July 2011 includes various goals and policy statements to address transportation efficiency issues in Sunnyvale. One of the policy action items is encouraging mixed use developments that provide pedestrian scale and transit-oriented services and amenities. With the exception of the potential conversion of a covered property that would serve to assist in providing traffic congestion relief, the initiative does not conflict with any of the transportation policies established in the City’s General Plan.

### **Business Districts**

The City has one business improvement district known as the Downtown Sunnyvale Business Improvement District. It is within the boundaries of Sunnyvale, Iowa, Mathilda and Evelyn Avenues. The initiative is expected to have little or no impact on the business district, as the property zoned within that area is not considered covered property as it relates to this initiative.

The City also has a Downtown Parking Maintenance District, which assesses property owners in three of the four benefit zones identified in the Engineer’s Report for the district. These assessment revenues are used by the City to, “pay debt service, operations, maintenance and improvement costs” associated with the parking lots in the downtown area. Creation of the district was established through a vote of the property owners affected. The proposed initiative does not have a direct impact on the district in regards to levying assessments on the affected property owners or the maintenance operations of the district. The underlying property, the parking lots, are identified as covered properties under the provisions of the proposed initiative; however the assessment

district itself is not covered by the initiative and, thus, there are no impacts to it.

### Revitalization Areas

The City currently has two planned priority development areas (PDAs) and three potential PDAs. These areas, their description, and potential impacts, are identified in Table 11.

*Table 11. Priority Development Areas*

Priority Development Area	Area Size (net acres)	Description	Potential Impacts of Initiative on PDAs
<b>Planned Areas</b>			
<b>Downtown and Caltrain Station</b>	227	Transit town center served by bus rapid transit (BRT) and Caltrain	No impact. The Downtown Specific Plan includes the properties collectively known as the Charles Street Properties, which are more fully described below. These properties are not covered by the initiative.
<b>El Camino Real Corridor</b>	320	Mixed-use corridor (commercial, residential)	<p>Potential impact. PDA includes the following covered properties:</p> <ul style="list-style-type: none"> <li>• Sunnyvale Civic Center</li> <li>• Las Palmas Park (north portion)</li> <li>• Community Center (north portion)</li> <li>• Sunken Gardens Golf Course (southwest portion)</li> <li>• Landscaped Parcel at El Camino Real/Wolfe Road/ Fremont Avenue</li> </ul> <p>The current PDA plans do not suggest redeveloping these parcels for other uses, but if those plans ever changed, they could be subject to the initiative under a covered transaction (e.g., sale, lease, land swap, transfer).</p>
<b>Potential Areas</b>			
<b>East Sunnyvale</b>	413	Urban neighborhood with the potential to convert industrial areas to medium density housing	Little impact. Swegles Park is located within this PDA, which would be a covered property. Current plans do not anticipate redeveloping this parcel for other uses, but if those plans ever changed, it could be subject to the initiative under a covered transaction (e.g., sale, lease, land swap, transfer).
<b>Lawrence Station Transit Village</b>	319	Transit neighborhood served by Caltrain	No impact. The Unilever site, more fully described below, is located within this priority development area, however it is not considered a covered property under the initiative.

Priority Development Area	Area Size (net acres)	Description	Potential Impacts of Initiative on PDAs
<b>Tasman Crossing</b>	150	Transit neighborhood served by Valley Transportation Authority’s light rail system with the potential to convert industrial to residential	<p>Little impact. PDA includes the following covered properties:</p> <ul style="list-style-type: none"> <li>• Seven Seas Park</li> <li>• Vacant Parcel at Fair Oaks Way and SR-237</li> </ul> <p>The current PDA plans do not suggest redeveloping these parcels for other uses, but if those plans ever changed, it could be subject to the initiative under a covered transaction (e.g., sale, lease, land swap, transfer).</p> <p>It is also noted that the PDA area includes the John W. Christian Greenbelt area, which is owned by the San Francisco Public Utilities Commission but is landscaped by the City under a maintenance agreement. This is not owned by the City and, thus, is not a covered property under the initiative.</p>

### **Other Matters Requested by City Council [Cal Elec. Code §9212(a)(8)]**

At its April 21, 2015 meeting, the City Council also directed staff to analyze specific transactions in the past and the impacts this initiative would have had on those transactions to better understand the applicability of the initiative based upon real property transactions conducted by the City.

### **Armory Site/Onizuka Air Force Station/Fire Station #5**

The Onizuka Air Force Station (OAFS), located at Mathilda Avenue and Innovation Way, was designated for closure in 2005 under the Base Realignment and Closure (BRAC) process. In December 2011, the City adopted a Redevelopment Plan for the OAFS. As part of this plan, the City received a portion of the approximately 19-acre property: a one-acre parcel to expand an adjacent City fire station and two parcels (totaling 5.019 acres) for homeless housing. Through the BRAC process, two housing providers (MidPen Housing and Charities Housing) filed claims to build homeless housing on the two parcels, and the City accepted these

claims with adoption of the plan. However, the plan also allowed the City to work with the housing providers to transfer the homeless housing claims to another site, and the Armory site was tentatively identified as an alternative location.

The Armory site is located at 620 East Maude Avenue between Wolfe and Fair Oaks. The site was previously occupied by the National Guard Armory, which also subleased the facility for a homeless shelter during the winter months. The National Guard leased the property from the City of Sunnyvale until June 2011. Additionally, the property was subleased to operate a cold weather homeless shelter during the winter months with funding from the County of Santa Clara. After the National Guard vacated the property the site continued to be used for a cold weather homeless shelter until March 2014.

In 2013, the City and housing providers formally approved transferring the homeless housing claims from the Onizuka parcels to the Armory site. The proposal required changing the General Plan and zoning designations from medium density to high density residential. In addition, development applications were approved for both providers to construct separate affordable housing projects on the property, including housing units targeted for the homeless. The City entered into a 90-year ground lease with each housing provider, and funded the leases through a \$7.4 million loan to the providers using Housing Mitigation Funds. The City provided additional assistance for construction of both projects through allocation of federal HOME funds. Construction of the first project was completed in June 2015, and the second project will be completed in the spring of 2016.

The three Onizuka parcels are currently vacant and are not being used for a covered purpose under the initiative. Through a development agreement with a private developer, approved by the City Council in December 2013, a land swap was approved to exchange the one-acre fire station parcel and adjacent City fire station site, Fire Station #5 (total 1.75 acres) for a nearby two-acre parcel on which the developer would construct a new public safety facility for the City. Construction of the new facility is underway. The land swap will occur in spring 2016 after the facility is completed. While the homeless housing claims have been released on the 4.6-acre parcel, the future use of this parcel has not been established.

There were two separate transactions for these properties. The impacts of the initiative on these transactions, had the initiative been in place at the time, are identified below.

- Transferring Onizuka parcel with Armory site for affordable housing.
  - The new use of the site is affordable housing, and the ground leases and funding sources (Housing Mitigation and HOME funds) limit the use of the property to affordable housing. Affordable housing is not a covered purpose in the initiative. However, given the prior use of the site as a cold-weather homeless shelter, under a broad interpretation of the initiative language, the property would likely have been considered a CSA. Given that use, the transfer would likely have required a vote.
- Swapping Onizuka parcels and City-owned land for Fire Station #5 with land provided by a developer.
  - As indicated previously, under a narrow interpretation of the initiative, fire stations are not considered subject to the initiative and, thus, would not have required an election. Under a broad interpretation, however, the fire station could have been considered a CSA, and therefore would have been covered by the initiative requiring an election.

## **Non-City Property**

### ***School District Property under Joint Use Agreement***

The City, on occasion, has entered into joint use agreements with the Cupertino Union School District, Fremont Unified High School District and Sunnyvale School District for the use of swimming pools or other outdoor spaces for recreation programs or activities. As indicated earlier, the proposed initiative does not specifically mention joint use agreements as a covered transaction type and, therefore, these types of transactions would not be subject to the proposed initiative.

### ***Santa Clara Valley Water District Property***

The City Council requested information on whether the initiative would apply to property owned by the Santa Clara Valley Water District property that is located within the City. The initiative does not apply to any decisions that the Water District makes in regards to the use of its

property. If the City, however, wanted to lease their property and the intended use would be covered as one of the uses under the proposed initiative, the transaction would likely require a measure placed before voters.

### ***Private Property Including Public Open Space***

The City has approved certain development projects that require space to be provided on the development site that is open space for public use. The developers and/or subsequent property owners retain ownership of the property. Since the property is owned by private parties, the initiative would not apply to those properties where the property owners change its use. In the case where the City is required to rezone the property or otherwise provide approval to remove the specific use of that portion of the property as open space, this decision would still be within the City’s purview without requiring a vote as the proposed initiative does not prohibit the City’s ability to exercise its authority over land use decisions.

### ***Private Property Leased by the City***

From time to time, the City may desire to lease property from private property owners for various uses. To the extent that those uses are covered uses under the initiative (e.g., parks, open space, or community service amenities), those transactions would likely be covered under the proposed initiative and would require a ballot measure for voter approval.

### ***Raynor Activity Center/Stratford School (1500 Partridge Avenue)***

The Raynor Activity Center (RAC) is part of a larger 14.67 acre parcel that encompasses Raynor Park. The property was purchased by the City in 1979 from the Santa Clara Unified School District. The RAC, which represented former school buildings of the School District, includes 22 classrooms in eight buildings and the adjacent parking lots. The area consisting of the RAC totals approximately 3.5 acres. The City used the RAC for a variety of purposes following its purchase, such as storage of surplus furniture. Over the years, portions of the RAC were leased to entities such as a private preschool, a gymnastics club and a philatelic library. The site also contained artist studios that were rented by individual artists.

The City Council subsequently decided to sell the RAC, and in November 2013 approved a purchase and sale agreement to sell it, subject to certain



conditions, to Stratford School, Inc. The City also agreed to enter a Joint Use Agreement (JUA) with Stratford if the sale were effectuated that defined portions of the adjacent Raynor Park for which Stratford would be allowed priority use during weekday school hours (9 a.m. to 3 p.m.), and certain hours after school.

Although the RAC facilities were leased by the City to various individual businesses and therefore used by the City to provide community service amenities, the transaction would most likely be covered under the initiative because the facility is adjacent to a park and provides supplemental public parking for the park.

