



City of Sunnyvale

Notice and Agenda City Council

Tuesday, September 26, 2017

5:45 PM

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

Special Meeting: Closed Session- 5:45 PM | Regular Meeting- 7 PM

5:45 P.M. SPECIAL COUNCIL MEETING (Closed Session)

1 Call to Order in the West Conference Room

2 Roll Call

3 Public Comment

The public may provide comments regarding the Closed Session item(s) just prior to the Council beginning the Closed Session. Closed Sessions are not open to the public.

4 Convene to Closed Session

[17-0941](#)

Closed Session held pursuant to California Government Code
Section 54956.9: CONFERENCE WITH LEGAL
COUNSEL-EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of case: Virginia Duncan, et al vs. Xavier Becerra, US
Court of Appeals for the Ninth Circuit, Case No. 17-56081
City as Amicus Curiae in support of Defendant-Appellant

[17-0864](#)

Closed Session held pursuant to California Government Code
Section 54956.8: CONFERENCE WITH REAL PROPERTY
NEGOTIATORS
Property: 1050 Innovation Way and 1060 Innovation Way,
Sunnyvale (a portion of the former Onizuka Air Force Station)
Agency negotiator: Deanna J. Santana, City Manager; Manuel
Pineda, Director of Public Works
Negotiating parties: Four Corner Properties, Google, Inc.,
Grupo SEB DBA Concept Silicon Valley LLC and Jay Paul
Company

Under negotiation: Price and Terms of Payment

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

CLOSED SESSION REPORT

SPECIAL ORDER OF THE DAY

[17-0940](#)

SPECIAL ORDER OF THE DAY - Certificate of Recognition to
City Manager

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 [17-0680](#) Approve City Council Special Meeting Minutes of September 11, 2017

Recommendation: Approve the City Council Meeting Minutes of September 11, 2017 as submitted.

- 1.B [17-0842](#) Approve City Council Meeting Minutes of September 12, 2017

Recommendation: Approve the City Council Meeting Minutes of September 12, 2017 as submitted.

- 1.C [17-0186](#) 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.D [17-0873](#) Authorize Amending an Existing Contract for Energy-Efficient Light Emitting Diode (LED) (F18-029) and Approval of Budget Modification No. 15

Recommendation: 1) Authorize the City Manager to execute the First Amendment to an existing contract with Tanko Lighting Inc. increasing the contract amount by \$ 426,429, from \$2,172,293 to \$2,598,722 to deploy the Adaptive Streetlighting Control System simultaneously with the energy-efficient streetlight conversion in the City of Sunnyvale and 2) Approve Budget Modification No 15 in the net amount of \$146,199.

- 1.E [17-0880](#) Award a Contract to Provide a Colocation Facility for City Data Centers (F17-104)

Recommendation: 1) Award a five year contract in the amount of \$2,837,303 to Zayo Group LLC to provide a colocation facility, in substantially the same form as Attachment 1 to the report and authorize the City Manager to execute the contract when all necessary conditions have been met; 2) approve an 8% contract contingency in the amount of \$226,984; and 3) delegate authority to the City Manager to award a contract for four additional one-year periods provided pricing and service remain acceptable to the City.

- 1.F [17-0828](#) Award a Contract for an Archiving, eDiscovery and Virtual Phone Numbers Solution (F17-131)

Recommendation: 1) Award a contract in the amount of \$479,890 to Smarsh, Inc. to implement an archiving, eDiscovery and virtual phone numbers solution, in substantially the same form as Attachment 1 to the report and authorize the City Manager to execute the contract when all necessary conditions have been met; 2) approve a 15% contract contingency in the amount of \$71,984; and 3) delegate authority to the City Manager to renew the contract for additional one-year periods, not-to-exceed budgeted amounts, provided pricing and service remain acceptable to the City.

- 1.G [17-0931](#) Amend the Salary Resolution to Increase the Automobile Allowance for the Director of Employment Development

Recommendation: Adopt a resolution amending the Salary Resolution to increase the automobile allowance for the Director of Employment Development.

- 1.H [17-0928](#) Adopt Ordinance No. 3123-17 to add Section 19.16.025 of Title 19 (Zoning) of the Sunnyvale Municipal Code relating to Split-Zone Parcels

Recommendation: Adopt Ordinance No. 3123-17.

- 1.I [17-0929](#) Adopt Ordinance No. 3124-17 Amending the Precise Zoning Plan, Zoning Districts Map, to Rezone a portion of each of the three properties located at 696 Sheraton Drive, 1158 Hollenbeck Avenue, and 1160 Hollenbeck Avenue from R-1 (Low Density Residential) Zoning District to R-1/S (Low Density Residential/Single-Story Combining) Zoning District

Recommendation: Adopt Ordinance No. 3124-17.

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 [17-0819](#) Proposed Project: WITHDRAWAL OF APPEAL by the adjacent property owner (550 W. El Camino Real) of a decision by the

Planning Commission to approve a SPECIAL DEVELOPMENT PERMIT to redevelop a vacated 0.55-acre site with an existing 2,675-square foot commercial building to a five-story hotel with 85 guest rooms and underground parking.

File #: 2014-7659

Location: 590 W. El Camino Real (APNs: 201-22-006)

Recommendation: No action required as the appeal has been withdrawn (See Attachment 1 to the report).

- 3 [17-0757](#) Introduce an Ordinance to Amend Chapter 9.86 the Sunnyvale Municipal Code and Various Sections of Title 19 to Update the Existing Prohibition Against Commercial Marijuana Activity in the City to Expressly Include Non-Medical Marijuana, to Reasonably Regulate Indoor Personal Cultivation of Marijuana Consistent with State Law, and to Prohibit Outdoor Personal Cultivation of Marijuana (Exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15305)

Recommendation: Alternative 1: Find that the activity is exempt from environmental review pursuant to California Environmental Quality Act Guidelines sections 15061 (b)(3) and 15305, and introduce an ordinance to Amend Chapter 9.86 the Sunnyvale Municipal Code and Various Sections of Title 19 to Update the Existing Prohibition Against Commercial Marijuana Activity in the City to Expressly Include Non-Medical Marijuana, to Reasonably Regulate Indoor Personal Cultivation of Marijuana Consistent with State Law, and to Prohibit Outdoor Personal Cultivation of Marijuana.

- 4 [17-0493](#) Resolution to Adopt Updated Emergency Operations Plan

Recommendation: Alternative 1: Adopt by resolution the City of Sunnyvale Emergency Operations Plan - Updated 2017.

- 5 [17-0729](#) Award of Bid No. PW17-31 for the Golf Buildings Renovations Project, Finding of California Environmental Quality Act (CEQA) Categorical Exemption, and Approve Budget Modification No. 6 in the Amount of \$113,121

Recommendation: Alternatives 1, 2, 3, and 4: 1) Make a finding of a California Environmental Quality Act (CEQA) categorical exemption pursuant to CEQA Guidelines Section 15301 for the maintenance or repair of existing facilities involving negligible or no expansion of use beyond which presently exists; 2) award a contract in substantially the same form as Attachment 2 to the report in the amount of \$674,000 to CWS Construction Group, Inc. for Golf Buildings Renovations Project (PW17-31) at the Sunnyvale Golf Course and authorize the City Manager to execute the contract when all necessary conditions have been met; 3) approve a 15% construction contingency in the amount of \$101,100; and 4) approve Budget Modification No. 6 in the amount of \$113,121 with funding from the Park Dedication Fund.

- 6 [17-0843](#) Reject Two Offers for the City-Owned Property Located at 1484 Kifer Road (Unilever) and Approve Budget Modification No. 12

Recommendation: Alternative 1 and 5: 1) Reject the offers from Fore Property Company and ROEM Development; 5) Approve Budget Modification No. 12 in the amount of \$80,000.

- 7 [17-0668](#) Direction on Potential Charter Amendments to Revise Sections 604 (Filling Vacancies in Council Seats) and 606 (Designation of Vice Mayor) (Study Issue)

Recommendation: Staff makes no recommendation.

- 8 [17-0939](#) Appointment of Interim City Manager and Approval of Employment Agreement

Recommendation: Staff makes no recommendation.

COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

NON-AGENDA ITEMS & COMMENTS

-Council

-City Manager

INFORMATION ONLY REPORTS/ITEMS

<u>17-0095</u>	Tentative Council Meeting Agenda Calendar
<u>17-0715</u>	Information/Action Items
<u>17-0823</u>	Board/Commission Meeting Minutes

ADJOURNMENT**NOTICE TO THE PUBLIC**

The agenda reports to council (RTCs) may be viewed on the City's website at 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 35.160 (b) (1))

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"
available on the City website at sunnyvale.ca.gov.

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 <https://sunnyvaleca.legistar.com> for upcoming Council, board and commission meeting information.



City of Sunnyvale

Agenda Item

17-0941

Agenda Date: 9/26/2017

Closed Session held pursuant to California Government Code Section 54956.9: CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of case: Virginia Duncan, et al vs. Xavier Becerra, US Court of Appeals for the Ninth Circuit, Case No. 17-56081
City as Amicus Curiae in support of Defendant-Appellant



City of Sunnyvale

Agenda Item

17-0864

Agenda Date: 9/26/2017

Closed Session held pursuant to California Government Code Section 54956.8: CONFERENCE
WITH REAL PROPERTY NEGOTIATORS

Property: 1050 Innovation Way and 1060 Innovation Way, Sunnyvale (a portion of the former Onizuka
Air Force Station)

Agency negotiator: Deanna J. Santana, City Manager; Manuel Pineda, Director of Public Works

Negotiating parties: Four Corner Properties, Google, Inc., Grupo SEB DBA Concept Silicon Valley
LLC and Jay Paul Company

Under negotiation: Price and Terms of Payment



City of Sunnyvale

Agenda Item

17-0940

Agenda Date: 9/26/2017

SPECIAL ORDER OF THE DAY - Certificate of Recognition to City Manager



City of Sunnyvale

Agenda Item

17-0680

Agenda Date: 9/26/2017

SUBJECT

Approve City Council Special Meeting Minutes of September 11, 2017

RECOMMENDATION

Approve the City Council Meeting Minutes of September 11, 2017 as submitted.



City of Sunnyvale

Meeting Minutes - Draft City Council

Monday, September 11, 2017

5:30 PM

Human Resources Training Room, 505 W.
Olive Ave., Suite 202, Sunnyvale, CA
94086

Special Meeting - Closed Session

Vice Mayor Larsson announced the items for Closed Session and invited any members of the public to provide public comments before convening to Closed Session.

1 Call to Order in the Human Resources Training Room

Vice Mayor Larsson called the meeting to order at 5:31 p.m.

2 Roll Call

Present: 7 - Mayor Glenn Hendricks
Vice Mayor Gustav Larsson
Councilmember Jim Griffith
Councilmember Larry Klein
Councilmember Nancy Smith
Councilmember Russ Melton
Councilmember Michael S. Goldman

Councilmember Griffith arrived at 5:38 p.m.

Councilmember Klein arrived at 5:44 p.m.

3 Public Comment

No speakers.

4 Convene to Closed Session

[17-0753](#)

Closed Session held pursuant to California Government Code
Section 54957: PUBLIC EMPLOYEE APPOINTMENT
Title: Interim City Manager

5 Adjourn Special Meeting

Vice Mayor Larsson adjourned the meeting at 9:05 p.m.



City of Sunnyvale

Agenda Item

17-0842

Agenda Date: 9/26/2017

SUBJECT

Approve City Council Meeting Minutes of September 12, 2017

RECOMMENDATION

Approve the City Council Meeting Minutes of September 12, 2017 as submitted.



City of Sunnyvale

Meeting Minutes - Draft

City Council

Tuesday, September 12, 2017

5:00 PM

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

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

5 P.M. SPECIAL COUNCIL MEETING (Closed Session)

Vice Mayor Larsson announced the items for Closed Session and invited any members of the public to provide public comments before convening to Closed Session.

1 Call to Order in the West Conference Room

Vice Mayor Larsson called the meeting to order at 5 p.m.

2 Roll Call

Present: 6 - Mayor Glenn Hendricks
Vice Mayor Gustav Larsson
Councilmember Jim Griffith
Councilmember Larry Klein
Councilmember Nancy Smith
Councilmember Russ Melton

Absent: 1 - Councilmember Michael S. Goldman

3 Public Comment

No speakers.

4 Convene to Closed Session

[17-0469](#) Closed Session held pursuant to California Government Code
Section 54957: PUBLIC EMPLOYEE APPOINTMENT
Title: Interim City Manager

5 Adjourn Special Meeting

Vice Mayor Larsson adjourned the meeting at 5:25 p.m.

5:30 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 5:30 p.m.

2 Roll Call

Present: 7 - Mayor Glenn Hendricks
Vice Mayor Gustav Larsson
Councilmember Jim Griffith
Councilmember Larry Klein
Councilmember Nancy Smith
Councilmember Russ Melton
Councilmember Michael S. Goldman

Councilmember Goldman arrived at 5:31 p.m.

3 Public Comment**4 Study Session**

[17-0094](#) Review and Provide Feedback on Preliminary Civic Center
Master Plan Concepts

5 Adjourn Special Meeting

Vice Mayor Larsson adjourned the meeting at 6:55 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 Larry Klein
Councilmember Nancy Smith
Councilmember Russ Melton
Councilmember Michael S. Goldman

CLOSED SESSION REPORT

Vice Mayor Larsson reported the Council met in closed session on Monday, September 11, 2017 pursuant to California Government Code Section 54957: Public Employee Appointment; Title: Interim City Manager; nothing to report.

Vice Mayor Larsson reported the Council met in closed session on Tuesday, September 12 pursuant to California Government Code Section 54957: Public Employee Appointment; Title: Interim City Manager; the City Council has conditionally appointed Kent Steffens as Interim City Manager conditioned on reaching agreement regarding compensation and benefits; the vote was unanimous with Councilmember Goldman absent.

SPECIAL ORDER OF THE DAY

[17-0483](#) SPECIAL ORDER OF THE DAY - Ceremonial Oath of Office
for Board and Commission Members

City Clerk Kathleen Franco Simmons administered the Oath of Office to newly appointed Board and Commission members.

PRESENTATION

[17-0701](#) PRESENTATION - California Stormwater Quality Association
(CASQA) Award Presentation for Schools Goin' Green
Program

Jill Bicknell, Chair of the California Stormwater Quality Association, presented an award for Outstanding News, Information, Outreach, and Media Project for the City's Schools Goin' Green project to Jackie Davison, Environmental Services Department and members of the Schools Goin' Green team.

ORAL COMMUNICATIONS

Mayor Hendricks announced Specialty Solid Waste & Recycling will begin delivering new food scraps carts to single-family homes and mobile home parks

during an eight-week citywide rollout.

Denise McGee expressed concerns regarding the Apple development at Arques and Wolfe and requested information regarding the contributions Apple makes to the Sunnyvale community.

Greg Popovich, Goldbar Builders, spoke regarding teacher retention and affordable housing, and requested reconsideration of lot sizes for construction of accessory dwelling units.

John Cordes, Chair of the Bicycle and Pedestrian Advisory Commission speaking for himself, commended Mayor Hendricks for rappelling off the Adobe building as Spiderman to raise awareness for the work of the Downtown Streets Team.

CONSENT CALENDAR

Mayor Hendricks announced a member of the public requested to pull Item 1.A from the Consent Calendar.

MOTION: Vice Mayor Larsson moved and Councilmember Klein seconded the motion to Approve the Consent Calendar Items 1.B through 1.O.

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

1.A [17-0792](#) Approve City Council Meeting Minutes of August 15, 2017

Public Comment opened at 7:22 p.m.

Zachary Kaufman stated comments he made at the meeting should have been included in the minutes.

Public Comment closed at 7:23 p.m.

MOTION: Vice Mayor Larsson moved and Councilmember Melton seconded the motion to approve the City Council Meeting Minutes of August 15, 2017 as submitted.

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

1.B [17-0794](#) Approve City Council Meeting Minutes of August 22, 2017
Approve the City Council Meeting Minutes of August 22, 2017 as submitted.

1.C [17-0625](#) Approve City Council Special Meeting Minutes of August 29,
2017
Approve the City Council Special Meeting Minutes of August 29, 2017 as submitted.

1.D [17-0846](#) Approve City Council Special Meeting Minutes of September 1,
2017
Approve the City Council Special Meeting Minutes of September 1, 2017 as
submitted.

1.E [17-0184](#) Approve the List(s) of Claims and Bills Approved for Payment
by the City Manager
Approve the list(s) of claims and bills.

1.F [17-0567](#) Award of Contract for Professional Design Services of the
Administration and Laboratory Building at the Water Pollution
Control Plant F17-095

1) Award a contract in substantially the same form as Attachment 1 to the report in an amount not to exceed \$2,390,956 for Professional Design Services Associated with the construction of a new Administration and Laboratory Building at the Water Pollution Control Plant and authorize the City Manager to execute the contract when

all necessary conditions have been met; and 2) approve a 10% contract contingency in the amount of \$239,096.

- 1.G** [17-0749](#) Approve Road Maintenance and Rehabilitation Projects for the Road Repair and Accountability Act of 2017 - Local Streets and Roads Funding Program and Approve Budget Modification No. 11

Approve Road Maintenance and Rehabilitation Proposed Projects List for the Road Repair and Accountability Act of 2017 - Local Streets and Roads Funding Program and Approve Budget Modification No. 11 in the amount of \$838,000.

- 1.H** [17-0759](#) First Amendment to Agreement Between City of Sunnyvale and Sunnyvale School District for the Operation of Columbia Neighborhood Center at the Columbia Middle School Site

Approve the First Amendment to Agreement Between City of Sunnyvale and Sunnyvale School District for the Operation of Columbia Neighborhood Center at the Columbia Middle School Site and authorize the City Manager to execute the First Amendment when all necessary conditions have been met.

- 1.I** [17-0760](#) Authorize the City Manager to Execute an Agreement with Santa Clara County for the Design and Construction of West Bound Auxiliary Lanes on Central Expressway between Commercial Avenue and Wolfe Road for an amount not to exceed \$1,148,461 and Approve Budget Modification No. 7

Authorize the City Manager to Execute an Agreement with the Santa Clara County for the Design and Construction of West Bound Auxiliary Lanes on Central Expressway between Commercial Avenue and Wolfe Road for an amount not to exceed \$1,148,461 and Approve Budget Modification No. 7 in the amount of \$1,148,461.

- 1.J** [17-0860](#) Approve Bay-Peninsula Regional Strategic Workforce Development Plan

Approve the Bay-Peninsula Regional Strategic Workforce Development Plan.

- 1.K** [17-0787](#) Approve City Position on Proposed League of California Cities' 2017 Annual Conference Resolutions

Approve a support position for the proposed Resolution #2, Local Control for Emergency Medical Response, while taking no position for the proposed Resolution

#1, Implement Strategies to Reduce Negative Impacts of Recent Changes to Criminal Laws, and authorize the City's voting delegate/alternates to cast votes consistent with the City Council's adopted positions.

1.L [17-0797](#) Award of Bid No. PW17-36 for Orchard Heritage Park Re-Bid, Determination of Bid Non-responsiveness, Finding of California Environmental Quality Act (CEQA) Categorical Exemption, and Approval of Budget Modification No. 10 to provide \$815,631 in Additional Funding

1) Make a finding of CEQA categorical exemption pursuant to CEQA Guidelines Section 15302(b) for replacement of a commercial structure with a new structure of substantially the same size, purpose, and capacity; 2) Award a contract in substantially the same form as Attachment 2 to the report and in the amount of \$1,351,328 to Redwood Engineering Construction and authorize the City Manager to execute the contract when all necessary conditions have been met; 3) Approve a 10% construction contingency in the amount of \$135,132; 4) Determine the Gonsalves & Stronck Construction Company, Inc. bid non responsive; and 5) Approve Budget Modification No. 10 in the amount of \$815,631 to provide additional project funding.

1.M [17-0834](#) Approve the Second Amendment to Outside Counsel Agreement with Rankin Stock Heaberlin for Litigation Services in the case of Mollins vs. Sunnyvale

Authorize the City Attorney to execute a Second Amendment, in substantially the same form as Attachment 1 to the report, to the Outside Counsel Agreement with the law firm of Rankin Stock Heaberlin, to extend the term of the Agreement until June 30, 2018, and to increase the not-to-exceed amount by \$52,000, for a new not-to-exceed contract amount of \$142,000.

1.N [17-0848](#) Approve Contract with County of San Mateo for Disaster-Related Employment Services

Approve the award of a contract in an amount not to exceed \$284,000 to the County of San Mateo to provide services related to NOVA's disaster-related employment project through September 30, 2018 and authorize the City Manager to execute the contract when all necessary conditions have been met.

1.O [17-0769](#) Reject Bids Received in Response to RFQ #F17-013 for Printed Community Activity Guides

Reject all bids received in response to RFQ #F17-013 for printed community Activity

Guides.

PUBLIC HEARINGS/GENERAL BUSINESS

- 2 [17-0821](#) Split Zoning: Introduce an Ordinance to Add Section 19.16.025 (Split-Zoned Parcels) of Chapter 19.16 (Precise Zoning Plans - Zoning Districts-Zoning Maps) to the Sunnyvale Municipal Code, and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Section 15061(b)(3)

Planning Officer Andy Miner provided the staff report and a PowerPoint presentation. City Attorney John Nagel, Director of Community Development Trudi Ryan and City Manager Deanna Santana provided additional information.

Public Hearing opened at 7:47 p.m.

Scott McIntosh spoke in support of the proposed ordinance to allow split-zoning.

Shian Lee provided comments regarding using split-zoning as a tool.

Andrea Georgelos spoke in support of the proposed ordinance to allow split-zoning.

Public Hearing closed at 7:52 p.m.

MOTION: Vice Mayor Larsson moved and Councilmember Klein seconded the motion to approve Alternative 1: Introduce an Ordinance to Add Section 19.16.025 (Split Zoned Parcels) of Chapter 19.16 (Precise Zoning Plans Zoning Districts Zoning Maps) to the Sunnyvale Municipal Code, and Find that the Action is Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Section 15061(b)(3).

City Clerk Kathleen Franco Simmons read the ordinance title.

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

- 3** [17-0847](#) Single-Story Combining District Buffer Study: Introduce an Ordinance to Rezone a 50-foot wide area along the rear (eastern) property lines of 696 Sheraton Drive (APN 202-09-020), 1158 Hollenbeck Avenue (APN 202-09-019), and 1160 Hollenbeck Avenue (APN 202-09-018), and a 20-foot wide area along the side (southern) property line of 1160 Hollenbeck Avenue (APN 202-09-018) from Low Density Residential Zoning District (R-1) to Low Density Residential Zoning District/Single-Story Combining District (R-1/S), and Find that the Action is Exempt from CEQA Pursuant to CEQA Guidelines Sections 15305 and 15061(b)(3)

Planning Officer Andy Miner provided the staff report and a PowerPoint presentation. City Attorney John Nagel provided additional information.

Public Hearing opened at 8:27 p.m.

Roger Teter spoke in support of the recommendation and provided a PowerPoint presentation.

Andrea Georgelos spoke in opposition to the proposal, citing unfair and unequal setbacks among the neighbors. Georgelos requested Council impose something that is fair and equitable and requested for her buffer to be 50 feet, and if not, everyone should get the same 20-foot buffer.

Walter Huber spoke regarding single-story combining districts.

Scott McIntosh spoke in support of single-story combining districts but stated they should be applied to everyone in the district, with a buffer zone.

Laurie Ferioli provided comments and submitted a letter signed by neighbors in

agreement with R-1 zoning.

Shian Lee requested all property owners be treated equally and provided a PowerPoint presentation.

Gabriela Zuniga stated that the graph shown is incorrect; no one on the block signed a petition in support of split-zoning. Zuniga stated that all neighbors should be treated the same, fairly, and have the same 50-foot buffer zone, or revert to R-1 zoning.

Stephen Meier spoke in support of the single-story combining district and provided comments regarding comments made by members of the Planning Commission.

Public Hearing closed at 8:52 p.m.

MOTION: Mayor Hendricks moved and Councilmember Klein seconded the motion to introduce an ordinance to 1) Rezone 50 feet of the rear properties at 696 Sheraton Drive, 1158 Hollenbeck Avenue and 1160 Hollenbeck Avenue adjoining 675, 679, 683, and 682 Tiffany Court from Low Density Residential Zoning District (R-1) to Low Density Residential Zoning District/Single Story Combining District (R-1/S); 3) Rezone 50 feet of the side properties of 1160 Hollenbeck Avenue adjoining 689, 695, and 699 Torrington Drive from Low Density Residential Zoning District (R-1) to Low Density Residential Zoning District/Single Story Combining District (R-1/S); and 6) Find that the Action is Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines 15305 and Section 15061(b)(3).

FRIENDLY AMENDMENT: Vice Mayor Larsson offered a friendly amendment to change both of the 50-foot setbacks to 40-foot setbacks.
Mayor Hendricks declined to accept the friendly amendment.

City Clerk Kathleen Franco Simmons read the ordinance title.

The motion failed by the following vote:

Yes: 2 - Mayor Hendricks
Councilmember Klein

No: 5 - Vice Mayor Larsson
Councilmember Griffith
Councilmember Smith
Councilmember Melton
Councilmember Goldman

MOTION: Councilmember Melton moved and Vice Mayor Larsson seconded the motion to approve staff recommendation Alternatives 1, 3 and 6: 1) Rezone 50 feet of the rear properties at 696 Sheraton Drive, 1158 Hollenbeck Avenue and 1160 Hollenbeck Avenue adjoining 675, 679, 683, and 682 Tiffany Court from Low Density Residential Zoning District (R-1) to Low Density Residential Zoning District/Single-Story Combining District (R-1/S); 3) Rezone 20 feet of the side property of 1160 Hollenbeck Avenue adjoining 689, 695, and 699 Torrington Drive from Low Density Residential Zoning District (R-1) to Low Density Residential Zoning District/Single-Story Combining District (R-1/S); and 6) Find that the Action is Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines 15305 and Section 15061(b)(3).

FRIENDLY AMENDMENT: Councilmember Griffith offered a friendly amendment to direct the Mayor not to sign the ordinance for Item 3 until after signing the ordinance for Item 2.

Councilmember Melton accepted the friendly amendment.

Councilmember Klein clarified that the motion includes introducing an ordinance.

FRIENDLY AMENDMENT: Mayor Hendricks offered a friendly amendment to amend the motion to 40-foot in back and 40-foot on the side setbacks.

Councilmember Melton declined to accept the friendly amendment.

FORMAL AMENDMENT: Mayor Hendricks moved and Councilmember Klein seconded to amend the motion to 40-foot back and 40-foot side setbacks.

The motion to amend carried by the following vote:

Yes: 5 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Klein
Councilmember Smith
Councilmember Goldman

No: 2 - Councilmember Griffith
Councilmember Melton

City Clerk Kathleen Franco Simmons read the ordinance title.

The main motion as amended carried by the following vote:

Yes: 5 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Klein
Councilmember Smith
Councilmember Goldman

No: 2 - Councilmember Griffith
Councilmember Melton

MOTION: Councilmember Smith moved to reconsider Item 2.
The motion died due to lack of a second.

4 [17-0796](#) Endorse the Slate of Candidates for the League of California
Cities Peninsula Division 2017-2018 Election of Officers

Assistant City Manager Kent Steffens provided the staff report.

Public Hearing opened at 9:33 p.m.
No speakers.
Public Hearing closed at 9:33 p.m.

MOTION: Councilmember Smith moved and Councilmember Klein seconded the motion to approve Alternative 1: Endorse the slate of candidates for the Peninsula Division Executive Committee for 2017-2018:

- a. President: Emily Lo, Council Member, Saratoga
- b. Vice President: Larry Moody, Councilmember, East Palo Alto
- c. Treasurer: Shelly Masur, Councilmember, Redwood City
- d. Secretary: Charles Stone, Councilmember, Belmont
- e. Board Director (Two-Year Term): Liz Kniss, Councilmember, Palo Alto
- f. Legislative Action Committee Co-Chair, Santa Clara: Cory Wolbach, Councilmember, Palo Alto
- g. Legislative Action Committee Co-Chair, San Mateo: Kirsten Keith, Councilmember, Menlo Park
- h. Past President: Alicia Aguirre, Councilmember, Redwood City

At-Large - Vote for One Candidate for Each County:

- i. San Mateo County: Emily Beach, Councilmember, Burlingame
- j. Santa Clara County: Marico Sayoc, Councilmember, Los Gatos

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

Council recessed at 9:35 p.m.

Council reconvened at 9:45 p.m. with all Councilmembers present.

- 5** [17-0871](#) Amend the Salary Schedule to Adopt New Salary Range for the City Manager Classification

Director of Human Resources Teri Silva provided the staff report.

MOTION: Councilmember Smith moved to take Item 6 before Item 5.

The motion died due to lack of a second.

Public Hearing opened at 10:02 p.m.

No speakers.

Public Hearing closed at 10:02 p.m.

MOTION: Councilmember Melton moved and Vice Mayor Larsson seconded the motion to approve Alternative 1: Adopt a resolution amending the City's Salary Resolution by amending the Salary Schedule to increase the salary range for the City Manager classification.

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

- 6** [17-0872](#) Amend the Salary Resolution to Revise Merit Increase Provisions, Add a Severance Provision and Amend the Salary Schedule to Adopt New Salary Ranges for Unclassified Department Directors (Pay Plan Category F)

City Manager Deanna Santana provided the staff report and noted a correction to the citation in the report regarding the source of the salary cap for the Director of Employment Development; the correct citation is the Employment and Training Administration of the U.S. Department of Labor. Santana stated she wants to bring back an action item on September 26 for the Director of Employment Development that works within the grant development parameters. Director of Finance Tim Kirby provided additional information.

Public Hearing opened at 10:22 p.m.

No speakers.

Public Hearing closed at 10:22 p.m.

MOTION: Councilmember Melton moved and Vice Mayor Larsson seconded the motion to approve Alternative 1: Adopt a resolution amending the Salary Resolution to revise merit increase provisions, add severance provisions, and amend the salary schedule for unclassified department directors (Pay Plan Category F).

The motion carried by the following vote:

Yes: 7 - Mayor Hendricks
Vice Mayor Larsson
Councilmember Griffith
Councilmember Klein
Councilmember Smith
Councilmember Melton
Councilmember Goldman

No: 0

COUNCILMEMBERS REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Melton reported Mayor Hendricks signed a letter to the U.S. Navy expressing strong opposition to the Navy's proposal to adjourn the Moffett Restoration Advisory Board and that a formal decision has not been made.

Councilmember Smith reported her attendance at the last meeting of the CalMod Local Policy Maker Group and an invitation to the members to participate in a subcommittee meeting to provide input on the Caltrain budget process.

NON-AGENDA ITEMS & COMMENTS

-Council

Vice Mayor Larsson reported Sunnyvale received an award for being an early adopter of the Transform Greentrip online tool and presented the award to Mayor Hendricks.

Councilmember Melton thanked staff for the revised concept on the Washington Swim Center provided as an information only item.

-City Manager

City Manager Santana announced the City of San Jose Transportation and Environment Committee approved the establishment of an ad hoc committee to address issues related to noise mitigation and noise impacts originating out of the San Jose airport.

City Manager Santana announced she was appointed to the Silicon Valley Leadership Group Foundation Board.

INFORMATION ONLY REPORTS/ITEMS

17-0795	Tentative Council Meeting Agenda Calendar
17-0714	Information/Action Items
17-0783	Washington Community Swim Center Update (Information Only)
17-0597	Board/Commission Meeting Minutes

ADJOURNMENT

Mayor Hendricks closed the meeting in honor of former Mayor Richard D. Hayden.

Mayor Hendricks adjourned the meeting at 10:32 p.m.



City of Sunnyvale

Agenda Item

17-0186

Agenda Date: 9/26/2017

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
884	08-27-17 through 09-02-17	\$2,301,488.63
885	09-03-17 through 09-09-17	\$871,762.00

Payments made by the City are controlled in a variety of ways. In general, payments are reviewed by the appropriate City staff for compliance with the goods or services provided. Any discrepancies are resolved and re-submitted for payment. Different levels of dollar amounts for payments require varying levels of approval within the organization. Ultimately payments are reviewed and processed by the Finance Department. Budgetary control is set by Council through the budget adoption resolution.

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: 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

9/11/2017

City of Sunnyvale

LIST # 884

Page 1

List of All Claims and Bills Approved for Payment
For Payments Dated 8/27/2017 through 9/2/2017

Sorted by Payment Number

Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
xxx8327	8/28/17	ABEL A VARGAS	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	670.91	0.00	670.91	\$670.91
xxx8328	8/28/17	AIMEE FOSBENNER	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	228.98	0.00	228.98	\$228.98
xxx8329	8/28/17	ANNABEL YURUTUCU	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	526.28	0.00	526.28	\$526.28
xxx8330	8/28/17	BYRON K PIPKIN	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	845.13	0.00	845.13	\$845.13
xxx8331	8/28/17	CATHY E MERRILL	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	228.98	0.00	228.98	\$228.98
xxx8332	8/28/17	CATHY HAYNES	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,362.91	0.00	1,362.91	\$1,362.91
xxx8333	8/28/17	CHRIS CARRION	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	670.91	0.00	670.91	\$670.91
xxx8334	8/28/17	CORYN CAMPBELL	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	352.58	0.00	352.58	\$352.58
xxx8335	8/28/17	DAN HAMMONS	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,253.83	0.00	1,253.83	\$1,253.83
xxx8336	8/28/17	DAVID A LEWIS	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,068.91	0.00	1,068.91	\$1,068.91
xxx8337	8/28/17	DAVID KAHN	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	960.72	0.00	960.72	\$960.72
xxx8338	8/28/17	DAVID L VERBRUGGE	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,868.74	0.00	1,868.74	\$1,868.74
xxx8339	8/28/17	DAVID M GOTT	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	352.58	0.00	352.58	\$352.58
xxx8340	8/28/17	DAVID PITTS	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	671.13	0.00	671.13	\$671.13
xxx8341	8/28/17	DEE SCHABOT	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	590.60	0.00	590.60	\$590.60
xxx8342	8/28/17	DON JOHNSON						\$555.35

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			SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	555.35	0.00	555.35	
xxx8343	8/28/17	DOUGLAS MORETTO	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,110.94	0.00	1,110.94	\$1,110.94
xxx8344	8/28/17	ENCARNACION HERNANDEZ	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	233.37	0.00	233.37	\$233.37
xxx8345	8/28/17	ERWIN YOUNG	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,176.72	0.00	1,176.72	\$1,176.72
xxx8346	8/28/17	ESTRELLA AGRAVIADOR KAWCZYNSKI	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	172.48	0.00	172.48	\$172.48
xxx8347	8/28/17	EUGENE J WADDELL	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	590.60	0.00	590.60	\$590.60
xxx8348	8/28/17	FRANK J GRGURINA	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	555.47	0.00	555.47	\$555.47
xxx8349	8/28/17	GARY K CARLS	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	388.06	0.00	388.06	\$388.06
xxx8350	8/28/17	GARY LUEBBERS	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	365.88	0.00	365.88	\$365.88
xxx8351	8/28/17	GLENN FORTIN	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	671.13	0.00	671.13	\$671.13
xxx8352	8/28/17	GREGORY E KEVIN	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	671.13	0.00	671.13	\$671.13
xxx8353	8/28/17	JAMES BOUZIANE	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	721.51	0.00	721.51	\$721.51
xxx8354	8/28/17	JAMES WEBB JR	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	238.00	0.00	238.00	\$238.00
xxx8355	8/28/17	JEROME P AMMERMAN	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	670.91	0.00	670.91	\$670.91
xxx8356	8/28/17	JOHN DEBATTISTA	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	670.91	0.00	670.91	\$670.91
xxx8357	8/28/17	JOHN HOWE	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	526.28	0.00	526.28	\$526.28
xxx8358	8/28/17	JOHN S WITTHAUS						\$1,868.74

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			SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,868.74	0.00	1,868.74	
xxx8359	8/28/17	KAREN WOBLESKY	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,068.91	0.00	1,068.91	\$1,068.91
xxx8360	8/28/17	KATHRYN BERRY	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	590.60	0.00	590.60	\$590.60
xxx8361	8/28/17	KELLY FITZGERALD	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	671.13	0.00	671.13	\$671.13
xxx8362	8/28/17	KELLY MENEHAN	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	136.52	0.00	136.52	\$136.52
xxx8363	8/28/17	KLAUS DAEHNE	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	752.30	0.00	752.30	\$752.30
xxx8364	8/28/17	MARK G PETERSEN	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,628.34	0.00	1,628.34	\$1,628.34
xxx8365	8/28/17	MARK STIVERS	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,080.13	0.00	1,080.13	\$1,080.13
xxx8366	8/28/17	MARVIN A ROSE	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	536.39	0.00	536.39	\$536.39
xxx8367	8/28/17	MICHAEL A CHAN	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,868.74	0.00	1,868.74	\$1,868.74
xxx8368	8/28/17	MICHAEL CURRAN	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	590.60	0.00	590.60	\$590.60
xxx8369	8/28/17	MYRIAM CASTANEDA	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	526.28	0.00	526.28	\$526.28
xxx8370	8/28/17	RICHARD C GURNEY	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	526.28	0.00	526.28	\$526.28
xxx8371	8/28/17	ROBERT PATERNOSTER	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	309.77	0.00	309.77	\$309.77
xxx8372	8/28/17	ROBERT WALKER	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,599.35	0.00	1,599.35	\$1,599.35
xxx8373	8/28/17	RONALD DALBA	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	671.13	0.00	671.13	\$671.13
xxx8374	8/28/17	SCOTT MORTON						\$1,110.94

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			SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,110.94	0.00	1,110.94	
xxx8375	8/28/17	SILVIA MARTINS	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,253.83	0.00	1,253.83	\$1,253.83
xxx8376	8/28/17	SIMON C LEMUS	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,628.34	0.00	1,628.34	\$1,628.34
xxx8377	8/28/17	STEVEN D PIGOTT	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	543.08	0.00	543.08	\$543.08
xxx8378	8/28/17	TAMMY PARKHURST	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	352.58	0.00	352.58	\$352.58
xxx8379	8/28/17	THERESE BALBO	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,228.10	0.00	1,228.10	\$1,228.10
xxx8380	8/28/17	TIM CARLYLE	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	671.13	0.00	671.13	\$671.13
xxx8381	8/28/17	TIM JOHNSON	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	671.13	0.00	671.13	\$671.13
xxx8382	8/28/17	TONY J PEREZ	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	590.60	0.00	590.60	\$590.60
xxx8383	8/28/17	VINCENT CHETCUTI	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,868.74	0.00	1,868.74	\$1,868.74
xxx8384	8/28/17	WILLIAM BIELINSKI	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	555.35	0.00	555.35	\$555.35
xxx8385	8/28/17	WILLIAM L DISQUE	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	515.13	0.00	515.13	\$515.13
xxx294972	8/29/17	A T & T	JULY2017	Utilities - Telephone	121.17	0.00	121.17	\$121.17
xxx294973	8/29/17	AT&T	8879708300	Software As a Service	163.74	0.00	163.74	\$163.74
xxx294974	8/29/17	AT&T	000010071559	Utilities - Telephone	1,232.39	0.00	1,232.39	\$15,553.94
			000010071561	Utilities - Telephone	1,231.99	0.00	1,231.99	
			000010086905	Utilities - Telephone	40.45	0.00	40.45	
			000010086914	Utilities - Telephone	6,594.46	0.00	6,594.46	
			000010087302	Utilities - Telephone	2,877.29	0.00	2,877.29	
			000010087501	Utilities - Telephone	37.40	0.00	37.40	
			000010090008	Utilities - Telephone	3,539.96	0.00	3,539.96	

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xxx294975	8/29/17	ADVANCE DESIGN CONSULTANTS INC	1430913-05	Engineering Services	5,840.20	0.00	5,840.20	\$5,840.20
xxx294976	8/29/17	ALAMEDA COUNTY SHERIFFS OFFICE	29013108175068	Training and Conferences	20,000.00	0.00	20,000.00	\$20,000.00
xxx294977	8/29/17	ALAMEDA CTY INFORMATION TECHNOLOGY DEPT	112-1707058	Software As a Service	1,569.06	0.00	1,569.06	\$1,569.06
xxx294978	8/29/17	APPLIED INDUSTRIAL TECHNOLOGIES	7011010327	Miscellaneous Equipment Parts & Supplies	190.94	0.00	190.94	\$190.94
xxx294979	8/29/17	ARCHITECTURE & HISTORY LLC	2016-3703	Consultants	2,400.00	0.00	2,400.00	\$2,400.00
xxx294980	8/29/17	AXON ENTERPRISE INC	SI1493145A	Clothing, Uniforms & Access	1,438.80	0.00	1,438.80	\$1,438.80
xxx294981	8/29/17	BASCOM TRIM & UPHOLSTERY	6000	Auto Maint & Repair - Labor	570.00	0.00	570.00	\$695.35
			6000	Auto Maint & Repair - Materials	125.35	0.00	125.35	
xxx294982	8/29/17	BERT S ESPINOSA	BLJULY2017	Medical Services	3,750.00	0.00	3,750.00	\$3,750.00
xxx294983	8/29/17	BOUND TREE MEDICAL LLC	82599827	Inventory Purchase	6,860.46	0.00	6,860.46	\$7,663.57
			82601451	Inventory Purchase	803.11	0.00	803.11	
xxx294984	8/29/17	BRODART CO	473869	General Supplies	655.20	0.00	655.20	\$570.18
			CY94827	General Supplies	-85.02	0.00	-85.02	
xxx294985	8/29/17	CALPLY SAN JOSE	190965222	Bldg Maint Matls & Supplies	394.47	0.00	394.47	\$394.47
xxx294986	8/29/17	CALIFORNIA SPORTS CENTER	CSC0717	Rec Instructors/Officials	17,652.13	0.00	17,652.13	\$17,652.13
xxx294987	8/29/17	CALTRONICS BUSINESS SYSTEMS	2329830	Equipment Rental/Lease	11,877.09	0.00	11,877.09	\$11,877.09
xxx294988	8/29/17	COPWARE INC	83838	Software As a Service	6,023.00	0.00	6,023.00	\$6,023.00
xxx294989	8/29/17	CORIX WATER PRODUCTS (US) INC	17713023993	Inventory Purchase	4,440.99	40.74	4,400.25	\$4,400.25
xxx294990	8/29/17	D & M TRAFFIC SERVICES INC	53661	Inventory Purchase	1,286.20	0.00	1,286.20	\$1,286.20
xxx294991	8/29/17	D W NICHOLSON CORP	SMRTELCTRCL #R	Construction Project Contract Retainage	24,309.97	0.00	24,309.97	\$24,309.97
xxx294992	8/29/17	DEL GAVIO GROUP	8271	Furniture	55,291.90	0.00	55,291.90	\$55,291.90
xxx294993	8/29/17	DELL MARKETING LP	10184453911	Hardware Maintenance	1,768.92	0.00	1,768.92	\$1,768.92
xxx294994	8/29/17	DETAIL PLUS	36848	Auto Maint & Repair - Labor	600.00	0.00	600.00	\$600.00
xxx294995	8/29/17	EQUIFAX INFORMATION SERVICES LLC	163VC00059	General Supplies	39.13	0.00	39.13	\$41.14
			4408222	Financial Services	2.01	0.00	2.01	
xxx294996	8/29/17	FEHR & PEERS ASSOC INC	116858	Professional Services	12,133.69	0.00	12,133.69	\$12,133.69
xxx294997	8/29/17	FERGUSON ENTERPRISES INC 1423	1292829	Inventory Purchase	5,602.60	51.40	5,551.20	\$5,551.20
xxx294998	8/29/17	FITGUARD INC	0000132557	Facilities Maintenance & Repair Labor	145.00	0.00	145.00	\$145.00
xxx294999	8/29/17	FLATIRON WEST INC	OMVCLBZBRD G#02	Construction Services	757,682.00	0.00	757,682.00	\$757,682.00

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xxx295000	8/29/17	GALE/CENGAGE LEARNING	61035654	Library Acquisitions, Books	182.21	0.00	182.21	\$182.21
xxx295001	8/29/17	GARDA	10323161	Financial Services	3,074.32	0.00	3,074.32	\$3,074.32
xxx295002	8/29/17	GLENMOUNT GLOBAL SOLUTIONS INC	AIS70194EV001	Electrical Parts & Supplies	17,331.00	0.00	17,331.00	\$17,331.00
xxx295003	8/29/17	GLOBAL ACCESS INC	15706	Software As a Service	236.00	0.00	236.00	\$236.00
xxx295004	8/29/17	GOLDFARB LIPMAN ATTORNEYS	124148	Legal Services	285.00	0.00	285.00	\$285.00
xxx295005	8/29/17	GOODYEAR COMMERCIAL TIRE & SERVICE CTR	189-1095890	Inventory Purchase	3,456.23	0.00	3,456.23	\$3,456.23
xxx295006	8/29/17	GRAINGER	9523443639	Inventory Purchase	1,084.69	0.00	1,084.69	\$1,635.45
			9524769206	Inventory Purchase	543.78	0.00	543.78	
			9525122801	Inventory Purchase	502.27	0.00	502.27	
			9525122819	Inventory Purchase	125.57	0.00	125.57	
			9532091098	Inventory Purchase	-496.69	0.00	-496.69	
			9532251122	Inventory Purchase	-124.17	0.00	-124.17	
xxx295007	8/29/17	H K AVERY CONSTRUCTION	1017	Facilities Maint & Repair - Labor	325.00	0.00	325.00	\$525.00
			1017	Facilities Maint & Repair - Materials	200.00	0.00	200.00	
xxx295008	8/29/17	HULA HALAU'O PILANI	08/04/2017	Rec Instructors/Officials	619.50	0.00	619.50	\$619.50
xxx295009	8/29/17	HYBRID COMMERCIAL PRINTING INC	26229	Printing & Related Services	478.51	0.00	478.51	\$1,595.73
			26234	Printing & Related Services	78.48	0.00	78.48	
			26242	Printing & Related Services	578.76	0.00	578.76	
			26259	Printing & Related Services	78.48	0.00	78.48	
			26260	Printing & Related Services	245.25	0.00	245.25	
			26262	Printing & Related Services	136.25	0.00	136.25	
xxx295010	8/29/17	ICE CENTER OF CUPERTINO	ICEC872017	Rec Instructors/Officials	1,000.00	0.00	1,000.00	\$1,000.00
xxx295011	8/29/17	INFORMATION SERVICES DEPT	1800058742	Software As a Service	1,966.40	0.00	1,966.40	\$11,120.39
			1800058758	Software As a Service	9,153.99	0.00	9,153.99	
xxx295012	8/29/17	INTERACTIVE DATA PRICING	59979100860PR	Financial Services	126.87	0.00	126.87	\$126.87
			D					
xxx295013	8/29/17	JJR CONSTRUCTION INC	CRBSSDWLK17	Construction Services	242,199.28	0.00	242,199.28	\$242,199.28
			#03					
xxx295014	8/29/17	JMB CONSTRUCTION INC	STRMPMPSTN2	Construction Services	601,350.00	0.00	601,350.00	\$601,350.00
			#07					
xxx295015	8/29/17	JAKES OF SUNNYVALE	81817	Food Products	118.92	0.00	118.92	\$118.92

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xxx295016	8/29/17	JOHNSON ROBERTS & ASSOC INC	132998	Investigation Expense	117.00	0.00	117.00	\$273.00
			133077	Investigation Expense	65.00	0.00	65.00	
			133081	Investigation Expense	91.00	0.00	91.00	
xxx295017	8/29/17	KAISER PRECISION LLC	SPD-1	General Supplies	1,724.55	0.00	1,724.55	\$1,724.55
xxx295019	8/29/17	LAW ENFORCEMENT PSYCHOLOGICAL SERV INC	1708478	Investigation Expense	800.00	0.00	800.00	\$1,205.00
			1708479	Investigation Expense	405.00	0.00	405.00	
xxx295020	8/29/17	LAWSON PRODUCTS INC	9305179439	Miscellaneous Equipment Parts & Supplies	408.44	0.00	408.44	\$408.44
xxx295021	8/29/17	LIEBERT CASSIDY WHITMORE	1444910	Investigation Expense	544.00	0.00	544.00	\$544.00
xxx295022	8/29/17	M-GROUP	3560	Professional Services	5,852.50	0.00	5,852.50	\$5,852.50
xxx295023	8/29/17	MAD SCIENCE OF THE BAY AREA	21213	Rec Instructors/Officials	8,465.00	0.00	8,465.00	\$8,465.00
xxx295024	8/29/17	MCMaster CARR SUPPLY CO	44227975	Miscellaneous Equipment Parts & Supplies	151.84	0.00	151.84	\$151.84
xxx295025	8/29/17	MIDWEST TAPE	95317739	Library Acquis, Audio/Visual	350.44	0.00	350.44	\$2,567.82
			95317787	Library Acquis, Audio/Visual	2,173.79	0.00	2,173.79	
			95317789	Library Acquis, Audio/Visual	43.59	0.00	43.59	
xxx295026	8/29/17	NI GOVERNMENT SERVICES INC	7071165394	Miscellaneous Services	78.77	0.00	78.77	\$78.77
xxx295027	8/29/17	NATIONAL ACADEMY OF ATHLETICS	NAAC3182017	Rec Instructors/Officials	4,008.90	0.00	4,008.90	\$6,195.00
			NAAC7172017	Rec Instructors/Officials	2,186.10	0.00	2,186.10	
xxx295028	8/29/17	OTIS ELEVATOR COMPANY	SJ17483001	Facilities Maintenance & Repair Labor	3,071.00	0.00	3,071.00	\$3,071.00
xxx295029	8/29/17	P&R PAPER SUPPLY CO INC	30147761-00	Inventory Purchase	242.07	0.00	242.07	\$258.22
			30147847-00	Inventory Purchase	16.15	0.00	16.15	
xxx295030	8/29/17	PACIFIC ECO-RISK	13586	Water Lab Services	3,035.00	0.00	3,035.00	\$3,035.00
xxx295031	8/29/17	PACIFIC TELEMAGEMENT SERVICES	935815	Utilities - Telephone	75.00	0.00	75.00	\$75.00
xxx295032	8/29/17	PETERSON POWER SYSTEMS INC	SB240013212	Misc Equip Maint & Repair - Labor	-3,230.00	0.00	-3,230.00	\$5,565.44
			SB240013212	Misc Equip Maint & Repair - Materials	-2,335.44	0.00	-2,335.44	
			SW240141982	Misc Equip Maint & Repair - Labor	3,230.00	0.00	3,230.00	
			SW240141982	Misc Equip Maint & Repair - Materials	2,335.44	0.00	2,335.44	
			SW240142235	Misc Equip Maint & Repair - Labor	3,230.00	0.00	3,230.00	
			SW240142235	Misc Equip Maint & Repair - Materials	2,335.44	0.00	2,335.44	
xxx295033	8/29/17	PINE CONE LUMBER CO INC	715869	Electrical Parts & Supplies	19.23	0.00	19.23	\$373.94
			715884	Electrical Parts & Supplies	82.46	0.00	82.46	
			716138	Inventory Purchase	275.00	2.75	272.25	

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xxx295034	8/29/17	R & R REFRIGERATION & AIR CONDITIONING	62576	Facilities Maint & Repair - Labor	318.50	0.00	318.50	\$416.60
			62576	Facilities Maint & Repair - Materials	98.10	0.00	98.10	
xxx295035	8/29/17	R E P NUT N BOLT GUY	28343	Inventory Purchase	239.11	0.00	239.11	\$239.11
xxx295036	8/29/17	READYREFRESH BY NESTLE	07H0028805083	General Supplies	20.74	0.00	20.74	\$145.41
			17H0023249071	General Supplies	56.66	0.00	56.66	
			17H0023360647	General Supplies	6.53	0.00	6.53	
			17H5736476002	General Supplies	34.21	0.00	34.21	
			17H5740154009	General Supplies	20.46	0.00	20.46	
			17H5740156004	General Supplies	6.81	0.00	6.81	
xxx295037	8/29/17	REED & GRAHAM INC	896474	Materials - Land Improve	756.57	0.00	756.57	\$756.57
xxx295038	8/29/17	ROBIN PICKEL	RP2017JA	Rec Instructors/Officials	3,313.70	0.00	3,313.70	\$3,313.70
xxx295039	8/29/17	ROGUE FITNESS	3454171	Sports & Athletic Equipment 1	6,325.52	0.00	6,325.52	\$6,325.52
xxx295040	8/29/17	SCS FIELD SERVICES INC	0306378	Engineering Services	4,200.00	0.00	4,200.00	\$4,200.00
xxx295041	8/29/17	SFO REPROGRAPHICS	41374	Printing & Related Services	64.31	0.00	64.31	\$1,037.78
			41527	Printing & Related Services	229.62	0.00	229.62	
			41543	Printing & Related Services	129.17	0.00	129.17	
			41707	Printing & Related Services	370.82	0.00	370.82	
			41721	Printing & Related Services	71.40	0.00	71.40	
			41746	Printing & Related Services	56.14	0.00	56.14	
			42255	Printing & Related Services	116.32	0.00	116.32	
xxx295042	8/29/17	SAFEWAY INC	431367	Food Products	0.00	0.00	0.00	\$59.44
			431367-081917	Food Products	29.44	0.00	29.44	
			801355-081917	Food Products	30.00	0.00	30.00	
xxx295043	8/29/17	SARAH GRAVES	SG2017JA	Rec Instructors/Officials	1,302.84	0.00	1,302.84	\$1,302.84
xxx295044	8/29/17	SCHOLASTIC	15361369	General Supplies	5,850.91	0.00	5,850.91	\$5,850.91
xxx295045	8/29/17	SCIENSATIONAL WORKSHOPS FOR KIDS INC	2170	Rec Instructors/Officials	5,854.00	0.00	5,854.00	\$5,854.00
xxx295046	8/29/17	SHAPE INC	123328	Miscellaneous Equipment Parts & Supplies	825.00	0.00	825.00	\$825.00
xxx295047	8/29/17	SHRED-IT USA	8122847567	Records Related Services	135.52	0.00	135.52	\$135.52
xxx295048	8/29/17	SOUTH BAY REGIONAL PUBLIC SAFETY	217723	Training and Conferences	2,265.00	0.00	2,265.00	\$2,265.00
xxx295049	8/29/17	STEVEN C DOLEZAL PHD	JULY2017	Professional Services	2,850.00	0.00	2,850.00	\$2,850.00
xxx295050	8/29/17	SUNNYVALE LUMBER INC						\$1,666.01

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xxx295051	8/29/17	SUPERIOR PRESS	IS614210	Materials - Land Improve	1,666.01	0.00	1,666.01	
			3607652	Printing & Related Services	353.95	0.00	353.95	\$445.27
			3617649	Printing & Related Services	91.32	0.00	91.32	
xxx295052	8/29/17	TRENDTEC INC	267090	Salaries - Contract Personnel	1,821.20	0.00	1,821.20	\$5,099.36
			267157	Salaries - Contract Personnel	1,821.20	0.00	1,821.20	
			267246	Salaries - Contract Personnel	1,456.96	0.00	1,456.96	
xxx295053	8/29/17	TRI DIM FILTER CORP	1917125-1	Bldg Maint Matls & Supplies	89.27	0.00	89.27	\$89.27
xxx295054	8/29/17	TUFF SHED INC	1149826	Materials - Land Improve	4,720.00	0.00	4,720.00	\$4,720.00
xxx295055	8/29/17	UNITED STATES TREASURY	ID#94-6000438	Alternative Fuel User Tax Credit	1,568.23	0.00	1,568.23	\$1,568.23
xxx295056	8/29/17	UNIVAR USA INC	SJ834346	Chemicals	4,574.50	0.00	4,574.50	\$4,574.50
xxx295057	8/29/17	VWR INTERNATIONAL LLC	8049507791	General Supplies	254.83	0.00	254.83	\$1,131.05
			8049550728	General Supplies	47.28	0.00	47.28	
			8049584054	General Supplies	639.28	0.00	639.28	
			8049594779	General Supplies	189.66	0.00	189.66	
xxx295058	8/29/17	VIVIAN WONG	CK REQ 18-034	DED Services/Training - Books	29.99	0.00	29.99	\$29.99
xxx295059	8/29/17	WHCI PLUMBING SUPPLY	S2232666.002	Bldg Maint Matls & Supplies	17.46	0.00	17.46	\$381.63
			S2236762.001	Bldg Maint Matls & Supplies	364.17	0.00	364.17	
xxx295060	8/29/17	WRA	22204-2-30230	Consultants	2,093.65	0.00	2,093.65	\$2,093.65
xxx295061	8/29/17	WECK LABORATORIES INC	W7H1030	Water Lab Services	103.02	0.00	103.02	\$103.02
xxx295062	8/29/17	WELLS FARGO FINANCIAL LEASING	5004152508	Equipment Rental/Lease	172.10	0.00	172.10	\$172.10
xxx295063	8/29/17	WEST COAST ARBORISTS INC	127961	Services Maintain Land Improv	12,642.00	0.00	12,642.00	\$12,642.00
xxx295064	8/29/17	E-BUILDER INC	3468	Training and Conferences	2,050.50	0.00	2,050.50	\$2,050.50
xxx295065	8/29/17	WAITER.COM INC	H0801387104	Food Products	90.99	0.00	90.99	\$469.39
			H0815415576	Food Products	247.40	0.00	247.40	
			H0822430224	Food Products	221.99	0.00	221.99	
			J0801387104REV	Food Products	-90.99	0.00	-90.99	
xxx295066	8/29/17	ALBERT J SCOTT	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	128.13	0.00	128.13	\$128.13
xxx295067	8/29/17	BEATRICE JOHNSON	083017E	Miscellaneous Services	1,000.00	0.00	1,000.00	\$1,000.00
xxx295068	8/29/17	CHARLES S EANEFF JR	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,068.91	0.00	1,068.91	\$1,068.91
xxx295069	8/29/17	DEAN S RUSSELL						\$1,438.62

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xxx295070	8/29/17	G&K SERVICES	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,438.62	0.00	1,438.62	
			6083125913	Laundry & Cleaning Services	77.09	0.00	77.09	\$7,666.61
			6083125914	Laundry & Cleaning Services	170.35	0.00	170.35	
			6083125915	Laundry & Cleaning Services	309.39	0.00	309.39	
			6083125916	Laundry & Cleaning Services	116.68	0.00	116.68	
			6083125917	Laundry & Cleaning Services	39.36	0.00	39.36	
			6083125918	Laundry & Cleaning Services	6.72	0.00	6.72	
			6083125919	Laundry & Cleaning Services	64.35	0.00	64.35	
			6083125920	Laundry & Cleaning Services	19.25	0.00	19.25	
			6083125921	Laundry & Cleaning Services	19.11	0.00	19.11	
			6083125922	Laundry & Cleaning Services	10.97	0.00	10.97	
			6083125923	Laundry & Cleaning Services	181.41	0.00	181.41	
			6083125924	Laundry & Cleaning Services	13.18	0.00	13.18	
			6083125925	Laundry & Cleaning Services	0.90	0.00	0.90	
			6083125926	Laundry & Cleaning Services	83.99	0.00	83.99	
			6083125927	Laundry & Cleaning Services	215.50	0.00	215.50	
			6083125928	Laundry & Cleaning Services	19.11	0.00	19.11	
			6083125929	Laundry & Cleaning Services	54.78	0.00	54.78	
			6083125930	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083125931	Laundry & Cleaning Services	42.48	0.00	42.48	
			6083125932	Laundry & Cleaning Services	45.28	0.00	45.28	
			6083125933	Laundry & Cleaning Services	20.88	0.00	20.88	
			6083125934	Laundry & Cleaning Services	58.62	0.00	58.62	
			6083125935	Laundry & Cleaning Services	53.46	0.00	53.46	
			6083125938	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083125939	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083125940	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083128565	Laundry & Cleaning Services	77.09	0.00	77.09	
			6083128566	Laundry & Cleaning Services	158.03	0.00	158.03	
			6083128567	Laundry & Cleaning Services	309.39	0.00	309.39	

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			6083128568	Laundry & Cleaning Services	144.81	0.00	144.81	
			6083128569	Laundry & Cleaning Services	39.36	0.00	39.36	
			6083128570	Laundry & Cleaning Services	6.72	0.00	6.72	
			6083128571	Laundry & Cleaning Services	64.35	0.00	64.35	
			6083128572	Laundry & Cleaning Services	19.25	0.00	19.25	
			6083128573	Laundry & Cleaning Services	19.11	0.00	19.11	
			6083128574	Laundry & Cleaning Services	10.97	0.00	10.97	
			6083128575	Laundry & Cleaning Services	181.41	0.00	181.41	
			6083128576	Laundry & Cleaning Services	13.18	0.00	13.18	
			6083128577	Laundry & Cleaning Services	0.90	0.00	0.90	
			6083128578	Laundry & Cleaning Services	83.99	0.00	83.99	
			6083128579	Laundry & Cleaning Services	215.50	0.00	215.50	
			6083128580	Laundry & Cleaning Services	19.11	0.00	19.11	
			6083128581	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083128582	Laundry & Cleaning Services	45.28	0.00	45.28	
			6083128585	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083128586	Laundry & Cleaning Services	8.40	0.00	8.40	
			6083128587	Laundry & Cleaning Services	14.34	0.00	14.34	
			6083128588	Laundry & Cleaning Services	47.56	0.00	47.56	
			6083128589	Laundry & Cleaning Services	22.02	0.00	22.02	
			6083128590	Laundry & Cleaning Services	20.58	0.00	20.58	
			6083128591	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083128592	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083131228	Laundry & Cleaning Services	77.09	0.00	77.09	
			6083131229	Laundry & Cleaning Services	158.03	0.00	158.03	
			6083131230	Laundry & Cleaning Services	309.39	0.00	309.39	
			6083131231	Laundry & Cleaning Services	144.81	0.00	144.81	
			6083131232	Laundry & Cleaning Services	42.24	0.00	42.24	
			6083131233	Laundry & Cleaning Services	7.68	0.00	7.68	
			6083131234	Laundry & Cleaning Services	64.35	0.00	64.35	
			6083131235	Laundry & Cleaning Services	19.25	0.00	19.25	

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			6083131236	Laundry & Cleaning Services	19.11	0.00	19.11	
			6083131237	Laundry & Cleaning Services	10.97	0.00	10.97	
			6083131239	Laundry & Cleaning Services	13.18	0.00	13.18	
			6083131240	Laundry & Cleaning Services	0.90	0.00	0.90	
			6083131241	Laundry & Cleaning Services	83.99	0.00	83.99	
			6083131242	Laundry & Cleaning Services	215.50	0.00	215.50	
			6083131243	Laundry & Cleaning Services	19.11	0.00	19.11	
			6083131244	Laundry & Cleaning Services	54.78	0.00	54.78	
			6083131245	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083131246	Laundry & Cleaning Services	42.48	0.00	42.48	
			6083131247	Laundry & Cleaning Services	45.28	0.00	45.28	
			6083131248	Laundry & Cleaning Services	20.88	0.00	20.88	
			6083131249	Laundry & Cleaning Services	58.62	0.00	58.62	
			6083131250	Laundry & Cleaning Services	53.46	0.00	53.46	
			6083131253	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083131254	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083131255	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083133866	Laundry & Cleaning Services	77.09	0.00	77.09	
			6083133867	Laundry & Cleaning Services	302.49	0.00	302.49	
			6083133868	Laundry & Cleaning Services	456.00	0.00	456.00	
			6083133869	Laundry & Cleaning Services	1,127.41	0.00	1,127.41	
			6083133870	Laundry & Cleaning Services	42.24	0.00	42.24	
			6083133871	Laundry & Cleaning Services	7.68	0.00	7.68	
			6083133872	Laundry & Cleaning Services	64.35	0.00	64.35	
			6083133873	Laundry & Cleaning Services	19.25	0.00	19.25	
			6083133874	Laundry & Cleaning Services	19.11	0.00	19.11	
			6083133875	Laundry & Cleaning Services	10.97	0.00	10.97	
			6083133876	Laundry & Cleaning Services	182.89	0.00	182.89	
			6083133877	Laundry & Cleaning Services	13.18	0.00	13.18	
			6083133878	Laundry & Cleaning Services	0.90	0.00	0.90	
			6083133879	Laundry & Cleaning Services	83.99	0.00	83.99	

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Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
			6083133880	Laundry & Cleaning Services	215.50	0.00	215.50	
			6083133881	Laundry & Cleaning Services	19.11	0.00	19.11	
			6083133882	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083133883	Laundry & Cleaning Services	45.28	0.00	45.28	
			6083133886	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083133887	Laundry & Cleaning Services	8.40	0.00	8.40	
			6083133888	Laundry & Cleaning Services	14.34	0.00	14.34	
			6083133889	Laundry & Cleaning Services	47.56	0.00	47.56	
			6083133890	Laundry & Cleaning Services	22.02	0.00	22.02	
			6083133891	Laundry & Cleaning Services	20.58	0.00	20.58	
			6083133892	Laundry & Cleaning Services	16.31	0.00	16.31	
			6083133893	Laundry & Cleaning Services	16.31	0.00	16.31	
xxx295079	8/29/17	GAIL SWEGLES	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	117.73	0.00	117.73	\$117.73
xxx295080	8/29/17	JAMS INC	0004115080-110	Legal Services	1,275.00	0.00	1,275.00	\$1,275.00
xxx295081	8/29/17	MARK ROGGE	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	228.98	0.00	228.98	\$228.98
xxx295082	8/29/17	NANCY BOLGARD STEWARD	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,068.91	0.00	1,068.91	\$1,068.91
xxx295083	8/29/17	OFFICE DEPOT INC	948688024001	Supplies, Office 1	92.68	0.00	92.68	\$9,140.02
			948688024002	Supplies, Office 1	78.24	0.00	78.24	
			948694293001	Supplies, Office 1	281.16	0.00	281.16	
			948743081001	Supplies, Office 1	36.26	0.00	36.26	
			948743237001	Supplies, Office 1	10.20	0.00	10.20	
			948785869001	Supplies, Office 1	104.61	0.00	104.61	
			948788058001	Supplies, Office 1	8.04	0.00	8.04	
			948912292001	Supplies, Office 1	16.21	0.00	16.21	
			949138929001	Supplies, Office 1	78.92	0.00	78.92	
			949183393001	Supplies, Office 1	39.97	0.00	39.97	
			949187643001	Supplies, Office 1	36.40	0.00	36.40	
			949187644001	Supplies, Office 1	6.86	0.00	6.86	
			949187645001	Supplies, Office 1	15.53	0.00	15.53	

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			949229033001	Supplies, Office 1	83.90	0.00	83.90	
			949262438001	Supplies, Office 1	54.41	0.00	54.41	
			949360732001	Supplies, Office 1	86.44	0.00	86.44	
			949361279001	Supplies, Office 1	53.53	0.00	53.53	
			949443283001	Supplies, Office 1	34.63	0.00	34.63	
			949528492001	Supplies, Office 1	-38.14	0.00	-38.14	
			949752344001	Supplies, Office 1	57.48	0.00	57.48	
			949779643001	Supplies, Office 1	55.16	0.00	55.16	
			949781338001	Supplies, Office 1	6.46	0.00	6.46	
			949892345001	Supplies, Office 1	995.85	0.00	995.85	
			949892883001	Supplies, Office 1	6.15	0.00	6.15	
			949892884001	Supplies, Office 1	17.76	0.00	17.76	
			950190415001	Supplies, Office 1	36.37	0.00	36.37	
			950468237001	Supplies, Office 1	20.87	0.00	20.87	
			950468374001	Supplies, Office 1	27.62	0.00	27.62	
			950468375001	Supplies, Office 1	7.74	0.00	7.74	
			950570903001	Supplies, Office 1	22.77	0.00	22.77	
			950571284001	Supplies, Office 1	4.46	0.00	4.46	
			950571286001	Supplies, Office 1	37.90	0.00	37.90	
			950629835001	Supplies, Office 1	392.28	0.00	392.28	
			950630119001	Supplies, Office 1	43.15	0.00	43.15	
			950699596001	Supplies, Office 1	79.32	0.00	79.32	
			951179386001	Supplies, Office 1	481.74	0.00	481.74	
			951180713001	Supplies, Office 1	26.33	0.00	26.33	
			951329772001	Supplies, Office 1	42.05	0.00	42.05	
			951375765001	Supplies, Office 1	85.85	0.00	85.85	
			951376302001	Supplies, Office 1	25.21	0.00	25.21	
			951387209001	Supplies, Office 1	46.12	0.00	46.12	
			951387388001	Supplies, Office 1	14.03	0.00	14.03	
			951389149001	Supplies, Office 1	41.95	0.00	41.95	
			951389235001	Supplies, Office 1	40.54	0.00	40.54	

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			951548307001	Supplies, Office 1	65.90	0.00	65.90	
			951548768001	Supplies, Office 1	43.59	0.00	43.59	
			951548769001	Supplies, Office 1	43.59	0.00	43.59	
			951551815001	Supplies, Office 1	222.70	0.00	222.70	
			951552283001	Supplies, Office 1	9.32	0.00	9.32	
			951564393001	Supplies, Office 1	36.26	0.00	36.26	
			951564611001	Supplies, Office 1	75.20	0.00	75.20	
			951570711001	Supplies, Office 1	33.43	0.00	33.43	
			951729516001	Supplies, Office 1	363.33	0.00	363.33	
			951810247001	Supplies, Office 1	75.20	0.00	75.20	
			951869905001	Supplies, Office 1	734.97	0.00	734.97	
			951870022001	Supplies, Office 1	17.67	0.00	17.67	
			952078162001	Supplies, Office 1	31.50	0.00	31.50	
			952078681001	Supplies, Office 1	39.23	0.00	39.23	
			952080682001	Supplies, Office 1	348.76	0.00	348.76	
			952081774001	Supplies, Office 1	148.95	0.00	148.95	
			952083665001	Supplies, Office 1	94.05	0.00	94.05	
			952089000001	Supplies, Office 1	48.82	0.00	48.82	
			952089558001	Supplies, Office 1	58.75	0.00	58.75	
			952156493001	Supplies, Office 1	180.11	0.00	180.11	
			952157166001	Supplies, Office 1	200.33	0.00	200.33	
			952169410001	Supplies, Office 1	57.08	0.00	57.08	
			952236796001	Supplies, Office 1	70.84	0.00	70.84	
			952374108001	Supplies, Office 1	34.32	0.00	34.32	
			952418454001	Supplies, Office 1	432.90	0.00	432.90	
			952425306001	Supplies, Office 1	115.50	0.00	115.50	
			952434530001	Supplies, Office 1	233.60	0.00	233.60	
			952434934001	Supplies, Office 1	173.48	0.00	173.48	
			952544868001	Supplies, Office 1	53.88	0.00	53.88	
			952554654001	Supplies, Office 1	373.74	0.00	373.74	
			952929431001	Supplies, Office 1	61.25	0.00	61.25	

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xxx295090	8/29/17	PACIFIC GAS & ELECTRIC CO	952931921001	Supplies, Office 1	155.18	0.00	155.18	\$129,980.14
			952932271001	Supplies, Office 1	62.77	0.00	62.77	
			952982527001	Supplies, Office 1	278.47	0.00	278.47	
			952983102001	Supplies, Office 1	209.82	0.00	209.82	
			953020041001	Supplies, Office 1	60.92	0.00	60.92	
			953495405001	Supplies, Office 1	199.60	0.00	199.60	
			11008300870817	Utilities - Electric	414.67	0.00	414.67	
			11054204050817	Utilities - Electric	9,030.84	0.00	9,030.84	
			11059220090817	Utilities - Electric	3,522.80	0.00	3,522.80	
			11059220250817	Utilities - Gas	820.66	0.00	820.66	
			11059220400817	Utilities - Gas	121.41	0.00	121.41	
			11059220450817	Utilities - Gas	72.90	0.00	72.90	
			11059220500817	Utilities - Gas	16.59	0.00	16.59	
			11059220550817	Utilities - Electric	651.60	0.00	651.60	
			11059220600817	Utilities - Gas	2,974.90	0.00	2,974.90	
			11059220640817	Utilities - Electric	1,667.32	0.00	1,667.32	
			11059220750817	Utilities - Gas	147.45	0.00	147.45	
			11059220810817	Utilities - Electric	274.36	0.00	274.36	
			11059220900817	Utilities - Gas	73.35	0.00	73.35	
			11059220930817	Utilities - Electric	358.64	0.00	358.64	
			11059221020817	Utilities - Electric	360.36	0.00	360.36	
			11059221050817	Utilities - Gas	48.00	0.00	48.00	
			11059221060817	Utilities - Electric	639.44	0.00	639.44	
			11059221080817	Utilities - Electric	650.90	0.00	650.90	
			11059221150817	Utilities - Gas	64.12	0.00	64.12	
			11059221180817	Utilities - Electric	7,308.45	0.00	7,308.45	
			11059221280817	Utilities - Electric	1,153.45	0.00	1,153.45	
			11059221350817	Utilities - Gas	59.99	0.00	59.99	
			11059221400817	Utilities - Gas	423.53	0.00	423.53	
			11059221600817	Utilities - Gas	48.35	0.00	48.35	
			11059221680817	Utilities - Electric	201.59	0.00	201.59	

