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ATTACHMENT 4

City of Sunnyvale

Report on Impacts of "Public Lands for Public Use Act" Initiative Under California Election Code Section 9212

July 2015

Management Partners

July 31, 2015

Ms. Deanna Santana
City Manager
City of Sunnyvale
456 W. Olive Avenue
Sunnyvale, CA 94086

Dear Ms. Santana:

Management Partners is pleased to transmit our report containing results of our analysis of the proposed ballot initiative that would amend the City's Municipal Code regarding certain real property transactions in Sunnyvale. The City has received a proposed initiative that would require that any sale, lease, lease extension, lease renewal, land swap or transfer of property owned, leased or used by the City as a public park or community service amenity be approved in advance by a majority of voters in a citywide municipal election. State law allows the City Council to receive a report regarding various impacts of the proposed initiative to help inform its decision whether to adopt the initiative or place it on the ballot.

In this report we provide you with a summary of our analysis of the proposed initiative in accordance with California Election Code Section 9212(a). As part of the analysis, we have reviewed various real property types and real property transaction types as to whether they are covered under the proposed initiative. This analysis concludes that a significant number of real estate transactions routinely completed in the course of business by the City would be subject to the initiative's prior vote requirement. This would create additional costs, notably for holding an election, and add processing time. Property transactions subject to the initiative would become more expensive and time consuming for the City, rendering it less nimble in being able to take advantage of grant and economic development opportunities, and potentially deterring the City from pursuing transactions that may be of value. On the other hand, by subjecting transactions involving park land or land with a community service amenity to a public vote, such property will be preserved in the current use – a goal of the initiative drafters – and unless or until the majority of voters elect to change that use.

Administration of the initiative provisions will be a fairly complex new regulatory requirement which the City will be obligated to manage. While not every real property transaction will be impacted, a significant number arguably will be affected. This will impact other city priorities because of our limited resources for management and administration of the City. Finally it must be noted that, as with every piece of legislation, there are unknowns and uncertainties which will only be resolved with time and experience.

While one can debate the public policy ramifications, there is no doubt that approval of the initiative would make a variety of transactions much more complex, expensive and uncertain in Sunnyvale than in comparable municipalities without such restrictions.

Sincerely,

Gerald E. Newfarmer
President and CEO

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Executive Summary

The City of Sunnyvale retained Management Partners in May 2015 to prepare a report that analyzes the impacts of a proposed ballot initiative in accordance with the provisions of California Election Code Section 9212(a). This report contains Management Partners' independent analysis and identifies the resulting impacts we believe the City may experience if the proposed initiative were approved by voters. Management Partners does not make any representation regarding legal interpretations of the proposed initiative. Advice from legal counsel should be sought for application of the proposed initiative to particular cases.

The proposed initiative would amend Chapter 2.07 of the Sunnyvale Municipal Code to require that a majority of voters in a citywide municipal election give prior approval of any "sale, lease, lease extension, lease renewal, land swap, or transfer of any real property owned, leased, or used by the City" as a "public park" or a "community service amenity." According to the proponents of the initiative, the City is under increasing pressure to repurpose public lands for other uses, and a new tool to stem this pressure would be a desirable check. Voter approval is seen as a method to accomplish this result.

The initiative seeks to protect public lands by taking control of certain real property transactions away from elected representatives and City government, and giving it directly to the voting public. It is important to note that the initiative only guarantees a public vote; it does not guarantee the outcome of that vote and, therefore, does not guarantee the protections of public lands. And, while requiring majority approval does give resident voters control over real property decisions, it comes with a price tag: if the initiative passes, there are significant financial and administrative costs associated with the voter-approval requirement that will impact the City's fiscal resources and limit its ability to manage its property.

Project Approach

Management Partners' project team members conducted interviews with City staff and legal counsel, proponents of the proposed initiative, and County Registrar officials. We researched various issues that could be affected by the initiative including opportunities for grant funding, debt financing, and outcomes from other cities that have considered similar measures. We also studied various documents provided by the City including property lists, leases and other property-related agreements, the Municipal Code, and General Plan and Housing Element in developing the analysis in this report.

The following section summarizes the impacts identified in conducting our work. Please refer to the relevant Analysis Section of the report for our more detailed analysis.

Summary of Impacts

The following presents a summary of our analysis regarding the impacts the initiative may have on the City.

Financial

- Each election will cost from approximately $41,000 to $700,000, depending on timing and other measures that may be presented before voters.
- The City stands at risk to lose nearly $600,000 in annual lease revenues, much of which are deposited to the General Fund, by requiring that those leases go to an election prior to their renewal. A majority of this lease revenue is from leasing a portion of the City's Sunnyvale Office Center, where all of the current leases are renewed annually or on a month-to-month basis, making renewal via an election impractical. The City oversees 112 separate property-related agreements, in which 36 of those agreement may likely be interpreted as being covered by the proposed initiative, and would likely be required to be approved as separate ballot measures. The uncertainty created from the lessees' perspectives could erode revenue to the City's General Fund.
- Any reduction in revenue may result in less funding for the maintenance and improvement of existing parks, open space, and facilities where community service amenities are provided.

- The City could lose grant or debt financing opportunities for future real property transactions that could benefit facilities and park lands, as in some cases those types of funding mechanisms will require voter approval. In the case of grant funding, the application windows are so limited that the City would lose out on some funding opportunities.

Operations

- If the initiative passes, how it ultimately impacts city operations and capacity will be determined based on interpretation on a case-by-case basis. The City will need to dedicate time and effort to study whether each property transaction is subject to the initiative, as well as its potential impact relative to a number of factors. Due to the significant number of property-related transactions that is part of the city's recurring operations, there is the potential that the city's attention to its regular operations could be impaired, which could have an adverse impact on overall city service levels.

Real Property Categories/Covered Property

The proposed initiative creates and applies to two categories of property: any real property owned, leased, or used by the City as (1) a "public park" or (2) a "community service amenity".

It then defines these categories as follows:

(1) Public park means "land set apart for recreation of the public, to promote its health and enjoyment, to maintain open space in the city and also includes city-owned public land which may be shared by agreement with adjacent public schools to augment the public school's outdoors recreation area."
(2) Community service amenity ("CSA") means "libraries, swimming pools, community centers, performing arts venues, gardens, golf courses, zoos, city hall, city administration buildings, and other similar facilities and the land on which the facilities stand, whose primary purpose is to provide the public a place of city government administration, recreation, education, exercise, or enjoyment."

The City owns and maintains real property with various uses that range from the City Hall and public safety buildings to parks, trails, community

centers, sports fields, rights-of-way, commercial buildings, and homes used to fulfill the City's affordable housing initiatives. While it is easy to apply the definitions to some properties, public parks, for instance, trying to determine which other properties are actually covered under the initiative raises a number of questions. For example, the initiative's definition of CSA includes "city administration buildings" if their "primary purpose is to provide the public a place of city government administration." Does it include all city government buildings, even those not located in the civic center or generally open to the public? Are fire stations, the corporation yard, or the water pollution control facility included?

Real Property Transactions

The initiative provides that covered property may not be the subject of a "sale, lease, lease extension, lease renewal, land swap, or transfer" without prior approval by majority vote. It does not, however, define the term "lease." The City enters into various transactions involving the use of real property in carrying out its municipal purposes, including purchases, sales, leases, easements, joint use agreements, and concessionaire agreements. Would the voter-approval requirement apply to these other types of agreements which may have some similar characteristics to leases, such as licenses, easements, franchises, concessions, use agreements, permits for us of City property, access agreements, etc.? It is not clear which of these transactions would be covered.

The proponents acknowledge that in certain cases the distinction between an agreement to use and a lease may not be clear. They suggest that use agreements would generally not be covered by the initiative, unless such agreements allow the land to be used for private purposes in a manner that prevents the public's access to the land. This interpretation has some logical appeal; however, the language itself is susceptible to a broader interpretation that would encompass, for example, a use agreement for recreational facilities in a City park where a private or public association has exclusive use of the facilities during certain hours.

How the initiative would be interpreted would ultimately be up to the courts: the intent of the proponents is not controlling as to how the initiative should be interpreted, but it is one piece of information the courts might reference when ascribing meaning to ambiguous provisions,

particularly if that intent is carried forward into ballot arguments in favor of the initiative when it appears on the ballot.

It is clear from our analysis that this initiative will require legal expertise to analyze its application to certain scenarios, as well as to defend any legal challenges.

Impacts under California Election Code §9212(a)

1. Fiscal Impacts. The most obvious fiscal impacts of the initiative are the election costs associated with placing a ballot measure before the voters in a citywide election. The direct cost per election for the City could run from approximately $41,000 to $700,000, depending on timing and other measures that may be presented before voters. This would cover costs charged by the Santa Clara County Registrar of Voters. Labor costs (and shifts in organizational capacity and priorities) would also result from the need to accommodate initiative provisions into the City's operations and business processes, for example, preparing ballot measures for each transaction.

   An estimated $600,000 in annual rental income comes from leases covered by this initiative, which, if the City were not able to renew, would reduce annual revenues from the use of such property. Cost/benefit analysis of spending $41,000 - $700,000 for up to $600,000 in annual lease revenue would need to be completed prior to the City preparing any ballot measures. There are currently 36 real property transactions that would possibly be subject to the election, several of which are lease agreements which would require a separate ballot measure for each transaction.

   Other impacts could include legal costs to defend contested actions, opportunity costs of lost revenues or grant funding opportunities, and possible increased infrastructure or financing costs.

2. Consistency with General Plan and Housing Element. The initiative could affect the City's ability to implement certain aspects of its General Plan policies such as promoting co-location of government activities to improve access to the community at large [General Plan Policy LT 4-14(f)], supporting acquisition or partnerships to enhance open spaces and recreational amenities

converting spaces to open space from developed use of land (LT 8.8), and leveraging co-funded and/or cooperative agreements for the provision and maintenance of programs, facilities, and services (CC 10-6).

The initiative also conflicts with a key policy of the General Plan that would allow the City to sell certain public sites and underutilized facilities to better serve underserved portions of the community or upgrade other facilities. To manage potential risks, the City would need to inventory its land in anticipation of the Housing Element update 2022 to identify any land that may no longer be used to support its need for providing additional housing.

3. Land Use and Housing. The initiative would not have a direct impact on the City's ability to meet its housing obligations over the next seven years.

4. Infrastructure Impacts. The initiative could impact the City's ability to find grant funding opportunities or other funding mechanisms to address acquisition related to public parks and those properties or facilities considered community service amenities. Some state and federal grants have provisions that can revert the ownership or operation of a facility to the granting agency if the City defaults on a loan or tries to sell a property.[1] The initiative could also place an additional burden on infrastructure maintenance costs for properties the City might otherwise wish to sell or lease due to unsustainable maintenance costs.

5. Business Attraction, Retention and Employment. There may be a positive impact in attracting residents and businesses by maintaining existing open space, park lands, and other recreational amenities. There is also the potential for an adverse impact on the business community's view due to complications with land transactions that could result from the initiative.

[1]Accepting a grant for purchasing a covered property with such a provision gives an interest in the property to the granting agency, which could be considered a transfer of interest in the property.

6. Vacant Land. Given the relatively built-out nature of Sunnyvale, the impacts on the use of vacant land are considered negligible.

7. Agricultural Lands, Open Space, Traffic Conditions, Business Districts and Revitalization Areas. The measure has the ability to protect existing open spaces in the City. Otherwise, the impacts on other aspects are negligible.

8. Other Matters Requested by City Council. Council directed staff to analyze the impact of the initiative on a number of scenarios, based on different property types and transactions, as well as issues, past and present, specific to the City of Sunnyvale. Detailed analysis on each request by Council can be found under this section header, beginning on page 44. . Note that the impact of the initiative is determined based on when the initiative takes effect.

Background

The Sunnyvale City Council at its meeting on April 21, 2015, directed City staff to prepare a report on the effect of a proposed initiative to amend the Municipal Code to require voter approval for any sale, lease, lease extension, lease renewal, land swap, or transfer of property owned, leased, or used by the City as a public park or community service amenity (CSA). The City requested the assistance of Management Partners in completing the analysis required for that report under the provision of California Election Code Section 9212(a), and for the preparation of the report itself and presentation to the City Council.

Overview of Ballot Initiative and Impact on Existing Municipal Code

The ballot initiative proposed by the proponents of the measure (attached as Appendix 1) seeks to modify Chapter 2.07, "Purchase, Sale or Lease of Real Property" of Title 2, "Administration and Personnel" of the Sunnyvale Municipal Code. The existing ordinance specifies that the City Manager has authority to enter into real property transactions up to $75,000, and the City Council shall authorize all transactions above $75,000. The proposed modifications do not change these monetary thresholds. Rather, the initiative amends the provisions of Chapter 2.07 to cover:

- Land currently owned, leased or used by the City as a public park or CSA.
- Land transferred to the City to be used as a public park or CSA.
- Rights to use land for a public park or CSA, including land owned by others.
- Land or facilities including libraries, swimming pools, community centers, performing arts venues, gardens, golf courses, zoos, City Hall, City administration buildings, and other similar facilities and the land on which the facilities stand.

- Land or facilities whose primary purpose is to provide the public a place of City administration, recreation, education, exercise, or enjoyment.

Land covered by the initiative ("covered") may not be subject to sale, lease, lease extension, lease renewal, land swap, or transfer without majority voter approval by a ballot measure in a citywide election.

Provisions of California Election Code Section 9212(a)

Chapter 3 "Municipal Elections" of Division 9 "Measures Submitted to the Voters" of the California Election Code includes the various procedures that municipalities must follow in regards to submitting initiatives to voters within a jurisdiction. Article 1, "Initiative," spells out the procedures that must be followed when circulated by initiative petition in the city by proponents of the measure.

Section 9212 of the Election Code allows the City Council the opportunity to obtain a report on the impacts of the initiative as they pertain to eight specific areas. Elections Code Section 9212 provides:

a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:
    1) Its fiscal impact.
    2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
    3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.
    4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of

infrastructure maintenance, to current residents and businesses.

5) Its impact on the community's ability to attract and retain business and employment.
6) Its impact on the uses of vacant parcels of land.
7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
8) Any other matters the legislative body requests to be in the report.

The Code further indicates that this report must be presented to the City Council no later than 30 days after the election official certifies the sufficiency of the petition to the City.

Project Approach

Management Partners met with City staff and legal counsel to better understand the initiative being proposed. We spent several meetings with key staff understanding the nature and types of properties owned by the City and the types of real property transactions in which the City is currently engaged and/or engages on a recurring basis.

We met with the ballot initiative proponents to better understand the drafting of the language of the proposal and gain their insights about the purpose for and applicability of the measure.

The City provided us with various documents we requested during the course of our work, including:

- Real property owned by the City,
- Listing of all lease agreements currently in effect,
- Listing of all property transactions conducted in the past five years
- City's Municipal Code,
- Policies or procedures relative to real property transactions,
- City's General Plan and relative specific plans,
- City's Housing Element for 2015-2023, and
- Information regarding Priority Development Areas.

We also conducted our own independent research as follows:

- Studied the City's existing ordinances to determine any potential conflicts or impacts from other codes.

- Spoke with the Santa Clara County Registrar's Office and the Sunnyvale City Clerk's Office to understand election procedures and costs.
- Researched the funding application requirements of various grant funding agencies the City has used or possibly could use in the future.
- Spoke with financial consultants that provide bond financing recommendations to cities to determine potential impacts on credit ratings or funding mechanisms.

Finally, we met with City staff to discuss various aspects of our research to verify its applicability to Sunnyvale's circumstances.

