



Office of the City Auditor

**Report to the City Council
City of San José**

**REAL ESTATE SERVICES:
BETTER TOOLS AND
COORDINATION CAN
IMPROVE ASSET
MANAGEMENT AND
SERVICE DELIVERY**

**Report 21-03
May 2021**

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May 17, 2021

Honorable Mayor and Members
Of the City Council
200 East Santa Clara Street
San José, CA 95113

Real Estate Services: Better Tools and Coordination Can Improve Asset Management and Service Delivery

The City of San José (City) owns more than 1,250 parcels of land, along with other properties and infrastructure. This includes a wide variety of properties which are owned or managed by different City departments, including parks and open space, municipal facilities such as City Hall or the City's libraries, revenue-generating enterprises like the Norman Y. Mineta San José International Airport and the San José McEnery Convention Center, and other buildings or land that are leased to outside entities.

The Real Estate Services Division (Real Estate) of the Office of Economic Development is responsible for a range of real estate services and activities for the City, including lease administration for some City properties and property acquisitions and sales. They also work closely with other City departments on real estate-related transactions. The objective of this audit was to assess Real Estate Services' processes for tracking City properties and revenues.

Finding I: Better Tools Would Improve Coordination for Real Estate Asset Management.

Real Estate helps facilitate property-related transactions to support City projects and generate revenue. We found:

- The City does not have a consolidated inventory of its real estate assets.
- Currently, Real Estate uses a third-party database to track City real estate; however, it is incomplete and contains inaccuracies which can make researching property-related questions complicated and inefficient.
- Other departments have their own databases that are not connected to each other and that do not use a standard approach to track information.

RECOMMENDATIONS

To better manage the City's real estate assets, Real Estate should:

- Work with City departments to compile a comprehensive list of real estate assets
- Implement a database platform that includes information about lease management, property ownership, and other information

- Creating a master inventory and implementing a real estate asset database would allow the City to more efficiently research properties, manage its assets, and comply with new financial reporting standards around lease management. Real Estate and the Finance Department are currently working together to procure software to meet these needs.

Finding 2: Having an Up-to-Date Inventory and Better Coordination Can Help the City Maintain Its Vacant Properties. Among the City’s real estate holdings are vacant lands or buildings. However, the City does not have a current list of such properties. We found:

- In 2015, the City last revised its vacant lands inventory as part of the Regional Housing Needs Allocation (RHNA) process; however, this list has not been kept up to date.
- Having a complete listing of vacant properties can help the City identify potential opportunities to meet other Citywide goals outlined in San José’s Envision 2040 General Plan.
- Maintenance of vacant properties is spread across departments, including Public Works, the Department of Transportation, and others. Better coordination across departments can ensure weed abatement, repairs, or other problems can be addressed timely and appropriately.

RECOMMENDATIONS

To better manage the City’s vacant properties, Real Estate should:

- Work with other departments to identify all vacant City properties and report on them annually to the City Council
- Work with other departments to coordinate maintenance on vacant properties, and ensure that data collection is standardized and can be cross-referenced across departments

Finding 3: Real Estate Services Manages Various Property and Telecommunication Leases. Real Estate manages 32 property leases where the City is a landlord and 23 telecommunication (telecom) property use agreements. Tenants include commercial enterprises, community-based organizations, government entities, and telecommunication companies. We found:

- Property and telecom leases generated roughly \$3 million in revenues in FY 2019-20.
- Real Estate also manages six below-market leases to community-based organizations that provide services that benefit residents.
- To incentivize telecom development, Real Estate is working on a market-rental rate analysis to determine a new fee structure for telecom leases.

RECOMMENDATION

To incentivize telecom development and improve residents’ access to cellular networks, Real Estate should:

- Bring a new telecom fee schedule to Council for approval upon completion of its market-rental rate analysis

Finding 4: The City Should Update the Municipal Code and Policies Around Surplus Land. The California Surplus Land Act imposes restrictions on how the City disposes of or transfers City-owned surplus land, which is land that the City Council has determined is not necessary for the City’s current or future use.

- The Municipal Code and City Council Policy 7-13 (*Policy for the Sale of Surplus Property with Provisions Related to Affordable Housing*) provide guidance in the City around the identification and disposal of surplus land.
- To ensure the Municipal Code and City policies comply with changes to the California Surplus Land Act, the City needs to update both related to transferring or disposing of surplus land.

RECOMMENDATION

To ensure compliance with California’s Surplus Land Act, the Administration should:

- Bring updates to the Municipal Code and Council Policy 7-13 to the City Council for approval

This report has six recommendations. We plan to present this report at the May 24, 2021 meeting of the Community and Economic Development Committee of the City Council. We would like to thank the Office of Economic Development, the City Attorney’s Office, and the Departments of Finance; Public Works; Parks, Recreation and Neighborhood Services; Planning, Building and Code Enforcement; Transportation; and Information Technology for their time and insight during the audit process. The Administration has reviewed the information in this report, and their response is shown on the yellow pages.

Respectfully submitted,



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Background

The City of San José (City) owns more than 1,250 parcels of land throughout the region, along with other properties and infrastructure. These include:

- *Parks and Open Space:* Parks, Recreation and Neighborhood Services (PRNS) maintains 199 neighborhood parks and 10 regional parks, including facilities such as Happy Hollow Park & Zoo. These parks and recreational areas total roughly 3,530 acres.
- *Municipal Facilities:* Facilities necessary to perform the City's day-to-day operations and services, including City Hall, 33 fire stations and 25 libraries.
- *Enterprise Activities:* Revenue-generating properties that may have a regional impact, including the Norman Y. Mineta San José International Airport, the San José McEnery Convention Center, and the San José-Santa Clara Regional Wastewater Facility.
- *Facilities leased to or operated by other organizations:* The City owns several facilities that it leases to or are operated by other government agencies, private companies, and community-based organizations (CBOs). Among the City's tenants are the United States Post Office, Flames Eatery & Bar, and African American Community Services. In some cases, these leases are on land that the City intends to redevelop, but the property is leased in the interim. Also, in this category are properties in PRNS' Neighborhood Center Partner Program.¹
- *Vacant lands or buildings:* The City owns some property that is currently vacant but has a future purpose. For example, the City owns a vacant former fire station that is intended for future affordable housing development.

The City also holds small or awkwardly shaped properties that may be difficult to develop or unsuitable for development. They are often what remains after an adjacent development, and these properties are known as remnants. For example, the City may build a park, but there may be a sliver of property that is owned by the City but is outside of the park. This would be considered a remnant.

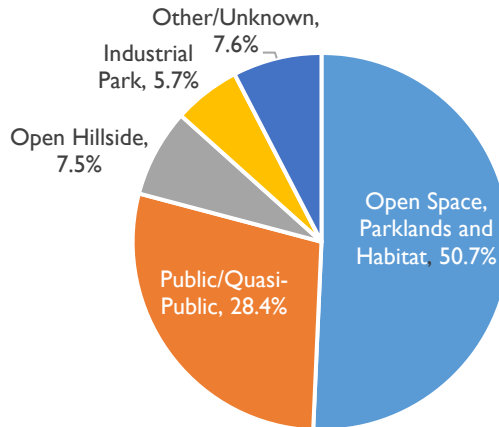
General Plan Designates Uses of Properties

As Exhibit I shows, more than half of the City's real estate is designated as Open Space, Parklands and Habitat in the City's 2040 General Plan. The City's General Plan describes this land use as "publicly- or privately-owned areas that are intended for low intensity uses," such as open space, parks, and habitat buffers. Public and

¹ PRNS' Neighborhood Center Partner Program provides use of City community centers to community service providers, so they can provide programming and services to San José residents.

Quasi-Public spaces are more than a quarter of the City’s real estate. This refers to public land uses, such as government offices, schools, supportive housing for the homeless, libraries, and fire stations, among other uses. According to City financial records, the net book value for the City’s real estate is \$3 billion.²