The JUA would not be covered under the proposed initiative as the terms of that agreement do not change the nature of that agreement into a lease. The school is allowed “priority use”, not “exclusive use” of Raynor Park. The agreement states that “at times during the [hours and scheduled defined in the JUA] when the [areas] are not actually being used by Stratford, the area will be available for public use.” The JUA is similar to the current agreements with local sports leagues that use City parks, which are not considered a lease, and therefore, not considered a covered transaction by the City. The JUA is also similar to the use agreement the City has with school districts for after school use of their facilities, which are not covered by the proposed initiative.

### **Google Fiber Project**

Sunnyvale is on a short list of cities that include Mountain View, Palo Alto, and Santa Clara working with Google to explore the possibility of bringing Google’s high-speed fiber broadband network to the area. The project would include the build-out of a fiber optic network throughout Sunnyvale. Implementation of this network would primarily occur in the City’s rights-of-way and public utility easements through installation of fiber in either underground conduits or above-ground utility poles or other structures.

City rights-of-way are not a covered property under the initiative as was noted above. It would not appear that the initiative would have any significant impact on the Google Fiber project.

Nevertheless, to the extent that any properties would be needed to house above-ground utility boxes on a covered property (e.g., above-ground equipment closet located in a public park), there is the potential that placement would be subject to the initiative if it provided for the lease,

transfer, or sale of such property. Easements, licenses and use agreements have been determined to not be covered by the initiative. However, if the form of agreement was for a lease on covered property, the transaction could be subject to the initiative.

### **Community Choice Energy Project**

AB 117 (2002) enables communities to form community choice aggregations (CCAs) to create alternatives to investor-owned utilities for the procurement of electricity. CCAs allow communities to gain greater control of electricity and energy pricing. They can provide local economic benefits with reduced power costs, and the opportunity to accelerate the implementation of clean power initiatives such as solar. Sunnyvale is actively engaged in exploring these opportunities through its Community Choice Energy project. This project could involve the installation of clean energy generation equipment such as solar panels or wind-powered generators on various properties throughout the City.

On its own, the Community Choice Energy project would not be subject to the initiative. However, depending on the business model used in developing the project, it could be subject to the initiative. A turnkey project that allows a third party to own and operate the power generation facilities could make the project subject to the initiative. For example, if the City approves a third party placing clean energy equipment on covered properties under agreements such as leases, sales, land swaps, or other covered transactions, those agreements would require an election. If, however, the City were to own the equipment it places on covered properties, the City would have the right to use that property in operating its own utility.

### **Charles Street Properties (344, 388 and 406 Charles Street and 365, 377, 378, 379 and 407 Mathilda Avenue)**

The Charles Street Properties identified above are City-owned parcels that were purchased many years ago to land bank as part of the City’s long-term goals in the Downtown Specific Plan. The 365 and 407 Mathilda Avenue properties are currently vacant land but are considered as adjuncts to the residential properties that surround them. The other properties are single-family homes under various leases that are not accessible to the general public and are not being used for a covered use under the initiative. Accordingly, these properties are not considered covered under the initiative.

The City recently authorized the purchase of four additional parcels with the addresses of 396 and 402 Charles Street, and 397 and 403 Mathilda Avenue. These properties are being purchased consistent with the other adjacent properties; that is for land banking purposes relative to the long-term goals of the Downtown Specific Plan.

The planned purchase of these properties would not be considered covered under the initiative if the ordinance were in effect at the time of the purchase. The purposes for the acquisition are not within the scope of the covered uses nor are the possible purchase transactions covered by the initiative.

### **Unilever Building (1484 Kifer Road)**

This property was donated to the City many years ago, but was encumbered with a lease to the Unilever Corporation that the City was required to honor as part of the donor’s restrictions. Unilever has ceased production at the facility and is preparing to vacate the site in the next few months. At that point, the City could sell the property or repurpose it for other uses. The site has only ever been used for commercial purposes through the lease with Unilever, and is zoned as industrial and service use (i.e., commercial).

The site has never been used to provide City services or otherwise designated for a use covered under the initiative. Accordingly, this property would not be covered under the initiative and if the City determined to renew the lease with the existing tenant, sell, or repurpose the property, it would not be subject to the provisions of the initiative.

### **Stevens Creek Trail Feasibility Study**

The City of Sunnyvale is currently taking the lead in partnership with the Cities of Cupertino, Los Altos, and Mountain View to study the feasibility of extending the Stevens Creek Trail. Some of the segments being considered would extend the trail over land owned by the Santa Clara Valley Water District, PG&E, the City of Mountain View and the City of Sunnyvale.

Extending the trail over properties that are not currently owned by the City of Sunnyvale would require some type of new agreement with the property owner to allow this new use. The initiative has no restrictions for the City to acquire new property via purchase, but it would likely restrict the City’s ability to enter leases or make land swaps without a

prior vote. Based on our interpretation, the initiative would also not restrict the City from entering maintenance agreements or joint use agreement on its property or the property of third parties.

At this time routes for the Stevens Creek Trail have not been selected. What types of property transactions will be needed to implement the future trail are still unknown, so the effects of the initiative on this project remain largely unknown.

### **Effect on Negotiating Community Benefits**

When processing land development applications for large projects, the City often negotiates with an applicant to provide some form of community benefit in addition to mitigating project impacts and paying established fees. The details of community benefit contributions are typically included in development agreements with an applicant.

The types of community benefits can vary widely from paying additional fees to improving infrastructure, which sometimes can include City property. Determining how the initiative could affect future community benefit contributions cannot be determined without a case-by-case analysis. However, in future community benefit negotiations the City would generally avoid transactions that would involve leases or land swaps. The time necessary to hold an election would make it impractical to consider community benefits that would be covered by the initiative.

A recent example of a community benefit that involved City property was the construction of Fire Station #5. As noted above, the construction of a new fire station was dependent on a land swap that would be covered by the initiative under a broad interpretation that fire stations are a community service amenity. Because development applications are always time sensitive, had an election been required, it's unlikely that construction of Fire Station #5 would have been offered as a community benefit.

### **Process Decision Tree – Steps for Evaluating Future Property Transactions**

If the initiative is adopted, the City would follow a process for every property transaction to determine whether a vote was required. A decision tree has been developed to assist in understanding the steps needed. A sample Process Decision Tree is provided in Attachment C.

## Conclusion

The initiative would likely have positive impacts as it pertains to the potential protection of parks, open space, and community amenities within the City. Since the initiative requires a vote of the people, the ultimate impacts in protecting parks, open space and community amenities would ultimately be based upon the outcome of each measure placed before voters. The initiative would, however, allow the community to have a say in the real property decisions made by the City relative to the uses of such lands, and would serve as greater protection in ensuring that the parks and open spaces are preserved for those uses until which time a majority of the community determines that their uses should be changed in a real property transaction.

If the initiative were approved by voters, the City’s business processes would require significant change to ensure that every future real property transaction is considered relative to the amended ordinance. In doing so, the City must rely on the language of the initiative rather than the intent in determining whether or not a real property transaction requires a vote of the people. This adds a level of complexity in interpreting the language of the initiative, and the City will need to rely heavily on legal counsel to interpret the amended ordinance’s impact on each transaction. It is clear that the measure would impact the operations of the City Clerk, City Attorney, and other administrative departments that process real property transactions on a recurring basis. Yet given the nature and extent of real property transactions in which the City regularly engages, it is foreseeable that the measure could have a significant adverse impact on many other City departments, which will ultimately impact the City’s ability to continue to provide services based on its current capacities, workloads and priorities.

This initiative will impact the City’s ability to enter into real property transactions with third parties for those properties that have been identified in the proposed initiative as public parks and community service amenities. The impacts will likely center on four areas: fiscal

impact, the impact on funding infrastructure, the ability of the City to act in a timely manner, and business retention and employment.

## Attachment A – List of City Properties

Table 12 lists most of the current and recently owned City properties and categorizes them as being covered by the initiative. Categories include: narrow interpretations; broad interpretations, questionable interpretations; and not covered (excluded) by the initiative. This list is meant to provide examples and is not a final determination. Final determinations would be made at the time any transaction is being considered. It should be noted that properties owned or leased by the Successor Agency for the Redevelopment Agency of the City of Sunnyvale, a separate legal entity with a separate oversight board, are not City properties and are, thus, not included in this listing.

*Table 12. Examples of City of Sunnyvale Current and Recently Owned Properties*

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
1	165-03-007	City administration	City Hall /Annex	6.80	Operations	Public Facility	Narrow
2	165-02-002	City administration	City Hall Public Safety Parking Lot	0.20	Operations	Public Facility	Narrow
3	165-02-001	City administration	City Hall Public Safety Parking Lot	0.20	Operations	Public Facility	Narrow
4	165-02-005	City administration	ECR/Mathilda Landscape	2.60	Parking	Courthouse Parking--Leased City Hall expansion	Narrow
5	165-02-003	City administration	Public Safety Building	3.45	Operations	Public Facility	Narrow
6	165-04-019	City administration	SOC Vacant Lot	1.83	Recreation	Future City Hall Site	Narrow
7	165-04-020	City administration	Sunnyvale Office Center	3.75	Commercial	Future City Hall Site - Leased	Narrow
8	211-24-036	Community center	Community Center	2.82	Recreation	Recreational Use	Narrow
9	211-24-035/042	Community center	Community Center	29.33	Recreation	Recreational Use	Narrow
10	211-24-021	Community center	Community Center	0.89	Recreation	Recreational Use	Narrow
11	213-47-009	Gardens	Sunken Gardens	28.27	Recreation	Recreational Use	Narrow
12	165-39-015	Golf course	Muni Golf Course East	31.48	Recreation	Recreational Use	Narrow