Types of Properties

To evaluate the impact on the City, the types of properties covered by the initiative needed to be determined. The City, a municipal corporation, owns, leases and uses property for a variety of municipal governmental purposes. It also leases property from other public and private entities for such uses. It leases City property to others for a variety of purposes (for municipal governmental purposes as well as commercial and residential uses). Since the Successor Agency for the Redevelopment Agency of the City of Sunnyvale (Successor Agency) is a separate entity, properties owned or leased by the Successor Agency are not City properties. Joint Powers Authorities (JPAs) are not named in the initiative, but may include the transfer of interest in a City-owned property to the JPA, which could make the underlying properties subject to the initiative. Examples of City properties owned and leased or otherwise included in existing agreements follow:

- Civic Center, City Hall, City administrative buildings
- Commercial properties
- Community Center
- Corporation yard, storage areas
- Flood control areas, sloughs, channels
- Gardens
- Golf courses
- Land banked properties
- Landfills
- Library
- Open space
- Parking lots
- Parks, hiking trails,
- Pedestrian crossings and overpasses
- Public safety facilities, fire stations, police building
- Recreation
- Residential properties

- Roadways, sidewalks and related right-of-way uses
- School buildings and recreational areas,
- Sports fields, tennis courts, basketball courts
- Swimming pools
- Theaters
- Trails, Walking and Biking
- Vacant lots
- Water and wastewater facilities, tanks, wells, pump stations

The analysis section below provides an interpretation of which types of properties are covered by the initiative.

Overview of Leases, Licenses, Joint Use and other Agreements

The City uses a variety of transactions to acquire, sell (or otherwise dispose of), or use properties for City purposes or to allow others to purchase or use City-owned properties. These transactions needed to be clarified to determine which are covered and which are not covered by the initiative. The transactions include:

- Purchase,
- Sale,
- Swap,
- Transfer,
- Donations,
- Lease,
- Use agreement,
- Easement,
- Licenses,
- Concession Agreements; and
- Joint Use Agreements.

The analysis section below provides an interpretation of which types of arrangements are covered by the initiative.

Analysis

To evaluate the impacts on City real property and its current and future real property transactions, the definitions of terms used in the initiative and the impacts of the initiative must be understood. In this case, the initiative proposes to change the language in City Municipal Code Section 2.07.030 regarding the awarding authority for purchases, sales, or leases of real property.

Management Partners reviewed lists of various properties currently owned or leased by the City, as well as lists of various property transactions the City has previously or is currently engaged. We discussed the lists with City staff to gain a better understanding of the underlying property uses and nature of their various agreements. We then analyzed those properties and transactions against the language provided in the proposed initiative.

The definitions and determinations of the areas impacted are based on the language of the initiative, not the subjective intent of the petitioners. The language, in several cases, is ambiguous in terms of its ultimate applicability to various property types and transactions. *Management Partners did not conduct a legal analysis of the ballot language*. However, based on our extensive experience with local government management practices, we analyzed each property against two possible interpretations:

- Narrow Interpretation. Using a strict interpretation of the language as specified in the initiative that would likely be agreed to by the City, initiative proponents, and ultimately the community.
- Broad Interpretation. Using an expansive interpretation of the language (e.g. used by other government agencies or documents) that could potentially be perceived as being subject to the initiative but is not clear based on the language provided in the initiative. In this regard it is important to note that individual City real estate transaction may have advocates and opponents. It is logical to assume that persons opposed to a transaction may

cite the initiative provisions for the purpose of delaying or preventing that transaction.

Once there is an understanding of what is covered by the initiative, the impacts provided under Cal. Elec. Code §9212(a) can be analyzed.

The results of our analysis are organized into the following sections:

- Real Property Types Subject to Initiative
- Real Property Transactions Subject to Initiative
- Impacts Analysis Provided under Cal. Elec. Code §9212(a)
    - Fiscal Impacts
    - Consistency with General Plan and Housing Element
    - Land Use and Housing
    - Infrastructure Impacts
    - Business Attraction, Retention and Employment
    - Vacant Land
    - Agricultural Lands, Open Space, Traffic Conditions, Business Districts and Revitalization Areas
    - Other Matters Requested by City Council
- Process Decision Tree – Steps for Evaluating Future Property Transactions

Real Property Types Subject to Initiative

Most of the language used in the initiative has a clearly understandable definition, such as "parks," "libraries," "zoos," "city hall," etc. However, other terms can have different interpretations, such as "city government administration," "garden," "community service amenity," or what properties are for "public enjoyment." There can be both narrow and broad interpretations of these terms.

The initiative specifies that for a property to be covered as a CSA it must be the property's "primary use." However, how primary use is determined is not defined.

- Is it defined as a percentage of area used, as a CSA?
- Is it defined as a percentage of people using the facility? (For example, the number of public individuals using the facility for education, exercise or enjoyment, relative to city employees?)

Other areas of potential disagreement and ambiguity could arise from property that creates some "public enjoyment" even if it is associated with a use not specifically covered by the initiative. It is impossible to

know how the definitions in the initiatives will be construed over the years, but we can be sure that those seeking to challenge any City real estate transaction may seek some ability to use the provisions of the initiative in situations not contemplated by the drafters. Thus for purposes of this analysis we assumed a narrow and a broad definition to give policy makers an idea of clearly covered properties and transactions while also showing a broader interpretation which could be arguably employed by some interested party in the future. Due to this ambiguity, impacts to operations, capacity and priority cannot be determined until such time the initiative has passed and City staff have some experience analyzing transactions on a case-by-case basis.

Property Types Covered by the Initiative

Management Partners has identified real property types (Property Types) in the following tables in which the City is currently involved that may be subject to the initiative and require a vote (covered) under the following interpretation scenarios:

- Table 1 – Property Types that would be covered under both narrow and broad interpretations of the initiative language
- Table 2 – covered using the narrow interpretations of the initiative language
- Table 3 – Property Types that would potentially be covered under only a broad interpretation of the initiative language
- Table 4 – Property Types not covered under a narrow or broad interpretation of the initiative language

Table 1. Property Types Covered under Narrow and Broad Interpretations of Initiative Language

Term or Phrase	Narrow Interpretation	Broad Interpretation
What is included in "land," "building," or "facility"?	Land includes the buildings and facilities on the land. Buildings and facilities include the land according to the assessor parcel designation. Limited to those lands, buildings or facilities whose primary use is a covered CSA activity/function. Any land or portions of properties used for recreation (public park, trails, open space). City owned land used by an adjacent public school for the school's outdoor recreation.	Any portion of land or building used for a covered CSA purpose, e.g., a room in a building. May be determined by a ratio of use.
What is included in "City administration buildings" and "city administration"?	Buildings (City Hall) and land currently used or designated for central City administrative management functions, including accounting, personnel, and other central services. Includes central City administrative management functions in other buildings (not in City Hall). Includes parking facilities/lots for City administrative management services.	Any building or facility with public access for the conduct of City business (e.g., fire stations, city corporation yard). Any City buildings and facilities where an administrative function is done.
What is "public park"?	Land named, designated, planned, or zoned for future park purposes if it is so designated in City Council legislation, including City Council adoption of a Park Master Plan. Land or portions of properties used for recreation, hiking, biking, or other active recreation or exercise purposes. Land with sports fields, tennis courts, basketball courts. City-owned land shared with adjacent public schools for outdoor recreation. Leases for non-City property (e.g., schools or water district) to be used for public parks, recreation, sports, hiking, biking, or other active recreation or exercise purposes. Areas used for recreational purposes, e.g., trails, are covered even though that is not the primary purpose of the land.	Same

Term or Phrase	Narrow Interpretation	Broad Interpretation
What is "open space"?	Land or portions of land that are designated, zoned, or left open with public access. Includes "land banking" for purposes of open space or other similar uses covered under the initiative. U.S. Environmental Protection Agency definition: "Open space is any open piece of land that is undeveloped (has no buildings or other built structures) and is accessible to the public. Open space can include: • Green space (land that is partly or completely covered with grass, trees, shrubs, or other vegetation). Green space includes parks, community gardens, and cemeteries. • Schoolyards • Playgrounds • Public seating areas • Public plazas • Vacant lots Open space provides recreational areas for residents and helps to enhance the beauty and environmental quality of neighborhoods."[2]	Land or portions of land that are designated, zoned, or left open with no public access, including land banking.
What is included in "community service amenity" other than those specifically listed?	Land not currently in use for a covered purpose but purchased, leased, swapped, transferred for a covered purpose would be covered only if there is specific language in the transaction agreement(s) and/or indicated for such purposes in the proposed City Council legislation.	Facilities whose primary purpose is not a listed CSA but do provide a service, e.g., education classes in fire stations.

[2] U.S. Environmental Protection Agency, www.epa.gov/region1/eco/uep/openspace.html

Table 2. Real Property Types Covered by a Narrow Interpretation of the Initiative Language

Property/Use	Narrow Interpretation	Broad Interpretation
Land zoned, designated, or reserved for a covered purpose/use but is currently used for a non-covered use	Covered based on reserved purpose or use	Same
Land previously purchased or leased with restricted funding sources for a covered use, such as park impact funds or grants	Covered based on restricted purpose or use	Same
Trails, paths, and bike trails	Covered use for recreation, exercise or enjoyment	Same
Land and buildings purchased or leased by the City for a future covered purpose	Covered. Includes both City-owned and leased non-City-owned properties. Includes properties where the current use of the property is not a covered use, but where specific language in the transaction agreement(s) and/or the proposed City Council legislation includes a covered use.	Same
Publicly accessible parking lots	All are covered	Same
Space adjacent to PG&E lots	Covered if it has publicly accessible trails, paths, or public access as open space	Covered if there is open space with no public access
Landfills, sloughs, and channels	Covered as "public park" and open space	Same
Off-street walkways/trails	Covered as "public park"	Same
Publicly accessible areas around City utility properties, water tanks, wells, and pump stations	Covered. Portions of City utility properties are covered if areas are set aside for open space, hiking, recreation, exercise or enjoyment.	Covered if there is open space with no public access
Publicly accessible areas around water pollution control plant	Covered: 400 acres of ponds (open space) and trails are covered	Covered if there is open space with no public access
Residential or commercial properties	Covered if purchased, leased, or planned for a covered purpose, e.g., park expansion	Same

Property/Use	Narrow Interpretation	Broad Interpretation
Pledging covered property as collateral in financing arrangements	Covered. Not specifically named in the initiative, but would be considered a transfer which is covered as it could result in the City's eventual loss of title of a property.	Same
Grants/loans with property reversion clauses	Covered. Applying and purchasing property with grant or loan funds is not named in the initiative, but would be considered a transfer, which is covered. If the land was later reverted to the granting agency, a vote at that time would be required that would have no effect.	Same

Table 3. Property Types Potentially Covered under a Broad Interpretation of Initiative Language

Property/Use	Narrow Interpretation	Broad Interpretation
Fire stations	Not covered. Primary use is not City government administration. Could be covered if located on park land where the fire station is less than a majority use of the property.	Covered. Administration, education classes, enjoyment and other public access.
City corporation yard	Not covered. Primary use is to support infrastructure maintenance to provide for health, safety and welfare of the community and not as city government administration	Covered. Includes public access for administrative functions.
Public streets, bike lanes, sidewalks, and median landscaping	Not covered. Public streets right-of-way (ROW) use is restricted to vehicles and bicycles. Medians and sidewalks are not separate assessor parcels and cannot be separated from the roadways.	Covered in part. Bike trails not associated with ROW and similar walkways are "set apart for recreation of the public."
Any property owned by the City Redevelopment Successor Agency	Not covered. Not "City" property.	Covered if City leases the property for a covered purpose.

Table 4. Property Types not Covered under Narrow or Broad Interpretations of Initiative Language

Property/Use	Narrow Interpretation	Broad Interpretation
City utility properties, water tanks, wells, and pump stations	Not covered. Not a community amenity primary purpose, and there is no public access.	Same
Water pollution control plant	Plant itself not covered. No public access.	Same
Residential properties	Not covered if purchased, leased, or planned for non-covered purpose, e.g. affordable housing	Same
Commercial properties	Not covered if purchased, leased, or planned for a non-covered purpose	Same
Property owned by Sunnyvale Redevelopment Successor Agency	Not covered if not leased by the City.	Same

Examples of current and recently owned City properties (over 150 parcels) are provided in Attachment A. The properties are designated by a narrow interpretation of properties covered by the initiative; broad interpretation; questionable whether they are covered; and those not covered by the initiative. The list shows each property and also includes assessor parcel numbers; addresses; current use; category (using the initiative terminology); and comments, such as original purpose.

Real Property Transactions Subject to Initiative

The City may be involved with several types of real property transactions to further its municipal purposes. Such agreements are identified in Table 5 below, which are compared to the transactions that are specifically called out in the initiative.

Table 5. Real Property Transactions used in City of Sunnyvale

Transaction type	Named in the initiative language	Not named in the initiative language
Purchases	☐	☒
Sales	☒	☐
Transfers	☒	☐
Leases	☒	☐
Lease extension	☒	☐
Lease renewal	☒	☐
Lease amendments	☐	☒
Licenses	☐	☒
Easements	☐	☒
Use agreements	☐	☒
Land swaps	☒	☐
Joint Powers Authorities	☐	☒
Concession Agreements	☐	☒
Regulatory Agreements	☐	☒

The initiative does not require a vote for purchase of property, while sales are clearly included in the initiative language. These terms are fairly well defined. However, the remaining transaction types required further definition. These interpretations have been used in analyzing the impacts of the initiative. Specific transactions are listed after the definitions.

Lease

Leases are specifically covered by the initiative.

> *A lease is an agreement in which the landlord agrees to give the tenant the exclusive right to occupy real property, usually for a specific term and, in exchange, the tenant agrees to give the*

> *landlord some sort of consideration. A lease transfers to the tenant a leasehold interest in the real property and, unless otherwise provided in the lease, a lease is transferable and irrevocable.*[3]

Consideration can be maintenance, improvements, or in-kind services. Leases do not limit the use on the property (but the use must comply with zoning and other regulations). "Agreements" limit the use.

- Anything called a "lease" or has all the characteristics of a lease.
- A lease may be indicated if the user of the property pays possessory interest tax.[4]
- Includes City-owned land/buildings leased to others.
- Includes land/buildings owned by others leased to the City
- Includes extensions and renewals.
- Lease "amendments" are not specifically named in the initiative, but some may be covered by the initiative, e.g., if the size of the property leased was changed.
- Allowing leases to end is not mentioned in the initiative, but could result in the loss of land used for a covered purpose (e.g., lease of the golf course property from NASA).

License

Licenses do not appear to be covered by the initiative, but could be interpreted to be equivalent to leases in certain situations.

> *A license gives the permission of the owner to an individual or an entity to use real property for a specific purpose. Unlike a lease, it does not transfer an interest in the real property. It is personal to the licensee and any attempt to transfer the license terminates it. It is (usually) revocable and can be either exclusive*

[3] University of California, Office of the President, www.ucop.edu/terms/index.html

[4] A taxable possessory interest may exist whenever there is a private, beneficial use of publicly-owned, non-taxable real property. Such interests are typically found where private individuals, companies or corporations lease, rent, or use local government-owned facilities and/or land for their own beneficial use. The tax is assessed by the County Assessor's Office.

or non- exclusive. A facility use agreement (FUA) is a short form license for very limited use of a facility.[5]

- *Whether an agreement is held to be a license and not a lease will depend on the presence or absence in the agreement of the three essential characteristics of a real estate license:*
  - *A clause allowing the licensor*[6] *to revoke "at will";*
  - *The retention by the licensor of absolute control over the premises; and*
  - *The licensor's supplying to the licensee*[6] *all of the essential services required for the licensee's permitted use of the premises.*
- *Courts have found licenses to be leases where any one or more of these characteristics is either missing from the agreement altogether or not sufficiently vested in the powers retained by the licensor.*[7]
- *… the distinction between a lease and a license is that: a lease is a conveyance of exclusive possession of specific property … usually in consideration of the payment of rent, which vests an estate in the grantee, [while] a license, on the other hand, merely makes permissible acts on the land of another that would otherwise lack permission. A license is said to be revocable at the will of the licensor, [and] creates no estate.*[8]

Easement

Easements do not appear to be covered by the initiative.