Exhibit I: City of San José’s Real Estate by Designation in General Plan 2040



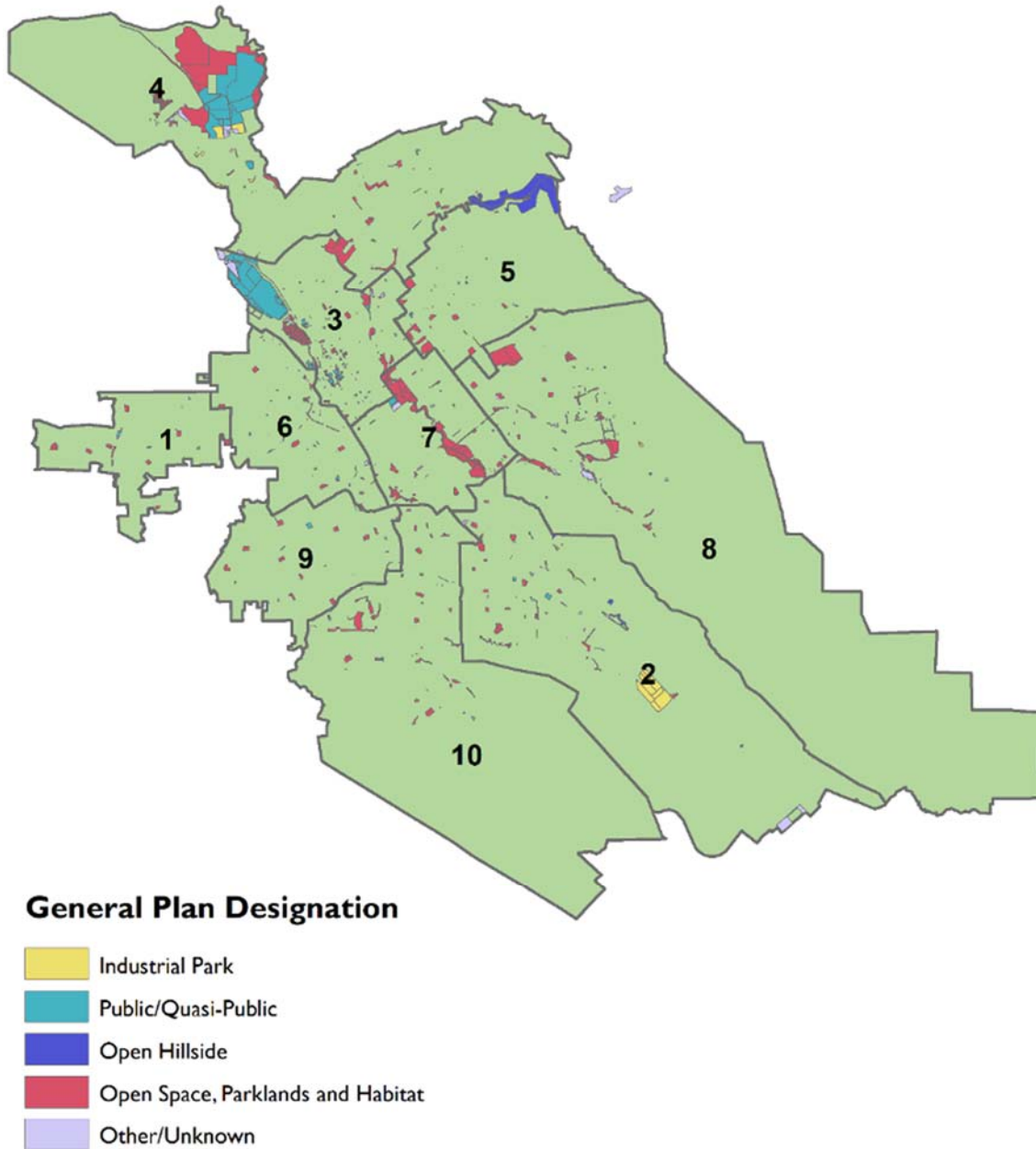
Source: Auditor analysis of ArcMap data produced by overlaying City of San José’s General Plan open data and City-Owned Real Estate.

Note: Other/Unknown includes designations such as Combined Industrial/Commercial, Downtown, other General Plan designations or unknown designations.

City-owned real estate is found across San José, including parks, fire stations, and other municipal facilities, as shown in Exhibit 2. The largest City-owned properties are Norman Y. Mineta San José International Airport and the San José-Santa Clara Regional Wastewater Facility.

² This is inclusive of buildings, land, and land improvements, for both general government and business activities. Net book value is determined by original cost less depreciation.

Exhibit 2: Map of City’s Property by General Plan Designation by Council Districts



Source: Auditor analysis of ArcMap data produced by overlaying City of San José’s General Plan open data and City-Owned Real Estate.

Real Estate Services Supports the City’s Real Estate Transactions

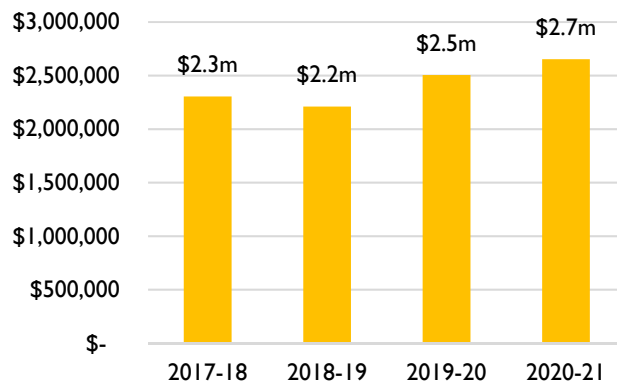
Real Estate Services (Real Estate) within the Office of Economic Development is responsible for a range of real estate services and activities for the City. According to the 2019-20 Adopted Operating Budget, Real Estate is tasked to “manage the

City’s real estate assets and facilitate real estate-related transactions to support City projects and generate revenue.” Its primary services include:

- *City Lease Administration:* Manage leasing with the City as a lessee or lessor for facilities and/or telecommunications (telecom), including maintenance of City-owned properties that are being leased to other entities or are vacant. Real Estate does not manage all leases in the City; some departments manage their own leases.
- *City Property Acquisition and Sales:* Work with real estate brokers, developers, and property owners to encourage new leasing and development activity, including acquisition of temporary or permanent property rights for City projects and initiatives; manage the sale of surplus property.

Real Estate has four staff members, including a manager. Its budget for Fiscal Year (FY) 2020-21 totals \$2.6 million.

Exhibit 3: Budget for Real Estate Has Remained Relatively Stable

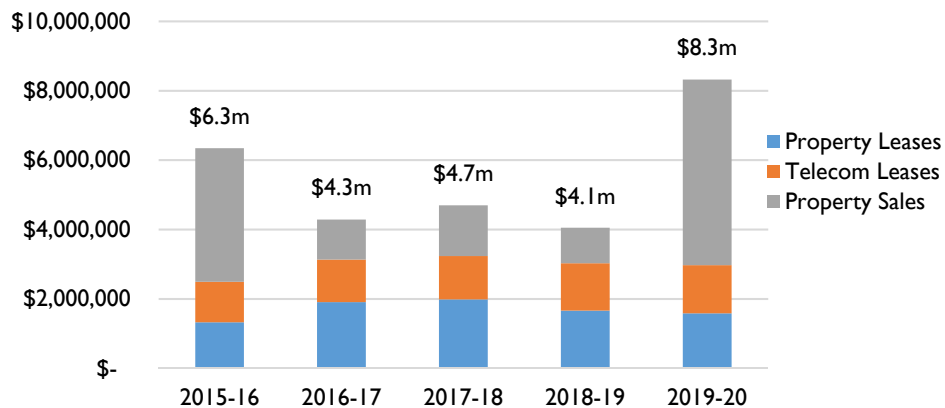


Source: Auditor Analysis of Adopted Budgets.

According to the City’s Adopted Operating Budget, Real Estate measures its performance against revenue targets for sales of surplus property assets, and for real estate and telecommunications (telecom) leases. In FY 2019-20, Real Estate generated about \$5.4 million in sales revenue, including \$4.75 million for a 0.3-acre parcel in downtown San José. Real Estate also generated \$3 million in revenue from the 32 real estate and 23 telecom leases it manages. The stated revenue targets were \$1.1 million for surplus sales, \$1.9 million for leases, and \$1.1 million for telecom leases.

Exhibit 4 below shows that over the past five years, revenue has varied from \$4 million to \$8.3 million. This variance has been primarily driven by changes in the amount of surplus land sales each year.

Exhibit 4: Revenue Varies Based on Surplus Land Sales



Source: Auditor analysis of Financial Management System (FMS) revenue data.

Other Departments' Roles in Real Estate Activities

Real Estate also assists other departments with various real estate-related transactions. For example, in 2020, they worked with the Housing Department to purchase a property at 71 Vista Montana Drive for a future affordable housing development. In general, Real Estate helps facilitate transactions, and departments will manage the property after the transaction is complete. Real Estate may also support departments with other types of transactions, such as those related to easements, right of ways, or others.³

Departments sometimes handle certain real estate transactions themselves. For example, PRNS has existing agreements that allow the City to maintain trails on land owned by the Santa Clara Valley Water District. When those agreements need to be renewed, PRNS will often handle the renewal themselves, since the renewals are relatively straightforward. Even when a department handles a transaction internally, Real Estate can support ad hoc requests, such as getting a title report or an appraisal for a piece of property.

Council Policies Affect How the City Uses Its Real Estate

Three Council Policies have a direct impact on the work that Real Estate performs:

- *7-1 Below Market Rental Policy for Use of City-Owned Land and Buildings by Qualified Organizations for Governmental or Other Public Purposes:* Allows public, quasi-public, or community-oriented service groups to lease City property at below-market rates. This policy was adopted in 1970, and recently updated in 2021. It establishes a set of criteria, guidelines, and requirements for the use of City-owned land or buildings not immediately

³ *Easements* are agreements where the property does not change hands, but the City gains the right to use the property for a specific purpose, such as erecting and maintaining utility poles. *Right of ways* are a type of easement that allow people to pass through a property, so the City may use right of ways to build roads on property that is owned by others.

required for public purposes, and outlines reporting obligations for organizations and specifies that the use of space must provide public service. The organizations must annually provide the City with documents such as organization charts, salary schedules, Board of Director meetings and minutes, financial reports, and proof that they are still providing public services.

- *7-10 Placement of Communication Facilities on City-Owned Property:* Guides the leasing and placement of communications facilities on City property. As noted above, the City has several leases with telecom companies that install macrocell⁴ facilities that provide cellular service.
- *7-13 Policy for the Sale of Surplus Property with Provisions Relating to Affordable Housing:* Guides how the City designates property as “surplus,” and the process by which it must be transferred or sold. The policy was adopted in 2016 and the intention behind it is to prioritize affordable housing development, with secondary emphasis on the development of open space and spaces for educational use.