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			11059221700817	Utilities - Gas	50.39	0.00	50.39	
			11059221730817	Utilities - Electric	1,471.24	0.00	1,471.24	
			11059221930817	Utilities - Electric	8,789.62	0.00	8,789.62	
			11059222630817	Utilities - Electric	2,849.25	0.00	2,849.25	
			11059222720817	Utilities - Electric	683.26	0.00	683.26	
			11059224060817	Utilities - Electric	9,321.77	0.00	9,321.77	
			11059224270817	Utilities - Electric	9.86	0.00	9.86	
			11059224730817	Utilities - Electric	282.68	0.00	282.68	
			11059225100817	Utilities - Gas	91.44	0.00	91.44	
			11059225290817	Utilities - Electric	624.59	0.00	624.59	
			11059225320817	Utilities - Electric	144.80	0.00	144.80	
			11059225550817	Utilities - Electric	2,965.44	0.00	2,965.44	
			11059225650817	Utilities - Gas	637.08	0.00	637.08	
			11059226380817	Utilities - Electric	6,085.94	0.00	6,085.94	
			11059226470817	Utilities - Electric	323.24	0.00	323.24	
			11059226810817	Utilities - Electric	8,175.41	0.00	8,175.41	
			11059227030817	Utilities - Electric	533.64	0.00	533.64	
			11059227060817	Utilities - Electric	2,305.32	0.00	2,305.32	
			11059227230817	Utilities - Electric	5,386.05	0.00	5,386.05	
			11059227650817	Utilities - Electric	330.95	0.00	330.95	
			11059227850817	Utilities - Electric	5,288.23	0.00	5,288.23	
			11059228050817	Utilities - Electric	5,776.34	0.00	5,776.34	
			11059228580817	Utilities - Electric	9,083.15	0.00	9,083.15	
			11059228670817	Utilities - Electric	345.35	0.00	345.35	
			11059229250817	Utilities - Electric	5,569.04	0.00	5,569.04	
			11059229470817	Utilities - Electric	7,229.72	0.00	7,229.72	
			11059229910817	Utilities - Electric	8,934.37	0.00	8,934.37	
			11059229990817	Utilities - Electric	4,097.08	0.00	4,097.08	
			32730750560617	Utilities - Electric	163.26	0.00	163.26	
			32730750560717	Utilities - Electric	439.19	0.00	439.19	
			61266000050817	Utilities - Gas	886.77	0.00	886.77	

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xxx295095	8/29/17	ROBERT VAN HEUSEN	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	651.43		0.00	651.43	\$651.43
xxx295096	8/29/17	STATE WATER RESOURCES CONTROL BOARD	OCHOA GRI CERT	Membership Fees	170.00		0.00	170.00	\$170.00
xxx295097	8/29/17	STEPHEN QUICK	SEPTEMBER 2017	Insurances - Retiree Medical - Retiree Reimbursement	1,362.91		0.00	1,362.91	\$1,362.91
xxx295098	8/29/17	DANIEL PIPE-MAZO	180647-12822	Refund Utility Account Credit	187.62		0.00	187.62	\$187.62
xxx295099	8/29/17	JESUS HERRERA	361677	Refund Recreation Fees	500.00		0.00	500.00	\$500.00
xxx295100	8/29/17	MARGARET L GREEN	39565-24910	Refund Utility Account Credit	563.92		0.00	563.92	\$563.92
xxx295101	8/29/17	ROBERT M CHESNOS	068795	Business License Tax	37.15		0.00	37.15	\$37.15
xxx295102	8/29/17	ROY & DIANE GILMORE	027197	Business License Tax	185.82		0.00	185.82	\$185.82
xxx295103	8/29/17	TIM MORAN	170285-53154	Refund Utility Account Credit	326.30		0.00	326.30	\$326.30
xxx295104	8/29/17	YEUTING GEORGE CHENG	170593-74218	Refund Utility Account Credit	113.94		0.00	113.94	\$113.94
xxx295105	8/31/17	AT&T	0602199193	Utilities - Telephone	374.44		0.00	374.44	\$374.44
xxx295107	8/31/17	BAY AREA NEWS GROUP DIGITAL FIRST MEDIA	0005989553	Advertising Services	980.00		0.00	980.00	\$1,235.00
			0005989563	Advertising Services	255.00		0.00	255.00	
xxx295108	8/31/17	BRUCE BARTON PUMP SERVICE INC	0093718-IN	Bldg Maint Matls & Supplies	720.33		0.00	720.33	\$2,324.19
			0093719-IN	Bldg Maint Matls & Supplies	1,603.86		0.00	1,603.86	
xxx295109	8/31/17	CALCON SYSTEMS INC	40656	Salaries - Contract Personnel	889.00		0.00	889.00	\$1,912.00
			40716	Salaries - Contract Personnel	1,023.00		0.00	1,023.00	
xxx295110	8/31/17	CALIFORNIA MUNICIPAL UTILITIES ASSN	17-0848	Membership Fees	4,207.00		0.00	4,207.00	\$4,207.00
xxx295111	8/31/17	CALLANDER ASSOC	16065-9	Consultants	158.50		0.00	158.50	\$158.50
xxx295112	8/31/17	CORE POWER SERVICES INC	12852	Facilities Maintenance & Repair Labor	900.00		0.00	900.00	\$900.00
xxx295113	8/31/17	CORIX WATER PRODUCTS (US) INC	17713024750	Inventory Purchase	269.23		2.47	266.76	\$530.92
			17713025564	Inventory Purchase	266.61		2.45	264.16	
xxx295114	8/31/17	CRITCHFIELD MECHANICAL INC	1591	Facilities Maintenance & Repair Labor	3,800.00		0.00	3,800.00	\$3,800.00
xxx295115	8/31/17	DAPPER TIRE CO INC	44858457	Inventory Purchase	754.58		0.00	754.58	\$754.58
xxx295116	8/31/17	DELL MARKETING LP	10181049531	Computer Hardware	5,865.58		0.00	5,865.58	\$5,865.58
xxx295117	8/31/17	DENNYS RESTAURANT	147769	Prisoner Meals	11.54		0.00	11.54	\$11.54
xxx295118	8/31/17	DEPARTMENT OF TRANSPORTATION	18001073	Utilities - Electric	1,348.97		0.00	1,348.97	\$1,348.97
xxx295119	8/31/17	ESPINOZA TREE SERVICE	1779	Professional Services	2,150.00		0.00	2,150.00	\$2,150.00
xxx295120	8/31/17	FERGUSON ENTERPRISES INC 1423	1292860	General Supplies	777.60		0.00	777.60	\$777.60

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xxx295121	8/31/17	FOSTER BROS SECURITY SYSTEMS INC	291470	Bldg Maint Matls & Supplies	1,451.34	0.00	1,451.34	\$3,535.26
			291471	Bldg Maint Matls & Supplies	605.89	0.00	605.89	
			291755	Bldg Maint Matls & Supplies	9.81	0.00	9.81	
			291801	Misc Equip Maint & Repair - Labor	82.50	0.00	82.50	
			291809	Bldg Maint Matls & Supplies	1,385.72	0.00	1,385.72	
xxx295122	8/31/17	GLOBAL PHILANTHROPY PARTNERSHIP	2017-USDN	Membership Fees	2,250.00	0.00	2,250.00	\$2,250.00
xxx295123	8/31/17	GOLDEN GATE ENVIRONMENTAL	082217	Training and Conferences	4,934.00	0.00	4,934.00	\$4,934.00
xxx295124	8/31/17	GOLDEN GATE MECHANICAL INC	32437	Facilities Maintenance & Repair Labor	469.85	0.00	469.85	\$469.85
xxx295125	8/31/17	H K AVERY CONSTRUCTION	0917	Miscellaneous Equipment Parts & Supplies	325.00	0.00	325.00	\$7,540.00
			1117	Miscellaneous Equipment Parts & Supplies	120.00	0.00	120.00	
			1217	Miscellaneous Equipment Parts & Supplies	595.00	0.00	595.00	
			1317	Miscellaneous Services	6,500.00	0.00	6,500.00	
xxx295126	8/31/17	HACH CO INC	10592850	General Supplies	220.94	0.00	220.94	\$220.94
xxx295127	8/31/17	HAINES & CO INC	433096	Software As a Service	797.09	0.00	797.09	\$797.09
xxx295128	8/31/17	HAUTE CUISINE INC	048-2017	Food Products	604.95	0.00	604.95	\$604.95
xxx295129	8/31/17	JOANNE BOND COACHING	3434	City Training Program	5,725.00	0.00	5,725.00	\$5,725.00
xxx295130	8/31/17	KELLY MOORE PAINT CO INC	820-332854	Materials - Land Improve	28.66	0.00	28.66	\$28.66
xxx295131	8/31/17	KOHLWEISS AUTO PARTS INC	01PJ6262	Inventory Purchase	1.00	0.00	1.00	\$196.62
			01PJ8295	Inventory Purchase	199.61	3.99	195.62	
xxx295132	8/31/17	LTI ELECTRIC INC	2223	Facilities Maint & Repair - Labor	2,567.00	0.00	2,567.00	\$4,950.00
			2223	Facilities Maint & Repair - Materials	2,383.00	0.00	2,383.00	
xxx295133	8/31/17	LIEBERT CASSIDY WHITMORE	1445594	City Training Program	4,400.00	0.00	4,400.00	\$4,400.00
xxx295134	8/31/17	MALLORY SAFETY & SUPPLY LLC	4314894	Inventory Purchase	629.21	0.00	629.21	\$629.21
xxx295135	8/31/17	P&R PAPER SUPPLY CO INC	30147761-01	Inventory Purchase	25.72	0.00	25.72	\$3,954.63
			30148242-00	Inventory Purchase	3,928.91	0.00	3,928.91	
xxx295136	8/31/17	PINE CONE LUMBER CO INC	716752	Materials - Land Improve	66.62	0.00	66.62	\$66.62
xxx295137	8/31/17	RASH CURTIS & ASSOC	517400000186	Financial Services	6.56	0.00	6.56	\$719.97
			519200000047	Financial Services	143.07	0.00	143.07	
			661900000160	Financial Services	76.00	0.00	76.00	
			662700000292	Financial Services	494.34	0.00	494.34	
xxx295138	8/31/17	RAYVERN LIGHTING SUPPLY CO INC	52118-0	Inventory Purchase	1,395.53	0.00	1,395.53	\$1,395.53

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xxx295139	8/31/17	REED & GRAHAM INC	896172	Materials - Land Improve	1,027.05	0.00	1,027.05	\$11,638.69
			896344	Materials - Land Improve	2,459.22	0.00	2,459.22	
			896475	Materials - Land Improve	733.47	0.00	733.47	
			896685	Materials - Land Improve	3,104.46	0.00	3,104.46	
			896829	Materials - Land Improve	4,314.49	0.00	4,314.49	
xxx295140	8/31/17	SGS ACCUTEST INC	30129678	Water Lab Services	235.50	0.00	235.50	\$235.50
xxx295141	8/31/17	SAFEWAY INC	805216-050517	Food Products	222.72	0.00	222.72	\$225.72
			CF21833	Food Products	3.00	0.00	3.00	
xxx295142	8/31/17	SAN FRANCISCO STATE UNIVERSITY	757445	DED Services/Training - Training	375.00	0.00	375.00	\$375.00
xxx295143	8/31/17	SANTA CLARA VLY TRANSPORTATION AUTHORITY	0000018021	DED Services/Training - Transportation	140.00	0.00	140.00	\$140.00
xxx295144	8/31/17	SHAW LAW GROUP PC	3173	Training and Conferences	250.00	0.00	250.00	\$250.00
xxx295145	8/31/17	SHRED-IT USA	8122757998	Records Related Services	54.45	0.00	54.45	\$108.90
			8122954552	Records Related Services	54.45	0.00	54.45	
xxx295146	8/31/17	SIERRA PACIFIC TURF SUPPLY INC	0507446-IN	Materials - Land Improve	260.56	0.00	260.56	\$2,697.33
			0509603-IN	Materials - Land Improve	1,304.85	0.00	1,304.85	
			0509795-IN	Materials - Land Improve	842.95	0.00	842.95	
			0510109-IN	Materials - Land Improve	288.97	0.00	288.97	
xxx295147	8/31/17	SILICON VALLEY POLYTECHNIC INSTITUTE	07212017-476	DED Services/Training - Training	300.00	0.00	300.00	\$1,800.00
			07212017-477	DED Services/Training - Training	300.00	0.00	300.00	
			07232017-485	DED Services/Training - Training	300.00	0.00	300.00	
			07232017-486	DED Services/Training - Training	300.00	0.00	300.00	
			08232017-491	DED Services/Training - Training	300.00	0.00	300.00	
			08232017-493	DED Services/Training - Training	300.00	0.00	300.00	
xxx295148	8/31/17	SOLED ENERGY	1157	Bldg Maint Matls & Supplies	275.79	0.00	275.79	\$847.57
			940	Bldg Maint Matls & Supplies	571.78	0.00	571.78	
xxx295149	8/31/17	SOFTCHOICE CORP	4580618	Computer Software	5,386.04	0.00	5,386.04	\$5,386.04
xxx295150	8/31/17	STEVENS CREEK QUARRY INC	994	Materials - Land Improve	436.23	0.00	436.23	\$436.23
xxx295151	8/31/17	STOP PROCESSING CENTER	17195	Financial Services	29.60	0.00	29.60	\$29.60
xxx295152	8/31/17	TALON ECOLOGICAL RESEARCH GROUP	SUNNYVALE00 14	Services Maintain Land Improv	406.25	0.00	406.25	\$406.25
xxx295153	8/31/17	TAYLORMADE-ADIDAS GOLF CO	32735100	Inventory Purchase	792.67	0.00	792.67	\$1,162.31

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For Payments Dated 8/27/2017 through 9/2/2017

Sorted by Payment Number

Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
xxx295154	8/31/17	TOGOS EATERY	32735116	Inventory Purchase	369.64	0.00	369.64	
			527184	Food Products	70.92	0.00	70.92	\$247.76
			527805	Food Products	176.84	0.00	176.84	
xxx295155	8/31/17	TOGOS EATERY	205	Food Products	160.00	0.00	160.00	\$160.00
xxx295156	8/31/17	UNITED RENTALS	149391202-001	Equipment Rental/Lease	979.91	0.00	979.91	\$979.91
xxx295157	8/31/17	UNIVERSITY OF CALIFORNIA SANTA CRUZ	57769	DED Services/Training - Training	4,693.50	0.00	4,693.50	\$4,693.50
xxx295158	8/31/17	WECO INDUSTRIES LLC	0039385-IN	Misc Equip Maint & Repair - Materials	255.86	0.00	255.86	\$255.86
xxx295159	8/31/17	WILSEY HAM	21585	Consultants	6,940.00	0.00	6,940.00	\$6,940.00
xxx295160	8/31/17	WAITER.COM INC	H0823431770	Food Products	98.25	0.00	98.25	\$98.25
xxx295161	8/31/17	BETTY BURNEY	09/09-22/2017	Excursions	148.00	0.00	148.00	\$148.00
xxx295162	8/31/17	PACIFIC GAS & ELECTRIC CO	03142830050817	Utilities - Electric	18,410.97	0.00	18,410.97	\$25,580.62
			03153947310817	Utilities - Electric	7,169.65	0.00	7,169.65	
xxx295163	8/31/17	UNITED STATES POSTAL SERVICE	P#112-082917	Mailing & Delivery Services	940.00	0.00	940.00	\$940.00
xxx295164	8/31/17	LIANE SHARP-FUCCIO	668353	Lib - Lost & Damaged Circulation	12.99	0.00	12.99	\$12.99
xxx906248	8/29/17	US DEPT OF HOUSING & URBAN DEVELOPMENT		Interest on Investments	6,696.51	0.00	6,696.51	\$6,698.02
				Realized Gains (Losses)	1.51	0.00	1.51	
Grand Total Payment Amount								<u>\$2,301,488.63</u>

List of All Claims and Bills Approved for Payment

For Payments Dated 9/3/2017 through 9/9/2017

Sorted by Payment Number

Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
xxx295174	9/5/17	ACME BOILER & WATER HEATING CO	2451	Facilities Maintenance & Repair Labor	3,580.00	0.00	3,580.00	\$3,580.00
xxx295175	9/5/17	ACTRACE LLC	120170500	Library Acquisitions, Books	1,284.43	0.00	1,284.43	\$1,284.43
xxx295176	9/5/17	AGILENT TECHNOLOGIES INC	113489592	Water Lab Services	269.56	0.00	269.56	\$269.56
xxx295177	9/5/17	ANDERSON PACIFIC ENGINEERING	WPCPCHLRINE #25	Construction Services	45,860.01	0.00	45,860.01	\$45,860.01
xxx295178	9/5/17	AUTOSCRIBE CORP	165846	Financial Services	1,197.76	0.00	1,197.76	\$1,197.76
xxx295179	9/5/17	BAY-VALLEY PEST CONTROL INC	0227224	General Supplies	65.00	0.00	65.00	\$65.00
xxx295180	9/5/17	CIMEXTEK INC	5948	Professional Services	175.00	0.00	175.00	\$175.00
xxx295182	9/5/17	EBSCO INFORMATION SERVICES	0050574	Library Periodicals/Databases	28.60	0.00	28.60	\$28.60
xxx295183	9/5/17	FIRST PLACE INC	88351	General Supplies	5,123.00	0.00	5,123.00	\$5,123.00
xxx295184	9/5/17	FRANCISCO & ASSOC INC	2853	Financial Services	1,050.00	0.00	1,050.00	\$1,050.00
xxx295185	9/5/17	GRANITEROCK CO	1048825	Materials - Land Improve	600.41	0.00	600.41	\$600.41
xxx295186	9/5/17	INFOSEND INC	123554	Mailing & Delivery Services	922.48	0.00	922.48	\$922.48
xxx295187	9/5/17	KOHLWEISS AUTO PARTS INC	01PJ3365	Parts, Vehicles & Motor Equip	7.48	0.00	7.48	\$161.03
			01PJ3618	Parts, Vehicles & Motor Equip	9.11	0.00	9.11	
			01PJ7639	Parts, Vehicles & Motor Equip	19.28	0.00	19.28	
			01PJ8687	Parts, Vehicles & Motor Equip	12.91	0.00	12.91	
			01PJ9061	Parts, Vehicles & Motor Equip	12.89	0.00	12.89	
			01PJ9442	Parts, Vehicles & Motor Equip	99.36	0.00	99.36	
xxx295188	9/5/17	LANDCARE USA LLC	79059	Services Maintain Land Improv	186.40	0.00	186.40	\$372.80
			84187	Services Maintain Land Improv	186.40	0.00	186.40	
xxx295189	9/5/17	MCMaster CARR SUPPLY CO	44568640	Electrical Parts & Supplies	8.56	0.00	8.56	\$8.56
xxx295190	9/5/17	MIRACLE PLAY SYSTEMS	F2017-0563	Materials - Land Improve	334.49	0.00	334.49	\$334.49
xxx295191	9/5/17	NAPA AUTO PARTS	5983-329629	Parts, Vehicles & Motor Equip	140.61	0.00	140.61	\$8,616.17
			5983-331869	Parts, Vehicles & Motor Equip	9.59	0.00	9.59	
			5983-331870	Parts, Vehicles & Motor Equip	8.16	0.00	8.16	
			5983-332144	Parts, Vehicles & Motor Equip	47.58	0.00	47.58	
			5983-334624	Parts, Vehicles & Motor Equip	1,034.34	0.00	1,034.34	
			5983-334648	Parts, Vehicles & Motor Equip	91.16	0.00	91.16	

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Sorted by Payment Number

Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
			5983-334721	Parts, Vehicles & Motor Equip	82.04	0.00	82.04	
			5983-334761	Parts, Vehicles & Motor Equip	104.19	0.00	104.19	
			5983-335134	Parts, Vehicles & Motor Equip	1,068.70	0.00	1,068.70	
			5983-335297	Parts, Vehicles & Motor Equip	16.24	0.00	16.24	
			5983-335455	Parts, Vehicles & Motor Equip	84.41	0.00	84.41	
			5983-335587	Parts, Vehicles & Motor Equip	8.72	0.00	8.72	
			5983-335894	Parts, Vehicles & Motor Equip	95.19	0.00	95.19	
			5983-336423	Parts, Vehicles & Motor Equip	1,687.72	0.00	1,687.72	
			5983-336471	Parts, Vehicles & Motor Equip	493.78	0.00	493.78	
			5983-336474	Parts, Vehicles & Motor Equip	24.11	0.00	24.11	
			5983-336739	Parts, Vehicles & Motor Equip	86.48	0.00	86.48	
			5983-336772	Parts, Vehicles & Motor Equip	22.81	0.00	22.81	
			5983-337188	Parts, Vehicles & Motor Equip	89.25	0.00	89.25	
			5983-337452	Parts, Vehicles & Motor Equip	97.97	0.00	97.97	
			5983-338090	Parts, Vehicles & Motor Equip	81.45	0.00	81.45	
			5983-338357	Parts, Vehicles & Motor Equip	22.42	0.00	22.42	
			5983-338363	Parts, Vehicles & Motor Equip	103.37	0.00	103.37	
			5983-338373	Parts, Vehicles & Motor Equip	9.90	0.00	9.90	
			5983-338379	Parts, Vehicles & Motor Equip	39.44	0.00	39.44	
			5983-338380	Parts, Vehicles & Motor Equip	11.03	0.00	11.03	
			5983-338386	Parts, Vehicles & Motor Equip	39.38	0.00	39.38	
			5983-338410	Parts, Vehicles & Motor Equip	32.41	0.00	32.41	
			5983-338483	Parts, Vehicles & Motor Equip	150.00	0.00	150.00	
			5983-338560	Parts, Vehicles & Motor Equip	22.34	0.00	22.34	
			5983-338996	Parts, Vehicles & Motor Equip	11.13	0.00	11.13	
			5983-339137	Parts, Vehicles & Motor Equip	42.73	0.00	42.73	
			5983-339202	Parts, Vehicles & Motor Equip	3.94	0.00	3.94	
			5983-339391	Parts, Vehicles & Motor Equip	99.85	0.00	99.85	
			5983-339556	Parts, Vehicles & Motor Equip	36.64	0.00	36.64	
			5983-339648	Parts, Vehicles & Motor Equip	89.34	0.00	89.34	
			5983-340163	Parts, Vehicles & Motor Equip	25.35	0.00	25.35	

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For Payments Dated 9/3/2017 through 9/9/2017

Sorted by Payment Number

Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
			5983-340201	Parts, Vehicles & Motor Equip	60.12	0.00	60.12	
			5983-340571	Parts, Vehicles & Motor Equip	21.76	0.00	21.76	
			5983-340700	Parts, Vehicles & Motor Equip	139.45	0.00	139.45	
			5983-340790	Parts, Vehicles & Motor Equip	116.89	0.00	116.89	
			5983-340945	Parts, Vehicles & Motor Equip	109.43	0.00	109.43	
			5983-341009	Parts, Vehicles & Motor Equip	2.36	0.00	2.36	
			5983-341708	Parts, Vehicles & Motor Equip	81.95	0.00	81.95	
			5983-342183	Parts, Vehicles & Motor Equip	37.62	0.00	37.62	
			5983-342349	Parts, Vehicles & Motor Equip	16.00	0.00	16.00	
			5983-342363	Parts, Vehicles & Motor Equip	220.10	0.00	220.10	
			5983-342774	Parts, Vehicles & Motor Equip	9.21	0.00	9.21	
			5983-342996	Parts, Vehicles & Motor Equip	179.58	0.00	179.58	
			5983-342998	Parts, Vehicles & Motor Equip	44.85	0.00	44.85	
			5983-343023	Parts, Vehicles & Motor Equip	94.45	0.00	94.45	
			5983-343056	Parts, Vehicles & Motor Equip	5.50	0.00	5.50	
			5983-343089	Parts, Vehicles & Motor Equip	77.99	0.00	77.99	
			5983-343365	Parts, Vehicles & Motor Equip	37.36	0.00	37.36	
			5983-343376	Parts, Vehicles & Motor Equip	47.34	0.00	47.34	
			5983-343927	Parts, Vehicles & Motor Equip	1,200.44	0.00	1,200.44	
xxx295197	9/5/17	NICHOLS CONSULTING ENGINEERS	218185512	Consultants	8,513.25	0.00	8,513.25	\$8,513.25
xxx295198	9/5/17	NIXON EGLI EQUIPMENT CO INC	C19969	Materials - Land Improve	1,397.25	0.00	1,397.25	\$1,397.25
xxx295199	9/5/17	ORLANDI TRAILER INC	164615	Parts, Vehicles & Motor Equip	133.24	0.00	133.24	\$133.24
xxx295200	9/5/17	PAX WATER TECHNOLOGIES	00004019	General Supplies	3,924.00	0.00	3,924.00	\$3,924.00
xxx295202	9/5/17	PACIFIC WEST SECURITY INC	1058213-IN	Alarm Services	79.00	0.00	79.00	\$368.00
			1058458-IN	Alarm Services	90.00	0.00	90.00	
			1058459-IN	Facilities Maintenance & Repair Labor	199.00	0.00	199.00	
xxx295203	9/5/17	PAPE MATERIAL HANDLING INC	7859193	Parts, Vehicles & Motor Equip	818.59	0.00	818.59	\$818.59
xxx295204	9/5/17	PEARSON BUICK GMC	143987	Auto Maint & Repair - Labor	363.00	0.00	363.00	\$1,860.27
			143987	Auto Maint & Repair - Materials	233.04	0.00	233.04	
			300784	Parts, Vehicles & Motor Equip	127.22	0.00	127.22	
			301325	Parts, Vehicles & Motor Equip	244.81	0.00	244.81	

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Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
			301555	Parts, Vehicles & Motor Equip	166.88	0.00	166.88	
			301578	Parts, Vehicles & Motor Equip	336.10	0.00	336.10	
			302131	Parts, Vehicles & Motor Equip	76.53	0.00	76.53	
			302332	Parts, Vehicles & Motor Equip	223.19	0.00	223.19	
			303138	Parts, Vehicles & Motor Equip	89.50	0.00	89.50	
			310555	Parts, Vehicles & Motor Equip	0.00	0.00	0.00	
xxx295205	9/5/17	PRAXAIR DISTRIBUTION INC	78194873	Parts, Vehicles & Motor Equip	101.37	0.00	101.37	\$101.37
xxx295206	9/5/17	RASH CURTIS & ASSOC	662700000295	Financial Services	514.20	0.00	514.20	\$514.20
xxx295207	9/5/17	READYREFRESH BY NESTLE	17H5727863002	General Supplies	43.19	0.00	43.19	\$43.19
xxx295208	9/5/17	ROYAL BRASS INC	835904-001	Parts, Vehicles & Motor Equip	164.51	0.00	164.51	\$1,505.29
			837531-001	Parts, Vehicles & Motor Equip	74.17	0.00	74.17	
			837548-001	Parts, Vehicles & Motor Equip	142.49	0.00	142.49	
			838964-001	Parts, Vehicles & Motor Equip	22.61	0.00	22.61	
			839297-001	Parts, Vehicles & Motor Equip	357.87	0.00	357.87	
			839297-002	Parts, Vehicles & Motor Equip	92.65	0.00	92.65	
			839440-001	Parts, Vehicles & Motor Equip	492.09	0.00	492.09	
			839681-001	Parts, Vehicles & Motor Equip	18.89	0.00	18.89	
			839682-001	Parts, Vehicles & Motor Equip	30.80	0.00	30.80	
			839813-001	Parts, Vehicles & Motor Equip	9.57	0.00	9.57	
			840037-001	Parts, Vehicles & Motor Equip	99.64	0.00	99.64	
xxx295209	9/5/17	SAFETY KLEEN SYSTEMS INC	74205078	Auto Maint & Repair - Labor	65.00	0.00	65.00	\$1,161.70
			74266003	Auto Maint & Repair - Labor	1,096.70	0.00	1,096.70	
xxx295210	9/5/17	SAFEWAY INC	430857-082217	Food Products	33.25	0.00	33.25	\$69.25
			433194-082817	Food Products	26.00	0.00	26.00	
			808406-082217	Food Products	10.00	0.00	10.00	
xxx295211	9/5/17	TURF & INDUSTRIAL EQUIPMENT CO	IV22256	Parts, Vehicles & Motor Equip	78.29	0.00	78.29	\$525.95
			IV22506	Parts, Vehicles & Motor Equip	70.65	0.00	70.65	
			IV22522	Parts, Vehicles & Motor Equip	8.93	0.00	8.93	
			IV22615	Parts, Vehicles & Motor Equip	125.90	0.00	125.90	
			IV22699	Parts, Vehicles & Motor Equip	242.18	0.00	242.18	
xxx295212	9/5/17	UNITED STATES POSTAL SERVICE	2661001-082817	Postage	200.00	0.00	200.00	\$200.00

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Payment No.	Payment Date	Vendor Name	Invoice No.	Description	Invoice Amount	Discount Taken	Amount Paid	Payment Total
xxx295214	9/5/17	VALLEY OIL CO	38686	Fuel, Oil & Lubricants	442.98	0.00	442.98	\$1,709.35
			38687	Fuel, Oil & Lubricants	338.51	0.00	338.51	
			38754	Fuel, Oil & Lubricants	143.88	0.00	143.88	
			38913	Fuel, Oil & Lubricants	620.48	0.00	620.48	
			39083	Fuel, Oil & Lubricants	163.50	0.00	163.50	
xxx295215	9/5/17	VEOLIA ES TECHNICAL SOLUTIONS LLC	EW1389267	HazMat Disposal - Hazardous Waste Disposal	1,784.27	0.00	1,784.27	\$1,784.27
xxx295216	9/5/17	VERDE DESIGN INC	2-1619400	Consultants	20,690.00	0.00	20,690.00	\$20,690.00
xxx295217	9/5/17	VERMEER PACIFIC	P68491	Parts, Vehicles & Motor Equip	263.79	0.00	263.79	\$1,721.83
			P68887	Parts, Vehicles & Motor Equip	773.09	0.00	773.09	
			P69129	Parts, Vehicles & Motor Equip	684.95	0.00	684.95	
xxx295218	9/5/17	WINSUPPLY OF SILICON VALLEY	678031 00	Bldg Maint Matls & Supplies	45.64	0.00	45.64	\$45.64
xxx295219	9/5/17	STATE WATER RESOURCES CONTROL BOARD	MARTINEZ GR I	Membership Fees	170.00	0.00	170.00	\$170.00
xxx295221	9/7/17	ACOM SOLUTIONS INC	0298455-IN	Supplies, Office 1	668.99	0.00	668.99	\$668.99
xxx295222	9/7/17	AD CLUB	283776	Advertising Services	744.00	0.00	744.00	\$744.00
xxx295223	9/7/17	AIRGAS USA LLC	9057544803	Supplies, First Aid	279.50	0.00	279.50	\$2,268.00
			9061954843	Supplies, First Aid	256.62	0.00	256.62	
			9064271367	Supplies, First Aid	257.21	0.00	257.21	
			9065617642	Clothing, Uniforms & Access	40.74	0.00	40.74	
			9065665965	Clothing, Uniforms & Access	354.25	0.00	354.25	
			9065719302	Chemicals	194.63	0.00	194.63	
			9065769443	Supplies, Safety	331.14	0.00	331.14	
			9944872517	Equipment Rental/Lease	136.17	0.00	136.17	
			9946980987	Equipment Rental/Lease	184.77	0.00	184.77	
			9947028594	General Supplies	232.97	0.00	232.97	
xxx295224	9/7/17	ALBERT S AYERS JR	082817-01	Rec Instructors/Officials	788.50	0.00	788.50	\$788.50
xxx295225	9/7/17	AMERICAN FIDELITY ADMINISTRATIVE SVCS	23453	Professional Services	4,116.95	0.00	4,116.95	\$4,116.95
xxx295226	9/7/17	APPLIED INDUSTRIAL TECHNOLOGIES	7011234977	Miscellaneous Equipment Parts & Supplies	252.00	0.00	252.00	\$252.00
xxx295227	9/7/17	AXON ENTERPRISE INC	SI1493145	Software Licensing & Support	292,293.00	0.00	292,293.00	\$292,293.00
xxx295228	9/7/17	BART GROUP SALES						\$450.00

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			AUGUST/23/2017	Cost of Merchandise Sold	450.00	0.00	450.00	
xxx295229	9/7/17	BKF ENGINEERS	17080116	Consultants	41,908.95	0.00	41,908.95	\$41,908.95
xxx295230	9/7/17	BAKER & TAYLOR	4011976858	Library Acquisitions, Books	22.89	0.00	22.89	\$382.21
			4011976858	Library Materials Preprocessing	0.64	0.00	0.64	
			4011987510	Library Acquisitions, Books	349.03	0.00	349.03	
			4011987510	Library Materials Preprocessing	9.65	0.00	9.65	
xxx295231	9/7/17	CALIFORNIA DEPT OF GENERAL SERVICES	1412395	Utilities - Gas	20,364.95	0.00	20,364.95	\$20,364.95
xxx295232	9/7/17	CALLANDER ASSOC	15045-20	Architectural and Design Services	911.00	0.00	911.00	\$911.00
xxx295233	9/7/17	CALTEST ANALYTICAL LABORATORY	575716	Water Lab Services	700.00	0.00	700.00	\$1,162.64
			576082	Water Lab Services	115.66	0.00	115.66	
			576083	Water Lab Services	57.83	0.00	57.83	
			576084	Water Lab Services	115.66	0.00	115.66	
			576085	Water Lab Services	173.49	0.00	173.49	
xxx295234	9/7/17	CENTURY GRAPHICS	47302	Clothing, Uniforms & Access	2,987.10	0.00	2,987.10	\$2,987.10
xxx295235	9/7/17	CONEXWEST	9104	Miscellaneous Equipment	288.85	0.00	288.85	\$288.85
xxx295236	9/7/17	CONTRACTOR COMPLIANCE & MONITORING INC	8918	Consultants	2,000.00	0.00	2,000.00	\$2,000.00
xxx295237	9/7/17	CORIX WATER PRODUCTS (US) INC	17713022508	Inventory Purchase	1,279.89	11.74	1,268.15	\$6,912.35
			17713022948	Inventory Purchase	945.46	8.67	936.79	
			17713023934	Construction Services	2,225.48	0.00	2,225.48	
			17713025410	Inventory Purchase	444.63	4.08	440.55	
			17713025420	Inventory Purchase	558.08	5.12	552.96	
			17713025679	Inventory Purchase	2,006.05	18.40	1,987.65	
			1771501850	Inventory Purchase	-499.23	0.00	-499.23	
xxx295238	9/7/17	COUNTY LEGAL & NOTARY SERVICE	7057460	Contracts/Service Agreements	45.00	0.00	45.00	\$540.00
			7057526	Contracts/Service Agreements	45.00	0.00	45.00	
			7058317	Contracts/Service Agreements	45.00	0.00	45.00	
			7058350	Contracts/Service Agreements	45.00	0.00	45.00	
			7058351	Contracts/Service Agreements	45.00	0.00	45.00	
			7058352	Contracts/Service Agreements	45.00	0.00	45.00	

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			7059078	Contracts/Service Agreements	45.00	0.00	45.00	
			7059083	Contracts/Service Agreements	45.00	0.00	45.00	
			7059148	Contracts/Service Agreements	45.00	0.00	45.00	
			7059179	Contracts/Service Agreements	45.00	0.00	45.00	
			7059180	Contracts/Service Agreements	45.00	0.00	45.00	
			7059315	Contracts/Service Agreements	45.00	0.00	45.00	
xxx295239	9/7/17	CROP PRODUCTION SERVICES INC	33889662	Materials - Land Improve	983.62	0.00	983.62	\$1,149.30
			33889663	Materials - Land Improve	240.56	0.00	240.56	
			50005649	Materials - Land Improve	-74.88	0.00	-74.88	
xxx295240	9/7/17	D & M TRAFFIC SERVICES INC	53741	Inventory Purchase	500.31	0.00	500.31	\$500.31
xxx295241	9/7/17	DAHLIN GROUP	1707-377	Consultants	11,781.60	0.00	11,781.60	\$11,781.60
xxx295242	9/7/17	DELL MARKETING LP	10176339700	Computer Software	1,984.40	0.00	1,984.40	\$3,169.30
			10181167205	General Supplies	1,184.90	0.00	1,184.90	
xxx295243	9/7/17	EDELMAN CORP	5138	Miscellaneous Services	875.00	0.00	875.00	\$1,085.00
			5139	Miscellaneous Services	210.00	0.00	210.00	
xxx295244	9/7/17	ENVIRONMENTAL RESOURCE ASSOC	838163	General Supplies	278.24	0.00	278.24	\$278.24
xxx295245	9/7/17	ESBRO	42461	Chemicals	1,451.84	0.00	1,451.84	\$2,490.68
			42966	Chemicals	1,038.84	0.00	1,038.84	
xxx295246	9/7/17	EVOQUA WATER TECHNOLOGIES LLC	903207636	General Supplies	302.00	0.00	302.00	\$302.00
xxx295247	9/7/17	FEDEX	5-901-68872	Mailing & Delivery Services	6.50	0.00	6.50	\$27.11
			5-901-96261	Electrical Parts & Supplies	20.61	0.00	20.61	
xxx295249	9/7/17	FRANK A OLSEN CO INC	238479	Miscellaneous Equipment Parts & Supplies	1,283.90	0.00	1,283.90	\$1,283.90
xxx295250	9/7/17	GALE/CENGAGE LEARNING	61083168	Library Acquisitions, Books	54.05	0.00	54.05	\$137.76
			61143909	Library Acquisitions, Books	83.71	0.00	83.71	
xxx295251	9/7/17	GOLDEN GATE PETROLEUM	977083	Inventory Purchase	14,953.64	0.00	14,953.64	\$14,953.64
xxx295252	9/7/17	GORILLA METALS	191174	Misc Equip Maint & Repair - Labor	30.00	0.00	30.00	\$986.16
			191174	Misc Equip Maint & Repair - Materials	857.91	0.00	857.91	
			191340	Electrical Parts & Supplies	98.25	0.00	98.25	
xxx295253	9/7/17	GRAINGER	9543504600	Inventory Purchase	153.90	0.00	153.90	\$153.90
xxx295254	9/7/17	GRAYBAR ELECTRIC CO INC	992739181	Comm Equip Maintain & Repair - Materials 2	2,139.30	0.00	2,139.30	\$2,139.30
xxx295255	9/7/17	HACH CO INC						\$925.14

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			10565154	General Supplies	59.51	0.00	59.51	
			10574110	General Supplies	722.49	0.00	722.49	
			10599273	General Supplies	143.14	0.00	143.14	
xxx295256	9/7/17	HANSON ASSOC	1563	Consultants	3,000.00	0.00	3,000.00	\$3,000.00
xxx295257	9/7/17	HEXAGON TRANSPORTATION CONSULTANTS INC	10846	Consultants	5,962.49	0.00	5,962.49	\$5,962.49
xxx295258	9/7/17	ICC GENERAL CONTRACTORS INC	PRKBLDGMDR N#06	Construction Services	156,818.40	0.00	156,818.40	\$156,818.40
xxx295259	9/7/17	INFOSEND INC	123555	Postage	1,982.94	0.00	1,982.94	\$5,776.68
			123749	Mailing & Delivery Services	450.00	0.00	450.00	
			123928	Mailing & Delivery Services	645.42	0.00	645.42	
			123929	Postage	1,530.23	0.00	1,530.23	
			124349	Financial Services	1,168.09	0.00	1,168.09	
xxx295260	9/7/17	INGRAM LIBRARY SERVICES INC	30155545	Library Acquisitions, Books	635.43	0.00	635.43	\$26,628.50
			30155545	Library Materials Preprocessing	637.82	0.00	637.82	
			30155546	Library Acquisitions, Books	193.63	0.00	193.63	
			30155547	Library Acquisitions, Books	6,998.75	0.00	6,998.75	
			30155547	Library Materials Preprocessing	490.87	0.00	490.87	
			30155548	Library Acquisitions, Books	7,026.40	0.00	7,026.40	
			30155548	Library Materials Preprocessing	505.63	0.00	505.63	
			30155549	Library Acquisitions, Books	5,060.09	0.00	5,060.09	
			30155549	Library Materials Preprocessing	421.57	0.00	421.57	
			30155550	Library Acquisitions, Books	4,207.07	0.00	4,207.07	
			30155550	Library Materials Preprocessing	470.39	0.00	470.39	
			30158631	Library Acquisitions, Books	-14.99	0.00	-14.99	
			99576494	Library Materials Preprocessing	-27.82	0.00	-27.82	
			99646217	Library Acquisitions, Books	4.54	0.00	4.54	
			99646217	Library Materials Preprocessing	0.74	0.00	0.74	
			99717463	Library Acquisitions, Books	3.59	0.00	3.59	
			99717463	Library Materials Preprocessing	0.51	0.00	0.51	
			99742345	Library Acquisitions, Books	13.55	0.00	13.55	
			99742345	Library Materials Preprocessing	0.73	0.00	0.73	

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xxx295262	9/7/17	INSIGHT PUBLIC SECTOR INC	1100550268	Computer Hardware	1,432.81	0.00	1,432.81	\$2,811.25
			1100550374	Computer Hardware	1,116.16	0.00	1,116.16	
			1100550876	Hardware Maintenance	262.28	0.00	262.28	
xxx295263	9/7/17	INTERSTATE SALES	16241	Materials - Land Improve	597.65	0.00	597.65	\$597.65
xxx295264	9/7/17	IRVINE & JACHENS INC	1879	Miscellaneous Services	72.68	0.00	72.68	\$72.68
xxx295266	9/7/17	KAISER FOUNDATION HOSPITALS	800014582-0817	Pre-Employment Testing	7,638.00	0.00	7,638.00	\$7,638.00
xxx295267	9/7/17	KEMPERSPORTS INC	082917 CK REQ	Facilities Equipment	13,845.64	0.00	13,845.64	\$13,845.64
xxx295268	9/7/17	KOHLWEISS AUTO PARTS INC	01PK0352	Inventory Purchase	1,348.98	0.00	1,348.98	\$1,348.98
xxx295269	9/7/17	L N CURTIS & SONS INC	INV117415	Clothing, Uniforms & Access	1,396.29	0.00	1,396.29	\$5,588.59
			INV117492	Clothing, Uniforms & Access	431.80	0.00	431.80	
			INV120357	Clothing, Uniforms & Access	376.05	0.00	376.05	
			INV120758	Clothing, Uniforms & Access	3,384.45	0.00	3,384.45	
xxx295270	9/7/17	LANCE WEISSER	Y1	Graphics Services	1,125.00	0.00	1,125.00	\$1,125.00
xxx295271	9/7/17	LEHR AUTO ELECTRIC	01 138174	Parts, Vehicles & Motor Equip	127.04	0.00	127.04	\$243.40
			01 138674	Parts, Vehicles & Motor Equip	116.36	0.00	116.36	
xxx295272	9/7/17	LYNGSO GARDEN MATERIALS INC	937485	Materials - Land Improve	2,826.41	0.00	2,826.41	\$5,652.82
			937486	Materials - Land Improve	2,826.41	0.00	2,826.41	
xxx295273	9/7/17	MIDWEST TAPE	95357204	Library Periodicals/Databases	3,016.95	0.00	3,016.95	\$3,016.95
xxx295274	9/7/17	MISSION VALLEY FORD TRUCK SALES INC	715152	Parts, Vehicles & Motor Equip	68.52	0.00	68.52	\$68.52
xxx295275	9/7/17	MONARCH TRUCK CENTER	242533P	Parts, Vehicles & Motor Equip	1,780.47	0.00	1,780.47	\$1,780.47
xxx295276	9/7/17	MOUNTAIN VIEW GARDEN CENTER	90411	Materials - Land Improve	84.75	0.00	84.75	\$360.57
			90535	Materials - Land Improve	148.02	0.00	148.02	
			90685	Materials - Land Improve	127.80	0.00	127.80	
xxx295277	9/7/17	NORMANDIN CHRYSLER JEEP DODGE RAM	CHCS538166	Auto Maint & Repair - Labor	544.88	0.00	544.88	\$608.46
			CHCS538166	Auto Maint & Repair - Materials	63.58	0.00	63.58	
xxx295278	9/7/17	PANKEYS RADIATOR SHOP INC	236721	Auto Maint & Repair - Labor	375.00	0.00	375.00	\$375.00
xxx295279	9/7/17	PAVITHRA RAMESH JAYARAMAN	PR2017JA	Rec Instructors/Officials	486.00	0.00	486.00	\$486.00
xxx295280	9/7/17	PINE CONE LUMBER CO INC	715870	Materials - Land Improve	70.25	0.00	70.25	\$88.02
			718142	Electrical Parts & Supplies	17.77	0.00	17.77	
xxx295281	9/7/17	PUBLIC SAFETY CONSULTANTS NORTHWEST LLC	EMO 7-17	Consultants	1,653.00	0.00	1,653.00	\$1,653.00
xxx295282	9/7/17	RASH CURTIS & ASSOC						\$2.28

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			517400000181	Financial Services	2.28	0.00	2.28	
xxx295283	9/7/17	ROGER D HIGDON	2017-15306F	Consultants	823.68	0.00	823.68	\$823.68
xxx295284	9/7/17	ROYAL BRASS INC	839440-001	Parts, Vehicles & Motor Equip	0.92	0.00	0.92	\$411.95
			840443-001	Miscellaneous Equipment Parts & Supplies	411.03	0.00	411.03	
xxx295285	9/7/17	SAFEWAY INC	809926-082817	Food Products	15.13	0.00	15.13	\$17.84
			809926-082817	General Supplies	2.71	0.00	2.71	
xxx295286	9/7/17	SAN JOSE BMW	4278623	Parts, Vehicles & Motor Equip	39.30	0.00	39.30	\$39.30
xxx295287	9/7/17	SIERRA PACIFIC TURF SUPPLY INC	0510343-IN	Materials - Land Improve	2,780.97	0.00	2,780.97	\$2,780.97
xxx295288	9/7/17	SILICON VALLEY SECURITY & PATROL INC	2033037	Professional Services	500.00	0.00	500.00	\$1,350.00
			2033071	Equipment Rental/Lease	350.00	0.00	350.00	
			2033195	Professional Services	500.00	0.00	500.00	
xxx295289	9/7/17	SILICON VALLEY TOW	78270	Vehicle Towing Services	2,650.00	0.00	2,650.00	\$2,650.00
xxx295290	9/7/17	SMART & FINAL INC	055634-083017	Food Products	15.23	0.00	15.23	\$39.37
			055634-083017	General Supplies	24.14	0.00	24.14	
xxx295291	9/7/17	SONSRAY MACHINERY LLC	P06617-12	Parts, Vehicles & Motor Equip	652.47	0.00	652.47	\$652.47
xxx295292	9/7/17	STUDIO EM GRAPHIC DESIGN	16739	Advertising Services	81.75	0.00	81.75	\$81.75
xxx295293	9/7/17	SUBURBAN PROPANE	9557	Services Maintain Land Improv	1,650.00	0.00	1,650.00	\$1,650.00
xxx295294	9/7/17	SUNNYVALE FORD	101504	Parts, Vehicles & Motor Equip	204.23	0.00	204.23	\$6,878.99
			101764	Parts, Vehicles & Motor Equip	109.89	0.00	109.89	
			101833	Parts, Vehicles & Motor Equip	198.45	0.00	198.45	
			101868	Parts, Vehicles & Motor Equip	318.86	0.00	318.86	
			101893	Parts, Vehicles & Motor Equip	48.83	0.00	48.83	
			101893-1	Parts, Vehicles & Motor Equip	46.63	0.00	46.63	
			102024	Parts, Vehicles & Motor Equip	7.79	0.00	7.79	
			102033	Parts, Vehicles & Motor Equip	16.27	0.00	16.27	
			102168	Parts, Vehicles & Motor Equip	127.79	0.00	127.79	
			102284	Parts, Vehicles & Motor Equip	485.60	0.00	485.60	
			102427	Parts, Vehicles & Motor Equip	15.98	0.00	15.98	
			102485	Parts, Vehicles & Motor Equip	83.74	0.00	83.74	
			102516	Parts, Vehicles & Motor Equip	27.09	0.00	27.09	
			102642	Parts, Vehicles & Motor Equip	94.51	0.00	94.51	

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			102709	Parts, Vehicles & Motor Equip	798.62	0.00	798.62	
			102723	Parts, Vehicles & Motor Equip	70.08	0.00	70.08	
			102736	Parts, Vehicles & Motor Equip	40.09	0.00	40.09	
			102775	Parts, Vehicles & Motor Equip	45.21	0.00	45.21	
			102775-1	Parts, Vehicles & Motor Equip	60.19	0.00	60.19	
			102797	Parts, Vehicles & Motor Equip	25.33	0.00	25.33	
			102990	Parts, Vehicles & Motor Equip	207.73	0.00	207.73	
			103023	Parts, Vehicles & Motor Equip	173.99	0.00	173.99	
			103308	Parts, Vehicles & Motor Equip	127.43	0.00	127.43	
			103454	Parts, Vehicles & Motor Equip	133.58	0.00	133.58	
			103558	Parts, Vehicles & Motor Equip	228.74	0.00	228.74	
			103586	Parts, Vehicles & Motor Equip	122.81	0.00	122.81	
			103631	Parts, Vehicles & Motor Equip	32.99	0.00	32.99	
			103918	Parts, Vehicles & Motor Equip	61.87	0.00	61.87	
			104027	Parts, Vehicles & Motor Equip	187.32	0.00	187.32	
			104057	Parts, Vehicles & Motor Equip	416.98	0.00	416.98	
			104332	Parts, Vehicles & Motor Equip	196.17	0.00	196.17	
			104433	Parts, Vehicles & Motor Equip	37.47	0.00	37.47	
			104804	Parts, Vehicles & Motor Equip	286.71	0.00	286.71	
			104849	Parts, Vehicles & Motor Equip	109.19	0.00	109.19	
			104853	Parts, Vehicles & Motor Equip	32.31	0.00	32.31	
			104863	Parts, Vehicles & Motor Equip	214.66	0.00	214.66	
			104881	Parts, Vehicles & Motor Equip	155.92	0.00	155.92	
			104893	Parts, Vehicles & Motor Equip	34.37	0.00	34.37	
			FOCS759560	Auto Maint & Repair - Labor	585.00	0.00	585.00	
			FOCS759560	Auto Maint & Repair - Materials	257.31	0.00	257.31	
			FOCS760301	Auto Maint & Repair - Labor	180.00	0.00	180.00	
			FOCS760301	Auto Maint & Repair - Materials	131.31	0.00	131.31	
			FOCS761061	Auto Maint & Repair - Labor	139.95	0.00	139.95	
xxx295298	9/7/17	SUNNYVALE PUBLIC SAFETY OFFICERS ASSN	DENTAL0917	Insurances - Dental	29,234.40	0.00	29,234.40	\$29,234.40

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xxx295299	9/7/17	SUNNYVALE PUBLIC SAFETY OFFICERS ASSN	DISABILITY0917	Insurances - Long Term Disability	3,686.00	0.00	3,686.00	\$3,686.00
xxx295300	9/7/17	SUPPLYWORKS	411171465	Inventory Purchase	1,008.18	9.25	998.93	\$2,836.34
			411459837	Inventory Purchase	45.02	0.41	44.61	
			411605322	Inventory Purchase	1,441.85	13.23	1,428.62	
			411605330	Inventory Purchase	367.55	3.37	364.18	
xxx295301	9/7/17	SUZANNE LUFT	107	Rec Instructors/Officials	225.00	0.00	225.00	\$225.00
xxx295302	9/7/17	TJKM	0046358	Consultants	1,642.74	0.00	1,642.74	\$1,642.74
xxx295303	9/7/17	TURF STAR INC	6982381-00	Parts, Vehicles & Motor Equip	1,554.02	0.00	1,554.02	\$1,969.30
			6982381-01	Parts, Vehicles & Motor Equip	130.18	0.00	130.18	
			6983358-00	Parts, Vehicles & Motor Equip	211.99	0.00	211.99	
			6983359-00	Parts, Vehicles & Motor Equip	73.11	0.00	73.11	
xxx295304	9/7/17	VERIZON WIRELESS	9789564760	Utilities - Mobile Phones - City Mobile Phones	5,790.54	0.00	5,790.54	\$5,790.54
xxx295306	9/7/17	VERIZON WIRELESS	9789564760	Communication Equipment	235.98	0.00	235.98	\$235.98
xxx295307	9/7/17	VERIZON WIRELESS	9791313489	Utilities - Mobile Phones - City Mobile Phones	5,529.25	0.00	5,529.25	\$5,529.25
xxx295309	9/7/17	VERIZON WIRELESS	9791313489	Communication Equipment	1,882.37	0.00	1,882.37	\$1,882.37
xxx295310	9/7/17	VERIZON WIRELESS	9791313490	Utilities - Mobile Phones - City Mobile Phones	1,561.79	0.00	1,561.79	\$1,561.79
xxx295311	9/7/17	VERIZON WIRELESS	9791313488	Utilities - Mobile Phones - City Mobile Phones	5,885.85	0.00	5,885.85	\$5,885.85
xxx295313	9/7/17	PAUL MEHLING	090917 EVENT	Special Events	2,600.00	0.00	2,600.00	\$2,600.00
xxx906249	9/7/17	EMPLOYMENT DEVELOPMENT DEPT		Insurances - Unemployment	8,448.00	0.00	8,448.00	\$8,448.00
Grand Total Payment Amount								<u>\$871,762.00</u>



City of Sunnyvale

Agenda Item

17-0873

Agenda Date: 9/26/2017

REPORT TO COUNCIL

SUBJECT

Authorize Amending an Existing Contract for Energy-Efficient Light Emitting Diode (LED) (F18-029) and Approval of Budget Modification No. 15

REPORT IN BRIEF

Approval is requested to amend an existing contract with Tanko Lighting to increase the contract amount by \$426,429, from \$2,172,293 to \$2,598,722 for the implementation of an Adaptive Streetlighting Control System and approval of Budget Modification No. 15 in the net amount of \$146,199.

EXISTING POLICY

Pursuant to 2.08 of the Sunnyvale Municipal Code, City Council approval is required for contracts exceeding \$100,000.

Pursuant to Sunnyvale Charter Section 1305, at any meetings after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by affirmative votes of at least four members so as to authorize the transfer of unused balances appropriated for one purpose to another, or to appropriate available revenue not included in the budget.

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(b), for existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services.

BACKGROUND AND DISCUSSION

In August 2016 a competitive Request for Proposals (RFP) was issued with three proposals received from Ameresco, Tanko Lighting, Inc., and Siemens Industry, Inc. The City Council approved the award of contract to Tanko Lighting, Inc.(Tanko) in the amount of \$2,172,293 (RTC No. 16-1135).

At the time of award, staff did not recommend awarding the optional task of implementing the Adaptive Streetlighting Control System (ASCS) because the cost was estimated at \$1.2 million. Recent advancements in this technology have made adaptive streetlight systems more affordable and accessible.

Considering this, staff requested Tanko for a revised proposal for deployment of the ASCS if simultaneously deployed with the current contract for the implementation of the LED Streetlight Conversion 2016. Combining these systems implementations will save the City an estimated \$1.0 million versus installing the systems separately.

The ASCS will allow the City to remotely monitor and manage the streetlights from its Traffic Management Center (TMC). The system will allow automatic adjustment of lighting levels on the street depending upon the activity. So, as the activity on the street(s) decreases the lighting levels can also be reduced, saving additional power consumption and reducing greenhouse gas emissions. The ASCS also allows the staff to accurately monitor the power consumption of individual streetlights in real time, and will send streetlight outage alerts identifying malfunctioning streetlights so staff can quickly address outages in a timely manner.

FISCAL IMPACT

The total cost to deploy the Adaptive Streetlighting Control System is \$531,015. The costs will be added to the City's LED Streetlights Conversion project funded by the General Fund. Existing contract savings in the amount of \$104,586 in the project will partially offset these costs. The City's existing contract with Tanko Lighting Inc. provides for the replacement of 6,925 fixtures. However, a recently completed field inventory resulted in a total of 6,614 fixtures that are eligible for replacement. The reduced fixture count equates to \$104,586 in reduced project costs. Therefore, additional project funding of \$426,429 is required to fund the contract change order for the Adaptive Streetlighting Control System.

Upon completion of the project, the City anticipates receiving rebates from PG&E for the LED conversions. The PG&E LED Streetlight Program publishes rebate amounts, based on fixture wattages, that would equate to \$280,230 in revenue to the City. This revenue will offset the fiscal impact of the increased project cost. The General Fund Budget Stabilization Reserve is recommended to fund the net costs of \$146,199 to fully fund the project.

The cost of operating and maintaining streetlights and the associated system is budgeted in the General Fund operating budget. With the planned rebates and energy cost savings from converting to LED's (planned at \$245,000 per year), the payback period for this conversion is less than ten years. The General Fund can absorb an appropriation from the Budget Stabilization Fund to provide resources to add the Adaptive Streetlight Control System. Staff will continue to monitor and adjust the budget for operating streetlights and include operating savings that result from this investment.

Budget Modification No. 15 has been prepared to appropriate additional funding for Project 832070 - LED Streetlights Conversion Project.

**Budget Modification No. 15
FY 2017/18**

	Current	Increase/ (Decrease)	Revised
General Fund			
<u>Revenue</u>			
PG&E LED Streetlight Program Rebates	\$0	\$280,230	\$280,230
<u>Reserves</u>			
Budget Stabilization Fund	\$34,596,674	(\$146,199)	\$34,450,475
<u>Transfer To Infrastructure Fund</u>			
Project 832070 - LED Streetlights Conversion	\$2,300,000	\$426,429	\$2,726,429
Infrastructure Renovation and Replacement Fund			
<u>Expenditures</u>			
Project 832070 - LED Streetlights Conversion	\$2,300,000	\$426,429	\$2,726,429

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 City Manager to execute the First Amendment to an existing contract with Tanko Lighting Inc. increasing the contract amount by \$ 426,429, from \$2,172,293 to \$2,598,722 to deploy the Adaptive Streetlighting Control System simultaneously with the energy-efficient streetlight conversion in the City of Sunnyvale and 2) Approve Budget Modification No 15 in the net amount of \$146,199.

Prepared by: Gregory S. Card, 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

ATTACHMENTS

1. Draft First Amendment

**DRAFT FIRST AMENDMENT TO GENERAL CONSTRUCTION CONTRACT BETWEEN
THE CITY OF SUNNYVALE AND TANKO STREETLIGHTING, INC.
FOR THE ENERGY-EFFICIENT LED STREETLIGHT CONVERSION 2016**

This First Amendment to General Construction Contract, dated _____, is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and TANKO STREETLIGHTING, INC. ("CONTRACTOR").

WHEREAS, on February 15, 2017, CITY and CONTRACTOR entered into a General Construction Contract whereby CONTRACTOR would furnish all tools, equipment, apparatus, facilities, labor, transportation, and material necessary to perform and complete the project entitled Energy-Efficient LED Streetlight Conversion 2016, RFP No. F16-115 in a good and workmanlike manner; and

WHEREAS, the parties now agree that an Amendment to said Contract is advisable;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS FIRST AMENDMENT TO GENERAL CONSTRUCTION CONTRACT:

3. Contract Price

Replace this section with the following:

3. **Contract Price.** The Owner agrees to pay and the Contractor agrees to accept, in full payment for the work above agreed to be done, the sum of Two Million Five Hundred Ninety Eight Thousand Seven Hundred Twenty One and 82/100 Dollars (\$2,598,721.82) subject to final determination of the work performed and materials furnished at unit prices per "Exhibit A-1" attached hereto and incorporated by this reference, and subject to additions and deductions in accordance, as provided in the Documents and in accordance with Contract Documents. The sum includes base bid and optional item.

All other terms and conditions remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Contract First Amendment.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By _____
City Clerk

By _____
City Manager

APPROVED AS TO FORM:

TANKO STREETLIGHTING, INC.
("CONTRACTOR")

By _____
City Attorney

By _____

Name and Title

By _____

Name and Title

EXHIBIT A-1
Compensation Schedule

Tanko Lighting - Philips

Existing Cobra-heads or Mast-arms	LED °Kelvin	Number of Fixtures Proposed	LED Replacement Unit Price \$/fixture	Installation and Administrati on Unit Price \$/Fixture	Total Price Unit Price \$/Fixture	Total Extended Price (Total Unit Price multiplied by Number of fixtures proposed)
70W HPS	4000K	4794	\$185.25	\$106.75	\$292.00	\$1,399,848.00
150 – 250+W HPS	4000K	1425	\$216.79	\$117.00	\$333.79	\$475,650.75
100W HPS (Soffit - Wall-packs)	4000K	6	\$444.03	\$108.00	\$552.03	\$3,312.18
TOTAL	N/A	N/A		N/A	N/A	\$1,878,810.93

Retrofit Fixture for Existing Post-Top Streetlighting –Optional Item

Existing Post Top - Downtown Standard - Retrofit kit	LED °Kelvin	Number of Fixtures Proposed	LED Replacement Unit Price \$/fixture	Installation and Administrati on Unit Price \$/Fixture	Total Price Unit Price \$/Fixture	Total Extended Price (Total Unit Price multiplied by Number of fixtures proposed)
150W HPS	4000K	700	\$310.26	\$109.00	\$419.26	\$293,482.00
TOTAL	N/A	N/A		N/A	N/A	\$293,482.00

ADAPTIVE CONTROLS PROPOSAL

A. Cost

Tanko Lighting will install an adaptive control system (to allow the City to remotely monitor and manage the streetlight system) simultaneously with the LED streetlight installation. Please find below Tanko Lighting's estimated cost of the proposed additive adaptive controls work below.

Adaptive Controls (Additive) Pricing*			
Quantity	Manufacturer Part No.	Unit Price	Extended Cost
5749	Procurement and installation of Echelon 100134 or 100220 TOP900TLX -GRY -Wireless controller, NEMA standard ANSI C136.41-2013, 120-277, wireless controller that installs directly to an exterior lighting fixture, providing remote monitoring and control	\$95.00/fixture	\$546,155.00
3	Procurement and installation of Echelon 100142 LumeWave Base Station 2.0 - Ethernet Base Station doubles the performance and range of the Lumewave Gateway using a robust bi-directional pole mounted amplifier. The LumeWave Base Station connects installed wireless luminaire controllers with the LumInsight Desktop Central Management System through an Ethernet link for LAN connections or cellular link via an integrated modem.	Included**	
1	Echelon 38800-50 Luminsight Desktop Central Management Software, is a Central Management Software system (CMS) which allows the user to identify/control devices and administer Lumewave system.	Included	
1	Echelon 96100 Remote Training and Support	Included	
3	Installation of Gateway	\$1,500.00	\$4,500.00
5,749	Credit for Ripley Photocell	\$4.46/fixture	(\$25, 640.54)
1	Contingency - Procurement and installation of Echelon 100142 LumeWave Base Station 2.0 - Ethernet Base Station doubles the performance and range of the Lumewave Gateway using a robust bi-directional pole mounted amplifier. The LumeWave Base Station connects installed wireless luminaire controllers with the LumInsight Desktop Central Management System through an Ethernet link for LAN connections or cellular link via an integrated modem.	\$6,000.00**	\$6,000.00
Total			\$531,014.46

*Please note that pricing does not include relevant sales tax, nor does it include spares or mockups.

** Procurement and installation of an additional gateway is \$6,000/gateway. Installation is based on using a Tanko contractor installing at a designated location with a bucket truck up to 35 ft.

B. Scope of Work

Tanko Lighting will integrate the adaptive controls elements into the greater LED streetlight conversion project seamlessly, through the following Tasks (already part of Tanko Lighting's existing streetlight LED conversion scope of work):

- Task 5: Materials Procurement
- Task 7: Logistics Management
- Task 8: Installation
- Task 9: Commissioning

C. Proposed Installation Schedule – Adaptive Controls Included

Please find Tanko Lighting's proposed Project Schedule in the table below. Please note that this is the comprehensive schedule for the entire project, not just the installation phase, and includes the installation of adaptive controls.

Proposed Project Schedule	
Task	Estimated Completion Date
GIS Audit	NTP + 20 calendar days
Data Reconciliation	2 weeks after Audit completion
Replacement Plan	Initial Design Submission = 2 weeks after Data Reconciliation completion; Final Design Submission = 1 week after City feedback
Final Scope of Work	Concurrent with Final Design Submission
Materials Procurement	<u>Submittals to City</u> = 1 week after City approval of Design; <u>Ordering</u> = 1 week after City submittal approval; <u>Shipment of Fixtures</u> = 4 – 6 weeks from order placement
Logistics Management	2 weeks prior to Installation
Community Outreach	2 – 4 weeks prior to Installation
Installation	<u>Commencement</u> = 1 week from material receipt; <u>Substantial Completion</u> = 3 months from commencement
Commissioning & Final Punch List	2 weeks following Substantial Completion
Final Reporting	4 weeks following Substantial Completion

#



City of Sunnyvale

Agenda Item

17-0880

Agenda Date: 9/26/2017

REPORT TO COUNCIL

SUBJECT

Award a Contract to Provide a Colocation Facility for City Data Centers (F17-104)

REPORT IN BRIEF

Approval is requested to award a 5-year contract in the amount of \$2,837,303 to Zayo Group LLC of Boulder, Colorado, to provide a colocation facility for the City's data centers, including private Ethernet network connectivity, maintenance, and customer support. Approval is also requested for an 8% contract contingency in the amount of \$226,984 and to delegate authority to the City Manager to extend the contract for four additional one-year periods provided pricing and service remain acceptable to the City. A separate contract for relocation of the data center hardware and destruction of obsolete hard drives will be awarded to Curvature, Inc. of Hudson, Massachusetts, under the City Manager's award authority.

EXISTING POLICY

Pursuant to Chapter 2.08 of the Sunnyvale Municipal Code, City Council approval is required for contracts exceeding \$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(b)(5) in that it is governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

BACKGROUND AND DISCUSSION

The City currently hosts two data centers that support the City's data storage and computing systems: one in the City Hall Annex basement on Olive Avenue and the other in the Department of Public Safety building on All America Way. Neither data center has been maintained adequately for reliability or to guard against threats from environmental issues (cooling and fire suppression), earthquake prevention, flooding (at City Hall Annex), and location security (site access and video surveillance). Furthermore, neither data center has disaster recovery capability to enable a full recovery in the cloud, or connections to cloud providers built into their design. This places the City's storage and computing systems at risk from a security and a reliability standpoint.

The cost to maintain a City-hosted data center that satisfies facility, infrastructure and security requirements is significant and would require approximately 1.5 additional FTEs, training and resources to operate properly. The approximate cost to retrofit/renovate both data centers is \$2.0 million, not including disaster recovery. The approximate cost to build a data center in the new Civic Center is \$3.4 million, which will vary depending on real estate costs and does not include disaster recovery. Including an on-site data center in the new Civic Center might also require moving the

hardware twice, depending on the phases of the Civic Center, and with the current unstable condition of the data centers continue to keep these at risk until the Civic Center is built. In consideration of its options, Staff decided to issue an RFP for an off-site colocation facility.

A competitive Request for Proposals (RFP) was issued in March 2017 and was posted to the City's public procurement network. Five proposals were received on April 12, 2017, from Microsoft, CyrusOne, Equinix, QTS Data Centers, and Zayo Group. The proposals were evaluated by Information Technology Department (IT) staff based on overall functionality of the proposed solution, implementation plan, and proposal quality. Zayo Group was the highest rated proposer, based on the rack space provided, migration services, and private connectivity to the colocation facility. Zayo Group will work with Curvature, Inc. to coordinate relocation of the data center hardware from the City to the colocation facility.

FISCAL IMPACT

Funds for replacement of various existing IT equipment is contained within the Information Technology and Communications Internal Services Fund. Equipment replacement in this fund is paid for through contributions from the City's various operating funds. For example, replacement of the computer aided dispatch system in Public Safety is funded through amortized contributions made by the General Fund.

The cost of this contract over five years is approximately \$2.84 million. Of that total, only approximately \$30,000 is one time, the remainder is ongoing. Services (detailed in Exhibit B to the contract) include the ongoing cost for space and power, costs for security and network services, point to point connections from City facilities to the data center, and disaster recovery services. The total cost of these services is approximately \$340,000 per year over the five year agreement.

The total twenty-year impact of this change, assuming it remains the City's strategy over the long run, is estimated to be \$8.6 million. As part of the analysis for this contract, Staff has determined through removing equipment that is no longer needed and defunding some other un-needed replacements, this contract can be funded for approximately ten years without impacting the budget. Beyond that, increases in contributions from other funds will be needed. It is important to note that while funding for this contract is insufficient over the long run, there are also insufficient funds budgeted for a full replacement of the City's current data center and with this contract the City will follow best practices regarding security and reliability of its IT systems. Furthermore, colocation allows the flexibility to leave a data center out of the Civic Center project, avoiding the additional expense and complexity.

Staff will make the adjustments to the replacement budget and build in the full twenty year impact with the FY 2018/19 Recommended Budget and long term financial plan.

Funding Source

Funds are currently budgeted in the General Services Fund/Technology and Communications Services Subfund.

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 five year contract in the amount of \$2,837,303 to Zayo Group LLC to provide a colocation facility, in substantially the same form as Attachment 1 to the report and authorize the City Manager to execute the contract when all necessary conditions have been met; 2) approve an 8% contract contingency in the amount of \$226,984; and 3) delegate authority to the City Manager to award a contract for four additional one-year periods provided pricing and service remain acceptable to the City.

Prepared by: Gregory S. Card, Purchasing Officer

Reviewed by: Timothy J. Kirby, Director of Finance

Reviewed by: Kathleen Boutté Foster, Chief Information Officer

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENT

1. Draft Services Agreement

**SERVICES AGREEMENT BETWEEN
THE CITY OF SUNNYVALE AND ZAYO GROUP
FOR CO-LOCATION FACILITY AND RELOCATION SERVICES OF HARDWARE
FOR CITY OF SUNNYVALE DATA CENTER**

THIS AGREEMENT dated _____ is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and ZAYO GROUP ("CONTRACTOR").

WHEREAS, CITY is in need of a colocation facility and relocation services of hardware to said facility;
and

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

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Contract Documents

The complete Contract consists of the following documents: Request for Proposal No. F17-104, consisting of a Notice Inviting Proposals, Instructions to Proposers, Specifications, Terms and Conditions and CONTRACTOR's completed Proposal. These documents are all incorporated by reference. The documents comprising the complete contract are collectively referred to as the Contract Documents.

Any and all obligations of the CITY and the CONTRACTOR are fully set forth and described therein.

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

2. Services by CONTRACTOR

It is understood and agreed that tools, equipment, apparatus, Facility, labor, transportation, and material shall be furnished and work performed and completed as required in the proposal documents under the sole direction and control of the CONTRACTOR, and subject to approval of the City.

3. Time for Performance

Time is of the essence in the performance of the Agreement. If services cannot be performed at the specified time, CONTRACTOR shall promptly notify CITY of the earliest possible date for performance of the services. Notwithstanding such notice, if CONTRACTOR, for any reason whatsoever, fails to perform the services within the time specified, CITY may terminate the Agreement or any part thereof without liability except for services previously performed and accepted.

4. Compensation

Total compensation shall not exceed Two Million Eight Hundred Thirty-Seven Thousand Three Hundred Three and No/100 Dollars (\$2,837,303). CONTRACTOR shall submit invoices to CITY to be paid in accordance with the Contract Documents and as detailed in Exhibit "B".

All invoices, including detailed backup, shall be sent to the City of Sunnyvale, Accounts Payable, PO Box 3707, Sunnyvale, CA 94088-3707 or accountspayable@sunnyvale.ca.gov.

5. 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.

6. Confidential Information

CONTRACTOR 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 CONTRACTOR may become aware in the performance of its services.

7. Compliance with Laws

- a. CONTRACTOR 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. CONTRACTOR 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.

8. Independent Contractor

CONTRACTOR is acting as an independent contractor in 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 CONTRACTOR. CONTRACTOR is responsible for paying all required state and federal taxes.

9. Indemnity

CONTRACTOR shall indemnify, defend, and hold harmless the CITY, 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 services described in Exhibit "A", caused in whole or in part by any negligent act or omission of CONTRACTOR, 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 the CITY.

10. Insurance

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

11. CITY Representative

Eddie Soliven, Information Technology Manager, as 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.

12. CONTRACTOR Representative

John Derham, Account Director, shall represent CONTRACTOR in all matters pertaining to the services and materials to be rendered under this Agreement. All requirements of CONTRACTOR pertaining to the services to be rendered under this Agreement shall be coordinated through the CONTRACTOR representative.

13. 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 shall be personally delivered, sent by first class with postage prepaid, or sent by commercial courier, addressed as follows:

To CITY: Eddie Soliven, Information Technology Manager
Information Technology Department
CITY OF SUNNYVALE
P. O. Box 3707
Sunnyvale, CA 94088-3707

To CONTRACTOR: John Derham, Account Director
Zayo Group
501 2nd Street, Suite 400
San Francisco, CA 94107

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.

14. Assignment

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

15. Termination

If CONTRACTOR 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 CONTRACTOR. CONTRACTOR will then have 30 days to cure the breach. If CITY fails to pay CONTRACTOR, CONTRACTOR at its option may terminate this Agreement if the failure is not remedied by CITY within thirty (30) days after written notification of failure to pay.

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 no less than forty-five (45) days' written notice to CONTRACTOR. In the event of such termination, CONTRACTOR 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. CONTRACTOR shall present CITY with any work product completed at that point in time.

16. 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 by writing signed by all parties.

17. Governing Law, Jurisdiction and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara, and waive all venue objections.

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:

("CONTRACTOR")

By _____
City Attorney

By _____

Title and Date

By _____

Title and Date

EXHIBIT A INSURANCE REQUIREMENTS

Contractor 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 Contractor, his agents, representatives, or employees.

Minimum Scope and Limits of Insurance - Contractor shall obtain and maintain during the Term at its sole expense during the entire term of this Agreement on an occurrence basis or, in the case of coverage that cannot be obtained on an occurrence basis:

- (a) Workers' compensation insurance in accordance with the applicable laws of the states or countries where Zayo performs Professional Services hereunder;
- (b) Employee benefits liability insurance in accordance with the applicable laws of the states or countries where Zayo performs hereunder, but no less than \$1,000,000 per occurrence;
- (c) Commercial general liability insurance with a combined bodily injury and property damage single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate which covers, at a minimum, premises, independent contractor, products liability, contractual liability, personal and advertising injury, and broad form property damage;
- (d) Professional liability/Technology Errors and Omissions insurance (E&O insurance) in an amount of \$2,000,000 per occurrence and in the aggregate;
- (e) Excess or Umbrella Liability Coverage with a minimum limit of Two Million Dollars (\$2,000,000) coverage in excess of the coverage set forth in items a, b, c and d above.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared and approved by the City of Sunnyvale. The contractor 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 Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. 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 Contractor'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 Contractor'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 Contractor'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

Contractor 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.