> *An easement, like a license, gives the permission of the owner to use or prevent the use of the owner's real property. However, unlike a license, it transfers to the easement holder an interest in the real property that encumbers the record title.*[9] Example: fiber optic cabling across a property.

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[5] University of California, Office of the President, www.ucop.edu/terms/index.html

[6] "Licensor" owns and grants use to the property; "Licensee" uses the property.

[7] "Using a License Agreement Instead of a Lease", Adam Leitman Bailey and John Desiderio

[8] "Friedman on Leases", Milton R. Friedman, 1974

[9] University of California, Office of the President, www.ucop.edu/terms/index.html

- Easements are not named in the initiative, but an easement could be determined to be a lease if it does not limit the use on the property.

Agreement or Use Agreement

Agreements and use agreements are not covered by the initiative, but could be interpreted to be leases.

- Agreements or use agreements that limits the use is not a lease. They may appear to be leases if they allow a party to have exclusive use of the property and they provide some form of consideration, e.g. rent or provide maintenance.
- Regulatory agreements associated with affordable housing projects (e.g., requiring affordability for a number of years) are not covered by the initiative.

Land Swap

Land swaps, swapping one piece of land for another where the ownership title has changed, are covered by the initiative.

Transfers

Transfers are covered by the initiative. Transfers include various methods of disposing of property, interest in a property, or possession of the property. It includes sale, pledge, liens, mortgage, gift, or donation of property.

Transfer of a property to the City would require approval by the voters if the City had been leasing or using the property for a covered activity prior to the transfer. The initiative states if the land was, "owned, leased, or used by the City as a public park or community service amenity" any, "sale, lease, lease extension, lease renewal, land swap, or transfer" be summited to the voters. Thus, if non-City owned land was leased or used (e.g., by a use agreement with a school district) by the City for a covered purpose, a transfer of property to City ownership would need to be submitted to the voters for approval. In the example of school property being transferred to the City, the addition of property for a covered use would be in line with the intent of the initiative; however, advocates for retaining school properties could use the initiative to require a vote.

Concession Agreements

Concession agreements are not covered by the initiative.

- Concession agreements are grants of rights, land, or property by a government whereby a private company (whether for-profit or non-profit) has the exclusive right to operate, maintain, and carry out public utilities or services for a given number of years.
- Some concession agreements, such as the one for the Sunnyvale Golf Course, allow the operator to use the property to provide services without a lease agreement.
- Concession agreements are not leases since the use is limited to a specific function, e.g., golf course restaurant, pro shop.
- Concession agreements that include a lease agreement (and management contract) would make the leases subject to the initiative.

Ambiguous Transactions

Management Partners identified other types of transactions (in which the City might reasonably enter into in the future) that are ambiguous as to whether they would be subject to the initiative. These would require further legal analysis by the City.

- Would swapping City land for City land be covered if there was a change involving covered land, buildings, or use? For example, swapping a fire station with a park.
- Would the City be able to lease City administrative offices or other community service amenities in an emergency (e.g., lease property to FEMA during the aftermath of an earthquake) without requiring a vote?[10]
- Are facilities leased for child care considered "education"?
- Would agreements for the use of a covered property that limit the use to private use be covered? For example, a concession agreement for the golf course to be operated with private members? Or a use agreement with a sports league for exclusive use of a field for its paid teams? In both of these cases, the public is excluded and access is limited to the members.

[10] It should be noted that during an emergency, the City would likely have the ability under state law and its own ordinance to use property as necessary during an emergency.

- Would agreements that allow free standing cell towers in parks be covered? They prevent public access to part of the park. Although cell sites typically represent a small area, the public does not have access to that piece of the public park.

Real Property Transactions Categories Subject to the Initiative

Management Partners has identified real property transactions (Property Transactions) in the following tables in which the City is currently involved that may be subject to the initiative and require a vote (covered) under the following interpretation scenarios:

- Table 6 – Property Transactions that would be covered under either a narrow or broad interpretation of the initiative language
- Table 7 – Property Transactions covered using only broad interpretations of the initiative language
- Table 8 – Property Transactions not covered by a narrow or broad interpretation of the initiative language, and therefore not subject to a vote

Table 6. Property Transactions Covered under Narrow and Broad Interpretations of Initiative Language

Transaction Type	Interpretation as to why Covered
Land, buildings, leased by the City for a covered purpose	Specifically stated. Includes both City-owned and non-City owned properties.
Leases with offices in Sunnyvale Office Center	Covered. Designated as future City Hall, a covered use. Up to 20 separate leases. All new leases and lease renewals are separately covered.
Cell tower leases on covered City property	Covered if they are free-standing poles that take space away from public use (most leases require ground space for an equipment shelter). Not covered if on top of a City-owned pole, e.g., ball field light pole and no ground space would be required for an equipment shelter.
Leases or property transfers/swaps with school districts	Covered.
Current covered leases/agreements that include extension clauses	Covered. Extension clauses are not grandfathered and extensions will require a vote.
Pledging covered property as collateral in financing arrangements	Covered. Not specifically named in the initiative, but would be considered a transfer. It could result in the City's eventual loss of title of a property.

Transaction Type	Interpretation as to why Covered
Grants/loans with property reversion clauses	Covered. Applying for and purchasing property with grant or loan funds is not named in the initiative, but it would be considered a transfer. If the land could be reverted to the granting agency, a vote would be required at the time of reversion that would have no effect, thus it must be done before applying for the grant/loan.
Land sales, swaps and transfers between City and Redevelopment Successor Agency	Covered if for a covered purpose. Does not include purchase by the City.
Leases between City and Redevelopment Successor Agency	Covered if for a covered purpose.

Table 7. Property Transactions Potentially Covered under a Broad Interpretation of the Initiative Language

Transaction Type	Broad Interpretation as to Why Covered
Use Agreement – City-owned property	Covered if City used the property for a covered purpose use it for a covered activity and it has all the requirements to be a lease.
Use Agreement – non-City owned property	Covered if City uses the property for a covered purpose and it has all the requirements to be a lease.
Agreements with school districts to build or improve, operate, and maintain a covered use	Covered if agreement is interpreted to be a lease or property transfer/swap.
Joint Powers Authorities (JPA)	Covered if interpreted to be a lease or transfer (pledge) of property depending on the specific JPA.
Agreements with other organizations for the funding of a covered facility	Since it may be a separate action that precedes a lease, transfer or swap of covered property, a vote could be required at a later date.

Table 8. Property Transactions Not Covered under Narrow or Broad Interpretations of Initiative Language

Transaction Type	Why not Covered
Agreements with sports leagues, clubs	Not leases; no exclusive use 24/7; use is restricted
Agreements with Theater groups	Not leases; no exclusive use 24/7; use is restricted
Agreement with Sunnyvale Historical Society and Museum Association	Not a lease; use is restricted
Agreement for use of Challenge Ropes Course	Not a lease; use is restricted

Transaction Type	Why not Covered
Agreements with golf restaurant operations	Not a lease; use is restricted
Agreement for use of Tennis Center pro shop	Not a lease; use is restricted
Agreement for use of Arboretum Orchard	Not a lease; use is restricted
Agreement with Police Activity League	Not a lease; no exclusive use 24/7; use is restricted
Agreements with school districts to operate covered uses	Not leases; no exclusive use 24/7; use is restricted
Concession agreements	Not leases; use is restricted
Franchise agreements	Not leases; use is restricted
Licenses	Not leases; use is restricted
Easements	Not leases; use is restricted
Short term, one time rentals	Not leases; use is restricted
Purchase of land/buildings for covered use	Purchases of land for City use is not covered by the proposed revised sections of 2.07.03; however, leases of non-City owned lands/facilities for a covered use are covered.

Use agreements are not leases and are not covered by the initiative. Most use agreements are not 24/7 long term agreements and the use is limited to the specific activities listed in the use agreement. For example, the Tennis Center pro shop agreement is for the use of the building for tennis related equipment sales. If it was a lease, the lessee could use the building to sell anything legal, which might not be tennis related.

Examples of current and recent property transaction types representing over 150 parcels are provided in Attachment B. The transactions are categorized as a narrow interpretation; broad interpretation; questionable whether covered; and, not covered by the initiative.

These interpretations are for illustrative purposes and final determinations are to be made by the City Council at the time a transaction is being considered.

Impacts Analysis Provided by Cal. Elec. Code §9212(a)

Management Partners considered the language provided in the ballot initiative, the types of real property the City currently owns or could potentially own in the future, and the types of real property transactions

in which the City has entered in determining the impacts under the provisions of the Election Code.

Fiscal Impacts [Cal Elec. Code §9212(a)(1)]

California Election Code §9212(a)(1) allows for an analysis regarding the fiscal impacts of the proposed measure. The Code also allows for an analysis on

> *…impact on funding infrastructure of all types… (and) whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.*

There are many variables that make it difficult to accurately quantify the financial impact of the proposed measure in many areas.

Table 9 identifies the following areas in which fiscal impacts might be experienced. Some impacts such as election costs are more likely than others; all those identified as being possible have been included.

Table 9. Potential Fiscal Impacts of the Initiative

Category	Description	Fiscal Impact	Comments
Election Costs – Santa Clara County	Cost of placing measures on the ballot will vary according to frequency, if other measures are on the ballot, and timing. Placing the currently proposed initiative on the November 2016 ballot is estimated to cost approximately $41,000 to $80,000 dependent on whether other measures are placed on the ballot.	General Election – Single Measure: approximately $80,000 Special and Uniform District Election Law (UDEL) Election: between about $520,000 and $700,000 All Elections – Additional Measure: approximately $41,000	General elections for the City of Sunnyvale occur in November of even-numbered years. UDEL elections, which are elections counties are obligated to provide for special districts, occur in November of odd-numbered years. All other elections are considered special elections for the City. This includes, for example, March primary elections.
Election Costs – City of Sunnyvale	City's costs incurred such as legal notices, translating ballot into several languages.	Election administration costs – $4,000 to $8,000	City Clerk, City Attorney, and City staff labor costs are excluded. Significant increases in the number of elections could require seasonal part-time staff.
Legal and Administration Costs	Costs incurred to analyze and litigate property transactions subject to the initiative; administration costs in preparing staff reports, resolutions, and other analyses relative to taking a transaction to voters.	Legal costs – Excess of $100,000 each time a transaction must be defended Administration costs – undetermined; dependent on existing capacity and increased staffing and consulting services required	N/A

Category	Description	Fiscal Impact	Comments
Decision Against Transaction (net loss)	If the cost of placing a measure on the ballot exceeds the revenues likely to be generated from the lease or sale, then the City may decide not to proceed with a ballot measure.	Magnitude dependent on lost revenue streams such as: • Lease revenues • Sales proceeds • Property tax • Possessory interest tax • Sales tax	N/A
Time Delays/ Opportunity Costs/Lost Revenue	Lost opportunities of public/private partnerships, leases, sales, and swaps on covered properties due to the time delays and uncertainties caused by the need for a public vote.	Undetermined; dependent on magnitude of lost revenue streams such as: • Lease revenues • Sales proceeds • Property tax • Possessory interest tax • Sales tax	Defeated measure may cost the City in lost rents, opportunities for beneficial land swaps, property sale income, and similar revenue. Current annual rental income from properties covered under the narrow interpretation of the initiative is approximately $600,000.
Grant Funding	Property transactions such as parks acquisition or land swaps to expand open space could be the subject of grant funding from various non-profit or governmental agencies.	Undetermined; dependent on grant opportunities available. If property was pledged, it is unlikely that the City could meet application deadlines when a ballot measure is required.	While acquisitions are not specifically covered, some state and federal assistance requires reversion of property to the state or federal government in case of default; these would be considered a transfer (pledge) of property. Such a default would be in conflict with a law requiring voter approval for sale of covered properties.
Cost of Funds	Potential negative impact on cost of funds (interest rates) of borrowing against City property for infrastructure improvements if voter approval is required for underlying property transaction that would not have been required for the borrowing itself.	Undetermined; incremental interest costs associated with potential higher interest rates on long-term debt	City will need to address this matter with its financial advisors and/or bond legal counsel to determine potential impact on City's Issuer Credit Rating (Moody's Aaa; S&P AAA)

Category	Description	Fiscal Impact	Comments
Funding Mechanisms	While acquisition of property is not included in the initiative, leases are. If Certificates of Participation (COPs) and other funding mechanisms using leaseback financing are proposed as a funding mechanism, a ballot measure would likely be required.	Potential greater cost of land acquisition either through elections costs or use of a less cost-effective funding mechanism.	N/A
Land Banking	Historically, land continues to grow in value. To the extent the initiative discourages property sales in the short term, the greater the City's net worth in the future.	Likely increase in City's net worth over time. Also may facilitate financing of future facility needs if property is already available and does not need to be purchased.	N/A
Property / Sales Tax Revenue	Conversion of City property to non-public use can raise property tax revenues for the City and all other taxing entities that received property taxes; for leased property, opportunity to collect possessory interest revenues on value of lease; potential increases in sales and use taxes.	Undetermined; dependent on magnitude of lost revenue streams such as: • Property tax • Possessory interest tax • Sales tax	N/A
Infrastructure Costs	Inability to liquidate property in which costs of maintaining or improving infrastructure (e.g., streets, storm drains, water, wastewater, sidewalks/pathways, buildings, landscaping, other above-ground improvements) outweigh the benefits of keeping the property to provide city services.	Undetermined; dependent on magnitude of additional infrastructure maintenance costs.	N/A

Past Property Transaction Analysis

One way to consider fiscal impacts is to review past property transaction data (leases, property sales and purchases, etc.) as though the initiative had been in effect at that time. In the past three years, the City of Sunnyvale received an average of about $568,000 in annual rental income from new or renewed leases on properties that would have been subject to the initiative under the narrow interpretation described previously. A total of 16 leases fit that category, with the largest single lease rental amount of $340,000 coming from NOVA for their main office in the Sunnyvale Office Center at 505 West Olive Avenue. Other relevant properties are smaller office rentals in the Sunnyvale Office Center and the courthouse parking lot.

As indicated in Table 14 in Attachment B to this report, the City currently oversees 110 separate property-related agreements, 36 of which might possibly be interpreted as being subject to the proposed initiative. Each agreement would likely need to be placed on the ballot as a separate measure. Since placing a measure on the ballot costs a minimum of $41,000, and could cost significantly more if there is not another initiative on the ballot, it is unlikely the City would have placed any of these individual leases on the ballot except perhaps the main NOVA lease.

Moreover, coordinating the business needs of the various lease tenants would make such an endeavor problematic in that their individual business needs may not allow for the uncertainty associated with an election to approve a lease. The City could also have identified a master leaseholder (e.g., a commercial property manager) with whom to enter into a lease agreement that would allow that lessee to sublet the properties under the term of a longer-term lease agreement. Nevertheless, if a ballot measure failed, or the City decided it would not be cost-effective to place the leases on the ballot, the full $568,000 would be lost.

Very short-term leases, such as three construction staging area leases during the three-year time period, are too time-sensitive and short term to go on any ballot. These leases are not included in the figures above. If the initiative passes, the City perhaps will be able to set up such short-term uses via agreements and permits rather than leases to achieve the same results. If not, this could cause additional loss of revenue and have adverse economic development impacts.

There were no sales of property that would have been subject to the initiative in the past three years except the pending sale of the Raynor Activity Center approved by the City Council in late 2013. If the initiative had been in effect, the sale would have required voter approval under the measure, requiring the City to incur election costs discussed previously. If the voters did not approve, the potential sale income of $14,050,000 would be lost.