⁴ A macrocell facility is part of a mobile phone network that provides coverage through a high power cell site, such as a tower, antenna, or mast.

Finding I Better Tools Would Improve Coordination for Real Estate Asset Management

Summary

The Real Estate Services Division manages the City's properties to facilitate real estate-related transactions to support City projects and generate revenue. However, this work is hampered by not having a consolidated inventory of real estate assets. When property questions arise, the Division often will be required to conduct extensive research on properties, such as reviewing old documentation, reaching out to different departments to identify who is responsible for managing the property, and other tasks. The Division uses a third-party database of real estate assets to help in these inquiries, but it does not contain complete, up-to-date information on the City's real estate portfolio. Having a complete real estate asset inventory and implementing asset management software can help the City better manage its properties in the future.

A Consolidated Real Estate Inventory Could Help the City Manage Its Assets More Effectively

As described in the Background, Real Estate manages the City's real estate assets to support City projects and generate revenue. As questions arise about individual properties, staff may seek out and review old deed transfers to understand the ownership of the property, or review contracts or development agreements to understand the City's obligations and benefits with other parties. However, because information is often spread across different databases and different departments, this research can be inefficient.

For example, the City Attorney's Office (CAO) annually receives a list of over 100 properties for tax delinquency that the County intends to sell. The CAO works with Real Estate to determine if there are any City-owned properties on the list to ensure that some City-owned properties are not inadvertently sold, which can be a cumbersome process.

In many cases, information about properties is held solely within individual departments. This may include leases or maintenance records.

Public Works Survey Division Also Does Related Research on City-Owned Properties

In addition to the research Real Estate performs, the Public Works survey team will conduct on-the-ground surveys to understand ownership of specific properties. In some cases, a property may not have an assessor's parcel number

(APN)⁵, so the Public Works team may rely on older documentation, such as railroad records or state maps. They may also research whether there are existing easements or right of ways on properties.

Real Estate Relies on a Third-Party Database for Property Information

Real Estate uses LandVision, a third-party database, to research properties in the City, including City-owned properties. The database integrates County Assessor parcel data with Google satellite imagery. The LandVision database provides property information such as:

- Assessor's Parcel Number (APN)
- Site addresses
- Owners' names and mailing address
- Acreage (and if appropriate building square footage)
- Last transfer date, including seller, buyer, and in some cases sale amount
- Codes that identify intended purpose (with standard categories such as single-family residential, industrial, recreational, and others)

Though the database is helpful to begin researching properties, the data is not complete for each property and it is not fully up-to-date. For example, many of the parcels in the database do not have complete addresses or accurate acreage data. Nearly 450 of the parcels are listed as having zero acreage.⁶ The use codes are also not reliable as they do not appear to have been updated for some time (e.g., the Evergreen Library's use code denotes it as used as an orchard or a grove for agricultural purposes). Because LandVision is a third-party platform, it does not include department ownership/responsibility, which could be very helpful for effective property management.

Finally, because it relies on APNs, it may not contain all City property as some property within the County may not have an APN. The Public Works survey team, for example, found a property that they thought would be suitable for additional housing. When they contacted the County, the County did not have an APN for the site. Through their research, they later found that the City already owned the parcel, but it was being held for transportation infrastructure.

⁵ An Assessor's Parcel Number (APN) is a unique number assigned to a specific property by the Santa Clara County Assessor's Office. It is used to assess property taxes but can also be helpful to identify a specific property.

⁶ LandVision shows 1,250 City-owned parcels covering 4,500 acres. Using ArcMap, LandVision data, and Santa Clara County parcel shapefiles, we estimate that the parcels with zero acreage in LandVision actually cover 3,400 acres. In total, we estimate that City property comprises roughly 13,000 acres.

Departments Maintain Different Inventories of Assets or Addresses

Other departments maintain listings of properties or addresses as well, but they serve different purposes and similarly are limited in providing complete information about City-owned property.

- Public Works maintains the City's Master Address Database for addressing purposes (e.g., noticing residents about nearby development projects). This can be used to pull City-owned property from the County Assessor's data; however, it is not intended as a property database. The Master Address Database also relies on County Assessor's data. If there are any misspellings in the County Assessor's data, then the database will not pick it up as a City-owned property. We noted 50 properties in the LandVision data that were not included in the Master Address Database as City-owned property. In some cases, this is because the Assessor's data had property ownership listed as "CIYT OF SAN JOSÉ," "CITY OPF OF SAN JOSÉ" or had similar spelling errors.
- Finance maintains a fixed asset database for financial statement purposes that tracks the book value (i.e., original cost less depreciation) of City assets, including land and buildings.⁷ In some cases, the listings contain APN data, but in other cases it does not, and it is difficult to cross-reference between Finance's fixed asset listings and the LandVision database.
- The City's Risk Manager in the Finance Department maintains a schedule of Citywide properties for insurance purposes. Every year, Finance updates its schedule of City-owned or leased properties by asking each department for a list of properties it operates.
- Other City departments maintain listings of properties they manage, such as PRNS' inventory of its parks and community centers, DOT's inventory of traffic islands that it maintains, and others. These similarly may not have APN or other data that would allow for easy cross-reference with the LandVision data.

Current Databases Have Limited Information to Understand the Characteristics of City-Owned Properties

It is difficult to assess what the City owns in the aggregate, because data in the City's databases is limited and siloed. This increases risks that the City may not adequately safeguard its assets from physical deterioration or prevent unnecessary maintenance costs.

⁷ Finance also maintains a separate list of properties that may have use restrictions because they were purchased using tax-exempt financing.

Because there is no centralized database with complete information about properties, we selected 25 properties from the LandVision database that we could not easily identify as a park, library, fire station, or other type of municipal facility in order to better understand the City's real estate portfolio and assess the usefulness of the LandVision data.⁸

The properties were not intended to be a representative sample. Instead, we specifically selected properties that had limited information in LandVision, appeared to be spread across the City, and had different use categories. To understand the characteristics of the 25 selected properties, we viewed aerial images of the parcels, and visited the ones that were publicly accessible in person. We also asked Real Estate to research which City departments managed them. Real Estate also sought to understand the initial reason for the purchase and the intended purpose if it was vacant.

We show the LandVision information for these properties in Exhibit 5, along with our notes about these properties as a comparison. Appendix B shows a map with the location of the selected properties.

⁸ This selection of properties was identified in one of two ways: Some were chosen because they were leased for properties that did not seem to have a municipal purpose. Others were selected using ArcGIS by overlaying open data from PRNS over City-owned parcels, as determined by LandVision. Parcels that were not easily identifiable were investigated using Google satellite imagery. If they still could not be identified, they were added to the list.

Exhibit 5: Comparison of LandVision Data with Auditor Notes for Select Properties

LandVision Data				Auditor Notes		
APN	Address	Use Code	Acres	Description	General Plan Use	Dept
259-35-050	180 W. Saint John St	Miscellaneous vacant land	0.4	Sitting area of San Pedro Market	Downtown	PRNS
230-42-078	1072 Vermont St	Single-family residence	0.2	Vermont (veterans shared housing)	Mixed use neighborhood	Housing
259-41-090	170 S Market St	Stores, retail outlet	0.0	Fairmont Hotel parking garage	Downtown	DOT
259-45-080	441 Park Ave	data field blank	0.1	ACT for Mental Health, Inc. building	Downtown	Real Estate
708-26-001	Emado Ave	Miscellaneous vacant land	40.9	Open space in Coyote Valley	Industrial Park	Real Estate/PRNS
015-03-016	1621 Gold St	data field blank	0.0	Empty lot next to Alviso Health Center	Mixed-use neighborhood	Real Estate
097-07-008	Zanker Rd	Miscellaneous vacant land	1.1	Zanker Road next to Cisco campus	Not Applicable to roads	DOT
230-59-002	data field blank	Miscellaneous vacant land	1.2	Road in Santa Clara	Not Applicable (Outside City of San José)	DOT
462-15-036	data field blank	Miscellaneous vacant land	0.2	Section of road/sidewalk with light poles	Not Applicable to roads	DOT/PW
264-55-079	805 Willow St	Office building	0.4	Strip mall with parking lot	Neighborhood/community commercial	Real Estate
595-20-041	Boulder Dr	Single-family residence	0.2	Vacant open space (could not access)	Open hillside	PRNS
481-39-026	1699 S King Rd	data field blank	0.0	Shell gas station	Open space, parklands and habitat	Real Estate
259-46-122	data field blank	Miscellaneous vacant land	0.1	Parcel of land along the railroad tracks and Discovery Dog Park	Open Space, Parklands and Habitat	DOT/PW
456-18-011	data field blank	data field blank	0.0	Guadalupe riverbank	Open Space, Parklands and Habitat	DOT
678-39-090	Coyote Rd	data field blank	0.5	Road median	Open Space, Parklands and Habitat	DOT/PRNS
654-06-040	data field blank	data field blank	5.0	Norwood Creek Elementary school field and courts	Open Space, Parklands and Habitat	PRNS
249-40-053	N 4th St	data field blank	0.0	Akiyama Wellness Center and empty field	Public/Quasi-Public	Real Estate
647-24-042	data field blank	data field blank	0.0	Former Fire Station 21 (vacant house)	Residential Neighborhood	Housing
494-50-103	Yerba Buena Ave	data field blank	0.0	Section by sidewalk with light poles	Residential Neighborhood	PW
303-31-053	Coakley Dr	data field blank	0.0	Shoulder of San Tomas Expressway, has light poles	Residential Neighborhood	DOT/PW
259-29-032	447 W Saint John St	Industrial	0.4	Valaya Automotive and adjacent building	Transit Employment Center	Real Estate
259-29-001	525 W Saint John St	Industrial	0.4	Empty lot	Transit Employment Center	DOT/PW
Not Identified in LandVision ⁹				Condominium	Transit Residential	Real Estate
274-42-209	1535 W San Carlos St	Multi-family residential	1	Buena Vista Midtown (senior housing) complex	Urban Village	Housing
467-16-091	579 E Santa Clara St	Office Building	0.24	Empty lot	Urban Village	Real Estate/PW

Source: Auditor analysis of LandVision data, ArcMap data, information provided by Real Estate, and auditor site visits.