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
13	165-40-001	Golf course	Muni Golf Course South	21.45	Recreation	Recreational Use	Narrow
14	160-56-004	Golf course	Svle Muni Golf Course	40.00	Recreation	Recreational Use	Narrow
15	165-04-001	Library	Library	6.14	Operations	Public Facility	Narrow
16	209-05-047	Open space/public enjoyment	Carol Street Parking Lot	1.50	Parking	Downtown Parking	Narrow
17	165-14-046	Open space/public enjoyment	Charles Evelyn / Parklot	0.58	Parking	Downtown Parking	Narrow
18	165-14-045	Open space/public enjoyment	Charles Evelyn / Parklot	0.68	Parking	Downtown Parking	Narrow
19	209-10-060	Open space/public enjoyment	E. McKinley / Carol Park Lot	0.29	Parking	Downtown Parking	Narrow
20	209-06-076	Open space/public enjoyment	Evelyn / Svle Ave. Parklot	0.09	Parking	Downtown Parking	Narrow
21	209-06-073	Open space/public enjoyment	Frances Parklot	1.40	Parking	Downtown Parking	Narrow
22	165-26-002	Open space/public enjoyment	Mathilda Sobrante	1.00	Parking	Underneath Overpass Parking	Narrow
23	209-06-082	Open space/public enjoyment	Multimodal Parklot	0.86	Parking	Downtown Parking	Narrow
24	209-10-062	Open space/public enjoyment	Sunnyvale / McKinley Park Lot	0.58	Parking	Downtown Parking	Narrow
25	209-06-071	Open space/public enjoyment	Sunnyvale Ave Park Lot	1.22	Parking	Downtown Parking	Narrow
26	No APN	Open space/public enjoyment	Under Mathilda Overpass So.	0.50	Parking	Parking	Narrow
27	110-12-086	Park	234 Garner	0.15	Residential	Demolished for Park Expansion	Narrow
28	110-12-094	Park	252 Garner	0.15	Residential	Demolished for Park Expansion	Narrow
29	204-44-037	Park	263 Jackson Street	0.16	Residential	Adjacent to Murphy Park - Vacant for park expansion	Narrow
30	110-12-091	Park	266 Garner	0.16	Residential	Demolished for Park Expansion	Narrow



Report on Impacts of “Public Lands for Public Use Act” Initiative  
Under California Election Code Section 9212  
Attachment A – List of City Properties

Management Partners

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
31	204-44-037	Park	279 Jackson Street	0.16	Residential	For Park Expansion -sold 2015 for affordable housing	Narrow
32	211-07-002	Park	Braly Park	3.13	Recreation	Public Park	Narrow
33	211-07-001	Park	Braly Park	1.89	Recreation	Public Park	Narrow
34	165-23-160	Park	Cannery Park	0.69	Recreation	Public Park	Narrow
35	202-27-002	Park	De Anza Park	9.29	Recreation	Public Park	Narrow
36	165-33-012	Park	Encinal Park	4.59	Recreation	Public Park	Narrow
37	205-19-002	Park	Fair Oaks Park	2.00	Recreation	Public Park	Narrow
38	104-18-063	Park	Fairwood Park	1.93	Recreation	Public Park	Narrow
39	198-28-031	Park	Greenwood Manor Park	0.04	Recreation	Public Park	Narrow
40	198-28-029	Park	Greenwood Manor Park	0.04	Recreation	Public Park	Narrow
41	110-24-038	Park	Lakewood Park	9.56	Recreation	Public Park	Narrow
42	201-35-002	Park	Las Palmas Driveway	0.18	Recreation	Public Park	Narrow
43	201-27-015	Park	Las Palmas Park	24.32	Recreation	Public Park	Narrow
44	204-44-037	Park	Murphy Park	0.16	Recreation	Public Park	Narrow
45	110-12-039	Park	Orchard Gardens Park	0.16	Recreation	Public Park	Narrow
46	309-37-003	Park	Ortega Park	9.48	Recreation	Public Park	Narrow
47	309-36-051	Park	Ortega Park	8.58	Recreation	Public Park	Narrow
48	309-12-033	Park	Panama Park	4.91	Recreation	Public Park	Narrow
49	209-07-025	Park	Plaza Del Sol	1.62	Recreation	Public Park	Narrow
50	213-27-002	Park	Ponderosa Park	9.10	Recreation	Public Park	Narrow
51	313-24-031	Park	Raynor Park	14.67	Recreation	Public Park	Narrow
52	320-09-065	Park	San Antonio Park	5.96	Recreation	Public Park	Narrow
53	323-26-013	Park	Serra Park	11.45	Recreation	Public Park	Narrow

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
54	110-14-202	Park	Seven Seas Park	5.33	Recreation	Public Park	Narrow
55	205-55-040	Park	Swegles Park	0.91	Recreation	Public Park	Narrow
56	205-46-031	Park	Victory Village Park	0.73	Recreation	Public Park	Narrow
57	165-11-001	Park	Washington Park	11.85	Recreation	Public Park	Narrow
58	211-28-035	Park/Open Space	Crescent Channel	0.76	Flood Control	Adj. to Flood Control Channel	Narrow
59	202-39-041	Park/Open Space	End of Remington Court	0.32	No Current Use	Part of Crk Trail Ext Study - Stevens Creek	Narrow
60	202-39-006	Park/Open Space	End of Remington Court	2.48	No Current Use	Part of Crk Trail Ext Study - Stevens Creek	Narrow
61	198-25-042	Park/Open Space	Girl Scout House	0.05	No Current Use	Demolished March 2015	Narrow
62	015-35-021	Park/Open Space	Guadalupe Slough	347.60	Flood Control	Holding Pond	Narrow
63	015-35-018	Park/Open Space	Guadalupe Slough	6.65	Flood Control	Holding Pond - In Alviso	Narrow
64	015-35-017	Park/Open Space	Guadalupe Slough	25.50	Flood Control	Holding Pond - In Alviso	Narrow
65	015-35-007	Park/Open Space	Guadalupe Slough	89.10	Flood Control	Holding Pond - In Alviso	Narrow
66	015-35-003	Park/Open Space	Guadalupe Slough	26.16	Flood Control	Holding Pond	Narrow
67	202-38-042	Park/Open Space	Oak Avenue	2.13	No Current Use	Part of Crk Trail Ext Study - Stevens Creek	Narrow
68	198-27-011	Park/Open Space	PGE Powerstrip	0.09	No Current Use	20' strip o/s PGE lots	Narrow
69	198-27-009	Park/Open Space	PGE Powerstrip	0.09	No Current Use	20' strip o/s PGE lots	Narrow
70	198-25-044	Park/Open Space	PGE Powerstrip	0.05	No Current Use	20' strip o/s PGE lots	Narrow

Report on Impacts of "Public Lands for Public Use Act" Initiative  
Under California Election Code Section 9212  
Attachment A – List of City Properties

Management Partners

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
71	198-25-011	Park/Open Space	PGE Powerstrip	0.09	No Current Use	20' strip o/s PGE lots	Narrow
72	198-25-009	Park/Open Space	PGE Powerstrip	0.09	No Current Use	20' strip o/s PGE lots	Narrow
73	110-03-001	Park/Open Space	SMaRT Station / Landfill	31.85	Operations	Regional Transfer Station	Narrow
74	320-29-012	Park/Open Space	Stev. Cr. Channel	0.37	Flood Control	Flood Control	Narrow
75	320-07-005	Park/Open Space	Stev. Cr. Channel	4.16	Flood Control	Flood Control	Narrow
76	110-04-069	Park/Open Space	Sunnyvale Landfill	30.00	Operations	Closed Landfill - East Hill	Narrow
77	110-03-051	Park/Open Space	Sunnyvale Landfill	2.58	Operations	Closed Landfill	Narrow
78	110-03-047	Park/Open Space	Sunnyvale Landfill	9.10	Operations	Closed Landfill	Narrow
79	110-02-041	Park/Open Space	Sunnyvale Landfill	0.41	Operations	Closed Landfill	Narrow
80	110-02-008	Park/Open Space	Sunnyvale Landfill	38.04	Operations	Closed Landfill	Narrow
81	110-02-007	Park/Open Space	Sunnyvale Landfill	1.46	Operations	Closed Landfill	Narrow
82	110-15-064	Park/Open Space	Tasman Drive	2.95	Flood Control	Along Flood Control Channel	Narrow
83	201-35-008	Recreation	Tennis Ctr Orchard	2.96	Recreation	Recreational Use	Narrow
84	205-34-007	City government administration	239-241 Commercial St	1.23	Commercial	Public access for recycling etc	Broad
85	205-34-012	City government administration	Corp Yard	8.72	Operations	Public access for recycling etc	Broad
86	205-28-009	City government administration	Fire station - Arques	2.19	Operations	education and other programs	Broad
87	165-26-005	City government administration	Fire station - Calif/Mathilda	0.58	Operations	education and other programs	Broad
88	104-33-002	City government administration	Fire station - Lawrence Sta.	0.53	Operations	education and other programs	Broad
89	110-27-027	City government administration	Fire station - Lockheed Wy	0.72	Operations	education and other programs	Broad

Report on Impacts of “Public Lands for Public Use Act” Initiative  
Under California Election Code Section 9212  
Attachment A – List of City Properties

Management Partners

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
90	213-25-001	City government administration	Fire station - Maria Ln	0.52	Operations	education and other programs	Broad
91	202-24-020	City government administration	Fire Station - Ticonderoga	0.45	Operations	education and other programs	Broad
92	209-20-015	Park/open space	Ajax Tank site	0.03	Utility	City Utility System	Broad
93	209-17-001	Park/open space	Ajax Tank site	3.43	Utility	City Utility System	Broad
94	161-36-026	Park/open space	Carson Water Tank	2.35	Utility	City Utility System	Broad
95	209-21-001	Park/open space	Central Well site	1.20	Utility	City Utility System	Broad
96	202-36-011	Park/open space	Hamilton Water Tank	0.92	Utility	City Utility System	Broad
97	110-07-021	Park/open space	Hamlin Court	0.03	Utility	City Utility System	Broad
98	309-51-001	Park/open space	Homestead/Wolfe Wellsite	0.25	Utility	City Utility System	Broad
99	211-09-007	Park/open space	Jackpine pump site	0.23	Utility	City Utility System	Broad
100	198-20-036	Park/open space	Jamestown Pump Sta	0.13	Utility	City Utility System	Broad
101	209-16-005	Park/open space	Liquidamber Tank site	0.07	Utility	City Utility System	Broad
102	110-03-048	Park/open space	Recycling Facility	9.00	Utility	Across from WPCP	Broad
103	204-42-020	Park/open space	Schroeder Plant	0.15	Utility	City Utility System	Broad
104	110-03-064	Park/open space	Water Pollution Control Plant	7.82	Utility	City Utility System	Broad
105	110-03-023	Park/open space	Water Pollution Control Plant	7.36	Utility	City Utility System	Broad
106	323-21-038	Park/open space	Westmoor Wellsite	0.17	Utility	City Utility System	Broad
107	202-15-077	Park/open space	Winstead Terrace	0.02	Utility	City Utility System	Broad
108	326-04-073	Park/open space	Wright Ave Water Plant	2.92	Utility	City Utility System	Broad
109	205-49-001	Road/Walkway	Wolfe Overpass No Side	0.85	Utility	Reclaimed Water Tank /Storage	Broad