Consistency with General Plan and Housing Element [Cal Elec. Code §9212(a)(2)]

California Election Code §9212(a)(2) allows for an analysis regarding the proposed measure's effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

The City of Sunnyvale adopted a revised consolidated General Plan on July 26, 2011. As required by state law, it adopted a 2015-2023 Housing Element to its General Plan on December 16, 2014, certified as being in conformance with state law by the State Department of Housing and Community Development on January 20, 2015.

The initiative would not directly affect the use of land or establish an internal inconsistency, but it would affect the City's ability to implement certain of its General Plan policies by establishing a significant new hurdle in regard to the City's ability to flexibly and creatively use its' publicly owned or leased land resources. Requiring voter approval to modify the use of a "community service amenity" could be a significant disincentive for other public institutions and private entities to make land available for public use.

In addition to the increased uncertainty associated with any voter referral, the election process would add several months to a proposed project's timeframe, and there would be potentially significant costs associated with mounting an effective information campaign so voters are informed about the project. The increased costs and uncertainty would affect the following General Plan policies:

- *LT 4-14(f): Promote co-locating government (federal, state, county and city) activities to improve access to the community-at-large.*

This policy would generally be accomplished by relocating existing government facilities to or from other properties owned by other private or public property owners. The initiative would have a positive impact in community involvement by allowing the public to have a say in the decisions about co-location of such facilities. The initiative would, however, introduce complexities in the ability to efficiently implement this General Plan provision, and would create potential uncertainties that would be challenging for other public agencies and private property owners to participate in such opportunities.

- *LT 8.8: Support the acquisition or joint use through agreements with partners of suitable sites to enhance Sunnyvale's open spaces and recreational facilities, based on community need and through such strategies as development of easements and rights of way for open space use, conversion of sites to open space from developed use of land.*

  While it may be possible to structure agreements to expand the availability of open space and recreational facilities with the City's private and public partners so as not to be affected by the initiative, those partners will be unlikely to engage in any agreement that would then require voter approval to modify, and may be reticent to enter into agreements with the City until the courts have fully defined the limits of the initiative's reach.

- *CC 10-6: Leverage valuable resources by pursuing co-funded and/or cooperative agreements for provision and maintenance of programs, facilities, and services, in order to maximize benefits to the community, partners may include but are not limited to, school districts, non-profit groups, governmental agencies, and businesses.*

  The comments for the previous policy also apply to this one: partners will likely want assurances that any partnership with the City involving the public use of their land will not be subject to later voter action.

The General Plan also incorporates key initiatives from 2006 and 2009 studies related to the need for increased open space and to address areas in the City with "service gaps." The key initiatives are incorporated by reference into the General Plan (pages 3-37 and 3-38). Those studies

suggested that the City sell certain public sites and underutilized facilities and use the proceeds to purchase sites that would better serve underserved portions of the community, and/or upgrade facilities. These initiatives result from a recognition that the needs for community amenities change over time, and that the City must be prepared to creatively adjust to changing needs with its limited land and fiscal resources, and tap into other public and private sources to help meet those changing needs. The proposed ballot initiative would establish a new and potentially costly step in that process of adjustment, and, as noted above, may discourage outside parties from partnering with the City.

In regard to the Housing Element, the City has identified specific parcels where it expects to accommodate its regional share of housing for all income groups for the next eight years. The desire to provide housing for all income groups is a requirement of state law, and is also one of the Citywide Vision Goals (VI) of the General Plan.

As discussed in the Housing Element, the City was assigned a regional share of 5,452 units for the 2015-2023 planning period. The City demonstrates in its Housing Element that it has the capacity to accommodate 5,849 units, or an excess of capacity of 397 units. None of the sites identified in the Housing Element for meeting housing needs would be affected by the initiative. However, as noted in the Housing Element, there is almost no vacant land in Sunnyvale available for residential development. Almost all of the land identified to meet its regional share of housing is underutilized land.

The City is required to update its Housing Element every eight years and as the year 2022 approaches, the City will once again need to inventory its land and identify opportunities for additional housing. At that point, the initiative may constrain the City's ability to creatively use its own land resources (such as parking lots) to address housing needs. While the initiative would not make it impossible to use City-owned properties for housing, it would establish a significant hurdle if that use involved land swaps, leases or other ways in which surplus city property is made available for housing.

Government Code Chapter 4.2, Section 65913 requires cities to provide for the affordable housing needs of the community. As discussed above in regard to the Housing Element, the initiative would not affect the City's ability to meet its identified regional share of housing needs over the eight-year timeframe of the Housing Element.

Government Code Chapter 4.3, Section 65915 requires cities to offer density bonuses as an incentive for the provision of affordable housing. The initiative would not affect the City's ability to comply with state density bonus provisions.

Land Use and Housing [Cal Elec. Code §9212(a)(3)]

California Election Code §9212(a)(3) allows for an analysis regarding the proposed measure's effect on the use of land, the impact on the availability and location of housing, and the ability of the City to meet its regional housing needs.

As noted above, the initiative would not have an impact on the City's ability over the next seven years to meet its share of regional housing needs. Because the amount of land affected by the initiative is relatively small compared to the City as a whole, and because the vast majority of the land subject to the initiative would not be subject to change (e.g., most parks and community facilities) under foreseeable circumstances, the overall impact on the "use of land" is insignificant.

Infrastructure Impacts [Cal Elec. Code §9212(a)(4)]

California Election Code §9212(a)(4) allows for an analysis regarding the proposed measure's effect on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

As indicated in the Fiscal Impacts Section above [§9212(a)(1)], the initiative could have an adverse impact on the ability to fund infrastructure improvements to the extent the underlying infrastructure was considered a covered property under the measure. Impacts identified in Table 9 above that are relevant to this section include:

- Grant Funding. There may be potential delays in meeting application deadlines for grants to purchase or improve parks or other covered community service amenities. For example, grants or loans by certain federal or state agencies carry provisions where the granting agency will take over the operation or ownership if the City defaults on a loan or attempts to sell the property. Pledging such an interest in the property to the granting agency has the opportunity to convey an interest in the

real property, which could be viewed as a potential transfer of real property, and thus would be a covered transaction under the initiative requiring a vote. This could result in missing the application deadline.

- Funding Mechanisms. To the extent the infrastructure improvements on covered property would require debt financing including security in the land, there is the potential that such financing might be more difficult to obtain if having to go through an election for approval.
- Infrastructure Costs. As indicated earlier, the inability to liquidate property that has become a net financial burden to the City could increase the City's costs in maintaining such property or infrastructure until which time voters would approve disposition or another solution to reducing the infrastructure burden were identified.

In addition, cities and school districts have begun to work more closely to share facilities, especially in the area of athletic fields, swimming pools, and playgrounds. The City currently has several joint use agreements with various schools as indicated in Attachment B to this report and as discussed earlier. To the extent the City and its various school districts wish to explore further sharing of facilities in an effort to reduce infrastructure costs, and those underlying agreements could otherwise be determined to be a transaction that is covered by this initiative, it may have the impact of delaying or, if not approved by voters, negating any potential infrastructure cost sharing that may exist between the City and school districts.

It is undetermined if the initiative would have any significant impacts of infrastructure costs directly on residents or businesses. The potential exists that should the City be unable to sell or transfer a covered property with infrastructure costs that were becoming burdensome, the City could look into establishing a funding mechanism such as a landscaping or lighting district, community facilities district, or other type of parcel-assessed revenue mechanism that assesses property owners for the upkeep of that property.

Business Attraction, Retention, and Employment [Cal Elec. Code §9212(a)(5)]

California Election Code §9212(a)(5) allows for an analysis regarding the economic development impacts of the measure. Specifically, the Code

identifies the "impact on the community's ability to attract and retain business and employment."

While the City and the region are in the midst of strong economic expansion at nearly all-time low unemployment levels and commercial vacancy rates, such thriving conditions are likely to fluctuate with future economic cycles. Table 10 details the following impacts that could be experienced in the future.

Table 10. Business Retention, Attraction and Employment Impacts

Category	Description	Economic Development Impact	Comments
Time Delays / Opportunity Costs	Inability of the City to take advantage of opportunities to encourage economic development or fill vacancies in existing commercial space owned by the City and covered by the initiative	Potentially will negatively impact: • Business retention • Employment opportunities within the community • Unsecured property tax • Possessory Interest tax • Sales tax	Examples are the City-owned leased parcels on Olive Avenue, originally purchased for civic center expansion.
Community Business Friendly Environment	Possible adverse impact on companies choosing to invest in Sunnyvale due to complications with land transactions, such as land swaps, that might include even small amounts of City property that might be considered covered by the initiative.	Potentially will negatively impact: • Business attraction • Business retention • Employment opportunities within the community • Property tax (secured and unsecured) • Sales tax	Many uncertainties exist, such as whether a property is covered by the initiative and whether a ballot measure might be approved. These might discourage consideration of possible beneficial transactions and partnerships with local business, non-profits or other government agencies in support of regional economic development.

Category	Description	Economic Development Impact	Comments
Public Lands Preservation	Positive impact in attracting residents and businesses by maintaining existing open space, park lands, recreational amenities, and other public lands for the enjoyment of those who live or work in the community	The initiative could have positive impacts on economic development initiatives as a result of the protection of public lands such as: • Business attraction • Business retention • Employment opportunities within the community • Property tax (secured and unsecured) • Sales tax	The business community's use of amenities such as athletic fields, sports facilities, bike and walking trails are supportive of the City's business-friendly environment.

Vacant Land [Cal Elec. Code §9212(a)(6)]

California Election Code §9212(a)(6) allows for an analysis regarding the impact on the uses of vacant parcels of land.

Sunnyvale is essentially a built-out community with relatively few vacant parcels of land within its municipal boundaries. In regards to City-owned vacant parcels, the City's vacant land inventory includes parcels like the following:

- Vacant lot behind the Sunnyvale Officer Center located at Charles Street, which currently houses the Charles Street Gardens. This property would be subject to the initiative.
- Vacant lot located on Fair Oaks Way and Highway 237, which is occasionally used as a temporary construction staging area and not otherwise accessible to the public. This property is likely not covered by the initiative.
- 365 and 407 Mathilda Avenue – undeveloped parcels zoned for residential use. These properties are likely not covered by the initiative.

With regards to other vacant parcels throughout the City that are privately owned, and as discussed in regards to real property transaction types, there is the potential that the initiative could apply to the City's desire to obtain private property either through land swaps, leases, or other agreements that might be subject to the initiative and for the purposes described.

Nevertheless, the initiative's overall impact on the uses of vacant land are negligible for all practical purposes.

Agricultural Lands, Open Space, Traffic Conditions, Business Districts and Revitalization Areas [Cal Elec. Code §9212(a)(7)]

California Election Code §9212(a)(7) allows for an analysis regarding the impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

Each of these areas is addressed below.

Agricultural Lands

Sunnyvale no longer has any prime agricultural lands covered under the Williamson Act.

Open Space

The City owns and maintains 329 park acres across 21 parks. This does not include open space accessible to the community that is owned by others.

One of the main goals of the initiative is "to maintain open space in the city." If the initiative were adopted, it would serve to maintain open space for the enjoyment of the community by allowing the community to have a say as to whether that space should be converted to another use. The measure would have the opportunity to have a positive impact on the protection of open space.

Traffic Conditions

Traffic congestion is typically managed through city rights-of-way. The initiative does not address rights-of-way, and our analysis indicates that they would not be covered under the initiative.

Although not likely, there is the potential that the City could convert covered property to assist in relieving traffic congestion which would then require voter approval to proceed with the project, such as City properties described as excess roadway strips that are adjacent to existing roadways and are not currently part of the roadway system, but could be at some future point. These properties could be covered by the initiative depending on a number of factors that will need to be evaluated on a

case-by-case basis. For instance, the source of funds used to acquire the property, the use of the property at the time it was acquired, and the planned use of the property at the time City funds were spent to acquire it will need to be considered as to whether the property is covered by the initiative.

Multi-use trails promote recreational amenities, and also serve to provide traffic relief to allow opportunities for drivers to get out of their cars. In some regards, this initiative could serve to assist in that area by protecting opportunities for the conversion of pedways that might be used as a transportation alternative to increasing street traffic. This is consistent with the provisions of the City's Bicycle Plan adopted in 2006.

The Land Use and Transportation Element of the City's General Plan from July 2011 includes various goals and policy statements to address transportation efficiency issues in Sunnyvale. One of the policy action items is encouraging mixed use developments that provide pedestrian scale and transit-oriented services and amenities. With the exception of the potential conversion of a covered property that would serve to assist in providing traffic congestion relief, the initiative does not conflict with any of the transportation policies established in the City's General Plan.

Business Districts

The City has one business improvement district known as the Downtown Sunnyvale Business Improvement District. It is within the boundaries of Sunnyvale, Iowa, Mathilda and Evelyn Avenues. The initiative is expected to have little or no impact on the business district, as the property zoned within that area is not considered covered property as it relates to this initiative.

The City also has a Downtown Parking Maintenance District, which assesses property owners in three of the four benefit zones identified in the Engineer's Report for the district. These assessment revenues are used by the City to, "pay debt service, operations, maintenance and improvement costs" associated with the parking lots in the downtown area. Creation of the district was established through a vote of the property owners affected. The proposed initiative does not have a direct impact on the district in regards to levying assessments on the affected property owners or the maintenance operations of the district. The underlying property, the parking lots, are identified as covered properties under the provisions of the proposed initiative; however the assessment

district itself is not covered by the initiative and, thus, there are no impacts to it.

Revitalization Areas

The City currently has two planned priority development areas (PDAs) and three potential PDAs. These areas, their description, and potential impacts, are identified in Table 11.

Table 11. Priority Development Areas

Priority Development Area	Area Size (net acres)	Description	Potential Impacts of Initiative on PDAs
Planned Areas			
Downtown and Caltrain Station	227	Transit town center served by bus rapid transit (BRT) and Caltrain	No impact. The Downtown Specific Plan includes the properties collectively known as the Charles Street Properties, which are more fully described below. These properties are not covered by the initiative.
El Camino Real Corridor	320	Mixed-use corridor (commercial, residential)	Potential impact. PDA includes the following covered properties: • Sunnyvale Civic Center • Las Palmas Park (north portion) • Community Center (north portion) • Sunken Gardens Golf Course (southwest portion) • Landscaped Parcel at El Camino Real/Wolfe Road/ Fremont Avenue The current PDA plans do not suggest redeveloping these parcels for other uses, but if those plans ever changed, they could be subject to the initiative under a covered transaction (e.g., sale, lease, land swap, transfer).
Potential Areas			
East Sunnyvale	413	Urban neighborhood with the potential to convert industrial areas to medium density housing	Little impact. Swegles Park is located within this PDA, which would be a covered property. Current plans do not anticipate redeveloping this parcel for other uses, but if those plans ever changed, it could be subject to the initiative under a covered transaction (e.g., sale, lease, land swap, transfer).
Lawrence Station Transit Village	319	Transit neighborhood served by Caltrain	No impact. The Unilever site, more fully described below, is located within this priority development area, however it is not considered a covered property under the initiative.

Priority Development Area	Area Size (net acres)	Description	Potential Impacts of Initiative on PDAs
Tasman Crossing	150	Transit neighborhood served by Valley Transportation Authority's light rail system with the potential to convert industrial to residential	Little impact. PDA includes the following covered properties: • Seven Seas Park • Vacant Parcel at Fair Oaks Way and SR-237 The current PDA plans do not suggest redeveloping these parcels for other uses, but if those plans ever changed, it could be subject to the initiative under a covered transaction (e.g., sale, lease, land swap, transfer). It is also noted that the PDA area includes the John W. Christian Greenbelt area, which is owned by the San Francisco Public Utilities Commission but is landscaped by the City under a maintenance agreement. This is not owned by the City and, thus, is not a covered property under the initiative.

Other Matters Requested by City Council [Cal Elec. Code §9212(a)(8)]

At its April 21, 2015 meeting, the City Council also directed staff to analyze specific transactions in the past and the impacts this initiative would have had on those transactions to better understand the applicability of the initiative based upon real property transactions conducted by the City.