⁹ The City does not own the full land parcel, just a condominium within the development, so it had a different owner listed in LandVision. It was selected to be part of the 25 properties because we were aware of it and noted that it was not included in the City-owned LandVision data.

In some cases, the Division could easily identify the properties. This included the former Fire Station 21 that was sold in FY 2020-21 to the Housing Department for future development of affordable housing. Eight of the 25 properties could be easily be traced to Finance’s fixed asset database; the collective purchase price of the land for these eight totaled \$7 million. Additional research would be required to identify the remaining parcels’ land values, or any of the buildings on the properties. Exhibit 6 shows pictures of several properties we visited.

Exhibit 6: Selected Properties Had Various Uses and Show the Breadth of City-Owned Land

Roads, Medians, and Land Strips



Zanker Road beside Cisco building (APN 097-07-008)



Road beside development in Santa Clara (230-59-002)



Road along VTA stop (462-15-036)



Median along Coyote Road (678-39-090)



Land strip along San Tomas Expressway (303-31-053)



Paved land strip along railroad tracks (259-46-122)

Residential Buildings



Buena Vista Midtown Senior Housing Complex
(274-42-209)



Vermont Veterans Shared Housing Complex
(230-42-078)

Facilities for Community-Based Organizations



ACT for Mental Health Building (259-45-080)



Akiyama Wellness Center Facility (249-40-053)

Empty Lots



Empty former parking lot (467-16-091)



Empty lot beside Alviso Health Center (015-03-016)

Miscellaneous Properties



Shell Gas Station (481-39-026)



Fairmont Hotel Parking Garage
(259-41-090)

Source: Auditor photos of select properties.

Lacking an Accurate Master List of Real Estate Assets Has Risks

A master inventory would enable the City to be more efficient in determining which department has management responsibility for specific parcels. Additionally, without an accurate master list or properties the City faces risks. As the Government Accountability Office (formerly the General Accounting Office) (GAO) noted in its 2002 report “Federal Real Property: Better Governmentwide Data Needed for Strategic Decisionmaking”:

We and others, including OMB,¹⁰ various state governments, and private sector entities believe that having quality information is essential to making sound and economical real property decisions. Inaccurate asset information impairs the government’s ability to (1) know the assets it owns and their location and condition, (2) safeguard the assets from physical deterioration or loss, (3) account for acquisitions and disposals of such assets, (4) prevent unnecessary maintenance costs, and (5) determine the full costs of governmental programs that use these assets. Furthermore, we have reported that in leading organizations, having quality information on asset performance, condition, and cost is critical to making informed capital resource allocation decisions.

A couple of examples from our selected properties illustrate these risks. For one of the properties, San Pedro Square Market was granted an easement for an outdoor seating area in exchange for maintaining the park surrounding Luis Maria Peralta Adobe in downtown San José. At the same time, the City has continued

¹⁰ “OMB” refers to the federal Office of Management and Budget.

to provide maintenance on the property through PRNS' park maintenance contract with an outside contractor.¹¹

It would also help the City better understand the intended use of City land, so they could be more effectively managed. In another example from our selection, the City purchased a parcel adjacent to Norwood Creek Elementary School from the Evergreen School District in 1980 for community recreation programs. As part of the joint development agreement, the school would build a playground and have control over the playground only during regular school hours. At present, however, the school controls access to the playground, and it is only accessible to students, not the general public. This means that the community, at large, is not benefitting from a property that the City purchased for the greater community.¹²

Other Jurisdictions Use Asset Management Software to Identify Properties for City Services

Other cities use asset management software to maintain property inventories that allows them to identify sites for city services. For example, the City of Los Angeles' Department of General Services, at the request of their City Council, identified temporary housing sites by searching through their asset management system for properties that had certain characteristics. According to Los Angeles staff, they also were able to review notes that they have on the properties, which helped determine if a site was an appropriate candidate for homeless housing initiatives. In another example, in early 2021, Los Angeles staff used the asset management system to identify a site for COVID-19 vaccine distribution. Using the asset management system allowed Los Angeles staff to respond to Council requests in a short time period.

Real Estate staff stated that they similarly helped the City identify sites for emergency bridge housing for the unhoused community and COVID vaccinations, but asset management software could make this type of work more efficient.

Real Estate Intends to Procure a Real Estate Asset Management System

Real Estate is currently working to procure an asset management system to manage City real estate properties. In addition to creating an inventory of City assets, Real Estate intends to use the system for lease management and other property management purposes. In early 2021, Real Estate began work on a request for proposals (RFP) for a system that includes tracking for lease terms, dates, rent increases, and payments. Because the asset management system could be useful to other departments that manage property, Real Estate should work

¹¹ We notified Real Estate and PRNS of this, and PRNS will remove the property from its maintenance contractor list.

¹² We notified Real Estate and PRNS of this, and PRNS staff report they will reach out to the school district to remedy this situation.

with the Information Technology Department (ITD) to ensure that the system can work with other City systems.

Real Estate is coordinating with Finance on this RFP to also meet new financial reporting requirements around leases. The Governmental Accounting Standards Board, which establishes governmental accounting and financial reporting standards, introduced new reporting guidelines regarding leases (GASB Statement No. 87). The purpose is to increase the usefulness of governments' financial statements by requiring recognition of certain lease assets and liabilities for leases that were previously classified as operating leases. This change will require the City to bring substantially all City-held leases, with the City as both tenant and landlord, onto its balance sheet and affect the presentation of all lease-related transactions in its financial statements. The change to how governments account for leases will go into effect for all City accounting and financial reporting after July 1, 2021.

Finance anticipates that gathering all the necessary documents and extracting information will take considerable time and effort by all departments who hold leases and having a software solution will help for financial reporting in the future.

Recommendation #1: To better manage the City's real estate assets, the Real Estate Services Division should work with City departments to compile a comprehensive list of real estate assets that includes department ownership and intended or actual use of the property.

Recommendation #2: The Real Estate Services Division should work with the Information Technology Department, the Finance Department, and other City departments to implement a database platform to better manage the City's real estate assets that includes:

- a) Property management information such as lease terms, payments, and related information,**
- b) Property-related agreements or other relevant information to identify ownership or management responsibilities, and**
- c) Any other information that the Real Estate Services Division deems necessary.**

Finding 2 Having an Up-to-Date Inventory and Better Coordination Can Help the City Maintain Its Vacant Properties

Summary

Among the City’s real estate holdings are vacant lands and buildings; however, the City does not have a current list of such properties. The City’s Planning, Building and Code Enforcement Department last updated the City’s vacant lands inventory in 2015, but it was meant to include only those lands that could be designated for urban development. Having a complete listing of vacant properties can help the City identify potential opportunities for such properties to meet other Citywide goals. It can also help Real Estate Services coordinate and ensure maintenance issues, including weed abatement, repairs, or other problems can be addressed timely and appropriately.

The City Does Not Have an Up-to-Date Inventory of Its Vacant Properties

The City owns multiple vacant parcels of land or parcels with vacant buildings. As discussed in Finding 1, we selected a selection of properties that we could not easily identify as a municipal facility for additional analysis. Among those properties was the former Fire Station 21, which has been vacant since 2016 and is intended for affordable housing development, a vacant lot adjacent to the Alviso Health Center that the City intends to sell, a vacant lot on Santa Clara St. that is in the process of being sold to the Santa Clara Valley Transportation Authority, and another vacant parcel intended to become part of an Alum Rock Park expansion.

In other instances, the properties may not be appropriate for development. For example, among our reviewed selection was a parcel along the riverbank of the Guadalupe River and a strip of land along railroad tracks near Discovery Dog Park.

The City’s Vacant Lands Inventory Has Not Been Updated Since 2015

The Planning, Building and Code Enforcement Department (PBCE) created a vacant lands inventory that was last updated in 2015 to help the City track developable property ahead of updates to the Regional Housing Needs Allocation (RHNA), as required by the California Department of Housing and Community Development (HCD).¹³ The inventory contains over 500 parcels, but it was not meant to be a complete listing of all vacant properties, as it “includes only those lands identified

¹³ The inventory is conducted once every eight years to report out on vacant lands for RHNA. The City has elected to update its housing element every eight years, but per the guidelines set forth by the California Department of Housing and Community Development, jurisdictions can opt to update every five years. According to PBCE, the City is planning an update in the near future, which involves pulling building permits to check for developments since the last inventory, and then using aerial images of City land obtained from the United States Geological Survey (USGS) to identify any lands that look vacant.

on the Envision San José 2040 General Plan that are within the Urban Service Area (USA) and which are designated for urban development.”