APPENDIX A
FORM 4, Page 1 of 4**PROPOSER RESPONSE PAGES**
PRICING PAGE

Proposers shall itemize costs for the colocation facility on this Pricing Page. **Pricing Page must be submitted in a separate, sealed envelope.**

A. One-Time Costs

1. Equipment

Attach a detailed equipment list with pricing and summarize the cost on this sheet.

Quantity	Part#	Description	Unit Price	Discount	Total Price
10		Cabinets	\$700		\$7,000
250		Space (by Sq. Ft.)	\$25/Sq. Ft.		\$9,375
10		208V/30A Primary Feeds	\$960		\$9,600
10		208V/30A Redundant Feeds	\$100		\$1,000
1		48 Port Patch Panel (Fiber SC)	\$1,000		\$1,000

SUBTOTAL \$ 27,975

SALES TAX 9.00% \$ 2,517.75

TOTAL \$ 30,492.75

2. One Year, 24/7 Support Warranty

\$ N/A; for actual maintenance support costs, please see attached remote hands flyer.

If applicable, state cost to provide this level of service during the 1-year warranty period. If no additional cost, state "not applicable".

**APPENDIX
FORM 4, Page 2 of 4**

**PROPOSER RESPONSE PAGES
PRICING PAGE**

3. Training
a) On Site training for a minimum of 5 City staff.
\$ 0
4. Project Management to Include Design and Implementation
\$ Included
5. Documentation
\$ 0
6. Other Costs – Please describe. Any costs not listed below
will not be paid by City.
a) N/A \$
b) \$
c) \$
- Total One-Time Costs – Section A** \$ 30,492.75

**APPENDIX
FORM 4, Page 3 of 4****PROPOSER RESPONSE PAGES
PRICING PAGE****F. Optional Pricing Elements**

Attach a detailed list with pricing similar to this table and summarize the cost on this sheet.

Quantity	Item	Description	Unit Price One-Time	Unit Price - Ongoing	Discount Price	Total Price
60		Space (MRC)		\$6,250		\$375,000
60		Power (MRC)		\$10,600		\$636,000

*10 cabinet secure cage & power for 60 months (refer to Form 4, page 1 for details)

Total Costs – Section B \$ 1,011,000

C. Ongoing Costs - Maintenance and Support to be awarded under separate contract for a 4-year period following initial 1-year warranty.

Attach a detailed list with pricing similar to this table and summarize the cost on this sheet to include ad hoc ongoing costs such as IP Transport costs, Cloud Exchange costs, Cross-Connect Fees, etc.

Quantity	Item	Description	Unit Price One-Time	Unit Price - Ongoing	Discount Price	Total Price
5		Remote Hands		\$175/hour		\$875

Annual Maintenance and Support

Second Year \$ \$875

Third Year \$ \$875

Fourth Year \$ \$875

Fifth Year \$ \$875

Total Ongoing Costs – Section C \$ 3,500

**D. TOTAL FIVE (5) YEAR COST OF COLOCATION FACILITY
(Sum of Section A Total, Section B Total,
and Section C Total)**

\$ 1,044,992.75

EXHIBIT B

Request for Proposals No. F17-104
Page 29

APPENDIX FORM 4, Page 4 of 4

PROPOSER RESPONSE PAGES PRICING PAGE

What discounts are available for the City to pay for multiple year of maintenance at once?

_____ 20%

What is the maximum amount of price increase the City will experience with the renewal of future maintenance agreements (after the fifth year)?

_____ 30%

Network Services Proposal for (SEE ATTACHED SPREADSHEET APPENDIX B)

Attach a detailed list with pricing similar to this table and summarize the cost on this sheet to include ad hoc ongoing costs such as IP Transport costs, Cloud Exchange costs, Cross-Connect Fees, etc

Quantity	Item	Description	Unit Price One-Time	Unit Price - Ongoing	Discount Price	Total Price
5		Remote Hands		\$175/hour		\$875

Zayo Legal:

Any local government (e.g. city, county, district, public authority, public agency, municipality or other political subdivision of California) located in the State of California has an option to procure software and services from Zayo based on the RFP process that the City of Sunnyvale conducted. Zayo agrees to provide such municipality, local government or public agency equivalent pricing as the pricing in effect under this Agreement. Notwithstanding the foregoing, each order form entered into between Zayo and another municipality, local government or public agency located in the State of California shall be separate and distinct from this Order Form and the Agreement. No termination of any other order form will impact the term of this Order Form. Further, Client has no right to access any information of any other municipality, local government or public agency. The City of Sunnyvale incurs no financial responsibility in connection with the orders issued by another public agency.



New Items

Item No.	Item Code	Description	Unit Price		Qty	Extended Price	
			Setup (NRC)	Monthly (MRC)		Setup (NRC)	Monthly (MRC)
Network (Irvine/OC1)							
1.1	NET-BANDWIDTH-MULTI-95TH	1 Mbps Multi-carrier Network Bandwidth billed at the 95th Percentile. Committed: 100 Mbps burstable to 250 Mbps Overages: Overages billed at \$6.00 per 1 Mbps	USD 150.00 (USD 150.00)	USD 5.00	100.0	USD 0.00	USD 500.00
1.2	IP-28-D	Allocation of a /28 IP block for a dedicated VLAN. 16 IP addresses (13 usable, 11 usable with HSRP).	USD 0.00	USD 16.00	1.0	USD 0.00	USD 16.00
1.3	NET-DIVERSE-IPCONN	Adds an Active/Passive or Active/Active Diverse Connection to the Zayo Network.	USD 0.00	USD 0.00	1.0	USD 0.00	USD 0.00
Cross Connects to Azure ExpressRoute (Irvine/OC1)							
2.1	NET-PORT-1G	1 Gigabit network port for the purpose of connecting colocation environment to managed hosting/cloud environment within the same Zayo facility.	USD 200.00 (USD 200.00)	USD 50.00	2.0	USD 0.00	USD 100.00
2.2	NET-XCONN-ETH	Standard Ethernet Cross Connect within the Zayo Facility.	USD 0.00	USD 150.00	2.0	USD 0.00	USD 300.00
Firewall Service (Irvine/OC1)							
3.1	SVC-NET-FW-MT-250	Firewall Services Multi-Function Capable Context including one security zone and up to 10 policy change requests per month. Provides resources for up to 250 Mbps or 20,000 connections per second and up to 20 network address translations.	USD 500.00 (USD 500.00)	USD 350.00	1.0	USD 0.00	USD 350.00
Private vCloud Hosts (Irvine/OC1)							
4.1	SVR-CHASSIS-2SCK-FC	Zayo Managed Server base chassis including redundant fibre channel HBA SAN connectivity and redundant public and private network connectivity. Supports up to two Intel based processors. No RAM included.	USD 250.00 (USD 250.00)	USD 200.00	6.0	USD 0.00	USD 1,200.00
		Reference Cloud Service Schedule 4.18.15 Form.docx for Service Level Agreements.					
4.2	SVR-MEMORY-1GB	Adds 1 GB of RAM to a Zayo Managed Server Large quantities of memory may not be in stock. Please allow up to two weeks for delivery. Reference Cloud Service Schedule 4.18.15 Form.docx for Service Level Agreements.	USD 0.00	USD 1.00	1536.0	USD 0.00	USD 1,536.00
4.3	LIC-VMW-RAM-GB	Vmware vSphere Enterprise Plus for one GB of virtual RAM in Private Cloud environment enabled with Self-Service. Customer will be charged the entire MRC for this license for each month or partial month in the SOF Term. Reference Cloud Service Schedule 4.18.15 Form.docx for Service Level Agreements.	USD 0.00	USD 3.50	1536.0	USD 0.00	USD 5,376.00
4.4	SVC-MON-ADV-OS-ESX	Operating system level health monitoring for a VMWare ESX host, including CPU, storage and memory utilization for servers/hosts which are reachable via public IP address.	USD 50.00 (USD 50.00)	USD 10.00	6.0	USD 0.00	USD 60.00
4.5	SVC-3RD-PTY	SVR-CPU-ODCH-230 2.3 GHz 18-core Intel Processors	USD 0.00	USD 200.00	12.0	USD 0.00	USD 2,400.00
Storage - Hybrid SAN and Object-based Storage (Irvine/OC1)							
5.1	STORAGE-SAN-HYBRID	1 GB of SAN storage that utilizes both Fibre Channel and SATA storage based on block access frequency. Committed: 15000 GB Reference Cloud Service Schedule 4.18.15 Form.docx for Service Level Agreements.	USD 0.00	USD 0.20	15000.0	USD 0.00	USD 3,000.00
						Total NRC	Total MRC
Total: (including discounts)						USD 0.00	USD 14,838.00
Total Discounts Received: (included in total above)						(USD 3,850.00)	USD 0.00



New Items

Item No.	Item Code	Description	Unit Price		Qty	Extended Price	
			Setup (NRC)	Monthly (MRC)		Setup (NRC)	Monthly (MRC)
1.1	STORAGE-OBS	100 TB of object based storage	USD 10.00 (USD 10.00)	USD 38.00	100.0	USD 0.00	USD 3,800.00
	60 month term					Total NRC	Total MRC
				Total: (including discounts)		USD 0.00	USD 3,800
				Total Discounts Received: (included in total above)		(10.00)	USD 0.00

ZAYO- Appendix B, Network Services for City of Sunnyvale

4 Node Private Ethernet Multi Point to Point Network & IP Transit at Zayo Data Center							
Quantity	Service Address	Description	Unit Price One-Time	Cross Connects	Unit Price- Ongoing (Monthly)	Term in Months	Total Price
1	650 West Olive Avenue, Sunnyvale, CA	500 Mbps, Private Ethernet Connection	\$0.00	\$0.00	\$8,650.00	60	\$519,000.00
1	700 All America Way, Sunnyvale, CA	500 Mbps, Private Ethernet Connection	\$0.00	\$0.00	Included	60	Included
1	1444 Borregas Avenue, Sunnyvale, CA	500 Mbps, Private Ethernet Connection	\$0.00	\$0.00	Included	60	Included
2	5101 Lafayette St, Santa Clara, CA (Zayo Data Center)	1G, Private Ethernet Connection (2 diverse routes)	\$0.00	Included	Included	60	Included
2	5101 Lafayette St, Santa Clara, CA (Zayo Data Center)	500 Mbps, IP Transit Service for Internet Access (2 diverse routes)	\$0.00	Included	Included	60	Included

Maintenance and customer support included at no additional cost for 60 month term

D. TOTAL FIVE (5) YEAR COST for Zayo Network Services

\$519,000.00

Disaster Recovery at Zayo Data Center, 393 Inverness, Englewood, Co.							
Quantity	Service Address	Description	Unit Price One-Time	Cross Connects	Unit Price- Ongoing (Monthly)	Term in Months	Total Price
1	393 Inverness Pkwy, Englewood CO	24" W x 42"D x42 RU Secure Cabinet	\$2,200.00	n/a	\$468.00	60	\$30,280.00
1	393 Inverness Pkwy, Englewood CO	120V 30A A Feed	\$350.00	n/a	\$540.00	60	\$32,750.00
1	393 Inverness Pkwy, Englewood CO	120V 30A B Feed	\$350.00	n/a	\$100.00	60	\$6,350.00
1	393 Inverness Pkwy, Englewood CO	Fiber Cross Connect	\$150.00	Included	\$150.00	60	\$9,150.00
3	393 Inverness Pkwy, Englewood CO	3 hours remote hands support per month by Zayo \$175.00 per hour	\$0.00	n/a	\$525.00	60	\$31,500.00
1	393 Inverness Pkwy, Englewood CO	500 Mbps, Private Ethernet Connection	\$0.00	n/a	\$750.00	60	\$45,000.00

Cabinet size can be changed to accomidate City of Sunnyvale requirements

500 Mbps will connect and be a part of City of Sunnyvales private ethernet network.

E. TOTAL FIVE (5) YEAR COST for Disaster Recovery in Remote Data Center

\$155,030.00

Any local government (e.g. city, county, district, public authority, public agency, municipality or other political subdivision of California) located in the State of California has an option to procure software and services from Zayo based on the RFP process that the City of Sunnyvale conducted. Zayo agrees to provide such municipality, local government or public agency equivalent pricing as the pricing in effect under this Agreement. Notwithstanding the foregoing, each order form entered into between Zayo and another municipality, local government or public agency located in the State of California shall be separate and distinct from this Order Form and the Agreement. No termination of any other order form will impact the term of this Order Form. Further, Client has no right to access any information of any other municipality, local government or public agency. The City of Sunnyvale incurs no financial responsibility in connection with the orders issued by another public agency.



City of Sunnyvale

Agenda Item

17-0828

Agenda Date: 9/26/2017

REPORT TO COUNCIL

SUBJECT

Award a Contract for an Archiving, eDiscovery and Virtual Phone Numbers Solution (F17-131)

REPORT IN BRIEF

Approval is requested to award a contract in the amount of \$479,890 (\$64,000 in one-time set-up and implementation fees and \$415,890 for three years of licensing and hosting) to Smarsh, Inc. of Portland, Oregon, for the purchase and implementation of an archiving, eDiscovery, and virtual cell phone numbers solution. Approval is also requested for a 15% contract contingency in the amount of \$71,984, and to delegate authority to the City Manager to extend the contract for additional one-year periods, not to exceed budgeted amounts, provided pricing and service remain acceptable to the City.

EXISTING POLICY

Pursuant to Chapter 2.08 of the Sunnyvale Municipal Code, City Council approval is required for contracts exceeding \$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(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

The City has been using a native tool within Microsoft to search for and retrieve emails and documents when a California Public Records Act (CPRA) or personnel investigation request is made. This process is time consuming, with the system taking several hours to run a simple request and sometimes over a day for requests that span all users in the City. The current system is complicated and requires the IT Department (IT) to start the search, then send the search results to the Office of the City Attorney (OCA) and/or Human Resources (HR) for their review, with most inquiries requiring additional work to retrieve the requested results.

In March 2017, the California Supreme Court made a ruling in the matter of City of San Jose vs Superior Court (Ted Smith, Plaintiff and Real Party in Interest) that requires the City to be able to retrieve text messages as part of the CPRA. The City currently has no method to retrieve text messages on City-issued cell phones or on personal Bring Your Own Device (BYOD) cell phones used by employees. For these reasons, the City needs to utilize a tool that provides the ability to capture and archive both emails and text messages while enabling OCA and HR to conduct searches without IT's involvement. In addition, the City will have the ability to capture and retrieve text messages on BYOD cell phones through the assignment of virtual cell phone numbers and a

corresponding mobile app managed by the City.

A competitive Request for Proposals (RFP) was distributed in April 2017 to two firms and posted to the City's public procurement network. One proposal was received on May 17, 2017. The proposal was reviewed by a team consisting of staff from the Office of the City Attorney and the departments of Human Resources and Information Technology. The proposal was evaluated on overall solution functionality, proposer qualifications and experience, and proposed implementation plan. Having passed the initial evaluation, the proposer, Smarsh, Inc., was invited to the City for a product demonstration. Based on the proposal and demonstration, staff determined the solution proposed by Smarsh would offer the City a single solution to search all electronic communication and meet the requirements of the CPRA.

FISCAL IMPACT

Budgeted funds are available in the Information Technology Equipment Replacement Account. Staff reviews the equipment replacement budget annually. As this is an unplanned purchase in response to a regulatory change, staff will absorb the initial cost in the current budget and build the change into the FY 2018/19 Recommended Budget.

Funding Source

Funds are currently budgeted in the General Services Fund/Technology and Communications Services Subfund.

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 the amount of \$479,890 to Smarsh, Inc. to implement an archiving, eDiscovery and virtual phone numbers solution, in substantially the same form as Attachment 1 to the report and authorize the City Manager to execute the contract when all necessary conditions have been met; 2) approve a 15% contract contingency in the amount of \$71,984; and 3) delegate authority to the City Manager to renew the contract for additional one-year periods, not-to-exceed budgeted amounts, provided pricing and service remain acceptable to the City.

Prepared by: Gregory S. Card, 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. Order Form and Agreement



Order Form (#Q019399)(CID:)

Client Information

Company	Name	City of Sunnyvale, CA	
	Address	456 W Olive Avenue	City Sunnyvale
	State	California	Zip 94086
Primary Contact (Authorized User)	Name	Kathleen Boutte Foster	Title CIO
	Phone	+1.408.730-3041	Email kbfooster@sunnyvale.ca.gov
Technical Contact (if different)	Name		Title
	Phone		Email
Billing Contact (if different)	Name	Kathleen Boutte Foster	Title CIO
	Phone	+1.408.730-3041	Email kbfooster@sunnyvale.ca.gov
	Address	456 W Olive Ave	City Sunnyvale
	State	California	Zip 94086-7661
Quote Date		03/27/2017 17:17:55	Quote Expiration 10/02/2017
Smarsh Sales Executive		Dan Thomas	Term of Agreement 36 Months

Services and Fees

	Rate per Quantity	Minimum Quantity	Minimum
Technical Account Management		1	\$4,000.00
Setup Fee - Enterprise	\$10,000.00	1	\$10,000.00
One Time Import Fee (Not to Exceed 7 TB)	\$5.00	5000	\$25,000.00
Import EML Conversion (PST to EML)		12500	\$25,000.00
Services Total			\$64,000.00
CellTrust SL2 - External SMS & Voice Enabled - Annual	\$156.00	200	\$31,200.00
CellTrust - Global Voice & SMS Roaming Credits - Monthly	\$0.01	1	\$0.01
Archiving Platform Core Platform - Enterprise Package Annual	\$12,000.00	1	\$12,000.00
Archiving Platform Content Usage - Verizon Annual	\$57.00	150	\$8,550.00
Archiving Platform Content Usage - Social Bundle Annual	\$31.50	20	\$630.00
Archiving Platform Content Usage - Skype for Business Online - Annual	\$11.74	1150	\$13,500.00
Archiving Platform Content Usage - Email Annual	\$45.00	1150	\$51,750.00
Archiving Platform Content Usage - CellTrust SL2 - Messaging - Annual	\$45.00	200	\$9,000.00
Archiving Platform Add ons - Discovery Module (Unlimited) Annual	\$12,000.00	10	\$12,000.00
Recurring Subtotal			\$138,630.01

*The PST to EML conversion will be addressed in detail in a separate SOW.

The parties agree that the Agreement is amended as follows:

1) Section 10.4 is amended by (a) replacing "Delaware" with "California", and (b) replacing "Multnomah County, in the State of Oregon" with "Santa Clara County, in the State of California"

2) Section 4.2 is amended by adding the following to the last sentence:

"(iii) pursuant to a California public records request, provided that the Client gives notice to Smarsh in a reasonable amount of time to allow Smarsh the opportunity to seek a protective order preventing such disclosure."

Notes

3) Any local government (e.g. city, county, district, public authority, public agency, municipality or other political subdivision of California) located in the State of California has an option to procure software and services from Smarsh based on the RFP process that the City of Sunnyvale conducted. Smarsh agrees to provide such municipality, local government or public agency equivalent pricing as the pricing in effect under this Agreement. Notwithstanding the foregoing, each order form entered into between Smarsh and another municipality, local government or public agency located in the State of California shall be separate and distinct from this Order Form and the Agreement. No termination of any other order form will impact the term of this Order Form. Further, Client has no right to access any information of any other municipality, local government or public agency. The City of Sunnyvale incurs no financial responsibility in connection with the orders issued by another public agency.

All other terms of the Agreement remain unchanged.

Terms & Conditions

Following execution of the Order Form, Smarsh will provide Client with access to an account within the applicable Service ("Activation Date"). Client's "Minimum Commitment" is the sum of the minimum usage metric specified above during the Term of the Agreement (as further clarified in the Agreement). The Services are subject to the Smarsh Service Agreement located here: <http://www.smarsh.com/wp-content/uploads/2017/03/Smarsh-Subscription-Service-Agreement-7-1-Live.pdf> ("Agreement") and incorporated in this Order Form by reference. The Initial Term of the Agreement shall begin on the date this Order Form is executed and continue for the Term of the Agreement specified above, unless Client is adding the above Services on to an existing Service account and, in which case, the above Services will sync to Client's then existing Service term and be subject to renewals as specified in the Agreement. If the billing terms above indicate a monthly billing schedule, Smarsh will invoice Client for (a) recurring Services monthly in arrears, (b) One Time Fees upon execution of the Order Form, and (c) Import Fees on a monthly basis, based on the Client Data imported in the previous month. If the billing terms above indicate an annual billing cycle, Smarsh will invoice client for (a) the total annual fee for recurring Services upon execution of the Order Form, (b) One-Time Fees upon execution of the Order Form and (c) Import Fees on a monthly basis, based on the Client Data imported in the previous month. Smarsh will invoice Client for any usage over the Minimum Commitment. Service Descriptions are available at www.smarsh.com/legal. For AT&T Mobility subscribers, your signature below represents your acceptance of the AT&T Wireless Terms and Conditions at: <http://www.smarsh.com/wp-content/uploads/ATTextServiceTerms.pdf> as they apply to AT&T text messages that are archived by Smarsh. If Client purchases any Services which requires Software or services which are resold by Smarsh (including through any of the following vendors: 17-a-4, MobileGuard, Instant Technologies or Actiance, CellTrust or Personal Archive Access) or if Client is purchasing text message archiving, additional terms apply to the Service or Software and such terms are located at <http://www.smarsh.com/legal>.

By _____

Name: _____ Title: _____ Date: _____

Exhibit A - Smarsh Statement of Work for Professional Services

Office 365 Email Migration

This Statement of Work ("SOW") is entered into as of the date of execution of this Order Form, by and between Smarsh and Client. This SOW describes the Professional Services to be provided by Smarsh and the applicable fees for those services.

This SOW is subject to the Smarsh Professional Services Agreement terms and conditions, found at <http://www.smarsh.com/wp-content/uploads/2015/06/Professional-Services-Agreement-2015-1-2.pdf> and incorporated by reference

Scope & Project Approach:

- Smarsh will extract messages from Client's Office 365 account and will convert the extracted messages to EML format.
- The data to be migrated consists of up to a maximum of 7 TB of messages in E3 Office 365 for 1150 mailboxes.
- The project consists of 2 steps – (1) extracting content from Office 365, and (2) converting extracted content to EML.
 - Extraction is completed by Smarsh logging into Client's Office 365's Compliance Center and using Office 365's built-in functionality to export and download content in pst or msg format.
 - Conversion from PST/MSG to EML is completed by Smarsh on a batch basis after extraction. Once conversion has been completed, each batch is staged ready for import into The Archiving Platform (import is a separate service and is not part of this SOW).
- Smarsh provides Client status reports periodically during the project.
- At the conclusion of the project, Smarsh provides a report detailing message counts and volumes of messages extracted & converted including any exceptions encountered during the process.

Client Responsibilities

Client is responsible for providing Office 365 credentials with permissions sufficient for but limited to export and download messages from Office 365's Compliance Center. Client is responsible for providing Office 365 technical support if needed.

Schedule

The migration project will start shortly after Client has been onboarded and Office 365 content is archiving into The Archiving Platform. The migration scope is limited to legacy messages preceding go-live. The project duration is estimated at 2 months.

SOW Assumptions

- Office 365 troubleshooting. Project scope does not include troubleshooting Office 365-related issues.
- One-time service. A single extraction is performed. Multiple, iterative, or repeat extractions are out of scope.
- Migration exceptions. Most messages extract and convert without resulting in exceptions. Messages which cannot be extracted or converted are reported to Client for reference.
- Scheduling. Unless otherwise designated in this SOW, all work is performed during normal business hours and excludes national and FINRA-recognized holidays.
- Change of scope. Client may approve and Smarsh may provide additional services under this SOW by both parties executing a change order. In the event volume exceeds 7 TB, the parties will use a unit cost of \$5 / GB in an applicable change order.
- Remote services. All services unless otherwise designated are provided remotely. Client may contract for services to be provided onsite at Client's location(s) for additional fee via a change order.
- Acceptance. Client accepts delivery of services upon Smarsh completing those services or upon Client's receipt of a deliverable unless Client has provided Smarsh written notification of any service defects within 5 business days of either event.
- Subcontractor. Smarsh may utilize a subcontractor to support the delivery of these services. In such an event, Smarsh retains sole responsibility for all obligations to Client under this SOW.

Pricing

Upon execution of this Order Form, a fee of \$25,000.00 (listed on page 1 of this Order Form) is invoiced to Client for the scope of services described in this SOW.

Smarsh Service Agreement

Version Date: March 31, 2017

BY CLICKING A BOX INDICATING ACCEPTANCE OF THIS AGREEMENT OR BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU ("**CLIENT**") AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ACCEPT THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT.

IF CLIENT EXECUTED A SUBSCRIPTION FORM OR AN ORDER FORM (OR ENTERED INTO ANY OTHER ORDERING DOCUMENT IN ELECTRONIC OR HARD COPY FORM) FOR SMARSH SERVICES, CLIENT AGREES THAT BY ACCEPTING THE TERMS OF THIS AGREEMENT (WHETHER BY CLICK THROUGH OR BY ORDER FORM REFERENCING THIS AGREEMENT), THIS AGREEMENT AMENDS AND REPLACES ANY AND ALL PRIOR TERMS AND CONDITIONS ASSOCIATED WITH SUCH ORDER FORM(S) (AND THIS AGREEMENT SHALL CONSTITUTE A WRITTEN AMENDMENT THERETO) AND SUCH TERMS AND CONDITIONS ARE OF NO FORCE OR EFFECT; PROVIDED THAT THE "**EFFECTIVE DATE**" OF CLIENT'S AGREEMENT WITH SMARSH IS THE DATE ON WHICH CLIENT FIRST EXECUTED ANY ORDER FORM FOR SERVICES, AND THE TERM OF CLIENT'S AGREEMENT FOR ALL SERVICES WILL SYNC TO AND CONTINUE TO RENEW ON THE ANNIVERSARY OF THE EFFECTIVE DATE ACCORDING TO THE RENEWAL TERMS OF THIS AGREEMENT.

This Smarsh Service Agreement (the "**Agreement**") constitutes a binding agreement between Smarsh Inc. ("**Smarsh**") and the Client identified in an order document (an order document includes electronic ordering mechanisms) referencing this Agreement ("**Order Form**") or the Client who accepts the terms of this Agreement via click-through acceptance ("**Client**"). Client agrees that the terms of this Agreement will govern Client's use of the Services (as defined in Section 1). If any term in an Order Form conflicts with the terms of this Agreement, the Order Form will supersede this Agreement solely with respect to the conflicting term.

1. **Services.** The Services may consist of software as a service offerings, including configurations thereof and feature add-ons ("**SaaS Services**"), email hosting services ("**Email Hosting Services**"), on premise software ("**On-Premise Service**"), professional services related to any of the foregoing services ("**Professional Services**"), or Services resold or licensed through third party terms and conditions, each as specified in an Order Form executed or accepted by Client and as further described at www.smarsh.com/legal under Service Descriptions ("**Service Descriptions**"). All services listed in the Order Form are the "**Services**." Certain Professional Services will only be provided pursuant to a statement of work executed by Client. Following execution of the Order Form, Smarsh will activate or otherwise make available the applicable Service by providing Client with access to an account within such Service ("**Activation Date**"). As used in this Agreement, the term "**Client Data**" means (a) the data that the SaaS Service receives from Client's third-party communication providers or other third party content providers; or (b) the data that is generated, transmitted, and stored by the Email Hosting Services ("**Client Data**"). Client hereby grants Smarsh the limited, non-exclusive right to access, copy, transmit, download, display, and reproduce Client Data as necessary to provide, support, and improve the Services, as directed by Client, or as otherwise authorized hereunder. Data generated by the SaaS Services regarding Client's use of the SaaS Services is not Client Data.

- 1.1. **SaaS Services.** The SaaS Services may include the following, as specified on Client's Order Form:

- 1.1.1. **The Archiving Platform.** The Smarsh Archiving Platform is a SaaS Service that receives Client Data. To enable the Smarsh Archiving Platform to receive Client Data, Client must purchase Units for each [Content Type](#) (as defined in the Service Descriptions) to be received and stored by the Smarsh Archiving Platform. A "**Unit**" with respect to the Smarsh Archiving Platform means one of the following, as applicable to the specific Content Type: (a) a user account such as an email mailbox; (b) an instant message account or screen name; (c) a social media page or profile; (d) a mobile device phone number; or (e) any other usage metric specified in an Order Form.
- 1.1.2. **MobileGuard Archiving.** The MobileGuard platform is a SaaS Service that receives Client Data. To enable the MobileGuard platform to receive Client Data, Client must purchase Units for each device to be archived. A "**Unit**" with respect to the MobileGuard Service means a mobile device phone number.
- 1.1.3. **Website Archiving.** Smarsh Website Archiving is a SaaS Service that crawls and captures Client-designated websites. To enable Website Archiving, Client must purchase Units and pay a domain fee. A "**Unit**" with respect to the Website Archiving SaaS Service means a (a) webpage; or (b) a video.
- 1.1.4. **Third Party Providers.** The SaaS Services receive Client Data from third-party sources, and as such are dependent on third party services, software, applications, platforms (such as third party social media, business networking platforms systems, telecommunications carriers, or other messaging or communication services or API's) ("**Third Party Services**"). Third Party Services are not offered, controlled or provided by Smarsh. The Third-Party Service may make changes to its service, or components thereof, or discontinue a service without notice to Smarsh. In addition, the availability of the Third-Party Service may depend on Client's compliance with the Third-Party Service terms. The Third-Party Service will have access to Client's data and will provide Client Data to Smarsh. Smarsh does not control and is not responsible or liable for how the Third-Party Service transmits, accesses, processes, stores, uses or provides data to Smarsh. Smarsh expressly disclaims all liability related to or arising from Third-Party Services, including Client's use thereof, any updates, modifications, outages, delivery failures, corruption of data, loss of data, discontinuance of services or termination of Client's account by the Third-Party Service. Client is solely responsible for ensuring Client complies with any Third-Party Services terms and conditions. To integrate the SaaS Services with certain Third Party Services, Client may be required to provide Client's or Client's end user access credentials for the Third-Party Service. In such cases, to provide the Service, Smarsh's access must be approved (a) by Client for all end users or content; or (b) by each individual end user. With respect to third party text message providers, additional carrier specific terms and conditions may apply. The Additional Text Service Terms are available at www.smarsh.com/legal. Such additional terms are subject to modification by the applicable third party or carrier and such modifications shall be incorporated into this Agreement upon notice to Client.

- 1.2. **CellTrust SL2.** The CellTrust SL2 product (“SL2”) is resold by Smarsh and licensed by CellTrust Corporation to Client pursuant to the applicable CellTrust license agreement, available here: SL2 App Agreement, the SL2 Server Agreement and the SL2 App for Apple Agreement each available at www.smarsh.com/legal (“SL2 Terms”). To use SL2, Client and end users must download SL2 and accept the applicable SL2 Terms. Smarsh will provide Client with a license key to enable such download. A “Unit” with respect to SL2 means a license key. The provision of the license key is Smarsh’s sole obligation with respect to the SL2 product. The SL2 product is delivered by CellTrust and all data or information generated by the SL2 product is received, processed and stored by CellTrust and transmitted by CellTrust to the SaaS Service (if Client purchases the Archiving Platform SaaS Service). The SL2 Terms and privacy policies apply to data generated, hosted, processed and stored by the SL2 product and this Agreement does not apply to such data. In the event of CellTrust’s breach of the SL2 Terms, Client’s remedies are those remedies set forth in the SL2 Terms and are as between Client and CellTrust. Technical support for SL2 is provided by CellTrust. The CellTrust service level agreement located at www.smarsh.com/legal and applies to SL2; provided that, Client must request credits for any unavailability of SL2 directly from Smarsh.
- 1.3. **Email Encryption.** Email Encryption is a Service that encrypts a Client designated email mailbox’s outgoing email. A “Unit” with respect to Email Encryption is an email mailbox.
- 1.4. **Email Hosting Services.** The Email Hosting Service is provided through a Smarsh third party provider. In addition to the terms of this Agreement, the Microsoft Email Hosting Services are subject to Microsoft Software Use Terms located at www.smarsh.com/legal. A “Unit” with respect to Email Hosting Service is an email mailbox.
- 1.5. **On-Premise Service.** The On-Premise Service is downloadable software; Client must install Software on Client servers to archive Client Data. Section 1.8 does not apply to On-Premise Services. A “Unit” with respect to the On-Premise Services is a mobile device phone number.
- 1.6. **Software Terms.** Certain SaaS Services, the Email Hosting Services or the On-Premise Service may require Client to install software. Such software may be sublicensed to Client by Smarsh (“Software”) or Client may be required to license the software directly from a third party. Smarsh (including its licensors) retains all rights in and to the Software not expressly granted to Client in this Section. If Software is provided to Client by Smarsh, upon delivery of the Software Smarsh grants Client the limited, non-exclusive, non-sublicensable right to download, execute and install the applicable Software onto Client’s end user’s computer, laptop or mobile device (as applicable), for which Client has purchased a Unit, or on Client owned or controlled servers, plus one copy for backup or archival purposes. Client will not alter, disable or work around any usage control mechanism within the Software or rent, lease, sell, sublicense, distribute, reproduce, create derivatives of, edit, disassemble or reverse engineer the Software, or remove any proprietary notice from the Software. Client will not use the Software to provide services to third parties. Client is responsible for the supervision, management and control of the use of the Software, and for the provision and proper maintenance of the hardware and any supporting software (such as operating-system updates and virus-protection software). The Software may contain automated tracking features. Client will not hinder, impede, alter or prevent the automated tracking features. Smarsh will deliver the Software to Client in a good and workmanlike manner and per generally accepted industry standards (“Software Performance Warranty”). The foregoing warranty will expire 30 days following Smarsh’s delivery of the Software. In the event of a breach of the Software Performance Warranty, Smarsh will repair the Software such that it meets the foregoing Software Performance Warranty or provide Client with a replacement. The foregoing represents Client’s sole and exclusive remedy for any damage, loss or claim arising out of the Software. Smarsh makes no other representation or warranty with respect to the Software. The Software is provided “AS IS.” Smarsh expressly disclaims liability for (a) changes or modifications made to the Software by anyone other than Smarsh; or (b) any changes, modifications, combinations with other software applications or equipment, conditions or issues on or arising from Client’s systems, servers, networks, or the Internet which affects the use or operation of the Software. The warranty contained in this Section, and the obligation to provide support, do not apply to any software which is not provided by Smarsh or which is licensed to Client directly from the applicable software provider. Where Client licenses software directly from the licensor of such software, Client must contact the licensor support for any issues related to the software. Additional Software terms and conditions (“Software Terms”) may apply to the Software purchased by Client, which are available under the Software Terms located at <http://www.smarsh.com/legal/>.
- 1.7. **Support and Service Level Agreements.** Smarsh will provide the level of support applicable to the Services package purchased by Client. Service Level Agreements for each Service are available at www.smarsh.com/legal and are subject to modification by Smarsh. Client may find support FAQ’s and other support resources, or initiate support requests by submitting support tickets here: <http://www.smarsh.com/support/>. Changes in Smarsh’s support policies will be made available in the applicable Support and Service Level Agreement policies at www.smarsh.com/legal and will be effective on the date the policy is posted.
- 1.8. **Data Retention.** With respect to the SaaS Services, Smarsh will retain Client Data for the Term of the Agreement, unless Client requests or implements specific retention policies within the SaaS Services. Retention policies are based on variables assigned to Client Data as directed by Client or implemented by Client. Client is solely responsible for compliance with all applicable legal, regulatory or internal requirements with respect to such retention policies. Following termination or expiration of this Agreement, Smarsh will retain Client Data associated with the SaaS Services for a minimum of six (6) months. Thereafter, Smarsh reserves the right, in its sole discretion, to delete Client Data. With respect to the Email Hosting Services, the retention of Email Hosting Service Client Data during the Term is subject to space limitations applicable to the Email Hosting Service plan purchased by Client. Email Hosting Service Client Data will be retained for a period of 30 days following the termination or expiration of the earlier of the Email Hosting Service termination or the termination or expiration of the Agreement. With respect to SL2, the SL2 Terms apply to data retained by CellTrust Corporation.
- 1.9. **Trial Services.** If a trial period is indicated on the Order Form, Smarsh will provide Client with a temporary account to one or more of the Services free of charge (a “Trial Account”). The Trial Account will be accessible for the trial period set forth in the Order Form, or if no trial period is stated, the trial period will be thirty (30) days from the Activation Date. During the trial period, the Trial Account and associated Services are provided “AS IS” and without representation or warranty of any kind. Smarsh is under no obligation to store or retain Client Data during the trial period and may delete such data

unless Client purchases the same Services as the Trial Account services. Smarsh will not be responsible for any direct, indirect, consequential or any other damages, loss or claims resulting from Client's access to, or use of the Trial Account or the Trial Account Services during the trial period.

2. Client Obligations and Responsibilities.

- 2.1. **Account.** Client is responsible for (a) ensuring that Client's account registration information is complete and accurate; and (b) the security and confidentiality of Client's account credentials. Client will notify Smarsh immediately of any unauthorized use of any password or account or any other known or suspected breach of security. Client will not permit Smarsh competitors to access the Services for any reason. Client is solely responsible for all activity which occurs within Client's account and for the actions of its employees, contractors or agents, whether such person is or was acting within the scope of their employment, engagement or agency relationship. Client is responsible for configuring applicable third-party platforms or systems to transmit Client Data to the SaaS Services; and (c) installing and configuring any Software or On Premise Service (if applicable) to Client servers, equipment, laptops or handheld devices. Client is responsible for providing Smarsh with any historical data to be archived by the SaaS Services in a format acceptable to Smarsh.
- 2.2. **Representatives.** Client may provide Representatives with access to the Services, may purchase Services on behalf of Representatives, or where Client is required to review Representative communications, Client may use the Services to meet such requirement. A "**Representative**" means any entity which (a) Client controls or which is under common control with Client; or (b) Client has a regulatory requirement to archive or review communications data on behalf of. Subject to the terms of this Agreement, Client may provide access to, or use of, the Services to Representatives; provided that, Client is responsible and liable for the acts or omissions of Representative acts. Representatives use of the Services is subject to the terms of this Agreement.
- 2.3. **Users.** Client may designate different user roles with different support or Service access. An "**Authorized User**" is the administrative user(s) with the highest level of access and is responsible for managing the Services for Client. Only Authorized Users may appoint other Authorized Users, request or agree to changes to the Services, add or remove users, make billing inquiries, contact support or take other, similar actions. A "**Reviewer**" role is a user for which Client has purchased access rights to the supervision feature of the SaaS Service which enable the Reviewer to perform supervision tasks related to Client Data. A "**User**" is any individual who accesses the SaaS Services or the Email Hosting Services in any capacity. Reviewers and Authorized Users are also "Users." Users may not share account log in credentials.
- 2.4. **Acceptable Use of Services.** Client will comply with Smarsh's Acceptable Use Policy available at www.smarsh.com/legal. The Acceptable Use Policy may be updated from time to time by Smarsh. Client is prohibited from, and will not copy, modify, adapt, transmit, sell, distribute or otherwise use the Services, in whole or in part, except as expressly permitted in this Agreement. Client is solely responsible for Client Data and represents and warrants that Client Data will not (a) infringe any third party right, including, without limitation, third party rights in patent, trademark, copyright, or trade secret; or (b) constitute a breach of any other right of a third party, including without limitation, any right under contract or tort theories. Client will abide by all applicable local, state, national or foreign laws, rules, regulations or treaties in connection with Client's use of the Services including, without limitation, those related to data privacy, communications, SPAM, or the transmission or storage of technical or personal data. It is Client's responsibility to post all legally required privacy policies, or notices and to obtain all legally required or necessary consents with respect to the transmission, collection or storage of Client Data. Client represents that, with respect to any account, website or webpage Client directs Smarsh to archive, Client has all necessary rights or licenses to archive such account, website or webpage and that the archiving of the same does not place Client or Smarsh in violation of any website terms and conditions included on the website.
- 2.5. **Text Message Carrier Requirements.** If Client purchases text message archiving as a SaaS Service, this Section applies. Client is only permitted to archive text messages for Client's current employees. Client is not permitted to actively archive text messages for any individual who is not a Client employee. Client agrees to (a) notify Smarsh immediately when any employee's employment is terminated; and (b) provide each employee with clear and conspicuous notice of policies regarding the receipt, transmission, storage and use of employee text messages. Client is responsible for ensuring that each employee has agreed to such policies and that each employee has been made aware that such employee has no reasonable expectation of privacy in such employee's text messages. Each telecommunications carrier may have a different implementation process. The implementation process is dependent on actions to be completed by Client and the applicable telecommunications carrier. Smarsh is not responsible for delays in implementation caused by a telecommunication carrier, Client or Client employees. To archive text messages generated by a Verizon mobile account, each employee will be required to accept a request to archive sent by Verizon directly to the employee device. If the employee device does not accept or respond to such request, Verizon will not release the employee text messages to Smarsh.
- 2.6. **Client Data Transmission.** It is Client's sole responsibility to monitor Client Data to be transmitted to the SaaS Service to ensure that Client Data is properly transmitted. Client will notify Smarsh of any delivery failures or outages of its systems which may affect the transmission of Client Data. It is Client's responsibility to encrypt data sent to Smarsh and Smarsh is not responsible or liable for any data which Client transmits to Smarsh in an unencrypted format. Smarsh is not responsible or liable for any update, upgrade, patch, maintenance or other change which affects the transmission of Client Data to the SaaS Service. It is Client's responsibility to ensure that Smarsh is notified of all Users to be archived.
- 2.7. **Client Indemnification.** Client will indemnify, defend and hold harmless Smarsh, its officers, directors, employees and agents, from and against all claims, losses, damages, liabilities and expenses (including reasonable attorneys' fees), arising from Client's breach of any of Client's obligations under this Section 2. Client's obligation for indemnification will be predicated upon (a) Smarsh providing Client with prompt written notice upon becoming aware of any such claim, provided that Client will not be relieved of its obligation for indemnification as the result of Smarsh's failure to provide such notice unless Client is actually prejudiced in defending such a claim as a result of Smarsh's failure to provide notice; (b) if requested by Client, and at Client's expense, Smarsh reasonably cooperating with the defense of such claim; and (c) Smarsh allowing Client sole and exclusive control over the defense and settlement of any such claim.

3. Fees.

- 3.1. **Payment of Fees.** Client will pay Smarsh the fees set forth in the Order Form ("**Fees**"). One-Time Fees are the setup or data import fees, or other one-time fees that do not recur over ongoing and regular intervals during the Term ("**One-Time Fees**"). Platform Fees are the Fees charged for access to the Smarsh Archiving Platform ("**Platform Fees**"). Content Usage Fees are the Fees that are charged on a per-Unit basis ("**Content Usage Fees**"). Added Functionality Fees are those Fees charged for feature add-ons ("**Added Functionality Fees**"). Professional Services Fees are the fees for hourly, monthly or flat rate professional services ("**Professional Service Fees**"). The Platform Fees, the Content Usage Fees and the Added Functionality Fees are "**Recurring Fees**" and are invoiced on a monthly or annual basis, as specified in the Order Form. Beginning on the Activation Date, Smarsh will invoice Client for the Recurring Fees per the invoice schedule in the Order Form. One-Time Fees are invoiced upon execution of the Order Form. Professional Services will be invoiced per the terms of the Order Form or the applicable statement of work. Fees are due and payable within thirty (30) days from the date of invoice. If Client disputes any Fees, Client must notify Smarsh within 120 days of the date of invoice. Invoices not disputed within 120 days from the date of invoice will be deemed accepted by Client. Smarsh may charge a late fee of 1.5% per month on any Fees not paid when due. Smarsh reserves the right to increase Fees at any time following the Initial Term. Smarsh reserves the right to suspend Client's access to the Services in the event Client fails to pay the Fees when due.
- 3.2. **Minimum Commitment.** Client agrees that the Recurring Fees are Client's minimum purchase commitment during the Initial Term and each Renewal Term. The minimum commitment is the total sum of the Recurring Fees during the Term, as specified on the Order Form. If the number of Units used by Client during a month exceeds the minimum Units specified in the Order Form, Smarsh will invoice, and Client will pay the additional Fees due for such usage at the per-Unit rate specified in the Order Form. If the number of Units used by Client during a month is less than Client's minimum purchase commitment, Smarsh will invoice Client for the minimum purchase commitment.
- 3.3. **Taxes.** All Fees payable by Client under this Agreement are exclusive of taxes and similar assessments. Client is responsible for all sales, service, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority on any amounts payable hereunder, other than any taxes imposed on Smarsh's income.
- 3.4. With respect to Email Hosting Services, if Microsoft Corporation ("**Microsoft**") increases the price that Microsoft charges for the underlying licenses or services Microsoft provides that are applicable to the Email Hosting Services, Smarsh may increase the price for the Email Hosting Services by the full amount of the price increase, regardless of whether the price increase occurs during the Initial Term.

4. Confidentiality.

- 4.1. **Definition of Confidential Information.** "**Confidential Information**" means (a) the non-public information of either party, including but not limited to information relating to either party's product plans, customers, designs, costs, prices, finances, marketing plans, business opportunities, personnel, research, development or know-how; (b) any information designated by either party as "confidential" or "proprietary" or which, under the circumstances taken as a whole, would reasonably be deemed to be confidential; (c) the terms of this Agreement; (d) Client Data; or (e) information related to, and including, the Software or On Premise Software. "Confidential Information" will not include information that: (i) is in, or enters, the public domain without breach of this Agreement; (ii) the receiving party lawfully receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation; (iii) the receiving party knew prior to receiving such information from the disclosing party; or (iv) the receiving party develops independently without reference to the Confidential Information.
- 4.2. **Obligations with Respect to Confidential Information.** Each party agrees: (a) that it will not disclose to any third party, or use for its own benefit or the benefit of any third party, any Confidential Information disclosed to it by the other party except as expressly permitted in this Agreement; and (b) that it will use reasonable measures to maintain the confidentiality of Confidential Information of the other party in its possession or control. Either party may disclose Confidential Information of the other party: (i) pursuant to the order or requirement of a court, administrative or regulatory agency, or other governmental body, provided that the receiving party, if feasible and/or legally permitted to do so, gives reasonable notice to the disclosing party to contest such order or requirement; or (ii) to the parties agents, representatives, subcontractors or service providers who have a need to know such information provided that such party maintain the Confidential Information on a confidential basis.
- 4.3. **Remedies.** Each party acknowledges and agrees that a breach of the obligations of this Section 4 by the other party may result in irreparable injury to the disclosing party for which there will be no adequate remedy at law, and the disclosing party will be entitled to seek equitable relief, including injunction and specific performance, in the event of any breach or threatened breach or intended breach by the recipient of Confidential Information.
5. **Intellectual Property.** As between Smarsh and Client, all server hardware, technology, software (including the Software and On Premise Services) and applications required to operate the Services, other associated technology or documentation or data regarding the use of the Services, are the sole and exclusive property of Smarsh. Except as expressly stated herein, nothing in this Agreement will serve to transfer to Client any intellectual property right in or to the Services, Software, Smarsh trademarks or other intellectual property. Smarsh retains all right, title and interest in and to the Services, Software and the associated technology and documentation. As between Smarsh and Client, Client Data is the sole and exclusive property of Client and, other than the limited license to Client Data granted hereunder, nothing in this Agreement will serve to transfer to Smarsh any intellectual property rights in the Client Data.

6. Term.

- 6.1. **Term.** The Agreement will commence on the Effective Date and will remain in effect for the period specified in the Order Form or, if no period is specified, twelve (12) months ("**Initial Term**"). The Initial Term will renew automatically for additional, successive twelve-month terms (each a "**Renewal Term**"), unless Smarsh or Client provides the other party with written termination notice at least ninety (90) prior to the end of the Initial Term or the applicable

Renewal Term. The Initial Term plus any Renewal Term are, collectively, the “**Term**.” Any Order Form or other purchase of Services effected after the Effective Date will sync to and co-terminate with Client’s then-current Service Term.

- 6.2. **Termination for Breach.** Either party may terminate this Agreement if the other party materially breaches its obligations under this Agreement and such breach remains uncured for a period of thirty (30) days following the non-breaching party’s written notice thereof to the breaching party. Smarsh reserves the right to suspend Client’s access to the Services in the event of any breach of this Agreement and will not be liable for any damages resulting from such suspension.
- 6.3. **Termination for Bankruptcy.** This Agreement will terminate immediately, upon written notice, where (a) either party is declared insolvent or adjudged bankrupt by a court of competent jurisdiction; or (b) a petition for bankruptcy or reorganization or an arrangement with creditors is filed by or against that party and is not dismissed within sixty (60) days.
- 6.4. **Effect of Termination.** Upon any termination or expiration of the Agreement: (a) all rights and licenses to the Services granted to Client by Smarsh will immediately terminate; (b) Client will pay any Fees due and payable up to the date of termination, except in the case of Smarsh’s termination for Client’s breach, and in such case, Client will pay the Fees owing for the remainder of the then-current Term; and (c) upon request, each party will return to the other or delete the Confidential Information of the other party; provided, however, if Client requests Smarsh to return Client Data, Client agrees to pay Smarsh’s then-current data extraction and exportation fees plus any hardware costs.

7. Warranties; Disclaimers of Warranties.

- 7.1. **Performance Warranty.** Smarsh represents and warrants that it will provide the Services in accordance with generally accepted industry standards.
- 7.2. **Proper Authority.** Smarsh represents that it has the right and authority to enter into this Agreement and that the performance of its obligations under this Agreement will not breach or be in conflict with any other agreement to which Smarsh is a party.
- 7.3. **Compliance with Laws.** Smarsh warrants that it will comply with the laws and regulations applicable to Smarsh’s business.
- 7.4. **Disclaimer of Warranty.** EXCEPT AS SET FORTH IN SECTIONS 7.1 — 7.3 ABOVE, SMARSH MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND IN CONNECTION WITH THE SERVICES, PROFESSIONAL SERVICES OR SOFTWARE, INCLUDING, WITHOUT LIMITATION, ANY OTHER INFORMATION OR MATERIALS PROVIDED, OR MADE AVAILABLE, BY SMARSH. SMARSH HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. SMARSH DOES NOT REPRESENT OR WARRANT THAT THE SERVICES OR SOFTWARE WILL BE AVAILABLE OR ERROR-FREE. SMARSH WILL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET, ELECTRONIC COMMUNICATIONS, OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF SMARSH. SMARSH MAKES NO REPRESENTATION OR WARRANTY THAT USE OF THE SERVICES OR THE ADVICE, CONSULTING OR PROFESSIONAL SERVICE PROVIDED TO CLIENT GUARANTEES LEGAL COMPLIANCE UNDER ANY FEDERAL, STATE OR INTERNATIONAL STATUTE, LAW, RULE, REGULATION, OR DIRECTIVE AND SMARSH EXPRESSLY DISCLAIMS ALL LIABILITY ARISING OR RELATED TO CLIENT’S COMPLIANCE WITH ANY FEDERAL, STATE OR INTERNATIONAL STATUTE, LAW, RULE, REGULATION, OR DIRECTIVE. THE SOFTWARE IS NOT DESIGNED OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, INCLUDING BUT NOT LIMITED TO ANY APPLICATION IN WHICH THE FAILURE OF THE SOFTWARE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR PROPERTY DAMAGE.

8. Remedies; Limitations of Remedies.

- 8.1. **Remedies.** In the event of a breach of any warranty under Section 7, Smarsh will use commercially reasonable efforts to provide Client with an error correction or work-around that corrects the reported non-conformity. In the event of a breach of the applicable Service Level Agreement located at <http://www.smarsh.com/legal/>, Smarsh will provide Client with the credit stated in the Service Level Agreement. The foregoing remedies represent Client’s sole and exclusive remedy for a breach of Section 7.
- 8.2. **Limitation of Liability.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER, OR TO ANY THIRD PARTY, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS), ARISING OUT OF OR IN CONNECTION WITH THE SERVICES OR SOFTWARE, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE OR WHETHER THE PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. SMARSH’S AGGREGATE LIABILITY HEREUNDER FOR ALL DAMAGES ARISING UNDER OR RELATING TO THIS AGREEMENT, NOTWITHSTANDING THE FORM IN WHICH ANY ACTION IS BROUGHT (E.G., CONTRACT, TORT, OR OTHERWISE), WILL BE LIMITED TO THE TOTAL FEES ACTUALLY RECEIVED BY SMARSH FROM CLIENT FOR THE APPLICABLE SERVICES IN THE TWELVE (12) MONTH PERIOD PRECEDING THE MONTH IN WHICH THE INCIDENT CAUSING THE DAMAGES AROSE. THE LIMITATION ON LIABILITY SET FORTH ABOVE IS CUMULATIVE; ALL PAYMENTS MADE FOR ALL CLAIMS AND DAMAGES WILL BE AGGREGATED TO DETERMINE IF THE LIMIT HAS BEEN REACHED.
- 8.3. THE ABOVE LIMITATIONS OF LIABILITY REFLECT AN ALLOCATION OF RISK BETWEEN THE PARTIES IN VIEW OF THE FAVORABLE FEES CHARGED BY SMARSH RELATIVE TO THE SERVICES DESCRIBED HEREIN, AND ARE MATERIAL TERMS HEREOF.

9. Indemnification.

- 9.1. Smarsh will defend, indemnify and hold Client harmless from third-party claims arising out of a claim that the Services infringe any United States patent, trademark or copyright; provided that, (a) Client provides Smarsh with prompt written notice upon becoming aware of any such claim; (b) Client reasonably cooperates with Smarsh in the defense of such claim; and (c) Smarsh has sole and exclusive control over the defense and settlement of any such claim. Notwithstanding the foregoing, Smarsh will have no liability of any kind to the extent any claim relates to or arises from: (i) custom functionality provided to Client based on Client's specific requirements; (ii) any modification of the Services by Client or any third party; (iii) the combination of Services with any technology or other services, software or technology not provided by Smarsh; or (iv) the failure of Client to use updated or modified versions of the Services made available by Smarsh. If the Services are subject to a claim of infringement of the intellectual property rights of a third party, Smarsh may, in its sole discretion, either (a) procure for Client the right to continue to use the Services; (b) modify the Services such that they are non-infringing; or (c) if in the reasonable opinion of Smarsh, neither (a) nor (b) are commercially feasible, then Smarsh may upon thirty (30) days prior written notice to Client, terminate the applicable Service.
- 9.2. The indemnification obligation contained in this Section 9 will be Client's sole remedy, and Smarsh's sole obligation, with respect to claims of infringement.

10. General Provisions.

- 10.1. **Export Restrictions.** The Services and Software, including any software, documentation and any related technical data included with, or contained in the Services, may be subject to United States export control laws and regulations. Smarsh Public IM policy manager is classified under Export Control Classification Number (ECCN) 5D002.c.1, and has been qualified for export under authority of license exception ENC, in accordance with sections 740.17(d) and 740.17(b)(3) of the U.S. Export Administration Regulations (EAR), 15 C.F.R. Part 730 et seq. (the "EAR"). It may not be downloaded or otherwise exported or re-exported into (or to a national or resident of) Afghanistan, Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria or any other country to which the United States has embargoed goods; or any organization or company on the United States Commerce Department's "Denied Parties List." Client will comply with the export laws and regulations of the United States and other applicable jurisdictions in providing or using the Services. Client will not transfer the Software, or any other software or documentation provided by Smarsh (a) to any person on a government-promulgated export restriction list; or (b) to any U.S.-embargoed countries. Without limiting the foregoing: (a) Client represents that it and its Authorized Users and other users are not named on any United States government list of persons or entities prohibited from receiving exports; (b) Client represents that Client will not use the Software or Services in a manner which is prohibited under United States Government export regulations; (c) Client will comply with all United States anti-boycott laws and regulations; (d) Client will not provide the Software or Service to any third party, or permit any user to access or use the Software or Service, in violation of any United States export embargo, prohibition or restriction; and (e) Client will not, and will not permit any user or third party to, directly or indirectly, export, re-export or release the Software or Services to any jurisdiction or country to which, or any party to whom, the export, re-export or release is prohibited by applicable law, regulation or rule.
- 10.2. **Assignment.** Neither party may assign this Agreement, in whole or in part, without the other party's prior written consent, except that either party may assign this Agreement without the other's consent in the case of a merger, reorganization, acquisition, consolidation, or sale of all, or substantially all, of its assets. Any attempt to assign this Agreement other than as permitted herein will be null and void. Without limiting the foregoing, this Agreement will inure to the benefit of and bind the parties' respective successors and permitted assigns.
- 10.3. **Force Majeure.** No failure or omission by the parties hereto in the performance of any obligation of this Agreement will be deemed a breach of this Agreement, nor will it create any liability, provided the party uses reasonable efforts to resume performance hereunder, if the same will arise from any cause or causes beyond the reasonable control of the parties, including, but not limited to the following, which, for the purpose of this Agreement, will be regarded as beyond the control of the parties in question: (a) acts of God; (b) acts or omissions of any governmental entity; (c) any rules, regulations or orders issued by any governmental authority or any officer, department, agency or instrumentality thereof; (d) fire, storm, flood, earthquake, accident, war, rebellion, insurrection, riot, strikes and lockouts; or (e) utility or telecommunication failures.
- 10.4. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict/choice of law principles. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in Multnomah County, in the State of Oregon, and the parties hereby irrevocably consent to the personal jurisdiction and venue therein.
- 10.5. **Notices.** Any legal notice under this Agreement will be in writing and delivered by personal delivery, express courier, or certified or registered mail, postage prepaid and return receipt requested. Notices will be deemed to be effective upon personal delivery, one (1) day after deposit with express courier, five (5) days after deposit in the mail. Notices will be sent to Client at the address set forth on the Order Form or such other address as Client may specify. Notices will be sent to Smarsh at the following address: Smarsh, Inc., Attention: Legal, 851 SW 6th Ave, Suite 800, Portland, OR 97204.
- 10.6. **No Agency.** The parties are independent contractors and will have no power or authority to assume or create any obligation or responsibility on behalf of each other. This Agreement will not be construed to create or imply any partnership, agency, or joint venture.
- 10.7. **Entire Agreement.** This Agreement is the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes any prior or contemporaneous agreements, negotiations and communications (both written and oral) regarding such subject matter.
- 10.8. **Marketing.** Client grants Smarsh the limited right to disclose that Client is a customer of the Smarsh. Smarsh agrees to obtain the prior written approval for any use of Client's name in any print marketing materials, press release, blog posts, case studies or white papers.

- 10.9. **Severability.** If for any reason a court of competent jurisdiction finds any provision or portion of this Agreement to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this Agreement will continue in full force and effect.
- 10.10. **Waiver.** Failure of either party to insist on strict performance of any provision herein will not be deemed a waiver of any rights or remedies that either party will have and will not be deemed a waiver of any subsequent default of the terms and conditions thereof.
- 10.11. **Electronic Signatures and Communications.** The parties agree that electronic signatures, whether digital or encrypted, or click-through acceptance, by an Authorized User or a party's authorized signatory are intended to authenticate such signatures and give rise to a valid, enforceable, and fully effective agreement. The parties expressly agree that any terms in Client's purchase order forms, or electronic communications form no part of this Agreement.
- 10.12. **Modifications.** Smarsh may make modifications to this Agreement by posting a revised version to www.smarsh.com/legal or via weblink at the Service login page. Client unequivocally indicates acceptance of any such modifications by (a) accepting the version of the Agreement with the modified terms at the product log in page; (b) executing an Order Form including the modified terms; or (c) continued use of the Services for 30 days following the earliest notice provided to an Authorized User of the modification.

11. WHERE CLIENT IS LOCATED IN EUROPE THE FOLLOWING MODIFICATIONS TO THE ABOVE TERMS APPLY:

- 11.1. Section 8.2 and 8.3 of this Agreement are replaced with the following Sections 8.2, 8.3 and the addition of 8.4:

"8.2 Limitation of Consequential Damages. Subject to 8.4, in no event shall either party be liable under or in relation to this Agreement or its subject matter (whether such liability arises due to negligence, breach of contract, misrepresentation or for any other reason) for any: (a) loss of profits; (b) loss of sales; (c) loss of turnover; (d) loss of, or loss of use of, any (i) software or (ii) data; (e) loss of use of any computer or other equipment or plant; (f) wasted management or other staff time; (g) losses or liabilities under or in relation to any other contract; or (h) indirect, special or consequential loss or damage.

8.3 Limitation on Direct Damages. Subject to Sections 8.2 and 8.4, Smarsh's aggregate liability arising from or in connection with this Agreement (and whether the liability arises because of breach of contract, negligence, misrepresentation or for any other reason) shall not exceed 1.25 times the amounts paid or payable (having been invoiced but not yet paid) by you for the license to use the Service.

8.4 Notwithstanding anything to the contrary in this Agreement, neither party excludes or limits its liability in respect of death or personal injury caused by the negligence of that party, its servants or agents, breach of any condition as to title or quiet enjoyment implied by Section 12 Sale of Goods Act 1979 or Section 2 Supply of Goods and Services Act 1982, or liability for fraudulent misrepresentation or such other liability which cannot under applicable law be excluded or limited by Agreement."

- 11.2 Section 10.4 is replaced with the following:

"10.4 Governing Law and Jurisdiction. This Agreement and all matters arising out of or relating to this Agreement shall be governed by the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English courts. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement. Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement prevents either party from seeking injunctive relief in the appropriate or applicable forum."

ARCHIVING PLATFORM SERVICE LEVEL AGREEMENT

1. Smarsh Uptime Commitment

- 1.1 The Smarsh Archiving Platform (the Smarsh Management Console) will be available 99.9% during any calendar month (the “**Uptime Commitment**”). For purposes of calculating the Uptime Commitment, “availability” means that Client may access the Smarsh Management Console. Smarsh shall not be responsible for interruption in Client’s access to the Services, and the Services will not be considered unavailable, where the downtime or interruption of the Services result from: (a) routine maintenance, repair and upgrade; (b) issues or failures with Client’s hardware, software, communications and internet providers; (c) issues or failures of third-party sites, applications, software, hardware or other components not supplied by Smarsh, or the intentional or malicious actions of third parties; (d) Client’s acts or omissions; or (e) force majeure events.
- 1.2 If the Uptime Commitment is not met, Smarsh will issue Client a credit equal to 1/30th of the monthly fee for the Service which did not meet the Uptime Commitment. Credits must be requested by Client within thirty (30) days of the end of the month in which the Uptime Commitment was not met and the failure to meet the Uptime Commitment must be verified by Smarsh’s Service diagnostic monitoring tools. Credits will be credited against Client’s next invoice.

2. Support and Maintenance Services

- 2.1 Smarsh uses tools to provide server, network, and application diagnostic monitoring of the technical infrastructure utilized to deliver the Services.
- 2.2 Smarsh will provide the level of support applicable to the Service package purchased by Client or the applicable support policy. Client may find support FAQ’s here: <http://www.smarsh.com/support/>. Premium support services may be purchased by Client as a Professional Service. Client must report issues experienced with the availability or performance of the Services by submitting a support case via the Web at <http://www.smarsh.com/support> or by sending an email to support@smarsh.com. Support requests must include a detailed description of the error or request, including the operating conditions which gave rise to the error. The individual reporting a support incident will receive an auto-email notification to confirm receipt of a Support request, along with a case number to use for future reference. Client may also submit a support request by contacting Smarsh support by phone. Standard phone support is available Monday through Friday between the hours of 7 am and 12 am EST (excluding United States Federal Holidays) at 866-SMARSH-1. Off- hour phone support is available 24 hours per day, 365 days per year for a Severity Level 1 or 2 level issues. All Severity Level 1 issues must be reported by phone. Smarsh reserves the right to limit support request to a single or maximum number of Authorized Users.
- 2.4 Upon receiving a support request, Smarsh will use all commercially reasonable efforts to address and/or fix errors to the Services reported by Client which are within the control of Smarsh based on the following resolution process:

Severity Level	Description	Mean Response Time	Resolution Process
1	Issue impacts multiple users: Service is down, or major functionality is unavailable or materially impacted by performance issues, and no workaround is available.	15 minutes (must call by phone)	Smarsh will work continuously until error is fixed or temporary workaround is implemented
2	Issue impacts multiple users: important features are unavailable or degraded, or multiple users are degraded, and no sustainable workaround is available. Or The issue impacts a single user, major functionality is unavailable or materially impacted by performance issues, and no workaround is available.	1 hour	Smarsh will work continuously until error is fixed or temporary workaround is implemented
3	Issue impacts multiple or single users:	4 hours (during business hours)	Smarsh will work during normal business hours

	important features are unavailable but workaround is available, Or intermittent disruption of Services, Or routine request (e.g. add user, password reset)		to implement a fix or workaround
4	Minor feature is unavailable, Or minor performance impact	1 Business Day	Smarsh will work to provide fix in next maintenance release

Support and maintenance shall be done, to the extent reasonably possible, during times other than Smarsh's normal business hours so as to minimize any interference with or disruption. Smarsh's normal maintenance windows are:

- Tues/Thurs between 9PM-5AM EST
- Friday after 6PM EST
- Weekends anytime

Smarsh agrees to provide Customer with 48hrs prior notice in the event that maintenance needs to be performed outside the maintenance windows or if Smarsh needs to suspend the Services in order to perform necessary maintenance.

VERIZON WIRELESS TERMS AND CONDITIONS FOR ACCESS TO ARCHIVED MESSAGES

This agreement is between you as our subscriber and Verizon Wireless ("VZW") and it sets forth the terms and conditions under which you agree to use and we agree to provide access to Archived Messages through the Archived Messages Service (as such terms are defined below). By using the Archived Messages Service, you accept these Terms and Conditions, which may be modified by us from time to time.

1. Definitions.

- 1.1 Archived Messages** means the Participating Employee's Messages available for retrieval by SMARSH from VZW.
- 1.2 Archived Messages Service** means SMARSH's service that provides Archived Messages to you.
- 1.3 Customer Liable MDNs** means a VZW Mobile Directory Number (MDN) that is established under your corporate account and corporate name for which you are financially responsible for the payment to VZW for VZW service.
- 1.4 Employee Liable MDN** means a VZW MDN that is established in the name of an individual employee of your company and such individual employee is financially responsible for the payment to VZW for VZW services.
- 1.5 Messages** means messages sent or received by the Participating Employee via the short message service (SMS) or the multimedia message service (MMS).
- 1.6 Participating Employee** means your employee who has opted into the Archived Messages Service via your Customer Liable MDN.

2. Archived Messages Service.

- 2.1** You will only access, use, copy, store or disclose Archived Messages in accordance with these Terms and Conditions. Customer will not access, use, copy, store or disclose Archived Messages for any other purpose.
 - (a) SMARSH.** You will enter into an agreement with SMARSH Inc. ("SMARSH") for the Archived Messages Service and you will pay all of SMARSH's charges for such Archived Messages Service in accordance with such agreement and these Terms and Conditions.
 - (b) Customer Liable MDNs Only.** You will enroll only Customer Liable MDNs in the Archived Messages Service. You will not enroll any Employee Liable MDNs in the Archived Messages Service.
 - (c) Notice and Consent.** Prior to enrolling any employee in the Archived Messages Service and accessing, using, storing, copying or disclosing any Participating Employee's Archived Messages, you will provide advance disclosure to each employee containing clear and conspicuous notice of the terms and conditions of the Archived Messages Service, including how you and SMARSH will access, use, copy, retain, protect or disclose such employee's Archived Messages, as well as the duration and purpose of such access, use, copying or retention. Prior to enrolling any employee in the Archived Messages Service, VZW will send a free to end user text message, pre-approved by you, to each employee containing a notice to opt-in to the Archived Messages Service, and you will not access, use, store, copy or disclose any employee's Archived Messages until such consent has been obtained.
 - (d) Revocation of Consent.** You will ensure that each Participating Employee may immediately revoke consent through readily available mechanisms to the Participating Employee. You will immediately notify SMARSH of any such revocation of consent so that SMARSH can notify VZW

of such revocation. If consent is revoked, then you will not access, retrieve, use, store, copy or disclose such employee's Archived Messages dated after the revocation date. You may access, use, store, copy or disclose such employee's Archived Messages retrieved by you prior to such revocation date.

- (e) **Transferring Mobile Device or Customer Liable MDN to Another Employee.** Prior to transferring a mobile device or Customer Liable MDN enrolled in the Archived Messages Service to another employee, you will disenroll or notify SMARSH to disenroll from the Archived Messages Service the Participating Employee and the Customer Liable MDN on that mobile device.
- (f) **Periodic Reminders.** VZW will provide periodic reminders to each Participating Employee of its enrollment in the Archived Messages Service, if Company enables such option in SMARSH's portal.
- (g) **Acknowledgement.** You acknowledge that VZW will make available to SMARSH the Archived Messages for use in connection with the Archived Messages Service and VZW will have no further control or responsibility for the Archived Messages once they are provided to SMARSH.
- (h) **Limitations and Restrictions.** You may access the Participating Employee's Archived Messages only with that Participating Employee's express knowledge and consent. You must maintain records of each employee's express, informed consent for you to collect such Participating Employee's Archived Messages. If a Participating Employee revokes such consent at any time, then you must immediately cease initiating requests for that employee's Archived Messages.

2.2 Customer Business Records. You will maintain full, complete and accurate records related to your performance under these Terms and Conditions, and shall preserve such records for five (5) years from the date of preparation; provided, however, that you will retain, for at least five (5) years following the latest access to Archived Messages, records sufficient to demonstrate each employee's consent to access and use its Archived Messages. Such records shall be available for inspection and copying by VZW during your normal business hours, upon five (5) days notice, but not more than once per quarter, unless otherwise required by applicable law, rule or regulation. If you refuse to comply with the obligations set forth in this Section or if VZW's review of such records reveals that you are in violation of any of these Terms and Conditions, then, in addition to its other remedies under these Terms and Conditions, your account agreement with VZW or at law or in equity, VZW may terminate your access to the Archived Messages.

2.3 Compliance with Laws, Policies and Practices. You will comply with all applicable laws, rules and regulations, including all applicable consumer protection, marketing, data security, export and privacy laws and Federal Trade Commission privacy initiatives. You are solely responsible for making any disclosures required by law, rule, regulation, or otherwise regarding the nature, accuracy, effectiveness, or limitations of the Archived Messages Service.

Updated 11/24/15



City of Sunnyvale

Agenda Item

17-0931

Agenda Date: 9/26/2017

REPORT TO COUNCIL

SUBJECT

Amend the Salary Resolution to Increase the Automobile Allowance for the Director of Employment Development

BACKGROUND

In FY 2015-2016, NOVA absorbed the San Mateo County as part of its service area for workforce development and services. Serving this new geographic region has resulted in more frequent trips throughout San Mateo County. The City Manager has requested to increase the monthly automobile allowance for the Director of Employment Development (NOVA) due to the increased geographic jurisdiction that NOVA is serving with the addition of San Mateo County to the consortium.

EXISTING POLICY

Council Policy 7.3.1 Legislative Management - Goals and Policies, Goal 7.3D: Maintain a quality work force, consistent with state and federal laws, City Charter, and adopted policies in order to assure that City services are provided in an effective, efficient, and high quality manner.

ENVIRONMENTAL REVIEW

The proposed amendment to the salary resolution is not 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 and 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

NOVA is a nonprofit, federally funded employment and training agency that provides customer-focused workforce-development services. NOVA works closely with local businesses, educators, and job seekers to develop programs that provide opportunities to build the knowledge, skills, and attitudes necessary to address the workforce needs of Silicon Valley.

NOVA is directed by the NOVA Workforce Board, which works on behalf of an eight-jurisdiction consortium composed of San Mateo County and the northern Santa Clara County cities of Cupertino, Los Altos, Milpitas, Mountain View, Palo Alto, Santa Clara, and Sunnyvale. NOVA is administered by the City of Sunnyvale. The addition of San Mateo County to the consortium was effective July 1, 2015.

Since the addition of San Mateo County, local travel requirements for the Director of Employment Development (NOVA) have increased. She is required to travel extensively by car to attend meetings throughout the region, which now includes San Mateo County. This is far more travel than required

for any other Department Director. The City Manager has proposed to increase the monthly automobile allowance for this position by an additional \$200 (for a total of \$650 per month) for as long as NOVA is providing services to San Mateo County. Staff has reviewed the travel requirements of this position, which support the proposed increase.

Recently the City Council approved revisions to the salary schedule and salary resolution to address both the compensation issue around Department Directors and to reflect professional best practices relative to compensation. These revisions did not apply to the Director of Employment Development (NOVA) position which is capped at the federal salary limits as established by Section 7013 of Public Law 109-234. However, in the process of completing the salary revisions, the mileage issue was brought to the City Manager's attention. This adjustment compensates the Director for the additional mileage incurred as a result of San Mateo being added to our area of responsibility for services.

FISCAL IMPACT

The total compensation for the NOVA Director is funded through Federal Grants. The total impact from this change is \$2,400 per year and can be absorbed with grant funds.

PUBLIC CONTACT

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

STAFF RECOMMENDATION

Adopt a resolution amending the Salary Resolution to increase the automobile allowance for the Director of Employment Development.

Prepared by: Delanie LoFranco, 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

ATTACHMENT

1. Resolution to Amend the City's Salary Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE AMENDING RESOLUTION NO. 190-05,
THE CITY'S SALARY RESOLUTION, TO INCREASE THE
AUTOMOBILE ALLOWANCE FOR THE DIRECTOR OF
EMPLOYMENT DEVELOPMENT**

WHEREAS, in light of increased travel requirements stemming from including San Mateo County in the NOVA program, the City Council wishes to amend the auto allowance provision of the City's Salary resolution to increase the auto allowance for the Director of Employment Development for as long as NOVA Workforce Services is providing services to San Mateo County.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. Resolution No. 190-05 is hereby amended as set forth in Exhibit "A" attached and incorporated by reference.
2. All other provisions of Resolution No. 190-05 shall remain in full force and effect.
3. The Salary Resolution amendments and pay rates noted above shall be effective October 8, 2017.

Adopted by the City Council of the City of Sunnyvale at a regular meeting held on _____, 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

CITY OF SUNNYVALE SALARY RESOLUTION

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CITY OF SUNNYVALE
SALARY RESOLUTION

1.000. PAY PLAN SCHEDULES. The schedule of pay for each classification in the Classified Service and in the Unclassified Service enumerated by pay categories A, B, C, G, J and L consist of hourly pay rates for each available step in each classification. The schedule of pay for Unclassified and Classified Management classifications enumerated by pay categories D, E, F, K and M consists of the annual control point for each classification.