Armory Site/Onizuka Air Force Station/Fire Station #5

The Onizuka Air Force Station (OAFS), located at Mathilda Avenue and Innovation Way, was designated for closure in 2005 under the Base Realignment and Closure (BRAC) process. In December 2011, the City adopted a Redevelopment Plan for the OAFS. As part of this plan, the City received a portion of the approximately 19-acre property: a one-acre parcel to expand an adjacent City fire station and two parcels (totaling 5.019 acres) for homeless housing. Through the BRAC process, two housing providers (MidPen Housing and Charities Housing) filed claims to build homeless housing on the two parcels, and the City accepted these

claims with adoption of the plan. However, the plan also allowed the City to work with the housing providers to transfer the homeless housing claims to another site, and the Armory site was tentatively identified as an alternative location.

The Armory site is located at 620 East Maude Avenue between Wolfe and Fair Oaks. The site was previously occupied by the National Guard Armory, which also subleased the facility for a homeless shelter during the winter months. The National Guard leased the property from the City of Sunnyvale until June 2011. Additionally, the property was subleased to operate a cold weather homeless shelter during the winter months with funding from the County of Santa Clara. After the National Guard vacated the property the site continued to be used for a cold weather homeless shelter until March 2014.

In 2013, the City and housing providers formally approved transferring the homeless housing claims from the Onizuka parcels to the Armory site. The proposal required changing the General Plan and zoning designations from medium density to high density residential. In addition, development applications were approved for both providers to construct separate affordable housing projects on the property, including housing units targeted for the homeless. The City entered into a 90-year ground lease with each housing provider, and funded the leases through a $7.4 million loan to the providers using Housing Mitigation Funds. The City provided additional assistance for construction of both projects through allocation of federal HOME funds. Construction of the first project was completed in June 2015, and the second project will be completed in the spring of 2016.

The three Onizuka parcels are currently vacant and are not being used for a covered purpose under the initiative. Through a development agreement with a private developer, approved by the City Council in December 2013, a land swap was approved to exchange the one-acre fire station parcel and adjacent City fire station site, Fire Station #5 (total 1.75 acres) for a nearby two-acre parcel on which the developer would construct a new public safety facility for the City. Construction of the new facility is underway. The land swap will occur in spring 2016 after the facility is completed. While the homeless housing claims have been released on the 4.6-acre parcel, the future use of this parcel has not been established.

There were two separate transactions for these properties. The impacts of the initiative on these transactions, had the initiative been in place at the time, are identified below.

- Transferring Onizuka parcel with Armory site for affordable housing.
    - The new use of the site is affordable housing, and the ground leases and funding sources (Housing Mitigation and HOME funds) limit the use of the property to affordable housing. Affordable housing is not a covered purpose in the initiative. However, given the prior use of the site as a cold-weather homeless shelter, under a broad interpretation of the initiative language, the property would likely have been considered a CSA. Given that use, the transfer would likely have required a vote.
- Swapping Onizuka parcels and City-owned land for Fire Station #5 with land provided by a developer.
    - As indicated previously, under a narrow interpretation of the initiative, fire stations are not considered subject to the initiative and, thus, would not have required an election. Under a broad interpretation, however, the fire station could have been considered a CSA, and therefore would have been covered by the initiative requiring an election.

Non-City Property

School District Property under Joint Use Agreement

The City, on occasion, has entered into joint use agreements with the Cupertino Union School District, Fremont Unified High School District and Sunnyvale School District for the use of swimming pools or other outdoor spaces for recreation programs or activities. As indicated earlier, the proposed initiative does not specifically mention joint use agreements as a covered transaction type and, therefore, these types of transactions would not be subject to the proposed initiative.

Santa Clara Valley Water District Property

The City Council requested information on whether the initiative would apply to property owned by the Santa Clara Valley Water District property that is located within the City. The initiative does not apply to any decisions that the Water District makes in regards to the use of its

property. If the City, however, wanted to lease their property and the intended use would be covered as one of the uses under the proposed initiative, the transaction would likely require a measure placed before voters.

Private Property Including Public Open Space

The City has approved certain development projects that require space to be provided on the development site that is open space for public use. The developers and/or subsequent property owners retain ownership of the property. Since the property is owned by private parties, the initiative would not apply to those properties where the property owners change its use. In the case where the City is required to rezone the property or otherwise provide approval to remove the specific use of that portion of the property as open space, this decision would still be within the City's purview without requiring a vote as the proposed initiative does not prohibit the City's ability to exercise its authority over land use decisions.

Private Property Leased by the City

From time to time, the City may desire to lease property from private property owners for various uses. To the extent that those uses are covered uses under the initiative (e.g., parks, open space, or community service amenities), those transactions would likely be covered under the proposed initiative and would require a ballot measure for voter approval.

Raynor Activity Center/Stratford School (1500 Partridge Avenue)

The Raynor Activity Center (RAC) is part of a larger 14.67 acre parcel that encompasses Raynor Park. The property was purchased by the City in 1979 from the Santa Clara Unified School District. The RAC, which represented former school buildings of the School District, includes 22 classrooms in eight buildings and the adjacent parking lots. The area consisting of the RAC totals approximately 3.5 acres. The City used the RAC for a variety of purposes following its purchase, such as storage of surplus furniture. Over the years, portions of the RAC were leased to entities such as a private preschool, a gymnastics club and a philatelic library. The site also contained artist studios that were rented by individual artists.

The City Council subsequently decided to sell the RAC, and in November 2013 approved a purchase and sale agreement to sell it, subject to certain

conditions, to Stratford School, Inc. The City also agreed to enter a Joint Use Agreement (JUA) with Stratford if the sale were effectuated that defined portions of the adjacent Raynor Park for which Stratford would be allowed priority use during weekday school hours (9 a.m. to 3 p.m.), and certain hours after school.

Although the RAC facilities were leased by the City to various individual businesses and therefore used by the City to provide community service amenities, the transaction would most likely be covered under the initiative because the facility is adjacent to a park and provides supplemental public parking for the park.

The JUA would not be covered under the proposed initiative as the terms of that agreement do not change the nature of that agreement into a lease. The school is allowed "priority use", not "exclusive use" of Raynor Park. The agreement states that "at times during the [hours and scheduled defined in the JUA] when the [areas] are not actually being used by Stratford, the area will be available for public use." The JUA is similar to the current agreements with local sports leagues that use City parks, which are not considered a lease, and therefore, not considered a covered transaction by the City. The JUA is also similar to the use agreement the City has with school districts for after school use of their facilities, which are not covered by the proposed initiative.

Google Fiber Project

Sunnyvale is on a short list of cities that include Mountain View, Palo Alto, and Santa Clara working with Google to explore the possibility of bringing Google's high-speed fiber broadband network to the area. The project would include the build-out of a fiber optic network throughout Sunnyvale. Implementation of this network would primarily occur in the City's rights-of-way and public utility easements through installation of fiber in either underground conduits or above-ground utility poles or other structures.

City rights-of-way are not a covered property under the initiative as was noted above. It would not appear that the initiative would have any significant impact on the Google Fiber project.

Nevertheless, to the extent that any properties would be needed to house above-ground utility boxes on a covered property (e.g., above-ground equipment closet located in a public park), there is the potential that placement would be subject to the initiative if it provided for the lease,

transfer, or sale of such property. Easements, licenses and use agreements have been determined to not be covered by the initiative. However, if the form of agreement was for a lease on covered property, the transaction could be subject to the initiative.

Community Choice Energy Project

AB 117 (2002) enables communities to form community choice aggregations (CCAs) to create alternatives to investor-owned utilities for the procurement of electricity. CCAs allow communities to gain greater control of electricity and energy pricing. They can provide local economic benefits with reduced power costs, and the opportunity to accelerate the implementation of clean power initiatives such as solar. Sunnyvale is actively engaged in exploring these opportunities through its Community Choice Energy project. This project could involve the installation of clean energy generation equipment such as solar panels or wind-powered generators on various properties throughout the City.

On its own, the Community Choice Energy project would not be subject to the initiative. However, depending on the business model used in developing the project, it could be subject to the initiative. A turnkey project that allows a third party to own and operate the power generation facilities could make the project subject to the initiative. For example, if the City approves a third party placing clean energy equipment on covered properties under agreements such as leases, sales, land swaps, or other covered transactions, those agreements would require an election. If, however, the City were to own the equipment it places on covered properties, the City would have the right to use that property in operating its own utility.

Charles Street Properties (344, 388 and 406 Charles Street and 365, 377, 378, 379 and 407 Mathilda Avenue)

The Charles Street Properties identified above are City-owned parcels that were purchased many years ago to land bank as part of the City's long-term goals in the Downtown Specific Plan. The 365 and 407 Mathilda Avenue properties are currently vacant land but are considered as adjuncts to the residential properties that surround them. The other properties are single-family homes under various leases that are not accessible to the general public and are not being used for a covered use under the initiative. Accordingly, these properties are not considered covered under the initiative.

The City recently authorized the purchase of four additional parcels with the addresses of 396 and 402 Charles Street, and 397 and 403 Mathilda Avenue. These properties are being purchased consistent with the other adjacent properties; that is for land banking purposes relative to the long-term goals of the Downtown Specific Plan.

The planned purchase of these properties would not be considered covered under the initiative if the ordinance were in effect at the time of the purchase. The purposes for the acquisition are not within the scope of the covered uses nor are the possible purchase transactions covered by the initiative.

Unilever Building (1484 Kifer Road)

This property was donated to the City many years ago, but was encumbered with a lease to the Unilever Corporation that the City was required to honor as part of the donor's restrictions. Unilever has ceased production at the facility and is preparing to vacate the site in the next few months. At that point, the City could sell the property or repurpose it for other uses. The site has only ever been used for commercial purposes through the lease with Unilever, and is zoned as industrial and service use (i.e., commercial).

The site has never been used to provide City services or otherwise designated for a use covered under the initiative. Accordingly, this property would not be covered under the initiative and if the City determined to renew the lease with the existing tenant, sell, or repurpose the property, it would not be subject to the provisions of the initiative.

Stevens Creek Trail Feasibility Study

The City of Sunnyvale is currently taking the lead in partnership with the Cities of Cupertino, Los Altos, and Mountain View to study the feasibility of extending the Stevens Creek Trail. Some of the segments being considered would extend the trail over land owned by the Santa Clara Valley Water District, PG&E, the City of Mountain View and the City of Sunnyvale.

Extending the trail over properties that are not currently owned by the City of Sunnyvale would require some type of new agreement with the property owner to allow this new use. The initiative has no restrictions for the City to acquire new property via purchase, but it would likely restrict the City's ability to enter leases or make land swaps without a

prior vote. Based on our interpretation, the initiative would also not restrict the City from entering maintenance agreements or joint use agreement on its property or the property of third parties.

At this time routes for the Stevens Creek Trail have not been selected. What types of property transactions will be needed to implement the future trail are still unknown, so the effects of the initiative on this project remain largely unknown.

Effect on Negotiating Community Benefits

When processing land development applications for large projects, the City often negotiates with an applicant to provide some form of community benefit in addition to mitigating project impacts and paying established fees. The details of community benefit contributions are typically included in development agreements with an applicant.

The types of community benefits can vary widely from paying additional fees to improving infrastructure, which sometimes can include City property. Determining how the initiative could affect future community benefit contributions cannot be determined without a case-by-case analysis. However, in future community benefit negotiations the City would generally avoid transactions that would involve leases or land swaps. The time necessary to hold an election would make it impractical to consider community benefits that would be covered by the initiative.

A recent example of a community benefit that involved City property was the construction of Fire Station #5. As noted above, the construction of a new fire station was dependent on a land swap that would be covered by the initiative under a broad interpretation that fire stations are a community service amenity. Because development applications are always time sensitive, had an election been required, it's unlikely that construction of Fire Station #5 would have been offered as a community benefit.

Process Decision Tree – Steps for Evaluating Future Property Transactions

If the initiative is adopted, the City would follow a process for every property transaction to determine whether a vote was required. A decision tree has been developed to assist in understanding the steps needed. A sample Process Decision Tree is provided in Attachment C.

Conclusion

The initiative would likely have positive impacts as it pertains to the potential protection of parks, open space, and community amenities within the City. Since the initiative requires a vote of the people, the ultimate impacts in protecting parks, open space and community amenities would ultimately be based upon the outcome of each measure placed before voters. The initiative would, however, allow the community to have a say in the real property decisions made by the City relative to the uses of such lands, and would serve as greater protection in ensuring that the parks and open spaces are preserved for those uses until which time a majority of the community determines that their uses should be changed in a real property transaction.

If the initiative were approved by voters, the City's business processes would require significant change to ensure that every future real property transaction is considered relative to the amended ordinance. In doing so, the City must rely on the language of the initiative rather than the intent in determining whether or not a real property transaction requires a vote of the people. This adds a level of complexity in interpreting the language of the initiative, and the City will need to rely heavily on legal counsel to interpret the amended ordinance's impact on each transaction. It is clear that the measure would impact the operations of the City Clerk, City Attorney, and other administrative departments that process real property transactions on a recurring basis. Yet given the nature and extent of real property transactions in which the City regularly engages, it is foreseeable that the measure could have a significant adverse impact on many other City departments, which will ultimately impact the City's ability to continue to provide services based on its current capacities, workloads and priorities.

This initiative will impact the City's ability to enter into real property transactions with third parties for those properties that have been identified in the proposed initiative as public parks and community service amenities. The impacts will likely center on four areas: fiscal

impact, the impact on funding infrastructure, the ability of the City to act in a timely manner, and business retention and employment.

Attachment A – List of City Properties

Table 12 lists most of the current and recently owned City properties and categorizes them as being covered by the initiative. Categories include: narrow interpretations; broad interpretations, questionable interpretations; and not covered (excluded) by the initiative. This list is meant to provide examples and is not a final determination. Final determinations would be made at the time any transaction is being considered. It should be noted that properties owned or leased by the Successor Agency for the Redevelopment Agency of the City of Sunnyvale, a separate legal entity with a separate oversight board, are not City properties and are, thus, not included in this listing.