In our reviewed selection, we noted six vacant properties,¹⁴ none of which was included in the 2015 vacant lands inventory. Two of the parcels are intended for future park or open space development so they may not meet the criteria for inclusion in the inventory. However, three of the properties, such as the lot adjacent to the Alviso Health Center, were empty lots potentially suitable for inclusion on the City’s vacant lands inventory, but which were not included. They appear to fit within the General Plan for development, and the lots are currently vacant.

The sixth property is the vacant former fire station. Even though it would be suitable for redevelopment, it was not included in the vacant lands inventory because the inventory does not include properties that contain a building, regardless of whether the buildings are occupied or not.

Identifying Vacant Properties Can Help the City Accomplish Its Goals

In response to the housing need exacerbated by COVID-19, the Council in January 2021 directed staff to conduct a GIS analysis of all vacant properties within City boundaries belonging to the California Department of Transportation (Caltrans) that are at least one acre in size, where short-term emergency housing may be feasible. Councilmembers discussed the potential to extend this analysis to excess lands owned by other agencies if this initial GIS analysis is successful in identifying additional viable properties for Emergency Interim Housing.

Having an up-to-date inventory of similarly vacant properties owned by the City could also help the City meet these or other future needs. Although not all vacant properties are suitable for development, knowing the characteristics of vacant properties could help the City more easily identify sites for City services.

Recommendation #3: The Real Estate Services Division should work with other City departments to identify all vacant lands within the City’s real estate portfolio, and report on that land and their intended uses to the City Council on an annual basis.

The City Can Better Coordinate Maintenance of Vacant or Other Properties

Among Real Estate’s responsibilities identified in the City’s Adopted Operating Budget is “maintenance of City owned properties that are being leased to other

¹⁴ There were also seven parcels that served right-of-way functions and are not practical locations for development. For example, one is a traffic island, another is a paved road, and a third is a sliver of land along a roadway that contains streetlights.

entities or [that] are vacant.” However, because there is neither an overall inventory of real estate assets (as described in Finding 1) nor an up-to-date inventory of vacant lands or buildings, this responsibility is spread across different departments and better coordination across departments is needed.

Maintenance of Vacant Properties Is Spread Across Departments

The City has multiple databases that track data on maintenance and improvement of properties depending on the type of work that is being performed. Public Works’ facilities team maintains a database for general building maintenance. The Department of Transportation (DOT) maintains a database on weed abatement, which includes work on traffic islands in the right-of-way. Others, like San José 311, relate to the City’s BeautifySJ programs, such as graffiti abatement, but these databases can contain information about both City-owned and other properties. Because of the different types of work that are performed by the different departments, the databases track maintenance-related data in different ways.

In addition, the databases do not use a uniform approach across departments to collect information. For instance, only two databases include costs associated with labor and materials, and it would be helpful for each database to track detailed cost information to help the City understand maintenance funding needs. According to staff, the lack of integrated cost information can also make it difficult to budget for proactive maintenance of properties. Moreover, each database uses its own convention for identifying properties, from rough location descriptions to APNs. This makes it hard to compare information across the different databases.

Some City Properties Showed Signs of Blight

Discussions with staff in multiple departments revealed that maintenance on some vacant properties is often performed on an ad hoc basis, largely driven by resident complaints. Among the properties in our selection were several that needed maintenance or other work. For example, there is an empty lot behind the SAP Center where Real Estate reports that the City intends to build a parking structure. In the meantime, however, it has overgrown weeds, broken fencing, and some graffiti.

Exhibit 7: Poorly-Maintained City-Owned Vacant Lot with Tall Weeds, Broken Fencing, and Graffiti



Source: Auditor photos of empty lot located behind the SAP Center, with overgrown weeds, broken fencing, and light graffiti.

The property in Exhibit 7 was not included in DOT's weed abatement database,¹⁵ nor were there any work orders for this property from July 2019 to December 2020 in Public Works' facilities database. We raised these issues to Real Estate and the Department of Transportation, and they coordinated weed abatement for this property in May 2021, funded through Real Estate's non-personal budget.

In another example, former Fire Station 21 has been vacant since 2016. During these years, the building has attracted weeds and illegal dumping. When we visited the site, it also had broken and boarded up windows, as shown in Exhibit 8. According to Public Works, it has been maintained only when there have been complaints from residents or Police Officers. Public Works reports that there has been no attempt to provide scheduled maintenance during its vacancy.

¹⁵ The weed abatement team reports that they add new parcels when notified by a department managing that property to add it to their list. They also reported that they are not always notified when a property has been developed, and their weed abatement services are no longer needed. According to staff, there have been instances where they have deployed workers for an inspection only to discover that the property has already been developed and should not have remained in their weed abatement database for service.

Exhibit 8: Former Fire Station 21

Source: Auditor photos of former Fire Station 21 with broken and boarded windows (and other signs of blight on the vacant property).

Another example is a section of the Guadalupe riverbank (see Exhibit 9), which showed signs of illegal dumping during our visit in February 2021. As it is not a developable piece of land, maintenance of this property will be a City concern for the foreseeable future.

Exhibit 9: Guadalupe Riverbank

Source: Auditor photo of remnant parcel along Guadalupe riverbank.

Better Coordination Across Departments Can Help Maintain Vacant Properties

Because the City's maintenance processes and databases are not centralized, it is difficult to estimate the costs that the City incurs for maintaining these parcels. Moreover, it is currently a challenge to track a piece of property from one database to another. Due to the non-standardized nature of collecting and tracking data, it

will be an added obstacle to consolidate information across the various databases. Coordination across departments will help with the tracking of data.

The Information Technology Department (ITD) oversees the management of the City's computer systems and functions, and provides advice and assistance to help departments plan for and maintain their computer systems. As Real Estate implements an asset management system for the City's properties (see Finding 1), it should use ITD's expertise in enterprise-level computer system management to ensure that data in the new system can be cross-referenced with the City's facilities work order, weed abatement, or other databases to coordinate efforts around maintenance of vacant City properties. While integrating the different systems may take time, there are immediate steps the relevant departments can take to coordinate tracking across the various databases by streamlining how properties are listed and other data fields so that the different departments can pull information for a property from any database.

Recommendation #4: The Real Estate Services Division should work with the multiple departments involved in maintenance of City properties and the Information Technology Department to:

- a) Identify business process and service integration to ensure the data in its asset management software can be cross-referenced with other departments' databases, and**
- b) Coordinate with other departments to ensure the City's vacant properties are provided with ongoing maintenance.**

Finding 3 Real Estate Services Manages Various Property and Telecommunication Leases

Summary

Real Estate manages 32 property leases where the City is a landlord and 23 telecommunication property use agreements. Property leases include commercial leases that generated about \$1.6 million in FY 2019-20, and below-market leases to community-based organizations that provide services that benefit residents. The City also manages property use agreements with private telecommunication companies; these agreements generated about \$1.4 million in FY 2019-20. Because the City's telecommunication fee schedule was last updated 15 years ago, Real Estate is working on a market-rental rate analysis to determine a new fee structure for telecommunication leases. The intent is to incentivize macrocell development in the City.

The Real Estate Division Manages Several Types of Leases

Real Estate manages 32 properties where the City is a landlord. The properties are leased to a variety of commercial enterprises, community-based organizations, and government entities. Altogether, these leases generated about \$1.6 million in FY 2019-20.

There are currently 24 commercial leases to tenants including a FedEx Office, Flames Eatery & Bar, Rosies & Posies, and Yip's Auto Repair. The City owns these properties for various reasons: several were originally ground leases to develop land, some were transferred over from the former Redevelopment Agency, and some were acquired by the City for a future purpose, such as for future park development.

Real Estate also manages six below-market leases to government or community-based organizations: the United States Postal Service, ACT for Mental Health, African American Community Services, San José Conservation Corp, San José Unified School District, and Yu-Ai Kai Japanese American Community Service.

Finally, there are two market-rate leases to other government entities: the Bay Area Air Quality Management District and the United States Patent and Trademark Office.

Leases Outline Responsibilities of Tenants and the City

Real Estate updates leases when they expire, coordinates some maintenance, ensures tenants are providing services outlined in the lease, and collects rent. The

leases outline what responsibilities the City and the tenant have, including the following: maintenance, insurance, and acceptable use of the property. For maintenance, the tenant is usually responsible for everything except major repairs like roof replacements. For use of property, leases are specific. For example, a lease for a commercial enterprise would specify that the premises are to be used for operation of a retail store.

Real Estate also collects rent from tenants. If a tenant is behind on rent, Real Estate will work with the tenant to create a rent repayment plan. According to Real Estate, it is better to keep a tenant in a building than to evict them and have a vacant space. Vacant buildings can have blight issues, and it is better for the community to have a business than a vacant lot.