All pay ranges and rates are contained in Exhibit "A" (posted Salary Tables) and incorporated by this reference.

Pay Plan Schedules A through M apply to employee categories as follows:

Pay Plan Category A applies to employees represented by the Communications Officers Association (COA).

Pay Plan Category B applies to employees represented by the Sunnyvale Employees Association (SEA).

Pay Plan Category C applies to employees represented by the Public Safety Officers Association (PSOA).

Pay Plan Category D applies to unrepresented **Classified Management** employees. This category represents first-line supervisors, mid-management, and staff level employees who plan and implement established City programs, budgets, and policy.

Pay Plan Category E applies to employees represented by the Sunnyvale Managers Association (SMA). This category represents first-line supervisors, mid-management, and staff level employees who plan and implement established City programs, budgets, and policy.

Pay Plan Category F applies to employees in Unclassified **Department Director** positions who report directly to the City Manager. These classes are the highest level management positions at the department level. Employees in these positions are responsible for overall direction of their respective department operations within the context of City policy.

Pay Plan Category G applies to unrepresented **Classified Confidential** employees. [Note: For purposes of wage increases/decreases, benefits and leaves, Category G employees receive the same treatment as Category B employees, except as provided in Section 3.910, Section 4.000, Section 4.100, Section 4.300, and Section 5.015].

Pay Plan Category J applies to the **Unclassified** classifications listed under the **Job Training Partnership Act (JTPA)**.

Pay Plan Category K applies to employees in unrepresented **Unclassified Management** classifications appointed directly by the City Attorney.

Pay Plan Category L applies to **Classified Regular Part-time** employees represented by the Service Employee International Union (SEIU).

Pay Plan Category M applies to employees represented by the Public Safety Managers Association (PSMA).

The Pay Ranges and Rates for each Subclass of a classification for which subclasses have been established shall be as set forth for the applicable classification.

The effective dates for each Pay Plan are indicated on the respective Pay Plan Schedules as set forth in Exhibit "A" (posted Salary Tables).

1.050. RETROACTIVE PAYMENT. SEPARATED/RETIRED EMPLOYEES. Retroactive salary adjustments which occur as a result of a collective bargaining settlement will be provided to those employees who are actively employed by the City at the time of the Memorandum of Understanding adoption by the City Council, and to those employees who have retired between the effective date for retroactivity and date of adoption by the City Council. Any employees who have separated or have been terminated prior to this adoption will not be eligible for any retroactive adjustments. Retroactivity will be provided for salary adjustment only. To be eligible for any other salary adjustment as a result of MOU provisions, the employee must be employed as of the established effective date of such action.

1.100. MANDATED DEDUCTIONS. Any state or federally mandated deductions are made in accordance with applicable law.

All employees hired after April 1986 shall be covered by Medicare. The employee and the City will each contribute the mandated percentage of the employee's wage toward the cost of Medicare.

Unemployment insurance is provided to employees at no cost to the employee.

3.000. LEAVE BENEFITS. The enumerated leave benefits are part of the Pay Plan or applicable Memoranda of Understanding.

3.010. LEAVE AUTHORIZATION. All leaves, with the exception of those of Category K members, must be approved in advance by the City Manager or designated Management representative under established procedure. Leaves of Category K members must be approved in advance by the City Attorney.

3.020. LEAVE BENEFITS. TO WHOM APPLICABLE. Except as otherwise provided for herein, leave benefits are applicable to employees in Pay Plan Categories A, B, C, D, E, F, G,

K, L and M.

3.030. LEAVE PAYMENT. All leave time shall be paid at the hourly straight time rate. Only one type of paid leave shall be paid at any given time and when paid shall be to the exclusion of any other paid time.

3.040. LEAVE SUBSTITUTION. No leave may be substituted for the authorized leave once the employee is on leave except as provided in the Administrative Policy; nor may any leave be authorized in addition to another leave for the same period.

3.100. PAID TIME OFF LEAVE (PTO) AND PAID MEDICAL LEAVE (PML).
MANAGEMENT.

(a) Employees in Categories D, F and K are eligible to accrue and use Paid Time Off Leave (PTO). Such leave shall be used for vacation, medical appointment, illness or injury, family emergency, and may also be used for personal business, care of sick children or other family members, school visits, etc. Leaves not included in PTO which remain separate leaves are bereavement, jury duty, military duty, management administrative leave, workers' compensation, floating holiday, and holiday.

Except for illness, injury or emergency, all PTO shall be pre-planned and pre-approved. The minimum advance notice is 1 week. The City may at any time require written verification from a physician for a non-pre-planned absence for illness or injury, family emergency or visits to a doctor, dentist or licensed mental health practitioner.

(b) PTO begins accruing on the first day of employment and is prorated on an hourly basis for each paid hour. PTO shall not accrue during any unpaid leave, except as provided in Section 3.100(k). Time off is paid provided there is adequate PTO accrued to cover the absence. Time off in excess of PTO accruals and other available leave shall be leave without pay. As employees use PTO, the time used shall be deducted from the employee's current PTO balance.

- (c) The accrual rates are listed below:

TABLE A

Service Period Pay Periods	Years	Hour/Pay Period	Accrual Rate Hours/Ye
1-26.99	0 to 1	6.5	169
27-130.99	1+ to 5	7.5	195
131-260.99	5+ to 10	9.0	234
261-442.99	10+ to 17	10.5	273
443-650.99	17+ to 25	11.5	299
651+	25+	12.0	312

- (d) Eligible employees will accrue at the rates shown in Table A for the first 870 hours. After 870 hours are accrued, the employee will start accruing at the reduced rate levels of Table B.

TABLE B

Service Period Pay Periods	Years	Hour/Pay Period	Accrual Rate Hours/Ye
1-130.99	0 to 5	5.0	130
131-650.99	5+ to 25	6.5	169
651+	25+	8.0	208

Accruals at this level will stop at 1040 hours (maximum cap) until total accrual is reduced below 1040.

- (e) If at any time the total accrual falls below 870 hours, the accrual rate will revert to the rates in Table A.

- (f) No minimum usage per year is required. Accruals carry over from one payroll calendar year to the next.

- (g) For a newly-hired or promoted Category F employee, the City Manager may authorize an initial accrual rate higher than that provided in the above and/or an initial credit of hours. Such provision will be documented in the offer letter to the employee. For a newly-hired or promoted Category D employee, the City Manager may authorize an initial accrual rate higher than that provided in the above.

- (h) For a newly-hired or promoted Category K employee, the City Attorney may authorize an initial accrual rate higher than that provided in the above and/or an initial credit of hours. Such provision will be documented in the offer letter to the employee.

(i) PTO and Separation/Retirement. PTO accrues and is prorated on an hourly basis for each paid hour during the last pay period of service. PTO shall be paid off to the employee on the employee's last day of work (pay included in final paycheck). The City Manager may, however, approve the utilization of available accrued PTO to extend the date of retirement, and in special circumstances, the date of separation.

(j) PTO and Paid Medical Leave. After 26 consecutive pay periods of service, the City shall provide full pay for a medically certified (same occurrence) illness or injury, beginning with work hour 121 through 90 calendar days of illness or injury. At this time, the City will require a doctor's note and medical information in accordance with current Administrative Policy provisions. No Paid Medical Leave will be provided until this requirement is satisfied.

To access the Paid Medical Leave, an employee must provide acceptable written medical documentation showing that the illness or injury is a single illness or injury, whether continuous time off has been taken or not for that illness or injury. The first 120 hours of a single illness or injury are charged to the employee's PTO bank. Hours 121 up through the maximum of calendar day 90 are eligible for coverage under the Paid Medical Leave.

After 90 calendar days of (same occurrence) illness or injury, the employee shall be eligible to apply for Long Term Disability coverage as outlined in Section 3.630. In addition, if, after having been off work for 120 hours on a same illness or injury and becoming eligible for Paid Medical Leave pay, the employee continues to be unable to return to work full-time, but is able to work partial days, the employee remains eligible for Paid Medical Leave pay for the part of the day that the employee is unable to work.

(k) PTO and Workers' Compensation. During the first 26 pay periods of service, the employee will be eligible for Workers' Compensation benefits as provided by state law. The employee, at this time, will have the option to use PTO or any other leave balance available to him/her, or keep it in his/her leave bank for future use upon his/her return.

After 26 consecutive pay periods of service, the City shall provide full pay for a medically certified work-related (same occurrence) illness or injury, beginning with workday 1 through 60 calendar days of illness or injury. After 90 calendar days of (same occurrence) work-related illness or injury, the employee shall be eligible to apply for Long Term Disability coverage as outlined in Section 3.630. Employee will accrue full seniority for the first 90 days of Workers' Compensation leave regardless of whether they use PTO or any other leave balance to supplement Workers' Compensation benefits.

(l) If an employee has no available leave hours, pay may be deducted for any hours

short of 40 worked in a week. This policy is established pursuant to principles of public accountability.

(m) Employees in Categories D, F and K will have the option to cash-out up to 80 hours of PTO effective the last pay day in October of each calendar year. This cash-out will be allowed as long as the employee maintains a balance of 80 hours in his/her bank. If the employee elects this option, the minimum number of hours that may be cashed-out is 8.

3.200. BEREAVEMENT LEAVE. Employees in Categories D, F and K are entitled to bereavement leave where death has occurred to an employee's spouse or registered domestic partner, father, step-father, mother, step-mother, son, daughter, brother, sister, grandparents or grandchildren, or to the father, step-father, mother, step-mother, son, daughter, brother, sister, grandparents or grandchildren of an employee's spouse or registered domestic partner. The City reserves the right to require proof of death from the employee.

Employees in Categories D, F and K shall be entitled to bereavement leave in an amount not to exceed 40 work hours per eligible incident immediately upon employment. Except as provided herein, all bereavement leave must be used within six calendar months of the date of the eligible incident. Employees who are designated as the executor for a qualifying decedent's estate may use bereavement leave beyond the six-month limitation. Any use of bereavement leave more than six months after the eligible incident requires the approval of the Human Resources Director. The City reserves the right to require proof of death from the employee including, but not limited to: death certificates, obituaries, and funeral cards.

3.300. HOLIDAY LEAVE. Employees in Categories B, C (except those scheduled to work holidays), D, E, F, G, K and M who were on pay status both before and after each holiday shall be entitled to take leave on each of the following holidays and be paid at the straight time rate, except as provided in Section 3.320.

CITY OBSERVED HOLIDAYS

Independence Day	Christmas Eve	Martin Luther King, Jr. Birthday
Labor Day	Christmas Day	President's Holiday
Thanksgiving Day	New Year's Eve	Memorial Day
Day After Thanksgiving	New Year's Day	

When a City holiday falls on a Saturday the holiday will be observed on the Friday; when a holiday falls on a Sunday, the holiday will be observed on Monday; or as designated by the City Council.

3.310. FLOATING HOLIDAY LEAVE. Employees in Categories D, F and K shall be credited with 20 hours of floating holiday leave at the beginning of each payroll calendar year.

Effective August 28, 2016, additional pro-rated floating holiday leave will be provided based upon additional ten (10) hours per payroll calendar year. Effective 2017 payroll calendar year, employees in Categories D, F and K shall be credited with 30 hours of floating holiday leave at the beginning of each payroll calendar year.

New employees shall be credited with a pro-rata share based upon the proportion of the payroll calendar year remaining after their date of hire. Use of floating holiday leave shall be subject to the approval of the employee's supervisor.

Employees terminating City employment shall have their allotment of floating holiday leave for that year pro-rated based upon their date of separation. Employees who have used less than their pro-rated allotment for the portion of the payroll calendar year worked shall have the balance paid to them on their final paycheck. Employees who have used more than their pro-rated allotment for the portion of the payroll calendar year worked, shall have the overage deducted from their final paycheck.

Employees in Categories D, F and K who have unused floating holiday hours at the end of the payroll calendar year will be paid out in cash for all the unused hours.

3.320. SPECIAL SCHEDULE. HOLIDAY LEAVE. Holiday leave for employees on a Special Schedule is paid in accordance with policies set forth in the Special Schedule Agreement, applicable MOU, or in the Administrative Policy Manual as the same exists or is amended hereafter.

3.400. JURY LEAVE. An employee is entitled to jury leave subject to conditions and limitations contained in the applicable MOU, or in the Administrative Policy Manual, as the same exists or is amended hereafter.

3.500. MILITARY LEAVE. Employees assigned to active military duty are entitled to military leave in accordance with the provisions of applicable State and Federal laws and the Administrative Policy Manual as the same exists or is amended hereafter. This leave is granted on a fiscal year basis.

3.550. MILITARY RESERVISTS. EXTENSION OF BENEFITS AND SUPPLEMENTAL SALARY.

(a) A person is eligible for the benefits established in this section if he or she meets all of the following qualifications:

- (1) Is an active probationary or regular part-time or full-time employee of the City in Pay Plan Categories A, B, C, D, E, F, G, K, L or M;
- (2) Is a member of the Armed Forces, Naval Militia or National Guard;

- (3) Is called to active duty per Executive Order 13223 issued on September 14, 2001;
- (4) Returns to City employment within 60 days after the end of active duty status; and
- (5) Remains as an employee of the City for at least six months following his or her return to City employment.

Eligible employees will be required to sign an agreement with the City which details their rights and obligations with respect to these benefits and supplemental salary prior to their initial receipt of benefits beyond the mandatory 30 days of benefits otherwise provided by law. Employees who elect not to return to City service shall be required to repay the City for the cost of the supplementary salary and benefits plus interest at the 26-week T-bill rate at the time that the final supplementary compensation was provided and for the period that exceeded the mandatory 30 days of benefits otherwise provided by law.

(b) The City will continue to pay a bi-weekly check to eligible employees equal to base salary, plus any other compensation the employee would have received had he/she been actually working. The employee then will reimburse the City the amounts paid for military service plus allowances, including Basic Allowance for Housing.

(c) Eligible employees will be required to send copies of their military pay stubs to the Department of Human Resources for purposes of reconciliation. The payments will be reconciled by the Payroll unit of the Accounting Division of the Department of Finance. If the Payroll unit has not received the copies within three weeks after the end of the month, future checks will be withheld until the information is provided.

(d) All employees who receive the benefits and supplemental salary under this section will be eligible to remain covered under their current retirement, medical, dental, employee assistance, and vision plans while Executive Order 13223 remains active or until such time as Council takes action to amend or discontinue such benefits and supplemental salary. The City will provide eligible employees, along with the supplemental salary, the amount that the City currently contributes toward the benefits plans. If the employee is currently paying a deduction toward these plans, the employee will continue to make those payments.

3.620. PAID MEDICAL LEAVE. AUTHORIZATION. Paid Medical leave may be authorized by Management staff in accordance with procedures set forth in the applicable MOU or Administrative Policy Manual as the same now exists or is hereafter amended.

3.625. STATE DISABILITY INSURANCE (SDI), INCLUDING PAID FAMILY

LEAVE INSURANCE (PFLI). Category L employees are eligible for SDI benefits in accordance with the applicable MOU. Benefits are provided due to non-work related disability. The cost is paid by employee. SDI includes Paid Family Leave Insurance. These programs are administered by the State of California.

3.630. LONG TERM DISABILITY. For employees in Categories A, B, D, E, G, K and M, the City shall provide, after completion of 26 consecutive pay periods of service, income protection insurance which will take effect after 90 calendar days from the original date of disability and which, subject to standard policy provisions, exclusions and limitations, will pay 67% of the employee's annual base salary while the employee is disabled and unable to work. For employees in Category F, income protection insurance is provided as of the first of the month after date of hire. Eligibility and procedural limitations are set forth in the Administrative Policy Manual and the current Long Term Disability contract as the same now exists or is hereafter amended.

3.640. PAID MEDICAL LEAVE REQUIREMENT WAIVER. For employees in Categories D, E, F, K and M, the requirement of 26 pay periods of service for eligibility for City-provided Paid Medical Leave, i.e., full pay for a medically certified (same occurrence) illness/injury beginning with work hour 121 through 90 calendar days for Categories D, F and K; work hour 101 through 90 calendar days for Category E; and work hour 121 through 90 calendar days for Category E effective July 1, 2017, may be waived by the City Manager in the case of catastrophic and/or life-threatening illness/injury.

3.800. VACATION LEAVE. Casual / Temporary employees hired prior to August 30, 1992 with 2,500 hours of City employment which is continuous or separated by no more than 26 pay periods of service are entitled to .1 hour of vacation leave for each hour of work. Casual/Temporary employees hired after August 30, 1992 are not entitled to vacation leave accrual.

3.810. VACATION LEAVE. ACCUMULATION. USE. For Casual / Temporary employees hired prior to August 30, 1992, vacation leave may be accumulated up to 50 hours. Accumulated leave time unused at the end of the payroll calendar year will be paid at the employee's current pay rate on one of the last paychecks of the payroll calendar year. Casual/Temporary employees who have accumulated 50 hours of vacation leave at any time shall not accrue additional vacation leave or be compensated for any unused vacation leave in excess of 50 hours.

Accrued vacation leave for all categories of employees shall be paid off to the employee on

the employee's last day of work and will be included in the employee's final paycheck. The City Manager may, however, approve the utilization of available accrued vacation to extend the date of retirement, and in special circumstances, the date of separation.

3.900. ADMINISTRATIVE LEAVE FOR MANAGEMENT. Employees in Categories D and K shall be credited with 50 hours of Administrative Leave at the beginning of the first pay period of the payroll calendar year. Employees in Category F shall be credited with 70 hours. All employee categories must complete 6 months of employment to meet eligibility. Use of Administrative Leave for Category F is subject to the City Manager's approval, Categories D to Department Director's approval and to the additional provisions in the Administrative Policy. Provisionally appointed managers not previously holding a regular management position are ineligible for Administrative Leave.

3.910. ADMINISTRATIVE LEAVE FOR CONFIDENTIAL EMPLOYEES. Employees in Category G designated as FLSA exempt as provided in Section 4.000 shall be credited with 40 hours of Administrative Leave at the beginning of the first pay period of the payroll calendar year. All employees must complete 6 months of employment to meet eligibility. Use of Administrative Leave is subject to the employee's manager approval and to the additional provisions in the Administrative Policy.

3.950. EMPLOYEE EMERGENCY LEAVE RELIEF FUND. The Employee Emergency Leave Relief Fund is a program that allows any City employee who has leave hours accrued, the opportunity to donate a portion of his/her accrued leave to benefit another employee needing paid emergency leave. To benefit from this fund, the receiving employee must be eligible to accrue City paid leave time, must have used all available accrued leave and must have a personal emergency that requires the employee to be on leave from work responsibilities to attend to the emergency. The employee, or a member of the family or a friend, must request in writing to the City Manager that this Employee Relief Fund be enacted. The City Manager will have administrative authority to accept or reject the request. The City Manager will also have the administrative authority in defining all procedures to be followed in setting up and utilizing this fund.

4.000. OVERTIME PAY. WHO IS ENTITLED. All employees of the City shall be entitled to overtime pay, except those in Management positions in Categories D, E, F, K and M, and the following classifications in Category G, which are hereby designated as exempt from the provisions of the Fair Labor Standards Act (FLSA).

Category G Classifications:

Job Code	Classification
1001	Accountant-Confidential
1450	Human Resources Analyst
1015	Payroll Supervisor
1460	Sr. Human Resources Analyst
2203	Sr. Programmer Analyst-Confidential

4.010. OVERTIME AUTHORIZATION. All overtime must be approved in advance by the City Manager or designated Management representative under established procedure.

4.020. OVERTIME COMPUTATION. Overtime, when applicable, shall be paid at the rate of 1½ times the straight-time rate, except as otherwise provided for in an applicable MOU or herein.

4.030. OVERTIME PAY. WHEN APPLICABLE. Casual/Temporary employees and regular part-time employees in Category L shall be entitled to overtime pay in accordance with the Fair Labor Standards Act (FLSA). Casual / Temporary employees who meet the FLSA exempt requirements are designated as such.

Employees assigned to a special schedule shall be entitled to overtime only for hours worked in excess of 40 hours in a work week as defined in the applicable MOU and Administrative Policy Manual, or as provided in the written special schedule agreement. See also Section 6.150 regarding flex time for designated Category B employees.

4.100. COMPENSATORY TIME. Employees in Category G shall have the same accumulation and use options as employees in Category B. Employees in Category G designated as FLSA exempt as provided in Section 4.000 are not eligible for compensatory time.

4.200. CALL-BACK PAY. OVERTIME. WHEN APPLICABLE. For full-time employees, the call-back provisions apply when an employee has gone off duty and left the job site. Overtime pay for call-back duty shall not continue into the next work schedule nor shall it be counted toward fulfillment of a work period.

4.300. CONFIDENTIAL PREMIUM PAY. The City shall provide a 3.5% premium on all paid hours for employees in Category D, G, and K.

5.000. WAGE SUPPLEMENTS. Wage supplements shall consist of payments to the employee outside the standard pay schedule for paid work time, and which are paid by the City either in part or in total as provided for herein or in applicable Memoranda of Understanding.

5.010. INTERIM/ACTING PAY OR OUT-OF-CLASS PAY FOR SPECIAL ASSIGNMENT WORK. MANAGEMENT.

(a) Interim/Acting Pay. Employees who are appointed by the City Manager in an acting/interim status to a vacant position in Pay Plan Categories D and F may receive placement within the control point of the vacant position; or a percentage over his/her current pay as designated by the City Manager.

(b) Out-of-Class Pay for Special Assignment Work. For employees in Pay Plan Categories D and F, the City Manager or designee may authorize a temporary pay adjustment for an employee given a specific temporary assignment clearly beyond the scope of the regular job description as determined by the Director of Human Resources or designee. Such assignment is to be made only as necessary to meet the business needs of the department. A request for such an assignment must be made to the City Manager or designee, in writing, from the Department Director prior to commencement of the assignment. Work in such assignment shall be at a minimum of two (2) consecutive weeks, and up to a maximum of one (1) year.

The request for special assignment shall describe the assignment, justify why it is to be performed by the designated employee, and give a specific duration for completion of the assignment with start and end date. Special assignment pay is five percent (5%) above the employee's normal pay rate. The special assignment and related compensation may be revoked at any time at the discretion of the Department Director, or the City Manager or designee.

Special assignment pay shall be based on the full period of actual hours worked during the assignment and received for the full period of time in which the employee works in the assignment, provided that such special assignment and related compensation has been authorized in advance by the Department Director, has been approved by the City Manager or designee, and has been processed by the Human Resources Department. Special assignment pay shall not be made retroactively. Special assignment pay shall not be paid for Paid Time Off, Holidays, Paid Medical Leave or any other leave during the special assignment; nor shall such leave days be considered a break in the special assignment.

The special assignment pay shall be discontinued on the date originally identified for completion of the assignment, unless an extension of specific duration is approved by the City Manager or designee prior to the end of the original assignment end date. Extension may be granted for up to an additional one (1) year for the same assignment.

5.015. OUT-OF-CLASS PAY FOR SPECIAL ASSIGNMENT WORK.
CONFIDENTIAL EMPLOYEES.

For employees in Pay Plan Category G, the City Manager or designee may authorize a temporary pay adjustment for an employee given a specific temporary assignment clearly beyond

the scope of the regular job description as determined by the Director of Human Resources or designee. Such assignment is to be made only as necessary to meet the business needs of the department. A request for such an assignment must be made to the City Manager or designee, in writing, from the Department Director prior to commencement of the assignment. Work in such assignment shall be at a minimum of two (2) consecutive weeks, and up to a maximum of one (1) year.

The request for special assignment shall describe the assignment, justify why it is to be performed by the designated employee, and give a specific duration for completion of the assignment with start and end date. Special assignment pay is five percent (5%) above the employee's normal pay rate. The special assignment and related compensation may be revoked at any time at the discretion of the Department Director, or the City Manager or designee.

Special assignment pay shall be based on the full period of actual hours worked during the assignment and received for the full period of time in which the employee works in the assignment, provided that such special assignment and related compensation has been authorized in advance by the Department Director, has been approved by the City Manager or designee, and has been processed by the Human Resources Department. Special assignment pay shall not be made retroactively. Special assignment pay shall not be paid for Paid Time Off, Holidays, Paid Medical Leave or any other leave during the special assignment; nor shall such leave days be considered a break in the special assignment.

The special assignment pay shall be discontinued on the date originally identified for completion of the assignment, unless an extension of specific duration is approved by the City Manager or designee prior to the end of the original assignment end date. Extension may be granted for up to an additional one (1) year for the same assignment.

5.020. Y-RATING PAY. Y-rating may be authorized by the City Manager or his/her designee when an employee is allocated to a classification with a lower salary range. If the current salary of the employee is more than the maximum of the revised allocated classification, the employee may be Y-rated and he/she will continue to receive the former rate of pay until the maximum salary of the new classification is raised to an amount higher than the rate of pay received in the former classification.

5.100. UNIFORMS. The City shall provide uniforms for Category B employees assigned to meter reading, public facility maintenance, public safety records, and others as designated by the City Manager.

5.200. WORK EQUIPMENT. The City shall provide mattresses, sheets, pillows, pillow

cases and blankets at the fire stations and safety gear in all departments as required by law.

5.210. SAFETY GLASSES. The City shall provide employees in Categories A, B, C, D, E and L prescription safety glasses, provided (a) that safety glasses are required on the job; (b) the employee provides the prescription at no cost to the City; and (c) the glasses are provided by an optical firm approved by the City.

5.220. SAFETY FOOTWEAR. Employees shall be eligible to receive an annual allowance in accordance with the provisions of the applicable MOU. The Human Resources Risk Manager may authorize additional classifications to receive the safety footwear allowance if it is determined that safety footwear is required for the work being performed.

5.300. TRAINING ASSISTANCE. The City shall reimburse employees in Categories A, B, C, D, E, F, G, K, L, those in the Public Safety Cadet program, and employees in the classification of Crime Prevention Assistant for all or part of the cost of tuition and books for courses approved in advance by the City, provided the course is completed successfully and documentation of costs and certificates of completion are presented according to Administrative Policy or applicable MOU. The amount of reimbursement based on relatedness to the employee's present position may be taxable in accordance with state and federal law.

5.500. HEALTH INSURANCE. ELIGIBILITY AND EFFECTIVE DATES.

(a) Medical. Participation in the medical insurance plan is available to employees in all full-time and regular part-time Categories and to members of the City Council at the time of appointment in accordance with the provisions of the plan selected, with the effective date the first day of the month following enrollment.

(b) Dental. Employees in Categories B, D, E, F, G, K, L, M and members of the City Council are eligible for dental coverage at the time of appointment, with an effective date of the first day of the month following enrollment. For employees in Category C, the Public Safety Officers Association shall contract with a dental provider and make dental insurance available to represented employees in accordance with the provisions of the respective MOU. Effective January 1, 2010, employees and members of the City Council may elect to enroll in an enhanced "voluntary buy-up" dental plan. The cost of the voluntary buy-up plan is solely funded by employee / City Council member contributions.

(c) Vision. Employees in all full-time and regular part-time Categories and members of the City Council are eligible for vision coverage at the time of appointment, with an effective date of the first day of the month following enrollment. Effective January 1, 2010, employees and members of the City Council may elect to enroll in an enhanced "voluntary buy-up" vision plan.

The cost of the voluntary buy-up plan is solely funded by employee/City Council member contributions.

(d) Employee Assistance Plan (EAP). Employees in all full-time and regular part-time Categories are covered by the employee assistance program at the time of appointment in accordance with the provisions of the plan.

5.501. CASH IN-LIEU. MEDICAL COVERAGE.

(a) Employees in Categories D, F, K and members of the City Council have the option of waiving their medical coverage and receiving payment of a portion of the City contribution. However, if the employee is currently a dependent of a City employee and covered by a CalPERS Health Plan, the employee is not eligible for reimbursement.

Payment shall be made on the following schedule:

Type of Coverage Waiving	Per Pay Period Payment
Employee only coverage	\$38.00
Employee +1 coverage	\$76.00
Employee + family coverage	\$98.50

Whenever an employee changes to no coverage, the employee shall provide proof of alternate coverage and sign a waiver stating that he or she does have alternative coverage and that he or she understands that he or she will no longer receive coverage through a City-sponsored CalPERS provided medical plan.

If an employee decides to reenter a City sponsored CalPERS provided medical plan or reenter with dependent(s), he or she may enroll in accordance with CalPERS procedures.

Employees receiving cash in-lieu payments must provide documentation to verify their dependents' eligibility.

5.502. CASH REIMBURSEMENT. CITY RETIREE COUNCIL MEMBERS.

Members of the City Council who are City retirees and are enrolled in the CalPERS medical program as a retiree, are eligible to receive a reimbursement equal to the difference of the current City contribution to medical insurance included under Section 5.505 and the current cost of the CalPERS medical premium.

In addition, if Members of the City Council who are City retirees and have an alternative dental plan, and they waive City coverage, the City will reimburse the cost of dental insurance up to the amount specified under Section 5.506 (f).

5.505. CITY CONTRIBUTION. MEDICAL INSURANCE. Effective January 1, 2017, 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) Category A. The cost of the premium or \$472.98 per month, whichever is less.
- (b) Categories B and G. The cost of the premium or \$795.87 per month, whichever is less.
- (c) Category C. The cost of the premium or \$467.46 per month, whichever is less.
- (d) Category L. The cost of the premium or \$437.75 per month, whichever is less.
- (e) Categories D, E, F, K and M. The cost of the premium or \$795.87 per month, whichever is less. Effective January 1st 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 2016, the amount is \$125.00, and for calendar year 2017, the amount is \$128.00.

5.506. CITY CONTRIBUTION. DENTAL INSURANCE.

- (a) Category A. The City's contribution is up to a maximum of \$140.55 per month, pursuant to the provisions of the COA MOU.
- (b) Category B and G. The City's contribution is included under Section 5.515 (b) below.
- (c) Category C. The City's contribution is subject to the provisions of the PSOA MOU.
- (d) Category L. The City's contribution is included under Section 5.515 (d) below.
- (e) Categories D, E, F, K and M. The City will contribute the premium for employee only, employee plus one dependent, or employee plus family coverage.
- (f) Members of the City Council. The City will contribute the premium for council member only coverage. Dependent coverage is available at the council member's cost.

5.507. CITY CONTRIBUTION. VISION INSURANCE.

- (a) Category A. The City's contribution is included under Section 5.515 (a) below.
- (b) Category B and G. The City will contribute the premium for employee only or employee plus one dependent coverage.

- (c) Category C. The City's contribution is included under Section 5.515 (c) below.
- (d) Category L. The City's contribution is included under Section 5.515 (d) below.
- (e) Categories D, E, F, K and M. The City will contribute the premium for employee only, employee plus one dependent, or employee plus family coverage.

(f) Members of the City Council. The City will contribute the premium for council member only coverage. Dependent coverage is available at the council member's cost.

5.515. CITY CONTRIBUTION. CAFETERIA BENEFITS PLAN.

(a) Category A. Effective September 27, 2015, the City will contribute \$142.02 per month, the difference between \$615.00 and the amount stated in 5.505 (a) above. Effective calendar year 2016, the City will contribute \$242.02 per month, the difference between \$715.00 and the amount stated in 5.505 (a) above. Effective calendar year 2017, the City will contribute \$342.02 per month, the difference between \$815.00 and the amount stated in 5.505 (a) above.

(b) Category B and G. The City's contribution is subject to the provisions of the SEA MOU.

(c) Category C. The City will contribute \$47.54 per month, the difference between \$515.00 per month and the amount stated in 5.505 (c) above.

(d) Category L. The City's contribution is subject to the provisions of the SEIU MOU.

(e) Categories D, E, F, K and M. The City will contribute to a Cafeteria Benefits Plan for the cost of medical premiums only. The City's Cafeteria Benefits Plan contribution will be capped at the cost of the premium of the highest priced plan between the CalPERS Bay Area regional HMO plans or the PERS Choice PPO plan, effective January 1 each year, less the City Contribution as stated in Section 5.505 (e) above, and shall be based upon the plan level in which the employee is enrolled (i.e., employee only, employee plus one dependent, or employee plus family).

(f) Members of the City Council. The City will contribute to a Cafeteria Benefits Plan for the cost of medical premiums only. The City's Cafeteria Benefits Plan contribution will be capped at the cost of the premium of the highest priced plan between the CalPERS Bay Area regional HMO plans or the PERS Choice PPO plan, effective January 1 each year, less the City Contribution as stated in Section 5.505 (f) above, and shall be based upon the plan level in which the council member is enrolled (i.e., council member only, council member plus one dependent or council member plus family).

5.520. MAXIMUM CITY CONTRIBUTION. HEALTH INSURANCE.

(a) Category A. Including the amounts specified in Sections 5.505 (a) and 5.515 (a),

the City's maximum contribution is \$615.00 per month (\$283.85 per pay period) effective September 27, 2015, \$715 per month (\$330.00 per pay period) effective calendar year 2016, and \$815 per month (\$376.15 per pay period) effective calendar year 2017. The City's maximum contribution is payable towards the employee assistance program insurance, employee and dependent medical insurance, employee and dependent vision insurance, optional life insurance or any combination thereof.

(b) Category B and G. In addition to the amounts contributed by the City as specified in Sections 5.505 (b) and 5.515 (b), the City pays the full premium for the employee assistance program.

(c) Category C. Including the amounts specified in Sections 5.505 (c) and 5.5150 (c), the City's maximum contribution is \$515.00 per month (\$237.69 per pay period) towards the employee assistance program insurance, employee and dependent medical insurance, employee and dependent vision insurance, optional life insurance or any combination thereof.

(d) Category L. In addition to the amounts contributed by the City as specified in Sections 5.505 (d) and 5.515 (d), the City pays the full premium for the employee assistance program.

(e) Categories D, E, F, K and M. In addition to the amounts contributed by the City as specified in Sections 5.505 (e) and 5.515 (e), the City pays the full premium for the employee assistance program.

(f) Members of the City Council. For calendar year 2010, the maximum monthly City contribution, as described in Sections 5.505 (f), 5.506 (f), 5.507 (f) and 5.515(f), ranges from \$630.55 to \$1554.28. The actual amount is based upon the plan level in which the council member is enrolled in medical coverage (e.g.; council member only, council member plus one dependent or council member plus family).

5.525. EMPLOYEE CONTRIBUTION. HEALTH INSURANCE. To the extent that any full or part-time employee or member of the City Council elects health insurance coverage that exceeds the amount stated in Section 5.520, the employee/member of the City Council shall pay the difference.

5.530. PREMIUM CONVERSION. If applicable, pursuant to IRS Code §125, regular full-time and regular part-time employees shall pay their contribution toward health insurance on a pre-tax basis, unless the employee chooses to pay on a post-tax basis and notifies the Department of Human Resources of this request in writing.

5.540. POST RETIREMENT MEDICAL BENEFITS.

(a) Categories D, E, F, K and M. Employees who retire from City service under the provisions of the City's contract with CalPERS (minimum of age 50 and 5 years of service) are eligible for post-retirement medical benefits as stated below:

(a.1) Group A – Retirement date prior to January 1, 2008.

The City shall contribute an amount equal to that which is stated in Section 5.505 (e) for the cost of retiree medical premiums. Additionally, the City's Retiree Health Reimbursement Program will provide the retiree a monthly reimbursement amount equal to the difference between the City Contribution, as stated in Section 5.505 (e) and the retiree's premium for his/her selected medical plan.

(a.2) Group B – Retirement date on or after January 1, 2008 with an appointment date prior to July 1, 2007.

The City shall contribute an amount equal to that which is stated in Section 5.505 (e) for the cost of retiree medical premiums. Additionally, the City's Retiree Health Reimbursement Program will provide the retiree a monthly reimbursement amount equal to the difference between the City Contribution, as stated in Section 5.505 (e) and the retiree's premium for his/her selected medical plan, subject to a cap based on the cost of the premium of the highest price plan between the CalPERS Bay Area regional HMO plans or the PERS Choice PPO plan effective January 1st of each year.

(a.3) Group C – Retirement date on or after January 1, 2008 with an appointment date on or after July 1, 2007.

The City shall contribute an amount equal to that which is stated in Section 5.505 (e) for the cost of retiree medical premiums. Additionally, the City's Retiree Health Reimbursement Program (RHR) will provide the retiree a monthly reimbursement amount equal to the difference between the City Contribution, as stated in Section 5.505 (e) and the retiree's premium for his/her selected medical plan, subject to the cap indicated in (a.3) above and according to the following vesting schedule:

Vesting Schedule

City of Sunnyvale Management Years of Service	% of RHR paid to Retiree
5	50%
6	55%
7	60%
8	65%
9	70%
10	75%
11	80%
12	85%
13	90%
14	95%
15+	100%
Combined Years of Service: Minimum 15 years City of Sunnyvale service, 5 years of which must be City of Sunnyvale management service	100%

5.550. LIFE INSURANCE. The City shall provide life insurance equal to one times annual base salary for employees in Categories D, F and K, up to a maximum coverage of \$175,000. In addition, the employee has the option of buying additional insurance of one times his/her annual base salary up to the maximum allowable coverage. Coverage is subject to the terms and conditions of the insurance policy and to current tax law provisions.

5.560. DEPENDENT CARE REIMBURSEMENT ACCOUNT. Employees in Categories D, F, and K are provided with an option to pay for dependent care expenses on a pre-tax basis, as provided in the Internal Revenue Code.

5.561. HEALTH CARE REIMBURSEMENT ACCOUNT. Employees in Categories A, D, F, and K are provided with an option to pay for health care expenses on a pre-tax basis, as provided in the Internal Revenue Code.

5.562. COMMUTER TRANSPORTATION BENEFITS. The City shall provide a plan in accordance with the Internal Revenue Code Section 132(f) that provides an option for employees to pay for qualified work-related transportation expenses for mass transit, van pools,

and parking on a pre-tax basis. The monthly election limit is regulated by the IRS.

5.600. WORKERS' COMPENSATION BENEFITS. The City self-insures for Workers' Compensation benefits. Workers' Compensation benefits will be provided as required by law. Employees who are injured on the job are to comply with the legal requirements governing the use of Workers' Compensation benefits. Employees in Categories D, F, and K, who are eligible for temporary disability payments under Workers' Compensation law, shall receive salary continuation from the City's disability program for the first 60 calendar days of temporary disability. Pursuant to current tax laws, a portion of salary continuation, in lieu of temporary disability payments, is exempt from federal and state withholding taxes. The amount of tax-free salary continuation is up to 2/3 of an employee's average wage, subject to minimums and maximums set by state law. Employees who remain temporarily totally disabled after 90 calendar days shall receive temporary disability payments directly from the City's Workers' Compensation third party administrator.

5.700. RETIREMENT SYSTEMS. The City shall provide a retirement system to eligible employees and to members of the City Council who elect to join the California Public Employees' Retirement System, in accordance with the provisions of the City Charter, and as specifically described herein.

5.710. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS). The City shall contract with the State of California Public Employees' Retirement System (CalPERS) for retirement plans for qualified Safety and Miscellaneous employees. Both plans shall include the 1959 Survivor Benefits. Miscellaneous and Safety employees, and members of the City Council who have elected CalPERS membership, receive the 1959 Survivor Benefit at the increased benefit level (Third Level). Miscellaneous and Safety employees are eligible for the optional Military Buy-Back benefit (Military Service Credit as Public Service).

5.711. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM. QUALIFIED EMPLOYEES. Qualified employees are those in Categories A, B, C, D, E, F, G, K, L, M and those employees in any other Category who are required by CalPERS to be covered. In addition, members of the City Council are qualified to participate in the California Public Employees Retirement System and may elect optional membership in CalPERS.

5.715. PUBLIC AGENCY RETIREMENT SYSTEM (PARS). In appropriate situations for employees hired on or after July 1, 1996, who retire in good standing, City agrees to provide a supplemental retirement benefit through the Public Agency Retirement System (PARS) so that the employee's retirement benefit equals what the employee would have received from CalPERS had

the employee been hired by the City prior to July 1, 1996 as outlined in the CalPERS Circular Letter No. 200-002 (circular letter available in the Department of Human Resources).

5.720. TIER 1 – 3%-AT-50 SAFETY PLAN. The City shall provide qualified Safety employees with the basic "3%-at-50" plan with the one-half continuance option under the California Public Employees' Retirement System (CalPERS). Final compensation shall be calculated using the single highest year model.

5.721. TIER 2 – 3%-AT-55 SAFETY PLAN. The City shall provide qualified Safety employees with the basic "3%-at-55" plan with the one-half continuance option under the California Public Employees' Retirement System (CalPERS). This benefit will apply to Safety employees hired after February 19, 2012. Final compensation shall be calculated using the single highest year model.

5.722. TIER 3 – 2.7%-AT-57 SAFETY PLAN. The City shall provide qualified safety employees hired beginning January 1, 2013 who are not current CalPERS members or who are not members of a reciprocal retirement system as defined by CalPERS the safety 2.7% at age 57 retirement formula with the one-half continuance option under CalPERS. Final compensation shall be calculated using the average of the three highest years model.

5.730. TIER 1 – 2.7%-AT-55 MISCELLANEOUS PLAN. The City shall provide qualified Miscellaneous employees and members of the City Council with the "2.7%-at-55" plan under the California Public Employees' Retirement System (CalPERS). Final compensation shall be calculated using the single highest year model.

5.731. TIER 2 – 2%-AT-60 MISCELLANEOUS PLAN. The City shall provide qualified Miscellaneous employees and members of the City Council hired/appointed beginning in the last full pay period in December 2012 the Local Miscellaneous 2.0% at age 60 retirement formula. Final compensation shall be calculated using the single highest year model. Employees hired on or after January 1, 2013 who are current CalPERS members or who are members of a reciprocal retirement system, as defined by CalPERS shall also receive the 2% at 60 retirement plan.

5.732. TIER 3 – 2%-AT-62 MISCELLANEOUS PLAN. The City shall provide qualified Miscellaneous employees and members of the City Council hired/appointed beginning January 1, 2013 who are not current CalPERS members or who are not members of a reciprocal retirement system as defined by CalPERS the Local Miscellaneous 2.0% at age 62 retirement formula. Final compensation shall be calculated using the average of the three highest years model.

5.740. CalPERS CONTRIBUTION.

(a) Effective July 17, 2016, employees in categories D, F (except for the Director of Public Safety), and K who are also in Tier 1, shall be responsible for contributing 4% of the member contribution, and the City shall contribute 4%; such payment shall be made pursuant to IRC Section 414(h)(2). The City will report the value of the Employer Paid Member Contribution (EPMC) of 4% as additional compensation.

(b) Effective July 17, 2016, employees in categories D, F and K in Tier 2 shall be responsible for contributing 3% of the member contribution, and the City shall contribute 4%; such payment shall be made pursuant to IRC Section 414(h)(2). The City will report the value of the Employer Paid Member Contribution (EPMC) of 4% as additional compensation.

(c) Employees in categories D, F and K in Tier 3 shall be responsible for paying 50% of the normal cost toward their retirement.

(d) Effective July 17, 2016, the Director of Public Safety shall be responsible for paying 3% of the member contribution, and the City shall contribute 6%; such payment shall be made pursuant to IRC Section 414(h)(2). In addition, the City shall continue to pay to CalPERS a total of 2.25% of the employee's salary to fund the cost of the single highest year retirement benefit. The City will report the value of the Employer Paid Member Contribution (EPMC) of 6% as additional compensation.

(e) For employees in other Categories who are required by the CalPERS to be covered, such as City Council members who elect to enroll in CalPERS and eligible casual employees, the employee shall be responsible for the full normal member contribution to CalPERS.

5.750. SOCIAL SECURITY. FICA PORTION. All employees not covered by CalPERS shall be covered by Social Security/FICA. The employee and the City will each contribute the mandated percentage of the employee's wages toward the cost of Social Security/FICA. No Social Security/FICA will be withheld for retired CalPERS members who return to work as a temporary employee.

6.000. SPECIAL PROVISIONS. Those provisions which are in a non-pay category, but which confer a benefit on an employee, are provided in accordance with the provisions in the Administrative Policy Manual.

6.100. WORK SCHEDULES. Employees in the Civil Service are to work in accordance with the schedules, shifts, tours of duty and work periods or cycles established by their respective departments in accordance with the provisions of the applicable MOU or the Administrative Policy Manual as the same now exists or is hereafter amended.

6.150. FLEX SCHEDULES. DESIGNATED CATEGORY B EMPLOYEES. Category

B employees, designated under the terms of the applicable MOU as exempt under the Fair Labor Standards Act, may have their work schedules adjusted, at the discretion of their managers, in order to minimize the cost of overtime pay. Such adjustments shall be made in accordance with the provisions of the applicable MOU.

6.200. ALTERNATE SCHEDULES. MANAGEMENT EMPLOYEES. Alternate schedules for individual employees in Categories D, E, F, and K may be authorized by the City Manager and the City Attorney in accordance with the Administrative Policy Manual.

6.300. DEFERRED COMPENSATION. Employees in Categories A, B, C, D, E, F, G, K and L and members of the City Council shall be entitled to participate in a 457 deferred compensation plan approved by the City. For employees in Categories D, E, F and K, a 401 (a) plan is available and procedures for contribution to such plan will be established by the City. With respect to any employee in Categories D, F and K who enrolls in any of the two deferred compensation plans (457 or 401 (a)), the City shall contribute to such plan on behalf of the employee an amount equal to 2% of the employee's gross pay per pay period. Such employees shall not be entitled to receive any or all of such payment except as payment into a deferred compensation account.

6.400. YOUTH PARTICIPATION INCENTIVES. Incentive Payments may be made in accordance with 29 USC § 2854, to provide incentives for recognition and achievements of the participants in the youth activities through the Department of Employment Development.

6.500. AUTOMOBILE ALLOWANCE. Any Management employee authorized and assigned exclusive use of a City vehicle on a 24-hour basis may, at the option of the employee, receive a ~~car~~-automobile allowance, payable monthly, in lieu of the assignment and authorization to use such City vehicle. Such ~~car~~-automobile allowance is only available while the employee is actively at work (i.e., not absent from work for more than one month, irrespective of reason). When not actively at work, the automobile allowance will cease the first of the month following the last date the employee is actively at work. A Management employee in Category D, E and M who is not assigned exclusive use of a City vehicle and who ordinarily does not have access to pool vehicles at his or her work site and who averages 300 or more miles per month of City business travel in his or her own personal vehicle, excluding normal travel to and from work, shall be eligible for an ~~an~~ ~~car~~-automobile allowance. This option shall not be available in the event the City Manager or the employee's Department Director determines that the vehicle assigned is a special purpose vehicle or a vehicle especially equipped so that it cannot be adequately replaced by the employee's private vehicle. Effective July 1, 2007, the monthly ~~vehicle~~-automobile allowance for

Department Directors will be \$450.00 and for designated management employees \$310.00. Effective October 8, 2017, the monthly automobile allowance for the Director of Employment Development will be \$650.00 for as long as NOVA Workforce Services is providing services to San Mateo County. The City Manager may authorize a change in this allowance in accordance with the change in the IRS standard mileage rate.

6.600. RELOCATION ASSISTANCE. Employees in Categories D, E, K and M may be offered up to \$5,000 of relocation assistance, including expenses incurred in connection with the final trip for employee and immediate family to the area, provided that their primary residence at the time they receive their offer of employment with the City is located outside a 50-mile radius of the City and they move to a location within Santa Clara County within 1 year of appointment. In addition, these employees are also eligible for interim living expenses, at the maximum rate of \$100 per day for a period not to exceed 30 days, incurred while searching for a new residence. Category F employees may be offered up to the full cost of relocation assistance, including interim living expenses, if they move into the City limits within 1 year of appointment. Such assistance may be taxable to the employee. This assistance must be documented in the offer letter to the employee.

6.700. EXECUTIVE MORTGAGE ASSISTANCE PROGRAM. Category F employees are eligible for benefits provided pursuant to the Executive Mortgage Assistance Program. Provisions of the program have been approved through separate resolution and may be amended as necessary.

7.000. ADMINISTRATION. CLASSIFIED SERVICE AND UNCLASSIFIED MANAGEMENT. The Pay Plan for all City employees shall be administered by the City Manager in accordance with policies stated herein and in the Administrative Policy Manual and any applicable MOU. The City Manager shall issue such rules and procedures as are necessary to put the policies into effect.

7.100. HOURLY RATES. Employees in Categories A, B, C, G and L at the time of appointment are ordinarily assigned the hourly rate in the first step of the pay range. In cases where it is necessary to attract qualified personnel the employee may be assigned the hourly rate in the second or third step of the pay range. Under extraordinary circumstances, employees may be assigned to a higher step than the first step of the pay range, upon recommendation of the Department Director and approval of the City Manager.

7.105. SALARY RATES. The minimum rate at which employees in Categories D, E, K and M may be hired is 85.0% of the Control Point for that classification; the maximum is 100% of

Control Point. Appointments made above 95.0% of Control Point require recommendation of the Department Director, and approval of the City Manager for all, but Category K. Determinations on Category K employees are made by the City Attorney.

The minimum and maximum rates at which employees in Categories F may be hired are established for that classification in Exhibit "A" (posted Salary Tables). All appointments require approval of the City Manager.

7.110. CONTROL POINTS AND SALARY RANGES. MANAGEMENT. Control Points for Management classifications are as established in Exhibit "A" (posted Salary Tables). The range for each classification in Categories D, E, K and M extends from 85.0% of the Control Point up to the Control Point (100%). The range for each classification in Categories F are as established in Exhibit "A" (posted Salary Tables). The salary range from the minimum to the maximum is 20%.

7.115. DIFFERENTIAL PAY. MANAGEMENT. In the event that a pay differential of less than 15% is identified between the Control Point for a Management classification and the top step base salary for a direct-report non-management classification, a department director may recommend a pay differential of up to 15%. The differential will not be applied automatically, and an identifiable need for such differential must exist prior to providing the differential pay. All differentials require review by the Director of Human Resources and approval of the City Manager.

7.120. MERIT INCREASE. NONMANAGEMENT. Upon completion of 13 pay periods, employees in Categories A, B, C and G may be assigned the next step in the pay range to which the classification is assigned. Such merit increases shall not be approved unless the employee's work performance is acceptable. Consideration for each subsequent one step merit adjustment is given at 26 pay period intervals until the employee's hourly pay rate reaches the top step of the pay range. Increases may be granted effective with the pay period immediately following the anniversary date.

Upon completion of 6 months of continuous City service, employees in Category L may be assigned the next step in the pay range to which the classification is assigned. Such merit increase shall not be approved unless the employee's work performance is acceptable. Consideration for each subsequent one step merit adjustment is given upon completion of intervals of 12 months of continuous service until the employee's hourly pay rate reaches the top step of the pay range. Increases may be granted effective with the pay period immediately following completion of the requisite hours.

7.130. MERIT INCREASE. MANAGEMENT. Upon completion of 13 pay periods of service, employees in Categories D and K who receive an overall rating of achieves or exceeds expectations on their most recent performance evaluation may receive an increase in salary above the rate to which they were initially assigned, up to but not exceeding the Control Point.

The pay rate for employees in Categories D and K will be considered for adjustment beyond that granted after the first 13 pay periods of service following the completion of 26 pay periods from the prior increase in salary, up to but not exceeding the Control Point. Increases in salary shall be granted effective with the pay period immediately following the completion of 26 pay periods. The pay rate adjustment is subject to an overall rating of achieves or exceeds expectations on the employee's most recent performance evaluation. Increases of more than 5% require approval of the City Manager.

Upon completion of 26 pay periods of service, employees in Category F who receive an overall rating of achieves or exceeds expectations on their most recent performance evaluation may receive an increase in salary as determined by the City Manager, above the rate to which they were initially assigned, up to but not exceeding the range maximum. The pay rate will be considered for adjustment beyond that granted after the first 26 pay periods of service following the completion of an annual performance evaluation, up to but not exceeding the range maximum. The pay rate adjustment is subject to an overall rating of achieves or exceeds expectations on the employee's most recent performance evaluation. All salary increases require approval of the City Manager. For extenuating or bona fide circumstances, the City Manager may increase the salary for a Category F employee outside of the annual performance review cycle.

7.140. PROMOTION. NONMANAGEMENT. Upon promotion to a full-time non-management classification having an assigned pay range greater than the classification from which the employee is being promoted, employees in Categories A, B, C and G shall be entitled either to that hourly pay step in the pay range of the higher class which is at least 5% above the employee's current hourly step rate, or that step the employee would have received within 2 pay periods had the promotion not been made, provided the increase does not exceed the rate contained in the top salary step. Thereafter, the employee will be considered for merit increases in the same manner as other probationary employees.

Upon promotion to a regular part-time classification having an assigned pay range greater than the classification from which the employee is being promoted, the employee shall be entitled to that hourly pay step in the pay range of the higher classification which is at least 5% above the employee's current hourly step rate, provided the increase does not exceed the rate contained in the

5th salary step. Thereafter, the employee will be considered for merit increases in the same manner as other probationary employees.

7.150. PROMOTION. MANAGEMENT. Employees in Category D and E who are promoted to a classification which has been assigned a Control Point greater than the classification from which the employee is being promoted shall be entitled to assignment to a pay rate in the new salary range which provides at least 5% above the employee's current hourly rate, or the rate which the employee would have received with a meeting or exceeding expectation of performance within 2 pay periods had the promotion not been made, provided the increase does not exceed 95.0% of the Control Point for the new classification, except that upon recommendation of the Department Director and approval of the City Manager, the promoted employee's pay rate may be set at up to 100% of such Control Point. Employees in Category K who are promoted in similar circumstances shall likewise receive an increase, subject to the determination of the City Attorney. Thereafter, the employee is considered for merit increases in the same manner as other Management employees.

7.160. PROVISIONAL APPOINTMENT. The pay periods of service of a probationary or regular employee shall not be affected by a provisional appointment. Merit pay increases are to be considered as though the employee had not accepted the provisional appointment.

7.170. GRANT FUNDED EMPLOYMENT.

(a) The City may hire employees in grant-funded (limited duration) positions where the position is funded by grant funds or similar types of non-City funding sources.

(b) Job classification titles for grant-funded positions shall be distinct from job classification titles for regular positions.

(c) Prospective employees shall be informed of the duration of the appointment in the job announcement and at the time of employment, and shall be advised of and acknowledge in writing the impact of the grant-funded (limited duration) status, including that the City has the authority to terminate employment at the completion of the grant or for reduction or loss of grant funding.

(d) Unless otherwise stated by the funding source or agency, if the appointment is for a period of twelve months or more, employees in grant-funded positions shall receive the same benefits as regular employees. Employees who will be working a full-time schedule in a management classification will be included in the Sunnyvale Managers Association bargaining unit; employees who will be working a full-time schedule in a non-management classification will be included in the Sunnyvale Employees Association bargaining unit; and employees who will be working a schedule of 1,092 -1,716 hours per fiscal year will be included in the Services

Employees International Union bargaining unit.

(e) If the appointment is for less than twelve months, employees shall be employed in the unclassified service as temporary employees. Temporary employees are unrepresented, are eligible for only those benefits applicable to this category of employment, and are limited to 900 hours of work in the fiscal year.

(f) Should an employee who was originally hired to fill a grant-funded position of twelve months or more be later appointed to a regular position, his/her hire date will be the date that service commenced in the grant-funded position.

7.180. TERM LIMITED EMPLOYMENT.

(a) Term limited appointments are designed for limited duration projects, and shall not be used to displace regular bargaining unit represented positions. There shall be no adverse effect on the bargaining units, as all bargaining unit members shall continue to receive full protections under existing MOUs. The intent behind Term Limited positions is to avoid layoffs – i.e., avoid hiring and then laying off employees retained to perform work of a limited duration. The assignment of regular employees to perform work related to the limited duration project with Term Limited employees used to provide backfill for the work of regular employees shall not be considered displacement of regular bargaining unit represented positions.

(b) Term Limited positions are different from Grant Funded employment as described in 7.170 above, in that Term Limited appointments shall be tied to a budget for a specific project or projects of limited anticipated duration.

(c) Term Limited appointments must be approved by the City Manager.

(d) Term Limited appointments are “at-will” and may be terminated at any time with or without cause. Further, the City has the authority to terminate employment at the completion of the specified term, or prior to the specified term due to lack of funding or other budgetary constraints, or lack of work.

(e) Term Limited appointments shall specify their duration, and shall not exceed two years, except under special circumstances approved by the City Manager, in which case the term may be extended by no more than 1 year. Such positions are not intended to replace regular, budgeted positions. Duration in position is counted from hire date and is not based on work hours.

(f) Term Limited positions shall be subject to membership in the applicable bargaining unit and shall receive the full benefits applicable to their bargaining unit, except as limited by their “at-will” status.

(g) Prospective employees shall be informed of the duration of the appointment in the

job announcement and at the time of employment, and shall be advised of and acknowledge in writing the impact of the Term Limited status, including that the City has the authority to terminate employment at the completion of the term, or prior to the specified term due to lack of funding or other budgetary constraints, or lack of work. Prospective employees shall also be advised of and acknowledge in writing their status as at-will employees and the City's ability to terminate their employment for any reason with or without cause.

(h) At the request of any bargaining unit, the City will meet with bargaining unit representatives no less than twice a year to hear and resolve any concerns about the Term Limited program.

There shall be no more than twenty-seven (27) Term Limited employees in the SEA bargaining Unit. However, a regular SEA employee in an out of class assignment (either within or outside of the bargaining unit) shall not count against the twenty-seven (27).

7.190. SEVERANCE. Employees in Category F may be terminated or asked to resign at the discretion of the City Manager. Upon execution of a release of all claims against the City, the employee shall be eligible for severance payment. Upon separation, the employee shall be eligible for one (1) month of base salary as severance for each full year of employment with the City of Sunnyvale, with a minimum of three (3) months of salary and up to a maximum of six (6) months of salary. However, the City Manager may authorize any amount between three (3) and six (6) months as he or she determines reasonable and appropriate. The severance benefit shall not be available if the employee is terminated for serious misconduct involving abuse of his or her office or position, including but not limited to waste, fraud, violation of the law under color of authority, misappropriation of public resources, violence, harassment or discrimination. If the employee is later convicted of a crime involving such abuse of his or her position, the employee shall fully reimburse the City as set forth in the Government Code section 53243.3.

8.000. CASUAL/TEMPORARY PAY RATE ASSIGNMENTS AND STEP INCREASES. Pay rate assignments and pay step increases for Casual/Temporary employees shall be administered by the City Manager in accordance with the policies stated herein. The City Manager shall promulgate such rules and procedures as are necessary to put said policies into effect.

Casual/Temporary employees at the time of appointment are ordinarily assigned the hourly rate in the first step of the pay range; however, the department may assign employees to a higher step based on qualifications and experience, and/or specific job functions, or in cases where it is necessary to attract qualified personnel. Casual/Temporary employees may be considered for an

initial merit step increase after completion of 1040 hours of service and additional merit step increases upon completion of intervals of 2080 hours of service up to top step. However, a merit increase shall not be approved unless the employee's work performance is rated satisfactory or better. In situations where the above hour criteria for merit increases is not reasonable given the nature of a Casual/Temporary assignment, individual departments may assign a Casual/Temporary employee to the next step in the series upon completion of a minimum of 12 months of service in the current job classification and step, and a minimum number of hours worked as established by the department.

8.100. REDUCED TIME JOB STATUS PROGRAM. CATEGORY G. Designated classifications within Category G may work a reduced time work job share schedule pursuant to the provisions of the Reduced Time Job Status Program.

9.000. PAY BASIS. An eligible employee may be paid under multiple pay ranges or scheduled amounts in any given pay period, in addition to working out of class, on special assignment or under special circumstances.

10.000. EFFECTIVE DATE. Unless otherwise specifically indicated, all provisions herein contained shall be effective as of the date of posting. This version of the Salary Resolution supersedes any prior versions and amendments thereto.

Posted: September 12, 2017



City of Sunnyvale

Agenda Item

17-0928

Agenda Date: 9/26/2017

SUBJECT

Adopt Ordinance No. 3123-17 to add Section 19.16.025 of Title 19 (Zoning) of the Sunnyvale Municipal Code relating to Split-Zone Parcels

RECOMMENDATION

Adopt Ordinance No. 3123-17.

ATTACHMENT

1. Ordinance No. 3123-17

ORDINANCE NO. 3123-17

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE TO ADD SECTION 19.16.025 OF TITLE
19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE
RELATING TO SPLIT-ZONE PARCELS**

WHEREAS, currently the Sunnyvale Municipal Code (“SMC”) contains a provision that describes how to determine the location of district boundary that splits a parcel or a subdivided lot in SMC Section 19.16.030; and

WHEREAS, this ordinance is meant to clarify and explicitly enable actions to designate a property with two or more zoning designations; and

WHEREAS, the City of Sunnyvale desires to amend certain sections of the Sunnyvale Municipal Code in Chapter 19.16 relating to split-zone parcels.

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

SECTION 1. Section 19.16.025 ADDED. Section 19.16.025 of Chapter 19.16 (Precise Zoning Plans – Zoning Districts – Zoning Maps) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby added to read as follows:

19.16.025. Split-zone parcels and applicable zoning regulations.

A parcel or subdivided lot may be split-zoned with two or more zoning designations. When a parcel or subdivided lot contains two or more zoning designations, all applicable zoning regulations for each designation shall be applied separately for each portion of a parcel or subdivided lot which is split-zoned.

SECTION 2. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on September 12, 2017, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney



City of Sunnyvale

Agenda Item

17-0929

Agenda Date: 9/26/2017

SUBJECT

Adopt Ordinance No. 3124-17 Amending the Precise Zoning Plan, Zoning Districts Map, to Rezone a portion of each of the three properties located at 696 Sheraton Drive, 1158 Hollenbeck Avenue, and 1160 Hollenbeck Avenue from R-1 (Low Density Residential) Zoning District to R-1/S (Low Density Residential/Single-Story Combining) Zoning District

RECOMMENDATION

Adopt Ordinance No. 3124-17.

ATTACHMENT

1. Ordinance No. 3124-17

ORDINANCE NO. 3124-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING THE PRECISE ZONING PLAN, ZONING DISTRICTS MAP, TO REZONE A PORTION OF EACH OF THE THREE PROPERTIES LOCATED AT 696 SHERATON DRIVE, 1158 HOLLENBECK AVENUE, AND 1160 HOLLENBECK AVENUE FROM R-1 (LOW DENSITY RESIDENTIAL) ZONING DISTRICT TO R-1/S (LOW DENSITY RESIDENTIAL/SINGLE-STORY COMBINING) 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 a portion of each of the three properties located at 696 Sheraton Drive, 1158 Hollenbeck Avenue, and 1160 Hollenbeck Avenue (APNs: 202-09-020, 202-09-019, and 202-09-018) from R-1 (Low Density Residential) Zoning District to R-1/S (Low Density Residential/Single-Story Combining) Zoning District, as follows. The locations of the properties and applicable boundaries are set forth on the scale drawing attached as Exhibit A.

SECTION 2. FINDINGS. Pursuant to Section 19.92.080 of the Sunnyvale Municipal Code provides, 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. Section 19.26.200 of the Sunnyvale Municipal Code provides that the purpose of a single-story combining district is to preserve and maintain single-family neighborhoods of predominantly single-story character. The City Council finds that the proposed rezoning of the above parcels from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story) is in the public interest because it would achieve the preservation of a predominantly R-1, single-story residential neighborhood where the majority of property owners in the proposed district desire to maintain the neighborhood's single-story character. In addition, City Council finds that the proposed rear yard buffer of a ~~5040~~-foot distance for the properties located at 696 Sheraton Drive, 1158 Hollenbeck Avenue, and 1160 Hollenbeck Avenue and side yard buffer of a ~~2040~~-foot distance for the property located at 1160 Hollenbeck Avenue is in the public interest because it would provide sufficient distance between potential future structures on the Hollenbeck properties and the existing R-1/S properties, and would ~~maintain at least 60% of the Hollenbeck properties outside the R-1/S zoning designation and~~ provide reasonable distance between potential future two-story structures.

SECTION 3. 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 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. 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 September 12, 2017, 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: _____

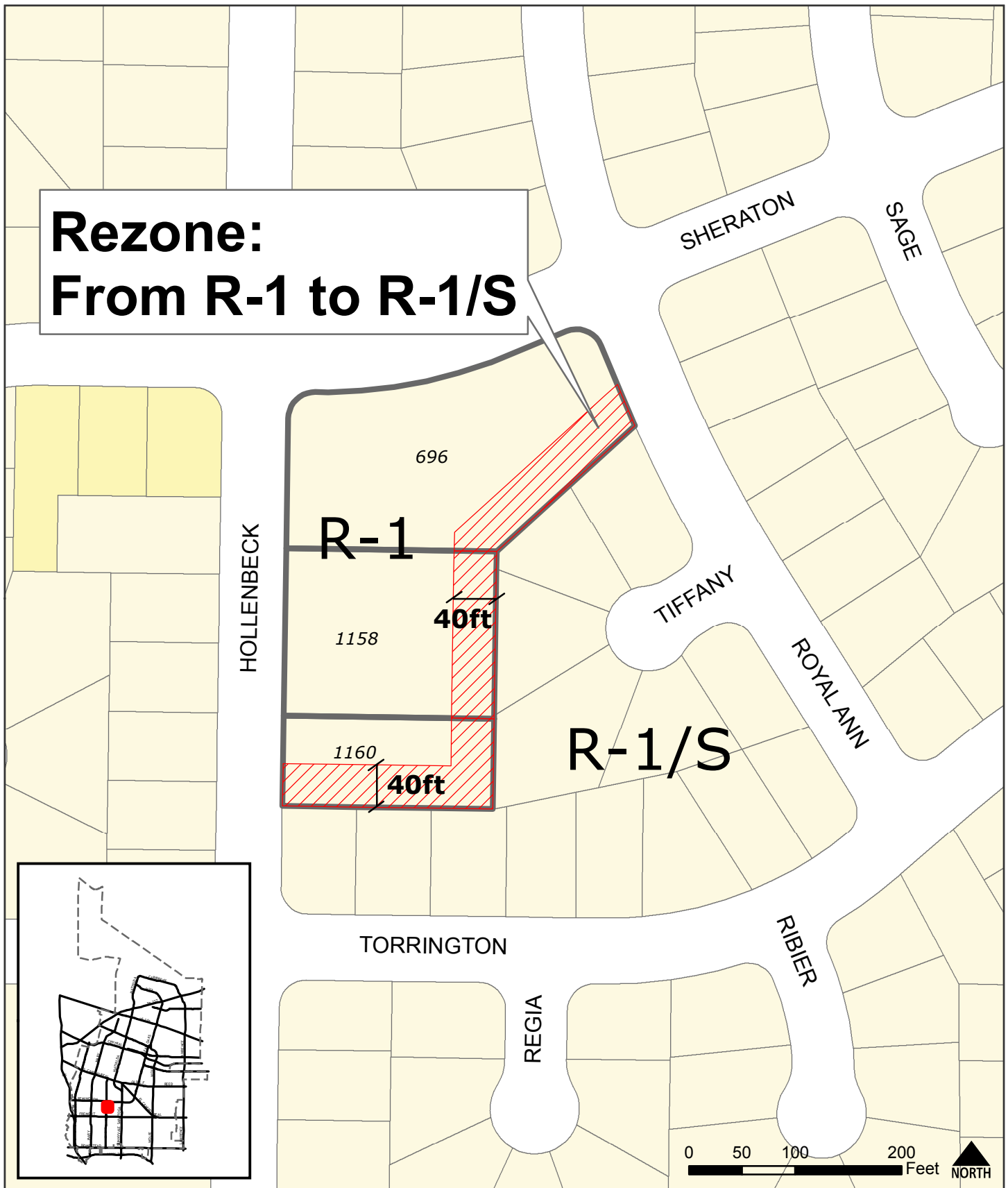
Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney

EXHIBIT A



2017-7308

Introduce an Ordinance to Rezone a 40-foot wide area along the rear (eastern) property lines of 696 Sheraton Drive (APN 202-09-020), 1158 Hollenbeck Avenue (APN 202-09-019), and 1160 Hollenbeck Avenue (APN 202-09-018), and a 40-foot wide area along the side (southern) property line of 1160 Hollenbeck Avenue (APN 202-09-018) from Low Density Residential Zoning District (R-1) to Low Density Residential Zoning District/Single-Story Combining District (R-1/S).



City of Sunnyvale

Agenda Item

17-0819

Agenda Date: 9/26/2017

REPORT TO COUNCIL

SUBJECT

Proposed Project: WITHDRAWAL OF APPEAL by the adjacent property owner (550 W. El Camino Real) of a decision by the Planning Commission to approve a **SPECIAL DEVELOPMENT PERMIT** to redevelop a vacated 0.55-acre site with an existing 2,675-square foot commercial building to a five-story hotel with 85 guest rooms and underground parking.

File #: 2014-7659

Location: 590 W. El Camino Real (APNs: 201-22-006)

STAFF RECOMMENDATION

No action required as the appeal has been withdrawn (See Attachment 1 to the report).

Pursuant to Sunnyvale Municipal Code Section 19.98.070(d), the appellant may submit a written request to withdraw an appeal at any time before the hearing, in which case the appeal shall not move forward and the decision that was the subject of the appeal shall be the final decision. As a notice of the public hearing was mailed prior to the appellant withdrawing his appeal, the matter was left on the agenda as an informational item and as a courtesy to members of the public who had received the notice. However, pursuant to Sunnyvale Municipal Code Section 19.98.070(d) no action can be taken by City Council.

Prepared by: Trudi Ryan, Director of Community Development

Approved by: Deanna J. Santana, City Manager

ATTACHMENT

1. Email Confirming Withdrawal of Appeal

From: [Margaret Netto](#)
To: [Andrew Miner](#); [Trudi Ryan](#); [Gerri Caruso](#)
Subject: Fwd: 2014-7659; 590 WECR
Date: Monday, September 18, 2017 3:03:13 PM

Margaret Netto

Begin forwarded message:

From: Grunbaum Family
Date: September 18, 2017 at 3:01:56 PM PDT
To: mnetto@sunnyvale.ca.gov
Cc: "Steven J. Kahn"
Subject: 2014-7659; 590 WECR

Hi Ms. Netto. This will confirm the withdrawal of GND's appeal scheduled for hearing on 9/25/17 regarding the 590 WECR hotel project.

Sent from my iPhone



City of Sunnyvale

Agenda Item

17-0757

Agenda Date: 9/26/2017

REPORT TO CITY COUNCIL

SUBJECT

Introduce an Ordinance to Amend Chapter 9.86 the Sunnyvale Municipal Code and Various Sections of Title 19 to Update the Existing Prohibition Against Commercial Marijuana Activity in the City to Expressly Include Non-Medical Marijuana, to Reasonably Regulate Indoor Personal Cultivation of Marijuana Consistent with State Law, and to Prohibit Outdoor Personal Cultivation of Marijuana (Exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15305)

SUMMARY OF COMMISSION ACTION

The Planning Commission considered the amendments to Title 19 on August 28, 2017.

The Planning Commission voted to find that the activity is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guideline sections 15061 (b)(3) and 15305, and to recommend that the City Council adopt an ordinance amending various sections of Title 19 to update the existing prohibition against commercial marijuana activity in the City to expressly include non-medical marijuana. The vote was 4 - 0, with Commissioners Weiss, Simons and Howard absent. Though the amendments to Sunnyvale Municipal Code Chapter 9.86 are not in the purview of the Planning Commission, the Report to the Planning Commission contained a discussion on the amendments to Chapter 9.86. See Attachment 1 for full Planning Commission report. Attachment 5 is an excerpt of the Planning Commission Minutes.

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. Find that the activity is exempt from environmental review pursuant to CEQA Guidelines sections 15061 (b)(3) and 15305, and introduce an ordinance to Amend Chapter 9.86 the Sunnyvale Municipal Code and Various Sections of Title 19 to Update the Existing Prohibition Against Commercial Marijuana Activity in the City to Expressly Include Non-Medical Marijuana, to Reasonably Regulate Indoor Personal Cultivation of Marijuana Consistent with State Law, and to Prohibit Outdoor Personal Cultivation of Marijuana.
2. Do not find that the activity is exempt from environmental review pursuant to CEQA Guidelines sections 15061 (b)(3) and 15305, and do not adopt an ordinance to Amend Chapter 9.86 the Sunnyvale Municipal Code and Various Sections of Title 19 to Update the Existing Prohibition Against Commercial Marijuana Activity in the City to Expressly Include Non-Medical Marijuana, to Reasonably Regulate Indoor Personal Cultivation of Marijuana Consistent with State Law, and to Prohibit Outdoor Personal Cultivation of Marijuana.

STAFF RECOMMENDATION

Alternative 1: Find that the activity is exempt from environmental review pursuant to California Environmental Quality Act Guidelines sections 15061 (b)(3) and 15305, and introduce an ordinance to Amend Chapter 9.86 the Sunnyvale Municipal Code and Various Sections of Title 19 to Update the Existing Prohibition Against Commercial Marijuana Activity in the City to Expressly Include Non-Medical Marijuana, to Reasonably Regulate Indoor Personal Cultivation of Marijuana Consistent with State Law, and to Prohibit Outdoor Personal Cultivation of Marijuana.

Prepared by: Carl Rushmeyer, Deputy Chief, Department of Public Safety

Reviewed by: Chief Phan S. Ngo, Director of Public Safety

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Report to Planning Commission No. 17-0176, August 28, 2017
2. Proposed Ordinance
3. League of California Cities Overview of the AUMA
4. Federal Drug Classification Schedule

Additional Attachments for Report to Council

5. Excerpt of Minutes of the Planning Commission Meeting of August 28, 2017



City of Sunnyvale

Agenda Item

17-0716**Agenda Date: 8/28/2017**

REPORT TO PLANNING COMMISSION

SUBJECT

Adopt ordinance amending Chapter 9.86 the Sunnyvale Municipal Code and amending various sections of Title 19 to update the existing prohibition against commercial marijuana activity in the City to expressly include non-medical marijuana, to reasonably regulate indoor personal cultivation of marijuana consistent with state law, and to prohibit outdoor personal cultivation of marijuana. Exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15305.