Report on Impacts of “Public Lands for Public Use Act” Initiative  
Under California Election Code Section 9212  
Attachment A – List of City Properties

Management Partners

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
110	110-27-38	City government administration	Onizuka - Mathilda & Innovation	1.03	vacant	Fire Station	Questionable
111	110-27-41 & 42	Residential	Onizuka -Moffett Park Dr & Innovation Way	5.02	vacant	Former military base	Questionable
112	163-58-013	Road/Walk Way	108 N. Mary Avenue	0.33	Commercial	Excess roadway strip-Leased	Questionable
113	104-25-008	Road/Walk Way	1165 Blazingwood	0.13	Road/Walk Way	Pedestrian Crossing	Questionable
114	165-32-008	Road/Walk Way	362 Macara	0.38	Road/Walk Way	Part of actual roadway	Questionable
115	110-16-041	Road/Walk Way	End of Lakehaven	0.47	Road/Walk Way	Pedestrian Crossing	Questionable
116	110-23-030	Road/Walk Way	Lakedale / Lawrence	0.40	Road/Walk Way	Pedestrian Crossing	Questionable
117	161-34-002	Road/Walk Way	Mary Ave. at Central Island	2.00	Road/Walk Way	Excess roadway strip	Questionable
118	201-18-003	Road/Walk Way	Peach / Pear Walkway	0.02	Road/Walk Way	Pedestrian Crossing	Questionable
119	205-03-004/5	Road/Walk Way	Ped X Crossing	0.15	Road/Walk Way	Pedestrian Crossing	Questionable
120	323-30-058	Road/Walk Way	Ped-X Valcartier	0.01	Road/Walk Way	Pedestrian Crossing	Questionable
121	213-46-015	Road/Walk Way	Wolfe ECR Landscape	0.76	Road/Walk Way	Excess roadway strip	Questionable
122	110-09-052	Road/Walkway	190-397 Persian Drive	0.25	Road/Walk Way	Excess roadway strip	Questionable
123	165-13-070	Road/Walkway	407 S. Mathilda	0.07	Road/Walk Way	Excess roadway strip	Questionable
124	323-10-038	Road/Walkway	Belfry Way	0.04	Road/Walk Way	Excess roadway strip	Questionable
125	165-14-018	Road/Walkway	Charles / Evelyn Corner	0.07	Road/Walk Way	Excess roadway strip	Questionable

Report on Impacts of “Public Lands for Public Use Act” Initiative  
Under California Election Code Section 9212  
Attachment A – List of City Properties

Management Partners

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
126	205-46-057	Road/Walkway	Dwight Ave Landscape	0.11	Road/Walk Way	Excess roadway strip	Questionable
127	209-04-027	Road/Walkway	E. Washington / Evelyn	0.11	Road/Walk Way	Excess roadway strip	Questionable
128	165-15-055	Road/Walkway	Excess Property	0.37	Road/Walk Way	Excess roadway strip	Questionable
129	165-15-020	Road/Walkway	Excess Property	0.31	Road/Walk Way	Excess roadway strip	Questionable
130	205-47-001	Road/Walkway	FO/Kifer Landscape	0.09	Road/Walk Way	Excess roadway strip	Questionable
131	323-10-013	Road/Walkway	Fremont Post Office Parklot	0.32	Road/Walk Way	Excess roadway strip	Questionable
132	No APN	Road/Walkway	Fremont/Cordillero	0.30	Road/Walk Way	Excess roadway strip	Questionable
133	165-23-159	Road/Walkway	Mary Calif Landscape	3.00	Road/Walk Way	Excess roadway strip	Questionable
134	320-25-001	Road/Walkway	Mary Cascade Landscape	0.50	Road/Walk Way	Excess roadway strip	Questionable
135	205-47-014	Road/Walkway	N. FairOaks/Kifer	0.08	Road/Walk Way	Excess roadway strip	Questionable
136	165-20-015	Road/Walkway	Rotary Corner (Half CalWest Lot)	0.30	Recreation	Excess Roadway	Questionable
137	309-46-043	Road/Walkway	Walkway	0.10	Road/Walk Way	Excess land strip	Questionable
138	104-21-001	Road/Walkway	Wildwood/Lawrence	0.30	Road/Walk Way	Excess roadway strip	Questionable
139	211-25-035/6	Road/Walkway	Wolfe/ECR	0.02	Road/Walk Way	Excess roadway strip	Questionable
140	313-02-033	Road/Walkway	Wolfe/ECR Park lot	0.30	Road/Walk Way	Excess roadway strip	Questionable
141	110-29-035	City non-public use	Fair Oaks Way/237	2.87	Storage	Construction staging area	Excluded

Report on Impacts of "Public Lands for Public Use Act" Initiative  
Under California Election Code Section 9212  
Attachment A – List of City Properties

Management Partners

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
142	213-02-008	City non-public use	Wolfe Overpass So Side	0.50	Storage	Under the Overpass Storage	Excluded
143	216-27-023	Commercial	1484 Kifer Road	4.74	Commercial	Unilever Margarine Plant--Leased	Excluded
144	209-26-010	Commercial	499 S. Murphy Avenue	0.10	Commercial	Chamber of Commerce--Leased	Excluded
145	104-01-027	Flood Control	Baylands Pump Station	1.32	Operations	Flood Control	Excluded
146	104-01-005	Flood Control	Baylands Pump Station	3.68	Operations	Flood Control	Excluded
147	209-35-011	Open space/public enjoyment	Redev Park Lot	2.01	Parking	Elevated Parking by Target	Excluded
148	209-35-010	Open space/public enjoyment	Redev Park Lot	2.06	Parking	Future Elev. Parking by Macy's	Excluded
149	209-34-017	Open space/public enjoyment	Redev Park Lot	4.03	Parking	Elevated Structure along Mathilda	Excluded
150	209-34-016	Open space/public enjoyment	Redev Park Lot	3.20	Parking	Elevated Structure along Mathilda	Excluded
151	209-34-010	Open space/public enjoyment	Redev Park Lot	0.13	Parking	Downtown Parking - Barson Terr.	Excluded
152	209-07-021	Open space/public enjoyment	Redev Park Lot	5.96	Parking	Downtown Parking	Excluded
153	204-44-005	Residential	239 Jackson Street	0.13	Residential	Sold 2015 affordable housing	Excluded
154	165-13-047	Residential	344 Charles	0.14	Residential	For downtown development - Leased	Excluded
155	165-13-074	Residential	377-9 Mathilda Duplex	0.10	Residential	For downtown development - Leased	Excluded
156	165-13-047	Residential	388 Charles	0.15	Residential	City owned house--Vacant	Excluded
157	165-13-073	Residential	406 Charles	0.15	Residential	For downtown development - Leased	Excluded
158	204-11-128	Residential	715 San Conrado Ter #6	0.02	Residential	Sold 2014	Excluded
159	205-29-022	Residential	Armory Parking Lot	0.33	Community Dev	Land Lease-Affordable Housing	Excluded

Report on Impacts of “Public Lands for Public Use Act” Initiative  
 Under California Election Code Section 9212  
 Attachment A – List of City Properties

Management Partners

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
160	205-29-014	Residential	Natl Guard Armory	2.45	Community Dev	Land Lease-Affordable Housing	Excluded



## Attachment B – List of Current and Recent Property Transactions

Table 13 lists most of the current and recent City property transactions and categorizes them as being covered by the initiative. Categories include: narrow interpretations; broad interpretations, questionable interpretations; and, not covered (excluded) by the initiative. This list is meant to provide examples and is not a final determination. Final determinations would be made at the time any transaction is being considered.

*Table 13. Examples of Current and Recent City Property Transactions*

	Type	Category	Property	Who With	Description	Covered?
1	Lease	City Hall	505 W. Olive Ste 100	Park Place Wealth Advisors	Future use as City Hall	Narrow
2	Lease	City Hall	505 W. Olive Ste 105	Spitalnick CPA	Future use as City Hall	Narrow
3	Lease	City Hall	505 W. Olive Ste 110	Sunnyvale Psychiatry	Future use as City Hall	Narrow
4	Lease	City Hall	505 W. Olive Ste 300	Kevin Tierney Co	Future use as City Hall	Narrow
5	Lease	City Hall	505 W. Olive Ste 305	Flack Insurance	Future use as City Hall	Narrow
6	Lease	City Hall	505 W. Olive Ste 310	A Turning Point	Future use as City Hall	Narrow
7	Lease	City Hall	505 W. Olive Ste 311	Shirubaa	Future use as City Hall	Narrow
8	Lease	City Hall	505 W. Olive Ste 312	Bravura Systems	Future use as City Hall	Narrow
9	Lease	City Hall	505 W. Olive Ste 315	Avami Systems	Future use as City Hall	Narrow
10	Lease	City Hall	505 W. Olive Ste 405	Bright Minds	Future use as City Hall	Narrow
11	Lease	City Hall	505 W. Olive Ste 410	Willow Hopkins Broker	Property management	Narrow
12	Lease	City Hall	505 W. Olive Ste 420	Homemakers Service	Future use as City Hall	Narrow
13	Lease	City Hall	505 W. Olive Ste 425	vacant	Future use as City Hall	Narrow
14	Lease	City Hall	505 W. Olive Ste 430	City	NOVA site rental	Narrow
15	Lease	City Hall	505 W. Olive Ste 433	L Kian	Future use as City Hall	Narrow
16	Lease	City Hall	505 W. Olive Ste 454	DocSpot	Future use as City Hall	Narrow
17	Lease	City Hall	505 W. Olive Ste 468	Alcazar Communication Education Ctr	Future use as City Hall	Narrow
18	Lease	City Hall	505 W. Olive Ste 747	vacant	Future use as City Hall	Narrow

Report on Impacts of “Public Lands for Public Use Act” Initiative  
Under California Election Code Section 9212  
Attachment B – List of Current and Recent Property Transactions