Table 12. Examples of City of Sunnyvale Current and Recently Owned Properties

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
1	165-03-007	City administration	City Hall /Annex	6.80	Operations	Public Facility	Narrow
2	165-02-002	City administration	City Hall Public Safety Parking Lot	0.20	Operations	Public Facility	Narrow
3	165-02-001	City administration	City Hall Public Safety Parking Lot	0.20	Operations	Public Facility	Narrow
4	165-02-005	City administration	ECR/Mathilda Landscape	2.60	Parking	Courthouse Parking--Leased City Hall expansion	Narrow
5	165-02-003	City administration	Public Safety Building	3.45	Operations	Public Facility	Narrow
6	165-04-019	City administration	SOC Vacant Lot	1.83	Recreation	Future City Hall Site	Narrow
7	165-04-020	City administration	Sunnyvale Office Center	3.75	Commercial	Future City Hall Site - Leased	Narrow
8	211-24-036	Community center	Community Center	2.82	Recreation	Recreational Use	Narrow
9	211-24-035/042	Community center	Community Center	29.33	Recreation	Recreational Use	Narrow
10	211-24-021	Community center	Community Center	0.89	Recreation	Recreational Use	Narrow
11	213-47-009	Gardens	Sunken Gardens	28.27	Recreation	Recreational Use	Narrow
12	165-39-015	Golf course	Muni Golf Course East	31.48	Recreation	Recreational Use	Narrow

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
13	165-40-001	Golf course	Muni Golf Course South	21.45	Recreation	Recreational Use	Narrow
14	160-56-004	Golf course	Svle Muni Golf Course	40.00	Recreation	Recreational Use	Narrow
15	165-04-001	Library	Library	6.14	Operations	Public Facility	Narrow
16	209-05-047	Open space/public enjoyment	Carol Street Parking Lot	1.50	Parking	Downtown Parking	Narrow
17	165-14-046	Open space/public enjoyment	Charles Evelyn / Parklot	0.58	Parking	Downtown Parking	Narrow
18	165-14-045	Open space/public enjoyment	Charles Evelyn / Parklot	0.68	Parking	Downtown Parking	Narrow
19	209-10-060	Open space/public enjoyment	E. Mckinley / Carol Park Lot	0.29	Parking	Downtown Parking	Narrow
20	209-06-076	Open space/public enjoyment	Evelyn / Svle Ave. Parklot	0.09	Parking	Downtown Parking	Narrow
21	209-06-073	Open space/public enjoyment	Frances Parklot	1.40	Parking	Downtown Parking	Narrow
22	165-26-002	Open space/public enjoyment	Mathilda Sobrante	1.00	Parking	Underneath Overpass Parking	Narrow
23	209-06-082	Open space/public enjoyment	Multimodal Parklot	0.86	Parking	Downtown Parking	Narrow
24	209-10-062	Open space/public enjoyment	Sunnyvale / McKinley Park Lot	0.58	Parking	Downtown Parking	Narrow
25	209-06-071	Open space/public enjoyment	Sunnyvale Ave Park Lot	1.22	Parking	Downtown Parking	Narrow
26	No APN	Open space/public enjoyment	Under Mathilda Overpass So.	0.50	Parking	Parking	Narrow
27	110-12-086	Park	234 Garner	0.15	Residential	Demolished for Park Expansion	Narrow
28	110-12-094	Park	252 Garner	0.15	Residential	Demolished for Park Expansion	Narrow
29	204-44-037	Park	263 Jackson Street	0.16	Residential	Adjacent to Murphy Park - Vacant for park expansion	Narrow
30	110-12-091	Park	266 Garner	0.16	Residential	Demolished for Park Expansion	Narrow

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
31	204-44-037	Park	279 Jackson Street	0.16	Residential	For Park Expansion -sold 2015 for affordable housing	Narrow
32	211-07-002	Park	Braly Park	3.13	Recreation	Public Park	Narrow
33	211-07-001	Park	Braly Park	1.89	Recreation	Public Park	Narrow
34	165-23-160	Park	Cannery Park	0.69	Recreation	Public Park	Narrow
35	202-27-002	Park	De Anza Park	9.29	Recreation	Public Park	Narrow
36	165-33-012	Park	Encinal Park	4.59	Recreation	Public Park	Narrow
37	205-19-002	Park	Fair Oaks Park	2.00	Recreation	Public Park	Narrow
38	104-18-063	Park	Fairwood Park	1.93	Recreation	Public Park	Narrow
39	198-28-031	Park	Greenwood Manor Park	0.04	Recreation	Public Park	Narrow
40	198-28-029	Park	Greenwood Manor Park	0.04	Recreation	Public Park	Narrow
41	110-24-038	Park	Lakewood Park	9.56	Recreation	Public Park	Narrow
42	201-35-002	Park	Las Palmas Driveway	0.18	Recreation	Public Park	Narrow
43	201-27-015	Park	Las Palmas Park	24.32	Recreation	Public Park	Narrow
44	204-44-037	Park	Murphy Park	0.16	Recreation	Public Park	Narrow
45	110-12-039	Park	Orchard Gardens Park	0.16	Recreation	Public Park	Narrow
46	309-37-003	Park	Ortega Park	9.48	Recreation	Public Park	Narrow
47	309-36-051	Park	Ortega Park	8.58	Recreation	Public Park	Narrow
48	309-12-033	Park	Panama Park	4.91	Recreation	Public Park	Narrow
49	209-07-025	Park	Plaza Del Sol	1.62	Recreation	Public Park	Narrow
50	213-27-002	Park	Ponderosa Park	9.10	Recreation	Public Park	Narrow
51	313-24-031	Park	Raynor Park	14.67	Recreation	Public Park	Narrow
52	320-09-065	Park	San Antonio Park	5.96	Recreation	Public Park	Narrow
53	323-26-013	Park	Serra Park	11.45	Recreation	Public Park	Narrow

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
54	110-14-202	Park	Seven Seas Park	5.33	Recreation	Public Park	Narrow
55	205-55-040	Park	Swegles Park	0.91	Recreation	Public Park	Narrow
56	205-46-031	Park	Victory Village Park	0.73	Recreation	Public Park	Narrow
57	165-11-001	Park	Washington Park	11.85	Recreation	Public Park	Narrow
58	211-28-035	Park/Open Space	Crescent Channel	0.76	Flood Control	Adj. to Flood Control Channel	Narrow
59	202-39-041	Park/Open Space	End of Remington Court	0.32	No Current Use	Part of Crk Trail Ext Study - Stevens Creek	Narrow
60	202-39-006	Park/Open Space	End of Remington Court	2.48	No Current Use	Part of Crk Trail Ext Study - Stevens Creek	Narrow
61	198-25-042	Park/Open Space	Girl Scout House	0.05	No Current Use	Demolished March 2015	Narrow
62	015-35-021	Park/Open Space	Guadalupe Slough	347.60	Flood Control	Holding Pond	Narrow
63	015-35-018	Park/Open Space	Guadalupe Slough	6.65	Flood Control	Holding Pond - In Alviso	Narrow
64	015-35-017	Park/Open Space	Guadalupe Slough	25.50	Flood Control	Holding Pond - In Alviso	Narrow
65	015-35-007	Park/Open Space	Guadalupe Slough	89.10	Flood Control	Holding Pond - In Alviso	Narrow
66	015-35-003	Park/Open Space	Guadalupe Slough	26.16	Flood Control	Holding Pond	Narrow
67	202-38-042	Park/Open Space	Oak Avenue	2.13	No Current Use	Part of Crk Trail Ext Study - Stevens Creek	Narrow
68	198-27-011	Park/Open Space	PGE Powerstrip	0.09	No Current Use	20' strip o/s PGE lots	Narrow
69	198-27-009	Park/Open Space	PGE Powerstrip	0.09	No Current Use	20' strip o/s PGE lots	Narrow
70	198-25-044	Park/Open Space	PGE Powerstrip	0.05	No Current Use	20' strip o/s PGE lots	Narrow

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
71	198-25-011	Park/Open Space	PGE Powerstrip	0.09	No Current Use	20' strip o/s PGE lots	Narrow
72	198-25-009	Park/Open Space	PGE Powerstrip	0.09	No Current Use	20' strip o/s PGE lots	Narrow
73	110-03-001	Park/Open Space	SMaRT Station / Landfill	31.85	Operations	Regional Transfer Station	Narrow
74	320-29-012	Park/Open Space	Stev. Cr. Channel	0.37	Flood Control	Flood Control	Narrow
75	320-07-005	Park/Open Space	Stev. Cr. Channel	4.16	Flood Control	Flood Control	Narrow
76	110-04-069	Park/Open Space	Sunnyvale Landfill	30.00	Operations	Closed Landfill - East Hill	Narrow
77	110-03-051	Park/Open Space	Sunnyvale Landfill	2.58	Operations	Closed Landfill	Narrow
78	110-03-047	Park/Open Space	Sunnyvale Landfill	9.10	Operations	Closed Landfill	Narrow
79	110-02-041	Park/Open Space	Sunnyvale Landfill	0.41	Operations	Closed Landfill	Narrow
80	110-02-008	Park/Open Space	Sunnyvale Landfill	38.04	Operations	Closed Landfill	Narrow
81	110-02-007	Park/Open Space	Sunnyvale Landfill	1.46	Operations	Closed Landfill	Narrow
82	110-15-064	Park/Open Space	Tasman Drive	2.95	Flood Control	Along Flood Control Channel	Narrow
83	201-35-008	Recreation	Tennis Ctr Orchard	2.96	Recreation	Recreational Use	Narrow
84	205-34-007	City government administration	239-241 Commercial St	1.23	Commercial	Public access for recycling etc	Broad
85	205-34-012	City government administration	Corp Yard	8.72	Operations	Public access for recycling etc	Broad
86	205-28-009	City government administration	Fire station - Arques	2.19	Operations	education and other programs	Broad
87	165-26-005	City government administration	Fire station - Calif/Mathilda	0.58	Operations	education and other programs	Broad
88	104-33-002	City government administration	Fire station - Lawrence Sta.	0.53	Operations	education and other programs	Broad
89	110-27-027	City government administration	Fire station - Lockheed Wy	0.72	Operations	education and other programs	Broad

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
90	213-25-001	City government administration	Fire station - Maria Ln	0.52	Operations	education and other programs	Broad
91	202-24-020	City government administration	Fire Station - Ticonderoga	0.45	Operations	education and other programs	Broad
92	209-20-015	Park/open space	Ajax Tank site	0.03	Utility	City Utility System	Broad
93	209-17-001	Park/open space	Ajax Tank site	3.43	Utility	City Utility System	Broad
94	161-36-026	Park/open space	Carson Water Tank	2.35	Utility	City Utility System	Broad
95	209-21-001	Park/open space	Central Well site	1.20	Utility	City Utility System	Broad
96	202-36-011	Park/open space	Hamilton Water Tank	0.92	Utility	City Utility System	Broad
97	110-07-021	Park/open space	Hamlin Court	0.03	Utility	City Utility System	Broad
98	309-51-001	Park/open space	Homestead/Wolfe Wellsite	0.25	Utility	City Utility System	Broad
99	211-09-007	Park/open space	Jackpine pump site	0.23	Utility	City Utility System	Broad
100	198-20-036	Park/open space	Jamestown Pump Sta	0.13	Utility	City Utility System	Broad
101	209-16-005	Park/open space	Liquidamber Tank site	0.07	Utility	City Utility System	Broad
102	110-03-048	Park/open space	Recycling Facility	9.00	Utility	Across from WPCP	Broad
103	204-42-020	Park/open space	Schroeder Plant	0.15	Utility	City Utility System	Broad
104	110-03-064	Park/open space	Water Pollution Control Plant	7.82	Utility	City Utility System	Broad
105	110-03-023	Park/open space	Water Pollution Control Plant	7.36	Utility	City Utility System	Broad
106	323-21-038	Park/open space	Westmoor Wellsite	0.17	Utility	City Utility System	Broad
107	202-15-077	Park/open space	Winstead Terrace	0.02	Utility	City Utility System	Broad
108	326-04-073	Park/open space	Wright Ave Water Plant	2.92	Utility	City Utility System	Broad
109	205-49-001	Road/Walkway	Wolfe Overpass No Side	0.85	Utility	Reclaimed Water Tank /Storage	Broad

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
110	110-27-38	City government administration	Onizuka - Mathilda & Innovation	1.03	vacant	Fire Station	Questionable
111	110-27-41 & 42	Residential	Onizuka -Moffett Park Dr & Innovation Way	5.02	vacant	Former military base	Questionable
112	163-58-013	Road/Walk Way	108 N. Mary Avenue	0.33	Commercial	Excess roadway strip-Leased	Questionable
113	104-25-008	Road/Walk Way	1165 Blazingwood	0.13	Road/Walk Way	Pedestrian Crossing	Questionable
114	165-32-008	Road/Walk Way	362 Macara	0.38	Road/Walk Way	Part of actual roadway	Questionable
115	110-16-041	Road/Walk Way	End of Lakehaven	0.47	Road/Walk Way	Pedestrian Crossing	Questionable
116	110-23-030	Road/Walk Way	Lakedale / Lawrence	0.40	Road/Walk Way	Pedestrian Crossing	Questionable
117	161-34-002	Road/Walk Way	Mary Ave. at Central Island	2.00	Road/Walk Way	Excess roadway strip	Questionable
118	201-18-003	Road/Walk Way	Peach / Pear Walkway	0.02	Road/Walk Way	Pedestrian Crossing	Questionable
119	205-03-004/5	Road/Walk Way	Ped X Crossing	0.15	Road/Walk Way	Pedestrian Crossing	Questionable
120	323-30-058	Road/Walk Way	Ped-X Valcartier	0.01	Road/Walk Way	Pedestrian Crossing	Questionable
121	213-46-015	Road/Walk Way	Wolfe ECR Landscape	0.76	Road/Walk Way	Excess roadway strip	Questionable
122	110-09-052	Road/Walkway	190-397 Persian Drive	0.25	Road/Walk Way	Excess roadway strip	Questionable
123	165-13-070	Road/Walkway	407 S. Mathilda	0.07	Road/Walk Way	Excess roadway strip	Questionable
124	323-10-038	Road/Walkway	Belfry Way	0.04	Road/Walk Way	Excess roadway strip	Questionable
125	165-14-018	Road/Walkway	Charles / Evelyn Corner	0.07	Road/Walk Way	Excess roadway strip	Questionable

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
126	205-46-057	Road/Walkway	Dwight Ave Landscape	0.11	Road/Walk Way	Excess roadway strip	Questionable
127	209-04-027	Road/Walkway	E. Washington / Evelyn	0.11	Road/Walk Way	Excess roadway strip	Questionable
128	165-15-055	Road/Walkway	Excess Property	0.37	Road/Walk Way	Excess roadway strip	Questionable
129	165-15-020	Road/Walkway	Excess Property	0.31	Road/Walk Way	Excess roadway strip	Questionable
130	205-47-001	Road/Walkway	FO/Kifer Landscape	0.09	Road/Walk Way	Excess roadway strip	Questionable
131	323-10-013	Road/Walkway	Fremont Post Office Parklot	0.32	Road/Walk Way	Excess roadway strip	Questionable
132	No APN	Road/Walkway	Fremont/Cordillero	0.30	Road/Walk Way	Excess roadway strip	Questionable
133	165-23-159	Road/Walkway	Mary Calif Landscape	3.00	Road/Walk Way	Excess roadway strip	Questionable
134	320-25-001	Road/Walkway	Mary Cascade Landscape	0.50	Road/Walk Way	Excess roadway strip	Questionable
135	205-47-014	Road/Walkway	N. FairOaks/Kifer	0.08	Road/Walk Way	Excess roadway strip	Questionable
136	165-20-015	Road/Walkway	Rotary Corner (Half CalWest Lot)	0.30	Recreation	Excess Roadway	Questionable
137	309-46-043	Road/Walkway	Walkway	0.10	Road/Walk Way	Excess land strip	Questionable
138	104-21-001	Road/Walkway	Wildwood/Lawrence	0.30	Road/Walk Way	Excess roadway strip	Questionable
139	211-25-035/6	Road/Walkway	Wolfe/ECR	0.02	Road/Walk Way	Excess roadway strip	Questionable
140	313-02-033	Road/Walkway	Wolfe/ECR Park lot	0.30	Road/Walk Way	Excess roadway strip	Questionable
141	110-29-035	City non-public use	Fair Oaks Way/237	2.87	Storage	Construction staging area	Excluded

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
142	213-02-008	City non-public use	Wolfe Overpass So Side	0.50	Storage	Under the Overpass Storage	Excluded
143	216-27-023	Commercial	1484 Kifer Road	4.74	Commercial	Unilever Margarine Plant--Leased	Excluded
144	209-26-010	Commercial	499 S. Murphy Avenue	0.10	Commercial	Chamber of Commerce--Leased	Excluded
145	104-01-027	Flood Control	Baylands Pump Station	1.32	Operations	Flood Control	Excluded
146	104-01-005	Flood Control	Baylands Pump Station	3.68	Operations	Flood Control	Excluded
147	209-35-011	Open space/public enjoyment	Redev Park Lot	2.01	Parking	Elevated Parking by Target	Excluded
148	209-35-010	Open space/public enjoyment	Redev Park Lot	2.06	Parking	Future Elev. Parking by Macy's	Excluded
149	209-34-017	Open space/public enjoyment	Redev Park Lot	4.03	Parking	Elevated Structure along Mathilda	Excluded
150	209-34-016	Open space/public enjoyment	Redev Park Lot	3.20	Parking	Elevated Structure along Mathilda	Excluded
151	209-34-010	Open space/public enjoyment	Redev Park Lot	0.13	Parking	Downtown Parking - Barson Terr.	Excluded
152	209-07-021	Open space/public enjoyment	Redev Park Lot	5.96	Parking	Downtown Parking	Excluded
153	204-44-005	Residential	239 Jackson Street	0.13	Residential	Sold 2015 affordable housing	Excluded
154	165-13-047	Residential	344 Charles	0.14	Residential	For downtown development - Leased	Excluded
155	165-13-074	Residential	377-9 Mathilda Duplex	0.10	Residential	For downtown development - Leased	Excluded
156	165-13-047	Residential	388 Charles	0.15	Residential	City owned house--Vacant	Excluded
157	165-13-073	Residential	406 Charles	0.15	Residential	For downtown development - Leased	Excluded
158	204-11-128	Residential	715 San Conrado Ter #6	0.02	Residential	Sold 2014	Excluded
159	205-29-022	Residential	Armory Parking Lot	0.33	Community Dev	Land Lease-Affordable Housing	Excluded

	APN #	Category	Site Description	Acreage	Current Use	Comments	Covered?
160	205-29-014	Residential	Natl Guard Armory	2.45	Community Dev	Land Lease-Affordable Housing	Excluded

Attachment B – List of Current and Recent Property Transactions

Table 13 lists most of the current and recent City property transactions and categorizes them as being covered by the initiative. Categories include: narrow interpretations; broad interpretations, questionable interpretations; and, not covered (excluded) by the initiative. This list is meant to provide examples and is not a final determination. Final determinations would be made at the time any transaction is being considered.