BACKGROUND

Sunnyvale Municipal Code (including Chapter 9.86 Public Peace, Safety or Welfare code and Title 19 Zoning code) has included an express ban on medical marijuana dispensaries since 2010. In early 2016, in response to the Medical Marijuana Regulation and Safety Act (now known as the Medical Cannabis Regulation and Safety Act or MCRSA), a law which required cities to take affirmative action to prohibit or regulate cultivation and delivery of medical marijuana, the Sunnyvale City Council amended the Sunnyvale Municipal Code (SMC) to explicitly prohibit medical marijuana cultivation, delivery, and commercial marijuana activity within the City of Sunnyvale. The City viewed those amendments as merely making explicit the City's longstanding practice prohibiting cultivation and commercial activity, as the City's existing permissive zoning scheme did not address those issues.

On November 8, 2016, California voters approved the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA). The AUMA legalizes the possession, use, and cultivation of non-medical marijuana by individuals age 21 or older and authorizes a comprehensive state system to regulate commercial marijuana activity.

The provisions of the AUMA related to personal possession, use, and cultivation of non-medical marijuana became effective on November 9, 2016. The AUMA allows for the cultivation of up to six marijuana plants in or upon the grounds of a private residence. Cities may not completely prohibit personal cultivation at or below this level, but may enact and enforce an ordinance that reasonably regulates cultivation inside a private residence or fully enclosed secure accessory structure on the grounds of a private residence. Cities may also prohibit outdoor cultivation altogether.

Commercial marijuana activity under the AUMA includes cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, delivery, or sale of marijuana and marijuana products. The AUMA provides for state agencies that have the authority to create, issue, renew, discipline, suspend, and revoke licenses for commercial marijuana businesses. The state is currently developing a detailed permitting scheme for different types of businesses and is anticipated to begin issuing permits on January 1, 2018. However, the AUMA gives cities the authority to adopt and enforce ordinances, including zoning and land use regulations, to regulate commercial marijuana businesses or prohibit them completely. The state will not approve permits for businesses that violate local ordinances or propose operation where a city has prohibited that activity.

(see Attachment 3, League of California Cities Overview of the AUMA). Consistent with City Council's November 2016 and February 2017 policy direction following passage of the AUMA, staff is recommending amendments to SMC Chapter 9.86 and Title 19.

On February 23, 2016, the Council adopted Ordinance 2072-16 to protect against the harmful effects of secondhand smoke by prohibiting smoking in outdoor dining areas; within 25 feet of building entryways; in service areas; at public events; within 25 feet of public transit stops; and in all units, common areas, and within 25 feet of doors and windows of multi-family residences. Smoking marijuana is prohibited anywhere smoking is prohibited.

Because some of the proposed amendments will be made to Title 19, the Planning Commission must review the Title 19 amendments and make a recommendation to the City Council. The City Council is scheduled to consider the entire ordinance (amendments to Chapter 9.86 and Title 19) on September 26, 2017. The public may comment on the substance of the medical marijuana regulations (Chapter 9.86) at that time.

EXISTING POLICY

General Plan

Policy CC-1.6 Maintain City Neighborhoods as Safe, Health Places to Live. (Chapter 4: Community Character)

Goal SN-1 Acceptable Levels of Risk for Natural and Human-Caused Hazards (Chapter 6: Safety and Noise): Ensure that natural and human-caused hazards are recognized and considered in decisions affecting the community and that land uses reflect acceptable levels of risk based on identified hazards and occupancy.

Policy SN-3.2 Control Conduct Recognized as Threatening to Life and Property. (Chapter 6: Safety and Noise)

Federal Law Federal Controlled Substance Act (CSA) which was adopted in 1970 (see Attachment 4, Federal Drug Classification Schedule).

State Law and Guidelines Prop 215- Compassionate Use Act of 1996 (CUA)

SB 420- Medical Marijuana Program Act (MMPA), signed by the Governor on October 12, 2003, effective January 1, 2004

Attorney General Guidelines- issued October 2008

ENVIRONMENTAL REVIEW

The proposed revisions to the SMC related to medical and recreational marijuana do not require review under the California Environmental Quality Act ("CEQA") pursuant CEQA guidelines section 15305 (minor alterations in land use limitations in areas with an average slope of less than 20% that do not result in any changes in land use or density), and section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The City has a longstanding history of regulation prohibiting all marijuana uses and permissive zoning provisions that already prohibit all uses that are being expressly prohibited by this ordinance. Therefore, this ordinance has no impact on the physical environment as it will not result in any changes.

DISCUSSION

Summary of Proposed Ordinance Updates and Planning Commission Purview

Following passage of the AUMA, the City's existing marijuana regulations require updating in two areas:

- (1) Amending personal cultivation rules to ensure consistency with state law, which requires the City to allow limited cultivation of up to six marijuana plants per residence; and
- (2) Maintaining the City's existing prohibition on commercial marijuana activity by amending the ordinance to expressly clarify that the prohibition applies to both medical and non-medical commercial marijuana activities.

In early 2017, the City Council gave staff direction to take appropriate action and update the SMC in these two areas before the state begins issuing marijuana licenses in 2018. The proposed ordinance implements that direction.

The proposed ordinance maintains the status quo on the City's existing prohibition on commercial activity and is consistent with AUMA requirements related to personal cultivation. Key changes to Chapter 9.86 include:

- Clarifying that "commercial marijuana activity" includes both medical and recreational marijuana.
- Explicitly stating that activities for which a state license is required under either the AUMA or MCRSA are prohibited in Sunnyvale, clarifying that the existing prohibition on commercial marijuana activity in all zones applies equally to medical and non-medical marijuana, and stating that the City will not issue permits or entitlements for any activity that requires a state license under AUMA or MCRSA.
- Allowing indoor marijuana cultivation for personal use, subject to the limit of six plants consistent with state law and several "reasonable regulations." Those regulations are recommended in the interest of public health, safety and welfare, and include: (1) limiting cultivation to a fully enclosed, secure structure inaccessible to minors and not visible from a public right of way; (2) requiring that cultivation comply with all municipal codes including building, fire, electrical, and zoning; (3) providing that cultivation may not be conducted in any manner that rises to the level of a nuisance; (4) requiring that the residential structure must remain primarily for residential use; (5) imposing regulations for use of lighting and certain gases commonly used for growing marijuana to protect against fire and life safety hazards; and (6) prohibiting cultivation from displacing off-street parking.

However, only the Title 19 amendments (sections 2-9 of the attached ordinance) are within the Planning Commission's purview. The proposed amendments to Title 19 update section 19.62.010 reflect the updated prohibitions described in Chapter 9.86, and eliminate zoning table references to marijuana activities, which are redundant and unnecessary given the clear prohibitions established in SMC sections 9.86.030 and 19.62.010.

Public Safety Concerns About Amendments to SMC Chapter 9.86

DPS is concerned with the secondary effects and adverse impacts associated with the use of marijuana, including negative public health, life safety, fire safety, and environmental issues. Recent data and trend information from Colorado and Washington states, where recreational marijuana is

legal - has revealed numerous negative consequences including an increase in the number of impaired drivers, emergency room visits, and traffic fatalities. An increase in marijuana usage among youth is another notable consequence.

AUMA allows for the cultivation of up to six marijuana plants per residence. DPS recommends allowing the cultivation of marijuana indoors only to help minimize criminal activities, such as burglaries and robberies, and to reduce access to minors. In addition to these issues, there are also concerns associated with indoor growing. For example, indoor cultivation of marijuana raises concerns about lighting, dehumidification, space heating, cooling, and drying, all of which increase the potential for electrical fires.

Other Issues

Staff is aware of ongoing communications to the City Council from marijuana lobbying and advocacy organizations, and certain businesses that have expressed an interest in cultivating marijuana for business or research purposes. The Council considered the commercial cultivation issue during the study issue process at the beginning of the year and it was not prioritized for review in 2017. Pursuant to Council Policy 7.3.26, Item 4(A), this issue will automatically return for Council's consideration as part of the 2018 study issues process.

Adoption of the attached ordinance would accomplish two main items: ensure that the municipal code complies with state law related to personal cultivation, and maintain the existing prohibition on commercial marijuana activities by clarifying that the prohibition also applies to recreational marijuana following passage of the AUMA. The local prohibition on commercial marijuana activity is expected to be in place when the California Department of Food and Agriculture begins issuing licenses to marijuana businesses on January 1, 2018.

FISCAL IMPACT

The fiscal impact of regulating and enforcing indoor marijuana cultivation in private residences is expected to be minimal because the use is allowed by state law and does not require a permit.

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.

ALTERNATIVES

Recommend that City Council:

1. Find that the activity is exempt from environmental review pursuant to CEQA Guideline sections 15061 (b)(3) and 15305, and recommend that the City Council adopt an ordinance amending various sections of Title 19 to update the existing prohibition against commercial marijuana activity in the City to expressly include non-medical marijuana.
2. Do not find that the activity is exempt from environmental review pursuant to CEQA Guideline sections 15061 (b)(3) and 15305, and recommend that the City Council not adopt an ordinance amending various sections of Title 19 to update the existing prohibition against commercial marijuana activity in the City to expressly include non-medical marijuana.

RECOMMENDATION

Recommend Alternative 1 to City Council: Find that the activity is exempt from environmental review pursuant to CEQA Guideline sections 15061 (b)(3) and 15305, and recommend that the City Council adopt an ordinance amending various sections of Title 19 to update the existing prohibition against commercial marijuana activity in the City to expressly include non-medical marijuana.

Prepared by: Carl Rushmeyer, Deputy Chief

Reviewed by: Andrew Miner, Planning Officer

Reviewed by: Phan S. Ngo, Director, Public Safety

Reviewed by: Trudi Ryan, Director, Community Development

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Not Used (*Reserved for Report to Council*)
2. Proposed Ordinance (sections 2-9 for Planning Commission review and recommendation)
3. League of California Cities Overview of the AUMA
4. Federal Drug Classification Schedule

DRAFT 8/24/2017 MCT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND CHAPTER 9.86 OF TITLE 9 (PUBLIC PEACE, SAFETY OR WELFARE) AND VARIOUS SECTIONS OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE TO UPDATE THE EXISTING PROHIBITION AGAINST COMMERCIAL MARIJUANA ACTIVITY IN THE CITY TO INCLUDE NON-MEDICAL MARIJUANA, TO REASONABLY REGULATE INDOOR PERSONAL CULTIVATION OF MARIJUANA CONSISTENT WITH STATE LAW, AND TO PROHIBIT OUTDOOR PERSONAL CULTIVATION OF MARIJUANA

WHEREAS, the Control, Regulate and Tax Adult Use of Marijuana Act ("the AUMA") was approved by California voters on November 8, 2016; and

WHEREAS, the AUMA legalizes the possession, use, and cultivation of non-medical marijuana for those who are 21 years of age or older and authorizes a comprehensive State system to regulate commercial marijuana activity; and

WHEREAS, under the AUMA, cities may adopt and enforce local ordinances, including zoning and land use requirements, to regulate marijuana businesses or to completely prohibit the establishment or operation of such businesses within the City's jurisdiction, and the state will not approve a state license for a business that violates local ordinances; and

WHEREAS, effective January 1, 2016, 3 bills (AB 266, AB 243, and SB 643), collectively known as the Medical Cannabis Regulation and Safety Act ("MCRSA"), govern cultivation, processing, transporting, testing, and distribution of medical marijuana to qualified patients; and

WHEREAS, on April 19, 2016, the Sunnyvale City Council adopted Ordinance Number 3077-16, clarifying the City of Sunnyvale's longstanding prohibition on cultivation, distribution, sale, and delivery of medical marijuana in the City of Sunnyvale to ensure that the City maintained local control of these issues after passage of the MCRSA; and

WHEREAS, under the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., the use, possession, and cultivation of marijuana for both medical and recreational uses are currently unlawful and subject to federal prosecution; and

WHEREAS, while marijuana cultivation and all commercial medical marijuana uses are prohibited under the City's current zoning regulations, the Sunnyvale Municipal Code does not currently expressly regulate the cultivation and delivery of non-medical marijuana within its jurisdiction; and

WHEREAS, contrary to the AUMA, current City regulations prohibit cultivation for personal use of marijuana in the City of Sunnyvale; and

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

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

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

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

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

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

WHEREAS, marijuana laws do not confer a land use right or the right to create or

maintain a public nuisance, and the MCRSA requires the city to prohibit cultivation uses, either expressly or otherwise under the principles of permissive zoning, or the State will become the licensing authority. The MCRSA also requires delivery services to be expressly prohibited by local ordinance, if the City desires to prohibit delivery. Similarly, the AUMA gives cities explicit authority to adopt and enforce local ordinances, including zoning and land use requirements, to regulate marijuana businesses or to completely prohibit the establishment or operation of such businesses within the city's jurisdiction. No State license will be approved for a business that violates local ordinances; and

WHEREAS, the City Council desires to update the marijuana regulations in the Sunnyvale Municipal Code to maintain the City's existing prohibition on commercial marijuana activities, and expressly make clear, in light of passage of the AUMA, that all such uses (whether medical or recreational) continue to be prohibited in all zones throughout the City, preserve local control over such uses, and protect the public from the health and safety risks described above; and

WHEREAS, the Planning Commission held a duly noticed public hearing on _____ 2017, at which time it considered all evidence presented, both written and oral and at the end of the hearing recommended that the Council adopt the recommended changes to the City's zoning code; and

WHEREAS, the City Council held a duly noticed public hearing on this ordinance on _____, 2017, at which time it considered all evidence presented, both written and oral.

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

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

Chapter 9.86. ~~MEDICAL~~-MARIJUANA

- 9.86.010. Purpose**
- 9.86.020. Definitions.**
- 9.86.030. Prohibited activities.**
- 9.86.040. Personal marijuana cultivation regulations.**
- 9.86.0540. Violation – Penalty.**
- 9.86.0650. Public Nuisance.**
- 9.86.0760. Severability.**

9.86.010. Purpose.

The purpose of this chapter is to reflect the intent of the City of Sunnyvale to (1) expressly prohibit outdoor personal and commercial cultivation, delivery, distribution and other commercial activity related to medical and recreational marijuana; (2) reasonably regulate personal indoor cultivation of marijuana

consistent with State law; (3) not administer a conditional permit program for marijuana cultivation under the Medical Marijuana Regulation and Safety Act (Health & Safety Code §11362.777) ~~or the Adult Use of Marijuana Act (“AUMA”)~~; (3) exercise its local authority to regulate and enforce ~~commercial~~ activities related to medical and recreational marijuana, including but not limited to prohibitions on commercial cultivation, processing, distribution and delivery; and (4) exercise its police power to enact and enforce regulations to benefit the health, safety and welfare of the Sunnyvale community.

9.86.020. Definitions.

(a) “AUMA” refers to the Control, Regulate and Tax Adult Use of Marijuana Act approved by California voters on November 8, 2016.

(b) “Commercial cannabis activity” or “commercial marijuana activity” includes both “commercial cannabis activity” and “commercial marijuana activity” as set forth in California Business & Professions Code §19300.5 and 26001(d) as may be amended, and means and includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of ~~medical~~ marijuana or ~~a medical~~ marijuana products, ~~and as provided in California Business & Professions Code §19300.5(k) as may be amended.~~ “Commercial marijuana activity” also includes the activities of any business or nonprofit licenses by the state or other government entity under chapter 3.5. of Division 8 or Division 10 of the Business and Professions Code.

(c) “Concentrated cannabis” has the same meaning as defined in Business and Professions Code section 19300.5(g), and includes manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency.

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

(ee) “Cultivation” has the same meaning as defined in Business and Professions Code section 26001(e), and ~~means~~ includes any activity involving the planting, growing, harvesting, drying, curing, grading, trimming or processing of marijuana.

(df) “Delivery” ~~shall have~~ has the same meaning as provided in California Business & Professions Code ~~§19300.5(m)– 26001(h)~~ as may be amended and includes the commercial transfer of marijuana to a customer. Delivery also includes the use by a retailer of any technology platform, whether owned or controlled by the retailer or independently licensed, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

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

(h) “Fully enclosed and secure structure” means a space within a

building, greenhouse, or other structure that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors.

(i) “Indoors” means within a fully enclosed and secure structure.

(j*f*) “Marijuana” or “Cannabis” shall have the same definition as set forth in California Health & Safety Code section 11018 and shall include all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Marijuanashall also include, but is not limited to “Cannabis” as defined –set forth– in Business & Professions Code § 19300.5(f), as may be amended from time to time. Marijuana does not include industrial hemp, as defined in Food and Agriculture Code section 81000 or Health and Safety Code section 11018.5, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

(k) “Marijuana product” means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

(l) “MCRSA” means the Medical Cannabis Regulation and Safety Act (formerly known as the “MMRSA” or “Medical Marijuana Regulation and Safety Act”) as contained, codified, enacted and signed into law on October 9, 2015 as Assembly Bills 243, 266, and Senate Bill 643, and as amended by Assembly Bill 21(2016).

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

(1) - (5) [Text unchanged]

(n) “Outdoors” means any location that is not within a fully enclosed and secure structure.

(o) “Person” includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.

(h*p*) “Private residence” means a house, apartment unit, mobile home, or other similar dwelling.

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

9.86.030. Prohibited activities.

(a) Commercial marijuana activity. Commercial cannabis activities of all types are expressly prohibited in all zones and all specific plan areas in the City of Sunnyvale. No person shall establish, operate, conduct or allow a commercial cannabis activity anywhere within the City. This subsection is meant to prohibit all activities for which a state license is required pursuant to the AUMA or MCRSA, and the City will not issue any permit, license, or other entitlement for any activity for which a state license is required under the AUMA or MCRSA.

(1) Control of real property. A property owner may not allow any person or business to establish, operate, maintain, conduct or engage in commercial marijuana activity prohibited by this Chapter on any real property owned or controlled by that property owner that is located in the City.

(b) Deliveries. To the extent not already covered by subsection (a) above, all deliveries of marijuana or marijuana products are expressly prohibited within the City of Sunnyvale. No person shall conduct or perform any delivery or marijuana or marijuana products that either originates from or terminates within the City of Sunnyvale.

(c) Outdoor cultivation. To the extent not already prohibited by subsection (a), outdoor marijuana cultivation is expressly prohibited in all zones and all specific plan areas of the City. No person, including a qualified patient or primary caregiver, shall cultivate any amount of cannabis out of doors in the City, for any purpose.

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

9.86.040. Personal marijuana cultivation regulations.

Indoor cultivation of six (6) or fewer live marijuana plants is permitted within a single private residence, or upon the grounds of that residence or inside an accessory structure located on the grounds of a private residence, to the extent such cultivation is authorized by state law and is in strict compliance with the following requirements:

(a) Marijuana cultivation is permitted only within fully enclosed and secure structures inaccessible to minors. Cultivation areas must be secured by lock and key or other security device which prevents unauthorized entry, and shall not be visible from the exterior of a residence or a public right of way.

(b) Marijuana cultivation is limited to six (6) plants total, whether mature or immature, regardless of how many qualified residents reside on the grounds of a private residence.

(c) Marijuana cultivation, including but not limited to any lighting, plumbing, building, or electrical components used for cultivation, must comply with current requirements in Title 16 of this Code.

(d) Lighting used for marijuana cultivation may not exceed 1000 watts per light, unless certified by a licensed electrical contractor. High intensity discharge (HID) lighting, including but not limited to mercury-vapor lamps, high-pressure sodium (HPS) lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium vapor lamps, and xenon short-arc lamps are prohibited in cultivation areas. Use of light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or fluorescent lighting is encouraged.

(e) The use of gas products including but not limited to CO2 and butane, CO2 and ozone generators, or other flammable solvents for marijuana cultivation or processing is prohibited.

(f) Area(s) where marijuana is cultivated must contain adequate ventilation and filtration systems to ensure that odors from cultivation activities are not detectable by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right of way, building unit or residential unit, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence.

(g) Marijuana cultivation may not be conducted in a manner that constitutes a public nuisance. A public nuisance may exist if the cultivation produces light, glare, heat, noise, vibration, odors, smells, or other olfactory stimulus that is or whose effect is either detrimental to public health, safety, or welfare or interferes with the reasonable enjoyment of property.

(h) The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. These rooms may not be used for marijuana cultivation where cultivation will prevent their primary use for cooking meals, sleeping, and bathing. Chemicals used for marijuana cultivation shall not be stored inside habitable areas of the residence or within public view from neighboring properties or public rights of way.

(i) Cultivation of marijuana shall not displace required off-street parking or violate any other provisions of the Sunnyvale Municipal Code. For example, in the single-family residential (R-1) zone district, the requirement is to maintain covered parking for two vehicles.

9.86.0540. Violation—Penalty.

[Renumbered; text unchanged]

9.86.050060. Public nuisance.

[Renumbered; text unchanged]

9.86.060070. Severability.

[Renumbered; text unchanged]

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

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

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

P = Permitted use
MPP = Miscellaneous Plan Permit required
UP = Use Permit required
SDP = Special Development Permit required
N = Not permitted, prohibited

RESIDENTIAL ZONING DISTRICTS	R-0/R-1	R-1.5	R-1.7/PD	R-2	R-3	R-4	R-5	R-MH
1. – 6. [Text unchanged.]								
7. Other uses.								
A. – M. [Text unchanged.]								
N. Medical Marijuana.	N	N	N	N	N	N	N	N
NO. [Renumbered, Text unchanged]								

1 – 6 [Text unchanged.]

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

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

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

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

COMMERCIAL ZONING DISTRICTS	C-1	C-2	C-3	C-4
1. – 9. [Text unchanged.]				
10. Other				
A. – J. [Text unchanged.]				
K. Medical Marijuana.	N	N	N	N
KL. [Renumbered, Text unchanged.]				

1 – 9 [Text unchanged.]

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

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

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

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

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

¹⁻⁴ [Text unchanged.]

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

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

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

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

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

¹⁻² [Text unchanged.]

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

Table 19.28.070

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

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

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

DSP MIXED USE, COMMERCIAL AND OFFICE BLOCKS	1	1a	2	3	7	13	18	20	21	22
<i>1. – 5. [Text unchanged.]</i>										
<i>6. Other Uses</i>										
<i>A. – N. [Text unchanged.]</i>										
Q. Medical Marijuana Activities.	N	N	N	N	N	N	N	N	N	N
PQ. <i>[Renumbered, Text unchanged.]</i>										

¹⁻³ [Text unchanged.]

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

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

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

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

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

¹⁻³ [Text unchanged.]

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

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

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

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

Use			Specific Plan Subdistrict		
			MP-TOD	MP-I	MP-C
1. – 7.		[Text unchanged.]			
8.		Other			
	A. – S.	[Text unchanged.]			
	T.	Medical Marijuana Activities.	N	N	N
	TU.	[Renumbered, Text unchanged.]			

SECTION 9. CHAPTER 19.62 AMENDED. Chapter 19.62 (Medical Marijuana) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Chapter 19.62. ~~MEDICAL~~ MARIJUANA

19.62.010. ~~Medical-m~~ Marijuana.

All ~~medical-commercial~~ marijuana activities and outdoor cultivation, as defined in Chapter 9.86 and described in Section 9.86.030, are prohibited uses in all zoning districts in the city of Sunnyvale.

SECTION 10. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, section 15305 (minor alterations in land use limitations in areas with an average slope of less than 20% that do not result in any changes in land use or density) and section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The City has a longstanding history of regulation prohibiting all marijuana uses and permissive zoning provisions that already prohibit all uses that are being expressly prohibited by this ordinance. Therefore, this ordinance has no impact on the physical environment as it will not result in any changes.

SECTION 11. 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 12. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 13. 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



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

MEMORANDUM¹

To: League of California Cities' City Managers Department
League of California Cities' City Attorneys Department
From: League Staff
Date: September 26, 2016
Re: The Control, Regulate and Tax Adult Use of Marijuana Act

On November 8, 2016, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA" or "Act") will come before California voters as Proposition 64. If passed, the AUMA will legalize the nonmedical use of marijuana by persons 21 years of age and over, and the personal cultivation of up to six marijuana plants. In addition, the AUMA will create a state regulatory and licensing system governing the commercial cultivation, testing, and distribution of nonmedical marijuana, and the manufacturing of nonmedical marijuana products. The regulatory system governing these commercial marijuana activities largely mirrors the Medical Marijuana Regulation and Safety Act ("MMRSA"), but there are key differences. This memorandum will provide an overview of the AUMA, highlight the ways in which the AUMA differs from the MMRSA, and identify the issues that cities will need to take action on if the AUMA passes.

I. Overview of the AUMA

A. Personal Nonmedical Marijuana Use

The AUMA makes it legal for persons 21 years of age or older to: (1) smoke or ingest marijuana or marijuana products; (2) possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older, without any compensation, 28.5 grams of marijuana, or 8 grams of concentrated marijuana, including as contained in marijuana products; and (3) possess, plant, cultivate, harvest, dry or process up to six living marijuana plants for personal use.² The AUMA requires that marijuana in excess of 28.5 grams that is produced by plants kept pursuant to the personal cultivation provision of the Act be kept in a locked space on the grounds of a private residence that is not visible from a public place.³

Although persons 21 years of age or older may use and possess nonmedical marijuana under the Act, their ability to engage in these activities is not unfettered. The AUMA prohibits the smoking

¹ **DISCLAIMER:** These materials are not offered as or intended to be legal advice. Readers should seek the advice of an attorney when confronted with legal issues. Attorneys should perform an independent evaluation of the issues raised in these materials.

² Health & Saf. Code § 11362.2(a).

³ Health & Saf. Code § 11362.2(a)(2).

of marijuana: (1) in any public place, except where a local jurisdiction has authorized use on the premises of a retailer or microbusiness in accordance with Business and Professions Code section 26200; (2) where smoking tobacco is prohibited; (3) within 1,000 feet of a school, day care center, or youth center while children are present; and (3) while driving, or riding in the passenger seat of, any vehicle used for transportation.⁴ Moreover, individuals cannot possess marijuana on school grounds, in day care centers, or in youth centers while children are present, or possess an open container of marijuana or marijuana products while driving, operating, or riding in any vehicle used for transportation.⁵ The AUMA further provides that cities may prohibit possession and smoking in buildings owned, leased, or occupied by the city, and that employers, including cities, may maintain a drug and alcohol free workplace by prohibiting the use, consumption, possession, transfer, transportation, sale, display or growth of marijuana in the workplace.⁶

1. Personal Cultivation

The AUMA provides that local governments can reasonably regulate, but cannot ban, personal indoor cultivation of up to six living marijuana plants within the person's private residence.⁷ The Act defines private residence as "a house, an apartment unit, a mobile home, or other similar dwelling unit."⁸ This includes cultivation in a greenhouse on the same property as the residence that is not physically part of the home, as long as it is fully enclosed, secure, and not visible from a public space.⁹

The AUMA completely protects the ability of local governments to regulate, and to ban, personal outdoor cultivation operations.¹⁰ However, it purports to repeal any ordinance that bans outdoor cultivation upon the California Attorney General's determination that nonmedical use of marijuana is lawful under federal law.¹¹

B. Commercial Nonmedical Marijuana Activity

Under the AUMA, California will have a comprehensive state regulatory system for nonmedical marijuana that governs the industry from "seed to sale." The Bureau of Marijuana Control, currently the Bureau of Medical Cannabis Regulation, which is within the Department of Consumer Affairs, will have primary responsibility for administering and enforcing the AUMA.¹²

The AUMA divides state licensing and enforcement responsibilities among three agencies: (1) the Department of Consumer Affairs, which will issue licenses for marijuana the transportation,

⁴ Health & Saf. Code §§ 11362.3; 11362.4.

⁵ Health & Saf. Code §§ 11362.3(3), 11362.3(4).

⁶ Health & Saf. Code § 11362.45 (f)-(g).

⁷ Health & Saf. Code §§ 11362.1(a)(3), 11362.2.

⁸ Health & Saf. Code § 11362.2(5).

⁹ Health & Saf. Code § 11362.2(a)(2).

¹⁰ Health & Saf. Code § 11362.2(b)(3).

¹¹ Health & Saf. Code § 11362.2(b)(4).

¹² Bus. & Prof. Code § 26010.

storage, distribution, and sale of marijuana;¹³ (2) the Department of Food and Agriculture will issue marijuana cultivation licenses, which will administer the provisions of the AUMA related to the cultivation of marijuana;¹⁴ and (3) the Department of Public Health, which will issue licenses for marijuana manufacturers and testing laboratories.¹⁵ Each of these state licensing authorities is responsible for creating regulations governing their respective areas of responsibility, and must begin issuing licenses by January 1, 2018.¹⁶

A state marijuana license will be valid for one year.¹⁷ A separate state license is required for each commercial marijuana business location.¹⁸ With the exception of testing facilities, any person or entity licensed under the AUMA may apply for and be issued more than one type of state license.¹⁹

1. Local Control

All nonmedical marijuana businesses must have a state license.²⁰ A state license cannot issue to an applicant whose operations would violate the provisions of any local ordinance or regulation.²¹ However a state applicant need not provide documentation that the applicant has a local license or permit.

The AUMA does not limit the authority of a local jurisdiction to adopt and enforce local ordinances regulating or completely prohibiting state-licensed marijuana businesses.²² Local jurisdictions may establish “standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections that exceed state standards.”²³

2. Local Enforcement

Like the MMRSA, the AUMA establishes a dual enforcement scheme for commercial marijuana activities that violate either state or local laws. The state licensing authorities will enforce state statutes and regulations. State authorities can suspend or revoke state licenses,²⁴ pursue civil penalties against violating businesses in an amount equal to three times the applicable licensing fee per violation,²⁵ or may prosecute violators criminally.²⁶ Local authorities will be responsible

¹³ Bus. & Prof. Code § 26012(a)(1).

¹⁴ Bus. & Prof. Code § 26012(a)(2).

¹⁵ Bus. & Prof. Code § 26012(3).

¹⁶ Bus. & Prof. Code §§ 26012(c), 26013 (a).

¹⁷ Bus. & Prof. Code § 26050(c).

¹⁸ Bus. & Prof. Code § 26055(c).

¹⁹ Bus. & Prof. Code § 26053.

²⁰ Bus. & Prof. Code § 26038.)

²¹ Bus. & Prof. Code § 26055(e).

²² Bus. & Prof. Code § 26200(a). But see, Bus. & Prof. Code §§ 19340(f), 26080(b), 26090(c) [prohibiting cities from preventing the use of public roads to lawfully transport or deliver nonmedical marijuana].

²³ Bus. & Prof. Code § 26201.

²⁴ Bus. & Prof. Code § 2603.

²⁵ Bus. & Prof. Code § 26038(a)

²⁶ Bus. & Prof. Code § 26038(c).

for enforcing local ordinances and regulations.²⁷ For state-licensed facilities operating within a city, a city may have authority to enforce state law and regulations “if delegated the power to do so by the [B]ureau [of Marijuana Control] or a licensing authority.”²⁸

II. Key Differences Between the AUMA and MMRSA

A. Licensing

The MMRSA established dual licensing of medical marijuana businesses, requiring both local approval and a state license in order for a business to operate legally.²⁹ Specifically, the MMRSA requires applicants to provide the relevant state licensing entity with documentation proving their compliance with local ordinances and regulations.³⁰

The AUMA does not require an applicant to provide evidence of local permission prior to being issued a state license.³¹ Instead, the AUMA prohibits state licensing entities from approving licenses for activities that would violate local ordinances.³² Thus, state licensing officials bear the onus of evaluating local regulatory compliance.

Under this system, the AUMA allows a nonmedical marijuana business licensed by the state to operate within city limits unless the city’s municipal code prohibits the use. Cities that wish to regulate or prohibit nonmedical marijuana businesses will need to do so before the State begins issuing licenses, either by enacting a nonmedical marijuana ordinance/regulation or by amending an existing medical marijuana ordinance/regulation to include nonmedical marijuana within its scope.

B. License Revocation

Under the MMRSA, revocation of a local license or permit unilaterally terminates the ability of the medical marijuana business to operate in the jurisdiction issuing the permit, until such time as the local permitting entity reinstates it.³³

Under the AUMA, if a local jurisdiction revokes a local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction, the Bureau of Marijuana Control must initiate proceedings to determine whether the state license issued should be suspended or revoked within ten days of being notified by the local jurisdiction of the local revocation.³⁴ Note, however, that, even if the state license is not suspended or revoked immediately, the business cannot operate within the local jurisdiction once local revocation occurs.

²⁷ Bus. & Prof. Code § 26200 (b).

²⁸ Bus. & Prof. Code § 23202(a).

²⁹ Bus. & Prof. Code § 19320(b).

³⁰ Bus. & Prof. Code § 19322(a).

³¹ Bus. & Prof. Code § 26056.

³² Bus. & Prof. Code § 26055(e).

³³ Bus. & Prof. Code § 19320(d).

³⁴ Bus. & Prof. Code § 26200(c).

C. Personal, Indoor Cultivation

Under the MMRSA, local governments possess the power to regulate and completely ban personal, indoor cultivation.³⁵ Under the AUMA local governments can “reasonably regulate” indoor cultivation of up to six marijuana plants for personal use, but cannot ban it.³⁶

D. Personal Outdoor Cultivation

Under the MMRSA local governments can prohibit all outdoor cultivation. Under the AUMA local governments can prohibit all outdoor cultivation, until such time as the Attorney General determines that the use of nonmedical marijuana is lawful in the State of California under federal law.³⁷ Upon such determination, the AUMA purports to repeal all local bans on outdoor cultivation.³⁸

E. Amendment

Any portion of the MMRSA can be amended at any time, if there is sufficient political support within the Legislature for making substantive changes to the regulatory structure. Under some circumstances, an amendment to the MMRSA by the Legislature might arguably violate The Compassionate Use Act of 1996 (adopted by the voters as Proposition 215), which decriminalized the personal use of medical marijuana.³⁹

Under the AUMA, the Legislature may amend Sections 5 (relating to the use of medical marijuana for medical purposes) and 6 (relating to state licensing) and the provisions relating to penalties by majority vote. The Legislature may amend any other provision of the Act by a 2/3 vote. Any amendment must further the purposes and intent of the AUMA. The purpose and intent of the Act include allowing local governments to ban nonmedical marijuana businesses.

F. Taxation

The AUMA imposes new state taxes on medical and nonmedical marijuana in the following manner:

- Effective January 1, 2018, the AUMA imposes an excise tax at the rate of 15% of gross retail sales receipts.⁴⁰
 - This tax will be in addition to existing state and local sales tax.⁴¹ Given that state and local sales taxes can range from 7-10%, the combined excise tax + sales tax at the retail level could approach 25%;

³⁵ Health & Saf. Code § 11362.777(g); *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, 984; *Kirby v. County of Fresno* (2015) 242 Cal.App.4th 940, 969-970.

³⁶ Bus. & Prof. Code § 11362.2(b)(1).

³⁷ Bus. & Prof. Code § 11362.2(b)(4).

³⁸ Bus. & Prof. Code § 11362.2(b)(4).

³⁹ Health & Saf. Code § 11362.5.

⁴⁰ Rev. & Tax Code § 34011(a).

- Effective January 1, 2018, the AUMA imposes a separate cultivation tax on all harvested marijuana as follows:⁴²
 - \$9.25 per dry-weight ounce on all marijuana flowers;
 - \$2.75 per dry-weight ounce on all marijuana leaves;
- The AUMA prohibits imposition of state and local sales taxes on medical marijuana.⁴³
- The AUMA exempts marijuana cultivated for personal use from taxation.⁴⁴

The AUMA does not pre-empt local taxation.⁴⁵ However, the AUMA's estimated cumulative tax rate of nearly 35% on the purchase of nonmedical marijuana has potentially troubling implications for local governments. A high state tax rate by itself may depress sales and stimulate the black market. Any local taxation of marijuana should be governed by an awareness that a high retail sales tax rate, imposed on an industry that, until recently, has not been regulated at all, might stimulate black market activity and compromise the anticipated yield of revenue. In order to avoid such a result, cities might consider imposing an excise tax on discrete commercial nonmedical marijuana activities rather than on retail sales. New taxes on marijuana require compliance with Proposition 218.

1. Allocation of State Tax Revenues

After repaying certain state agencies for marijuana regulatory costs not covered by license fees, and making certain grants to universities for research and development and the Governor's Office of Business and Economic Development, the AUMA distributes the remaining tax revenue as follows:

- 60% for youth programs, substance abuse education, prevention and treatment;
- 20% for environmental cleanup and remediation; and
- 20% for state and local programs that reduce DUI and grant programs designed to reduce negative health impacts resulting from marijuana legalization

G. Deliveries

Under the MMRSA, medical marijuana deliveries can only be made from a state-licensed dispensary in a city, county, or city and county that does not explicitly prohibit it by local ordinance.⁴⁶ A delivery person must carry a copy of the dispensary's state-issued license, a government ID, and a copy of the delivery request.⁴⁷ The patient or caregiver requesting the delivery must also maintain a copy of the delivery request.⁴⁸ Dispensaries and delivery people who comply with MMRSA are immune from prosecution for marijuana transportation.⁴⁹

⁴¹ Rev. & Tax Code § 34011(d).

⁴² Rev. & Tax Code § 34012.

⁴³ Rev. & Tax Code § 34011(g).

⁴⁴ Rev. & Tax Code § 34012(j).

⁴⁵ Rev. & Tax Code § 34021.

⁴⁶ Bus. & Prof. Code § 19340(a).

⁴⁷ Bus. & Prof. Code §§ 19340(b)(2), 19340(d).

⁴⁸ Bus. & Prof. Code § 19340(e).

⁴⁹ Bus. & Prof. Code § 19317(f).

Under the AUMA, deliveries can be made by a state-licensed retailer, microbusiness, or nonprofit unless they are prohibited by local ordinance.⁵⁰ Although the AUMA does require a customer requesting delivery to maintain a copy of the delivery request, there is no express requirement that delivery people carry or maintain any records.⁵¹ Moreover, unlike the MMRSA, the AUMA does not require that deliveries come *from* a dispensary. Instead, it states that “Deliveries, as defined in this division, may only be made *by* a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.”⁵² Thus, there is at least some question regarding whether deliveries may be made from non-retail locations by retail employees.

Under both the MMRSA and the AUMA, local jurisdictions can ban or regulate deliveries within their borders.⁵³ However, local jurisdictions cannot prevent a delivery service from using public roads to simply pass through its jurisdiction from a licensed dispensary to a delivery location outside of its boundaries.⁵⁴

III. Local Regulatory Options⁵⁵

The AUMA preserves the authority of a city to adopt business regulations and land use regulations for nonmedical marijuana activities.⁵⁶

A. Personal Marijuana Cultivation

Under the AUMA local governments can regulate or ban all personal, outdoor cultivation, until such time as the Attorney General determines that the use of nonmedical marijuana is lawful in the State of California under federal law. In addition, local governments can “reasonably regulate,” **but cannot ban**, personal, indoor cultivation. Nothing in the AUMA requires a city to enact an ordinance or regulation by a certain date. However, assuming that the AUMA passes, if a city does not have a ban or regulatory scheme governing personal, outdoor cultivation or a regulatory scheme governing personal, indoor cultivation in place before November 9, 2016, a person may legally engage in personal cultivation of up to six marijuana plants at his or her private residence.

⁵⁰ Bus. & Prof. Code §26090(a).

⁵¹ Bus. & Prof. Code §26090(b).

⁵² Bus. & Prof. Code § 26090(a).

⁵³ Bus. & Prof. Code §§ 19340(a), 19316(a), 26200.

⁵⁴ Bus. & Prof. Code §§ 19340(f), 26080(b), 26090(c).

⁵⁵ For a thorough discussion of the various marijuana regulatory options that a city may consider, see McEwen, *Medical Marijuana-Revisited After New State Laws* (Spring 2016) <<http://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2016/Spring-2016/5-2016-Spring-Medical-Marijuana-%E2%80%93-Revisited-After>>. In addition, sample ordinances may be found on the League’s website, at: <http://www.cacities.org/Policy-Advocacy/Hot-Issues/Medical-Marijuana>. **But note:** the regulatory schemes discussed in the McEwen paper and posted on the League’s website pertain to medical marijuana businesses under the MMRSA and may need to be modified to comply with the requirements of the AUMA.

⁵⁶ Health & Saf. Code § 11362.2; Bus. & Prof. Code §§ 26201, 26200(a).

B. Nonmedical Marijuana Businesses

The AUMA recognizes a range of businesses, including dispensaries, cultivators, manufacturers, distributors, transporters, and testing laboratories. Cities may expressly ban, adopt business regulations, or adopt land use regulations pertaining to any or all of these businesses.

Again, the AUMA does not require a city to enact a regulatory scheme or ban by a certain date. However, assuming that the AUMA passes in November, if a city wishes to regulate or ban marijuana businesses before marijuana businesses may legally operate within the city, the regulations or ban will need to take effect before the state begins issuing nonmedical marijuana business licenses. The League anticipates that cities have until January 1, 2018 to enact bans or regulations relating to nonmedical marijuana businesses, because: (1) nonmedical marijuana businesses cannot operate in any city without a state license;⁵⁷ (2) the state licensing agencies in charge of implementing the AUMA have stated that they anticipate that they will not begin issuing licenses under the MMRSA until January 2018, and it is unlikely that said agencies will be able to begin issuing licenses under the AUMA before they begin issuing licenses under the MMRSA; and (3) the AUMA does not require state agencies to issue licenses until January 1, 2018.⁵⁸ It is not the League's position that state licensing agencies cannot issue licenses before January 1, 2018, just that it is unlikely that they will do so.

C. Caution Against Use of Permissive Zoning

Under a permissive zoning code, any use not enumerated in the code is presumptively prohibited, unless an authorized city official finds that the proposed use is substantially the same in character and intensity as those land uses listed in the code.⁵⁹ Although the MMRSA upheld a city's authority to rely on permissive zoning to prohibit medical marijuana land uses, it is unlikely that cities will succeed in arguing that nonmedical marijuana land uses are prohibited by permissive zoning under the AUMA. This is so because: (1) the statutory language in the AUMA regarding local control seems to anticipate that a city will adopt an ordinance explicitly prohibiting and/or regulating nonmedical marijuana businesses (rather than relying on the silence of its Code to argue for a prohibited use);⁶⁰ (2) the AUMA does not contain the same protective language as the

⁵⁷ Bus. & Prof. Code § 26038.

⁵⁸ Bus. & Prof. Code § 26012 (c).

⁵⁹ See *City of Corona v. Naulls* (2008) 166 Cal.App.4th 418, 433-436. See also *County of Los Angeles v. Hill* (2011) 192 Cal.App.4th 861, 871 [holding that “medical marijuana dispensaries and pharmacies are not ‘similarly situated’ for public health and safety purposes”]; *City of Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1091 [holding that a medical marijuana dispensary was not substantially similar to the listed commercial use classifications for personal services, retail sales, pharmacies and medical supplies]; *County of Tulare v. Nunes* (2013) 215 Cal.App.4th 1188, 1205 [holding that a medical marijuana collective did not qualify as an “agricultural” land use because “marijuana is a controlled substance and is not treated as a mere crop or horticultural product under the law”].

⁶⁰ Bus. & Prof. Code § 26200 [“Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to *adopt* and *enforce* local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related

MMRSA with respect to permissive zoning;⁶¹ and (3) the AUMA explicitly designates nonmedical marijuana as an agricultural product—thus if a city’s permissive zoning code authorizes agricultural uses, the city may be precluded from arguing that marijuana is prohibited.⁶² Therefore, cities that wish to ban all or some nonmedical marijuana activities should adopt express prohibitions, even if they operate under a permissive zoning code.

IV. What actions need to be taken?

At this time city officials should: (1) review the city’s municipal code; (2) consider whether they wish to regulate the personal cultivation of nonmedical marijuana indoors; (3) consider whether they wish to regulate or ban the personal cultivation of nonmedical marijuana outdoors; (4) consider whether they wish to enact business regulations of nonmedical marijuana businesses; (5) consider whether they wish to enact land use regulations of nonmedical marijuana businesses; (6) consider whether they wish to enact local taxes on marijuana; and (7) comply with Proposition 218 if they decide to enact local taxes on marijuana.

Cities should prioritize considering or enacting ordinances regulating personal nonmedical marijuana cultivation, because it will be legal under state law on November 9, 2016 if the AUMA passes, whereas nonmedical marijuana businesses will not be able to operate lawfully until the state licensing system becomes operational (likely in late 2017). **Although cultivation for personal use will be legal as of November 9, 2016 if the AUMA is approved by voters, local governments will not lose any regulatory authority if they do not have an ordinance in place addressing personal cultivation before the election. Locals will retain the ability to regulate personal cultivation and to enact related ordinances at any time after the election. The only change the AUMA will make in this area is to prohibit local bans of indoor cultivation for personal use. No ordinance enacted prior to the election can prevent this change in the law.**

to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.”] (emphasis added).

⁶¹ Compare Health & Saf. Code § 11362.777(b)(3) [a “person or entity shall not submit an application for a state license . . . if the proposed cultivation of marijuana will violate the provisions of any local ordinance or regulation, or if medical marijuana is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning”] with Bus. & Prof Code § 26205(e) [“Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.”].

⁶² Bus. & Prof. Code § 26067(a).

HOW DRUGS ARE CLASSIFIED IN THE US

SCHEDULE	DESCRIPTION	EXAMPLES
Schedule 1	Drugs with no currently accepted medical use and a high potential for abuse. They are the most dangerous drugs of all the drug schedules with potentially severe psychological or physical dependence.	<ul style="list-style-type: none"> - Heroin - Lysergic acid diethylamide (LSD) - Marijuana (Cannabis) - Methylenedioxymethamphetamine (Ecstasy) - Methaqualone - Peyote
Schedule 2	Drugs with a high potential for abuse, with use potentially leading to severe psychological or physical dependence. These drugs are also considered dangerous.	<ul style="list-style-type: none"> - Combination products with less than 15mg of hydrocodone per dosage unit (Vicodin) - Cocaine - methamphetamine - Methadone - Hydromorphone (Dilaudid) - Meperidine (Demerol) - Oxycodone (OxyContin) - Fentanyl - Dexedrine - Adderall - Ritalin
Schedule 3	Drugs with a moderate to low potential for physical and psychological dependence. Schedule 3 drugs abuse potential is less than Schedule 1 and Schedule 2 drugs but more than Schedule 4.	<ul style="list-style-type: none"> - Products containing less than 90mg of codeine per dosage unit (Tylenol and codeine) - Ketamine - Anabolic steroids - Testosterone
Schedule 4	Drugs with a low potential for abuse and low risk of dependence.	<ul style="list-style-type: none"> - Xanax - Soma - Darvon - Darvocet - Valium - Ativan - Talwin - Ambien - Tramadol
Schedule 5	Drugs with lower potential for abuse than Schedule 4 and consist of preparations containing limited quantities of certain narcotics. Schedule 5 drugs are generally used for antidiarrheal, antitussive, and analgesic purposes.	<ul style="list-style-type: none"> - Cough preparations with less than 200mg of codeine per 100ml (Robitussin AC) - Lomotil - Motofen - Lyrica - Parepectolin

SOURCE: Drug Enforcement Administration

BUSINESS INSIDER

6. [17-0716](#) Adopt ordinance amending Chapter 9.86 the Sunnyvale Municipal Code and amending various sections of Title 19 to update the existing prohibition against commercial marijuana activity in the City to expressly include non-medical marijuana, to reasonably regulate indoor personal cultivation of marijuana consistent with state law, and to prohibit outdoor personal cultivation of marijuana. Exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15305.

Deputy Chief Carl Rushmeyer presented the staff report.

Commissioner Howe asked staff if marijuana could be grown inside an Eichler atrium without a roof. Planning Officer Miner advised that this item before the Planning Commission pertains only to the commercial distribution and personal cultivation as outlined in Title 19 of SMC. Deputy Chief Rushmeyer provided details about the requirements and the rationale for the ban. Commissioner Howe confirmed with Deputy Chief Rushmeyer that a locked atrium would meet the growing requirements.

Chair Rheaume opened the Public Hearing.

Chair Rheaume closed the Public Hearing.

MOTION: Commissioner Howe moved and Commissioner Olevson seconded the motion for Alternative 1 – Find that the activity is exempt from environmental review pursuant to CEQA Guideline sections 15061 (b)(3) and 15305, and recommend that the City Council adopt an ordinance amending various sections of Title 19 to update the existing prohibition against commercial marijuana activity in the City to expressly include non-medical marijuana.

FRIENDLY AMENDMENT: Commissioner Olevson requested a clerical correction on page ten of the staff report from “licenses” to “licensees”. Commissioner Howe accepted the friendly amendment.

Commissioner Howe thanked staff for the report.

Commissioner Olevson commented that approval of this item will conform City law to State law.

The motion carried by the following vote:

Yes: 4 - Chair Harrison
Vice Chair Rheaume
Commissioner Howe
Commissioner Olevson

No: 0

Absent: 3 - Commissioner Howard
Commissioner Simons
Commissioner Weiss

Planning Officer Miner advised that this item goes to the City Council on September 26th, 2017.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

Chair Rheaume opened the Public Hearing.

Chair Rheaume closed the Public Hearing.

NON-AGENDA ITEMS AND COMMENTS

-Commissioner Comments

-Staff Comments

Planning Officer Miner stated that the Fortinet General Plan Amendment Initiation (GPI) was continued to the City Council meeting of August 22, 2017 due to the length of the August 15th, 2017 City Council meeting. Planning Officer Miner advised that City Council did approve the Fortinet study per the Planning Commission and staff recommendations. Planning Officer Miner reiterated that the Downtown Specific Plan GPI's were also approved with recommendations and that staff will send that information to the Planning Commission.

ADJOURNMENT

Chair Rheaume adjourned the meeting at 8:44 PM.



City of Sunnyvale

Agenda Item

17-0493

Agenda Date: 9/26/2017

REPORT TO COUNCIL

SUBJECT

Resolution to Adopt Updated Emergency Operations Plan

REPORT IN BRIEF

An Emergency Operations Plan is required for local government in California. The guidelines are derived from the United States Department of Homeland Security/Federal Emergency Management Agency (FEMA), and modified by the State Office of Emergency Services. The emergency plan provides a broad legal framework for management of emergencies. Staff has revised the current emergency plan, which was adopted by Council in 2005. The revised plan complies with the Standardized Emergency Management System (SEMS) and conforms to the requirements of the National Incident Management System (NIMS) as mandated by FEMA.

Sunnyvale Municipal Code Section 2.16.080 provides for the development, approval and adoption of the emergency plan. The City Manager is responsible for the development of the City's emergency plan. The City Council decides if the emergency plan should be approved. If approved, the emergency plan must be formally adopted by Council resolution.

BACKGROUND

Government Code Sections 8568 and 8607 and Sunnyvale Municipal Code (SMC) section 2.16.080 requires the City to develop an emergency plan that provides for effective mobilization of all City resources, both public and private, during a Local Emergency, State of Emergency or State of War Emergency.

Generally, emergencies and disasters are managed at the local level. However, assistance is often needed from other jurisdictions and agencies. To successfully manage a large-scale emergency, coordination among the emergency responders is essential. Predicated on this principle, in 2005 City Council adopted the original emergency plan, which incorporated the Standardized Emergency Management System ("SEMS"). The SEMS regulations called for improved coordination of local and state emergency response efforts in California. In February 2003, the President issued Homeland Security Presidential Directive-5, which directed the Secretary of Homeland Security to develop and administer the National Incident Management System ("NIMS"). This system provides for a consistent nationwide approach for Federal, State, and local governments to effectively and efficiently collaborate to prepare for, respond to, and recover from disastrous events, regardless of cause, size, or complexity. The City's emergency plan was also revised to reflect these federal standards.

EXISTING POLICY

The City is mandated by regulations to have an Emergency Plan, both by its own ordinance (SMC section 2.16.050) and Government Code section 8568.

DISCUSSION

The City of Sunnyvale's Emergency Operations Plan is the official foundational document for emergency preparedness. It describes in broad terms key issues including: the responsibilities of the City; the processes used during emergency operations and procedures for rendering or requesting mutual aid; the direction and control within the agency; continuity of government; specific emergency authorities that staff may assume; internal emergency notifications; Emergency Management Organization (EMO) staffing; reporting mechanisms for the EOC; and cleanup and recovery operations.

The updated EOP reflects current best management practices and format, including keeping the basic plan as concise as possible, and complies with the most recent EOP and emergency preparedness guidance from the Federal Emergency Management Agency (FEMA) and the State of California Office of Emergency Services.

FISCAL IMPACT

An adopted and updated EOP is required to ensure that the City is eligible to receive State and Federal funding after a disaster, and for many grants that provide funding for emergency preparedness planning and activities, including but not limited to the State Homeland Security Grant Program, the Urban Areas Security Initiative, and the Emergency Management Performance Grants.

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.

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 by resolution the City of Sunnyvale Emergency Operations Plan - Updated 2017.
2. Adopt by resolution the City of Sunnyvale Emergency Operations Plan - Updated 2017 with modifications.
3. Do not adopt by resolution the City of Sunnyvale Emergency Operations Plan - Updated 2017.

STAFF RECOMMENDATION

Alternative 1: Adopt by resolution the City of Sunnyvale Emergency Operations Plan - Updated 2017.

If Council does not adopt by the resolution the City of Sunnyvale Emergency Operations Plan - Updated 2017 that conforms to SEMS/NIMS guidelines and retains the old Emergency Operations Plan, then due to the age of the existing Emergency Operating Plan the City's eligibility for emergency-related grant funding may be jeopardized.

Prepared by: Vinicio Mata, Captain, Department of Public Safety

Reviewed by: Dayton Pang, Deputy Chief, Department of Public Safety

Reviewed by: Phan S. Ngo, Director, Department of Public Safety

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

ATTACHMENTS

1. City of Sunnyvale Emergency Operations Plan - Updated 2017
2. Resolution Adopting the City of Sunnyvale Emergency Operations Plan - Updated 2017

EMERGENCY OPERATIONS PLAN

City of
Sunnyvale

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- Attachment C: Sample Emergency Proclamation
- Attachment D: Departmental Responsibilities
- Attachment E: Emergency Operations Center (EOC) Activities
- Attachment F: EOC Layout & Phone Numbers
- Attachment G: Sunnyvale Municipal Code – 2.16

FORWARD

This City Emergency Operations Plan (EOP) outlines how the City of Sunnyvale complies with and implements the requirement of the California Emergency Services Act (ESA) to protect the lives and property of the community.

The EOP is organized as follows:

- **Section I – The Basic Plan:** includes planning assumptions, policies, and concept of operations for emergency management.
- **Section II – Attachments:** includes pertinent information such as Authorities, Acronyms, and a Sample Proclamation.
- **Section III – Functional Annexes:** includes more detailed information on specific functions such as Direction and Control, Alert and Warning, etc.
- **Section IV – Hazard Annexes:** includes more detailed information required to address specific hazards.

DOCUMENT MANAGEMENT AND DISTRIBUTION

The EOP will be reviewed on a biennial basis, or as necessary. The EOP may be modified as a result of a post-incident or post-exercise evaluation, and/or changes in responsibilities, procedures, laws, or regulations. The City's Office of Emergency Services is responsible for the review, revisions, management, and distribution of the City of Sunnyvale EOP.

The EOP will be distributed to the following departments/agencies:

- (insert departments/agencies)
- (insert departments/agencies)
- (insert departments/agencies)
- (insert departments/agencies)

[illegible]

The Office of Emergency Services will review the EOP every two years.

[illegible]

LETTER OF PROMULGATION

From City Manager upon approval of City Council

Section I: Basic Plan

INTRODUCTION

The Emergency Operations Plan (EOP) for the City of Sunnyvale outlines authorities, organizational structures, and procedures used to coordinate activities related to local and regional emergencies or disasters.

The City and surrounding region are susceptible to a number of hazards such as natural disasters and human-caused events, as well as technological failures and pandemics. While the risk profiles for these hazards are regularly quantified and assessed in related documents¹, the EOP utilizes an “all-hazards” approach to ensure the City is able to prepare for, respond to, recover from, and mitigate against all potential hazards and critical incidents.

PURPOSE

The primary purpose of the EOP is to:

- 1) Outline the City’s framework for managing preparedness, response, recovery, and mitigation activities inclusive of City departments, personnel, and elected officials.
- 2) Serve as a foundational document under which additional operational and tactical annexes, appendices, and plans can be attached
- 3) Codify the City’s understanding and adoption of state and federal response constructs through which operational coordination, mutual aid, and other requests for support will be integrated
- 4) Demonstrate compliance with state and federal laws and regulations such as the California Emergency Services Act²

SCOPE

The EOP serves as the foundational element of the City’s approach to emergency management. While all City resources may be called upon as needed, specific departmental responsibilities are outlined in the EOP Basic Plan and associated annexes. To ensure the City is adequately prepared, all City departments are required to actively participate in preparedness and planning activities to include the development of departmental plans, policies, and procedures as necessary to fulfill their assigned roles and obligations.

The EOP embraces the "Whole Community" approach to emergency management and, in addition to City resources, recognizes the roles of special districts, non-governmental organizations (NGOs), community-based organizations (CBOs), faith-based organizations (FBOs), private-sector businesses, educational institutions, and other stakeholders. Additionally, the EOP is intended to reflect the wide variety of support that may be required by residents, visitors, and businesses, including people with disabilities and others with access or functional needs.

LIMITATIONS

While many of the organizational and operational constructs outlined in the EOP are designed for flexibility and can be utilized as-needed to address a number of emergency and non-emergency events, some activities

¹ Santa Clara County LHMP Retrieved from: <https://www.sccgov.org/sites/oes/PlansPublications/Pages/LHMP.aspx>

² California Emergency Services Act Retrieved from:
www.caloes.ca.gov/LegalAffairsSite/Documents/Cal%20OES%20Yellow%20Book.pdf

require special activation or a formal disaster declaration by the City Manager. Similarly, the EOP is not meant to outline procedures for routine incidents or minor emergencies which are adequately addressed through existing processes.

The EOP identifies operational strategies and plans for managing inherently complex and potentially catastrophic events. As such, City assets, resources, and departments are potentially vulnerable and may become overwhelmed. Deviations from the organizational and response structures outlined in the EOP may be required based upon evolving needs and available resources. With this in mind, the EOP was designed to promote flexibility whenever possible and is not intended to limit the use of good judgment and common sense in matters not foreseen or adequately addressed by elements of the EOP and its associated annexes, appendices, or plans.

SITUATION

The City of Sunnyvale is located in Santa Clara County, approximately 44 miles south of San Francisco, and 10 miles north of San Jose. The City encompasses an area of approximately 22 square miles and has more than 148,000 residents,³ making it the fifth largest city in the San Francisco Bay Area and the second largest in Santa Clara County.

Sunnyvale is currently home to a number of large and notable companies such as Yahoo, NetApp, Advanced Micro Devices, Juniper Networks, and Lockheed Martin Space Systems which contribute to a daytime population of approximately 230,000 including the non-resident workforce.⁴

Consistent with much of the San Francisco Bay area, Sunnyvale is susceptible to a wide variety of hazards including natural disasters and human-caused events, as well as technological failures and pandemics. An analysis and quantification of the most prevalent hazards can be found in the Santa Clara County Local Hazard Mitigation Plan (LHMP)⁵, which is updated every five years and includes an annex specific to the City of Sunnyvale.

While the City's hazard environment fluctuates and is highly influenced by a number of external and seasonal factors such as the weather and geopolitical trends, a number of hazards have consistently been identified as priorities including utility disruptions, earthquakes, floods, drought and hazardous material spills. The City actively participates in the LHMP development process and utilizes the outcomes to address and mitigate against these and other identified hazards to the extent feasible.

In addition, the Santa Clara County LHMP specifically identifies climate change as an "amplifier" of existing hazards including flooding, heat waves and other extreme weather events. While recognizing the complexity of the issue, the City supports efforts to better understand the factors influencing climate change as they relate to current and future planning, development, and policy decisions.

PLANNING ASSUMPTIONS

The following assumptions were used during the development of the EOP:

³ U.S. Census Quick Facts: Sunnyvale. Retrieved from: <http://quickfacts.census.gov/qfd/states/06/0677000.html>

⁴ City of Sunnyvale. Retrieved from: <http://sunnyvale.ca.gov/Departments/HumanResources/GetAJobwiththeCity.aspx>

⁵ Santa Clara County LHMP Retrieved from: <https://www.sccgov.org/sites/oes/PlansPublications/Pages/LHMP.aspx>

- The City of Sunnyvale is susceptible to a number of hazards that may result in critical incidents
- Although not fully quantified, climate change is a contributing factor to a number of potential hazards
- Critical incidents include a variety of natural, technological, or man-made emergencies and disasters
- Some critical incidents will provide advanced warning while others will occur suddenly
- All departments will participate in planning and preparedness activities as required
- Personnel will be adequately trained to perform the roles in which they are assigned
- The EOC will be partially or fully activated to support operations during significant critical incidents or when deemed necessary to manage a pre-planned large scale event or incident.
- City personnel may be unable or unavailable to report to work or as assigned
- Non-essential operations may be reduced or cancelled in order to prioritize resources for other needs
- Mutual aid and other assistance will be requested when City resources are inadequate
- Outside assistance and support may be unavailable for extended periods of time
- Communications equipment and infrastructure may be damaged or disrupted
- Infrastructure may be damaged or disrupted and access to critical facilities may be blocked
- Critical infrastructure and utilities such as natural gas, water, and electricity may be severely impacted
- Residents may need to be self-sufficient for one week or more
- Additional planning, resources, and support will be needed to support people with disabilities and others with access and functional needs

EMERGENCY MANAGEMENT

The City actively maintains a program to promote, coordinate, and advance the four phases of emergency management: preparedness, response, recovery, and mitigation. The City Manager is the statutory director of the emergency management program and the Office of Emergency Services has been delegated responsibility to coordinate these activities.

While the four phases of emergency management demonstrate the typical evolution of activities related to a specific hazard, they are not necessarily dependent upon each other and often overlap or are conducted concurrently to address a number of different hazards.

Figure 1: Emergency Phases



PREPAREDNESS

The Preparedness Phase includes activities undertaken prior to an emergency in order to improve the City's ability to coordinate, respond, and recover from a critical incident. These activities focus on maintaining or improving capabilities that will be used in the response or recovery phases. The City's preparedness activities emphasize emergency planning and training as well as public education and outreach. The City also conducts drills and exercises regularly in order to validate ongoing activities, identify areas for improvement, and prioritize or justify future effort and funding.

In recognition of the number and wide variety of potential hazards facing the region, the City has adopted an "all-hazards" approach to planning and preparedness. While not restricting the development of specialty or tactical plans, this model focuses on the development of core capabilities through which the full spectrum of potential hazards and critical incidents can be addressed.

Planning

Emergency planning includes a wide variety of plans at the strategic, operational, and tactical levels. Strategic plans include the EOP and many of its associated hazard specific or functional annexes, while operational and tactical planning includes more granular information such as standard operating procedures (SOPs), checklists, personnel assignments, notification rosters, and resource lists. All City departments are required to participate in the development of relevant strategic and operational plans while ensuring that internal tactical planning is sufficient to meet the needs of their outlined roles and assigned objectives.

Training

Training is an essential component of preparedness and greatly impacts the City's ability to respond to, and recover from, a critical incident. City Departments regularly provide internal training while the Office of Emergency Services coordinates access to local, state, and federal training opportunities.

The City actively manages training activities and allocates funding in relation to fluctuating needs, personnel turnover, and course availability. In addition, the City consistently prioritizes training that promotes staff understanding and familiarity with the following concepts:

- Incident Command System (ICS)

- California Standardized Emergency Management System (SEMS)
- National Incident Management System (NIMS)
- California Disaster Service Worker (DSW)

Exercises

Exercises are the primary tool for assessing preparedness activities and identifying areas for improvement while allowing all levels of personnel to simulate their response and recovery roles in a learning environment. The City follows the best practices of the Homeland Security Exercise and Evaluation Program (HSEEP), including the building block concept of seminars, small-scale tabletop exercises, functional exercises, and full scale exercises.

The City uses a wide variety of exercises to regularly assess critical capabilities and prioritize future planning and training needs. By simulating potential response or recovery scenarios, the City is able to validate existing plans while determining if and where additional training is required.

Public Awareness and Education

The City actively promotes public awareness and education in order to strengthen overall preparedness and resiliency. By providing community education, outreach, training, and coordination, the City increases the ability of community members and organization to adequately prepare for and meet their own needs. By promoting self-reliance and individual preparedness, the City reduces the overall burden on limited resources and competing needs that emerge during critical incidents.

RESPONSE

The Response Phase includes any actions taken immediately before, during, or directly after a critical incident in order to minimize the potential or existing impacts of the incident.

Pre-Event Response

Some incidents, such as those related to severe weather, may provide sufficient warning to allow for pre-event or precautionary measures. Depending upon the probability and likelihood of significant impacts, pre-event response activities may include:

- Public Warning
- Evacuations
- Resource Mobilization
- Staging
- Mutual Aid Requests
- Proclamation of a Local Emergency

Emergency Response

Emergency response activities are actions taken during, or in the immediate aftermath, of a critical incident to reduce actual impacts. While these activities are most often associated with traditional response agencies including law enforcement, fire protection, emergency medical services (EMS), utilities, and public works, the size and complexity of an incident may require robust support from additional governmental agencies, NGOs, and other partners. As a result, comprehensive stakeholder participation during the development and socialization of relevant strategic, operational, and tactical plans can greatly enhance the efficiency and effectiveness of these emergency response activities.

When coordinating emergency response activities and addressing competing needs and objectives, the City utilizes the following prioritization hierarchy:

- 1) Support Life Safety
- 2) Protect Property
- 3) Reduce Impacts to the Environment

Emergency response may also include activities related to short-term recovery and often overlaps with long-term recovery operations.

Disaster Service Workers

Consistent with California Government Code⁶, government employees (excluding non-naturalized aliens), are Disaster Service Workers (DSW). When a disaster occurs, each employee will be expected to perform certain duties to assist the community in returning to normal as soon as possible. Certain registered volunteers may also be DSWs.

RECOVERY

The Recovery Phase includes short- and long-term activities focused on returning the community to pre-incident conditions. In some instances when a state or federal disaster declaration has been made, recovery activities include the critical task of identifying, documenting, and quantifying response and recovery costs eligible for reimbursement.

Short-term Recovery

Short-term recovery operations begin during the response phase and may include activities such as the restoration of essential services, rapid debris removal, and the reestablishment of City services.

Long-term Recovery

Long-term recovery operations are often required to address extensive damage to infrastructure. Activities include the restoration and reconstruction of public facilities and disaster response cost recovery. Long-term recovery may also include policy decisions such as changes to zoning ordinances or permit processes in support of redevelopment and economic or community resilience.

Disaster Assistance Programs

Disaster assistance programs may be available for the following:

- **Individuals** – may be eligible for loans and grants for housing assistance programs (for homeowners and renters), and uninsured disaster-related necessities (including personal property, medical, dental, and transportation expenses). Other programs including crisis counseling, disaster unemployment assistance, and legal services may be available. In addition, various NGOs such as the American Red Cross, Mennonite Disaster Services, and the Salvation Army, provide recovery assistance to individuals, families, and community organizations such as basic necessities, shelter, clothing, and housing.
- **Businesses** – may be eligible for low-interest loans to assist with uninsured damage through the U.S. Small Business Administration (SBA). Programs for agricultural assistance in the form of low-interest loans for economic losses may be available through the U.S. Department of Agriculture (USDA).

⁶ See California Government Code (Section 3100)

- **Government** – assistance is available through state assistance under the California Disaster Assistance Act (CDAA), as well as several federal programs including the Federal Emergency Management Agency (FEMA) Public Assistance (PA) Grant Program and the Hazard Mitigation Grant Program (HMGP).
- **Non-profit organizations** – assistance is available through state assistance under the CDAA, as well as several federal programs including FEMA PA Grant Program for eligible non-profit organizations.

Damage Assessment

Damage assessment activities involve identifying, recording, compiling, and analyzing damage in order to determine the type of recovery assistance needed. Following major disasters, a Preliminary Damage Assessment (PDA) is used to determine eligibility for state and federal financial assistance and reimbursement.

Recovery Documentation

Documentation is the key to recovering eligible emergency response and recovery costs. Damage assessment documentation will be critical in establishing the basis for eligibility of disaster assistance programs. Various state and federal assistance programs require different types of documentation for eligible costs and in addition to structural damage, may include staff time, equipment, and materials utilized in response to the incident. To support the maximum recovery of eligible reimbursement, City departments and agencies must identify and support internal mechanisms for tracking and documenting appropriate costs.

Recovery Organization

With support and oversight from the City Council, the City Manager is responsible for managing overarching recovery activities. The Finance Department will manage activities specific to financial recovery and during the active response phase or immediate aftermath of an emergency, short-term recovery activities should be coordinated with the City's Office of Emergency Services and the EOC, if activated. Depending upon the size and impact of the event, significant support from other City departments may be required.

After Action Report

As part of the recovery phase, and in accordance with SEMS, the State of California requires⁷ any city and/or county declaring a local emergency for which the governor proclaims a state of emergency, to complete and transmit an after action report to the California Office of Emergency Services (CalOES) within 90 days of the close of the incident period. The after action report should include the following information:

- Documentation of response activities
- Identification of both problems and successes during emergency operations
- Analysis of the effectiveness of the SEMS components
- Plan of action for implementing improvements

MITIGATION

The Mitigation Phase includes actions and measures taken to reduce or eliminate the degree of long-term risk from natural and technological hazards. Whereas preparedness activities increase the City's ability to respond to the impacts of a hazard, mitigation activities reduce the potential for those impacts in the future, thereby

⁷ SEMS Section 2450(a)

reducing overall risk. A number of mitigation activities are available and may include the implementation, augmentation, or promotion of the following:

- Building and Safety Codes
- Disaster/Fire/Flood Insurance
- Land Use Planning and Management
- Hazard Research and Analysis
- Land and Repetitive Loss Acquisition
- Monitoring and Inspection
- Public Outreach and Education
- Relocation
- Risk Mapping
- Safety Codes, Statutes, and Ordinances
- Tax Incentives and Disincentives
- Seismic Strengthening or Retrofitting

Local Hazard Mitigation Plan

The City actively participates in formal mitigation activities including the development of the Santa Clara County LHMP⁸. The City's current mitigation strategy has been codified as an annex to the County plan.

WHOLE COMMUNITY APPROACH

The City's ability to respond and recover from significant emergencies and major disasters is highly dependent upon planning for the unique needs and specific requirements of the City's residents and non-resident commuters and visitors. To further identify and meet these needs, the City has adopted a "Whole Community" approach in which the inclusion and integration of community partners, neighbors, and other stakeholders is actively promoted in all phases of emergency management. Through these collaborative efforts, the City will become more resilient and better prepared to meet the needs of its residents and daytime populace alike, especially those with disabilities and others with access and functional needs.

Private Sector Coordination

The City of Sunnyvale is home to a diverse and vibrant business community including traditional retail and entertainment sectors as well as some of the largest and well-known companies in the world. Representing tens of thousands of employees, the business community swells the City's daytime population and serves as a foundation for economic prosperity. The City actively engages with the private sector to better understand their needs, identify resources, and develop partnerships. Many of the City's private sector partners proactively address preparedness planning internally as a way to limit business disruptions and support the wellbeing of their employees, but also offer their resources and technical capabilities to the larger community. The City acknowledges this valuable support and will continue collaborative efforts with the private sector as an integral component of the City's overarching emergency management program.

People with Disabilities

People with disabilities often require additional planning and support to ensure they receive equal access and coverage under emergency preparedness and response programs as required under the Stafford Act⁹ as well as other state and federal legislation such as the Americans with Disabilities Act (ADA) of 1990¹⁰. Covered disabilities are not always apparent and may include impairments of mobility, vision, and hearing as well as some cognitive disorders and mental illnesses.

⁸ Santa Clara County Local Hazard Mitigation Plan

⁹ Robert T. Stafford Disaster Relief and Emergency Assistance Act - Stafford Act - 42 U.S. Code Chapters 5121-5208

¹⁰ Americans with Disabilities Act of 1990 - ADA - 42 U.S. Code Chapter 126

The City has a diverse population representing a wide variety of people with disabilities. To meet the needs of these individuals, the City is committed to ongoing planning and preparedness activities designed to improve and validate capabilities in support of people with disabilities, including but not limited to:

- Notification and warning procedures
- Evacuation, transportation, and sheltering considerations
- Accommodations for Service Animals
- Accessibility to information

In addition, the City looks to integrate people with disabilities and their advocates directly into preparedness activities such as plan development and review. These efforts have included targeted outreach to publicize the development of this EOP and solicit input and participation in the subsequent development and review of associated operational annexes and appendices.

Individuals with Access and Functional Needs

In addition to people with disabilities, the City recognizes that additional support may also be needed to support those with “access and functional needs”. Access and functional needs are not necessarily related to a specific condition, diagnosis, or impairment and are based upon functional areas such as:

- Maintaining independence
- Effective communication
- Transportation
- Supervision
- Medical care

Individuals with access and functional needs may not have the ability to self-evacuate or access to support networks outside of their immediate communities. As a result, they may have additional needs before, during, and after an incident. Those with functional needs often include children, the elderly, tourists, and other segments of the population, including:

- People with disabilities
- People living in institutionalized settings
- People from diverse cultures
- People with limited English proficiency
- People without transportation
- People who are economically disadvantaged

Considerations for Pets and Other Animals

As a result of national deficiencies in emergency planning uncovered in the aftermath of Hurricane Katrina, the federal government passed the Pets Evacuation and Transportation Standards (PETS) Act in 2006 as an amendment to the Stafford Act. Recognizing the unwillingness of many displaced individuals to take advantage of evacuation or shelter resources without accommodating for their pets or companion animals, the PETS Act directs that state and local preparedness plans address the needs of individuals with pets and companion animals during a disaster or emergency.

The City works to include considerations for the needs of pets and companion animals in plans as appropriate. Furthermore, although not required under the PETS Act, additional resources for the evacuation of larger animals and livestock, such as horses, may be available through coordination and request through the County.