Real Estate Manages Below-Market Leases for Organizations that Provide Community Benefits

Real Estate also manages six below-market leases under City Council Policy 7-1 (*Below Market Rental Policy for Use of City-Owned Land and Buildings by Qualified Organizations for Governmental or Other Public Purposes*). Council Policy 7-1 outlines circumstances where the City can lease property at below-market rents to organizations that provide services benefitting the San José community. For example, ACT for Mental Health provides services including various classes and a therapeutic social club for people recovering from emotional distress, and Yu-Ai Kai Japanese American Community Service provides programs and services to senior citizens, among other things.

These leases generate negligible amounts of revenue, but instead provide services to the community. The Real Estate Division collects documents annually from the organizations that show they are still providing such services, in accordance with Council Policy 7-1.

Real Estate Aims to Increase Cellular Coverage Through A New Telecom Fee Structure

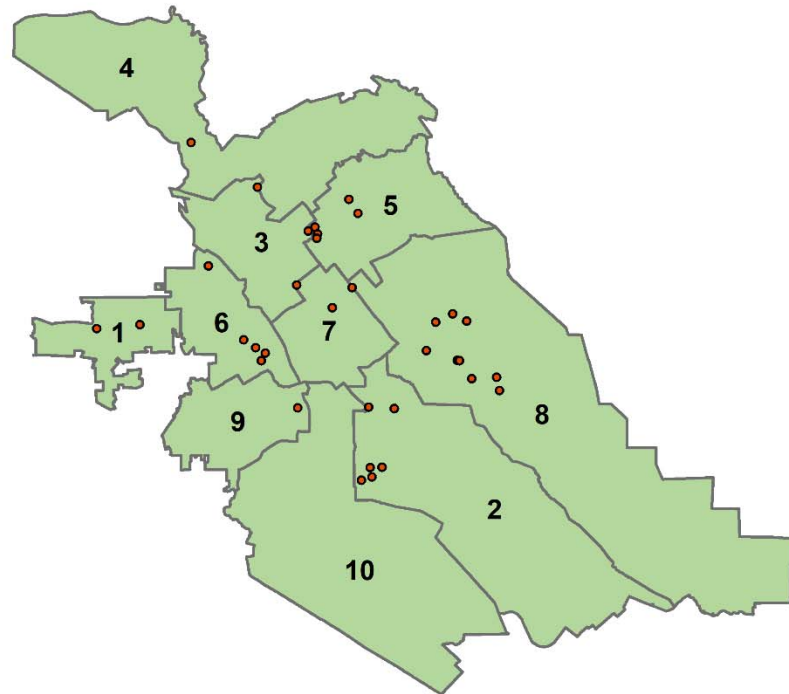
Because the City's macro-site telecommunication fee schedule was last updated 15 years ago, Real Estate believes that changing the fee structure could incentivize macrocell development. Real Estate manages property use agreements with private telecommunication (telecom) companies. These agreements authorize companies to place telecom equipment on City-owned land. Currently, the City has 23 property agreements with Sprint, T-Mobile, and AT&T for 39 macrocell facilities that generated \$1.4 million in FY 2019-20.

A macrocell facility is part of a mobile phone network that provides coverage through a high power cell site, such as a tower, antenna, or mast. Generally, a macrocell covers more geographic area than small cell site which is typically located on a lamppost, traffic light, or other pole structure. The City's Civic Innovation team handles small cell sites. According to the Civic Innovation team, small cells

complement and augment the macrocell network. The different types of cells amplify each other to create a better network experience.

As Exhibit 10 shows, the distribution of macrocell facilities on City-owned land is not geographically even. Although macrocells on City-owned property are not the only source of cell service,¹⁶ Real Estate is looking at ways to incentivize macrocell development.

Exhibit 10: Current Macrocell Facility Locations on City-Owned Land



Source: Auditor analysis of ArcMap data produced from Real Estate’s telecom property use agreement data.

Note: Three locations on this map contain more than one macrocell facility.

Updating the Fee Schedule May Increase Macrocell Development in the City

Telecom facilities are governed by City Council Policy 7-10 (*Placement of Communication Facilities on City-Owned Property*). This policy establishes guidelines for the lease or use of City-owned land, buildings, light poles, streetlights, or other City facilities for the placement of communication facilities by private telecom companies. The policy states that use agreement terms and rates must be

¹⁶ Other sources of cell service include small cell antennas installed on City property such as streetlights and traffic lights, and macro and small cell sites within San José, but installed on property that the City does not own. Cell sites just outside the City limits can also provide service to San José residents.

standardized to provide fairness in the opportunities to use public facilities for all potential telecom providers.

The City uses a macro-site fee schedule that Council last updated in 2006. The 2006 fee schedule has one fee for all parts of the city and includes a minimum yearly cost escalator of 4 percent or change in the Consumer Price Index, whichever is greater. Currently, the fees are roughly \$40,000 to \$57,000 per year, depending on the number of antennae and the size of the site.

Real Estate is in the process of conducting a fee study for its macrocell sites. They have selected a contractor to provide a market-rental rate analysis of all existing macrocell sites within the City's portfolio in order to determine a new rental rate for proposed and existing sites on City-owned assets. Real Estate staff anticipate that having different fees for different geographic areas of the City could also incentivize telecommunication development.

Recommendation #5: To improve San José residents' access to cellular networks, after the Real Estate Services Division completes the market rate analysis of its telecommunication fees, it should bring recommendations for a new fee schedule to the City Council for approval.

Finding 4 The City Should Update the Municipal Code and Policies Around Surplus Land

Summary

The California Surplus Land Act imposes restrictions on how the City disposes of or transfers City-owned surplus land. Surplus land is land that a local agency (like a city) decides is unnecessary for the agency's use. City Council Policy 7-13 (*Sale of Surplus Property with Provisions Relating to Affordable Housing*) provides guidance around the identification and disposal of surplus land as outlined in the City's Municipal Code. Although the City's policy currently aligns with state regulations around the identification and declaration of surplus land, the City will need to update its Municipal Code and policies on transferring or disposal of surplus land to fully comply with ongoing changes to the Surplus Land Act.

The Surplus Land Act Prioritizes the Development of Affordable Housing

California's Surplus Land Act (Act) directs local agencies to prioritize the development of properties for low-income housing, parks and open space, or educational purposes when selling or leasing their surplus land. Surplus land in San José is land that the City Council decides is not necessary for the City's use.

In late 2019, the Governor approved changes to the Act in response to the state's housing crisis. To prioritize development of affordable housing, the Act prohibits local agencies from negotiating with private developers about surplus land prior to providing a notice of availability to affordable housing developers, housing sponsors, and others (as listed in the Act).

The Surplus Land Act Outlines Processes for Identifying and Disposing of Surplus Land

The Surplus Land Act outlines the process that municipalities, including the City of San José, must follow in notifying interested parties of available, developable land for the purpose of developing low- and moderate-income housing. The Act also defines "exempt surplus land," which is land that is not subject to the same disposal process constraints as surplus land.¹⁷

Once land has been declared surplus, the Act requires that the City give written notice of its availability via electronic or certified mail to any local public entity

¹⁷ According to the Surplus Land Act, exempt surplus land includes: land that is less than 5,000 square feet or smaller than the legal residential lot size (whichever is less); land that a local agency is exchanging for another property necessary for the agency's use; land that a local agency is transferring to another local, state, or federal agency for the agency's use; surplus land that is put out to open, competitive bid by a local agency, generally for the purpose of low-income housing development; and others as defined in the Act.

within whose jurisdiction the land is located. If the City receives a letter of interest to purchase or lease the land on terms that are compliant with the Act, the City will then enter into good faith negotiations with that entity. The City must also provide the State's Department of Housing and Community Development (HCD) with descriptions of the notices that were sent, and of the negotiations that occurred with any interested responding entities. These are then to be posted on the HCD website. Furthermore, the Act requires the City to put together a central inventory of all surplus land (all lands in excess of its foreseeable needs), on or before April 1 of each year. Starting April 1, 2021, jurisdictions must also include descriptions of each parcel and its use as a matter of public record, and report this information to the state no later than April 1 of each year. Currently, Council Policy 7-13 does not outline procedures to meet these requirements.

These new regulations place greater burdens on local agencies for the transferring of surplus land, and penalties for noncompliance with the Act can be severe. For first violations of the regulations, the City would pay 30 percent of the final land sale price and 50 percent for subsequent violations.¹⁸ It could also be subject to legal actions.

Council Policy 7-13 Is Not Currently in Compliance with State Law

The purpose of Council Policy 7-13 (*Sale of Surplus Property with Provisions Relating to Affordable Housing*) is to "outline a process that is specific to residential surplus land and prioritizes affordable housing uses over park or school uses and prior to the sale to a private party." The policy is designed to facilitate the process for identifying and disposing of residential surplus land. Policy 7-13 was written in accordance with Chapter 4.20 (Procedures for Selling City-owned Property) of the City's Municipal Code. However, both will need to be updated to comply with current state law. According to the City Attorney's Office, the process for identifying surplus land still complies with state law, but the process for disposing of surplus land does not.

Moreover, the Real Estate division is currently only aware of which of its own managed properties constitute surplus land, but not whether other departments have surplus land in their inventories. If the City omits surplus land from its report to the state, this could result in financial or other penalties per changes in state law. As noted in Finding I, if the City had a complete and updated inventory of its real estate assets, this could help ensure that the City does not miss any surplus land from its report to the State's Department of Housing and Community Development.