Management Partners

	Type	Category	Property	Who With	Description	Covered?
19	Lease	City Hall	505 W. Olive Ste 749	City	NOVA	Narrow
20	Lease	City Hall	505 W. Olive Ste 550	NOVA	NOVA site rental	Narrow
21	Lease	City Hall	505 W. Olive Ste 500, 600, 700	NOVA	NOVA site rental	Narrow
22	Lease	Golf course	Municipal Golf Course Orchard	Federal Aviation Admin	Wood Radar Pole	Narrow
23	Lease	Golf Course	Sunnyvale Muni Golf Course	NASA	lease of 35 acres from NASA for golf	Narrow
24	Lease	Golf Course	Sunnyvale Muni Golf Course	Devon Construction	Construction staging area	Narrow
25	Lease	Open space	620 Maude Ave, Armory Parking Lot	KJ Woods	Construction staging area	Narrow
26	Lease	Open space	Landfill	Stevens Creek Quarry		Narrow
27	Lease	Park	Fair Oaks Park	KJ Woods	Construction staging area	Narrow
28	Lease	Public park	263 Jackson St	vacant	house- purchased for future park extension	Narrow
29	Agreement	Education	Heritage Center	Sunnyvale Historical Society and Museum Association	Design, development, construction and <u>lease</u> .	Narrow
30	Agreement	Education	Heritage Center	Sunnyvale Historical Society and Museum Association	First Amendment. Design, development, construction and <u>lease</u> .	Narrow
31	Agreement	Education	Heritage Center	Sunnyvale Historical Society and Museum Association	Second Amendment. Design, development, construction and <u>lease</u> . Exclusive use by society	Narrow
32	Lease	City administration	108 N. Mary	Family Towing	Towing & Storage	Broad
33	Lease	City administration	221 Commercial	Bay Area Cellular	Corp Yard antennas	Broad
34	Lease	Commercial	1484 Kifer Rd	Unilever Best Foods	Industrial - donated in 1979	Broad
35	Lease	Commercial	239 Commercial St	Pro 1 Tire	Tire Distributer	Broad
36	Lease	Community service amenity	Fire Stn #1	Rural Metro	Paramedic unit	Broad

Report on Impacts of “Public Lands for Public Use Act” Initiative  
Under California Election Code Section 9212  
Attachment B – List of Current and Recent Property Transactions

Management Partners

	Type	Category	Property	Who With	Description	Covered?
37	Agreement	Public park	Braly Park	AT&T	Wireless tower	Questionable
38	Agreement	Public park	Braly Park	Sprint/Nextel	Wireless tower	Questionable
39	Agreement	Public park	Braly Park	T-Mobile	Wireless tower	Questionable
40	Agreement	Public park	Braly Park	MetroPCS	Wireless tower	Questionable
41	Agreement	Public park	Corp Yard	AT&T	Wireless tower	Questionable
42	Agreement	Public park	Corp Yard	T-Mobile	Wireless tower	Questionable
43	Agreement	Public park	DPS HQ	AT&T	Wireless tower	Questionable
44	Agreement	Public park	DPS HQ	ClearWireless	Wireless tower	Questionable
45	Agreement	Public park	Ortega Park	T-Mobile	Wireless tower	Questionable
46	Agreement	Public park	Sunken Gardens	Verizon	Wireless tower	Questionable
47	Lease	Commercial	101 West Olive	Dental S	Dental lab	Excluded
48	Lease	Commercial	241 Commercial	Hard Rock Concrete	Construction materials	Excluded
49	Lease	Community service amenity	1500 Partridge Bldg 8, Rm 17	vacant	Raynor Activity Center	Excluded
50	Lease	Community service amenity	1500 Partridge Bldg 8, Rm 18	vacant	Raynor Activity Center	Excluded
51	Lease	Community service amenity	1501 Partridge Bldg 8, Rm 19	vacant	Raynor Activity Center	Excluded
52	Lease	Community service amenity	1501 Partridge Bldg 8, Rm 20	vacant	Raynor Activity Center	Excluded
53	Lease	Open space	Fair Oaks Way/237	KJ Woods	Construction staging area	Excluded
54	Lease	Open space	Fair Oaks Way/237	PG&E	Construction staging area	Excluded
55	Lease	Residence	377 Mathilda	H Watanabe	house	Excluded
56	Lease	Residence	379 Mathilda	vacant	house	Excluded
57	Lease	Residence	388 Charles	N Prajapati	house	Excluded
58	Lease	Residence	406 Charles	D Florin	house	Excluded
59	Lease	Residential	344 Charles	S Dudley	house- for downtown redevelopment	Excluded

Report on Impacts of “Public Lands for Public Use Act” Initiative  
Under California Election Code Section 9212  
Attachment B – List of Current and Recent Property Transactions

Management Partners

	Type	Category	Property	Who With	Description	Covered?
60	Lease	Residential	485 N Wolfe Rd	Mid Pen Housing Corp	affordable housing	Excluded
61	Franchise	Commercial	City-wide 1	Air Products	Nitrogen Gas Transfer rights	Excluded
62	Franchise	Utility	City-wide 2	Cal Water Service Co	right to install and maintain water system	Excluded
63	Franchise	Utility	City-wide 3	PG&E	Right to install and maintain gas pipe system	Excluded
64	Concession	Golf course	605 Macara/ 1010 S Wolfe Rd	Synergy Golf Management	Golf Course Restaurant	Excluded
65	Concession	Recreation	755 S Mathilda	Lifetime Tennis, Inc.	Tennis pro shop	Excluded
66	Agreement	Community center	Columbia Middle School	Sunnyvale School District	Operation of Columbia Neighborhood Center	Excluded
67	Agreement	Community center	Columbia Middle School	Sunnyvale School District	Financing and expansion of Columbia Neighborhood Center	Excluded
68	Agreement	Garden	433 Charles St	Sustainable Community Gardens	Use of property	Excluded
69	Agreement	Garden/open space	Arboretum Orchard - Comm Ctr.	C. J. Olsen	Exchange use of orchard for maintenance	Excluded
70	Agreement	Park/recreation/open space	Cupertino Schools	Cupertino Schools Public Financing Corp	Maintenance and improvements of open space and <u>transferring</u> portion of site to City. Ortega School	Excluded
71	Agreement	Park/recreation/open space	Cupertino Schools	Cupertino Schools Public Financing Corp	First Amendment of agreement, modification of Nimitz school open space	Excluded
72	Agreement	Park/recreation/open space	Cupertino Schools	Cupertino Schools Public Financing Corp	Second amendment, West Valley School	Excluded
73	Agreement	Park/recreation/open space	Cupertino Schools	Cupertino Schools Public Financing Corp	Third Amendment. School use of picnic areas in Sunnyvale parks	Excluded

	Type	Category	Property	Who With	Description	Covered?
74	Agreement	Park/recreation/open space	Baseball fields	National Little League, Sunnyvale/Cupertino Pony Baseball, Serra Little League, Metro Little League, Southern Little League, Lakewood Pony Baseball	Special Use agreement	Excluded
75	Agreement	Park/recreation/open space	Braly and Ponderosa Schools	Santa Clara USD	Use, maintenance and improvements buildings and open space and possible acquisition. end 6/30/2034 for section 6	Excluded
76	Agreement	Park/recreation/open space	Braly and Ponderosa Schools	Santa Clara USD	Use, maintenance and improvements buildings and open space and possible acquisition. end 6/30/2034 for section 6	Excluded
77	Agreement	Park/recreation/open space	Braly and Ponderosa Schools	Santa Clara USD	Use of multipurpose rooms	Excluded
78	Agreement	Park/recreation/open space	Cherry Chase School	Sunnyvale School District	First Amendment - modify open space area	Excluded
79	Agreement	Park/recreation/open space	Cherry Chase School	Sunnyvale School District	First Amendment - modify open space area	Excluded
80	Agreement	Park/recreation/open space	Football fields	Pop Warner Football	Special Use agreement	Excluded
81	Agreement	Park/recreation/open space	Fremont High School	FUHS District	Maintenance and use of tennis courts. Second amendment	Excluded
82	Agreement	Park/recreation/open space	Fremont High School	FUHS District	Maintenance and use of tennis courts. Second amendment extension	Excluded
83	Agreement	Park/recreation/open space	Fremont High School	FUHS District	Maintenance and use of tennis courts	Excluded

	Type	Category	Property	Who With	Description	Covered?
84	Agreement	Park/recreation/open space	School Sites (12): Bishop, Chevy Chase, Columbia, Cumberland, DeAnza, Ellis, Fairwood, Hollenbeck, Lakewood, San Miguel, Sunnyvale Middle, and Vargas	Sunnyvale School District	Use, maintenance, improvement for recreation and open space. Including possible acquisition of spaces.	Excluded
85	Agreement	Park/recreation/open space	School Sites (12): Bishop, Chevy Chase, Columbia, Cumberland, DeAnza, Ellis, Fairwood, Hollenbeck, Lakewood, San Miguel, Sunnyvale Middle, and Vargas	Sunnyvale School District	Second amendment	Excluded
86	Agreement	Park/recreation/open space	School Sites (12): Bishop, Chevy Chase, Columbia, Cumberland, DeAnza, Ellis, Fairwood, Hollenbeck, Lakewood, San Miguel, Sunnyvale Middle, and Vargas	Sunnyvale School District	Third amendment	Excluded
87	Agreement	Park/recreation/open space	School Sites (12): Bishop, Chevy Chase, Columbia, Cumberland, DeAnza, Ellis, Fairwood, Hollenbeck, Lakewood, San	Sunnyvale School District	Fourth amendment	Excluded

	Type	Category	Property	Who With	Description	Covered?
			Miguel, Sunnyvale Middle, and Vargas			
88	Agreement	Park/recreation/open space	Soccer fields	Sunnyvale American Youth Soccer Org and Sunnyvale Alliance Soccer Club	Special Use agreement	Excluded
89	Agreement	Park/recreation/open space	Sunnyvale and Columbia Middle Schools	Sunnyvale School District	Community recreation after-school and activity programs	Excluded
90	Agreement	Park/recreation/open space	Sunnyvale and Columbia Middle Schools	Sunnyvale School District	First Amendment. Community recreation after-school and activity programs. Background, TB and drug testing	Excluded
91	Agreement	Park/recreation/open space	Sunnyvale and Columbia Middle Schools	Sunnyvale School District	Second Amendment. Community recreation after-school and activity programs. Compensation and recruitment of referees	Excluded
92	Agreement	Park/recreation/open space	Sunnyvale and Columbia Middle Schools	Sunnyvale School District	Third Amendment. Community recreation after-school and activity programs. Remove drug testing for coaches	Excluded
93	Agreement	Park/recreation/open space	Sunnyvale School buildings	Sunnyvale School District	Use of indoor facilities	Excluded
94	Agreement	Park/recreation/open space	Various parks	Sunnyvale Police Activity League		Excluded
95	Agreement	Performing arts venue	Sunnyvale Community Center	Sunnyvale Community Players	Use of theater	Excluded
96	Agreement	Performing arts venue	Sunnyvale Community Center	Sunnyvale Community Players	Use of theater	Excluded