CONCEPT OF OPERATIONS

In accordance with state and federal laws, the City of Sunnyvale has officially adopted and integrated the following emergency management, response, and coordination systems:

- The Incident Command System (ICS)
- The Standardized Emergency Management System (SEMS)¹¹
- The National Incident Management System (NIMS)¹²

Together, these congruent operational systems outline how critical incidents, emergencies, and disasters will be coordinated in the field, at the local level, and up through the county, region, state, and federal levels.

FIELD LEVEL COORDINATION: ICS

As mandated by both SEMS and NIMS, the City utilizes the ICS to manage response activities in the field. ICS provides for common terminology, processes, and position titles, while allowing the delegation of functions (or tasks) to subordinate positions in order to promote proper span of control and unity of command. ICS is applicable to any size incident and is designed to be expandable as the needs of an incident expand or contract. When utilized, the standardization of ICS principles and nomenclature is capable of integrating large numbers of personnel from disparate organizations.

LOCAL, REGIONAL & STATE LEVEL COORDINATION: SEMS

As the cornerstone of California's emergency response system, SEMS, integrates the concepts and principles of both NIMS and ICS. Jurisdictions within the State are required to adopt its use and the system unifies all elements of California's emergency management community into a single integrated structure. SEMS ensures that local communities retain the authority and responsibility for managing and coordinating responses within their jurisdictions, while promoting situational awareness and facilitating the prioritization of resource requests.

The five SEMS coordination levels expand outward from the impacted area at the field level, with each successive level representing a larger geographic area. The five organizational levels include:

Field Response

Field response includes on-scene activities and coordination, consistent with ICS, and includes the use of an Incident Command Post (ICP). Depending upon the incident, multiple ICPs may be established at various sites throughout an impacted area and an Area Command may also be established. Resource requests and situation reports are routed from the field to the next SEMS organizational level, either through participating response agencies, Department Operations Centers (DOC) or the local Emergency Operations Center (EOC) if activated.

¹¹ State authority is to be found, in part, in California ESA (Chapter 7 of Division 1 of Title 2 of the Government Code). California state and local jurisdictions use SEMS as outlined in Chapter 1 of Division 2 of Title 19 of the California Code of Regulations and the California Government Code §8607 et sec.

¹² Federal authority is to be found in the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Public Law 93-288) and in Homeland Security Presidential Directive 5, "Management of Domestic Incidents" and Homeland Security Presidential Directive 8, "National Preparedness." The emergency management system used nationally is the NIMS.

Local Government

Local governments, such as the City of Sunnyvale, retain the responsibility and authority for managing response activities within their jurisdictions. To support these efforts, local jurisdictions may activate their respective EOCs. Local EOCs provide agency coordination, provide logistical support, establish common operating procedures, identify overarching priorities, and prioritize available resources. Additionally, local EOCs coordinate with the Operational Area (OA)/County EOC.

Operational Area

The OA provides coordination within the county and between all political subdivisions. The OA coordinates response activities within the county's geographic area through the County EOC, if activated. The OA also serves as a link to regional level and all other OAs within the region. The City of Sunnyvale is part of the Santa Clara County OA and coordinates closely with the Santa Clara County Office of Emergency Services (SCCOES). The City participates in OA planning and, during a critical incident, coordinates with the OA through either SCCOES or the Santa Clara County EOC, if activated.

Regional

The State of California is divided into three regions that each maintain Regional Emergency Operations Centers (REOC) to coordinate resource requests, support mutual aid, and promote situational awareness between their respective OAs. The City of Sunnyvale and the Santa Clara County OA are within the Coastal Administration Region.

State

When required, California's State Operations Center (SOC) is activated to facilitate state agency response, mobilize mutual aid, and coordinate with other regions, states, and the federal government. The SOC also serves as the liaison with the National Operations Center (NOC).

FEDERAL COORDINATION: NIMS

NIMS provides a comprehensive national framework for incident management applicable at all jurisdictional levels and across all functional disciplines. The majority of NIMS requirements applicable to the City of Sunnyvale, including the adoption of ICS, are satisfied by the adoption of SEMS. Additional elements of NIMS outline coordination between federal agencies and the use of federal assets and resources.

ADDITIONAL COORDINATION: NORTH COUNTY JURISDICTIONS

Emergency management and response partners in the North County area of Santa Clara County, defined as the Cities of Los Altos, Mountain View, Palo Alto, and Sunnyvale ("North County"), have long recognized that mutual aid and cooperation in response to critical incidents can be enhanced and made more effective by sharing resources. Given the common hazards facing the area and the potential for large regional impacts, North County agencies and stakeholders will need to work together during extended incidents to meet evolving needs and provide critical services.

Building upon the success of ongoing coordination, North County cities have identified and integrated mutually beneficial activities that offer a number of synergies and potential economies of scale. These activities include preparedness elements, such as combined planning processes, shared stakeholder integration, and the development of common plan elements. Additionally, although each of the North County jurisdictions

maintains and staffs their own EOCs, in some circumstances co-locating EOC functions within a common facility may provide benefits such as increased coordination, reduced staff requirements, and lower costs. However, regardless of potential co-location, each jurisdiction will always maintain individual control of their respective EOC functions.

MUTUAL AID

The California Mutual Aid System operates within the framework of the California Disaster and Civil Defense Master Mutual Aid Agreement (MMAA) and under the authority of the California Emergency Services Act. The system allows for the mobilization of resources to and from emergency response agencies, local governments, operational areas, regions, and the state with the intent to provide requesting agencies with adequate resources. The general flow of mutual aid resource requests systems within mutual aid are depicted in **Figure 3: Overarching Mutual Aid Process** and **Figure 4: Discipline Specific Mutual Aid System**.

The California Mutual Aid System includes a number of discipline-specific mutual aid systems, such as fire and rescue, law, medical, building and safety, coroners, emergency managers (EMMA), and public works.

In addition to the California Mutual Aid System, the state participates in interstate mutual aid through the Emergency Management Assistance Compact (EMAC).

Mutual Aid Regions

California is divided into six mutual aid regions in order to facilitate the coordination and flow of mutual aid requests. As part of the Coastal Administration Region, the Santa Clara County OA and the City are part of Mutual Aid Region II.

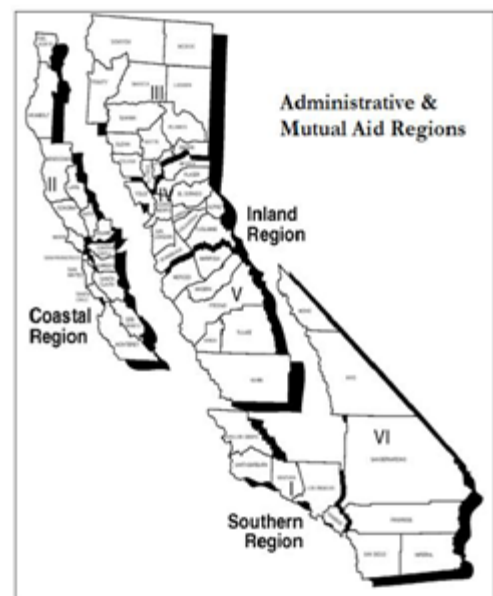
Figure 2: Cal OES Regions

Mutual Aid Coordinators

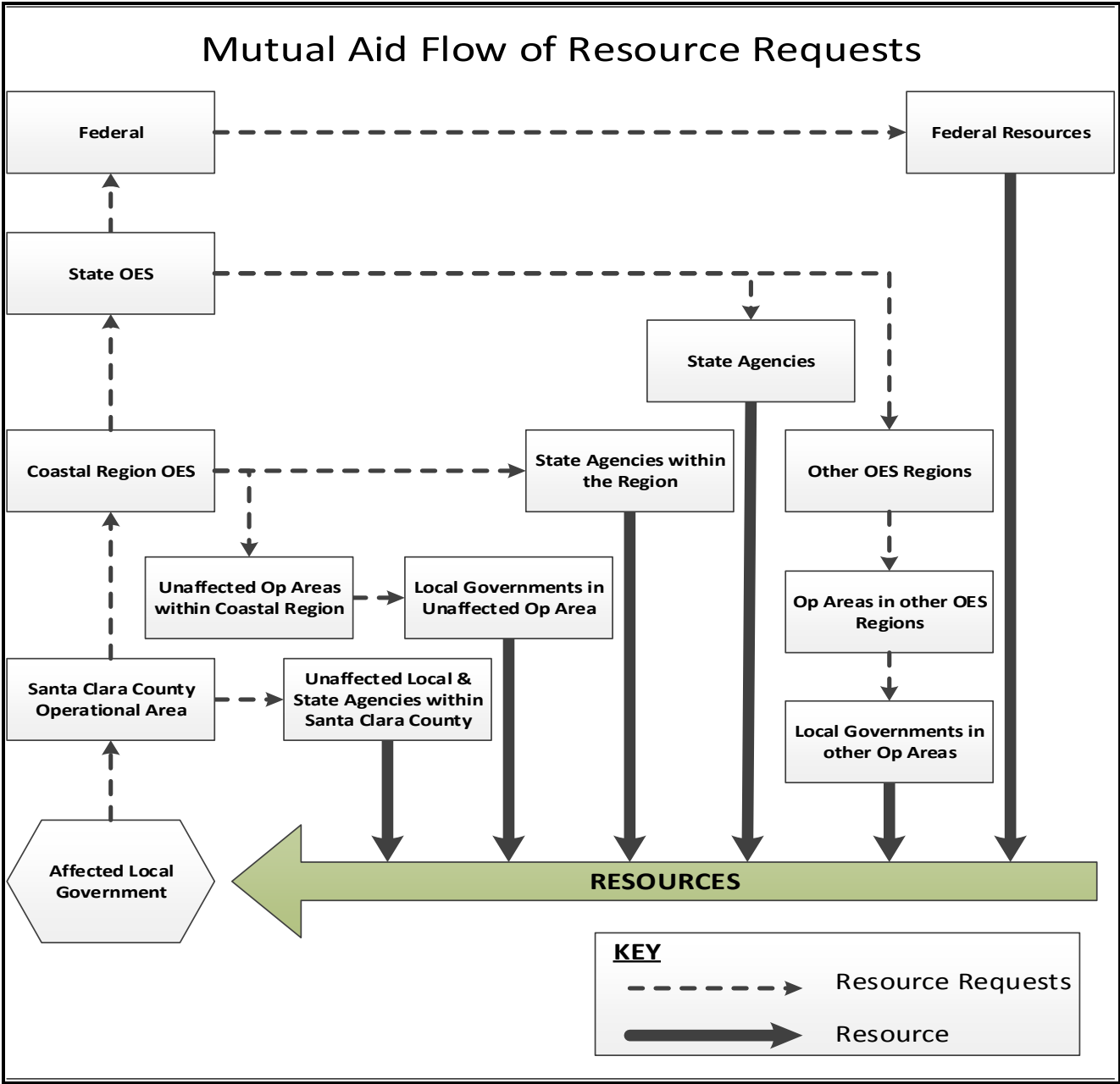
Discipline-specific mutual aid systems work through designated mutual aid coordinators at the operational area, region, and state levels. The mutual aid coordinator receives mutual aid requests and coordinates the provision of resources from within the coordinator's geographic area of responsibility. All unfilled requests will be forwarded to the next higher level of government.

Mutual aid requests that do not fall into one of the discipline-specific mutual aid systems are handled through the emergency services mutual aid system and by emergency management staff at the local government, operational area, regional, and state levels. Depending upon the circumstances, mutual aid coordinators may operate from their existing department, an EOC, or other locations as required.

Figure 3: Overarching Mutual Aid Process

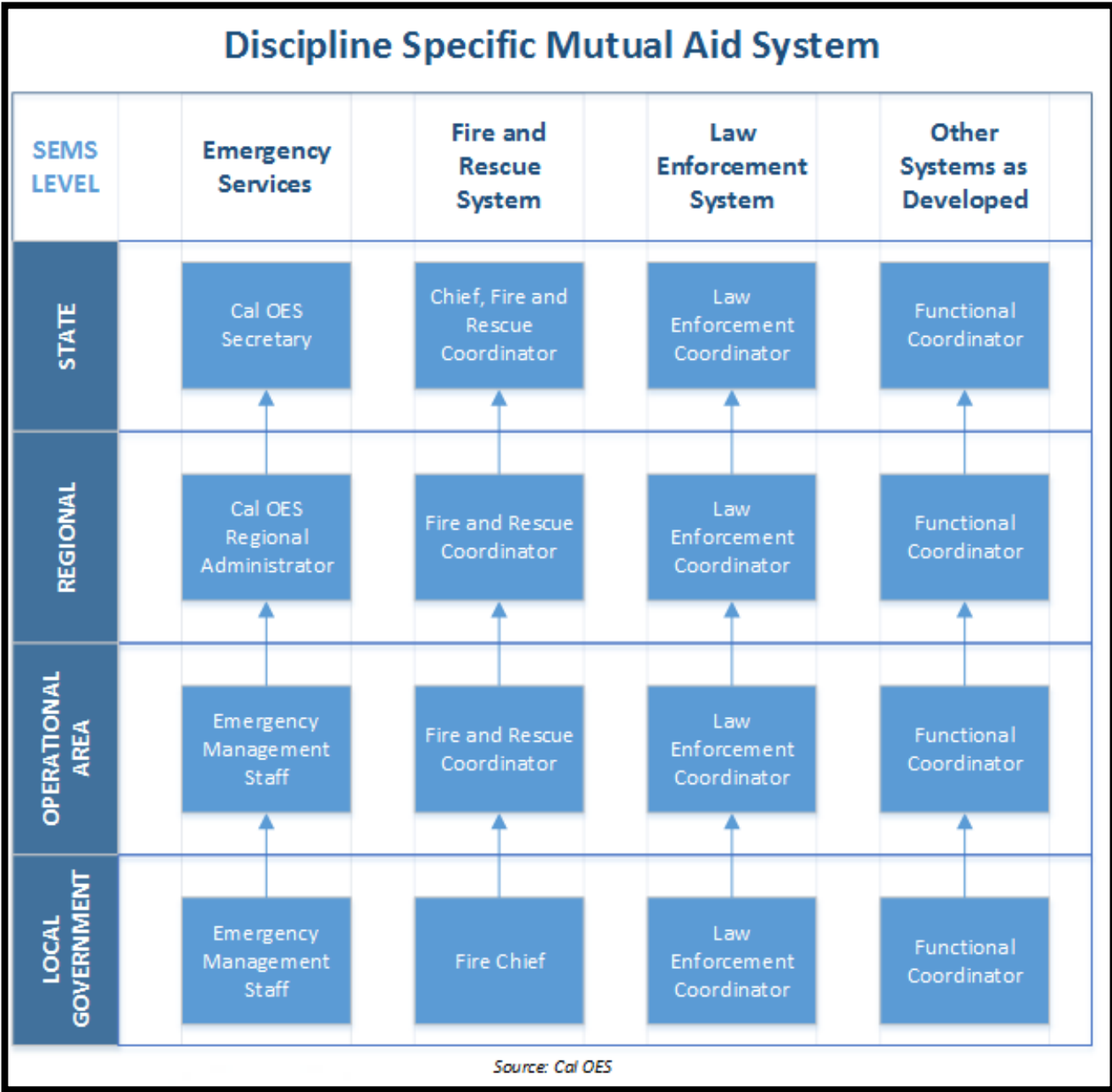


Source: Cal OES



Source: Cal OES

Figure 4: Discipline Specific Mutual Aid System



ALERT AND WARNING

EMERGENCY ALERT SYSTEM (EAS)

The Emergency Alert System (EAS) is a public warning system that may also be used by federal, state, and local authorities to provide emergency information and notification to the public. This system allows use of existing media (radio, TV) resources to communicate to residence in the event of a widespread emergency situation.

NATIONAL WARNING SYSTEM (NAWAS)

The National Warning System (NAWAS) is a dedicated wire-line system that provides two-way voice communications between the federal warning center, state warning points, and local warning points. If the situation ever presents itself, NAWAS is a nationwide system developed to send warnings of impending attack throughout the nation.

NATIONAL WEATHER SERVICE (NWS)

The National Weather Service (NWS) transmits continuous weather information on 162.40, 162.475 and 162.55 Hz frequencies. Severe weather broadcasts are preceded with a 1,050 Hz tone that activates weather monitoring receivers equipped with decoders.

ALERTSCC

AlertSCC is a county-wide community alert and notification system. This system allows the City of Sunnyvale to provide critical information and instructions quickly to cell phones, emails, or landline phones of those who subscribe. To subscribe, please go to www.AlertSCC.org

INTEGRATED PUBLIC ALERT AND WARNING SYSTEM (IPAWS)

The Integrated Public Alert and Warning System (IPAWS) is a modernization and integration of the nation's alert and warning infrastructure. IPAWS provides public safety officials with an effective way to alert and warn the public about serious emergencies using the EAS, Wireless Emergency Alerts (WEA), the National Oceanic and Atmospheric Administration (NOAA) Weather Radio, and other public alerting systems from a single interface.

COMMUNITY NOTIFICATION & CRISIS COMMUNICATION

The City recognizes the importance of clearly communicating emergency information to residents and the public through a number of overlapping formats. In addition to the systems outlined above, this includes the integration of social media and various targeted outreach platforms. The City evaluates emerging options and technological advances as they occur to improve the speed, efficiency and comprehensive coverage of crisis communication to the public, especially as it pertains to people with disabilities and others with access or functional needs.

EMERGENCY DECLARATIONS

LOCAL PROCLAMATION

A local emergency may be proclaimed by the Director of Emergency Services or designee in accordance with the Sunnyvale municipal code¹³. The city council must ratify the proclamation within seven days, and must review the need to continue the local emergency every 14 days until a local emergency is terminated. A copy of the resolution must be provided to Cal OES through the Santa Clara County OA. To qualify for assistance under the state CDAA, the proclamation must be made within 10 days of the event, and must be renewed every 14 days.

The proclamation of a local emergency provides the City with the legal authority to:

- Request the Governor to proclaim a state of emergency when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency
- Promulgate or suspend orders and regulations to provide for the protection of life and property
- Exercise full power to request mutual aid to any affected area, in accordance with local ordinances, resolutions, emergency plans, or agreements
- Request state agencies and other jurisdictions to provide mutual aid
- Require the emergency services of any City officer or employee
- Requisition necessary personnel and materials from any City department or agency
- Obtain vital supplies, equipment, and if required, commandeer the same for public use
- Conduct emergency operations with limited legal liability for performance, or failure of performance

STATE OF EMERGENCY

After a proclamation of a local emergency, the governing body of the City, having determined that local resources are not sufficient to mitigate the situation, may request by letter or resolution that the Governor proclaim a state of emergency in the area to fully commit state and mutual aid assistance and provide resources to assist local government. To support its request for a gubernatorial proclamation, it is essential that the City forward an estimate of damage and financial loss to Cal OES through the Santa Clara County OA as quickly as possible. Estimates of loss are an important part of the criteria that Cal OES considers when making a determination to proclaim a state of emergency and request a Presidential Declaration of Emergency or Disaster.

A copy of the request for a Governor's proclamation, with the following supporting data, must be forwarded, to the Santa Clara County OA Coordinator for transmission to the Cal OES Director:

- Copy of the local emergency proclamation
- Initial damage estimate summary that estimates the severity and extent of the damage

The Cal OES prepares a recommendation for the Governor, and if approved, prepares a proclamation. The Governor may also proclaim a State of Emergency without a local request if:

- The safety of persons and property in the state are threatened by conditions of extreme peril, or

¹³ Sunnyvale Municipal Code Chapter 2.16: Emergency Organizations and Functions

- Emergency conditions are beyond the response capacity and capabilities of the local authorities

STATE OF WAR EMERGENCY

In addition to a State of Emergency, the Governor can proclaim a State of War Emergency whenever the State or the nation is attacked by an enemy of the United States, or upon receipt by the State of a warning from the federal government indicating that such an enemy attack is probable or imminent. The powers granted to the Governor under a State of War Emergency are the same as those granted under a State of Emergency.

PRESIDENTIAL DECLARATION

Following the proclamation of a State of Emergency, the Cal OES Director may recommend that the Governor request a Presidential Declaration of a major disaster under the authority of Public Law 93-288. The Governor's request to the President is submitted through FEMA. Supplementary information, such as an Initial Damage Assessment, may be required to accompany the state and local proclamations.

OTHER DECLARATIONS, POWERS, AND AUTHORITIES

Other local, state, and federal authorities may have broad powers to restrict movement or impose other restrictions, such as quarantines, during unusual events such as public health emergencies.

CONTINUITY OF GOVERNMENT

Continuity of Government (COG) is an essential function of emergency management and is vital during an emergency/disaster situation. COG is defined as the preservation, maintenance, or reconstitution of the civil government's ability to carry out its constitutional responsibilities. All levels of government share a constitutional responsibility to preserve the life and property of their citizens. The California Government Code¹⁴ and the Constitution of California provide the authority for state and local government to reconstitute itself in the event incumbents are unable to serve.

LINES OF SUCCESSION

When the role is essential to the City's ability to complete its critical missions, a successor must be named to assume the duties and responsibilities of that role. **Figure 5: Lines of Succession** outlines the continuity of government lines of succession for essential government positions.

Figure 5: Lines of Succession

Key Position	Primary Successor	Secondary Successor
City Manager	Assistant City Manager	Assistant City Manager
Director of Public Safety	Public Safety Deputy Chief	Public Safety Captain
Director of Public Works	Assistant Director of Public Works	Senior Division Head
City Attorney	Sr. Assistant City Attorney	Assistant City Attorney
Director of Community Development	Chief Building Official	Senior Building Inspector
Director of Environmental Services	Division Manager	Division Manager
Director of Finance	Assistant Director of Finance	Purchasing Officer
Director of Human Resources	Senior Human Resource Manager	Next Senior Human Resource Manager
Director of Information Technology	Information Technology Manager - Infrastructure	Information Technology Manager
Director of Library and Community Services	Administrative Librarian	Superintendent of Community Services
Director of Nova Workforce Services	Manager of Job Seeker Services	N/A

City Council

The California Government Code¹⁵ provides guidance for appointing Council Members in the unlikely event that all Council and Emergency Standby Council Members are unavailable to serve. For example, if only one member of the Council or one member of the Emergency Standby Council is available, that person shall have the power to reconstitute the City Council should all members of the Council and the Emergency Standby Council be unavailable, members of the City Council could be appointed by the Chair of the Santa Clara County

¹⁴ California Government Code (Cal. Gov't. Code § 8642-8645).

¹⁵ California Government Code (Cal. Gov't. Code § 8642-8645).

Board of Supervisors, by the Chair of a nearby County Board of Supervisors, or by the mayor of a nearby city, in that order.

ESSENTIAL FACILITIES: SEAT OF GOVERNMENT

The Primary Seat of Government for the City of Sunnyvale is City Hall located at 456 W Olive Ave.

If City Hall is no longer functional, an alternate seat of government will be established at the Community Center Complex (Senior Center) located at 550 E. Remington Dr. Sunnyvale, CA 94086.

PRESERVATION OF VITAL RECORDS

City leadership will require certain vital records during a disaster. Protection of, and access to, these records requires planning. Such efforts are coordinated by the Sunnyvale City Clerk. Vital Records are the documents required to continue the mission of City departments and agencies during and after a disaster. The records will assist in providing services both to internal City departments and external customers, such as citizens, contractors, other government entities. Example documents may include:

- Public Records
- Computer system back-ups/servers
- Order of Succession Ordinances or Resolutions
- Plans, policies, and procedures for critical processes
- Payroll information
- Contracts and leases
- Legal and financial records
- Insurance documents

Each City department is responsible for identifying vital records and assigning responsibility for preservation.

Section II: Attachments

ATTACHMENT A: AUTHORITIES AND REFERENCES

ATTACHMENT A: AUTHORITIES AND REFERENCES

LOCAL AUTHORITIES & REFERENCES

The plan is promulgated under the authority of the City Manager, ratified by the City Council, after having been reviewed by the City of Sunnyvale's Emergency Management Organization (EMO).

The following authorities and references are applicable:

- Sunnyvale Municipal Code 2.16

STATE AUTHORITIES & REFERENCES

State authority is to be found, in part, in California ESA (Chapter 7 of Division 1 of Title 2 of the Government Code). California state and local jurisdictions use SEMS as outlined in Chapter 1 of Division 2 of Title 19 of the California Code of Regulations and the California Government Code §8607 et sec.

The following authorities and references are applicable:

- SEMS Regulations: California Code of Regulations, Title 19, Division 2, Chapter 1
- CDAA Regulations: California Code of Regulations, Title 19, Division 2, Chapter 6
- Local Emergency Prevention Measures for County Health Official: California Health and Safety Code § 101040
- California Disaster and Civil Defense Master Mutual Aid Agreement
- Orders and Regulations that may be promulgated by the Governor during a State of Emergency or a State of War Emergency

FEDERAL AUTHORITIES & REFERENCES

Federal authority is to be found in the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Public Law 93-288) and in Homeland Security Presidential Directive 5, "Management of Domestic Incidents" and Homeland Security Presidential Directive 8, "National Preparedness." The emergency management system used nationally is NIMS.

The following authorities and references are applicable:

- Robert T. Stafford Emergency Disaster Relief and Emergency Assistance Act (42 USC § 5121 et seq.)
- Federal Disaster Relief Regulations: 44 CFR Part 206
- NIMS, HSPD-5, Management of Domestic Incidents
- National Response Plan, U.S. Department of Homeland Security, December 2004
- National Response Framework, U.S. Department of Homeland Security, March 2008

ATTACHMENT B: ACRONYMS

ATTACHMENT B: ACRONYMS

ADA	Americans with Disabilities Act
CAD	Computer-Aided Dispatch
Cal OES	California Office of Emergency Services
CBO	Community-based Organization
CDAA	California Disaster Assistance Act
COG	Continuity of Government
DES	Director of Emergency Services
DOC	Department Operations Center
DSW	Disaster Service Worker
EAS	Emergency Alert System
EMAC	Emergency Management Assistance Compact
EMMA	Emergency Managers
EMO	Emergency Management Organization
EMS	Emergency Medical Services
EOC	Emergency Operations Center
EOP	Emergency Operations Plan
ESA	Emergency Services Act
FBO	Faith-based Organization
FEMA	Federal Emergency Management Agency
HMGP	Hazard Mitigation Grant Program
HSEEP	Homeland Security Exercise and Evaluation Program
IC	Incident Commander
ICP	Incident Command Post
ICS	Incident Command System
IPAWS	Integrated Public Alert and Warning System
LHMP	Local Hazard Mitigation Plan
MMAA	California Disaster and Civil Defense Master Mutual Aid Agreement
NAWAS	National Warning System

NGO	Non-governmental Organization
NIMS	National Incident Management System
NOAA	National Oceanic and Atmospheric Administration
NOC	National Operations Center
NWS	National Weather Service
OA	Operational Area
PA	Public Assistance
PDA	Preliminary Damage Assessment
PETS Act	Pets Evacuation and Transportation Standards Act
PIO	Public Information Officer
REOC	Regional Emergency Operations Center
SBA	Small Business Administration
SCCOES	Santa Clara County Office of Emergency Services
SEMS	Standardized Emergency Management System
SITREP	Situation Report
SOC	State Operations Center
SOP	Standard Operating Procedure
USDA	U.S. Department of Agriculture
WEA	Wireless Emergency Alert

ATTACHMENT C: SAMPLE EMERGENCY PROCLAMATION

ATTACHMENT C: SAMPLE EMERGENCY PROCLAMATION

WHEREAS, Ordinance No. 2.16.040 of the City of Sunnyvale empowers the Director of Emergency Services/City Manager to proclaim the existence or threatened existence of a local emergency when said City is affected or likely to be affected by a public calamity and the City Council/County Board of Supervisors is not in session, and;

WHEREAS, the Director of Emergency Services of the City of Sunnyvale does hereby find; That conditions of extreme peril to the safety of persons and property have arisen within said city/county, caused by _____(fire, flood, storm, mudslides, torrential rain, wind, earthquake, drought, or other causes); which began on the _____th day of _____, 20____. and;

That these conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of said City, and;

That the City Council of the City of Sunnyvale is not in session and cannot immediately be called into session;

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that a local emergency now exists throughout said City, and;

IT IS FURTHER PROCLAIMED AND ORDERED that during the existence of said local emergency the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, by ordinances, and resolutions of this City, and; That this emergency proclamation shall expire in 7 days after issuance unless confirmed and ratified by the governing body of the City of Sunnyvale.

Dated: _____ By: _____

Director of Emergency Services

Print Name _____

Address _____

Note: It may not be necessary for a city to proclaim a local emergency if the county has already proclaimed an emergency that applies to the entire geographic county area or for a specific area that includes the impacted city or cities.

(Source: Cal OES, Emergency Proclamations: A Quick Reference Guide for Local Government)

ATTACHMENT D: DEPARTMENTAL RESPONSIBILITIES

ATTACHMENT D: DEPARTMENTAL RESPONSIBILITIES

Figure D-1: Departmental Responsibilities outlines City department's responsibilities during a disaster by functional areas, and identifies the **lead (L)** and **support (S)** departments for each function.

Figure D-1: Departmental Responsibilities

Department Responsibilities	ESF 1 : Transportation	ESF 2: Communications	ESF 3: Construction and Engineering	ESF 4: Fire and Rescue	ESF 5: Management	ESF 6: Care and Shelter	ESF 7: Resources	ESF 8: Public Health and Medical	ESF 9: Search and Rescue	ESF 10: Hazardous Materials	ESF 11: Food and Agriculture	ESF 12: Utilities	ESF 13: Law Enforcement	ESF 14: Long-Term Recovery	ESF 15: Public Information
City Attorney														S	S
City Manager					L		L							S	L
Community Development						S									
Environmental Services	S		S	S						S		L			
Finance	S	S	S	S	S	S	S	S	S	S	S	S	S	L	S
Human Resources					S	S									
Information Technology		L					S						S		
Library & Community Services						L		S			S				
Nova Workforce Service		S													
Public Safety	S	S	S	L	L	S	S	L	L	L	L	S	L	S	S
Public Works	L		L	S		S	L	S	S	S	S	S	S		

ATTACHMENT E: EMERGENCY OPERATIONS CENTER (EOC) ACTIVITIES

ATTACHMENT E: EMERGENCY OPERATIONS CENTER (EOC) ACTIVITIES

The City of Sunnyvale EOC provides a centralized location where emergency management coordination and decision making can be supported during a critical incident, major emergency or disaster. When activated, the EOC provides support for a number of critical tasks related to communications, coordination, resource management, and executive leadership.

PRIMARY AND ALTERNATE EOC LOCATIONS

The primary EOC for the City of Sunnyvale is located at the Public Safety Headquarters, 2nd floor, rooms 2023, 2024, 2028, 2030.

If the primary EOC site is threatened, inoperable, or inaccessible, the Sunnyvale Community Center located at 550 E. Remington Dr. will be used as an alternate EOC. All City departments and personnel should be prepared for the possibility of sudden relocation to this alternate EOC or similar facility.

Additionally, Station 5, located at 1210 Bordeaux Drive, has ample parking and a large classroom that can be used as conference space or a makeshift EOC if needed.

Mobile Emergency Operations Center

The City's Mobile Emergency Operations Center (MEOC) is intended for tactical use as an on-scene mobile command post. It has neither the space nor the equipment to serve as a fully functional EOC but can be used to augment command and control functions while transitioning from the Primary EOC to an alternate location or as an alternate Department Operations Center (DOC).

Public Safety DOC

The Department of Public Safety has a DOC located in the Public Safety Building which is activated for incidents that are significant but may not require activation of the EOC. The DOC may be used to coordinate the resources and activities of the Department of Public Safety such as law enforcement, fire, and rescue operations. Communication resources available in the DOC include hardline and cellular telephones, internet/email, the Computer-Aided Dispatch (CAD) system, online collaboration web portals, and online video collaboration tools.

EOC ACTIVATION AND DEACTIVATION

The EOC facility and equipment are used regularly by Sunnyvale Public Safety staff and may be utilized for coordinating and monitoring activities at any time without the need for a formal activation. However, depending upon the need and circumstances, an official EOC activation may be appropriate to support a number of activities, including:

- Field response
- Pre-planned events
- Local Proclamations of Emergency

EOC Activation Levels

The magnitude of an emergency dictates the response level, and is scalable based on the changing needs of the event. **Figure E-1: EOC Activation Levels** below outlines activation levels used by the City and their associated staffing requirements.

Figure E-1: EOC Activation Levels

Activation Level	Event	Staffing
Level 1: Local Emergency The Department of Public Safety Department Operations Center (DOC) is partially activated but the City's EOC is most likely not activated. On-scene Incident Commander communicates through dispatch using routine methods and procedures.	Situations/events which may initially require only a few people, e.g., weather alerts or monitoring of a low risk planned event.	<ul style="list-style-type: none"> • Director of Emergency Services (DES) or Designee • EOC Coordinator • Other Staffing as required
Level 2: Local Disaster Department of Public Safety DOC and the City's EOC are either partially or fully activated. On-scene Incident Commanders communicate through Dispatch but may communicate directly with the DOC or EOC as well.	Activation occurs as a result of an increase from Level One or a decrease from Level Three. This activation level is used for emergencies or planned events that would require more than a minimum staff but would not call for a full activation of all organization elements, or less than full staffing.	<ul style="list-style-type: none"> • DES or Designee • EOC Coordinator • Legal • Section Chiefs • Public Information Officer • Other Staffing as required
Level 3: Disaster Department of Public Safety DOC & the City's EOC are fully activated. Incident Commanders communicate with Operations Chief within the EOC.	The event requires a complete and full activation with all organizational elements at full staffing. Level Three would normally be the initial activation during any major emergency.	<ul style="list-style-type: none"> • All positions

EOC Deactivation

The EOC will be deactivated or the activation level will be lowered upon the recommendation of the EOC Coordinator based upon the status of the incident and ongoing needs.

EOC Communication Resources

Communication resources available in the EOC include hard line and cellular telephones, internet/email, radios, and Web EOC.

Internal Communications & Coordination

Communication with field elements may be coordinated through relevant DOCs or directly with an Incident Commander. If a DOC is not activated, the Incident Commander may communicate directly with their department specific representative located in the Operations Section of the EOC.

Additionally, the Sunnyvale EOC will communicate and coordinate with the Santa Clara County OA EOC and other cities within the Santa Clara County Operational Area (OA). Each city, including Sunnyvale, will provide relevant information pertaining to situational awareness and resource status to the OA EOC, and in turn the

OA EOC will push aggregated county-wide information back to each city. Mutual aid requests outside of predetermined pathways (i.e. Law Enforcement, Fire and Rescue, etc.) will be communicated to the OA EOC.

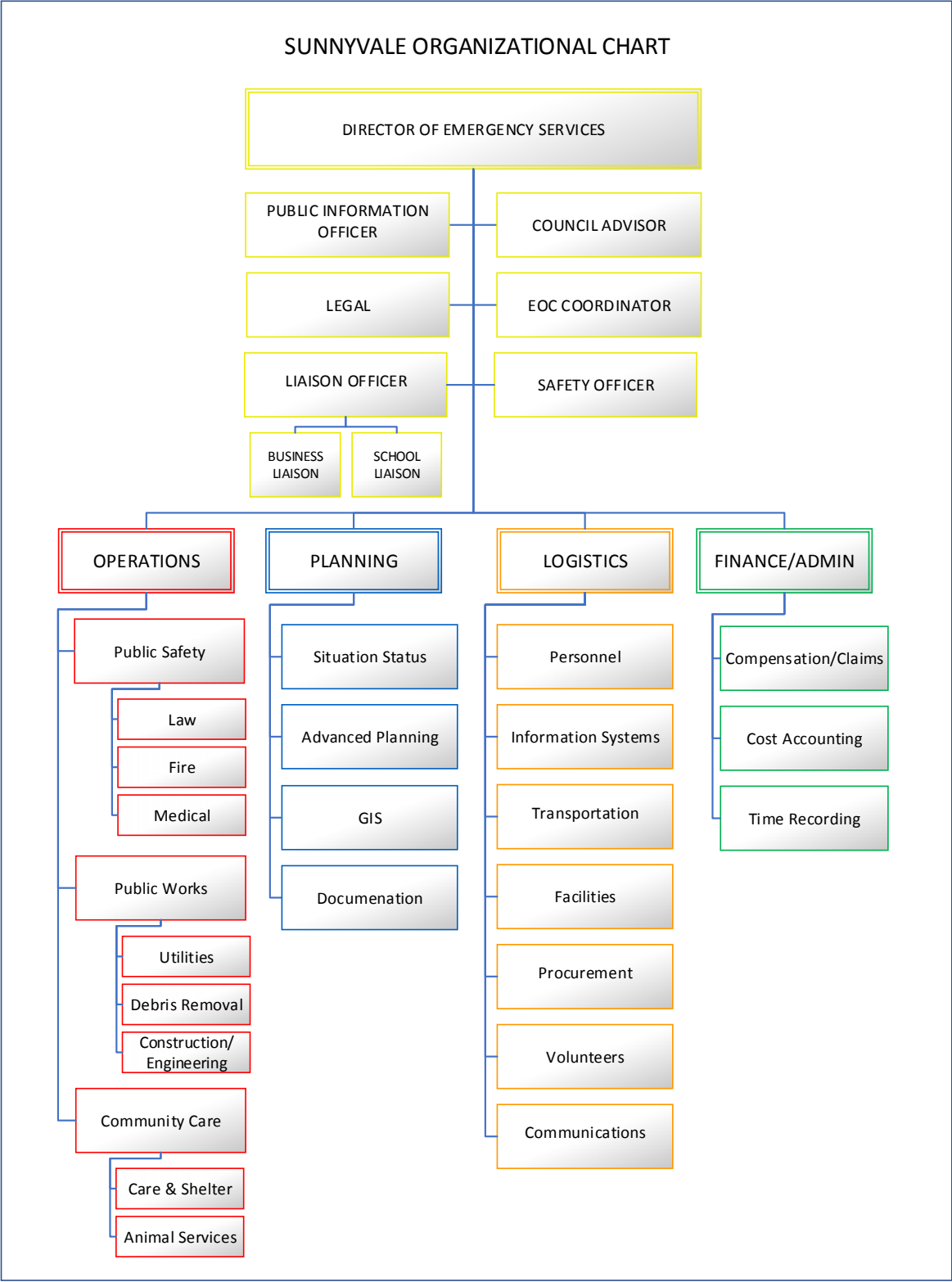
External Communications & Coordination

The City EOC will coordinate with external entities such as special districts, public utilities, volunteer organizations and/or private agencies as required. These entities will usually communicate directly with the City and may provide a representative to the City EOC. The level of involvement of special districts, public utilities, volunteer organizations, and private agencies will vary considerably depending upon the type of incident.

POSITION DESCRIPTIONS AND RESPONSIBILITIES

EOC Structure

Figure E-2: CITY OF SUNNYVALE EOC ORGANIZATIONAL CHART



Policy Group

During a critical incident or event, the City Council, including the Mayor and Vice Mayor, serve as a policy group in support of the City and the EOC if activated. The role of the Policy Group includes:

- Ratifying or proclaiming a local emergency and making other executive level policy decisions as necessary and required to support emergency response and recovery.
- Reassuring residents, community organizations and local businesses that the City is actively responding to the situation and that it is working on recovery.
- Coordinating legislative action and serving as liaisons with VIP's and outside government officials.

The Council will receive regular situational briefings from the Director of Emergency Services and Council Advisor or designee, as well as advice from the City Attorney (Legal Advisor) and other emergency management staff to assist the fulfillment of these critical responsibilities.

Requirements for Public Meetings (The Brown Act)

The Brown Act governs meeting access for local public bodies with the intent that *legislative body actions be taken openly and that their deliberations be conducted openly*¹⁶. The Brown Act cannot be suspended by a local proclamation of emergency or by any other legislation, however, it does provide some flexibility with the noticing and agenda requirements in “emergency situations”, such as the following:

- In cases of “emergency,” the City Council may hold an emergency meeting without complying with the 24-hour notice requirement and/or posting requirement ordinarily necessary prior to the Council holding a special meeting. A telephone notice must be given to the media at least one hour before the emergency meeting is held.
- In cases of “dire emergency,” the one hour notice of the meeting provided to the media can occur at the same time the presiding officer or designee is notifying the members of the City Council about the dire emergency meeting. In situations where the telephone service is not working, the notice requirements shall be deemed waived, and the City Council or designee of the City Council, shall notify the media of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.
- Where the City Council has conducted an emergency meeting or a dire emergency meeting pursuant to Government Code 54956.5(e), the City must post minutes of the meeting, a list of persons notified or attempted to be notified prior to the meeting, the actions taken by the Council and roll call vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

Management Section

The Management Section coordinates overarching EOC operations and has overall responsibility for the coordination of emergency operations. The Management Section consists of the following staff:

Director of Emergency Services (DES) – has overall responsibility for the management and coordination of the emergency event. The DES works closely with the EOC Coordinator to assure that the EOC is staffed and

¹⁶ Cite Brown Act Government Code 54950 -54963

operated at a level commensurate with the emergency and develops and issues rules, regulations, proclamations and orders. The DES also has overall responsibility for ensuring that the EMO Action Planning process is initiated among the Emergency Management Organization (EMO) staff and delegates authority as appropriate throughout the management section.

Council Advisor – serves as a liaison and conduit of information between the DES and the City Council. The Council Advisor facilitates the Council's ability to fulfill their leadership role and serve their constituents through collaborative activities such as working with the DES and Public Information Officer (PIO) to prepare and disseminate emergency public information, adopt or declare emergency proclamations, make policy decisions, and interface with important external stakeholders and outside government and elected officials.

EOC Coordinator – has overall responsibility and authority for the operation of the EOC. The EOC Coordinator will ensure that the EOC is adequately staffed and operates at a level appropriate for the emergency and supports the policies, and objectives promulgated by the DES and the City Council.

Safety Officer – monitors and ensures that the work environment is free from hazards that could endanger persons working in the facility.

Public Information Officer (PIO) – is responsible for interfacing with the public and media or with other agencies with incident-related information requirements. They serve as the conduit for information to and from internal and external stakeholders, including the media or other organizations seeking information directly from the incident or event.

Legal Officer – provides advice to the DES in all legal matters relating to the emergency. The Legal officer also assists the DES in declaring a local emergency and implementation of emergency powers.

Liaison Officer – is the point of contact for all agency representatives and oversees all liaison activities' within the EOC. The Liaison Officer ensures external agency representatives are provided appropriate situation information and maintains records of all agency representatives.

Operations Section

The Operations Section answers and coordinates requests for tactical support made by the individual DOCs or Incident Commander (IC). The need to expand the Operations Section is generally dictated by the number of tactical resources involved in the incident response, and is influenced by span-of-control considerations.

Assets from City departments and jurisdictional entities/authorities, such as police, fire, public works, etc. performing field emergency response operations may request assistance from the operations section through the field operations authorized agent (i.e. Logistics Section or IC).

Planning and Intelligence Section

The Planning Section conducts planning activities for the EOC and oversees all incident-related data gathering and analysis regarding incident operations and assigned resources. Under the direction of the Planning Section Chief, the Planning Section collects, evaluates, and processes situation and resource status information for use in developing EOC action plans. Dissemination of information can be accomplished through an EOC action plan, a situation report (SITREP), formal briefings, or through map and status board displays.

The Planning Section also contains the Documentation Unit, which is responsible for the maintenance of accurate, up-to-date incident files. Examples of incident documentation include: Incident Action Plan (IAP), incident reports, communication logs, injury claims, situation status reports, etc. Thorough documentation is

critical to post-incident analysis and potential financial reimbursement during the recovery phase. Some of the documents may originate in other sections. This unit shall ensure each section is maintaining and providing appropriate documents. The Documentation Unit will provide duplication and copying services for all other sections and will store incident files for legal, analytical, and historical purposes.

Logistics Section

The Logistics Section fulfills support requests both from the field and internally from other City Departments, DOCs, and support partners. The Logistics Section also supports the operational needs of the EOC and requests may include:

- Facilities
- Communications
- Supplies
- Equipment maintenance and fueling
- Food services (for EOC staff and on-scene staff, if requested)
- Medical services (for EOC staff and on-scene staff, if requested)
- Other services as appropriate

The need for logistics considerations and planning exists at multiple levels. The City EOC must account for emergency power, food, water, communications, and other needs of the EOC. The DOCs and/or on-scene incident command posts must account for staffing to ensure the rotation of personnel through safe rest/work cycles; shelter, feeding, and restroom facilities for personnel; acquisition of proper equipment for performing operations during the day and at night; etc. The coordination of resource requests must be funneled through a singular process to eliminate duplicative asset requests and account for payment of the resources requested.

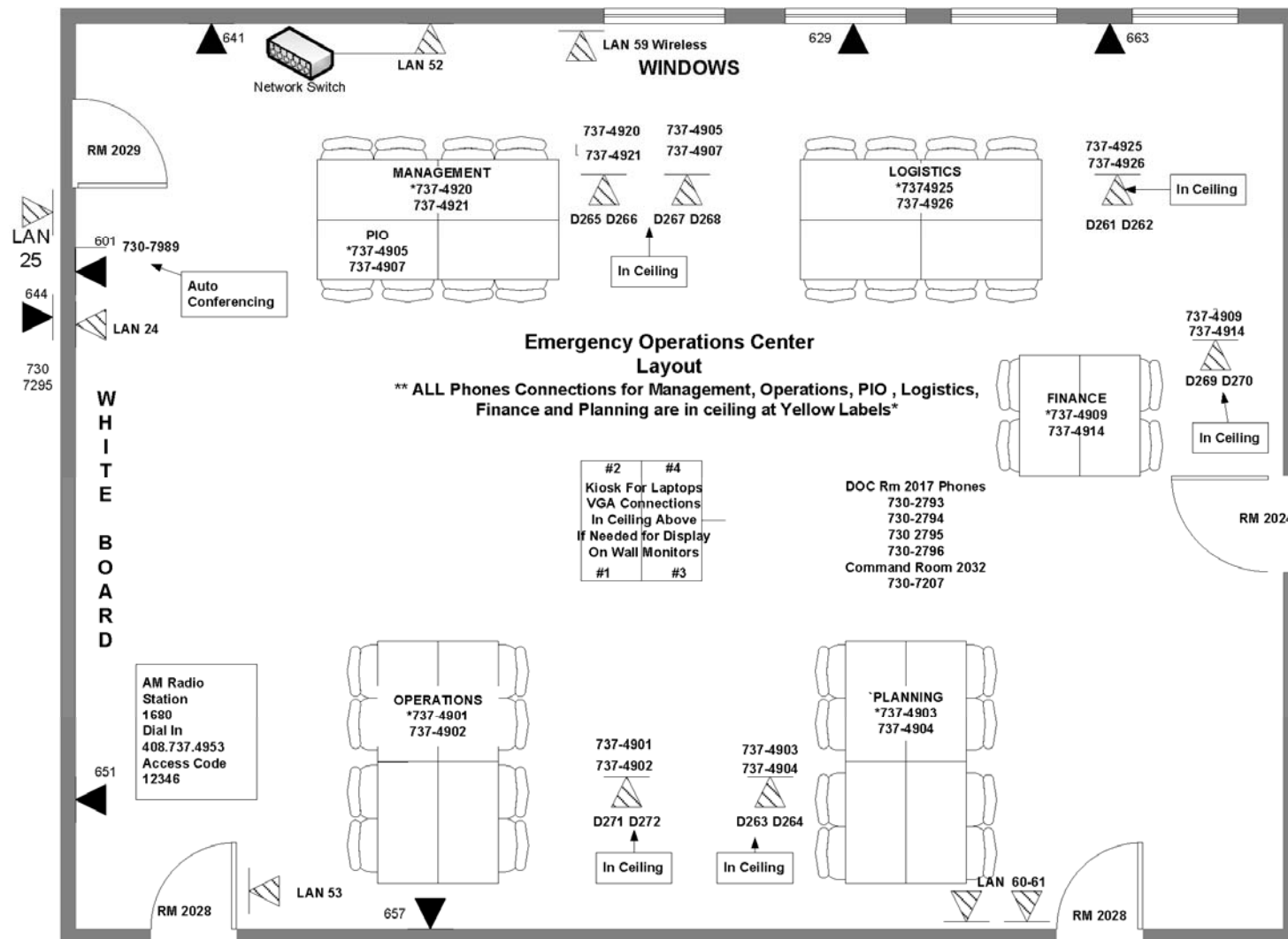
Finance and Administration Section

The Finance/Administration Section manages the financial elements of a response or activation including daily recording of personnel time, all financial matters pertaining to vendor contracts, and cost analyses and estimates as requested. Not all incidents will require the activation of a Finance/Administration Section during response operations; however, appropriate documentation and payment to resource vendors will still be required. It is imperative that local ICs, the DOCs, and City EOC personnel are familiar with the resource request process and follow the proper procedures for requesting a resource.

ATTACHMENT F: EOC LAYOUT & PHONE NUMBERS

ATTACHMENT F: EOC LAYOUT & PHONE NUMBERS

Figure F-1: EOC LAYOUT & PHONE NUMBERS



ATTACHMENT G: SUNNYVALE MUNICIPAL CODE - 2.16

ATTACHMENT G: SUNNYVALE MUNICIPAL CODE - 2.16

The Sunnyvale Municipal Code reflects municipal authority for the preparedness, response, mitigation and recovery activities outlined in the City of Sunnyvale’s Emergency Operations Plan (EOP).

CHAPTER 2.16. EMERGENCY ORGANIZATION AND FUNCTIONS

2.16.010. Purposes.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within this city in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions of this city with all other public agencies, corporations, organizations, and affected private persons. (Ord. 1792-75 § 1; prior code § 3-4.01).

2.16.020. Definitions.

Except where the context otherwise requires, the definitions contained in this section shall govern the construction of this chapter.

- (1) “Assistant director of emergency services” means the individual appointed by the director of emergency services to serve as the director’s assistant.
- (2) “Director of emergency services” means the city manager.
- (3) “Disaster council” means the city council, with the mayor serving as the chair and the vice mayor serving as the vice-chair of the disaster council.
- (4) “Emergency” means the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this city caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, earthquake or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of this city, requiring the combined forces of other political subdivisions to combat. (Ord. 2387-92 § 1; Ord. 1792-75 § 1; prior code § 3-4.02).

2.16.030. Disaster council powers and duties.

The disaster council has the duty and power to develop and recommend for adoption emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The disaster council shall meet upon call of the chair or, in the chair’s absence from the city or inability to call such meeting, upon call of the vice-chair. (Ord. 2387-92 § 2; Ord. 2256-88 § 3; Ord. 1792-75 § 1; prior code § 3-4.05).

2.16.040. Powers and duties of the director and assistant director of emergency services.

(a) The director is hereby empowered to:

- (1) Request the city council to proclaim the existence or threatened existence of a “local emergency” if the city council is in session, or to issue such proclamation if the city council is not in session. Whenever a local emergency is proclaimed by the director, the city council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall

have no further force or effect. The city council shall review, at least every fourteen days until a local emergency is terminated, the need for continuing the local emergency.

(2) Request the Governor to proclaim a "state of emergency" when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency.

(3) Control and direct the effort of the emergency organization of this city for the accomplishment of the purposes of this chapter.

(4) Direct cooperation between and coordination of services and staff of the emergency organization of this city; and resolve questions of authority and responsibility that may arise between them.

(5) Represent this city in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.

(6) In the event of the proclamation of a "local emergency" as herein provided, the proclamation of a "state of emergency" by the Governor or the Director of the State Office of Emergency Services, or the existence of a "state of war emergency," the director is hereby empowered:

(A) To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council;

(B) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the city for the fair value thereof and, if required immediately, to commandeer the same for public use;

(C) To require emergency services of any city officer or employee and, in the event of the proclamation of a "state of emergency" in the county in which this city is located or the existence of a "state of war emergency," to command the aid of as many citizens of this community as he deems necessary in the execution of his duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;

(D) To requisition necessary personnel or material of any city department or agency; and

(E) To execute all of his ordinary powers as city manager, all of the special powers conferred upon him by the ordinance codified in this chapter or by resolution or emergency plan pursuant hereto adopted by the city council, all powers conferred upon him by any statute, by any agreement approved by the city council, and by any other lawful authority.

(b) The director of emergency services shall designate the order of succession to that office, to take effect in the event the director is unavailable to attend meetings and otherwise perform his duties during an emergency. Such order of succession shall be approved by the city council.

(c) The assistant director shall, under the supervision of the director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of this city; and shall have such other powers and duties as may be assigned by the director. (Ord. 2256-88 § 3; Ord. 1792-75 § 1; prior code § 3-4.06).

2.16.050. Duty to develop emergency plans.

It shall be the duty of the director of emergency services, and he or she is hereby empowered, to develop and recommend for adoption by the city council emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. (Ord. 2256-88 § 4).

2.16.070. Emergency organization.

All officers and employees of this city, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service under the provisions of Section 2.16.040(a)(6)(C) of this chapter, be charged with duties incident to the protection of life and property in this city during such emergency, shall constitute the emergency organization of the city of Sunnyvale. (Ord. 2387-92 § 3; Ord. 1792-75 § 1; prior code § 3.4.07).

2.16.080. Emergency plan.

The director of emergency services, under guidance of the disaster council, shall be responsible for the development of the city of Sunnyvale emergency plan, which plan shall provide for the effective mobilization of all of the resources of the city, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization, powers and duties, services and staff of the emergency organization. Such plan shall take effect upon approval of the disaster council and adoption by resolution of the city council. (Ord. 2387-92 § 4; Ord. 2256-88 § 5; Ord. 1792-75 § 1; prior code § 3-4.08).

2.16.090. Expenditures.

Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit the inhabitants and property of the city of Sunnyvale. (Ord. 1792-75 § 1; prior code § 3-4.09).

2.16.100. Punishment of violations.

It shall be a misdemeanor, punishable as set forth in Chapter 1.04 of this code for any person, during an emergency, to:

- (a) Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of this chapter;
- (b) Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of this city, or to prevent, hinder, or delay the defense or protection thereof;
- (c) Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the state. (Ord. 2422-92 § 2; Ord. 1792-75 § 1; prior code § 3-4.10).

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE ADOPTING THE EMERGENCY
OPERATIONS PLAN-UPDATED 2017**

WHEREAS, the City of Sunnyvale has developed an updated Emergency Operations Plan (EOP) to help coordinate resources to make the City safer and better prepared to deal with all hazards and emergencies; and

WHEREAS, Government Code Sections 8568 and 8607 and Sunnyvale Municipal Code Section 2.16.080 require the City to develop and maintain an EOP that provides for effective mobilization of all resources of the City, both public and private, to meet any condition constituting a Local Emergency, State of Emergency or State of War Emergency; and

WHEREAS, the City previously adopted EOPs in 1996 and 2005; and

WHEREAS, the City must maintain an updated EOP to remain eligible for emergency-related reimbursements and grant funding opportunities, and has updated the EOP to meet current standards and best practices for such documents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. The City of Sunnyvale Emergency Operations Plan-Updated 2017, a copy of which is now on file in the Office of the City Clerk and which is incorporated herein by reference, is hereby approved and adopted as the Emergency Plan and Standardized Response System for the City. The Director of Emergency Services shall keep the Plan and Response System current.
2. The Emergency Operations Plan-Updated 2017, supersedes the Emergency Plan and Response System for the City which was adopted by Resolution No. 159-05. Resolution No. 159-05 shall be of no further force and effect.

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

APPROVED AS TO FORM:

City Attorney



City of Sunnyvale

Agenda Item

17-0729

Agenda Date: 9/26/2017

REPORT TO COUNCIL

SUBJECT

Award of Bid No. PW17-31 for the Golf Buildings Renovations Project, Finding of California Environmental Quality Act (CEQA) Categorical Exemption, and Approve Budget Modification No. 6 in the Amount of \$113,121

REPORT IN BRIEF

Approval is requested to award a construction contract in the amount of \$674,000 (base bid and no additive alternatives) to CWS Construction Group, Inc. of Novato, for the Golf Buildings Renovations Project. Approval is also requested for a 15% construction contingency in the amount of \$101,100.

EXISTING POLICY

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

ENVIRONMENTAL REVIEW

The project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 because the project involves the maintenance or repair of existing facilities involving negligible or no expansion of use beyond that presently existing.

BACKGROUND AND DISCUSSION

The purpose of the Golf Building Renovation Project at Sunnyvale Golf Course is to renovate the entrance ramp (for Americans with Disabilities Act (ADA) compliance) to the second-floor restaurant and the downstairs restrooms. Aging infrastructure is a major factor in the need for the project. Since the restaurant and restrooms are a part of the building structure, renovation is more cost effective than replacing. The Golf Buildings Renovations Project is within an ongoing CIP that allocates funding to repair/renovate existing Golf building components at both City's Golf courses to bring them up to compliance with current building codes and ADA requirements.

Maintenance improvements are identified by Public Works Golf Operations to meet the expectations of providing a safe and well maintained facility. This project includes restrooms that will be renovated/modernized and will receive new cost effective energy and water efficient fixtures, plumbing, paint, and new tiles/floors. The existing ramp will be renovated to provide safe access to the second-floor restaurant and meet ADA requirements.

FISCAL IMPACT

The total cost of the recommendation is \$775,100 which consists of the base bid in the amount of \$674,000 and a 15% construction contingency in the amount of \$101,100. Funding in the amount of \$661,979 is available for this project in Project 828400 - Golf Buildings Renovations, as reflected in

the table below. This project is funded in the Infrastructure Renovation and Replacement Fund through park dedication fees.

A previous City Council provided direction that no future additional Park Dedication Fund funding would be used for the golf courses and tennis center beyond those items that were already in the budget (RTC No. 11-082). In order to award the project, Budget Modification No. 6 is recommended to provide sufficient funds to award the project at Sunnyvale Golf Course using available Park Dedication Fee funding. Alternatively, the City Council may direct staff to fund the variance from the General Fund or to defund another project to provide sufficient funds to award the project. However, staff is recommending Park Dedication Funding in order to preserve funds in the General Fund Budget Stabilization Fund. In fact, as stated during the FY 2017/18 budget presentations, the projected FY 2018/19 Budget Stabilization Fund will only remain compliant with Council Policy with the implementation of one-time expenditure savings, receipt of one-time revenues, or use of other reserves.

The Council held a Study Session in 2015 to discuss the long-term options for the golf course, financial implications, and need for future infrastructure. As part of the Study Session staff anticipated future operational subsidies and unfunded capital infrastructure. With increased costs and continued decreases in golf patronage, the subsidies have increased at a faster rate than originally estimated. Staff is proposing to have another Study Session in November/December to further discuss current conditions and future options.

**Budget Modification No. 6
FY 2017/18**

	Current	Increase/ (Decrease)	Revised
Infrastructure Renovation and Replacement Fund			
<u>Transfers In</u>			
Transfer from Park Dedication Fund (Project 828400-Golf Buildings Renovations)	\$661,979	\$113,121	\$775,100
<u>Expenditures</u>			
Project 828400-Golf Buildings Renovations	\$661,979	\$113,121	\$775,100
Park Dedication Fund			
<u>Transfers Out</u>			
Transfer to Infrastructure Renovation and Replacement Fund (Project 828400-Golf Buildings Renovations)	\$661,979	\$113,121	\$775,100
<u>Reserves</u>			
Capital Projects Reserve	\$18,797,137	(\$113,121)	\$18,684,016

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. Make a finding of a California Environmental Quality Act (CEQA) categorical exemption pursuant to CEQA Guidelines Section 15301 for the maintenance or repair of existing facilities involving negligible or no expansion of use beyond which presently exists;
2. Award a contract in substantially the same form as Attachment 2 to the report in the amount of \$674,000 to CWS Construction Group, Inc. for Golf Buildings Renovations Project (PW17-31) at the Sunnyvale Golf Course and authorize the City Manager to execute the contract when all necessary conditions have been met;
3. Approve a 15% construction contingency in the amount of \$101,100;
4. Approve Budget Modification No. 6 in the amount of \$113,121 with funding from the Park Dedication Fund.
5. Approve Budget Modification No. 6 in the amount of \$113,121, with funding from the General Fund Budget Stabilization Reserve
6. Approve Budget Modification No. 6 by defunding another Park Dedication Fund project to provide sufficient funds for the project award.

STAFF RECOMMENDATION

Alternatives 1, 2, 3, and 4: 1) Make a finding of a California Environmental Quality Act (CEQA) categorical exemption pursuant to CEQA Guidelines Section 15301 for the maintenance or repair of existing facilities involving negligible or no expansion of use beyond which presently exists; 2) award a contract in substantially the same form as Attachment 2 to the report in the amount of \$674,000 to CWS Construction Group, Inc. for Golf Buildings Renovations Project (PW17-31) at the Sunnyvale Golf Course and authorize the City Manager to execute the contract when all necessary conditions have been met; 3) approve a 15% construction contingency in the amount of \$101,100; and 4) approve Budget Modification No. 6 in the amount of \$113,121 with funding from the Park Dedication Fund.

Prepared by: Gregory Card, 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

ATTACHMENTS

1. Bid Summary
2. Draft General Construction Contract

Bid Summary

Invitation for Bids No. PW17-31
Golf Buildings Renovations
Project No. PR-14/05-15

<i>Bidder</i>		<i>CWS Construction Group, Inc.</i>			
<i>Address</i>		<i>94 San Benito Way</i>			
<i>Contact</i>		<i>Novato, CA 94945</i>			
		<i>Charles W. Slack</i>			
No.	Bid Item	UOM	QTY	Unit Price	Extended Price
1	Mobilization (Shall Not Exceed 5% of Total Base Bid)	LS	1	\$ 30,000.00	\$ 30,000.00
2	Renovation of Restrooms	LS	1	\$ 419,000.00	\$ 419,000.00
3	Reconfiguration of Site Ramp	LS	1	\$ 225,000.00	\$ 225,000.00
Total Base Bid Amount					\$ 674,000.00
		Surety:	10% Bid Bond		
		License:	A, B		
		Subs:	DC Tile:	Tile	
			Del Pino Const.:	Site Work/Concrete	
			Murphy Specialties, Inc.:	Specialties	
			Concrete Resurfacing systems:	Epoxy	
			Coastwide Enviro.:	Demo/Abatement	
			KBI Painting, Inc.	Painting	
			Pacific Power & Systems, Inc.	Electric	
			BC Plumbing Company	Plumbing	

DRAFT GENERAL CONSTRUCTION CONTRACT

THIS CONTRACT dated _____ is by and between the CITY OF SUNNYVALE, a municipal corporation of the State of California ("Owner") and CWS CONSTRUCTION GROUP, INC., a California Corporation ("Contractor").

RECITALS:

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

1. The Contract Documents. The complete Contract consists of the following documents: Notice Inviting Bids; Instructions to Bidders; Performance Bond and Payment Bond; Guaranty; City of Sunnyvale Standard Specifications for Public Works Construction, 2006 Edition; City of Sunnyvale Standard Details for Public Works Construction, 2006 Edition; Plans and Specifications, "Golf Buildings Renovations, Project No. PR-14/05-15, Invitation for Bids No. PW17-31", including one (1); OSHA, and other standards and codes as outlined in the Specifications. These documents are all incorporated by reference. The documents comprising the complete contract are collectively referred to as the Contract Documents.

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

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

2. The Work. Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, transportation, and material necessary to perform and complete the project in a good and workmanlike manner. The work consist(s) of renovation and modernization of the downstairs restrooms at the Sunnyvale Golf Course building, including ADA upgrades to the accessibility ramp to the second floor, as called for, and in the manner designated in, and in strict conformity with, the Plans and Specifications prepared by IBI Group and adopted by the Owner. These Plans and Specifications are entitled respectively, Golf Buildings Renovations, Project No. PR-14/05-15.

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

3. Contract Price. The Owner agrees to pay and the Contractor agrees to accept, in full payment for the work above agreed to be done, the sum of SIX HUNDRED SEVENTY-FOUR THOUSAND AND NO/100 DOLLARS (\$674,000) subject to final determination of the work performed and materials furnished at unit prices per "Exhibit A" attached hereto and incorporated by this reference, and subject to additions and deductions in accordance, as provided in the Documents and in accordance with Contract Documents. The sum includes base bid and accepted Additive Alternate(s) No. Number(s). All other Additive Alternate(s) are rejected by Owner, and are not included in this contract.

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

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

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

7. Time for Completion. All work under this contract shall be completed before the expiration seventy (70) working days from the date specified in the Notice to Proceed.

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

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

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

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

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

11. Notice and Service Thereof. All notices required pursuant to this Contract shall be communicated in writing, and shall be delivered in person, by commercial courier or by first class or priority mail delivered by the United States Postal Service. 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. All notices sent pursuant to this Contract shall be addressed as follows:

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

Contractor: CWS Construction Group, Inc.
Attn: Charles W. Slack, President
94 San Benito Way
Novato, CA 94945

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

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

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

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

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

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

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

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

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

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

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

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

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

records, such contractor or subcontractor shall forfeit one hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated, in accordance with Labor Code Section 1776(h).

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

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

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

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

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

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

21. Liquidated Damages. Time shall be the essence of this Contract. If Contractor fails to complete, within the time fixed for such completion, the entire work mentioned and described and contracted to be done and performed, Contractor shall become liable to Owner for liquidated damages in the sum of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00), for each and every calendar day during which work shall remain uncompleted beyond such time fixed for completion or any lawful extension thereof. The amount specified as liquidated damages is presumed to be the amount of damage sustained by Owner since it would be impracticable or extremely difficult to fix the actual damage; and the amount of liquidated damages may be deducted by Owner from moneys due Contractor hereunder, or its assigns and successors at the time of completion, and Contractor, or its assigns and successors at the time of completion, and its sureties shall be liable to Owner for any excess.

22. Governing Law, Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to conflict of law or choice of law principles. Proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara, and waive all venue objections.

23. Severability Clause. In case any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions which shall remain in full force and effect.

24. 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 by writing signed by all parties.

25. Execution and 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.

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

CITY OF SUNNYVALE
a Municipal Corporation, Owner

CWS Construction Group, Inc.
Contractor

License No. 811153

By _____ / /
City Manager Date

By _____
_____/ /
Title Date

Attest:
City Clerk

By _____
_____/ /
Title Date

By _____ / /
City Clerk Date

(SEAL)

APPROVED AS TO FORM:

_____/ /
City Attorney Date

EXHIBIT A

No.	Description	QTY	Unit	Unit Cost
1	Mobilization (Shall Not Exceed 5% of Total Base Bid)	1	LS	\$30,000
2	Renovation of Restrooms	1	LS	\$419,000
3	Reconfiguration of Site Ramp	1	LS	\$225,000

EXHIBIT B

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

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



City of Sunnyvale

Agenda Item

17-0843

Agenda Date: 9/26/2017

REPORT TO COUNCIL

SUBJECT

Reject Two Offers for the City-Owned Property Located at 1484 Kifer Road (Unilever) and Approve Budget Modification No. 12

BACKGROUND

On February 28, 2017, by resolution, Council declared for surplus the City-owned property at 1484 Kifer Road, commonly known as the Unilever Margarine Plant (RTC No. 17-0191). The Unilever site was gifted to the City without consideration in 1979 and has not been used for City services and there are no future plans for use in this capacity.

For several fiscal years, the City's 20-year Financial Plan included projected revenues from the sale of the Unilever property at various values based on estimates or appraisals of the property. The FY 2017/18 Budget includes the most recent appraisal value of \$17.6 million. It is important to note that as part of the funding discussions for the Civic Center Modernization Project, the Unilever property was included as a potential funding source for Civic Center improvements.

The Unilever site is also now part of the Lawrence Station Area Plan (LSAP). The LSAP allows industrial and research and development uses, up to 50% floor area ratio (FAR). In addition, the City Council has directed staff to evaluate additional opportunities for allowing residential development in the LSAP area; the Unilever site could be considered for residential or flexible mixed uses.

As a result of the surplus process, the City received two offers (ROEM Development and Fore Properties), and over the last few month's staff has been negotiating with the two developers. The City Council held two closed sessions, on July 25, 2017 and August 22, 2017, to review the offers and provide direction to staff.

EXISTING POLICY

Council Policy 1.2.7 Acquisition, Leasing and Disposition of City-Owned Real Property Section 3: Disposing of surplus property shall be done in a manner to maximize the benefit to the community and should be done whenever real estate market conditions are favorable to the City.

Section 3.D: The City may use any of the following methods or combination thereof to maximize the benefit to the community. Methods of disposition should be determined on a case-by-case basis and may include:

- Auction
- Negotiated Sale
- Exchange
- Lease

- Request for Proposal

Discounts will not be negotiated unless an extraordinary need or circumstance is recognized by the City Council prior to negotiation, setting forth the amount of the discount and the justification for it. The purpose of this requirement is to demonstrate to the community that the City is not making a gift of public assets.

Section 3.E: Costs associated with the disposition of property shall come from proceeds of the sale or charged to the fund which owns the property. Unless otherwise directed by the City Council, net proceeds from disposition of surplus property owned by the General Fund shall be placed into the General Fund Reserve for Capital Improvements. Proceeds from the sale of land or facilities originally purchased with monies from a specific fund shall be returned to that fund, except when a fund no longer exists, it will be at the direction of City Council.

Council Policy 7.1E Reserve Policies, Policy E.1.2: The sale of surplus property owned by the General Fund and any other one-time revenues shall be placed into a Reserve for Capital Improvement Projects to be used for capital improvement or expansion.

ENVIRONMENTAL REVIEW

Declaring City-owned real property as surplus property for sale 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. Any future development shall be subject to the CEQA requirements.

DISCUSSION

As part of the surplus process, the City is required to offer the property to affordable housing developers and other governmental agencies. City Housing staff was contacted by several affordable housing agencies, but after hearing that the property was not zoned residential, and after mapping the property to screen for 9% tax credit scoring, no offers were submitted by those agencies. ROEM and Fore were the only two written offers received. They both proposed residential developments and neither of those agencies contacted Housing staff before submitting their offers. Since both offers were for residential development, staff procured a new appraisal evaluating the site for residential use. The residential appraisal valued the property at \$27.0 million, assuming 45 dwelling units per acre (DU/AC), compared to \$17.4 million for industrial uses.

Negotiations

Staff negotiated with both developers during the 90-day negotiation period required by state law and communicated and received direction from Council as part of two closed sessions. The developers modified their offers several times during the negotiation process. A summary of the latest offers considered by Council is included as Attachment 1, and copies of the most recent Letters of Intent (LOI) are included as Attachment 2. The key areas of concern associated with the offers are:

- The value of the property - While an updated appraisal has been completed, it is difficult to fully know the value with only two proposals. The property is currently zoned Industrial, which staff assumed dissuaded additional affordable residential developers from submitting offers.
- Contingencies - Both proposals require that the rezoning from industrial to residential and entitlement process are completed prior to closing escrow. Staff estimates that will take 2-3

years.

- Is this an appropriate location for residential - the Council recently funded a study to determine if there are additional locations within LSAP that should be considered for residential. It is estimated this study will require approximately two years.

Based on these outstanding questions, staff has concerns with accepting either proposal. From a value perspective, only one option exceeded the \$27.0 million appraised value (Fore at 27.5 million); however, that offer proposes 87 DU/AC. Based on an evaluation of the appraisal, staff believes the value of the property at that density would be closer to \$31 million. The residential rezoning and entitlements will require 2-3 years, and the offers would be at City risk until the process is completed (and if successful). Lastly, if there is an interest for affordable or market rate housing, it might be more appropriate to complete the rezoning first, which would raise the interest of other residential developers. It is important to note that under the Surplus Lands Act, if the City ultimately decides to sell the property for residential uses, a minimum 15% affordable component will be required.

Near Term Sale

If the current offers are rejected, and as the City has complied with the Surplus Lands Act, the City has the option to market the property in the open market. The City could simply sell the property with the current zoning, which is estimated to take approximately six month or consider other options discussed below.

Options

The City has several options on how to proceed. If residential is to be considered, the City could allow the current LSAP process to proceed to determine how the property fits within the overall residential plan. This approach could provide some direction as it relates to the best density and possible amenities required, such as parks. The City could also do a separate rezoning outside of the LSAP process. Lastly, the City could market the property with its current industrial zoning. Marketing the property as industrial, in parallel to the LSAP process, would allow the City to understand the current value of the property while allowing the residential analysis to continue. If the City is not satisfied with any of the offers as an industrial use, all offers could be rejected, and the LSAP process to consider residential uses could be completed before marketing the property.

Real Estate Services

As part of the sale for Onizuka, the City released an RFP for services related to the sale of City property. Cushman & Wakefield from San Jose, CA was selected based on their expertise and successful track record in the Silicon Valley real estate market. Staff proposes to use them for this sale if the Council selects that alternative.

A draft scope of work was submitted by Cushman & Wakefield (Attachment 3) for the sale of the Unilever property. Staff is finalizing the scope of work and anticipates that the cost will be below \$70,000 plus a 10% contract contingency. Since the scope of work is not final, and could still change in the next few weeks, staff is requesting approval of Budget Modification No 12 in the amount of \$80,000 to assure sufficient funding for the agreement.

FISCAL IMPACT

Proceeds for the sale of the property were assumed in the FY 2017/18 Adopted Budget and allocated to the Capital Improvement Projects Reserve. Project 832560 - Sale of City Property - 1484 Kifer

Road (Unilever) currently has funding of \$15,000 allocated to fund an updated appraisal, Phase I Environmental Assessment, and other required tests and reports. The appropriation of an additional \$80,000 is recommended from the Capital Projects Improvement Reserve to fund the real estate broker services agreement recommended in this report.

**Budget Modification No. 12
FY 2017/18**

	Current	Increase/ (Decrease)	Revised
General Fund			
<u>Reserves</u>			
Capital Improvement Projects Reserve	\$41,039,649	(\$80,000)	\$40,959,649
<u>Expenditures</u>			
Project 832560 - Sale of City Property - 1484 Kifer Road (Unilever)	\$15,000	\$80,000	\$95,000

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. Reject the offers from Fore Property Company and ROEM Development.
2. Accept the offer from Fore Property Company.
3. Accept the offer from ROEM Development.
4. Direct staff to start a rezoning process for residential uses for the properties.
5. Approve Budget Modification No. 12 in the amount of \$80,000

STAFF RECOMMENDATION

Alternative 1 and 5: 1) Reject the offers from Fore Property Company and ROEM Development; 5) Approve Budget Modification No. 12 in the amount of \$80,000.