¹⁸ The fines will be deposited into a local housing trust fund, or the City can also elect to deposit the penalty monies into the "Building Homes and Jobs Trust Fund" or the "Housing Rehabilitation Loan Fund." Local housing trust funds from penalty monies must be committed and expended "within five years of deposit for the sole purpose of financing newly constructed housing units that are affordable to extremely low, very low, or low-income households. Moreover, fines must not be paid out of funds already dedicated to affordable housing (e.g., HOME Investment Partnerships Program funds, Community Development Block Grant funds, etc.).

In response to changes in state law, the City began removing previously declared surplus land from its inventory, and only a handful remain. Additionally, in the last year, few properties were declared surplus land.¹⁹ Finally, Real Estate division staff and the CAO reported that they have started working to bring an updated Council Policy 7-13 for Council approval.

Recommendation #6: In order to ensure compliance with California's Surplus Land Act, the Real Estate Division should work with the City Attorney's Office to update Council Policy 7-13 and the San José Municipal Code (Chapter 4.20) and bring to the City Council for approval.

¹⁹ One example is the Legacy Lagoons property, which was declared an exempt surplus land that the City is working on transferring to the Santa Clara Valley Water District.

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Conclusion

Real Estate manages the City's properties to facilitate real estate-related transactions to support City projects and generate revenue. However, this work is hampered by not having a consolidated inventory of real estate assets. Creating a master inventory and acquiring a real estate asset management database would allow the City to more efficiently research properties and manage its assets. Furthermore, the City owns both vacant land and vacant buildings; however, the City does not have a current inventory of either. Having a complete listing of vacant properties can help the City identify potential opportunities for such properties to meet other Citywide goals. It can also help the City coordinate maintenance to ensure weed abatement or other issues that may arise can be addressed timely and appropriately.

In addition, Real Estate manages property and telecommunication (telecom) leases that generated \$3 million in revenue in FY 2019-20. Real Estate is currently working on a market-rental rate analysis to determine a new fee for telecom leases on City property with a goal of incentivizing further telecommunication development.

Finally, the Municipal Code and City Council Policy 7-13 provide guidance around the identification and disposal of surplus City land; however, both need to be updated to fully comply with the California Surplus Land Act's rules around the transfer and disposal of surplus land.

RECOMMENDATIONS

Finding I: Better Tools Would Improve Coordination for Real Estate Asset Management

Recommendation #1: To better manage the City's real estate assets, the Real Estate Services Division should work with City departments to compile a comprehensive list of real estate assets that includes department ownership and intended or actual use of the property.

Recommendation #2: The Real Estate Services Division should work with the Information Technology Department, the Finance Department, and other City departments to implement a database platform to better manage the City's real estate assets that includes:

- a) Property management information such as lease terms, payments, and related information,
- b) Property-related agreements or other relevant information to identify ownership or management responsibilities, and
- c) Any other information that the Real Estate Services Division deems necessary.

Finding 2: Having an Up-to-Date Inventory and Better Coordination Can Help the City Maintain Its Vacant Properties

Recommendation #3: The Real Estate Services Division should work with other City departments to identify all vacant lands within the City's real estate portfolio, and report on that land and their intended uses to the City Council on an annual basis.

Recommendation #4: The Real Estate Services Division should work with the multiple departments involved in maintenance of City properties and the Information Technology Department to:

- a) Identify business process and service integration needed to ensure the data in its asset management software can be cross-referenced with other departments' databases, and
- b) Coordinate with other departments to ensure the City's vacant properties are provided with ongoing maintenance.

Finding 3: Real Estate Services Manages Various Property and Telecommunication Leases

Recommendation #5: To improve San José residents' access to cellular networks, after the Real Estate Services Division completes the market rate analysis of its telecommunication fees, it should bring recommendations for a new fee schedule to the City Council for approval.

Finding 4: The City Should Update the Municipal Code and Policies Around Surplus Land

Recommendation #6: In order to ensure compliance with California's Surplus Land Act, the Real Estate Division should work with the City Attorney's Office to update Council Policy 7-13 and the San José Municipal Code (Chapter 4.20) and bring to the City Council for approval.

APPENDIX A

Audit Objective, Scope, and Methodology

The mission of the City Auditor's Office is to independently assess and report on City operations and services. The audit function is an essential element of San José's public accountability, and our audits provide the City Council, City management, and the general public with independent and objective information regarding the economy, efficiency, and effectiveness of City operations and services. In accordance with the City Auditor's Fiscal Year (FY) 2020-21 Audit Work Plan, we have completed an audit of Real Estate Services.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objective of this audit was to assess Real Estate Services' processes for tracking City properties and revenues. To understand management controls and meet our audit objectives, we did the following:

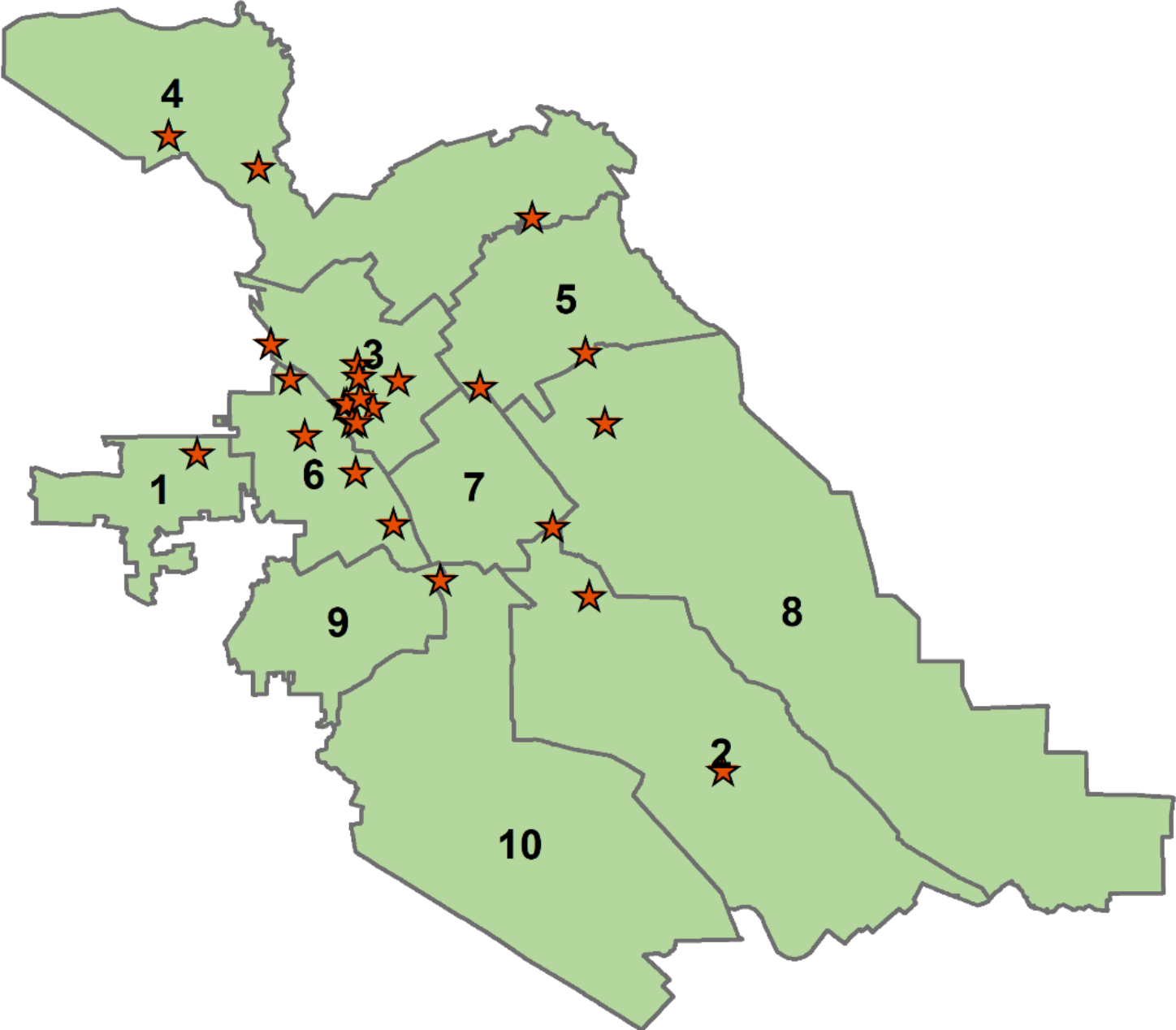
- To gain background on the City's properties, we:
 - Reviewed LandVision data provided by the Real Estate Services Division; parcel maps from the Santa Clara County Assessor's Office; and data from the City's Master Address Database, the City's 2015 vacant land inventory, the City's General Plan Envision 2040, and the Finance Department's fixed asset schedules used for financial statement reporting purposes.
 - Researched City Facilities with Restrictions on Use.
 - Performed site visits to 25 selected properties. It should be noted that these properties were not randomly selected. As such, the results from reviewing these properties cannot be generalized for all City-owned properties.
 - Interviewed staff from multiple City departments, including from the Office of Economic Development's Real Estate Services Division; Public Works; Planning, Building and Code Enforcement, and the Finance Department.
- To understand the Real Estate Services Division's operations, we:
 - Reviewed the Real Estate Services Division's policies and procedures and interviewed staff.
 - Reviewed Adopted Operating Budgets from FYs 2016-17 through 2020-21.
 - Reviewed templates for leases and other legal documents, all current property leases managed by Real Estate Services, lease payments received in FYs 2019-20 and 2020-21, and other lease-related documentation.
 - Interviewed staff from multiple departments, including the Department of Transportation; Parks, Recreation and Neighborhood Services; and the City Manager's Office of Civic Innovation.

