



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Julie Edmonds-Mares

**SUBJECT:** SEE BELOW

**DATE:** April 30, 2012

Approved

Date

5/10/12

**COUNCIL DISTRICT:** 3

**SNI AREA:** Washington

**SUBJECT: MEMORANDUM OF UNDERSTANDING FOR THE PROPOSED SALE OF CITY OWNED PROPERTY AND DEVELOPMENT OF A CHARTER ELEMENTARY SCHOOL ON GOODYEAR STREET NEAR THE TAMIEN CALTRAIN STATION**

## RECOMMENDATION

Approve the Memorandum of Understanding (MOU) between the City of San José and Launchpad Development Company, a California 501(c)(3) non-profit Corporation, setting forth the framework for:

- (1) The possible sale of approximately 20,000 square feet of City owned property located near the Tamien Caltrain Station for the development of an elementary charter school to be operated by Rocketship Education, a California 501(c)(3) non-profit corporation; and
- (2) Development of a children's play area, picnic shelter and a parking lot on a portion of the adjacent City owned property to be constructed and maintained by the school operator, and jointly used by both parties.

## OUTCOME

In order to assist Launchpad Development Company (Launchpad) in its due diligence in evaluating the Tamien/Goodyear Site (Attachment A) for the development of an elementary charter school and securing financing for the project, Launchpad and City staff desire to mutually memorialize in a non-binding MOU the framework for a possible purchase and sale agreement and joint use agreement regarding a portion of the City owned property. The MOU will facilitate Launchpad's efforts to perform its due diligence on the development of an elementary charter school to serve approximately 500 students from kindergarten through fifth grade near the Tamien Caltrain Station and provide a children's play area and picnic shelter available to the general public for use after

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normal school hours. The future project by Launchpad may facilitate the development of a parking lot which would be available on a limited basis to the general public for use during and after regular school hours. Both the purchase and sale agreement and joint use agreement with Launchpad will require future approval by the City Council.

## **BACKGROUND**

The Tamien Station Area Specific Plan (Specific Plan) adopted on March 21, 1995, by the City Council envisioned most of the area west of Lick Avenue between West Alma Avenue and Willow Street as a "Transit Core Area" with the development of a four acre park that could act as a focal point for community activities and provide open space for the existing and new residents of the area. On February 15, 2011, the City Council approved a memorandum from Councilmember Liccardo to process a land use change to Park/Open Space for the subject property as part of the Envision San José 2040 General Plan Update. On November 1, 2011, the Envision San José 2040 General Plan was adopted by the City Council with this change.

In July of 2011, the City acquired 3.5 acres from the Valley Transit Authority (VTA) on Lick Avenue to facilitate the goal of a park to serve the area (APN 434-13-041). The closest existing parks are (1) Parque de Padre Mateo Sheedy Park (0.4 acres) located at the southeast corner of Floyd and Locust Streets, (2) Bellevue Park (2.0 acres), (3) Biebrach Park (5.0 acres), (4) Fuller Avenue (1.6 acres), and (5) River Glen Park (9.2 acres). With the exception of Parque de Padre Mateo Sheedy Park, the other parks are over a half mile away from the proposed park site.

The Tamien Station area is located within the San Jose Unified School District. The nearest elementary schools are (1) Willow Glen Elementary School located approximately one mile from the Tamien Station area at the southwest corner of Minnesota Avenue and Lincoln Avenue, (2) Gardner Elementary School located about 0.7 miles on the east side of Illinois Street, north of West Virginia Street, and (3) Washington Elementary School located about 0.5 at the northeast corner of Edwards Avenue and Sherman Street. Rocketship's nearest school is Mateo Sheedy Elementary School located at 788 Locust Street, approximately 0.5 miles from the proposed school site. The Specific Plan states that new elementary school and middle school facilities may be needed to accommodate anticipated growth in the District, including the Tamien Station area.

Founded in 2006, Rocketship is a network of free, public kindergarten through fifth grade college preparation elementary charter schools as authorized by the Santa Clara County Board of Education as a countywide benefit charter school pursuant to California Education Code Section 47605.6. At present, Rocketship serves over 2,400 students in Santa Clara County at five locations, where over 85% of its students are from low income families that qualify for federal free and reduced priced school meals, and over 70% are English Language Learners, or have English as a Second Language.

On May 3, 2011, the City Council considered and approved the Tamien Purchase and Sale Agreement for the land from VTA (Item 5.1). As mentioned in the Council memorandum for the acquisition of the land, the City did identify a possible partnership with Rocketship for a school at this site.

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## ANALYSIS

The Tamien Station location is one of the areas considered by the Santa Clara County Board of Education for the development of a Rocketship elementary school. The Tamien Station location is optimal for a new Rocketship elementary school for a few specific reasons beyond the general need for high quality educational opportunity, as follows:

- The demographics of the areas surrounding the Tamien Station are consistent with the demographics of its existing students, with the area's census tract designated by the federal government as being highly distressed regarding educational achievement.
- Through the Public Schools Accountability Act of 1999, the California Department of Education utilizes the Academic Performance Index (API) to measure the academic performance and growth of school on a variety of academic measures. The measurements range is 200 to 1000 and the statewide API goal for all schools is 800. In 2010, Gardner Elementary School achieved a score of 733. This score indicates an area of need for improved educational services.