Table 13. Examples of Current and Recent City Property Transactions

	Type	Category	Property	Who With	Description	Covered?
1	Lease	City Hall	505 W. Olive Ste 100	Park Place Wealth Advisors	Future use as City Hall	Narrow
2	Lease	City Hall	505 W. Olive Ste 105	Spitalnick CPA	Future use as City Hall	Narrow
3	Lease	City Hall	505 W. Olive Ste 110	Sunnyvale Psychiatry	Future use as City Hall	Narrow
4	Lease	City Hall	505 W. Olive Ste 300	Kevin Tierney Co	Future use as City Hall	Narrow
5	Lease	City Hall	505 W. Olive Ste 305	Flack Insurance	Future use as City Hall	Narrow
6	Lease	City Hall	505 W. Olive Ste 310	A Turning Point	Future use as City Hall	Narrow
7	Lease	City Hall	505 W. Olive Ste 311	Shirubaa	Future use as City Hall	Narrow
8	Lease	City Hall	505 W. Olive Ste 312	Bravura Systems	Future use as City Hall	Narrow
9	Lease	City Hall	505 W. Olive Ste 315	Avami Systems	Future use as City Hall	Narrow
10	Lease	City Hall	505 W. Olive Ste 405	Bright Minds	Future use as City Hall	Narrow
11	Lease	City Hall	505 W. Olive Ste 410	Willow Hopkins Broker	Property management	Narrow
12	Lease	City Hall	505 W. Olive Ste 420	Homemakers Service	Future use as City Hall	Narrow
13	Lease	City Hall	505 W. Olive Ste 425	vacant	Future use as City Hall	Narrow
14	Lease	City Hall	505 W. Olive Ste 430	City	NOVA site rental	Narrow
15	Lease	City Hall	505 W. Olive Ste 433	L Kian	Future use as City Hall	Narrow
16	Lease	City Hall	505 W. Olive Ste 454	DocSpot	Future use as City Hall	Narrow
17	Lease	City Hall	505 W. Olive Ste 468	Alcazar Communication Education Ctr	Future use as City Hall	Narrow
18	Lease	City Hall	505 W. Olive Ste 747	vacant	Future use as City Hall	Narrow

	Type	Category	Property	Who With	Description	Covered?
19	Lease	City Hall	505 W. Olive Ste 749	City	NOVA	Narrow
20	Lease	City Hall	505 W. Olive Ste 550	NOVA	NOVA site rental	Narrow
21	Lease	City Hall	505 W. Olive Ste 500, 600, 700	NOVA	NOVA site rental	Narrow
22	Lease	Golf course	Municipal Golf Course Orchard	Federal Aviation Admin	Wood Radar Pole	Narrow
23	Lease	Golf Course	Sunnyvale Muni Golf Course	NASA	lease of 35 acres from NASA for golf	Narrow
24	Lease	Golf Course	Sunnyvale Muni Golf Course	Devon Construction	Construction staging area	Narrow
25	Lease	Open space	620 Maude Ave, Armory Parking Lot	KJ Woods	Construction staging area	Narrow
26	Lease	Open space	Landfill	Stevens Creek Quary		Narrow
27	Lease	Park	Fair Oaks Park	KJ Woods	Construction staging area	Narrow
28	Lease	Public park	263 Jackson St	vacant	house- purchased for future park extension	Narrow
29	Agreement	Education	Heritage Center	Sunnyvale Historical Society and Museum Association	Design, development, construction and lease.	Narrow
30	Agreement	Education	Heritage Center	Sunnyvale Historical Society and Museum Association	First Amendment. Design, development, construction and lease.	Narrow
31	Agreement	Education	Heritage Center	Sunnyvale Historical Society and Museum Association	Second Amendment. Design, development, construction and lease. Exclusive use by society	Narrow
32	Lease	City administration	108 N. Mary	Family Towing	Towing & Storage	Broad
33	Lease	City administration	221 Commercial	Bay Area Cellular	Corp Yard antennas	Broad
34	Lease	Commercial	1484 Kifer Rd	Unilever Best Foods	Industrial - donated in 1979	Broad
35	Lease	Commercial	239 Commercial St	Pro 1 Tire	Tire Distributer	Broad
36	Lease	Community service amenity	Fire Stn #1	Rural Metro	Paramedic unit	Broad

	Type	Category	Property	Who With	Description	Covered?
37	Agreement	Public park	Braly Park	AT&T	Wireless tower	Questionable
38	Agreement	Public park	Braly Park	Sprint/Nextel	Wireless tower	Questionable
39	Agreement	Public park	Braly Park	T-Mobile	Wireless tower	Questionable
40	Agreement	Public park	Braly Park	MetroPCS	Wireless tower	Questionable
41	Agreement	Public park	Corp Yard	AT&T	Wireless tower	Questionable
42	Agreement	Public park	Corp Yard	T-Mobile	Wireless tower	Questionable
43	Agreement	Public park	DPS HQ	AT&T	Wireless tower	Questionable
44	Agreement	Public park	DPS HQ	ClearWireless	Wireless tower	Questionable
45	Agreement	Public park	Ortega Park	T-Mobile	Wireless tower	Questionable
46	Agreement	Public park	Sunken Gardens	Verizon	Wireless tower	Questionable
47	Lease	Commercial	101 West Olive	Dental S	Dental lab	Excluded
48	Lease	Commercial	241 Commercial	Hard Rock Concrete	Construction materials	Excluded
49	Lease	Community service amenity	1500 Partridge Bldg 8, Rm 17	vacant	Raynor Activity Center	Excluded
50	Lease	Community service amenity	1500 Partridge Bldg 8, Rm 18	vacant	Raynor Activity Center	Excluded
51	Lease	Community service amenity	1501 Partridge Bldg 8, Rm 19	vacant	Raynor Activity Center	Excluded
52	Lease	Community service amenity	1501 Partridge Bldg 8, Rm 20	vacant	Raynor Activity Center	Excluded
53	Lease	Open space	Fair Oaks Way/237	KJ Woods	Construction staging area	Excluded
54	Lease	Open space	Fair Oaks Way/237	PG&E	Construction staging area	Excluded
55	Lease	Residence	377 Mathilda	H Watanabe	house	Excluded
56	Lease	Residence	379 Mathilda	vacant	house	Excluded
57	Lease	Residence	388 Charles	N Prajapati	house	Excluded
58	Lease	Residence	406 Charles	D Florin	house	Excluded
59	Lease	Residential	344 Charles	S Dudley	house- for downtown redevelopment	Excluded

	Type	Category	Property	Who With	Description	Covered?
60	Lease	Residential	485 N Wolfe Rd	Mid Pen Housing Corp	affordable housing	Excluded
61	Franchise	Commercial	City-wide 1	Air Products	Nitrogen Gas Transfer rights	Excluded
62	Franchise	Utility	City-wide 2	Cal Water Service Co	right to install and maintain water system	Excluded
63	Franchise	Utility	City-wide 3	PG&E	Right to install and maintain gas pipe system	Excluded
64	Concession	Golf course	605 Macara/ 1010 S Wolfe Rd	Synergy Golf Management	Golf Course Restaurant	Excluded
65	Concession	Recreation	755 S Mathilda	Lifetime Tennis, Inc.	Tennis pro shop	Excluded
66	Agreement	Community center	Columbia Middle School	Sunnyvale School District	Operation of Columbia Neighborhood Center	Excluded
67	Agreement	Community center	Columbia Middle School	Sunnyvale School District	Financing and expansion of Columbia Neighborhood Center	Excluded
68	Agreement	Garden	433 Charles St	Sustainable Community Gardens	Use of property	Excluded
69	Agreement	Garden/open space	Arboretum Orchard - Comm Ctr.	C. J. Olsen	Exchange use of orchard for maintenance	Excluded
70	Agreement	Park/recreation/open space	Cupertino Schools	Cupertino Schools Public Financing Corp	Maintenance and improvements of open space and transferring portion of site to City. Ortega School	Excluded
71	Agreement	Park/recreation/open space	Cupertino Schools	Cupertino Schools Public Financing Corp	First Amendment of agreement, modification of Nimitz school open space	Excluded
72	Agreement	Park/recreation/open space	Cupertino Schools	Cupertino Schools Public Financing Corp	Second amendment, West Valley School	Excluded
73	Agreement	Park/recreation/open space	Cupertino Schools	Cupertino Schools Public Financing Corp	Third Amendment. School use of picnic areas in Sunnyvale parks	Excluded

	Type	Category	Property	Who With	Description	Covered?
74	Agreement	Park/recreation/open space	Baseball fields	National Little League, Sunnyvale/ Cupertino Pony Baseball, Serra Little League, Metro Little League, Southern Little League, Lakewood Pony Baseball	Special Use agreement	Excluded
75	Agreement	Park/recreation/open space	Braly and Ponderosa Schools	Santa Clara USD	Use, maintenance and improvements buildings and open space and possible acquisition. end 6/30/2034 for section 6	Excluded
76	Agreement	Park/recreation/open space	Braly and Ponderosa Schools	Santa Clara USD	Use, maintenance and improvements buildings and open space and possible acquisition. end 6/30/2034 for section 6	Excluded
77	Agreement	Park/recreation/open space	Braly and Ponderosa Schools	Santa Clara USD	Use of multipurpose rooms	Excluded
78	Agreement	Park/recreation/open space	Cherry Chase School	Sunnyvale School District	First Amendment - modify open space area	Excluded
79	Agreement	Park/recreation/open space	Cherry Chase School	Sunnyvale School District	First Amendment - modify open space area	Excluded
80	Agreement	Park/recreation/open space	Football fields	Pop Warner Football	Special Use agreement	Excluded
81	Agreement	Park/recreation/open space	Fremont High School	FUHS District	Maintenance and use of tennis courts. Second amendment	Excluded
82	Agreement	Park/recreation/open space	Fremont High School	FUHS District	Maintenance and use of tennis courts. Second amendment extension	Excluded
83	Agreement	Park/recreation/open space	Fremont High School	FUHS District	Maintenance and use of tennis courts	Excluded

	Type	Category	Property	Who With	Description	Covered?
84	Agreement	Park/recreation/open space	School Sites (12): Bishop, Chevy Chase, Columbia, Cumberland, DeAnza, Ellis, Fairwood, Hollenbeck, Lakewood, San Miguel, Sunnyvale Middle, and Vargas	Sunnyvale School District	Use, maintenance, improvement for recreation and open space. Including possible acquisition of spaces.	Excluded
85	Agreement	Park/recreation/open space	School Sites (12): Bishop, Chevy Chase, Columbia, Cumberland, DeAnza, Ellis, Fairwood, Hollenbeck, Lakewood, San Miguel, Sunnyvale Middle, and Vargas	Sunnyvale School District	Second amendment	Excluded
86	Agreement	Park/recreation/open space	School Sites (12): Bishop, Chevy Chase, Columbia, Cumberland, DeAnza, Ellis, Fairwood, Hollenbeck, Lakewood, San Miguel, Sunnyvale Middle, and Vargas	Sunnyvale School District	Third amendment	Excluded
87	Agreement	Park/recreation/open space	School Sites (12): Bishop, Chevy Chase, Columbia, Cumberland, DeAnza, Ellis, Fairwood, Hollenbeck, Lakewood, San	Sunnyvale School District	Fourth amendment	Excluded

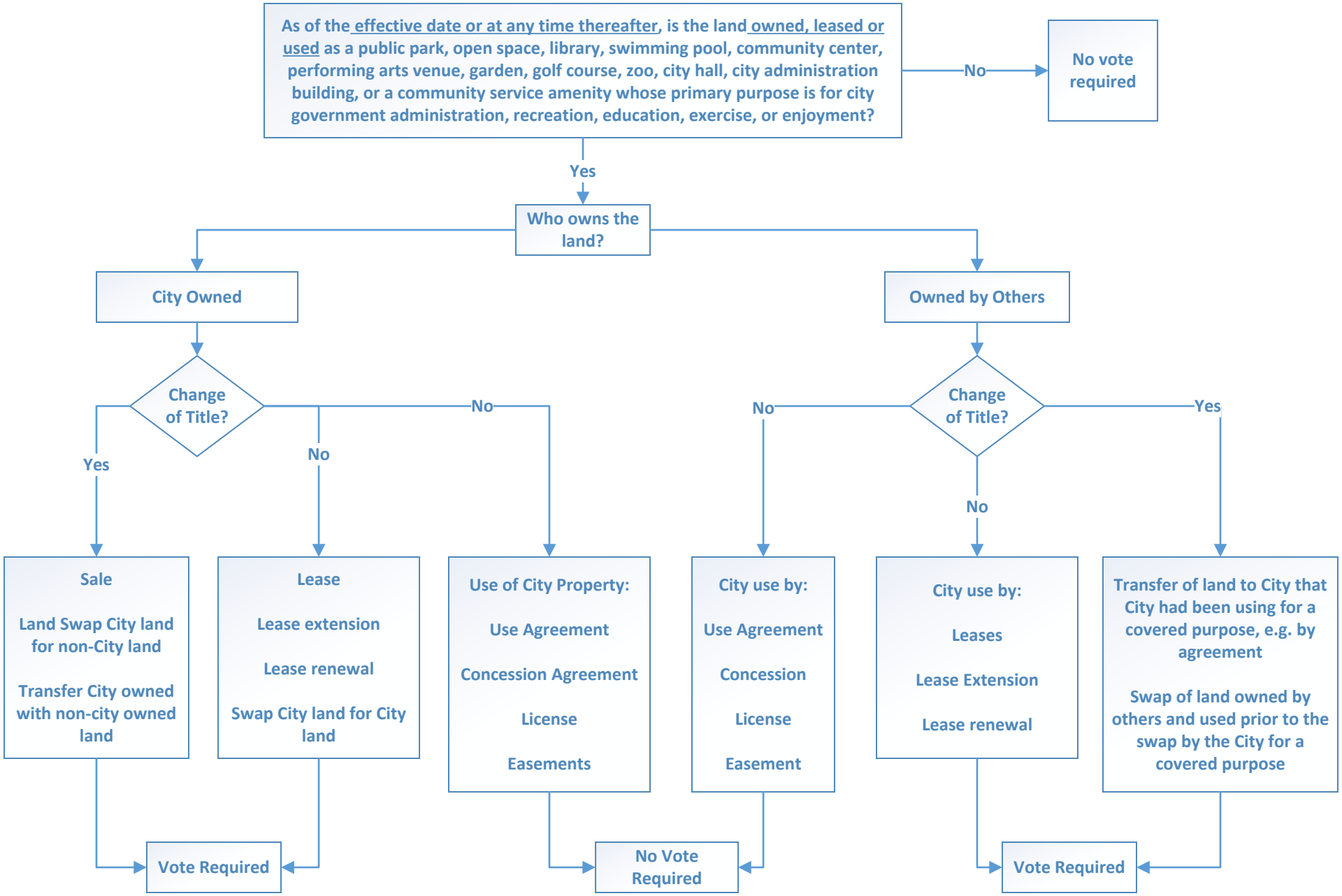
	Type	Category	Property	Who With	Description	Covered?
			Miguel, Sunnyvale Middle, and Vargas			
88	Agreement	Park/recreation/open space	Soccer fields	Sunnyvale American Youth Soccer Org and Sunnyvale Alliance Soccer Club	Special Use agreement	Excluded
89	Agreement	Park/recreation/open space	Sunnyvale and Columbia Middle Schools	Sunnyvale School District	Community recreation after-school and activity programs	Excluded
90	Agreement	Park/recreation/open space	Sunnyvale and Columbia Middle Schools	Sunnyvale School District	First Amendment. Community recreation after-school and activity programs. Background, TB and drug testing	Excluded
91	Agreement	Park/recreation/open space	Sunnyvale and Columbia Middle Schools	Sunnyvale School District	Second Amendment. Community recreation after-school and activity programs. Compensation and recruitment of referees	Excluded
92	Agreement	Park/recreation/open space	Sunnyvale and Columbia Middle Schools	Sunnyvale School District	Third Amendment. Community recreation after-school and activity programs. Remove drug testing for coaches	Excluded
93	Agreement	Park/recreation/open space	Sunnyvale School buildings	Sunnyvale School District	Use of indoor facilities	Excluded
94	Agreement	Park/recreation/open space	Various parks	Sunnyvale Police Activity League		Excluded
95	Agreement	Performing arts venue	Sunnyvale Community Center	Sunnyvale Community Players	Use of theater	Excluded
96	Agreement	Performing arts venue	Sunnyvale Community Center	Sunnyvale Community Players	Use of theater	Excluded