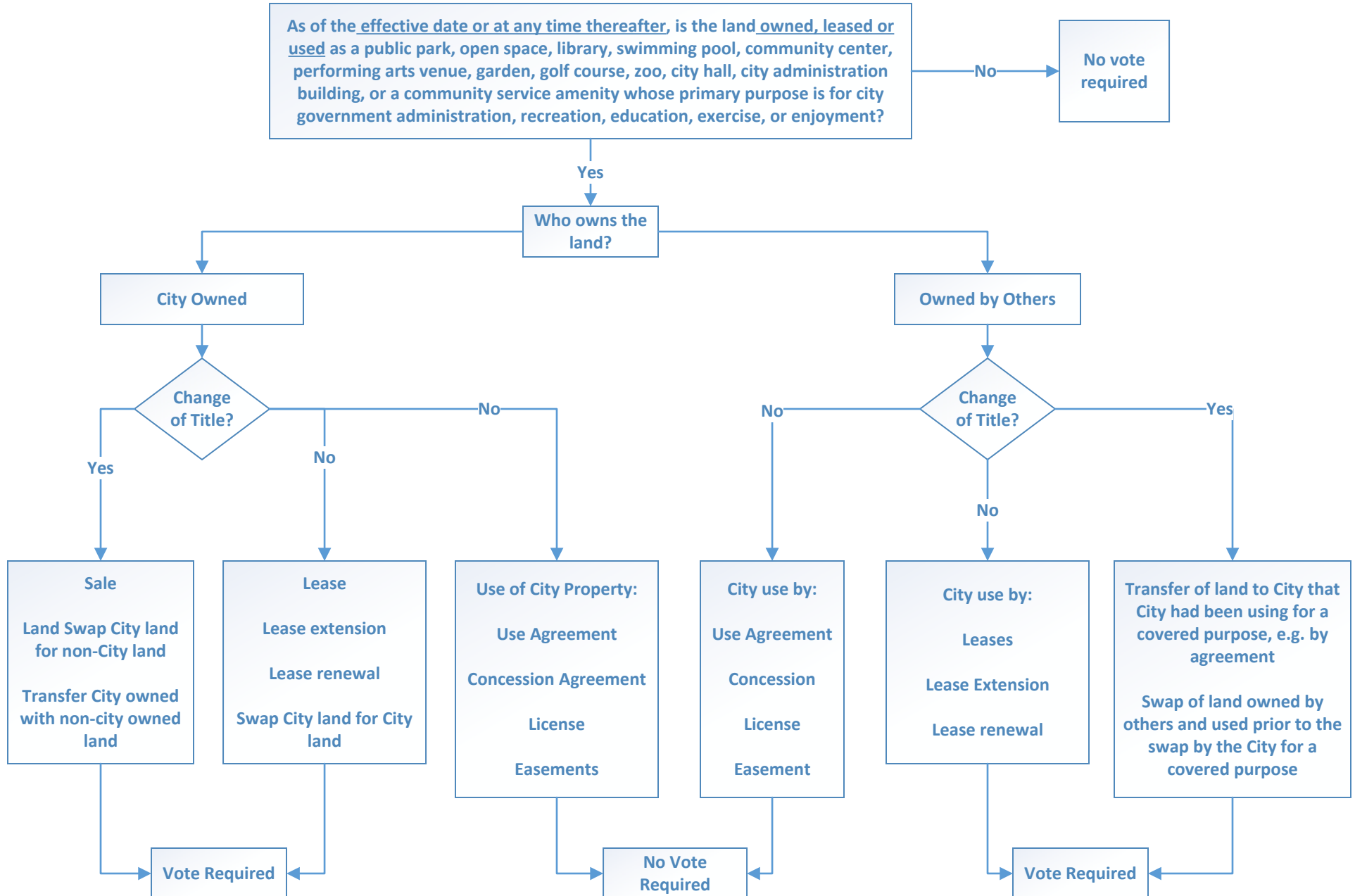
	Type	Category	Property	Who With	Description	Covered?
97	Agreement	Public park	Baylands Park	Apex Adventures	Maintenance, operation, and use of Challenge Ropes Course	Excluded
98	Agreement	Public park	Baylands Park	Apex Adventures	Extension. Maintenance, operation, and use of Challenge Ropes Course	Excluded
99	Agreement	Public park	Ortega Park	Sunnyvale Cricket Club	Advanced field reservations and use of storage facility	Excluded
100	Agreement	Public park/open space	Calabas Creek trail	Santa Clara Water District	Use of trail	Excluded
101	Agreement	Recreation	Sunnyvale Tennis Center	Lifetime Tennis, Inc.	Manage, operate, supervise center including pro shop and food services	Excluded
102	Agreement	Recreation	Tennis Center Orchard, 755 S Mathilda	C. J. Olsen	Exchange use of orchard for maintenance	Excluded
103	Agreement	Swimming pool	Columbia Middle School	Kings Academy	Water polo practice and matches	Excluded
104	Agreement	Swimming pool	Fremont High School	FUHS District	Develop and operate pool	Excluded
105	Agreement	Swimming pool	Fremont High School	FUHS District	Extension of second amendment of pool agreement	Excluded
106	Agreement	Swimming pool	Fremont High School	FUHS District	Trust fund for pool	Excluded
107	Agreement	Swimming pool	Fremont High School	FUHS District	Second amendment of pool agreement	Excluded
108	Agreement	Swimming pool	Fremont High School	FUHS District	CA Sports Center for operation of pool - extends for 2 three yr periods	Excluded
109	Agreement	Swimming pool	Madrone Junior HS	Sunnyvale School District	Develop, construct, operate pool	Excluded
110	Agreement	Swimming pool	Sunnyvale Middle School	Sunnyvale Swim Club	Use of facilities on priority basis and reduced cost	Excluded



## Attachment C: Process Decision Tree

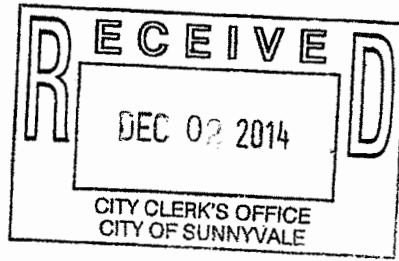
# City of Sunnyvale – Property Transaction Decision Tree

## Properties and Property Transactions Covered by the Initiative



## Appendix 1 – Notice of Intent to Circulate Petition

The attached Notice of Intent to Circulate Petition was provided to the City by the proponents of the ballot initiative and includes the language that amends Chapter 2.07 of the City Municipal Code if adopted.



Save Sunnyvale Parks & Schools, Inc.

1030 E. El Camino Real, #436  
Sunnyvale, CA 94087  
United States

Tel: +1 408 444 7357  
[www.savesunnyvaleparks.com](http://www.savesunnyvaleparks.com)

December 01, 2014

Kathleen Franco Simmons  
City Clerk  
City of Sunnyvale  
P.O. Box 3707  
Sunnyvale, CA 94088

#### **Notice of Intent to Circulate Petition**

Ms. Franco Simmons,

Pursuant to Section 9202(a) of the California Elections Code, notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Sunnyvale for the purpose of obtaining a vote of the Sunnyvale electorate on the proposed measure attached to this notice.

The proponents of this petition request that the ordinance be submitted immediately to a vote of the people at a special election.

A statement of the reasons of the proposed action as contemplated in the petition is as follows:

This petition proposes changes to the Sunnyvale Municipal Code to ensure that the public land the City of Sunnyvale holds in trust for all its residents continues to serve the interests of Sunnyvale residents.


Sunnyvale residents benefit from the public libraries, community swimming pools, community centers, public parks, public golf courses, and numerous other community service amenities that are placed on land the City of Sunnyvale owns for the benefit of its residents. These public parks and community service amenities help children, adults, and families alike to socialize, exercise, and learn as a community.

As Sunnyvale's population grows, the demand for public parks and community service amenities will grow with it. There is a critical and increasing need for more, not less, places for residents to conduct city and community business, enjoy open spaces, study, improve their health, play with their grandchildren, watch or participate in sports, hold neighborhood meetings, walk dogs, or meet with friends.

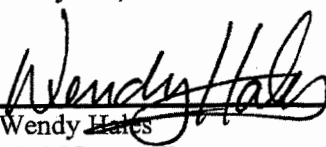
Sunnyvale residents have a vested interest in the outcome of any decision that limits their ability to use these public parks and community service amenities. Therefore, there is a need for the Sunnyvale residents to carefully review and specifically approve significant decisions involving the disposition or use of such community service amenities and public parks. Acquiring new land for public use has become increasingly difficult and expensive. Once public land is lost, it is almost impossible to replace. Furthermore, the City Council and the Sunnyvale residents' views involving the disposition of public lands do not always align.

The clarifications and revisions to the Sunnyvale Municipal Code contained in this proposed measure will ensure that Sunnyvale public lands are not used to facilitate private development or provide a source of funding for capital improvements through any sale, lease, trade, land-swap, or other transfer of community service amenities or public parks without very carefully considered community discussion and voter approval.

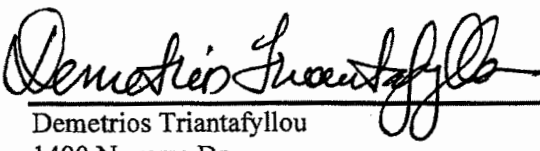
In accordance with Section 9202(b) of the California Elections Code and the City of Sunnyvale's Fee Schedule, a payment of \$200.00 has been attached to this statement.

  
\_\_\_\_\_  
Timothy Dietrich  
1061 Firth Ct.  
Sunnyvale, CA 94087

12/1/2014  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Wendy Hales  
1473 Norman Dr.  
Sunnyvale, CA 94087

12/1/2014  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Demetrios Triantafyllou  
1490 Navarro Dr.  
Sunnyvale, CA 94087

Dec. 1, 2014  
\_\_\_\_\_  
Date

THE PEOPLE OF THE CITY OF SUNNYVALE DO ORDAIN AS FOLLOWS:

**SECTION 1. TITLE**

This initiative measure shall be known and cited as the "Public Lands for Public Use Act."

**SECTION 2. REQUEST FOR IMMEDIATE VOTE**

Proponents request that the ordinance be submitted immediately to a vote of the people at a special election.