The LSAP process to consider additional residential is currently underway. Marketing the property now with the existing Industrial zoning will allow the Council to fully understand its current value and determine if a near-term sale would be more appropriate than delaying the sale for 2-3 years until the rezoning is complete.

Prepared by: Sherine Nafie, City Property Administrator
 Reviewed by: Manuel Pineda, Director, Public Works
 Reviewed by: Kent Steffens, Assistant City Manager
 Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Summary of the Latest Offers
2. Letters of Intent
3. Draft Scope of Work by Cushman & Wakefield

ATTACHMENT 1**Summary of Offers****Fore Property Company**

	Project	Number of units	Affordable units	Market Units	Contingencies	Purchase Price
Option #1	2 communities in 2 phases	320 -350 Total units (+/-68-74 Dwelling Units per Acre)	100 +/- units for seniors	225-250 market-rate units	Completion of entitlements and completion of all building permits. Buyer shall have 24 months from the expiration of due diligence period to complete all entitlements.	\$13 Million
Option #2	Mixed income community	415 Total Units (~87 units per acre)	62 affordable units, all-age project	353 market-rate units	Completion of entitlements and completion of all building permits. Buyer shall have 24 months from the expiration of due diligence period to complete all entitlements.	\$27.5 Million

ROEM Development

	Project	Number of units	Affordable units	Market Units	Contingencies	Purchase Price
Option #1	2 communities on 2 lots phased Phase 1: market Phase 2: affordable	320 +/- Total units (+/-67 Dwelling Units per Acre)	100 +/- units senior affordable	220 +/- market-rate units	Buyer being successful in re-zoning the property to Very High Density Residential	\$27 Million at the close of escrow \$10 Million City subsidy for affordable housing
Option #2	same	same	same	same	same	\$15 Million at Close of Escrow No City subsidy (assumes prevailing wages are not required for construction)



Fore Property Company

Los Gatos

20 S. Santa Cruz Avenue, #300
Los Gatos, California 95030
(408) 203-1892 Telephone

August 11, 2017

Mr. Manuel Pineda, Director of Public Works
City of Sunnyvale
456 West Olive Avenue
Sunnyvale, CA 94086

Re: Letter of Intent to Purchase Approximately 4.76+/- Acres of Land located at 1484 Kifer Road, Sunnyvale, CA 94086 – OPTION #1.

Dear Mr. Pineda:

This Letter of Intent (“**LOI**”) is intended to be a commitment to negotiate in good faith and in a timely manner, in order to enter into a formal Purchase and Sale Agreement (“**Agreement**”) between Fore Green Development, LLC (“**Buyer**”) and City of Sunnyvale/TBD (**collectively, “Seller”**) that would incorporate the general terms and conditions set forth below:

This letter consists of two sections, one of which is non-binding on the parties, the other of which is binding on the parties.

A. **Non-Binding Understandings**: Some of the major deal points that the Buyer would like the Seller to consider in seeking to continue to an Agreement for the property are:

Subject Property: That certain real property, all rights, entitlements, privileges, architectural, and engineering plans and specifications, environmental tests and reports, studies, market and financial analysis, accounting for costs incurred and spent to date including city fees previously paid, credits, and covenants appurtenant thereto, and all improvements located thereon, located in the City of Sunnyvale, County of Santa Clara, State of California, commonly known as 1484 Kifer Road – APN Number: 216-27-023 consisting of 4.76+/- net acres (to be determined by building design / city approvals) of land (“**Property**”).

Purchase and Sale Agreement: Within fifteen (15) business days after mutual execution of this LOI, Buyer shall deliver to Seller a draft of the Agreement. Within twenty-five (25) business days after the date of execution of this LOI, Buyer and Seller shall enter into the Agreement consistent with the terms of this LOI.

Seller and Buyer acknowledge that this portion of this Letter of Intent is not a contract, but is intended to be the basis for the preparation of a contract. The Purchase and Sale Agreement shall be subject to the Seller’s and Buyer’s

approvals, and only a fully executed Purchase and Sale Agreement shall constitute a binding obligation regarding the Property in accordance with its terms.

Purchase Price: The purchase price for the Property shall be **Thirteen Million Dollars (\$13,000,000)** to be paid in cash at the close of escrow.

Please keep in mind, this allows for not only the ability for the City to receive funds for the land, but it also allows for the development of 100+/- senior affordable units *without* the need for additional subsidy required from the City, County, or Housing Authority. FORE's commitment to self-fund the affordable component results in approximately **Nine Million Dollars (\$9,000,000)** of subsidy from FORE to complete the construction of the affordable housing community. In total, the offer represents **Twenty-Two Million Dollars (\$22,000,000)**, thirteen million paid for the land and nine million contributed to the affordable housing community that is the full responsibility of FORE to entitle, finance, build, lease and manage long term.

Entitlements: Buyer will be financially responsible to the City of Sunnyvale for all costs associated with obtaining entitlement approvals to develop and construct the Buyer's proposed for rent apartment community of no less than 225-250 market rate residential units and a standalone affordable senior community of 100+/- units. Buyer and Seller to coordinate and collaborate on the planning and development approval process for the Property. Seller is delivering to Buyer a vacant property free and clear of any existing leases.

Initial Deposit: Within five (5) business days after the mutual execution of the Agreement, an earnest money deposit of **Two Hundred Fifty Thousand Dollars (\$250,000)** shall be deposited in an interest-bearing escrow account with a title company of Buyer's choice. The Initial Deposit will be applicable to the Purchase Price and will be refundable until the expiration of the Due Diligence Period ("**Due Diligence Period**").

Due Diligence Period: Buyer shall have **Ninety (90)** days from the mutual execution of the Agreement to conduct an investigation and evaluation of the Property's suitability for purchase. Such activities shall include, but not be limited to the following:

- Buyer may undertake at its own expense any and all inspections and investigations of the Property and may, from time to time, enter the Property for the purposes of such inspection, survey, tests, design of improvements and other actions reasonably related to its investigations. This shall include, but not be limited to soil, seismic, wetlands reports, and environmental inspections.

- Buyer may contact government officials including local, state and federal agencies as applicable to ascertain information about the site. Buyer may also initiate land use actions related to its desired Development during this period. The Seller shall reasonably cooperate to facilitate Buyer's Development.

If, on or before expiration of the Due Diligence Period, Buyer decides, for any reason or for no reason that it does not want to undertake its purchase of the Property, Buyer shall have the right to terminate the Agreement upon notice to Seller and receive a return of its Initial Deposit (less \$100 as independent consideration for Seller's granting of the option)

Second Deposit: If, prior to the end of the Due Diligence Period, Buyer does not provide written notice to Seller to terminate the Agreement, Buyer will deposit into escrow an additional **Two Hundred Fifty Thousand Dollars (\$250,000)**. The Additional Deposit will be applicable to the Purchase Price and becomes non-refundable upon expiration of the Due Diligence Period; except in the event of Seller Default, unsuccessful Zoning change, or as otherwise expressed within the Agreement.

Third Deposit: Within five (5) business days of the written receipt of all discretionary approvals from the Planning Commission and City Council (including any and all appeal periods), the Buyer will deposit into escrow a Third Deposit of **One Hundred Thousand Dollars (\$100,000)**. The Third Deposit will be applicable to the Purchase Price and is immediately non-refundable; except in the event of Seller Default or as otherwise expressed within the Agreement.

Entitlement Period: Buyer shall have until the completion of the **Twenty-Fourth Month (24th) from the Expiration of the Due Diligence Period** to complete any and all entitlement approvals for the development and construction of Buyers proposed development of no less than 225-250 market rate residential units and a standalone affordable community of 100+/- units. If the Buyer is unsuccessful in obtaining all discretionary entitlements for Buyer's proposed development within the Entitlement Period, all deposits outlined above are immediately refunded to Buyer and the Contract will be terminated; unless Buyer and Seller mutually agree to revise the terms of the contract. Such entitlement/approvals shall include, but not be limited to the following:

- Conditional Use Permits, Special Use Permits, Special Exceptions and/or Variances, Zoning, PD, etc.;
- Preliminary and final site plan approval, satisfaction of bonding requirements, and any other required permits by the City/County/etc. for Buyer's proposed development.

- Building and site/grading permits to start construction of Buyer's proposed development for the standalone affordable community (given the closing requirements and timelines required from CDLAC/TCAC after a successful allocation of Low Income Housing Tax Credits)

Closing: Closing shall occur within ninety (90) days of receipt of CDLAC and TCAC successful allocation of Low Income Housing Tax Credits for Buyer's proposed development.

*Buyer shall have the right to extend the Closing Date for two (2) separate periods of 30 days upon depositing with the Title Company **Fifty Thousand Dollars (\$50,000)**; all such amounts shall be applicable to the purchase price and non-refundable to Buyer, except for Seller Default.*

Closing Costs Buyer and Seller shall each pay their own closing costs as is customary in Santa Clara County, California for a commercial unimproved property transaction. Seller shall pay the real property transfer taxes.

Brokerage: Both Buyer and Seller acknowledge that the Buyer's broker is James Viso, with Kidder Mathews. Buyer shall be responsible for any and all real estate commissions due in coordination with this transaction, per separate agreement. Seller is not responsible for any brokerage commissions regarding this transaction. Buyer and Seller shall indemnify and hold each other harmless against any claims arising from outside parties related to this transaction.

Expiration: This LOI expires on October 27th, 2017.

We look forward to discussing this transaction with you and hope that we can find mutually acceptable terms allowing us to move forward with a definitive agreement. Fore Green Development, LLC (Fore Property Company) is committed to closing on transactions. Most importantly, our development team ensures that you will have a credible and reliable buyer that has the financial wherewithal, expertise and commitment to get this transaction closed within the prescribed time frames. Please feel free to contact me via phone at (408) 203-1892 or email at mpilarczyk@foreproperty.com to discuss our offer.

Sincerely,



Mark Pilarczyk, Vice President of Development and Regional Partner
Fore Property Company
Fore Green Development, LLC

AGREED & ACCEPTED THIS _____ DAY OF _____, 2017:

Seller: _____

Date: _____



Fore Property Company

Los Gatos

20 S. Santa Cruz Avenue, #300
Los Gatos, California 95030
(408) 203-1892 Telephone

August 11, 2017

Mr. Manuel Pineda, Director of Public Works
City of Sunnyvale
456 West Olive Avenue
Sunnyvale, CA 94086

Re: Letter of Intent to Purchase Approximately 4.76+/- Acres of Land located at 1484 Kifer Road, Sunnyvale, CA 94086 – OPTION #2.

Dear Mr. Pineda:

This Letter of Intent (“**LOI**”) is intended to be a commitment to negotiate in good faith and in a timely manner, in order to enter into a formal Purchase and Sale Agreement (“**Agreement**”) between Fore Green Development, LLC (“**Buyer**”) and City of Sunnyvale/TBD (**collectively, “Seller”**) that would incorporate the general terms and conditions set forth below:

This letter consists of two sections, one of which is non-binding on the parties, the other of which is binding on the parties.

A. **Non-Binding Understandings**: Some of the major deal points that the Buyer would like the Seller to consider in seeking to continue to an Agreement for the property are:

Subject Property: That certain real property, all rights, entitlements, privileges, architectural, and engineering plans and specifications, environmental tests and reports, studies, market and financial analysis, accounting for costs incurred and spent to date including city fees previously paid, credits, and covenants appurtenant thereto, and all improvements located thereon, located in the City of Sunnyvale, County of Santa Clara, State of California, commonly known as 1484 Kifer Road – APN Number: 216-27-023 consisting of 4.76+/- net acres (to be determined by building design / city approvals) of land (“**Property**”).

Purchase and Sale Agreement: Within fifteen (15) business days after mutual execution of this LOI, Buyer shall deliver to Seller a draft of the Agreement. Within twenty-five (25) business days after the date of execution of this LOI, Buyer and Seller shall enter into the Agreement consistent with the terms of this LOI.

Seller and Buyer acknowledge that this portion of this Letter of Intent is not a contract, but is intended to be the basis for the preparation of a contract. The Purchase and Sale Agreement shall be subject to the Seller’s and Buyer’s

approvals, and only a fully executed Purchase and Sale Agreement shall constitute a binding obligation regarding the Property in accordance with its terms.

Purchase Price: The purchase price for the Property shall be **Twenty-Seven Million Five Hundred Thousand Dollars (\$27,500,000)** to be paid in cash at the close of escrow.

Entitlements: Buyer will be financially responsible to the City of Sunnyvale for all costs associated with obtaining entitlement approvals to develop and construct the Buyer's proposed for rent apartment community of no less than 415 residential units; which include 353 market rate units and 62 Below Market Rate ("BMR") units restricted to 50% AMI rent levels. Buyer and Seller to coordinate and collaborate on the planning and development approval process for the Property. Seller is delivering to Buyer a vacant property free and clear of any existing leases.

Initial Deposit: Within five (5) business days after the mutual execution of the Agreement, an earnest money deposit of **Two Hundred Fifty Thousand Dollars (\$250,000)** shall be deposited in an interest-bearing escrow account with a title company of Buyer's choice. The Initial Deposit will be applicable to the Purchase Price and will be refundable until the expiration of the Due Diligence Period ("**Due Diligence Period**").

Due Diligence Period: Buyer shall have **Ninety (90)** days from the mutual execution of the Agreement to conduct an investigation and evaluation of the Property's suitability for purchase. Such activities shall include, but not be limited to the following:

- Buyer may undertake at its own expense any and all inspections and investigations of the Property and may, from time to time, enter the Property for the purposes of such inspection, survey, tests, design of improvements and other actions reasonably related to its investigations. This shall include, but not be limited to soil, seismic, wetlands reports, and environmental inspections.
- Buyer may contact government officials including local, state and federal agencies as applicable to ascertain information about the site. Buyer may also initiate land use actions related to its desired Development during this period. The Seller shall reasonably cooperate to facilitate Buyer's Development.

If, on or before expiration of the Due Diligence Period, Buyer decides, for any reason or for no reason that it does not want to undertake its purchase of the Property, Buyer shall have the right to terminate the Agreement upon notice to

Seller and receive a return of its Initial Deposit (less \$100 as independent consideration for Seller's granting of the option)

Second Deposit: If, prior to the end of the Due Diligence Period, Buyer does not provide written notice to Seller to terminate the Agreement, Buyer will deposit into escrow an additional **Two Hundred Fifty Thousand Dollars (\$250,000)**. The Additional Deposit will be applicable to the Purchase Price and becomes non-refundable upon expiration of the Due Diligence Period; except in the event of Seller Default, unsuccessful zoning change, or as otherwise expressed within the Agreement.

Entitlement Period: Buyer shall have until the completion of the **Twenty-Fourth Month (24th) from the Expiration of the Due Diligence Period** to complete any and all entitlement approvals for the development and construction of Buyers proposed development of no less than 415 residential units consisting of 353 market rate units and 62 Below Market Rate ("BMR") units restricted to 50% AMI rent levels. If the Buyer is unsuccessful in obtaining all discretionary entitlements for Buyer's proposed development within the Entitlement Period, all deposits outlined above are immediately refunded to Buyer and the Contract will be terminated; unless Buyer and Seller mutually agree to revise the terms of the contract. Such entitlement/approvals shall include, but not be limited to the following:

- Conditional Use Permits, Special Use Permits, Special Exceptions and/or Variances, Zoning, PD, etc.;
- Preliminary and final site plan approval, satisfaction of bonding requirements, and any other required permits by the City/County/etc. for Buyer's proposed development.

Closing: Closing shall occur within forty (40) days of written receipt of all discretionary approvals for the Buyer's proposed development (including any and all appeal periods and approval by Buyer of the Conditions of Approval outlined by the Planning Commission and/or City Council for the proposed development).

*Buyer shall have the right to extend the Closing Date for two (2) separate periods of 30 days upon depositing with the Title Company **Fifty Thousand Dollars (\$50,000)**; all such amounts shall be applicable to the purchase price and non-refundable to Buyer, except for Seller Default.*

Closing Costs Buyer and Seller shall each pay their own closing costs as is customary in Santa Clara County, California for a commercial unimproved property transaction. Seller shall pay the real property transfer taxes.

Brokerage: Both Buyer and Seller acknowledge that the Buyer's broker is James Viso, with Kidder Mathews. Buyer shall be responsible for any and all real estate commissions due in coordination with this transaction, per separate agreement. Seller is not responsible for any brokerage commissions regarding this transaction. Buyer and Seller shall indemnify and hold each other harmless against any claims arising from outside parties related to this transaction.

Expiration: This LOI expires on October 27th, 2017.

We look forward to discussing this transaction with you and hope that we can find mutually acceptable terms allowing us to move forward with a definitive agreement. Fore Green Development, LLC (Fore Property Company) is committed to closing on transactions. Most importantly, our development team ensures that you will have a credible and reliable buyer that has the financial wherewithal, expertise and commitment to get this transaction closed within the prescribed time frames. Please feel free to contact me via phone at (408) 203-1892 or email at mpilarczyk@foreproperty.com to discuss our offer.

Sincerely,



Mark Pilarczyk, Vice President of Development and Regional Partner
Fore Property Company
Fore Green Development, LLC

AGREED & ACCEPTED THIS _____ DAY OF _____, 2017:

Seller: _____

Date: _____

August 10, 2017

Manuel Pineda
City of Sunnyvale – Department of Public Works
c/o Shaun Enferadi
Kidder Mathews
10 Almaden Boulevard, Suite 550
San Jose, CA 95113

RE: Letter of Intent for the Purchase of approximately 4.74 acres located at 1484 Kifer Road in Sunnyvale, CA

Mr. Pineda,

This Letter of Intent (“**LOI**”) is intended to be a commitment to negotiate in good faith and in a timely manner, in order to enter into a formal purchase and sale agreement (“**Agreement**”) with ROEM Development Corporation (“**Buyer**”) and the City of Sunnyvale (“**Seller**”) that would incorporate the general terms and conditions set forth below:

1. **Property:** That certain real property, all rights, all buildings and improvements located thereon located at 1484 Kifer Road in the City of Sunnyvale, State of California, commonly known as APN No. 216-27-023 (“**Property**”).

2. **Project Description and Purchase Price Options:** ROEM is proposing to build two communities on the Property totaling +/- 320 units. The first community would be a +/- 100-unit senior affordable project structured using 4% non-competitive tax credits. The affordable project will target 90% of the units to be rent restricted at 60% AMI, with the remaining 10% at 50% AMI.

The second community would be a +/- 220-unit market-rate project consisting of one- and two-bedroom units.

The projects will be separate projects on separate lots and will be phased, with phase 1 being the market-rate project, and phase 2 being the affordable project. Depending on the City’s preference of a higher purchase price and available subsidy, ROEM is proposing the following two options to purchase the Property:

- **Option 1:** The purchase price for this option shall be **Twenty-Seven Million Dollars (\$27,000,000)**, to be paid in cash at the close of escrow. Under this scenario, ROEM would request subsidy from the City, which would require the use of prevailing wages. Due to the prevailing wage requirement, the amount of subsidy requested would be over \$10 million dollars. **The offer for this option is being made assuming the use of prevailing wages will only be required for the affordable community, as it will be the project receiving the subsidy.**
- **Option 2:** The purchase price for the second option shall be **Fifteen Million Dollars (\$15,000,000)** to be paid in cash at the close of escrow. Under this scenario, the market rate community will-self fund the affordable community, and ROEM would not request subsidy

from the City. The offer for this option is being made assuming the use of prevailing wages will not be required.

3. **Purchase & Sale Agreement:** Within ten (10) business days after mutual execution of this LOI, Buyer shall deliver to Seller a draft of the Agreement, and within twenty (20) business days after the delivery the parties shall enter into the Agreement for purchase and sale of the Property consistent with the terms of this LOI.
4. **Initial Deposit:** Upon execution of the Agreement, Buyer will open escrow at Chicago Title Company, San Jose ("Escrow"). The initial deposit shall be **Two Hundred and Fifty Thousand Dollars (\$250,000.00)** ("**Initial Deposit**"), which will be applicable to the purchase price and non-refundable to Buyer unless Due Diligence is not approved and/or if Buyer is unsuccessful in rezoning property to Very High-Density Residential. If Due Diligence is not approved and/or Buyer is unsuccessful in rezoning property to Very High-Density Residential, deposit shall be returned to Buyer.
5. **Due Diligence Period:** Buyer shall have ninety (90) days ("**Due Diligence Period**"), commencing on the date the Agreement is fully executed ("**Effective Date**"), to conduct such feasibility studies, planning studies, approval studies, environmental and geotechnical tests and inspections, meet and discuss the Property with the City, meet and discuss the Property with investors and lenders, as Buyer may require. Within the Due Diligence Period, Buyer shall determine, to its sole satisfaction, the feasibility of the Property for Buyer's Intended Use.

Additionally, Buyer shall, prior to the expiration of the Due Diligence Period, approve the conditions of title as evidenced in a preliminary title report to be issued by the title company and the current leases that are on the property. If, during the Due Diligence Period, Buyer determines, in its sole and absolute discretion, the Property is infeasible for Buyer's Intended Use, then Buyer shall notify the Seller of its intent to terminate the contract, in which event the Deposit, together with the accrued interest thereon, shall be returned to Buyer.
6. **First Additional Deposit(s):** If prior to the end of the Due Diligence Period, Buyer gives written notice to Seller of its waiver of the Due Diligence Period, Buyer will deposit an additional **Two Hundred and Fifty Thousand Dollars (\$250,000.00)** ("**First Additional Deposit**") into escrow. The First Additional Deposit will be applicable to the purchase price and non-refundable to Buyer unless Buyer is unsuccessful in rezoning Property to Very High-Density Residential. If Buyer is unsuccessful in rezoning property to Very High-Density Residential, all deposits shall be returned to Buyer.
7. **Second Additional Deposit:** Six (6) months from the expiration of the Due Diligence Period, Buyer shall deposit an additional **Two Hundred and Fifty Thousand Dollars (\$250,000)** ("**Second Additional Deposit**") into escrow. The Second Additional Deposit will be applicable to the purchase price and non-refundable to Buyer unless Buyer is unsuccessful in rezoning Property to Very High-Density Residential. If Buyer is unsuccessful in rezoning property to Very High-Density Residential, all deposits shall be returned to Buyer.
8. **Entitlements:** Buyer will direct and be financially responsible to the City of Sunnyvale for the entitlement approvals to develop and construct a multifamily community on the Property. Buyer and Seller to work closely together in the planning and development approval process of this site.
9. **Rezone:** ROEM understands the current zoning in place for the Property and recognizes a rezone would have to occur to allow for very high-density residential housing. Seller shall initiate and lead rezoning process. If Seller does not wish to lead the rezoning process, Buyer (with full support from Seller) shall initiate and lead rezoning process. Buyer shall be responsible for all costs associated with rezone under either of the above scenarios.

10. **Demolition of Existing Structure:** ROEM will be responsible for all demolition work and site improvements for the Property.
11. **Closing Date:** Close of escrow shall take place on the earlier of a) thirty (30) days following the completion of entitlements (including all appeal periods, if applicable) or b) twenty-four (24) months from the Effective Date. Purchaser shall have the right to extend the Closing Date for up to two (2) separate periods of six (6) months each upon depositing with the Title Company One Hundred Thousand Dollars (\$100,000) for each extension; all such amounts shall be applicable to the purchase price and non-refundable to Buyer unless Buyer is unsuccessful in rezoning property to Very High-Density Residential.
12. **City Fees:** Buyer acknowledges it has reviewed City fees and understands applicable fees are determined at the time of project application.
13. **Publicity:** Neither party will disclose any information concerning the proposed transaction without the prior written approval of the other party.
14. **Other Transactions; Authorization; Inconsistent Obligations:** Seller will not (and will not permit any person or entity which it controls to) seek or entertain, or negotiate any terms of, a transaction involving the Property with any party other than ROEM and its affiliates, or give any information concerning its business to any such party, or enter into any agreement inconsistent with this letter of intent or the proposed transaction with ROEM.
15. **Brokerage:** Buyer is represented by Shaun Enferadi, of Kidder Mathews, and will pay a brokerage commission, per a separate agreement.
16. **Expenses:** Each party will bear its own expenses relating to the proposed transactions, including without limitation the fees and expenses of its counsel, accountants and consultants, whether or not the transaction is consummated. All closing costs shall be paid as is customary in Santa Clara County.
17. **Counterparts:** This LOI may be executed in separate counterparts, the signature pages of which may be combined to form a single original document.
18. **Disclaimer:** This letter is not intended to be binding upon either party hereto, and only a fully definitive purchase and sale agreement shall legally bind the parties. The Purchase and Sale Agreement shall incorporate the provisions herein, and other such provisions as are customary contained in a purchase and sale agreement subject to the mutual review and approval of the parties hereto and their respective legal counsel.

(Signatures on Following Page)

Sincerely,



James Keith
ROEM Development Corporation
1650 Lafayette Street
Santa Clara, CA 95050
T 408.984.5600 x 55
C 916.838.3672
E jkeith@roemcorp.com

AGREED & ACCEPTED:

SELLER: City of Sunnyvale

By: _____

Its: _____

Date: _____

By: _____

Its: _____

Date: _____

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Exhibit "A"

1484 Kifer Road, Sunnyvale - Scope of Work
Cushman & Wakefield Consulting/Brokerage Services
(Steve Horton, Drew Arvay and Kelly Yoder):

This proposal to assist the City of Sunnyvale in analyzing the subject property, developing a strategy to maximize value and to ultimately implement a controlled process for the disposition of this City asset

- **Meetings and Presentations to Staff:**

We are estimating 6 meetings of 1 hour each;

4 Meetings with 2 members of the Team (\$380 x 2 = \$760):

\$760 x 4 mtgs = \$3,040

2 Meetings with 1 member of the Team (\$380 x 1 = \$380):

\$380 x 2 mtgs = \$ 760

- **Pricing Analysis; Residential vs Office:**

5 hours @\$380 = \$1,900, plus Research- 3 hours @ \$100 per hour = \$300;

= \$2,200

Identification of Most Active Residential Buyers:

2 Hours for Team (2 x \$380), 2 Hours Research Staff (2 x \$100)

= \$ 960

- **Develop Strategies and Coordination of Public Sale of Property:**

Due to the possibility of two-tiered strategy and coordination (one on an as-is zoning and an alternative enhanced density strategy – including extended timeframe for higher density offering):

Instructions/Bidding Protocol – Recommendations 8 hours (8 x \$380)

= \$3,040

Instructions/Bidding Protocol – Instructions 10 hours (10 x \$380)

= \$3,800

Create bid Pre-qualification documents (document creation including legal review est 8 hours at \$380, plus 4 hrs of admin support at \$60 per hour

= \$3,280

- **Promotional Campaign to Reach Potential Buyers:**

Creation of Mailing List: Consultants- 6 hours @ \$380 per hour,

= \$2,280

Research- 8 hours @ \$100 per hour

= \$ 800

Admin- 8 hours @ \$60 per hour

= \$ 480

Placing Advertising in Real Estate Listings and Services:

Consultants- 3 hours @ \$380 per hour,

= \$1,140

(create advertisement) Art Department- 8 hours @ \$200 per hour

= \$1,600

Admin- 6 hours @ \$60 per hour

= \$ 360

Develop and Distribute Marketing Brochures and Flyers:

Consultants- 4 hours @ \$380 per hour,

= \$1,520

(create brochure) Art Department- 10 hours @ \$200 per hour

= \$2,000

- **Activities Associated with Real Estate Transactions:**

Performing Market Analysis: The market analysis includes multiple layers of data that effect value. Several of these factors are very quantitative and include comparable sales, interest rates, CAP rates and income analysis; while other aspects are more qualitative (i.e. market trends, active industries, community benefit, use, density, signage,

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corporate neighborhood). The gathering of these multiple aspects and applying them to the assignment of 4.76 acres, will demand 8 hours of Consultants time @ \$380 per hour = \$3,040
and 8 hours of administrative time @ \$60 per hour. = \$ 480

Touring Interested Buyers: Assuming 12 serious bidders on tours that will take 1 hour each (including market overview tour of Kifer region); 12 hours @ \$380 = \$4,560

Tracking Inquiries/Prospects Related to Sale: Tracking inquiries will only require one Consultant for a period of approximately 4 hours @ \$380 per hour. = \$1,520
Administrators will dedicate approximately 6 hours toward documentation @ \$60 per hour. = \$ 360

- **Conduct Bidding Session:**

Assisting City in Evaluating Bids and Ranking Proposals: This process would include the creation of a weighted priority matrix, which would include the most relevant aspects of the bid process, including: price, timing, track record, probability of close, use, density, impacts, community benefit, height, parking, etc. A separate matrix would be prepared for each of the proposed bidders. Consultant would work with the City to evaluate and identify the best and most logical buyers. It is unclear how many qualified bidders may emerge as part of this evaluation and ranking process. We estimate this to be 8-hours each for both primary Consultants @ \$380 per hour or 16 hours. = \$6,080

Working with City to Negotiate Terms with Bidders: The negotiation of terms with bidders will be handled by the two primary Consultants. We would divide this list and dedicate 6 to 8 hours toward negotiating final terms (this is of course dependent upon number of finalists). Estimated total hours – 12 @ \$380 per hour. = \$4,560

Note: to the extent that the negotiation of terms can be a cost that is transferred to the Buyer as part of a traditional brokerage fee that is the responsibility of the Buyer, the Consultant will not charge the City for those negotiations.

- **Coordinating Transaction Closings:** Once the property is put into escrow with the chosen bidder, the majority of the time required is tracking due diligence progress and coordinating Contract thresholds and deadlines (like increased security deposit and waiving contingencies). These duties are the responsibility of the Consultants and would encompass 8 hours of dedicated time by both of the primary Consultants throughout the escrow period, therefore 6 x 2 = 12 hours @ \$380 per hour = \$4,560

- **City Lead Actions:**

- **City Drafted Amendments** (Consultant has set aside between 3 and 10 hours to provide input to city on critical elements and provisions to Drafted Documents – the maximum of 10 hrs @ \$380 per Hr = \$3,800) = \$3,800
- **Council Meetings:** (Consultant has anticipated 3 City Council meeting may be necessary through the process, Consultant also understands that they may be called upon to speak or testify at city council meetings. Note – City Council

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meeting can run very long, it is not consultants desire to run up the cost for hours spent attending council sessions on matters that do not pertain to the agenda item related to the subject 4.76 acres on 1484 Kifer; Consultant requests the Cities guidance in estimating when the subject agenda item will most likely occur, so we can limit the hourly charge to productive time. In addition we would suggest at this time that no more than two consultant members are necessary to attend City council meetings and one consultant is likely adequate for certain sessions. We (with the Cities help) would hope to limit the time at city council session to 3 hours each session (if less, we will only charge for actual time), due to the nature of public hearings, this Consultant has allotted up to 10 hours of City Council sessions (we will only charge for actual time spent in session). Therefore, if handled by two Consultant for 10 hrs at 3 separate City Council Public Hearings at a cost of \$380 per hr would be \$7,600, = \$ 7,600

Public or Community Meetings and Presentations – estimated at 6 hours = \$ 2,280

- **Mailings to Public:** No assistance or time is anticipated to be necessary to assist the City with Mailing to the Public.

The Total of Above Costs = \$66,100

Exclusive Right to Sell. City appoints C&W as its sole agent and grants C&W the exclusive right to market and sell the Property at a sale price to be determined by City and on such other terms as are acceptable to City. The term of this exclusive authorization (the "Term") shall commence on October 1, 2017 and shall expire on March 31, 2018. City authorizes C&W to advertise the Property subject to City's approval of any advertisements. All advertising will identify C&W as City's exclusive agent for the Property. During the Term, City will refer to C&W all inquiries and offers received by City with respect to the Property, regardless of the source of such inquiries or offers.

City acknowledges and agrees that C&W will request that any purchaser pay (pursuant to a separate written agreement by and between C&W and such purchaser), in addition to the sales price and any commissions which may be owed to the purchaser's real estate broker, if any, a commission to C&W for its representation of City in an amount no greater than two percent (2%) of the total sales price of the Property (the "C&W Commission"), which shall be paid through escrow. Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that under no circumstances shall the City be responsible for payment of any portion of the C&W Commission.

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- **Time and Manner of Payments:** C&W will, solely in its capacity as a real estate broker, provide the City with real estate brokerage consulting and advisory services listed in Exhibit "A" attached hereto (the "Consulting Services"), in order to assist City in preparing the Property for an eventual sale. C&W will charge City hourly fees (the "Consulting Fee") for the Consulting Services provided as outlined in Exhibit "A." The Consulting Fee shall be earned in arrears and shall be paid by the City thirty (30) days after invoice. Notwithstanding anything in this Agreement to the contrary, it is expressly understood that under no circumstances shall the City be responsible to pay C&W a Consulting Fee in an amount in excess of \$66,100.00 in the aggregate for the Consulting Services provided to City by C&W pursuant to this Agreement.
- **Rebate of City Fees:** If the C&W Commission is equal to or greater than one and one-half percent (1.5%) of the sales price (the "Minimum C&W Commission"), C&W agrees to rebate to City, through escrow, from the Minimum C&W Commission unconditionally received by C&W, the amount of any Consulting Fee paid to C&W by City. In the event that the Consulting Fee has not yet been paid at the time C&W unconditionally receives the Minimum C&W Commission, C&W agrees to waive the Consulting Fee. City and C&W acknowledge that City is not a licensed real estate broker. To the extent required by applicable law, City acknowledges that any such fee sharing arrangement must be disclosed to the other party in a transaction prior to the consummation of a transaction. It is expressly agreed and understood that City shall remain responsible to pay C&W a Consulting Fee per the terms of this Agreement in the event that C&W is not paid the Minimum C&W Commission. C&W shall not be required to pay City any sums exceeding the Minimum C&W Commission in the event the rebate due to City under this provision exceeds the Minimum C&W Commission.
- **Professional Advice.** C&W recommends that City obtain legal, tax or other professional advice relating to this Agreement and the proposed sale of the Property as well as the condition and/or legality of the Property, including, but not limited to, the Property's improvements, equipment, soil, tenancies, title, environmental aspects and compliance with the Americans with Disabilities Act. C&W will have no obligation to investigate any such matters unless expressly otherwise agreed to in writing by City and C&W. City further agrees that in determining the financial soundness of any prospective purchaser, City will rely solely upon City's own investigation and evaluation, notwithstanding C&W's assistance in gathering any financial information.
- **Outside Brokers.** If C&W recognizes an outside broker authorized to represent the purchaser in a transaction for the sale of the Property as contemplated hereunder, C&W will advise such broker that it must look to its own client for payment of any and all compensation which may become due it for the proposed transaction. It is acknowledged and agreed that C&W shall not be required to share the commission payable hereunder with any outside broker, and in no event whatsoever shall City be required to pay any commission to any outside broker.

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**NOTICE TO OWNERS, BUYERS AND TENANTS REGARDING
ENVIRONMENTAL MATTERS,
AMERICANS WITH DISABILITIES ACT AND RELATED LAWS,
FLOOD DISCLOSURE, ZONING/USE DISCLOSURE AND
ALQUIST-PRIOLO SPECIAL EARTHQUAKE FAULT ZONING ACT**

ENVIRONMENTAL MATTERS

It is essential that all parties to real estate transactions be aware of the health, liability and economic impact of environmental factors on real estate. Cushman & Wakefield does not conduct investigations or analyses of environmental matters and, accordingly, urges the parties to a real estate transaction to retain qualified environmental professionals to determine whether hazardous or toxic wastes or substances (such as asbestos, PCBs and other contaminants or petro-chemical products stored in underground tanks) or other undesirable materials or conditions are present at the property and, if so, whether any health danger or other liability exists. Such substances may have been used in the construction or operation of buildings or may be present as a result of previous activities at the property.

Various laws and regulations have been enacted at the federal, state and local levels dealing with the use, storage, handling, removal, transport and disposal of toxic or hazardous wastes and substances. Depending upon past, current and proposed uses of the property, it may be prudent to retain an environmental expert to conduct a site investigation and/or building inspection. If hazardous or toxic substances exist or are contemplated to be used at the property, special governmental approvals or permits may be required. In addition, the cost of removal and disposal of such materials may be substantial. Consequently, legal counsel and technical experts should be consulted where these substances are or may be present.

AMERICANS WITH DISABILITIES ACT AND RELATED LAWS

As an owner or tenant of real property, you may be subject to the Americans with Disabilities Act (the ADA), a Federal law codified at 42 USC Section 12101 et seq. Among other requirements of the ADA that could apply to your property, Title III of the ADA requires owners and tenants of "public accommodations" to remove barriers to access by disabled persons and provide auxiliary aids and services for hearing, vision or speech impaired persons by January 26, 1992. The regulations under Title III of the ADA are codified at 28 CFR Part 36.

We recommend that you and your attorney review the ADA and the regulations, and, if appropriate, your proposed lease or purchase agreement, to determine if this law would apply to you, and the nature of the requirements. These are legal issues. Cushman & Wakefield cannot give you legal advice on these issues.

Furthermore, all California commercial leases regardless of size executed on or after July 1, 2013 must contain a provision disclosing whether the premises have been inspected by a government-approved Certified Access Specialist (CAsp) and if so, whether the premises have been determined to be in compliance with all applicable construction-related disability accessibility standards. The law (California *Civil Code* §1938) does not require a landlord to conduct a CAsp inspection of the property; however, it

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does require that the landlord disclose whether or not an inspection has been completed and if so, whether the property meets the applicable accessibility standards.

FLOOD DISCLOSURE

If the premises is located in a Federally Designated Flood Zone, the Tenant's real and personal property situated on or in the premises is not protected by the hazard insurance policy for the property carried by the Landlord. The Tenant is responsible for investigating the Flood Zone status of the premises and obtaining insurance to cover the Tenant's property if it so desires.

ZONING/USE DISCLOSURE

Prior to executing a lease, the Tenant is responsible for determining that the zoning applicable to the property allows the Tenant to use the premises for the Tenant's intended use, and that all building codes, parking requirements, and other governmental requirements, improvements required, and permits necessary have been met or are available to Tenant. Cushman & Wakefield has made no representations, except in writing, if any, concerning the zoning and allowable use of the premises and any requirements that may be imposed upon the Tenant by any governmental agency. If the Tenant's use of the premises requires a Use Permit or other permits from a governmental authority it could take several months to obtain same, and Tenant may still be responsible for the payment of rent and other charges whether or not such permits are ultimately obtained.

ALQUIST-PRIOLO SPECIAL EARTHQUAKE FAULT ZONING ACT

The property may be situated in an Earthquake Fault Zone as designated under the Alquist-Priolo Earthquake Fault Zoning Act, Sections 2621-2630 inclusive, of the California *Public Resources Code*; and, as such the construction of development on the property of any structure for human occupancy may be subject to the findings of a geologic report prepared by a geologist registered with the State of California, unless such report is waived by the city or county under the terms of that Act. No representations on this subject are made by Cushman & Wakefield or its agents or employees, and the Tenant/Purchaser is advised to make its own inquiry into this situation prior to entering into a lease or sale agreement.

By your signature below, you acknowledge that you have read and understand this disclosure and have received a copy:

Received on _____, 20__

Signature: _____

Printed Name: _____



City of Sunnyvale

Agenda Item

17-0668

Agenda Date: 9/26/2017

REPORT TO COUNCIL

SUBJECT

Direction on Potential Charter Amendments to Revise Sections 604 (Filling Vacancies in Council Seats) and 606 (Designation of Vice Mayor) (Study Issue)

REPORT IN BRIEF

At the January 10, 2017, Annual Public Hearing for Discussion of Potential Council Study Issues, Councilmember Klein sponsored a study issue to “close the loophole in the City Charter regarding special elections” relating to Council vacancies. All Councilmembers co-sponsored the study issue. At the February 17, 2017, *Study Issues and Budget Issues Workshop*, the Council ranked Study Issue OCM 17-02 (Evaluate Proposing a Charter Amendment to Revise Section 604 regarding Filling Vacant Council Seats by Special Election) number 1 for the Office of the City Manager.

The scope of the Charter Amendment Study Issue was also expanded at the request of staff to include a correction of a technical defect in Charter Section 606 regarding the designation of a Vice Mayor. An amendment is needed to bring this Charter section into conformity with the recent change in general municipal elections from odd-numbered years to even-numbered years.

This report provides information regarding the charter amendment process and the options for the Council to determine proposed amendments to submit to the voters. The study of Charter section 604 evaluates the current requirements of the Charter regarding the filling of a Council vacancy and outlines possible options for revising that section to provide fiscally responsible alternatives for filling vacancies.

BACKGROUND

Sunnyvale City Charter Section 604 provides requirements for filling a vacancy in the City Council. When an unscheduled vacancy occurs on Council, the vacancy must be filled by holding a special election. Under very limited circumstances, the Council may fill an unexpired term by appointment. When the special election cannot be consolidated with a General Municipal Election, the City must conduct a “stand-alone” special election.

On April 4, 2016, a member of the City Council resigned prior to the end of his term. Due to the provisions of Charter Section 604, and the timing of the resignation, there was no other option for the Council than to call a special election to fill the vacancy for the unexpired term of approximately nine months. The special election was conducted as a “stand-alone” election on August 16, 2016, resulting in a partial term served of less than four months. The mandated special election in August had to be held on a date when no other city or regional elections were scheduled to be held, therefore, the City of Sunnyvale was responsible for the full cost of the election. Excluding internal administrative costs, the special election cost the City approximately \$800,000. A regular General Municipal Election would typically cost in the range of \$300,000 to \$400,000 in total, with the cost for

each Council seat ranging from \$33,040 to \$53,383 based on the two most recent General Municipal Elections.

EXISTING POLICY

Charter Section 604. Vacancies.

Except as otherwise provided herein, in the event of a vacancy in the City Council, from whatever cause arising, within thirty days of the commencement of any vacancy the City Council shall officially declare the seat vacant and call a Special Municipal Election for the purpose of filling such vacancy. In the event of a vacancy in the City Council created by the death or other involuntary removal of a member, pursuant to Article II, Section 4, of the Constitution of the State of California, where the unexpired term of the deceased or removed member does not exceed one hundred eighty days, the City Council shall, within sixty days after such office shall have been declared vacant, fill such vacancy by appointment. Should the Council fail to fill the vacancy within the sixty-day period, it shall treat such vacancy in the same manner as one created by a cause other than death or involuntary removal.

Any Special Municipal Election called to fill an unexpired term shall be held within one hundred and twenty days from the date the Council declares the vacancy to exist except that no election shall be held on the day before, day of, or day after a state holiday. The Council shall promptly declare or take the required steps to declare the existence of the vacancy. Such special election shall be consolidated with a general municipal or statewide election if a municipal or statewide election is scheduled within one hundred and eighty days from the date that the vacancy is declared. As used herein, the next general municipal or statewide election means the next such election at which it is legally possible to place the matter on the ballot and elect a successor.

Any person elected or appointed to fill a vacancy shall serve for the remainder of the unexpired term and until his/her successor is elected and qualified.

In addition to any other cause from which vacancies in the City Council may occur, the office of a member of the City Council shall become vacant and it shall be so declared by the Council where such member is absent from all regular meetings of the Council for a period of sixty days consecutively from and after that last regular Council meeting attended by such member, unless by permission of the Council expressed in its official minutes; or such member is convicted of a crime involving moral turpitude; or he/she ceases to be an elector of the City of Sunnyvale or ceases to maintain his/her principal place of residence within the City limits during his/her term of office.

Charter Section 606. Vice Mayor

At the first regular meeting in January, at which the City Council shall certify the election results, following each General Municipal Election, and the first regular meeting in January in odd-numbered years, the City Council shall also designate one of its members as Vice Mayor. The Vice Mayor shall perform the duties of the Mayor during his/her absence or disability.

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.

DISCUSSION

1. Brief History of Charter provisions and election history relating to Council Vacancies

Charter Amendments relating to Council Vacancies were approved by the voters and effective December 31, 1975, December 21, 1976, December 23, 1982, and January 17, 1992.

1968 City Charter: allowed appointment for an unexpired term, or by election if the Council failed to fill the vacancy by appointment within 30 days:

Section 703. Vacancies: "A vacancy in the City Council from whatever cause arising, shall be filled by appointment by the City Council and the person appointed shall hold office for the unexpired term of the former incumbent. In the event the City Council shall fail to fill a vacancy by appointment within thirty days after such office shall have been declared vacant, it shall forthwith cause an election to be held to fill such vacancy."

1975 voter-led initiative petition: This petition changed the vacancy process to require vacancies to be filled by election, except in the case of a death resulting in an unexpired term of six months or less:

"PROPOSITION D. Shall the Sunnyvale Charter be amended in the following ways: to limit Councilmembers to two successive elective four-year terms in addition to a period of up to two years that may be served in filling a vacancy; to require vacancies on the Council to be filled by election, except that the Council could fill a vacancy created by death where the unexpired term is six months or less; to specify conditions under which vacancies on the City Council shall occur?"

The genesis of this initiative appears to be a large number of vacancies and appointments at a single time, as the proponents of Proposition D provided the following argument:

"As of April 1975, four of the seven Council Members were originally appointed to the City Council. Elected, rather than appointed, Council Members are more responsive to the electorate. Filling vacancies by election, instead of appointment, will return the selection of Council Members to the people, where it properly belongs."

Cost was raised as a major concern in the argument against Proposition D:

"Limiting the terms of the terms of Councilmen will take away the right of voters to decide whether or not to re-elect incumbents. Requiring special elections to fill Council vacancies will cost taxpayers \$25,000 each election at a time when soaring inflation calls for trimming city expenditures. More than 400 California General Law Cities fill their Council vacancies by appointment. Why does Sunnyvale have to be different?"

Proposition D was approved by the voters on November 4, 1975 with 51% voting yes. (Yes - 6,788; No - 6,455).

1976 Charter reorganization: A Council-sponsored initiative, Measure A, was approved by the voters to amend the Charter to rearrange the Sections of Articles VI, VII and VIII..., and other actions (Resolution 351-76; Yes - 25,937; No - 7,735). This resulted in recodifying Council Vacancies from Section 703 to Section 604. (Resolution No. 351-76; Yes - 22,520; No - 10,248).

1982 Amendment-Council Residency: Charter Section 604 was amended by the voters to include language requiring City Councilmembers to "maintain their principal place of residence within the City during their term of office." (Resolution No. 297-82; Yes - 24,809, No - 7,163).

1991 Amendment-Vacancies following Involuntary Removal: Charter Section 604 was amended by the voters to include language to provide that “vacancies on the City Council shall be officially declared as such within thirty days of the commencement of the vacancy, that vacancies created by the involuntary removal of a Councilmember may be filled by appointment, and that no election shall be held the day before, day of, or day after a state holiday.” (Resolution No. 202-91; Yes - 10,435; No - 4,769).

Vacancy Election History: Four special elections to fill unscheduled vacancies in Council have been held on March 12, 1985, November 8, 1988, January 22, 1991, and August 16, 2016 (Resolution Nos 123-85, 222-88, 106-91, 829-16).

2. Summary and Discussion of the current requirements for filling of a Council Vacancy under Charter section 604:

Charter Section 604 “Vacancies” requires that within 30 days of the commencement of any vacancy:

- City Council shall officially declare the seat vacant, *and*
- Call a Special Municipal Election to fill the *unexpired term*.
 - The Special Municipal Election shall be held within 120 days from the date the Council declares the vacancy, *and*
 - The Special Municipal Election shall be consolidated with a general municipal or statewide election if a municipal or statewide election is scheduled within 180 days from the date that the vacancy is declared.

The only exception to that process is that Council may appoint someone to a vacant position when:

- The vacancy was created by death or other involuntary removal of a member pursuant to California Constitution, Article II, Section 4; and
- The unexpired term does not exceed 180 days.
 - If these conditions are met, the City Council shall, within 60 days after such office has been declared vacant, fill such vacancy by appointment, *otherwise*;
 - If the City Council fails to fill the vacancy within the 60-day period, it shall treat the vacancy in the same manner as one created by a cause other than death or involuntary removal. (i.e., by Special Election)

Although the Charter provides that a “Special Municipal Election shall be consolidated with a General Municipal or Statewide Election if a Municipal or Statewide Election is scheduled within 180 days from the date that the vacancy is declared”, the California Elections Code modifies that date range in provisions requiring a nomination period which opens 113 days and closes 88 days before the elections (Election Code Sections 10220 and 10407). The Charter requirement for filling vacancies by special election, combined with the layer of Election Code requirements, results in smaller “windows” of time during which a vacancy could occur and the special election could be consolidated with a Statewide or General Municipal Election.

A vacancy would have to occur within a 56-day or a 138-day window totaling about **194 days** within a two-year election cycle to be consolidated with either the Statewide or General Municipal Election. In other words, under the current Charter Section 604 language, in a two-year election cycle, a vacancy that occurs outside those windows, about **536 days**, cannot be consolidated with a Statewide or

General Municipal Election.

3. Options for Amending Charter Section 604 to Minimize Potential Special Election Costs While Balancing the Public Interest in Directly Electing Council Members

As a charter city, Sunnyvale must conduct elections in the manner prescribed in its City Charter. However, state law and other city charters provide examples and options filling council vacancies. These options fall into three broad categories, discussed in more detail below:

- a. Fill vacancy by special election (Sunnyvale's current approach)
- b. Fill vacancy by appointment.
- c. Choice by Council to fill vacancy by appointment or call special election.

Where the council fills by appointment (options (b) and (c) above), common requirements include:

- appointments must be made by a majority of the full council
- appointment is effective only until the next general or special election, with member elected serving the remainder of the unexpired term.

California Government Code Section 36512 authorizes General Law cities to either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent. However, Section 36512 also authorizes General Law cities to enact an ordinance to allow for certain variations, including Section 36512(c)(3) which provides "that a person appointed to fill a vacancy on the city council holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than 114 days from the call of the special election."

A survey of other cities in the region finds most are using variations on the theme of California Government Code Sections 36512 and 36512(c)(3), allowing for Council to fill a vacancy either by appointment or by special election:

- Campbell - State law:
 - Vacancy filled as set forth in California Government Code Section 36512;
- Cupertino - Council option to appoint or set special election
 - Council *at its option* may either fill the vacancy for the unexpired term by appointment or call a special election, or may appoint to hold office only until the date of a special election to fill the remainder of the unexpired term;
- East Palo Alto - Appointment
 - Council fills vacancy for unexpired term by appointment only;
- Gilroy - Appointment until next general election
 - Council fills vacancy by appointment, to hold office until the next general municipal election; successor elected serves remainder of unexpired term;
- Milpitas - Appointment until next regularly scheduled election
 - Council fills vacancy by appointment, to hold office only until the date of a special election which shall be immediately called to fill the remainder of the vacant term; the special election date will be the date of the next regularly scheduled election to be held throughout the City;
- Morgan Hill - Appointment until next regularly scheduled election

- Council fills vacancy by appointment, to hold office only until the date of a special election to fill the remainder of the term; the special election may be held on the date of the next regularly scheduled municipal election;
- Mountain View - Appointment until next general election
 - Council fills vacancy *either* by appointment or calls a special election; if filled by appointment, the person appointed holds office until the next general municipal election, and the elected successor serves for the remainder of unexpired term;
- Palo Alto - Appointment until next general election
 - Council majority fills vacancy by appointment, to hold office until the next election at which council members are to be elected, at which a council member shall be elected to serve for the unexpired term;
- San Jose - Council option to appoint or set special election
 - Council fills vacancy *either* by appointment by majority of Council or by election; if filled by appointment, it is effective until end of unexpired term, or January 1st following the next Regular Municipal Election, whichever first occurs; if filled by election, it is for the entire unexpired term; San Jose also has a provision for an interim appointment to fill the office until a candidate has been duly elected;
- Santa Clara - Appointment
 - Council fills vacancy by appointment; if not filled within 30 days, an election is called; person appointed or elected holds office for the unexpired term.

4. Analysis of Charter Section 606 Issue- Designation of Vice Mayor

In January 2017, the scope of the Charter Amendment Study Issue was expanded at the request of staff to include a correction of a technical defect in Charter Section 606 regarding the designation of a Vice Mayor. An amendment is needed to bring this Charter section into conformity with the change in general municipal elections from odd-numbered years to even-numbered years.

Presently, Charter Section 606 reads:

At the first regular meeting in January, at which the City Council shall certify the election results, following each General Municipal Election, and the first regular meeting in January in odd-numbered years, the City Council shall also designate one of its members as Vice Mayor. The Vice Mayor shall perform the duties of the Mayor during his/her absence or disability.

On November 5, 2013, the voters approved a charter amendment to change the regular General Municipal Elections from odd-numbered years to even-numbered years. Prior to that time, during odd-number year elections, the Section 606 text above meant that the Vice Mayor would be selected in January in an even-numbered year following the odd-year election, and in January of an odd-numbered year, or, in other words every year in January for a one-year term. With the change from odd-year to even-year elections, the above text may be erroneously interpreted to state redundantly that the Vice Mayor is selected in January in odd-numbered years only. The voters in 2013 did not vote to change the term of the Vice Mayor.

To resolve this oversight, staff recommends the phrase “in January in odd-numbered years” be corrected to “in January every year.” This would retain the original intent of the Charter to provide for a one-year term for Vice Mayor rather than the unintended change of the meaning of this text to provide that the designation of a Vice Mayor occurs only in odd-numbered years.

5. Options for Charter Amendment Process

California Elections Code Section 9255 provides that a charter amendment may be proposed by one of the following methods:

- a) a charter commission, which may be either elected or appointed by the City Council;
- b) by the City Council on its own motion;
- c) by a petition signed by 15 percent of the registered voters of the City.

In addition to the methods provided for in the California Elections Code, the Sunnyvale City Council may appoint an ad hoc Charter Review Committee to assist the Council in reviewing the Charter and to make recommendations to the Council on what Charter amendments to place on the ballot. This ad hoc Charter Review Committee would not have the legal status or authority of a Charter Review Commission and would serve as an advisory body to the City Council. Charter amendments have been placed on the ballot by all three methods over the years. Most recently, for example, the Council proposed an amendment to change elections from odd to even numbered years on its own motion. More comprehensive reviews of multiple charter issues have been handled by committees.

Recent Charter Amendments and <i>ad hoc</i> Charter Review Committees in Sunnyvale	
1967	City Council appointed a citizen Charter Study Committee comprised of 35 registered Sunnyvale voters; each Councilmember submitted the names of five registered voters
1976	City Council appointed a Charter Study Committee comprised of 21 members; each Councilmember submitted the names of three voters
1982	City Council appointed a 15-member Charter Review Committee, with each Councilmember nominating two members and the 15 th member selected by the entire Council, for a comprehensive charter review
2006	City Council created an ad hoc Charter Review Committee comprised of 15 members for a comprehensive charter review; each Council member appointed two committee members, with the last member appointed by the Mayor and confirmed by Council
2010	City Council created an 11-member ad hoc Charter Review Committee to review two charter amendment proposals and make recommendations to the Council on issues including change to a directly-elected mayor, and council compensation
2013	City Council, on its own motion proposed a charter amendment to change from odd-year to even-year elections.

Council must take action in summer 2018 to place a measure on the November 2018 ballot to submit a Charter Amendment to the voters. Therefore, ideally before June 2018, Council should provide direction on whether to propose amendments to Charter Sections 604 and, and what the substance of those proposed amendments should be.

6. Decision Points and Next Steps

Staff has framed the following alternatives for the Council

Alternative 1- Direction to Staff: Provide direction to staff on the Council's preferred method proposal for filling council vacancies and to draft amendments to Charter sections 604 and/or 606 for consideration by Council and;

- a) Return to Council with draft alternatives for selection prior to June 2018;
- b) Return to Council in June 2018 with resolution(s) to call an election to submit a ballot measure to the voters November 6, 2018.

Alternative 2- Charter Review Committee:

- c) Create an ad hoc Charter Review Committee to analyze and propose alternatives for amending Charter sections 604 and 606, and provide direction on the structure and scope of that commission;
- d) Direct staff to return to Council with draft alternatives for selection prior to June 2018;
- e) Direct staff to return to Council in June 2018 with resolution(s) to call an election to submit a ballot measure to the voters November 6, 2018.

Alternative 3: Provide other direction related to Alternatives 1 or 2.

Alternative 4: Do not proceed with preparations for Charter Amendments to revise Charter Sections 604 and 606.

FISCAL IMPACT

If the Council chooses to provide direction to staff to prepare council-initiated charter amendments, staff time and costs will be minimal. The main cost will be to put the measure(s) on the ballot, estimated at \$75,000 per measure for the general election in 2018. If directed, staff will include the costs for the charter amendments in the FY 2018/19 Recommended Budget.

The total costs from the 2006 Ad Hoc Charter Review Committee were \$34,308. The costs for the 2010-2011 Ad Hoc Charter Review Committee included \$375 for recruitment advertising. Internal staff costs were included in the FY 2010/11 Budget and no staff overtime was required. If Council chooses to appoint a committee to review these issues, the costs for a 2017-2018 Ad Hoc Charter Review Committee will include recruitment advertising and internal staff costs. Although the work may potentially require staff overtime the cost can be absorbed within the FY 2017/18 Operating Budget for the City Manager's office through vacancy savings.

The cost of Alternative 4, make no changes in the Charter, presents a continuing potential for the necessity of calling a "stand-alone" special election whenever an unscheduled vacancy on Council occurs from whatever cause arising, except when created by the death or other involuntary removal of a member and the unexpired term does not exceed one hundred eighty days. The most recent estimate of the cost of a stand-alone special election ranged from approximately \$740,000 to \$1.3 million. The actual cost of the August 16, 2016 special election was \$799,742.

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. Provide direction to staff on the Council's preferred method for filling council vacancies and to draft amendments to Charter sections 604 and/or 606 for consideration by Council and;
 - a) Return to Council with draft alternatives for selection prior to June 2018;
 - b) Return to Council in June 2018 with resolution(s) to call an election to submit a ballot measure to the voters November 6, 2018.
2. Create an ad hoc Charter Review Committee to analyze and propose alternatives for amending Charter sections 604 and 606, and provide direction on the structure and scope of that commission;
 - a) Direct staff to return to Council with draft alternatives for selection prior to June 2018;
 - b) Direct staff to return to Council in June 2018 with resolution(s) to call an election to submit a ballot measure to the voters November 6, 2018.
3. Provide other direction related to Alternatives 1 or 2.
4. Do not proceed with preparations for a Charter Amendments to revise Charter Sections 604 and 606.

STAFF RECOMMENDATION

Staff makes no recommendation.

Prepared by: Kathleen Franco Simmons, City Clerk

Reviewed by: John A. Nagel, City Attorney

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Study Issue Paper: OCM 17-02 Evaluate Proposing a Charter Amendment to Revise Section 604 regarding Filling Vacant Council Seats by Special Election
2. California Government Code Section 36512
3. Sample Ballot & Voter Information Pamphlet, November 4, 1975
4. Samples from other cities



City of Sunnyvale

Agenda Item

17-0104
Agenda Date: 2/17/2017

2017 COUNCIL STUDY ISSUE

NUMBER

OCM 17-02

TITLE Evaluate Proposing a Charter Amendment to Revise Section 604 regarding Filling Vacant Council Seats by Special Election

BACKGROUND

Lead Department: Office of the City Manager

Support Department(s): Office of the City Attorney, Finance

Sponsor(s):

Councilmembers: Klein, Griffith, Melton, Larsson, Goldman, Smith, Hendricks

History:

1 year ago: N/A

2 years ago: N/A

SCOPE OF THE STUDY

What are the key elements of the study?

Sunnyvale City Charter Section 604 provides requirements for filling a vacancy in the City Council. When an unscheduled vacancy occurs on Council, the vacancy must be filled by holding a special election. When the special election cannot be consolidated with a general municipal election, the City must conduct a “stand-alone” or special election at significant cost. Under only very limited circumstances, the Council may fill an unexpired term by a City Council appointment.

During the Council discussion regarding sponsorship of the Study Issue, Council discussed whether the Charter amendment process would include the formation of Charter Review Committee made up of Sunnyvale residents as is the traditional practice in the City.

This study will provide details about the three methods by which a charter amendment may be proposed (by the Council on its own motion, by initiative petition, and by elected or appointed charter commission) and whether the Council wishes to form a charter review committee to advise the Council on amendments to the Charter. The study would provide an evaluation of the current requirements of the charter regarding the filling of a Council vacancy and the shortcomings of the limited options as written that can result in costly special elections. The study will explore several possible solutions for revising language in Charter Section 604, to provide less costly options for filling vacancies. The study will present information that will inform Council to provide direction on how to proceed with proposing a charter amendment and will include an assessment of the cost of implementation of the results.

Though not discussed by Council, staff wishes to advise Council to consider expanding the scope of this Study Issue to include a technical amendment to Charter Section 606 regarding the designation of a Vice Mayor to bring this Charter section into conformity with the change in general municipal elections from odd-numbered years to even-numbered years. Presently, Charter Section 606 reads:

At the first regular meeting in January, at which the City Council shall certify the election results, following each General Municipal Election, and the first regular meeting in January in odd-numbered years, the City Council shall also designate one of its members as Vice Mayor. The Vice Mayor shall perform the duties of the Mayor during his/her absence or disability. (Amended effective December 31, 1975, December 21, 1976, December 23, 1982, November 30, 1995 and November 28, 2007: previously Section 705)

The Charter section would be redrafted to change “in January in odd-numbered years” to read “in January in even-numbered years.” This would retain the original intent of the Charter to provide for a one-year term for Vice Mayor rather than the unintended change of the meaning of this text to provide that the designation of a Vice Mayor occurs only in odd-numbered years.

What precipitated this study?

On April 4, 2016, a member of the City Council resigned his seat prior to the end of his term. Due to the provisions of Charter Section 604, and the particular timing of this resignation, there was no other option for the Council than to call a special election to fill the vacancy for the remaining partial term of three-and-a-half months. The special election had to take place as a “stand-alone” election on August 16, 2016 when no other elections were to be held; therefore, the City of Sunnyvale was responsible for the full cost of the election. Aside from internal administrative costs, the special election cost the City approximately \$800,000. A regular, general municipal election would typically cost in the range of \$300,000 to \$400,000.

Planned Completion Year: June 2018

FISCAL IMPACT**Cost to Conduct Study**

Level of staff effort required (opportunity cost): Minor

Amount of funding above current budget required: \$0

Cost to Implement Study Results

Unknown. Study would include assessment of potential costs.

Explanation of Cost: Potential costs of implementing study may include costs of forming a Charter Review Committee, conducting public meetings, advertising, outreach, and election costs for a ballot measure.

EXPECTED PARTICIPATION IN THE PROCESS

Council-approved work plan: No

Council Study Session: No

Reviewed by Boards/Commissions: No

STAFF RECOMMENDATION

Position: Support

Explanation: Staff recommends pursuing a proposal for a charter amendment to Charter Section 604 to clarify language and/or provide alternatives for filling a vacant City Council Seat and expand the scope of the Study Issue to include an amendment to Charter Section 606 regarding the designation of a Vice Mayor to bring this Charter section into conformity with the change in general municipal elections from odd-numbered years to even-numbered years.

Prepared By: Kathleen Franco Simmons, City Clerk

Reviewed By: John A. Nagel, City Attorney

Reviewed By: Walter C. Rossmann, Assistant City Manager

Approved By: Deanna J. Santana, City Manager

State of California

GOVERNMENT CODE

Section 36512

36512. (a) If a vacancy occurs in an appointive office provided for in this chapter, the council shall fill the vacancy by appointment. A person appointed to fill a vacancy holds office for the unexpired term of the former incumbent.

(b) If a vacancy occurs in an elective office provided for in this chapter, the council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy.

(1) If the council calls a special election, the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person elected to fill a vacancy holds office for the unexpired term of the former incumbent.

(2) If the council fills the vacancy by appointment, the person appointed to fill the vacancy shall hold office pursuant to one of the following:

(A) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general municipal election, the person appointed to fill the vacancy shall hold office until the next general municipal election that is scheduled 130 or more days after the date the council is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

(B) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general municipal election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall hold office for the unexpired term of the former incumbent.

(c) Notwithstanding subdivision (b) and Section 34902, a city may enact an ordinance that does any of the following:

(1) Requires that a special election be called immediately to fill every city council vacancy and the office of mayor designated pursuant to Section 34902. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election.

(2) Requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to Section 34902 when petitions bearing a specified number of verified signatures are filed. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the filing of the petition. A governing body that has enacted such an ordinance may also call a special election pursuant to subdivision (b) without waiting for the filing of a petition.

(3) Provides that a person appointed to fill a vacancy on the city council holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than 114 days from the call of the special election.

(d) (1) Notwithstanding subdivision (b) and Section 34902, an appointment shall not be made to fill a vacancy on a city council if the appointment would result in a majority of the members serving on the council having been appointed. The vacancy shall be filled in the manner provided by this subdivision.

(2) The city council may call an election to fill the vacancy, to be held on the next regularly established election date not less than 114 days after the call.

(3) If the city council does not call an election pursuant to paragraph (2), the vacancy shall be filled at the next regularly established election date.

(e) (1) If the city council of a city that elects city council members by or from districts elects to fill a vacancy on the city council by appointment as a result of a city council member resigning from office, the resigning city council member may cast a vote on the appointment if the resignation will go into effect upon the appointment of a successor. A city council member shall not cast a vote for a family member or any other person with whom the city council member has a relationship that may create a potential conflict of interest.

(2) If a city council member elects to cast a vote under this subdivision, the city council member shall be prohibited from the following actions for a period of two years after the appointment of a successor:

(A) Advocating on any measure or issue coming before the city council in which the city council member may have a personal benefit.

(B) Entering into a contract of any kind with the city or a city vendor.

(C) Accepting a position of employment with the city or a city vendor.

(D) Applying for a permit that is subject to the approval of the city council.

(3) This subdivision shall not apply to any city council member who is resigning from the city council due to charges of, or conviction for, corruption or criminal behavior, or who is subject to a recall election.

(Amended by Stats. 2015, Ch. 185, Sec. 1. (AB 952) Effective January 1, 2016.)

ATTACHMENT 3

SAMPLE BALLOT

BALOTA DE MUESTRA

and VOTER
INFORMATION
PAMPHLET

y PANFLETO DE
INFORMACION PARA
LOS VOTANTES

CITY OF SUNNYVALE
SPECIAL MUNICIPAL ELECTION
TUESDAY, NOVEMBER 4, 1975.

CIUDAD DE SUNNYVALE
ELECCTON MUNICIPAL ESPECIAL
Martes, 4 de noviembre de 1975

FULL TEXT OF PROPOSED AMENDMENTS
TO THE CHARTER OF THE CITY OF
SUNNYVALE, CALIFORNIA
PROPOSITIONS A AND D
TOGETHER WITH
ARGUMENTS CONCERNING
PROPOSITIONS B AND C

SPECIAL MUNICIPAL ELECTION
NOVEMBER 4, 1975

ARGUMENTS IN SUPPORT OR OPPOSITION OF THE
PROPOSED LAWS ARE THE OPINIONS OF THE AUTHORS

TEXTO COMPLETO DE LAS ENMIENDAS PROPUESTAS EN
LA CARTA CONSTITUCIONAL DE LA CIUDAD DE
SUNNYVALE, CALIFORNIA
PROPOSICIONES A y D
JUNTO CON ARGUMENTOS REFERENTES A LAS
PROPOSICIONES B y C
ELECCION MUNICIPAL ESPECIAL
4 de noviembre de 1975

LOS ARGUMENTS EN FAVOR O EN CONTRA DE LAS
LEYES PROPUESTAS SON LAS OPINIONES DE LOS AUTORES.

APPLICATION FOR ABSENT VOTER BALLOT IS ON BACK COVER

LA SOLICITUD PARA LA BALOTA DE LOS VOTANTES
AUSENTES ESTA AL FINAL.

CITY OF SUNNYVALE APPLICATION FOR ABSENT VOTER'S BALLOT for the Special Municipal Election, November 4, 1975

I, _____, am a registered voter at the following address in _____

Santa Clara County: _____ (Print Name) _____ (Number and Street) _____ (City) _____ (Zip Code)

Complete this section if you have moved and now reside at an address other than that shown on
your affidavit of registration.

I moved on _____ (Month) _____ (Day) _____ (Year) to the following residence address:

(No.) _____ (Street) _____ (City) _____ (State)

NOTE: If you have moved prior to Oct. 5, 1975 you must reregister before you can obtain an absentee ballot. (A voter moving within this county or to another County within 30 days prior to this election, may obtain an absentee ballot. A voter moving within this county or to another County over 30 days prior to the election and who has not registered prior to the closing date for this election is not eligible to vote.)

- Check one:
- ☐ I reside in a precinct for which no polling place has been established.
 - ☐ I expect to be absent from my election precinct.
 - ☐ Because of physical disability, I will be unable to vote in my election precinct.
 - ☐ I reside within a precinct which is owned or controlled by the United States.
 - ☐ Because of the tenets of my religion, I will be unable to vote in my election precinct.
 - ☐ I reside more than ten miles from my nearest polling place.

I am therefore making application for an absentee ballot for the forthcoming election.
Mail ballot to me at:

(No.) _____ (Street) _____ (City) _____ (State)

Dated _____, 19____

(Signature as registered—DO NOT PRINT)

APPLICATION MUST BE RECEIVED IN THE OFFICE OF THE CITY CLERK, P.O. BOX 607, SUNNYVALE,
CALIFORNIA 94088 NO LATER THAN 5 P.M., TUESDAY, OCTOBER 28, 1975.

MARK CROSSES (+) ON BALLOT
ONLY WITH RUBBER STAMP
NEVER WITH PEN OR PENCIL

(ABSENTEE BALLOTS MAY BE MARKED
WITH PEN AND INK OR PENCIL)

(Fold ballot to this perforated line,
leaving top margin exposed.)

OFFICIAL BALLOT

SPECIAL MUNICIPAL ELECTION

CITY OF SUNNYVALE
TUESDAY, NOVEMBER 4, 1975

INSTRUCTIONS TO VOTERS:

To vote on any measure stamp a cross (+) in the voting square after the word "YES" or after the word "NO."

All marks, except the cross (+) are forbidden.

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear or deface this ballot, return it to the inspector of election and obtain another.

On absent voter ballots mark a cross (+) with pen or pencil.

SAMPLE BALLOT

MEASURES SUBMITTED TO VOTE OF VOTERS

"PROPOSITION A. Shall Secion 700 and Section 1400 of the Charter be amended so as to make possible the consolidation of the General Municipal Election with the Election for Governing Board Members of Elementary School Districts?	YES SI	
	NO	
"PROPOSITION B. Do you desire the City Council to add to the tax rate an additional Eight Cents (\$0.08) per One Hundred Dollars (\$100) of assessed value of taxable property in the City of Sunnyvale, to be effective in said City commencing with taxable year 1976-1977 and continuing through taxable year 1980-1981 for the purpose of acquiring, improving and maintaining open space lands within the City of Sunnyvale?	YES SI	
	NO	
"PROPOSITION C. Do you desire the Council to add to the tax rate an additional Eleven and three-tenths Cents (\$0.113) per One Hundred Dollars (\$100) of assessed value of taxable property in the City of Sunnyvale, to be effective in said City commencing with taxable year 1976-1977 and continuing through taxable year 1982-1983 for the purpose of establishing and operating an emergency medical treatment system in the City of Sunnyvale?	YES SI	
	NO	
"PROPOSITION D. Shall the Sunnyvale Charter be amended in the following ways: to limit Councilmembers to two successive elective four-year terms in addition to a period of up to two years that may be served in filling a vacancy; to require vacancies on the Council to be filled by election, except that the Council could fill a vacancy created by death where the unexpired term is six months or less; to specify conditions under which vacancies on the City Council shall occur; to require newspaper publication of agenda items and minutes, or a digest thereof, of the regular and special meetings of the Council; to limit members of boards and commissions to one four-year term in addition to a period of up to two years that may be served in filling a vacancy; to provide for the consolidation of the General Municipal Election with school district elections; and to require all references to gender to appear in both the masculine and feminine form?	YES SI	
	NO	

PROPOSITION "A"
ANALYSIS BY CITY ATTORNEY

Proposition "A" deals with consolidation of elections. This analysis contemplates that the reader will have consulted the text of the proposed change in the voter pamphlet.

Existing: Under the Charter as it exists, the General Municipal Election for the filling of Council seats is set specifically as the "second Tuesday in April in each odd numbered year" (Section 1400), and the terms of council members begin and end following such elections on a specific day, namely, "the third Tuesday of April" (Section 700). School District elections presently are held on the first Tuesday after the first Monday in March in odd numbered years, a date which is subject to change from time to time by the Legislature. The existing Charter does not prevent consolidation of elections upon agreement of the City and School District governing bodies, although such consolidation has not occurred in the past.

Proposed: The proposed amendments would establish the date for holding the General Municipal Election as that date established under State law for holding the election for governing board members of elementary school districts, and would provide that the terms of councilmembers begin and end on the Tuesday following such election.

The proposed amendments would permit consolidation of City and School District elections upon the consent of the governing bodies of the City and the School Districts as required under State law. Where consolidation occurs, savings in election costs would be realized.

Sections Amended: 700 and 1400.

A "YES" vote on Proposition "A" will amend the Charter in the ways described above. A "NO" vote will retain the existing language of the Charter.

JAMES A. HILDEBRAND
City Attorney

BALLOT MEASURE A
BALLOT ARGUMENT
IN SUPPORT OF CONSOLIDATION OF ELECTIONS

Consolidating municipal elections with school elections will *CUT COSTS* of local government. The same election officials and polling places can be used for all elections.

By cutting down on the number of elections, the voter is better served. Fewer elections will be more convenient to voters and allow greater emphasis on issues.

Better representation on all issues will be achieved because a greater number of voters will turn out when elections are combined. A better turnout serves the public well and gives stronger direction to the processes of government.

VOTE YES ON MEASURE A TO CONSOLIDATE ELECTIONS TO IMPROVE REPRESENTATION, SAVE MONEY AND TIME FOR THE VOTER.