	Type	Category	Property	Who With	Description	Covered?
97	Agreement	Public park	Baylands Park	Apex Adventures	Maintenance, operation, and use of Challenge Ropes Course	Excluded
98	Agreement	Public park	Baylands Park	Apex Adventures	Extension. Maintenance, operation, and use of Challenge Ropes Course	Excluded
99	Agreement	Public park	Ortega Park	Sunnyvale Cricket Club	Advanced field reservations and use of storage facility	Excluded
100	Agreement	Public park/open space	Calabas Creek trail	Santa Clara Water District	Use of trail	Excluded
101	Agreement	Recreation	Sunnyvale Tennis Center	Lifetime Tennis, Inc.	Manage, operate, supervise center including pro shop and food services	Excluded
102	Agreement	Recreation	Tennis Center Orchard, 755 S Mathilda	C. J. Olsen	Exchange use of orchard for maintenance	Excluded
103	Agreement	Swimming pool	Columbia Middle School	Kings Academy	Water polo practice and matches	Excluded
104	Agreement	Swimming pool	Fremont High School	FUHS District	Develop and operate pool	Excluded
105	Agreement	Swimming pool	Fremont High School	FUHS District	Extension of second amendment of pool agreement	Excluded
106	Agreement	Swimming pool	Fremont High School	FUHS District	Trust fund for pool	Excluded
107	Agreement	Swimming pool	Fremont High School	FUHS District	Second amendment of pool agreement	Excluded
108	Agreement	Swimming pool	Fremont High School	FUHS District	CA Sports Center for operation of pool - extends for 2 three yr periods	Excluded
109	Agreement	Swimming pool	Madrone Junior HS	Sunnyvale School District	Develop, construct, operate pool	Excluded
110	Agreement	Swimming pool	Sunnyvale Middle School	Sunnyvale Swim Club	Use of facilities on priority basis and reduced cost	Excluded

Attachment C: Process Decision Tree

City of Sunnyvale – Property Transaction Decision Tree

Properties and Property Transactions Covered by the Initiative



Appendix 1 – Notice of Intent to Circulate Petition

The attached Notice of Intent to Circulate Petition was provided to the City by the proponents of the ballot initiative and includes the language that amends Chapter 2.07 of the City Municipal Code if adopted.

RECEIVED
DEC 02 2014
CITY CLERK'S OFFICE
CITY OF SUNNYVALE

Save Sunnyvale Parks & Schools, Inc.

1030 E. El Camino Real, #436
Sunnyvale, CA 94087
United States

Tel: +1 408 444 7357
www.savesunnyvaleparks.com

December 01, 2014

Kathleen Franco Simmons
City Clerk
City of Sunnyvale
P.O. Box 3707
Sunnyvale, CA 94088

Notice of Intent to Circulate Petition

Ms. Franco Simmons,

Pursuant to Section 9202(a) of the California Elections Code, notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Sunnyvale for the purpose of obtaining a vote of the Sunnyvale electorate on the proposed measure attached to this notice.

The proponents of this petition request that the ordinance be submitted immediately to a vote of the people at a special election.

A statement of the reasons of the proposed action as contemplated in the petition is as follows:

> This petition proposes changes to the Sunnyvale Municipal Code to ensure that the public land the City of Sunnyvale holds in trust for all its residents continues to serve the interests of Sunnyvale residents.
>
> Sunnyvale residents benefit from the public libraries, community swimming pools, community centers, public parks, public golf courses, and numerous other community service amenities that are placed on land the City of Sunnyvale owns for the benefit of its residents. These public parks and community service amenities help children, adults, and families alike to socialize, exercise, and learn as a community.
>
> As Sunnyvale's population grows, the demand for public parks and community service amenities will grow with it. There is a critical and increasing need for more, not less, places for residents to conduct city and community business, enjoy open spaces, study, improve their health, play with their grandchildren, watch or participate in sports, hold neighborhood meetings, walk dogs, or meet with friends.

Sunnyvale residents have a vested interest in the outcome of any decision that limits their ability to use these public parks and community service amenities. Therefore, there is a need for the Sunnyvale residents to carefully review and specifically approve significant decisions involving the disposition or use of such community service amenities and public parks. Acquiring new land for public use has become increasingly difficult and expensive. Once public land is lost, it is almost impossible to replace. Furthermore, the City Council and the Sunnyvale residents' views involving the disposition of public lands do not always align.

The clarifications and revisions to the Sunnyvale Municipal Code contained in this proposed measure will ensure that Sunnyvale public lands are not used to facilitate private development or provide a source of funding for capital improvements through any sale, lease, trade, land-swap, or other transfer of community service amenities or public parks without very carefully considered community discussion and voter approval.

In accordance with Section 9202(b) of the California Elections Code and the City of Sunnyvale's Fee Schedule, a payment of $200.00 has been attached to this statement.

Timothy Dietrich — 12/1/2014
Date

Timothy Dietrich
1061 Firth Ct.
Sunnyvale, CA 94087

Wendy Hales — 12/1/2014
Date

Wendy Hales
1473 Norman Dr.
Sunnyvale, CA 94087

Demetrios Triantafyllou — Dec. 1, 2014
Date

Demetrios Triantafyllou
1490 Navarro Dr.
Sunnyvale, CA 94087

THE PEOPLE OF THE CITY OF SUNNYVALE DO ORDAIN AS FOLLOWS:

SECTION 1. TITLE

This initiative measure shall be known and cited as the "Public Lands for Public Use Act."

SECTION 2. REQUEST FOR IMMEDIATE VOTE

Proponents request that the ordinance be submitted immediately to a vote of the people at a special election.

SECTION 3. SUNNYVALE MUNICIPAL CODE §§ 2.07.030, 2.07.040. AMENDED.

The Municipal Code of the City of Sunnyvale §§ 2.07.030 and 2.07.040 are hereby amended to read as follows:

2.07.030. Awarding authority for purchases, sales or leases of real property.

(a) The city council shall be the awarding authority for all purchases, sales or leases of real property for the city where the purchase or sales price or total lease cost exceeds seventy-five thousand dollars.

(b) The city manager shall be the awarding authority for all purchases, sales or leases of real property for the city where the purchase or sales price or total lease cost is seventy-five thousand dollars or less, or where the lease results in revenue to the city and is for a period less than or equal to fifty-five years.

(c) Notwithstanding the foregoing in subsections (a) and (b), any land, that on the effective date of this subsection (c) or at any later time is owned, leased, or used by the city as a public park or a community service amenity, as defined in subsection (d), land otherwise transferred to the city to be used as a public park or a community service amenity, or the rights to use such land may not be the subject of a sale, lease, lease extension, lease renewal, land swap, or transfer unless the issue of the sale, lease, lease extension, lease renewal, land swap, or transfer is submitted to the qualified voters of the city at an election and is approved by a majority of the votes received at the election.

(d) For purposes of subsection (c), the following terms shall have the meanings set forth below.

(1) "Community service amenity" means libraries, swimming pools, community centers, performing arts venues, gardens, golf courses, zoos, city hall, city administration buildings, and other similar facilities and the land on which the facilities stand, whose primary

purpose is to provide the public a place of city government administration, recreation, education, exercise, or enjoyment.

(2) "Public park" means land set apart for the recreation of the public, to promote its health and enjoyment, to maintain open space in the city and also includes city-owned public land which may be shared by agreement with adjacent public schools to augment the public school's outdoors recreation area.

2.07.040. Long-term lease of city property.

(a) The city council may enter into a lease of city property that is not a public park or a community service amenity, as defined in Section 2.07.030, subsection (d), for a term in excess of fifty-five years pursuant to the procedures set forth in this section. This section is enacted pursuant to California Government Code Section 37380 for the purpose of establishing alternate procedures thereto and exempting the city from the provisions of subsections (b)(2), (b)(3) and (b)(4) thereof. Except with respect to leases in excess of fifty-five years, the provisions of this section shall not be deemed in any way to restrict the city's authority to enter into other forms of leases so long as the underlying land is not a public park or a community service amenity, as defined in Section 2.07.030, subsection (d).

(b) A lease in excess of fifty-five years of property owned, held or controlled by the city that is not a public park or a community service amenity, as defined in Section 2.07.030, subsection (d), may be authorized by the city council in accordance with the following procedures:

(1) Any lease entered into pursuant to this section shall be authorized by resolution of the city council.

(2) Prior to adopting a resolution authorizing a lease, the city council shall hold a public hearing. Notice of the time and place of the hearing shall be published once not less than fourteen (14) calendar days prior to the public hearing, in the official newspaper of the city.

(3) The city shall not be required to engage in a competitive bid process for the award of such lease; provided, that at the time of adopting the resolution authorizing the lease the city council makes a determination that entering the lease without engaging in a competitive bid process is in the best interests of the city and its residents.

(4) Any such lease shall be subject to periodic review by the city and shall take into consideration the then market conditions. Pursuant to California Government Code Section 37380(b)(1), the city council hereby establishes that the lease provisions which will

periodically be reviewed, at a minimum, shall be those provisions specifying the rent to be paid pursuant to the lease, and such other provisions as may be indicated by the city council at the time of authorizing the lease. The periodic reviews shall occur in accordance with a schedule to be contained in the lease. The periodic review may be in the form of either an express review of the terms by the city council or its designee, or in the form of a procedure contained in the lease for automatic adjustments of the terms in response to market conditions. It is the intent of this provision that inclusion of inflationary adjustments, cost of living adjustments, reappraisals or other similar forms of automatic adjustments shall satisfy the requirements of California Government Code Section 37380(b)(1), without the necessity of a discretionary review by a city officer. (Ord. 2628-99 § 2).

(c) A lease in excess of fifty-five years of property that as of the effective date of this subsection (c) or at any later date is owned, held or controlled by the city and is a public park or a community service amenity, as defined in Section 2.07.030, subsection (d), must first be submitted to the qualified voters of the City of Sunnyvale at an election and approved by a majority of the votes received at the election pursuant to Section 2.07.030, subsection (c). Any such lease that is so approved may be authorized by the city council in accordance with the procedures set forth in subsection (b).

SECTION 4. PRIORITY.

Once this measure becomes effective, its provisions shall prevail over and supersede all provisions of the municipal code, ordinances, resolutions, and administrative policies of the City of Sunnyvale which conflict with any provisions of this measure.

SECTION 5. SEVERABILITY.

In the event a final judgment of a court of competent jurisdiction determines that any section, subsection, sentence, clause, or phrase of this initiative measure is invalid or unenforceable for any reason, the invalid or unenforceable section, subsection, sentence, clause, or phrase shall be severed from the remainder of this measure, and the remaining portions of this measure shall remain in full force an effect without the invalid or unenforceable section, subsection, sentence, clause, or phrase.

Excerpt from the September 28, 2015 City Manager Blog

November 2016 Ballot Measure – In September, the Mayor indicated via email that members of the public would like information related to the proposed initiative ordinance referred to as the "Sunnyvale Public Lands for Public Use Act" available on the City's website. Staff posted the information on the City's Clerk's Elections page. Information is also available via the City's agenda management system (File #: 15-0747).

In addition, the Mayor requested clarification regarding language of the Elections Code Section 9212 Report (PDF) regarding the Raynor Activity Center (page 47). This property is representative of the nuances surrounding this initiative. As analyzed by Management Partners, the sale of the Raynor Activity Center (RAC) would probably have been covered by the ordinance, had it been in place, but the joint use agreements between the City and various individual businesses would most likely not have been covered. Staff evaluated the information in this section of the report and found that it could be clearer, particularly considering that the information in the report may inform the decision making of voters during the November 2016 election. The pdf below clarifies the language related to the RAC.

PDF follows

From Page 47 of the 9212 Report Prepared by Management Partners

Raynor Activity Center/Stratford School (1500 Partridge Avenue)
The Raynor Activity Center (RAC) is part of a larger 14.67 acre parcel that encompasses Raynor Park. The property was purchased by the City in 1979 from the Santa Clara Unified School District. The RAC, which represented former school buildings of the School District, includes 22 classrooms in eight buildings and the adjacent parking lots. The area consisting of the RAC totals approximately 3.5 acres. The City used the RAC for a variety of purposes following its purchase, such as storage of surplus furniture. Over the years, portions of the RAC were leased to entities such as a private preschool, a gymnastics club and a philatelic library. The site also contained artist studios that were rented by individual artists.

The City Council subsequently decided to sell the RAC, and in November 2013 approved a purchase and sale agreement to sell it, subject to certain conditions, to Stratford School, Inc. The City also agreed to enter a Joint Use Agreement QUA) with Stratford if the sale were effectuated that defined portions of the adjacent Raynor Park for which Stratford would be allowed priority use during weekday school hours (9 a.m. to 3 p.m.), and certain hours after school.

~~Although the RAC facilities were leased by the City to various individual businesses and therefore used by the City to provide community service amenities, the~~ The sale transaction would most likely be covered under the initiative because the facility is adjacent to a park and provides supplemental public parking for the park.

Although the RAC facilities were leased by the City to various individual businesses and therefore used by the City to provide community service amenities, the JUA with Stratford would not be covered under the proposed initiative as the terms of that agreement do not change the nature of that agreement into a lease. The school is allowed "priority use", not "exclusive use" of Raynor Park. The agreement states that "at times during the [hours and scheduled defined in the JUA] when the [areas] are not actually being used by Stratford, the area will be available for public use." The JUA is similar to the current agreements with local sports leagues that use City parks, which are not considered a lease, and therefore, not considered a covered transaction by the City. The JUA is also similar to the use agreement the City has with school districts for after school use of their facilities, which are not covered by the proposed initiative.