**SECTION 3. SUNNYVALE MUNICIPAL CODE §§ 2.07.030, 2.07.040. AMENDED.**

The Municipal Code of the City of Sunnyvale §§ 2.07.030 and 2.07.040 are hereby amended to read as follows:

**2.07.030. Awarding authority for purchases, sales or leases of real property.**

- (a) The city council shall be the awarding authority for all purchases, sales or leases of real property for the city where the purchase or sales price or total lease cost exceeds seventy-five thousand dollars.
- (b) The city manager shall be the awarding authority for all purchases, sales or leases of real property for the city where the purchase or sales price or total lease cost is seventy-five thousand dollars or less, or where the lease results in revenue to the city and is for a period less than or equal to fifty-five years.
- (c) Notwithstanding the foregoing in subsections (a) and (b), any land, that on the effective date of this subsection (c) or at any later time is owned, leased, or used by the city as a public park or a community service amenity, as defined in subsection (d), land otherwise transferred to the city to be used as a public park or a community service amenity, or the rights to use such land may not be the subject of a sale, lease, lease extension, lease renewal, land swap, or transfer unless the issue of the sale, lease, lease extension, lease renewal, land swap, or transfer is submitted to the qualified voters of the city at an election and is approved by a majority of the votes received at the election.
- (d) For purposes of subsection (c), the following terms shall have the meanings set forth below.
  - (1) "Community service amenity" means libraries, swimming pools, community centers, performing arts venues, gardens, golf courses, zoos, city hall, city administration buildings, and other similar facilities and the land on which the facilities stand, whose primary

purpose is to provide the public a place of city government administration, recreation, education, exercise, or enjoyment.

- (2) "Public park" means land set apart for the recreation of the public, to promote its health and enjoyment, to maintain open space in the city and also includes city-owned public land which may be shared by agreement with adjacent public schools to augment the public school's outdoors recreation area.

**2.07.040. Long-term lease of city property.**

- (a) The city council may enter into a lease of city property that is not a public park or a community service amenity, as defined in Section 2.07.030, subsection (d), for a term in excess of fifty-five years pursuant to the procedures set forth in this section. This section is enacted pursuant to California Government Code Section 37380 for the purpose of establishing alternate procedures thereto and exempting the city from the provisions of subsections (b)(2), (b)(3) and (b)(4) thereof. Except with respect to leases in excess of fifty-five years, the provisions of this section shall not be deemed in any way to restrict the city's authority to enter into other forms of leases so long as the underlying land is not a public park or a community service amenity, as defined in Section 2.07.030, subsection (d).
- (b) A lease in excess of fifty-five years of property owned, held or controlled by the city that is not a public park or a community service amenity, as defined in Section 2.07.030, subsection (d), may be authorized by the city council in accordance with the following procedures:
  - (1) Any lease entered into pursuant to this section shall be authorized by resolution of the city council.
  - (2) Prior to adopting a resolution authorizing a lease, the city council shall hold a public hearing. Notice of the time and place of the hearing shall be published once not less than fourteen (14) calendar days prior to the public hearing, in the official newspaper of the city.
  - (3) The city shall not be required to engage in a competitive bid process for the award of such lease; provided, that at the time of adopting the resolution authorizing the lease the city council makes a determination that entering the lease without engaging in a competitive bid process is in the best interests of the city and its residents.
  - (4) Any such lease shall be subject to periodic review by the city and shall take into consideration the then market conditions. Pursuant to California Government Code Section 37380(b)(1), the city council hereby establishes that the lease provisions which will

periodically be reviewed, at a minimum, shall be those provisions specifying the rent to be paid pursuant to the lease, and such other provisions as may be indicated by the city council at the time of authorizing the lease. The periodic reviews shall occur in accordance with a schedule to be contained in the lease. The periodic review may be in the form of either an express review of the terms by the city council or its designee, or in the form of a procedure contained in the lease for automatic adjustments of the terms in response to market conditions. It is the intent of this provision that inclusion of inflationary adjustments, cost of living adjustments, reappraisals or other similar forms of automatic adjustments shall satisfy the requirements of California Government Code Section 37380(b)(1), without the necessity of a discretionary review by a city officer. (Ord. 2628-99 § 2).

- (c) A lease in excess of fifty-five years of property that as of the effective date of this subsection (c) or at any later date is owned, held or controlled by the city and is a public park or a community service amenity, as defined in Section 2.07.030, subsection (d), must first be submitted to the qualified voters of the City of Sunnyvale at an election and approved by a majority of the votes received at the election pursuant to Section 2.07.030, subsection (c). Any such lease that is so approved may be authorized by the city council in accordance with the procedures set forth in subsection (b).

#### **SECTION 4. PRIORITY.**

Once this measure becomes effective, its provisions shall prevail over and supersede all provisions of the municipal code, ordinances, resolutions, and administrative policies of the City of Sunnyvale which conflict with any provisions of this measure.

#### **SECTION 5. SEVERABILITY.**

In the event a final judgment of a court of competent jurisdiction determines that any section, subsection, sentence, clause, or phrase of this initiative measure is invalid or unenforceable for any reason, the invalid or unenforceable section, subsection, sentence, clause, or phrase shall be severed from the remainder of this measure, and the remaining portions of this measure shall remain in full force and effect without the invalid or unenforceable section, subsection, sentence, clause, or phrase.





# City of Sunnyvale

## Agenda Item

---

**16-0826**

**Agenda Date:** 10/4/2016

---

Tentative Council Meeting Agenda Calendar



# City of Sunnyvale

## Tentative Council Meeting Agenda Calendar

---

### **Tuesday, October 25, 2016 - City Council**

#### **Closed Session**

- 16-0955** 4 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 Managers Association (PSMA)  
Employee organization: Sunnyvale Employees Association (SEA)

#### **Study Session**

- 16-0709** 5 P.M. SPECIAL COUNCIL MEETING (Study Session)  
Joint Study Session of City Council and Board and Commission Chairs and Vice Chairs to Review and Improve Overall Effectiveness of Commission Meetings

#### **Special Order of the Day**

- 16-0100** 6 P.M. SPECIAL COUNCIL MEETING  
  
SPECIAL ORDER OF THE DAY - 2016 Fire Safety Poster Contest Awards

#### **Public Hearings/General Business**

- 16-0522** 7 P.M. REGULAR COUNCIL MEETING
- 16-0084** Appoint Applicants to Boards and Commissions
- 16-0072** Civic Center Modernization Project: Planning for NOVA Workforce Services
- 16-0779** Introduce an Ordinance to Amend Sunnyvale Municipal Code Chapter 10.60 Transportation Demand Management of Title 10 Vehicles and Traffic to Implement Administrative Penalties and Hearings, and Collection of Penalties; Adopt a Resolution to Amend the FY 2016/17 Citywide Fee Schedule to Establish TDM Fees and Penalties

### **Tuesday, November 1, 2016 - City Council**

#### **Study Session**

---

**16-0865** 5:30 P.M. SPECIAL COUNCIL MEETING (Joint Study Session with Sustainability Commission)  
Climate Action Plan

**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**

**16-0475** Adopt a Resolution of Findings and Introduce Ordinances for Adoption by Reference of the 2016 California Building Codes with Local Amendments and Find that the Action is Exempt from the California Environmental Quality Act

**16-0549** File #: 2016-7078  
Location: 838 Azure Street (APN: 211-18-030) and Sunnyside HOA [821-836 Azure St. (APNs: 211-41-013 through 211-41-032), 103-180 Brahms Wy. (APNs: 211-41-001 through 211-41-059), and 817-827 Cezanne Dr. (APNs: 211-41-050 through 211-41-055)]  
Zoning: R0 (838 Azure St.) / R-2/PD (Sunnyside HOA)  
Proposed Project: Related applications on a 0.34-acre site:  
GENERAL PLAN AMENDMENT:  
· To change the land use designation from Residential High Density to Residential Low-Medium Density (Sunnyside HOA) and;  
· To change the land use designation from Residential Low Density to Residential Low-Medium Density (838 Azure St.)  
REZONE: Introduction of an Ordinance to rezone the site from Low Density Residential (R0) to Low-Medium Density Residential with a Planned Development combining district (R2-PD)  
Applicant / Owner: Xin Lu (838 Azure St.), City of Sunnyvale/Multiple property owners (Sunnyside HOA)  
Environmental Review: Mitigated Negative Declaration  
Project Planner: George Schroeder, (408) 730-7443, gschroeder@sunnyvale.ca.gov

**16-0713** Discussion and Possible Action to Adopt a Resolution of Findings and Introduce Ordinances for Adoption by Reference of the 2016 California Fire Codes with Local Amendments and to Consider Finding that the Action is Exempt from the California Environmental Quality Act

**Tuesday, November 15, 2016 - City Council**

**Closed Session**

**16-0856** 6 P.M. SPECIAL COUNCIL MEETING (Closed Session)  
Closed Session held pursuant to California Government Code Section 54956.8:  
CONFERENCE WITH REAL PROPERTY NEGOTIATORS

---

Property: City Property Located on Iowa Avenue between Mathilda Avenue and Charles St. ("Block 15 Affordable Housing Site")

**Study Session**

**16-0864** 5 P.M. SPECIAL COUNCIL MEETING (Study Session)  
The City's Efforts to Establish an Affordable Housing Development on Iowa Avenue between Mathilda Avenue and Charles Street (Block 15)

**Public Hearings/General Business**

**16-0718** Approval of a Reimbursement Agreement with Stratford School, and  
Approval of a Water Line Easement Benefitting Stratford School

**15-0603** Lawrence Station Area Plan and Final Environmental Impact Report  
2013-7653

**16-0744** Biennial Review of Priority Needs for Human Services

**Tuesday, December 6, 2016 - City Council**

**Study Session**

**16-0962** 6 P.M. SPECIAL COUNCIL MEETING (Study Session)  
Discussion of Council 2016 Intergovernmental Relations Assignments

**16-0520** 6:45 P.M. SPECIAL COUNCIL MEETING (Study Session)  
Discussion of Upcoming Selection of Mayor for 2017-2018 and Vice Mayor  
for 2017