Rocketship has a very proactive and systemic process to open new schools to meet its mission to eliminate the education achievement gap. To meet its mission, Rocketship has partnered with Launchpad as its school builder. Therefore, Launchpad is interested in acquiring approximately twenty thousand (20,000) square feet of the City owned property on Goodyear Street and Lick Avenue near the Tamien Caltrain Station for the purpose of developing an elementary charter school to accommodate approximately 500 students from kindergarten through the fifth grade.

Launchpad is also interested in developing, at their sole cost and expense, a children's playground, picnic shelter and parking lot for approximately 50 vehicles on a portion of the City owned property purchased from VTA in July of 2011 (APN 434-13-041). The children's playground, picnic shelter and a parking lot would be owned by the City, maintained by Launchpad, and be available for public use after 4:30 pm on regular school days, weekends and holidays. In addition, approximately 25 parking spaces would be available to the general public for use during regular school hours.

The benefits afforded to the City due to the sale of the property include additional revenues to off-set the acquisition cost of the land from the VTA or to provide additional revenue to help pay for the future development of the remaining portion of the site into a park. Launchpad would also provide a lease payment to the City for the joint use area consisting of the children's play area, picnic shelter and 25 spaces in the parking lot for staff parking. Launchpad would maintain the children's play area, picnic shelter, parking lot, and associated landscaping in accordance with the terms of a future use agreement. The lease payment could also be used to offset the City maintenance costs for the remaining portion of the parkland estimated to be approximately 2.4 acres.

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The benefits to the community due to the sale and development of this portion of the property include access to a new children's playground facility and off-street parking. The new school building could also provide occasional evening and weekend use by the community. A new school may also mitigate some of the neighborhood concern that there is not adequate space at other Rocketship schools to meet neighborhood demand for alternative educational services.

In order to assist Launchpad in its due diligence in evaluating the subject site for an elementary charter school and securing financing for the project, the parties desire to mutually memorialize the framework for a possible purchase and sale agreement and joint use agreement related to a portion of the City owned property with the understanding that by its execution of the MOU, the City is not committing to or agreeing to undertake (1) any disposition of land to Launchpad; or (2) any other acts requiring the subsequent independent exercise of discretion by the City or its departments. It is understood that the MOU does not imply any obligation on the part of City to enter into any agreement that may result from the execution of the MOU. It is expressly acknowledged and agreed by the parties that, until and unless one or more property agreements are signed by Launchpad and approved by the City Council, in their sole discretion, any drafts or other communications incorporating terms set forth in the MOU shall not be used to impose any legally binding obligation on either party.

### **EVALUATION AND FOLLOW-UP**

If Launchpad moves forward with its desire to construct a Rocketship School on the Goodyear/Tamien Site in San José, the City Manager, or her designees, will negotiate a purchase and sale agreement along with the a joint use agreement for Council's consideration in the fall of 2012.

### **POLICY ALTERNATIVES**

***Alternative #1: The City Council could direct staff to end consideration regarding the use of City land in the Tamien Station Area for the development of a Rocketship School Site.***

**Pros:** The City would have an additional half acre of land to program for parks and recreational needs to serve the Tamien Station Area and the greater Washington Neighborhood Advisory Coalition Area. The development of the total park site would increase the park acres per 1,000 population ratio to 0.92 for the half-mile radius.

**Cons:** The City would have to pay for the development and maintenance of the children's play area, picnic shelter, parking lot, associated landscaping, and paving being provided by Launchpad in the development of the Rocketship School on the Goodyear/Tamien Site. The City would not receive the additional revenue from the sale of the land to off-set the acquisition cost of the land, or the additional revenue for the future development of the remaining portion of the park site. The City

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would not receive a lease payment for the joint use area, which could be used to offset City maintenance costs associated with the remaining 2.4 acres of the proposed park site.

**Reason for not recommending:** The proposal being considered by City could offset the funding of the future maintenance costs of the adjacent park to be developed at a later date. It would also provide “Eyes on the Future Park.” The constant use of space adjoining the future park by the school and school families may enhance overall public safety and community presence. The school building may also be available for community meetings and events. Ongoing maintenance cost would be less since the school will fund the maintenance expenses associated with the joint use area.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The concept of a Rocketship School on the City property adjacent to the Tamien Caltrain Station has been discussed in the past with both Washington Area Community Coalition and the Tamien Neighborhood Association during their regular meetings. On April 4, 2011 and on May 4, 2011, the Department of Parks, Recreation, and Neighborhood Services also held community meetings regarding the acquisition and development of the proposed park site, which included discussion of a possible Rocketship School on the site. An additional community meeting will be held to obtain community feedback on the final proposed partnership agreement prior to proceeding to Council in the fall with the formal joint use agreement.

### **COORDINATION**

This memorandum was coordinated with City Attorney’s Office, the Office of Economic Development - Real Estate Section, and the Department of Planning, Building and Code Enforcement.

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**FISCAL/POLICY ALIGNMENT**

The proposed action aligns with Council Resolution No. 75638 regarding funding for park maintenance to be established before commencing with the development of a new park site.

**CEQA**

Not a Project, File No. PP10-066(g), Memorandum of Understanding. As described above, the proposed action requests Council's direction to approve a non-binding MOU. Appropriate environmental review as required by CEQA would be conducted prior to the City taking any discretionary action on the project regarding property agreements.

/s/

JULIE EDMONDS-MARES

Acting Director of Parks, Recreation and  
Neighborhood Services

For questions please contact Matt Cano, Deputy Director, at 408-535-3580.

Attachment A – Subject Property

# Attachment A

## Subject Property

### City Owned Property near the Tamien Station