The undersigned author of the primary argument in favor of ballot proposition A at the special municipal election for the City of Sunnyvale to be held on November 4, 1975 hereby states that such argument is true and correct to the best of his knowledge and belief.

Dated: September 15, 1975

/s/ Donald S. Logan
SUA1

CON ARGUMENT TO PROPOSITION "A"

In the words of Sunnyvale's City Attorney, addressed to the Council in July 1975, Proposition "A" would provide the following:

"The wording of proposed Section 700 would permit future Councils to consolidate the General Municipal Election with school district elections, but would not require them to consolidate. The two elections would only be required to be held on the same date. In a consolidated election, two or more entities conduct their elections not only on the same date, but also use the same ballots, precincts, polling places and election officers. Actual consolidation of elections, as opposed to merely holding them on the same date, would require consent of the City Council and of the governing board of each school district affected."

True and mandatory consolidation of elections, as provided for in Proposition "D", would save the taxpayers of both the City and the affected school districts thousands of dollars every two years.

The magnitude of this savings to the taxpayers of Sunnyvale was recently computed by the Registrar of Voters of Santa Clara County. After indicating his figures can only be approximations on the basis of present registration, he stated that the overall savings to the City of Sunnyvale would be between 66 and 73 per cent.

Since Proposition "A" *does not* provide for true consolidation of elections as defined in Section 23300 and following of the Elections Code, the tremendous money savings to taxpayers which are possible are left to the whim of future Councils.

Aside from monetary considerations, true consolidation would encourage greater voter participation, while merely holding the election on the same date could discourage voters, since they could be required to go to two separate polling places on the same day. Ballots, polling places and officers could be duplicated.

We urge NO on Proposition "A".

The undersigned authors of the primary argument in favor of ballot proposition A at the special municipal election for the City of Sunnyvale to be held on November 4, 1975 hereby states that such argument is true and correct to the best of their knowledge and belief.

Dated: September 15, 1975

/s/ Gregory K. Morris
Council Member

Dated: September 15, 1975

/s/Lawrence E. Stone
Council Member

BALLOT MEASURE B
BALLOT ARGUMENT IN SUPPORT OF OPEN SPACE MEASURE

Passage of Measure B will enable the City to acquire undeveloped properties in order to preserve open space. Much of what open space is left, if not acquired, soon will be developed into high-density residential structures.

Vote "YES" on Measure B because at the current rate of development of residential land, all open space will be gone within two to three years.

Vote "YES" on Measure B to preserve the remaining orchard lands in Sunnyvale. The orchards made this area famous and are part of the history and tradition of Sunnyvale.

Vote "YES" on Measure B to save open space in the City for all citizens.

SUA2

Vote "YES" on Measure B to reduce population density and improve the overall quality of living in Sunnyvale.

Your City Council proposed Measure B to reflect citizen concern for open space and lower population density. The only practical way to save open space now is to purchase it.

The cost is small for value received. For example: On a private home valued at \$40,000 the cost would be \$8 per year.

The undersigned author of the primary argument in favor of ballot proposition B at the special municipal election for the City of Sunnyvale to be held on November 4, 1975 hereby states that such argument is true and correct to the best of his knowledge and belief.

Dated: September 15, 1975

/s/ Lawrence E. Stone

NO ARGUMENT AGAINST MEASURE B WAS SUBMITTED

BALLOT MEASURE C BALLOT ARGUMENT

IN SUPPORT OF EMERGENCY MEDICAL SERVICES SYSTEM

An Emergency Medical System includes the detection of medical emergencies, prompt arrival of trained medical technicians on the scene, stabilization of the patient's condition, and rendering advanced medical treatment enroute to the receiving medical facility. Such a system includes advanced and continual training for emergency medical personnel.

All cities have a responsibility for protecting the health and well-being of their citizens; yet it has been estimated that 60,000 die needlessly each year who could have been saved by prompt and effective care from an Emergency Medical Services system.

Statistics show that for the average city the size of Sunnyvale, approximately 500 heart attacks will occur in a year: of these, 293 will result in death and 41% will survive. This measure would lower the mortality rate among persons suffering heart attacks and serious injuries.

Financial impact: cost on a \$40,000 house would be \$11.30 per year.

The undersigned author of the primary argument in favor of ballot proposition C at the special municipal election for the City of Sunnyvale to be held on November 4, 1975 hereby states that such argument is true and correct to the best of his knowledge and belief.

Dated: September 15, 1975

/s/ Charley C. Allen

NO ARGUMENT AGAINST MEASURE C WAS SUBMITTED

PROPOSITION "D" ANALYSIS BY CITY ATTORNEY

Proposition "D" would effect seven changes in the Charter. Each change is described below under its respective heading, along with the existing Charter provision on the same subject. This analysis contemplates that the reader will have consulted the text of the proposed changes in the voter pamphlet.

SUB1

COUNCILMEMBER TERMS.

Existing: No limit.

Proposed: Councilmembers limited to two successive elective four-year terms in addition to a period of up to two years that may be served in filling a vacancy.

Section Amended: 700.

FILLING COUNCIL VACANCIES.

Existing: Vacancies filled by appointment by the Council within 30 days; thereafter by election.

Proposed: By special election, except that the Council could fill vacancies created by death where the unexpired term is six months or less. Cost of such elections would vary.

Section Amended: 703.

HOW COUNCIL VACANCIES OCCUR.

Existing: General law determines.

Proposed: Would be specified in Section 703 of the Charter as in addition to any other cause: unexcused absences from regular Council meetings over a sixty day period; conviction of a crime involving moral turpitude; ceasing to be an elector in the City of Sunnyvale.

PUBLICATION OF AGENDAS AND COUNCIL ACTIONS.

Existing: No requirement.

Proposed: City Clerk to publish in a City newspaper of general circulation significant items listed on the agenda for regular or special Council meetings, the minutes of such meetings or extracts therefrom, and to place two packets of supporting materials for such agendas in the library. Cost to City would vary depending on agenda size.

Section Amended: 712.

BOARD AND COMMISSION MEMBER TERMS.

Existing: No limit.

Proposed: Board and commission members limited to one four year term plus up to two years that may have been served in filling a prior vacancy.

Section Amended: 1002.

CONSOLIDATION OF ELECTIONS.

Existing: Section 1400 specifies a given date in April of odd numbered years for City elections. State law currently specifies a date in March for School District elections.

Proposed: Would require consolidation of City and School District elections on the date in odd numbered years in which School District elections are held, provided the governing boards of School Districts with which the election is to be consolidated consent. Under State law, consolidation cannot occur without such consent. A specific date in March of odd numbered years would be preserved for City elections should School District elections be held in even numbered years. Where consolidation occurs, savings in election costs would be realized.

Sections Amended: 700 and 1400.

GENDER.

Existing: Section 1800(c) states that masculine gender includes feminine and

SUC1

neuter. The masculine gender is utilized when referring to persons.

Proposed: Substitutes "he/she", "him/her" designations wherever the masculine gender now appears. Any reference to "man" as a suffix indicative of gender would be replaced by either "member" or "person."

Section Amended: Any section where reference to gender now occurs.

A "YES" vote on Proposition "D" will amend the Charter in each of the ways described above.

A "NO" vote will retain the existing language of the Charter.

JAMES A. HILDEBRAND
City Attorney

BALLOT MEASURE D PRO ARGUMENT TO PROPOSITION "D"

The disadvantages of long-term incumbency are clear. Entrenchment of views can deprive our city of fresh, innovative ideas. Service together over a long period can result in bloc voting and rigid control over city business. Long-term incumbents tend to lose touch with the citizens they represent; become less receptive to the true and changing needs and desires of the community.

As of April 1975, four of the seven Council Members were originally appointed to the City Council. Elected, rather than appointed, Council Members are more responsive to the electorate. Filling vacancies by election, instead of appointment, will return the selection of Council Members to the people, where it properly belongs.

Open and accountable government requires participation by as many citizens as possible. Limiting terms on Boards and Commissions to one, four-year term will allow many more citizens to serve, and encourage active, independent citizen involvement in the affairs of our city.

Similar to the policy followed by neighboring cities, publication of the agenda prior to each meeting will provide citizens with vital information before consideration and action by the City Council. Publication of the actions taken and votes recorded will foster an informed and alert electorate.

True consolidation of Municipal and School District elections is *only* provided for in Proposition "D". Proposition "A", the so-called consolidation measure, merely permits, but *does not require*, election consolidation. The decision to consolidate is retained by the City Council, not by the people. Proposition "D" is the only measure that will assure substantial savings to the taxpayer in election costs by requiring the consolidation of Municipal and School District elections.

Requiring that all reference to gender be both masculine and feminine, merely brings our Charter into conformity with State and Federal documents.

The undersigned authors of the primary argument opposed to ballot proposition D at the special municipal election for the City of Sunnyvale to be held on November 4, 1975 hereby state that such argument is true and correct to the best of their knowledge and belief.

Dated: September 15, 1975

Louis J. Cava

Dated: September 15, 1975

Joanne Peltier

Dated: September 15, 1975

Joseph Durante

Dated: September 15, 1975

Gregory K. Morris

Council Member

Dated: September 15, 1975

Lawrence E. Stone

Council Member

SUD1

BALLOT MEASURE D SIX REASONS TO VOTE NO ON INITIATIVE PETITION CHARTER AMENDMENT D

1. The proposed Charter amendments could add up to \$22,000 a year to pay for printing agenda summaries and Council minutes in a type size nobody will bother to read. This proposal will not provide any information to you in a form which you can use but will benefit only the newspaper selected to print it.
2. Limiting the terms of Councilmen will take away the right of voters to decide whether or not to re-elect incumbents. Requiring special elections to fill Council vacancies will cost taxpayers \$25,000 each election at a time when soaring inflation calls for trimming city expenditures. More than 400 California General Law Cities fill their Council vacancies by appointment. Why does Sunnyvale have to be different?
3. Limiting the terms of members of City boards and commissions will deprive the taxpayers of their investment in training these persons and will deprive the City of the benefit of their experience.
4. It costs money to train both Councilmen and Board and Commission members. Ineffective Councilmen can be denied re-election by the voters, and ineffective Board and Commission members can be denied re-appointment.
5. You are being asked to buy all seven of the proposed Charter amendments. You do not have an opportunity to approve or disapprove any of them on an individual basis.
6. Charter revision should wait for the report of the Charter Revision Committee recently appointed from a cross-section of City voters, to study the entire Charter.

The undersigned authors of the primary argument opposed to ballot proposition D at the special municipal election for the City of Sunnyvale to be held on November 4, 1975 hereby state that such argument is true and correct to the best of their knowledge and belief.

Dated: September 15, 1975

/s/ Donald E. Koreski

Mayor of Sunnyvale

Dated: September 15, 1975

/s/ Donald S. Logan

Mayor Pro Tempore

Dated: September 15, 1975

/s/ Etta S. Albert

Councilmember

Dated: September 15, 1975

/s/ Charley C. Allen

Councilmember

Dated: September 15, 1975

/s/ Gilbert R. Gunn

Councilmember

FULL TEXT OF PROPOSED CHARTER AMENDMENT—PROPOSITION A SECTIONS 700 AND 1400 OF THE SUNNYVALE CHARTER SHOWING CHANGES THERETO IF PROPOSITION A CARRIES AT THE NOVEMBER 4, 1975 SPECIAL MUNICIPAL ELECTION. Lineouts indicate deletions, and underlining indicates new wording.

Section 700. Term and Election. Each member of the City Council shall be elected from the City at large at the General Municipal Election for a term of four (4) years from and after the ~~third Tuesday of April next following his election, and until his successor is~~

SUD2

is elected and qualified. Tuesday next following the member's election, and until a successor is elected and qualified. The term of each Councilmember in office at the adoption of this amendment, or at the time of any change in the date for the election of governing board members of elementary school districts, shall be increased or decreased to the extent necessary to allow the General Municipal Election at which the seat occupied by such Councilmember is to be filled, to be held concurrently with such school district election.

The office of each member of the Council is a separate elective office to be separately filled at any election.

No person shall be a candidate for more than one elective office.

No incumbent member of the Council shall be a candidate for a Council seat other than the one which that person then holds.

The person receiving the highest number of all the votes cast for a particular elective office at any election shall be deemed and declared elected to that particular office.

Prior to the General Municipal Election in 1969, the City Council by resolution duly adopted shall designate each Council seat as a separate elective office in the following language: "Councilman, Seat No. _____" and by assigning a number from 1 to 7, respectively, to each seat. The designation given to each elective office thereafter shall be used in all elections, nomination papers, certificates of election, and all other papers pertaining to each such office, and to designate incumbency of each such office.

The first election at which members of the Council shall be elected pursuant to this section shall be the General Municipal Election held in the year 1969. At such election persons shall be elected to fill the seats of the three members of the Council whose terms expire on the third Tuesday of April, 1969. At the General Municipal Election held in 1971, persons shall be elected to fill the seats of the four members of the Council whose terms expire on the third Tuesday of April, 1971. Thereafter, at each General Municipal Election successors shall be elected to fill the seats of the members of the Council whose terms expire on the third Tuesday of April in the year of such election.

Each Council seat shall be designated by a number from 1 through 7 and shall be known as "Councilmember Seat Number _____". The designation given to each elective office shall be used in all elections, nomination papers, certificates of election, and all other papers pertaining to such office, and to designate the incumbent of such office.

Seats numbered 1, 2, and 3 shall be filled at the General Municipal Election held in the year 1977 and every fourth year thereafter. Seats numbered 4, 5, 6, and 7 shall be filled at the General Municipal Election held in the year 1979 and every fourth year thereafter.

Section 1400. General Municipal Elections. General Municipal Elections for the filling of elective offices shall be held in the said City on the second Tuesday in April in each odd numbered year commencing with the year 1951. There shall be a General Municipal Election to fill elective offices in the odd-numbered years on the date established under general law for the election of governing board members of elementary school districts.

**FULL TEXT OF PROPOSED
CHARTER AMENDMENT - PROPOSITION D
SECTIONS 700, 703, 712, 1002, 1400, AND 1800 OF THE SUNNYVALE**

SUD3

**CHARTER SHOWING CHANGES THERETO IF PROPOSITION D
CARRIES AT THE NOVEMBER 4, 1975 SPECIAL MUNICIPAL
ELECTION. Lineouts indicate deletions, and underlining indicates new
wording.**

Section 700. Term and Election. Each member of the City Council shall be elected from the City at large at the General Municipal Election for a term of (4) four years from and after the third Tuesday of April next following his election, and until his successor is elected and qualified. Tuesday immediately following the member's election and continuing until a successor is elected and qualified.

For the purpose of giving effect to the change in election dates provided for in Section 1400 of this charter, the term of each member holding office on the effective date of each change in election date shall be reduced or extended to enable a duly elected and qualified successor to take office on the Tuesday immediately following the General Municipal Election held in the year in which the term of the member shall expire.

No person shall be eligible to serve as a member of the Council for more than two (2) successive four-year elective terms. Any person who fills an unexpired term of not more than two years in length shall, however, be eligible to serve two (2) successive four-year elective terms after the expiration of the unexpired term which he/she filled.

The office of each member of the Council is a separate elective office to be separately filled at any election.

Prior to the General Municipal Election in 1969, the City Council by resolution duly adopted shall designate each Council seat as a separate elective office in the following language: "Councilman, Seat No. _____" and by assigning a number from 1 to 7, respectively, to each seat. The designation given to each elective office thereafter.

Each Council seat shall be a separate elective office to be designated by a number from 1 through 7 in the following manner: "Councilmember, Seat No. _____." Such designation of each seat shall be used in all elections, nomination papers, certificates of election, and all other papers pertaining to each such office, and to designate incumbency the incumbent of each such office Seat.

Seats numbered 1, 2 and 3 shall be filled at the General Municipal Election held in the year 1977 and every fourth year thereafter. Seats 4, 5, 6 and 7 shall be filled at the General Municipal Election held in the year 1979 and every fourth year thereafter.

No person shall be a candidate for more than one elective office.

No incumbent member of the Council shall be a candidate for a Council seat other than the one which that person then holds.

The person receiving the highest number of all the votes cast for a particular elective office at any election shall be deemed and declared elected to that particular office.

The first election at which members of the Council shall be elected pursuant to this section shall be the General Municipal Election held in the year 1969. At such election persons shall be elected to fill the seats of the three members of the Council whose terms expire on the third Tuesday of April, 1969. At the General Municipal Election held in 1971, persons shall be elected to fill the seats of the four members of the Council whose terms expire on the third Tuesday of April, 1971. Thereafter, at each General Municipal

SUD4

Election successors shall be elected to fill the seats of the members of the Council whose terms expire on the third Tuesday of April in the year of such election.

Section 703. Vacancies. A vacancy in the City Council from whatever cause arising, shall be filled by appointment by the City Council and the person appointed shall hold office for the unexpired term of the former incumbent.

In the event the City Council shall fail to fill a vacancy by appointment within thirty days after such office shall have been declared vacant, it shall forthwith cause an election to be held to fill such vacancy. Except as otherwise provided herein, in the event of a vacancy in the City Council from whatever cause arising, the City Council shall call a Special Municipal Election for the purpose of filling such vacancy. In the event of a vacancy in the City Council created by the death of a member, where the unexpired term of the deceased member does not exceed one hundred and eighty (180) days, the City Council shall, within 60 days after such office shall have been declared vacant, fill such vacancy by appointment. Should the Council fail to fill the vacancy within the 60 days period, it shall treat such vacancy in the same manner as one created by a cause other than death.

Any Special Municipal Election called to fill an unexpired term shall be held within one hundred and twenty (120) days from the date the Council declares the vacancy to exist. The Council shall promptly declare or take the required steps to declare the existence of the vacancy. Such special election shall be consolidated with a general municipal or statewide election if a municipal or statewide election is scheduled within one hundred and eighty (180) days from the date that the vacancy is declared. As used herein, the next general municipal or statewide election means the next such election at which it is legally possible to place the matter on the ballot and elect a successor.

Any person elected or appointed to fill a vacancy shall serve for the remainder of the unexpired term and until his/her successor is elected and qualified.

In addition to any other cause from which vacancies in the City Council may occur, the office of a member of the City Council shall become vacant and it shall be so declared by the Council where such member is absent from all regular meetings of the Council for a period of sixty (60) days consecutively from and after the last regular Council Meeting attended by such member, unless by permission of the Council expressed in its official minutes; or such member is convicted of a crime involving moral turpitude; or he/she ceases to be an elector of the City of Sunnyvale.

Section 712. Proceedings. The City Council shall establish rules for the conduct of its proceedings and punish any member or other person for disorderly conduct at any meetings. It shall have the power and authority to compel the attendance of witnesses, to examine them under oath, and to compel the production of evidence before it. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor.

The City Council shall direct the City Clerk to cause the publication, in a newspaper of general circulation in the City of Sunnyvale, of items listed on the agenda prepared for

regular meetings of the City Council which the City Clerk shall deem of significance or of interest to the residents of Sunnyvale. In addition, the City Clerk shall be directed to furnish the City Library with at least two (2) sets of packets containing materials in support of agenda items at the same time that such materials are made available to the members of the City Council; confidential or otherwise privileged materials shall be excluded therefrom.

The City Council shall cause the City Clerk to keep an accurate record of all its proceedings and, at the demand of any member, or upon the adoption of any ordinance or resolution for the payment of money, the City Clerk shall call the roll and shall cause the "ayes" and "noes" taken on any question, to be entered in the minutes of the meeting. In any event, the City Clerk shall keep such records and shall make such entries into the minutes of the meetings necessary for publication in accordance with the provisions set forth below.

The City Council shall direct the City Clerk to cause the publication, in a newspaper of general circulation in the City of Sunnyvale, of the minutes of the regular and special meetings of the City Council or of the digest of those actions taken at such meetings which the City Clerk shall deem of significance or of interest to the residents of Sunnyvale, excepting therefrom matters which may not be disclosed as a result of recognized legal privileges.

Such publication shall occur within a reasonable time after such meetings. The minutes or the digest of the actions taken, as herein above described, shall include but not limited to a description of the items of the agenda acted upon in sufficient details to inform the public of the nature of the action taken, the vote on such items and the names of the members of the Council voting for or against each item. Absences, together with abstentions and the reasons therefor shall also be published.

Section 1002. Appointments. Terms. Except as otherwise provided in this Article, the members of each of such boards or commissions shall be appointed, and shall be subject to removal, by motion of the City Council adopted by at least four affirmative votes.

Except as otherwise provided in this Article, the members of such boards and commissions shall serve for a term of four years and until their respective successors are appointed and qualified. No member of any board or commission shall be eligible to serve for more than one successive four year term nor shall such member be eligible for appointment to the same or to any other board or commission for two years after the expiration of the full term for which the member was appointed and served. Any person appointed to a board or commission to fill an unexpired term of not more than two years in length shall, however be eligible to serve one successive four year term upon the expiration of the unexpired term for which such person was appointed.

Unless otherwise provided, The members first appointed to those boards and commissions composed of four members shall so classify themselves by lot that each succeeding July 1st the term of one of their number shall expire. If the total number of the members of a board or commission to be appointed exceeds four, the classification by lot

shall provide for the grouping of terms to such an extent as is necessary in order that the term of at least one member shall expire on each succeeding July 1st.

Section 1400. General Municipal Elections. General Municipal Elections for the filling of elective offices shall be held in the said City on the Second Tuesday in April in each odd numbered year commencing with the year 1951 consolidated with the election of governing board members of school districts on the first Tuesday following the first Monday of March of each odd-numbered year commencing in 1977 or upon such other date as the California State Legislature might, from time to time, provide for the election of governing board members of school districts; provided, however, that the General Municipal Elections shall nevertheless be held on the First Tuesday following the first Monday of March of each odd-numbered year in the event that the State Legislature should provide for the election of governing board members of school districts to be held in even-numbered years.

Section 1800. Definitions. Unless the provision or the context otherwise requires, as used in this Charter:

(a) "Shall" is mandatory and "may" is permissive.

(b) "City" is the City of Sunnyvale and "department", "board", "commission", "agency", "officer", or "employee", is a department, board, commission, agency, officer or employee, as the case may be, of the City of Sunnyvale.

(c) ~~The masculine gender includes the feminine and neuter.~~

(c) All references to gender shall be to both the masculine and feminine gender; such objective may be accomplished through the use of a slash mark between the masculine and feminine pronouns such as "he/she" or "him/her". Any reference in this charter to "man" as a suffix indicative of the masculine gender, shall be stricken out and be replaced by either "member" or "person".

The changes incorporated in paragraph (c), immediately above, shall be reflected throughout this Charter in the next official printing thereof.

PROPUESTA "A"

ANALISIS PRESENTADO POR EL ABOGADO DE LA CIUDAD

La Proposición A trata sobre la consolidación de elecciones. Este análisis considera que el lector deberá consultar el texto del cambio propuesto en el panfleto del votante.

Existente: De acuerdo a la Carta Constitucional en existencia, las elecciones municipales generales para llenar los puestos de concejales, son establecidas específicamente para el "Segundo martes de abril de cada año impar" (Sección 1400), y que después de las elecciones los concejales empiezan y terminan su período como miembros del Concejo, en un día especial llamado, "el tercer martes de abril" (Sección 700). Actualmente las elecciones en los distritos escolares son llevadas a cabo el primer martes después del primer lunes de marzo en los años impares, fecha que de vez en cuando puede ser cambiada por la legislatura. La Carta Constitucional en existencia no previene la consolidación de elecciones, a pesar que dicha consolidación no ha ocurrido en el pasado, sobre un acuerdo entre los miembros gubernativos de la ciudad y el distrito escolar.

Propuesta: Las enmiendas propuestas establecerán que la fecha para las elecciones generales municipales sea la misma que aquella establecida bajo la ley del Estado para llevar a cabo la elección de los miembros de la Junta de las escuelas primarias del distrito, y proveerá que los concejales empiecen y terminen su período como miembros del Concejo el martes siguiente a las elecciones.

Las enmiendas propuestas permitirán la consolidación de las elecciones de la ciudad y distritos escolares, luego que los miembros gubernativos de la ciudad y de los distritos escolares den su consentimiento de acuerdo con los requisitos de la ley del Estado. La consolidación significará un ahorro en los gastos de elecciones.

Enmienda para las secciones: 700 y 1400.

Si vota "SI" en la propuesta "A" la Carta Constitucional será enmendada en la manera descrita anteriormente.

Si vota "NO" la Carta Constitucional permanecerá como está.

Firmado: James A. Hildebrand

Abogado de la ciudad

BALOTA PARA LA PROPUESTA A ARGUMENTO EN FAVOR DE CONSOLIDAR LAS ELECCIONES

Consolidar las elecciones municipales con las elecciones de las escuelas BAJARA LOS GASTOS del gobierno local. Los mismos oficiales de elecciones y los mismos lugares de votación servirán para todas las elecciones.

Reducir el número de elecciones resulta más cómodo para el votante. Menos elecciones serán más convenientes para los votantes y permitirán dar un mayor énfasis a los problemas.

Habrá mejor representación de todos los problemas a resolver pues al combinar las elecciones más gente votará. Una mayor concurrencia de votantes sirve la voluntad del pueblo y da mejor orientación al gobierno. VOTE SI EN LA PROPUESTA A PARA CONSOLIDAR ELECCIONES, MEJORAR LA REPRESENTACION, AHORRAR DINERO Y TIEMPO PARA EL VOTANTE.

City of Campbell Municipal Code

2.04.150 - Filling of unscheduled vacancies.

California Government Code Section 36512 sets forth the options available to fill a Council vacancy.
(Ord. 1719 § 1, 1988). (Ord. No. 2117, § 1A, 12-8-2008)

City of Cupertino

Municipal Code Section 2.04.040 Vacancy.

A. If any vacancy on the City Council occurs other than by expiration of at term, the City Council shall, at its option within thirty days from the commencement of the vacancy, either fill the vacancy by appointment for the unexpired term of the former incumbent, or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than one hundred fourteen days from the call of the special election.

B. Notwithstanding any other provision of this section, the City Council may appoint any person, otherwise qualified, to fill a City Council vacancy to hold office only until the date of a special election which is called to fill the remainder of the term pursuant to subsection A of this section.

C. Notwithstanding any other provision of this section, an appointment shall not be made to fill a vacancy on the City Council if the appointment would result in a majority of the members serving on the Council having been appointed. The vacancy shall be filled in one of the following ways

1. The City Council may call an election to fill the vacancy to be held on the next regularly established election date not less than one hundred fourteen days after the call;

2. If the City Council does not call an election pursuant to subsection B of this section, the vacancy shall be filled at the next regularly established election date.

(Ord. 1697, (part), passed --1995; Ord. 1017, passed --1991; Ord. 1026, § 1, passed --1980)



CITY OF EAST PALO ALTO
CITY MANAGER'S OFFICE
2415 UNIVERSITY AVENUE, EAST PALO ALTO, CA 94303
PHONE: (650)853-3100, FAX: (650)853-3115

For Immediate Release
April 8, 2015

Contact: Terrie Gillen
Interim Deputy City Clerk

The City Council of East Palo Alto is inviting residents to apply to fill a vacant City Council position. Applications are due by April 30, 2015 at 5:00 p.m.

East Palo Alto, CA - At its regular City Council meeting on April 7, 2015, the City Council approved an appointment process to fill the current vacancy on the City Council created by the resignation of Laura Martinez. This vacancy is to fill an unexpired term ending after certification of the November 2016 General Municipal Election, which is anticipated to be December 6, 2016. The City Council invites residents to submit an application to fill the unexpired term. The deadline to turn in an application is April 30, 2015 at 5:00 p.m.

To be eligible, an applicant must be a registered voter and a resident of the City of East Palo Alto. Individuals interested in being considered may obtain an application at City Hall, 2415 University Avenue, 2nd Floor, East Palo Alto, CA 94303. Applications are also available on the City's website at <http://www.ci.east-palo-alto.ca.us/DocumentCenter/View/1869>.

Applications must be received in the Office of the City Clerk, located at City Hall, 2nd Floor: 2415 University Avenue, East Palo Alto, CA 94303, no later than Thursday, April 30, 2015 at 5:00. **(Postmarks, faxes or emailed copies will not be accepted.)**

The City Council has set May 5, 2015 to conduct interviews. The City Council intends to make the appointment at this meeting, or at a subsequent meeting, if necessary. For more information, call Interim Deputy City Clerk Terrie Gillen at (650) 853-3127 or email her at: tgillen@cityofepa.org.

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City of Gilroy Charter

Section 406. Vacancies.

An elective office becomes vacant when the incumbent thereof dies, resigns, is removed from office under recall proceedings, is adjudged insane, convicted of a felony, or of an offense involving a violation of his official duties, or ceases to be a resident of the City, or neglects to qualify within the time prescribed by the provisions of this Charter, or shall have been absent from the State without leave for more than sixty (60) consecutive days, or fails to attend the meetings of the body of which he is a member for a like period without being excused there from by said body.

A vacancy in an elective office, from whatever cause arising, shall be filled by appointment by the Council, such appointee to hold office until the first Tuesday following the next general municipal election and until his successor qualifies. At the next general municipal election following any vacancy, a successor shall be elected to serve for the remainder of any unexpired term.

The Council shall declare the existence of any vacancy. In the event the Council shall fail to fill a vacancy by appointment within thirty (30) days after such an office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy.

City of Milpitas Municipal Code

- **Chapter 3 - VACANCY ON CITY COUNCIL**

Sections:

- **Section 1 - Authority of Adoption**

- **I-3-1.00**

This ordinance is enacted pursuant to the provisions of Government Code Section 36512.2 and following the affirmative vote of the electorate of the City of Milpitas upon Measure L at the special municipal election of the City of Milpitas on November 2, 1976.

(Ord. 194 (part), 12/21/76)

- **Section 2 - Requirements**

- **I-3-2.00**

Any person appointed by the City Council of the City of Milpitas to fill a vacancy upon said City Council shall hold office only until the date of a special election which shall be immediately called to fill the remainder of the vacant term. Said special election date will be the date of the next regularly scheduled election to be held throughout the City (not less than ninety (90) days from the call of the special election) unless said election date falls more than two hundred seventy (270) days from the call of the special election, in which case the special election shall be held on the next regularly established election date (not less than seventy-four (74) days from the call of the special election). See California Elections Code Section 2500 et seq.

(Ord. 194.1, 7/17/90; Ord. 194 (part), 12/21/76)

City of Morgan Hill Municipal Code

Chapter 1.17 - FILLING OF CITY COUNCIL VACANCIES

Sections:

1.17.010 - Statutory authority.

The ordinance codified in this chapter is adopted pursuant to authority set forth in Government Code Section 36512(c)(3).

(Ord. 1325 N.S. (part), 1997)

1.17.020 - Appointment and election.

Any person appointed to fill a vacancy on the city council, holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than one hundred fourteen days from the call of the special election.

(Ord. 1325 N.S. (part), 1997)

1.17.030 - Sunset clause.

Chapter 1.17, Filling of City Council Vacancies, and all ordinances included therein, including but not limited to 1.17.010 through 1.17.040 shall be repealed and ineffective after the certification of the November, 1997 election and the seating of the newly elected councilmember or December 31, 1997 whichever shall occur first.

(Ord. 1325 N.S. (part), 1997)

1.17.040 - Appointment and election.

The ordinance codified in this section shall only become effective should Section 1.17.020 Appointment and election be invalidated. Any person appointed to fill a vacancy on the city council, holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than one hundred fourteen days from the call of the special election.

(Ord. 1326 N.S. (part), 1997)

1.17.050 - Sunset clause.

Chapter 1.17, Filling of City Council Vacancies, and all ordinances included therein, including but not limited to 1.17.010 through 1.17.050 shall be repealed and ineffective after the certification of the November, 1997 election and the seating of the newly elected councilmember or December 31, 1997 whichever shall occur first.

(Ord. 1326 N.S. (part), 1997)

City of Mountain View Charter

Section 402. - When an elective office becomes vacant.

An elective office becomes vacant when the incumbent dies, resigns, is removed from office under recall proceedings, is adjudged insane, convicted of a felony, or of an offense involving a violation of the incumbent's official duties, or ceases to be a resident of the city, or neglects to qualify within the time prescribed by the provisions of this Charter, or shall have been absent from the state without leave for more than sixty days, or fails to attend the meetings of the council for a like period without being excused therefrom by said body. (As amended June 3, 1980.)

Section 504. - Vacancies.

The council shall, within 30 days from the commencement of any vacancy on the council from whatever cause arising, either fill the vacancy by appointment or call a special election to fill the vacancy. If the vacancy is filled by appointment, the person so appointed shall hold office until the first Tuesday following the next general municipal election at which a successor could be elected and until that person's successor qualifies. At that next general municipal election following any vacancy, a councilmember shall be elected to serve for the remainder of any unexpired term. If the vacancy be filled by election, the person so elected shall hold office for the unexpired term of the former incumbent and until that person's successor qualifies. When any vacancy occurs, if there are two councilmembers at that time serving terms to which they were appointed, then in that event, the vacancy shall be filled solely by election. Notwithstanding the provisions of Charter Section 1302, a special election to fill a council vacancy may be held on any date. (As amended, April 12, 1960; June 3, 1980; November 6, 1984.)

City of Palo Alto Charter

Article III. Sec. 10. Vacancy on council.

A vacancy on the council may be filled by a majority of the remaining members of the council, and the appointee shall hold office until the first day of January succeeding the next election at which council members are to be elected. At the next election succeeding any vacancy a council member shall be elected to serve for the unexpired term. If the council fails to fill such vacancy within 60 days of such vacancy or the council chooses to fill such vacancy by election, it shall forthwith call a special election, at which a council member shall be elected to serve for the unexpired term.

(Amended by Stats. 1972, Ch. 71, 7-7-72 and by amendment filed with the Secretary of State, December 12, 1979)

City of San Jose

least one public hearing on the matter. When such a recommendation has been submitted to the Council, it shall not thereafter be amended by the Commission.

The Council shall, by ordinance, which shall be subject to the referendum provisions of this Charter, adopt the salaries as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount.

No more than one salary setting ordinance shall be adopted on the basis of any biennial recommendation, provided that the Council may, at any time, by ordinance, reduce the salaries of the members of the Council, including the Mayor. In any salary setting ordinance adopted hereunder, the salaries for each member of the Council shall be the same, except that the salary of the Mayor may exceed that of the other members of the Council. Salaries established by ordinance adopted pursuant to the provisions of this Section shall remain in effect until amended by a subsequent ordinance adopted pursuant to the provisions of this Section.

For each member of the Council, except the Mayor, a sum, as established by the Council Salary Setting Commission, shall be deducted from the salary of such member for each regular meeting of the Council, other than regular adjourned meetings, which he or she fails to attend in each such calendar month; provided, however, that such deduction shall not be made for his or her failure to attend any meeting during which he or she is away on authorized City business, or from which he or she is absent because of his or her own illness or the illness or death of a close family member. No deduction shall be made from the Salary of the Mayor because of his or her failure to attend any Council meeting.

Amended at election June 7, 1966

Amended at election June 5, 1973

Amended at election November 4, 1980

Amended at election November 4, 1986

SECTION 408. Reimbursement.

The members of the Council and the Mayor shall receive reimbursement, if and to the extent such is authorized by the Council, for expenses incurred in the performance of their duties or functions of office.

SECTION 409. When Office Becomes Vacant.

The office of a member of the Council or of the Mayor becomes vacant on the happening of any of the following events before the expiration of such officer's term:

- (a) The death of the incumbent;
- (b) Insanity of the incumbent, when determined by a final judgment or final order of a court of competent jurisdiction;
- (c) Resignation of the incumbent;

- (d) The incumbent ceases to satisfy any requirements for retention of his or her office which are set forth elsewhere in this Charter;
- (e) Removal of the incumbent from office;
- (f) Absence of the incumbent from the State of California for more than sixty (60) days, unless either upon business of the City or with the consent of the Council. In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limited for absence from the State shall be extended by the Council;
- (g) The incumbent ceases to discharge the duties of his or her office for a period of three (3) consecutive months except when prevented by sickness or when absent from the State with permission required by this Charter;
- (h) The incumbent being convicted of a felony or of any offense involving a violation of his or her official duties;
- (i) The refusal or neglect of the incumbent to file his or her official oath or bond, if such is required by law, within the time prescribed by law;
- (j) The decision of a competent tribunal declaring void the incumbent's election or appointment;
- (k) The making of an order vacating the incumbent's office or declaring his or her office vacant when he or she fails to furnish an additional or supplemental bond if such is required of him or her by law;
- (l) The commitment of the incumbent to a hospital or sanitarium, by a court of competent jurisdiction, as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in such event the office shall not be deemed vacant until the order of commitment has become final;
- (m) The incumbent's absence from five (5) consecutive regular meetings of the Council, unless excused by written resolution of the Council. No such excuse shall operate retroactively. No resolution shall excuse an incumbent's absence from more than five (5) consecutive regular meetings immediately following the date of adoption of such resolution although additional resolutions may be adopted excusing an incumbent's absence from not more than five (5) additional regular meetings immediately following the date of each such resolution. For purposes of this subsection, regular meetings from which an incumbent has been absent shall not be deemed consecutive if separated by one or more regular meetings at which such incumbent has been present or his or her absence from which has been excused by the Council. Also, for purposes of this subsection,

“regular meetings” shall not be deemed to mean or include “regular adjourned meetings”, “special meetings”, or any committee meetings.

Amended at election June 2, 1970

Amended at election June 7, 1994

SECTION 410. Filling of Vacancies.

If, for any reason, a vacancy, as defined by Charter Section 409, occurs in the office of Mayor or Council member, the Council shall either fill the vacancy by appointment by a majority of its remaining members, or call an election for the purpose of filling such vacancy.

- (a) **APPOINTMENT.** If the vacancy is filled by appointment, the appointment shall be effective until the end of the unexpired term of office or January 1st following the next Regular Municipal Election after the appointment, which ever first occurs.
- (b) **ELECTION.** If the vacancy is to be filled by election, the election will be for the entire unexpired term of the office. The election will either be conducted at a Regular Municipal Election, a General Election or at a Special Municipal Election, as determined by the Council. The election will be conducted in accordance with Section 1600.
- (c) **INTERIM APPOINTMENT.** If a vacant office is to be filled by election, the Council may make an interim appointment to fill the office until a candidate has been duly elected and the results of the election have been officially certified. A person who is appointed during the interim period shall meet the eligibility requirements to hold office under Section 404 of this Charter.
- (d) **ADVANCE REPLACEMENT.** When a vacancy is, for any reason, anticipated in advance of its actual occurrence, the Council may initiate the appointment or election process in anticipation of the vacancy. The member who will be vacating the position may participate in the process.
- (e) **NO REMAINING MEMBERS.** If the offices of all of the Council members and also of the Mayor should become vacant and no member of the Council remains to fill any vacancies, the City Clerk shall call and conduct a Special Municipal Election, as soon as reasonably possible, to fill such offices for the remainder of the unexpired terms.
- (f) **ELECTION DATES.** All dates for elections to fill vacancies shall be set by resolution.
- (g) **ELECTION IN 1994.** The election held on November 8, 1994 to fill a vacancy effective January 1, 1995 in Council District 7 shall be deemed to be an election

pursuant to this Section. The person so elected shall serve for the full term of that office.

Amended at election June 6, 1967

Amended at election June 6, 1972

Amended at election November 7, 1978

Amended at election November 8, 1994

SECTION 411. The Council; Interference With Administrative Matters.

Neither the Council nor any of its members nor the Mayor shall interfere with the execution by the City Manager of his or her powers and duties, nor in any manner dictate the appointment or removal of any City officers or employees whom the City Manager is empowered to appoint except as expressly provided in Section 411.1. However, the Council may express its views and fully and freely discuss with the City Manager anything pertaining to the appointment and removal of such officers and employees.

Except for the purpose of inquiries and investigations under Section 416, the Council, its members and the Mayor shall deal with City officers and employees who are subject to the direction and supervision of the City Manager, City Attorney, City Auditor, Independent Police Auditor or City Clerk, solely through the City Manager, City Attorney, City Auditor, Independent Police Auditor or City Clerk, respectively, and neither the Council nor its members nor the Mayor shall give orders to any subordinate officer or employee, either publicly or privately.

Amended at election November 4, 1986

Amended at election November 3, 1992

Amended at election November 5, 1996

SECTION 411.1 Department Heads; Policy Objectives; Consent to Hire.

- (a) The Council shall adopt a written Statement of Policy for each City Department which is under the administration of the City Manager. Said Statement of Policy shall set forth the broad goals, objectives and aspirations to be accomplished by that Department.
- (b) When the position of head of each Department becomes vacant, the Council shall review and, if necessary, amend the previously approved Statement of Policy. The Council also shall adopt a set of questions which are intended to elicit responses from each prospective appointee concerning the goals, objectives and aspirations in the Statement of Policy.

For purposes of this section, the term “department” shall mean any department specified in Charter Section 807 as well as any department created by ordinance pursuant to Charter Section 800.

Prior to appointing any Department head, the City Manager shall submit to the Council, for its review, the responses to the Council’s questions submitted by the proposed appointee, and

City of Santa Clara

Charter Sec. 703 Vacancies.

A vacancy in any elective office of the City, including Mayor, City Council, Chief of Police Department, and City Clerk, from whatever cause arising, shall be filled by appointment by the City Council by a majority vote of the remaining members.

In the event the City Council shall fail to fill a vacancy by appointment within thirty (30) days after such office shall have been declared vacant, it shall forthwith cause an election to be held to fill such vacancy. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent. (As approved at election held November 5, 1968, approved by Joint Resolution of Legislature filed with the Secretary of State January 15, 1969)



City of Sunnyvale

Agenda Item

17-0939

Agenda Date: 9/26/2017

REPORT TO COUNCIL

SUBJECT

Appointment of Interim City Manager and Approval of Employment Agreement

BACKGROUND

City Manager Deanna Santana has provided her notice of resignation to the City Council. Ms. Santana's last day of employment with the City will be October 1, 2017. The City has started the recruitment process to select a new City Manager. However, the City needs an interim City Manager until the recruitment process is completed and a new City Manager begins employment.

EXISTING POLICY

Section 800 of the Sunnyvale City Charter states, in part, "The City Manager shall be chosen by the City Council on the basis of his/her executive and administrative qualifications."

ENVIRONMENTAL REVIEW

Appointment of an interim city manager is not 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 City Council received interest in the interim City Manager position from multiple individuals, both internal and external applicants. After a review of the resumes and discussion of the applicants in closed session on August 24, 2017, the City Council narrowed the list for consideration to three candidates. On September 11, 2017, the City Council interviewed these candidates in a closed session meeting. Based on these interviews, the City Council took action on September 12, 2017 in closed session to conditionally appoint Kent Steffens as interim City Manager, contingent on reaching agreement regarding compensation and benefits.

Kent Steffens, the City's current Assistant City Manager, will serve as interim City Manager effective October 2, 2017 until a new City Manager begins employment with the City of Sunnyvale. The Mayor completed negotiations with Mr. Steffens and the salary as interim City Manager will be the starting rate of the City Manager salary range or \$302,041 per year. Attached is an employment agreement for services as Interim City Manager that outlines the terms and conditions of his employment in this interim appointment.

FISCAL IMPACT

The cost for the City Manager is budgeted in the operating program for the City Manager's Office. The cost for the entire City Managers' office is ultimately allocated across all operating funds in the City. As the recruitment process will take some time, and there are currently several vacancies within

the Office of the City Manager, the impact of this appointment can be absorbed in the current 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.

ALTERNATIVES

1. Approve the appointment of Kent Steffens as Interim City Manager and authorize the Mayor to execute the employment agreement.
2. Do not approve the appointment of Kent Steffens as Interim City Manager and provide alternative action as approved by the City Council.

STAFF RECOMMENDATION

Staff makes no recommendation.

Prepared by: Vienne Choi, Principal Human Resources Analyst

Reviewed and approved by: Teri Silva, Director of Human Resources

ATTACHMENT

1. Interim City Manager Employment Agreement

**EMPLOYMENT AGREEMENT
BETWEEN
CITY OF SUNNYVALE AND KENT STEFFENS
(INTERIM CITY MANAGER)**

THIS AGREEMENT is between the City of Sunnyvale, a municipal corporation and chartered city ("City") and Kent Steffens ("Employee"). It is effective on the latest date next to the signatures on the last page.

The Parties enter into this Agreement based on the following facts:

- A. Employee is currently City's Assistant City Manager ("ACM").
- B. The City Council wishes to employ Employee as Interim City Manager, subject to the terms and conditions set forth in this Agreement, the Sunnyvale Municipal Code and the Charter of the City of Sunnyvale (the "Charter").
- C. Employee desires to be employed by the City as its Interim City Manager, subject to the terms and conditions in this Agreement, the Sunnyvale Municipal Code, the Charter, , and all other applicable laws, resolutions, and policies.
- D. The City and Employee wish to establish specific terms and conditions relating to compensation and benefits and other matters related to Employee's appointment as Interim City Manager.

BASED UPON THE FOREGOING, THE CITY AND EMPLOYEE AGREE AS FOLLOWS:

1. Employment. The City appoints Employee as its Interim City Manager for a term to begin on October 2, 2017. Except as otherwise provided in this Agreement, Employee's employment with the City shall be governed by the City Council-adopted Salary Resolution, as it currently exists and may be changed from time to time.
2. Duties of the Interim City Manager. Employee will perform the duties established for the City Manager by section 802 of the Sunnyvale City Charter, by the Sunnyvale Municipal Code, by direction given by the City Council, and as otherwise provided by law, ordinance, or regulation. Employee agrees to comply with all federal, state and local laws, ordinances, rules and regulations applicable to or associated with these duties.
 - 2.1. Full Energy and Skill. Employee will devote his full energy, skill, ability, and productive time to the performance of his duties.
 - 2.2. No Conflict. Employee will not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with or which interferes with the performance of his duties. Employee acknowledges that he is subject to the various conflict of interest requirements found in the California Government Code and state and local policies and regulations.

3. Salary. While performing the duties of Interim City Manager, Employee will receive a base salary within the range provided in the City Council-approved Salary Resolution, as it currently exists and may be changed from time to time. Employee will receive an initial gross base annual salary of three hundred two thousand forty-one dollars (\$302,041), beginning on October 2, 2017. This amount is subject to authorized or required deductions and withholdings, prorated and paid on City's regular paydays. Employee is an exempt employee under applicable wage and hour law and his base salary shall be compensation for all hours worked. The City agrees that the amount of Employee's base annual salary will not decrease, except as part of a permanent decrease that is consistent with the Fair Labor Standards Act.

4. Benefits and Allowances. Employee will be eligible for, and shall continue to receive, all regular benefits that he received as ACM (i.e., health insurance, PERS contributions to the extent paid by the City, etc.) and vacation, sick leave, and management leave, as are generally provided to department director employees (Pay Plan Category F) under the City Council-approved Salary Resolution, as it currently exists and may be changed from time to time.

5. Additional Expenses of Employment. The City shall pay the cost of any fidelity or other bonds required by law for the Interim City Manager.

6. Duration of Employment, Termination; Reinstatement to Former ACM Position. Employee understands and agrees that he has no constitutionally protected property or other interest in his employment as Interim City Manager. Employee waives any and all rights, if any, under the City's rules and regulations, including without limitation, the right to pre-or post-disciplinary due process. Employee understands and agrees that he works at the will and pleasure of the City Council and that he may be terminated or asked to resign the position of Interim City Manager at any time, with or without cause.

6.1. Reinstatement to ACM Position. Except as otherwise provided in this agreement, when the City Council terminates Employee's appointment as Interim City Manager, Employee shall have the right to be reinstated to the position of ACM. In addition, Employee may, upon giving the City 30 days' advance written notice, resign his position as Interim City Manager and return to the position of and be reinstated as the ACM. Upon his reinstatement as the ACM, he shall enjoy those benefits set forth in and be subject to the terms and conditions of the Salary Resolution for Pay Plan Category F employees.

6.1.1. If Employee returns to the position of and is reinstated as the ACM for any reason, Employee's salary and benefits shall be adjusted to match that which would have been in effect at the time he is reinstated had he not entered into this Agreement and had, during the term of this Agreement, retained and performed the duties of his position as ACM. Any benefits or rights that he enjoyed as the Interim City Manager this agreement shall terminate when he resumes the ACM position.

6.1.2. During the term of this Agreement, Employee's ACM position shall be considered a temporary position. If Employee determines that the ACM position should be filled in his absence, the ACM position may be filled as a term-limited position for a term lasting no longer than the term of Employee's Appointment as Interim City Manager, and shall be terminable at will.

6.2. Termination and Severance. Notwithstanding anything contrary in this agreement, if Employee is terminated as the Interim City Manager for serious misconduct involving abuse of his office or position, including but not limited to waste, fraud, violation of the law under color of authority, misappropriation of public resources, violence, harassment or discrimination, he shall not be entitled to be reinstated as the ACM, and shall not be entitled to any severance pay under the Salary Resolution provisions for pay plan Category F Employees. Further, if Employee receives any cash settlement from the City related to termination of this agreement or Employee's employment with City, Employee shall fully reimburse the City the amount of that settlement if the Employee is convicted of a crime involving an abuse of the office of Interim City Manager as set forth in Government Code section 53243.3 within thirty (30) days after the conviction becomes final and is no longer subject to any appeal.

7. Miscellaneous.

7.1. Notices. Notices given under this Agreement shall be in writing and shall be either: (a) served personally; or (b) sent by facsimile (provided a hard copy is mailed within one (1) business day); or (c) delivered by first-class United States mail, certified, with postage prepaid and a return receipt requested; or (d) sent by Federal Express, or some equivalent private mail delivery service. Notices shall be deemed received at the earlier of actual receipt or three (3) days following deposit in the United States mail, postage prepaid. Notices shall be directed to the addresses shown below, provided that a party may change such party's address for notice by giving written notice to the other party in accordance with this subsection.

CITY: Attn: Mayor
456 West Olive Ave, Sunnyvale, CA 94086

EMPLOYEE: Kent Steffens
456 West Olive Ave, Sunnyvale, CA 94086

7.2. Entire Agreement/ Amendment. This Agreement constitutes the entire understanding and agreement between the parties as to those matters contained in it, and supersedes any and all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement may be amended at any time by mutual agreement of the parties, but any such amendment must be in writing, dated, and signed by the parties and attached hereto.

7.3. Applicable Law and Venue. This Agreement shall be interpreted according to the laws of the State of California. Venue of any action regarding this Agreement shall be in the proper court in Santa Clara County.

7.4. Severability. If any portion of this Agreement is declared void, such portion shall be severed from this Agreement and the remaining provisions shall remain in effect, unless the result of such severance would be to substantially alter this Agreement or the obligations of the parties, in which case this Agreement shall be immediately terminated.

7.5. Waiver. Any failure of a party to insist upon strict compliance with any term, undertaking, or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver must be in writing, signed and dated by the parties.

7.6. Representation by Counsel. Employee and the City acknowledge that they each did, or had the opportunity to, consult with legal counsel of their respective choices with respect to the matters that are the subject of this Agreement prior to executing it.

7.7. Section Headings. The headings on each of the sections and subsections of this Agreement are for the convenience of the parties only and do not limit or expand the contents of any such section or subsection.

EMPLOYEE

CITY OF SUNNYVALE

Kent Steffens

Mayor

Date: _____

Date: _____

APPROVED AS TO FORM:

Assistant City Attorney



City of Sunnyvale

Agenda Item

17-0095

Agenda Date: 9/26/2017

Tentative Council Meeting Agenda Calendar



City of Sunnyvale

Tentative Council Meeting Agenda Calendar

Tuesday, October 3, 2017 - City Council

Study Session

- 17-0786** 6 P.M. SPECIAL COUNCIL MEETING (Study Session)
Evaluation of Work Plan for New Revenue Strategies to Fund New and Increasing Service Demands and/or Unfunded Capital Investments (Study Issue)

Special Order of the Day

- 17-0352** SPECIAL ORDER OF THE DAY - Arts and Humanities Month
- 17-0881** SPECIAL ORDER OF THE DAY - National Breast Cancer Awareness Month

Public Hearings/General Business

- 16-0618** Consider Below Market Rate Alternative Compliance Plans for Residential Developments at 803 W. El Camino Real (Pastoria Corners) and 871 E. Fremont Avenue (Butcher's Corner). Applicant: De Anza Properties; Planning Files 2016-7568 and 2016-7569

Tuesday, October 17, 2017 - City Council

Closed Session

- 17-0695** 5 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; Interim City Manager
Employee organization: Communication Officers Association (COA)

Study Session

- 17-0578** 5:30 P.M. SPECIAL COUNCIL MEETING (Joint Study Session with Bicycle and Pedestrian Advisory Commission)
Caltrain Grade Separation Feasibility Study
Location: Council Chambers

Special Order of the Day

- 17-0815** SPECIAL ORDER OF THE DAY - Freedom from Workplace Bullying Week

Public Hearings/General Business

- 17-0892** Proposed Project: Introduction of Ordinance to REZONE 24 contiguous single family home lots from R-0 (Low Density Residential) to R-0/S (Low Density Residential/Single-Story) and one single family home lot (with 2 assessor parcels) from R-0/PD (Low Density Residential/Planned Development) to R-0/S/PD (Low Density Residential/Single-Story/Planned Development) (25 lots total)
File #: 2017-7565
Location: 1666-1698 Swallow Drive (Assessor Parcel Number 313-41-010 thru 012, 313-41-027 and 028), 1104-1121 Lorne Way (APNs 313-41-013 thru 026), 1103-1111 Homestead Road (APNs 313-41-005 thru 009) and 18771 East Homestead Road (APNs 313-41-070 and 071).
Zoning: R-0 and R-0/PD for 18771 Homestead Road
Applicant / Owner: Craig Milito (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).
- 17-0897** File #: 2017-7556
Location: 801-819 Allison Way (APNs: 323-03-023 through 323-03-026 and APNs: 323-04-034 through 323-04-036), 1315-1381 Lennox Way (APNs: 323-03-027 through 323-03-038), 804-816 Lennox Court (APNs: 323-03-039 through 323-03-042), 801-814 Blanchard Way (APNs: 323-03-043 through 323-03-045 and APNs: 323-04-025 through 323-04-027), and 801-814 Beaverton Court (APNs: 323-04-028 through 323-04-033).
Zoning: R-1
Proposed Project: Introduction of Ordinance to REZONE 35 contiguous single family home lots from R-1 (Low Density Residential) to R-1/S (Low Density Residential/Single-Story)
Applicant / Owner: Tom Verbure (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).
- 17-0829** Review and Approve Recommended Changes to the Community Event and Neighborhood Grant Program Eligibility Guidelines
- 17-0934** Study of Accessory Dwelling Unit Development Standards: Introduce an

Ordinance Amending Sunnyvale Municipal Code Section 19.68.040 (Accessory Dwelling Units), Adopt a Resolution Amending the Master Fee Schedule to Impose Transportation Impact Fees for Accessory Dwelling Units, and Find that these Actions are Exempt from CEQA.

Tuesday, November 7, 2017 - City Council

Study Session

17-0239 6 P.M. SPECIAL COUNCIL MEETING (Study Session)
Board and Commission Interviews (As needed)

Public Hearings/General Business

17-0835 Selection of a Preferred Alternative for the Civic Center Master Plan

17-0702 Introduce an Ordinance to Amend Chapter 19.92 (General Plan and Zoning Amendments) and Section 19.38.040 (Individual Lockable Storage Space for Multiple-Family Residential) of the Sunnyvale Municipal Code

17-0122 2017 3rd Quarterly Consideration of General Plan Amendment Initiation Requests

Tuesday, November 28, 2017 - City Council

Study Session

17-0784 6 P.M. SPECIAL COUNCIL MEETING (Study Session)
Presentation on the Status and Next Steps on the High-Speed Rail Project

Public Hearings/General Business

17-0240 Appoint Applicants to Boards and Commissions (as needed)

17-0867 File #: 2016-7830
Location: 1190 Borregas Avenue (110-34-007)
Zoning: Moffett Park Industrial (MPI)
Proposed Project: Related applications on a 2.48-acre site:
MAJOR MOFFETT PARK DESIGN REVIEW PERMIT: To allow demolition of an existing 32,800 square foot industrial building and construction of a new 65,240 sq. ft. 3-story office building and related site improvements resulting in a 60% FAR. The project also requests to utilize 31,898 square feet from the development reserve and green building incentives.
Applicant / Owner: ArcTec Inc. / Moffett Park Owner, LLC.
Environmental Review: Mitigated/Negative Declaration

Tuesday, December 12, 2017 - City Council

Closed Session

17-0780 5 P.M. SPECIAL COUNCIL MEETING (Closed Session)
Closed Session held pursuant to California Government Code Section
54957:
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Attorney

Study Session

17-0108 6:45 P.M. SPECIAL COUNCIL MEETING (Study Session)
Discussion of Upcoming Selection of Vice Mayor for 2018

Special Order of the Day

17-0484 SPECIAL ORDER OF THE DAY - Ceremonial Oath of Office for Board and
Commission Members

Public Hearings/General Business

17-0089 Agenda items pending- to be scheduled

Tuesday, December 19, 2017 - City Council

Closed Session

17-0238 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

17-0159 Receive and File the FY 2016/17 Budgetary Year-End Financial Report,
Comprehensive Annual Financial Report (CAFR) and Approve Budget
Modification No. XX and Sunnyvale Financing Authority Financial Report

Tuesday, January 9, 2018 - City Council

Public Hearings/General Business

18-0001 Selection of Vice Mayor for a One-Year Term Effective January 9, 2018

18-0003 Determine the 2018 Seating Arrangements for City Council

Tuesday, January 23, 2018 - City Council

Public Hearings/General Business

17-0092 Agenda items pending- to be scheduled

Friday, January 26, 2018 - City Council

Study Session

17-0099 8:30 A.M. SPECIAL COUNCIL MEETING
Strategic Session-Prioritization & Policy Priorities Update

Tuesday, February 6, 2018 - City Council

Public Hearings/General Business

17-0123 2017 4th Quarterly Consideration of General Plan Amendment Initiation
Requests

Friday, February 16, 2018 - City Council

Public Hearings/General Business

17-0101 8:30 A.M. SPECIAL COUNCIL MEETING
Study/Budget Issues Workshop

Tuesday, February 27, 2018 - City Council

Public Hearings/General Business

17-0102 Agenda items pending- to be scheduled

Date to be Determined - City Council

Public Hearings/General Business

17-0471 Eco-district Feasibility and Incentives (Study Issue)



City of Sunnyvale

Agenda Item

17-0715

Agenda Date: 9/26/2017

Information/Action Items

**2017 INFORMATION/ACTION ITEMS
COUNCIL DIRECTIONS TO STAFF**

No.	Date Assigned	Directive/Action Required	Dept	Due Date	Date Completed
1.	12/13/16	Provide information about how workers compensation insurance costs have changed over the last several years	HR/FIN	Oct 2017	
2.	4/11/17	Prepare an Information Only Report to Council informing Council of potential ways the City could work to reduce the jobs/housing ratio in the future	CDD	Oct 2017	
3.	6/6/17	Provide an Information Only Report to Council prior to any TIF funds potentially being credited to Irvine Company for the Mary Avenue Overpass parcel	CDD		
4.	6/20/17	Work with the Community Event and Neighborhood Grant Distribution Council Subcommittee to consider amending the guidelines for grant distribution	LCS	10/17/17	
5.	6/20/17	How much would the City have to deposit on day one into the forthcoming Irrevocable Pension Trust that would cause a one-decade acceleration in the Bartel model on each of the two plans where assets equal liabilities	FIN	12/17/17	
6.	7/11/17	Agendize Minimum Wage Update for Council discussion (study session)	OCM	2/27/18	

**NEW STUDY/BUDGET ISSUES
SPONSORED BY COUNCIL IN 2017**

No.	Date Requested	Study Issue Title	Requested By	Dept	Issue Paper Approved by City Manager
1.	6/20/17	Evaluate the possibility of subsidizing water rates for low-income seniors from the General Fund	Smith/ Goldman	FIN	
2.	6/20/17	Explore policies to preserve light industrial land uses	Griffith/ Hendricks	CDD	



City of Sunnyvale

Agenda Item

17-0823

Agenda Date: 9/26/2017

Board/Commission Meeting Minutes



City of Sunnyvale

Meeting Minutes - Final

Sustainability Commission

Monday, July 17, 2017

7:00 PM

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

CALL TO ORDER

Chair Paton called the meeting to order at 7:02 p.m. in the West Conference Room.

SALUTE TO THE FLAG

Chair Paton led the salute to the flag.

ROLL CALL

Present: 6 - Chair Bruce Paton
Vice Chair Amit Srivastava
Commissioner Dan Hafeman
Commissioner Stephen Joesten
Commissioner Kristel Wickham
Commissioner Steven Zornetzer

Absent: 1 - Commissioner Petya Kisyoova

Council Liaison – Jim Griffith (present)

PRESENTATION

1 [17-0738](#) Tour of Intelligent Transportation System 7 p.m. to 7:45 p.m.

Carmen Talavera, Senior Traffic Engineer, Department of Public Works, led a tour of the City's state-of-the-art Intelligent Transportation System, which uses real-time data to monitor traffic flows and minimize congestion in select parts of the City.

3 [17-0740](#) Commissioner Presentation - Best Practices on Funding CAP Implementation

Commissioner Wickham presented information on best practices on funding climate action plans (CAPs) taken from leading cities, drawing from the Urban Sustainability Directors' Network's (USDN's) Financing Sustainable Cities Scan and Toolkit. She presented an overview of funding sources, metrics considered when evaluating

financing options, and future CAP funding options for the City.

Chair Paton opened the public comments.

Tim Oey, Sunnyvale resident and Commissioner on the Bicycle and Pedestrian Advisory Commission (BPAC), noted that much of the information in the presentation overlapped with BPAC's purview and that there should be opportunities for collaboration between BPAC and the Sustainability Commission, particularly for proposing Study Issues on related topics.

Elaine Marshall, Environmental Programs Manager, clarified that Commissions typically propose individual Study Issues following which staff may determine whether they should be combined. Chair Paton asked for additional clarification regarding whether Commissioners from BPAC and SC could collaborate if they each restricted themselves to less than four members.

Chair Paton closed the public comments.

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

- 2** [17-0744](#) Approve the Sustainability Commission Meeting Minutes of June 19, 2017

Vice Chair Srivastava moved, and Commissioner Zornetzer seconded, a motion to approve the consent calendar. The motion carried by the following vote:

Yes: 5 - Chair Paton
 Vice Chair Srivastava
 Commissioner Hafeman
 Commissioner Wickham
 Commissioner Zornetzer

No: 0

Absent: 1 - Commissioner Kisyova

Abstain: 1 - Commissioner Joesten

Commissioner Joesten abstained as he was not present at the June meeting (as his

term did not commence until July 1, 2017).

PUBLIC HEARINGS/GENERAL BUSINESS

- 4 [17-0745](#) Nominate a representative to the El Camino Real Plan Advisory Committee (ECRPAC)

Chair Paton announced that Commissioner Kisyova had resigned from the Sustainability Commission effective July 26, 2017 due to a change in her primary residence to San Jose, which deems her ineligible to serve on the Commission. Given her role as the Sustainability Commission's nominated representative to the ECRPAC, the Commission would now need to nominate a new representative.

Nupur Hiremath, Sustainability Coordinator, clarified that there would be no restriction for the same nominated representative to serve on both the ECRPAC and the CAP 2.0 Advisory Committee unless otherwise determined by the Commission.

Commissioner Hafeman expressed his willingness to serve as the Commission representative if it did not preclude him from consideration for also serving as one of the representatives to the CAP 2.0 Advisory Committee.

Vice Chair Srivastava moved, and Commissioner Zornetzer seconded the motion, to nominate Commissioner Hafeman as a representative to the ECRPAC. The motion carried by the following vote:

Yes: 6 - Chair Paton
 Vice Chair Srivastava
 Commissioner Hafeman
 Commissioner Joesten
 Commissioner Wickham
 Commissioner Zornetzer

No: 0

Absent: 1 - Commissioner Kisyova

- 5 [17-0739](#) Election of Officers

Chair Paton opened nominations for the office of the Chair. Commissioner Zornetzer nominated Chair Paton to serve another term as Chair. Chair Paton accepted the nomination. Chair Paton closed nominations for the office of the Chair. The Commission voted as follows:

Yes: 6 - Chair Paton
Vice Chair Srivastava
Commissioner Hafeman
Commissioner Joesten
Commissioner Wickham
Commissioner Zornetzer

No: 0

Absent: 1 - Commissioner Kisyova

Chair Paton opened nominations for the office of the Vice Chair. Commissioner Hafeman nominated Vice Chair Srivastava to serve another term as Vice Chair. Vice Chair Srivastava accepted the nomination. Chair Paton closed nominations for the office of the Vice Chair. The Commission voted as follows:

Yes: 6 - Chair Paton
Vice Chair Srivastava
Commissioner Hafeman
Commissioner Joesten
Commissioner Wickham
Commissioner Zornetzer

No: 0

Absent: 1 - Commissioner Kisyova

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

- 6 [17-0743](#) Draft Study Issue: How to improve Traffic Flow through the City of Sunnyvale?

Commissioners Joesten and Hafeman noted that a study of traffic flows cannot be conducted without accounting for flow between Sunnyvale and its neighboring cities. Commissioner Zornetzer observed that the potential SI as proposed is already being addressed by the City's Intelligent Transportation System (ITS) that (toured earlier during this meeting) within the staffing and budget available. For these reasons, the Commission decided to drop this potential Study Issue.

- 7 [17-0741](#) Draft Study Issue: Encouraging Heat Pump Water and Space Heating

Commissioner Wickham outlined that the proposed Study Issue on heat pump

technology would examine its costs, savings, incentives needed, and impacts on community and the environment. The Commission discussed how such a Study Issue could inform the development of incentives (e.g., streamlined permitting process, reduced permitting fees) to promote more widespread adoption of heat pump technologies.

Elaine Marshall shared that Silicon Valley Clean Energy (SVCE) is considering developing incentive programs, a pilot study, or model ordinance related to heat pump technology; staff will provide further information on SVCE's plan, when it becomes available in early August, to the Commission. Commissioner Wickham requested early staff feedback on the Study Issue.

Commissioner Hafeman moved, and Commissioner Joesten seconded, to sponsor the proposed Study Issues, pending further information on its overlap with SVCE's proposed programs or pilot studies. The motion carried by the following vote:

Yes: 6 - Chair Paton
Vice Chair Srivastava
Commissioner Hafeman
Commissioner Joesten
Commissioner Wickham
Commissioner Zornetzer

No: 0

Absent: 1 - Commissioner Kisyova

- 8 [17-0742](#) Proposed Study Issue: Lower speed limits on all Arterials and El Camino Real to 30mph or less

Commissioner Hafeman explained that the motivation for this potential Study Issue was that Sunnyvale is the only City where the speed limit on El Camino Real is 40 mph. The proposed Study Issue would examine the impact of lowering the speed limit to 30 mph on all Sunnyvale streets and arterials to make the streets safer for bicyclists and pedestrians.

Commissioner Wickham inquired whether the ECR Corridor Plan considered modifications to speed limits.

Chair Paton opened the public comments.

Tim Oey, Sunnyvale resident, noted that in addition to the streets previously noted

by Commissioner Hafeman, Fremont Ave and Mathilda Ave south of El Camino also have speed limits of 40 mph.

Chair Paton closed the public comments.

Commissioner Hafeman asked for preliminary staff feedback on this potential Study Issue and requested that the potential Study Issue be added to the August meeting agenda for further discussion.

New Potential Study Issue Topics

Chair Paton moved, and Commissioner Wickham seconded, a motion to add a discussion of a potential Study Issue to examine sea level rise impacts on Sunnyvale to the August meeting agenda. The motion carried by the following vote:

Yes: 6 - Chair Paton
Vice Chair Srivastava
Commissioner Hafeman
Commissioner Joesten
Commissioner Wickham
Commissioner Zornetzer

No: 0

Absent: 1 - Commissioner Kisyova

Chair Paton also volunteered to give a Commissioner Presentation on Sea Level Rise at the August meeting.

NON-AGENDA ITEMS & COMMENTS

-Commissioner Comments

Commissioner Zornetzer announced that the second Sustainability Speaker Series event, a talk on electrification of transportation systems by Rod Diridon, Sr., would be held on August 2, 2017 at 7:00 p.m. in Council Chambers.

Commissioner Hafeman commented that the new Google Headquarters construction along Stevens Creek trail appeared to be built below the level of anticipated sea level rise. Commissioner Zornetzer noted that Google's strategy is to mitigate sea level rise itself and is planning to add nearly 11 feet of fill dirt.

Commissioner Wickham reported that she went to an informative talk by Paul Hawken, author of Drawdown, on the top 100 solutions to climate change; she shared that it was her intention to review and rank the 100 solutions as they apply to Sunnyvale. She also shared that she attended the Silicon Valley Energy Summit at which alternate models for investing in energy and transportation were discussed.

Vice Chair Srivastava reported that the City's State of the City event on July 29, 2017 would have a Meet-and-Greet event for Commissioners.

-Staff Comments

Councilmember Griffith announced that the Chief Executive Officer (CEO) of SVCE was leaving September 1, 2017. The SVCE Board is identifying an Interim CEO and will be recruiting for a permanent replacement.

Nupur Hiremath provided feedback that while the Sustainability Commission may not be able to play a formal role in guiding the 2017 Study Issue on Housing Strategy (CDD 17-09), staff would share the results of the Study Issue with the Commission when available.

Ms. Hiremath also reported that the City had begun soliciting applications for the CAP 2.0 Advisory Committee and that Sustainability Commission would need to nominate two representatives to this Advisory Committee in August. Commissioners who were not nominated as Commission representatives may apply in another category; however, the Council Subcommittee tasked with appointing members will be looking for individuals with diverse backgrounds to serve on the Advisory Committee.

Ms. Hiremath announced that the State of the City event would be held on July 29, 2017. The City also recently rolled out the new website, logo, and a Customer Relationship Management (CRM) system. Ms. Marshall shared that the new brand and logo is designed to convey a spirit of "bold sustainable innovation" thereby incorporating sustainability as part of the City's core.

ADJOURNMENT

The meeting was adjourned at 9:40 p.m.



City of Sunnyvale

Meeting Minutes - Draft

Board of Library Trustees

Monday, September 11, 2017

7:00 PM

Library Program Room, Sunnyvale Public
Library, 665 W. Olive Ave., Sunnyvale, CA
94086

CALL TO ORDER

The meeting was called to order at 7:02 p.m.

ROLL CALL

Present: 5 - Chair Carey Wingyin Lai
Vice Chair Daniel Bremond
Board Member Mason Fong
Board Member Tina Hwang
Board Member Mark Isaak

Council Liaison Smith (absent)

Chair Lai welcomed newly appointed Board Member Mason Fong to the Board of Library Trustees. Board Member Fong provided the Board with a brief overview of his background.

PRESENTATION

[17-0772](#) PRESENTATION - Friends of the Sunnyvale Public Library

Kathy Boelter, President of the Friends of the Sunnyvale Library, provided the Board with a presentation on the group's purpose, structure and foundation.

[17-0840](#) PRESENTATION - Information on Open Data

Chief Information Officer Kathleen Boutté Foster provided the Board with a presentation on Open Data. Open Data allows individuals to access data, use and/or share in a machine-readable format. The data is re-usable without requiring further permission and aims for transparency in government.

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

- 1 [17-0839](#) Approve the Board of Library Trustees Meeting Minutes of August 7, 2017

Vice Chair Bremond moved, and Board Member Isaak seconded, approval of the consent calendar as presented. The motion carried by the following vote:

Yes: 5 - Chair Lai
 Vice Chair Bremond
 Board Member Fong
 Board Member Hwang
 Board Member Isaak

No: 0

PUBLIC HEARINGS/GENERAL BUSINESS

- 2 [17-0841](#) Overview of Library Summer Reading Program

Supervising Librarian Christine Mendoza provided the Board with an overview of the Sunnyvale Public Library Summer Reading Program. A total of 3,192 individuals participated in the Summer Reading Program. Participants included:

- 1,779 children with 1,003 successfully completing the program
- 521 teens with 300 successfully completing the program
- 892 adults with 491 successfully completing the program

This year's Summer Reading events included the popular Family Nights at Washington Park, B.I.K.E. pop-ups and storytimes. Approximately 27,404 individuals participated in the various events.

Chair Lai opened the item for public comment, and there being no public comments, closed the item for public comment.

STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES

None.

NON-AGENDA ITEMS & COMMENTS**-Board Member Comments**

Vice Chair Bremond provided the Board with an overview of programs and meetings

he attended.

-Staff Comments

Administrative Librarian Steve Sloan noted the following:

- On August 10, Kartma temporarily paused their operations on the Library plaza. Kartma struggled with costs, staffing and training their baristas. They have hired a consultant to help them revisit their business and strategy. Kartma hopes to reopen in 30-60 days with new offerings and new staff.
- Library staff recently participated in the Librarian's Guide to Homelessness training with creator Ryan Dowd. The program is the same training that homeless shelter staff receive, but tailored to fit libraries. The Sunnyvale Library partnered with Salinas Public Library to offer the training to Monterey County and with San Mateo County to offer it to the northern bay area cities. The partnership was made possible through a Pacific Library Partnership grant. The feedback from participants was overwhelmingly positive: 57% of survey responders indicated that the training was "excellent"; 28% indicated it was "very good" and 13% indicated it was "good".
- City Manager Deanna Santana accepted the City of Santa Clara's offer to become their next city manager. Her role as Sunnyvale's City Manager will end on September 29. In addition, Assistant City Manager Walter Rossman and Public Works Director Manuel Pineda have announced that have accepted offers to work at the City of Santa Clara, and will end their roles in Sunnyvale at the end of September.
- The Library, Community Center and Senior Center were opened as cooling centers during Labor Day weekend's record-setting heat wave. The Library extended its hours to be open 10 a.m. to 9 p.m. Friday through Sunday, welcoming 7,813 people. This is a 51% increase from the 5,159 people who visited the Library during the Labor Day weekend in 2016. Patrons expressed their appreciation that the Library offered extended hours.

INFORMATION ONLY ITEMS

None.

ADJOURNMENT

The meeting was adjourned at 8:16 p.m.