**Public Hearings/General Business**

**15-0605** Land Use and Transportation Element and Environmental Impact Report

**Tuesday, December 13, 2016 - City Council**

**Closed Session**

**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

**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**

- 
- 16-0690** Receive and File the FY 2015/16 Budgetary Year-End Financial Report, Comprehensive Annual Financial Report (CAFR) and Sunnyvale Financing Authority Financial Report
- 16-0800** File #: 2015-7576  
Location: 1250 Lakeside Drive (APNs: 216-43-035 and -036)  
Zoning: LSP  
Proposed Project: Related applications on an 8.83-acre site:  
SPECIFIC PLAN AMENDMENT: to the Lakeside Specific Plan to revise the land use configuration, increase the height allowance, and make other miscellaneous updates.  
SPECIAL DEVELOPMENT PERMIT: for development of an existing vacant site with two new buildings and associated site improvements - a six-story, 263-room hotel with an attached 3,000 sq. ft. restaurant and an attached three-level above grade parking structure; and a five-story, 250-unit apartment building over a two-level, above-grade podium parking garage  
PARCEL MAP: to create two lots for each land use.  
Applicant / Owner: Sunnyvale Partners, Ltd (applicant) / Aircoa Equity Interests, Inc (owner)
- 16-0852** File #: 2014-7373  
Location: 871 E. Fremont Ave. (APNs: 211-25-011, 211-25-033, 211-25-034, 211-25-038 and 211-25-039)  
Zoning: R-3/ECR and C-1/ECR  
Proposed Project: Related applications on five parcels totaling 5.49 acres:  
REZONE: Introduction of an Ordinance to rezone one parcel from C-1/ECR to R-3/ECR,  
SPECIAL DEVELOPMENT PERMIT: To allow 138 residential units (39 townhomes and 99 flats) and 6,934 square feet of retail/office use with surface and underground parking,  
TENTATIVE MAP: To create 40 lots and one common lot, which includes 39 townhome lots and one lot for condominium purposes (99 residential condominiums and one commercial condominium).  
Applicant / Owner: De Anza Properties  
Environmental Review: Environmental Impact Report
- 16-0857** Consider Terms of Exclusive Negotiating Agreement (ENA) with [Party TBD] for Development of Affordable Housing on City Property (Block 15 Housing Site)

#### **Tuesday, January 10, 2017 - City Council**

#### **Special Order of the Day**

- 17-0001** Certification of 2016 Election Results - Council Seats 4, 5, 6 and 7
- 17-0005** SPECIAL ORDER OF THE DAY - Ceremonial Oath of Office for

---

Council-Elect

**Public Hearings/General Business**

- 17-0006**                      Selection/Confirmation of Mayor for 2017-2018
- 17-0007**                      Selection/Confirmation of Vice Mayor for 2017
- 17-0008**                      Approval of 2017 City Council Meeting Calendar
- 17-0009**                      2017 Seating Arrangements for City Council

**Tuesday, January 24, 2017 - 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**

- 16-0859**                      Consider Approval of Conversion Impact Report for Blue Bonnet Mobile  
Home Park, Located at 617 E. Evelyn Avenue in Sunnyvale

**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

**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**

**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)

**16-0510**                      File # - 2015-7624  
Location: 767 N. Mathilda Ave. (APN: 165-43-021)  
Zoning: Industrial and Service (MS)  
Proposed Project:  
Conditional Use Permit: To develop a 3.44 acre site into a 6-story, 238-room hotel (Hilton Garden Inn) with surface parking. Project includes a Variance for solar shading.  
Applicant / Owner: Architectural Dimensions / Sinogap, LLC  
Environmental Review: Initial Study / Mitigated Negative Declaration  
Project Planner: Margaret Netto, (408) 730-7628, [mnetto@sunnyvale.ca.gov](mailto:mnetto@sunnyvale.ca.gov)

**16-0585**                      Authorization of Additional Property Assessed Clean Energy (PACE) Financing Programs to Support Property Upgrades and Find that the Actions are Exempt from Environmental Review under CEQA Guidelines Section 15378(b)(45)



# City of Sunnyvale

## Agenda Item

---

**16-0834**

**Agenda Date:** 10/4/2016

---

Information/Action Items



**2016 INFORMATION/ACTION ITEMS**  
**COUNCIL DIRECTIONS TO STAFF**

No.	Date Assigned	Directive/Action Required	Dept	Due Date	Date Completed
1.	8/18/15	Look for potential matching funds for the Lawrence/Wildwood project and adjust TIF assumptions as needed	DPW	January 2017	
2.	5/3/16	Hold a study session in October/November to discuss ways implementation of the Climate Action Plan could be accelerated and how this would affect other City priorities (coordinate with affected departments). Follow up with further discussion at the Council priority setting session in January 2017	ESD	11/1/16	
3.	8/9/16	Follow up with County staff to provide another update to City Council on the County's Hamlin Court Cold Weather Shelter before it opens for the season	CDD	10/4/16	

## NEW STUDY/BUDGET ISSUES SPONSORED BY COUNCIL IN 2016

No.	Date Requested	Study Issue Title	Requested By	Dept	Issue Paper Approved by City Manager
1.	6/28/16	Rent Stabilization for Mobile Home Parks	Davis/ Griffith/ Martin-Milius	CDD	



# City of Sunnyvale

## Agenda Item

---

**16-0937**

**Agenda Date:** 10/4/2016

---

Study Session Summary of September 13, 2016 - El Camino Real Corridor Plan Presentation of Vision and Land Use Alternatives

**Call to Order:**

Vice Mayor Larsson called the meeting to order at 6:03 p.m. in the West Conference Room.

**City Councilmembers Present:**

Mayor Glenn Hendricks  
Vice Mayor Gustav Larsson  
Councilmember Jim Griffith  
Councilmember Pat Meyering  
Councilmember Tara Martin-Milius  
Councilmember Jim Davis

**City Councilmembers Absent:**

None

**Public Comment:**

Kiyomi Yamamoto  
Zach Kaufman  
Kevin Jackson  
Arpita Kumari  
Sue Serrone

**Study Session Summary:**

Rosemarie Zulueta, Senior Planner, presented an update on the progress of the Sunnyvale El Camino Real Corridor Plan (ECR Plan) effort. Staff reviewed the reasons for updating the 2007 Precise Plan for El Camino Real. Staff summarized the Market Analysis and ECR Profile report findings and the community input received from early pop-up workshops, El Camino Real Plan Advisory Committee (ECRPAC) meetings and the online survey. These items, along with the City's existing goals and policies helped shape the draft vision statement and the three preliminary land use alternatives.

Staff provided an overview of the vision statement, the three land use alternatives and the community feedback received. The ECRPAC and community workshop participants generally supported increased potential residential growth throughout the corridor and emphasized that potential impacts to traffic, services, schools and the City's fiscal health must be assessed and properly mitigated in order to accommodate this growth.

Finally, staff listed the next steps in the planning process, including additional community outreach and the selection of the preferred alternative in the coming months, and anticipated completion of the

---

Draft ECR Plan and Draft Environmental Impact Report by mid-2017.

Vice Mayor Larsson opened the discussion for questions and comments.

Comments and Questions From City Councilmembers:

- Which slide (number) contains the numbers comparing anticipated growth under each ECR Alternative so members of the public could have access to it?

*Note: Staff stated that the entire presentation would be posted on with the City Council agendas and the audio of the presentation would also be available.*

- How does this planning effort relate to the Draft LUTE and CAP?
- The ECR Plan has to be considered in the broader context of the City's General Plan (i.e., whether the General Plan designates the corridor to absorb the community's future housing needs), and not in isolation.
- Vision Statement and Elements are good.
- Before choosing a preferred Alternative, would like to understand how the ECR Plan Land Use Alternatives impact the jobs-housing ratio.
- Implementation is key. We are going to see a lot of partial improvements as individual properties are redeveloped. The Plan should have a defined implementation program that provides guidance on when upgrades should be required to existing nonconforming public facilities (e.g. sidewalks and streetscape improvements) adjacent to a proposed development.
- Provide a Fiscal Impact analysis of the Alternatives.
- It seems that there may be conflicting retail goals (e.g. high end furniture stores vs. local daily services like dry cleaning or car wash) for the corridor, or perhaps what is needed is a wide range of commercial uses.
- Interested in seeing the possible circulation improvements throughout the corridor, especially how to cross ECR.
- Why are certain properties within the Nodes designated as mixed use at 24 du/ac or 24R (allowed to be residential only) in all three alternatives, including Alternative R? The medium density, 24 du/ac, tends to yield only townhomes, which seems low for their proximity to a major transit stop.
- It seems there could be more opportunity for higher densities in the Nodes. Lower densities could constrain the provision of more affordable housing. If the existing City Council Policy of achieving at least 75% of the maximum density allowed will apply to the ECR Plan, the indicated designations in the Alternatives may not achieve affordable housing goals.
- How will the preferred Alternative be decided?

*Note: Staff stated that the vision statement and alternatives will be presented to City Council at a future public hearing, for a formal vote on the vision and preferred alternative.*

- Address the following items, when appropriate, throughout the planning process:
  - Affordable Housing Strategy equals Density Strategy. We have to be up front about

how affordable housing is more attainable at higher densities.

- Residential potential outside the nodes, but still in proximity to transit.
- ECR corridor has portions with shallow lots-What is the appropriate height?
- What does “future major transit stop” mean as indicated on the Alternatives maps?
- Enhance the pedestrian environment, shorten crossings, but mid-block crossings are not safe unless signalized
- When analyzing traffic along the corridor, determine how much is coming from outside Sunnyvale (i.e. how much of it is generated regionally vs. locally).
- Avoid building mass close to the street.

Public Comments:

- We need more homes along the corridor to preserve our treasured natural open space. More homes and eyes on the street mean a safer environment for walking, biking and transit. Review the Sunnyvale Sustainable and Affordable Living Coalition’s Policy Platform calling for a 25% enhanced affordable housing requirement and mode-share targets for the corridor.
- Currently, there needs to be adequate parking for grocery stores. It is not likely that a family of four will be bicycling to go grocery shopping. Be mindful of the essential, but taken-for-granted services we could be losing if properties are redeveloped, including car washes, U-Haul/rental car agencies and auto services. Preserve these uses through zoning, and when considering commercial uses, think functionally vs. tax-based.
- Vision Statement Element 2.C is good, but do not shy away from installing bike lanes just because the roadway geometry presents challenges. Translate the vision into reality.
- Need to enhance public transportation and pedestrian facilities, and address how to make those last mile connections. ECR is currently an unsafe and unpleasant pedestrian environment and needs more “eyes on the street”. Be mindful of height restrictions and lighting.
- ECR is one of the last places we have left in the City that can absorb the current and future housing demand [*Speaker provided excerpts from ECR Market Analysis, ECR Affordable Housing Strategy and Grand Boulevard Initiative housing and jobs balance data*].

Adjournment:

Vice Mayor Larsson adjourned the meeting at 6:59 p.m.