- Reviewed Council Policies 7-1 *Below Market Rental Policy for Use of City-owned Land and Buildings by Qualified Organizations for Governmental or Other Public Purpose*, 7-10 *Placement of Communications Facilities on City-Owned Property*, and 7-13 *Policy for the Sale of Surplus Property with Provisions Related to Affordable Housing*.
- Reviewed Municipal Code Chapter 4.20 on the Procedure for Selling City-Owned Property.
- To understand how the City maintains City properties, we:
 - Interviewed staff from Public Works' facilities division; Parks, Recreation and Neighborhood Services staff who manage litter and graffiti abatement; and staff from the Department of Transportation's weed abatement program.
 - Reviewed SJ311 data on graffiti and illegal dumping.
- To understand the California Surplus Land Act, we:
 - Reviewed changes to the Surplus Land Act, Government Code §54220-54234.
 - Interviewed the City Attorney's Office regarding how the Surplus Land Act has affected San José's surplus land disposal process and policies.
- To understand how the City's real estate processes and inventories compared with other jurisdictions, we conducted benchmarking interviews with the cities of Fresno, Long Beach, Los Angeles, Mountain View, and San Diego.
- To understand real estate asset management best practices, we:
 - Reviewed a Government Accountability Office (formerly the General Accounting Office) report, "Federal Real Property: Better Governmentwide Data Needed for Strategic Decisionmaking" (2002)
 - Reviewed the Urban Institute Center on International Development and Governance's, "Guidebook on Real Property Asset Management for Local Governments" (2012)

We would like to thank the Office of Economic Development, the City Attorney's Office, and the Departments of Finance; Public Works; Parks, Recreation and Neighborhood Services; Planning, Building and Code Enforcement; Transportation; and Information Technology for their time and insight during the audit process.

APPENDIX B

Map of Selected Properties for Auditor Analysis



Source: Auditor generated using GIS data.

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Memorandum

TO: JOE ROIS
CITY AUDITOR

FROM: Nanci Klein
Director of Economic
Development

SUBJECT: RESPONSE TO THE AUDIT

DATE: May 13, 2021

Approved

Date

5/13/21

BACKGROUND

The Administration reviewed the report from the City Auditor entitled Real Estate Services: Better Tools and Coordination Can Improve Asset Management and Service Delivery, which contains the six recommendations described below. This memorandum captures the Administration's response to each recommendation and presents an overview of the work required to implement the recommendations. A projected target completion quarter is provided for each recommendation.

RECOMMENDATIONS AND RESPONSE

Recommendation #1: To better manage the City's real estate assets, Real Estate should:

- Work with City departments to compile a comprehensive list of real estate assets

Recommendation #2: To better manage the City's real estate assets, Real Estate should:

- Implement a database platform that includes information about lease management, property ownership, and other information

Administration Response: Real Estate agrees with these recommendations. The City's real property data is currently decentralized and spread between different databases. This makes it difficult and inefficient to gain a comprehensive understanding of the City's real estate assets and obligations in order to make sound property management decisions.

Green: Real Estate is implementing these recommendations. Real Estate staff are partnering with the Finance Department and the IT Department on a request for proposals for a real estate asset management software platform. This software is intended to be the foundation for the Real Estate Division to build a comprehensive city-wide real estate inventory with lease management, property management, and GASB-87 reporting capabilities.

Target Date for Completion: Software selection completed by Q3, 2021. Software buildout completed by Q1, 2022.

Recommendation #3: To better manage the City's vacant properties, Real Estate should:

- Work with other departments to identify all vacant City properties and report on them annually to the City Council

Administration Response: Real Estate agrees with this recommendation. The City's vacant properties are held either as remnants that are unsuitable for development, or with a specific use in mind. Should a vacant, developable property no longer have a specific use justifying the City holding it in a vacant state, a decision should be made as to the best use of that property in the public interest, which may include City use or proceeding through the Surplus Land Process. This annual reporting will ensure that the City's property resources are utilized to their highest purpose.

Green: The Administration can implement this recommendation.

Real Estate's database software platform referenced in recommendations 1 and 2 can be developed in a way that stores the information needed for annual reporting.

Target Date for Completion: Q2, 2022, and annually thereafter.

Recommendation #4: To better manage the City's vacant properties, Real Estate should:

- Work with other departments to coordinate maintenance on vacant properties, and ensure that data collection is standardized and can be cross-referenced across departments

Administration Response: Real Estate conditionally agrees with this recommendation. Information relevant to San Jose's property and asset management is currently decentralized amongst different databases and sources of institutional knowledge. This is inefficient and requires Real Estate staff to contact multiple parties often to gain a complete understanding of issues affecting the City's property and asset management functions.

To address these issues, Real Estate will build an integrated property and asset management system in two steps. The first is to complete the buildout of the Real Estate database consistent with recommendation 2 of this report. Real Estate will engage the IT Department to build the system in a manner that allows for optimal standardization of data across City departments. Once Real Estate's software database is established, Real Estate will work with other departments to standardize data and facilitate cross-referencing between departments.

Green: The Administration can implement this recommendation by the end of calendar year 2022 with the cooperation of other departments.

Real Estate has started the procurement process for database software that would serve as a centralized inventory for the City's property and asset management. However, adopting this database as a central resource for all City property management functions will require the participation of other departments including Public Works, PRNS, DOT, Housing Department, and the assistance of the IT Department. These departments may not find it desirable or practical to make the necessary changes to standardize their data in order to integrate with Real Estate's new system. While Real Estate with the assistance of the IT Department will work closely with departments towards a centralized system, Real Estate cannot assure participation of these other departments

Real Estate's database platform is expected to be implemented by Q1, 2022. Once this database is operational, Real Estate will then work with partner departments to bring the City's property and asset management information into the platform, either through porting over or linking the data, depending on what would be most practical and beneficial.

Target Date for Completion: Q4, 2022.

Recommendation #5: To improve San José residents' access to cellular networks, Real Estate should:

- Bring a new telecom fee schedule to Council for approval upon completion of its market-rental rate analysis

Administration Response: Real Estate agrees with the recommendation with a clarification. The Real Estate Division manages macro telecommunication leases, and Civic Innovation oversees the small-scale telecommunication installations. Real Estate's fee schedule update will be limited to macro site installations.

Council Policy 7-10 provides that "Council approves standardized agreements for attachment to City buildings, monopoles, multi sites and has standardized rates as part of those standardized agreements." Council's approved macro site telecommunication fee schedule is currently "one-size-fits-all" with one rate that applies anywhere in the city. This schedule is competitive in high density areas, but less so in areas with lower density. The outcome is that there has been relatively less investment in macro-scale telecommunication infrastructure in less dense neighborhoods of the City. A macro-scale telecommunication fee schedule that is set at market-competitive rates for different densities is necessary to maximize service investment throughout the City.

Green: The Administration is already implementing this recommendation. Real Estate staff conducted a request for proposals for a consultant-led study to appraise a market rate macro telecommunication fee structure for different density profiles in San José. This study is now underway and will look at both comparable rates for macro telecommunication leases in other municipalities and as well as private leases in the Bay Area. The study will also advise on standard terms for macro telecommunication leases, including appropriate rent escalation. Upon

completion of the consultant study, staff will recommend to Council an update to the City's template macro telecommunications lease, including an updated fee schedule and other incentives that will be designed to help facilitate macro telecommunication development in underserved neighborhoods in the City. This work will include engaging the Civic Innovation team to align and synergize with their small cell strategy to provide better access to currently underserved neighborhoods and initiatives to bridge the digital divide impacting low-income residents.

Target Date for Completion: Q4, 2021.

Recommendation #6: To ensure compliance with California's Surplus Land Act, the City should:

- Bring updates to the Municipal Code and Council Policy 7-13 to the City Council for approval

Administration Response: Real Estate agrees with the recommendation. Recent changes to surplus law require the City to update the Municipal Code and Council Policy 7-13 to ensure consistency. The California State Supreme Court determined that San José's status as a Charter City does not justify following our Municipal Code if it is inconsistent with State surplus law. The Municipal Code and Council Policy 7-13 should be updated to be consistent with State surplus law.

Green: The Administration is already implementing this recommendation. Real Estate staff and the City Attorney's Office are collaborating on relevant revisions to the Municipal Code and Council Policy 7-13 to make them consistent with State surplus law. Staff anticipate that these revisions will be recommended to Council for adoption in calendar year 2021.

Target Date for Completion: Q4, 2021.

CONCLUSION

Real Estate thanks the City Auditor's Office for the comprehensive audit of the City's property and asset management processes. The audit report provides recommendations that will lead to increased efficiency and improved property management decision-making capabilities across City departments. The report reflects thorough work done by the Auditor's Office staff to learn about real estate, the City's real estate needs, and the needs of the Division. Real Estate values the recommendations and would like to thank the City Auditor and staff for this review. We look forward to improving the City's property and asset management practices and fostering an

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increased level of collaboration between the Real Estate Division and partner departments.

/s/

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