



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Approve the Purchase and Sales Agreement Between the City of Sunnyvale and Toll Brothers Incorporated for the Purchase of Four Privately-Owned Properties located at 396 and 402 Charles Avenue, and 397 and 403 Mathilda Avenue; Find CEQA Exemption Pursuant to Guideline 15061(b) (3); and Approve Budget Modification No.1 to Appropriate Funding

#### **BACKGROUND**

The City owns six residential parcels in the downtown area located in "Block 15" of the Downtown Specific Plan (DSP). Block 15 is in the area bounded by Iowa, Charles, McKinley and Mathilda Avenue (Attachment 1 - Aerial Map of Block 15). On October 14, 2014, City Council reviewed Report to Council (RTC) 14-0753 to consider adoption of a resolution declaring the City-owned residential properties located in Block 15 as surplus property available for sale in compliance with Government Code section 54222. Council took no action that evening and tabled the item for further evaluation. Council requested more information on alternatives, including the potential to assemble additional properties before considering the City-owned properties as surplus. Additionally, City Council scheduled a closed session on November 11, 2014 to discuss price and terms for the potential purchase of the privately owned properties located at:

- 396 Charles Avenue
- 402 Charles Avenue
- 397 Mathilda Avenue
- 403 Mathilda Avenue

On November 11, 2014, City Council discussed in closed session price and terms for a possible purchase of four privately owned properties, as mentioned above. During the Public Hearing of November 11, 2014 City Council considered RTC 14-1059 (Attachment 2) to declare the City-owned parcels on Charles and Mathilda Avenue as surplus property available for sale in compliance with Government Code section 54222. Council decided not to declare the City-owned properties within Block 15 as surplus property. Instead, Staff was directed to return to Council for their consideration of price and terms on the potential purchase of the subject properties.

#### **EXISTING POLICY**

##### **Council Policy 1.2.7 Acquisition, Leasing and Disposition of City-Owned Real Property**

In all real property transactions, consideration must be given to the City's near and long-term goals and the public benefit derived from the use. Using an approach that will best accomplish the City's objectives given the circumstances at the time should be the guiding principle. It is the City's policy to manage its real property assets to further City goals.

## **ENVIRONMENTAL REVIEW**

The Property is being acquired for uses consistent with the City's General Plan, Downtown Specific Plan and zoning ordinance, although no particular use has been determined and no development plans have been prepared. Consequently, it can be seen with certainty that there is no possibility that the purchase in and of itself may have a significant effect on the environment, in that the City's purchase of the Property merely changes ownership while incorporating existing land use policies and zoning regulations. (California Environmental Quality Act Guideline 15061(b)(3).)

## **DISCUSSION**

The four privately-owned parcels are surrounded by and contiguous to City-owned properties located within Block 15 (Attachment 1). Of the four parcels, two have single-family homes on Charles Avenue (currently occupied with tenants) and the other two consist of vacant land facing Mathilda Avenue. The combined area of the four parcels is 36,905 square feet, or 0.82 acres. The subject properties are highly desirable in order to increase the square footage of City-owned land. Acquiring these parcels will give the City greater control over the future use of Block 15. Acquisition of the subject properties combined with the City-owned properties would bring the total square footage to 62,533 or 1.44 acres. Should Council approve the purchase of this property, after the close of escrow, staff will bring an agenda item to Council to discuss future use of the property.

### **Relocation Assistance**

Tenants of the two homes may be subject to Government Code 7260 et seq., Relocation Law. The relocation assistance statute provides benefits for persons who relocate as a result of acquisition of real property by a public entity. The relocation assistance could include:

- Providing notices to residents and owners;
- Preparing a relocation plan;
- Providing relocation advisory services;
- Payment of moving expenses;
- Payment of certain costs involved with replacement housing.

The extent of necessary financial relocation assistance is unknown at this time. Relocation assistance could include moving expenses and replacement housing payments for comparable replacement housing. Should Council decide to go forward with the real property acquisition, discussions with the tenants would take place to learn of their specific circumstances. Budget Modification No. 1 includes estimated funding for relocation assistance, including the services of a relocation specialist if needed. Should additional funding be required, staff would return to Council for approval of a budget modification. Any excess remaining funds would be returned to the General Fund.

### **Acquisition Due Diligence**

The City contracted with Ground Zero Analysis, Incorporated to perform a Phase I environmental assessment of the properties as the City's responsibility to perform due diligence. The assessment included site visits of each property, review of preliminary title reports and search of property databases on historical uses. The objective was to identify to the extent feasible the presence or likely presence of any hazardous substance or petroleum product that would pose as a potential future burden to the City.

Results of the Phase I environmental assessment showed no unusual conditions or evidence of soil or ground water contamination. The property does have historical agriculture uses which pose some risk of pesticide contamination similar to most properties in Sunnyvale. Due to the age of the existing homes on the site, building materials may contain asbestos and/or lead based paint. If the site were redeveloped, additional testing would be required as part of the environmental review process. The sellers have not disclosed any known environmental issues but are not providing a guarantee the site is free of hazardous materials.

Review of the preliminary title reports for the properties shows a portion of the site was formerly part of Iowa Avenue that was abandoned by the City in 1960. That portion of the property still has a public utility easement in place that would prevent the building of any new structures. PG&E currently has one utility pole and overhead wires within the easement area that serve adjacent homes. Prior to redevelopment of the site, these utility lines would need to be relocated.

### **Purchase and Sales Agreement (Attachment 3)**

The City hired Hulberg and Associates to conduct an appraisal of the four properties. Valuations from the appraisal reports were provided to the City Council at its March 24, 2015 closed session. City Council considered the valuation and established negotiation parameters for staff to use in discussions with Toll Brothers. The proposed purchase price is \$4.3 million and is within the parameters set by City Council. Terms of the agreement include:

- “As Is” sale
- City deposits 10% (\$430,000) into escrow within five business days from execution of the purchase and sales agreement
- 120-day closing of escrow
- No commissions paid to brokers or agents of either the buyer or seller
- Occupied properties are vacant prior to City taking possession of properties
- City pays City transfer taxes (if any), all other closing costs shall be split 50/50 between the City and Toll Brothers, including any County transfer fees.

In the event the City defaults by not performing its obligations under the agreement and does not close escrow to complete the sales transaction, the \$430,000 deposit made by the City will be considered liquidated damages and retained by Toll Brothers. However, if the City is willing, able and performs all obligations under the agreement and Toll Brothers defaults, the \$430,000 will be returned to the City.

### **FISCAL IMPACT**

Pursuant to Council Policy, funding the purchase of these four properties will be from the General Fund Capital Improvement Projects Reserve. Budget Modification No. 1 has been prepared to appropriate \$4.6 million from the General Fund Capital Improvement Projects Reserve to a new project to fund the purchase of the four privately-owned properties. The amount of \$4.6 million includes estimated closing costs, title insurance, the services of a relocation specialist and relocation assistance to current tenants (pursuant to Government Code 7260 et seq.).

**Budget Modification No. 1  
FY 2015/16**

	Current	Increase/ (Decrease)	Revised
<b>General Fund</b>			
<u>Expenditures</u>			
New Project - Purchase of \$0 Four Privately-Owned Properties located at 396 and 402 Charles Avenue, and 397 and 403 Mathilda Avenue		\$4,600,000	\$4,600,000
<u>Reserves</u>			
Capital Improvement Projects Reserve	\$13,254,116	(\$4,600,000)	\$8,654,116

**PUBLIC CONTACT**

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

**ALTERNATIVES**

1. Approve the Purchase and Sales Agreement between the City of Sunnyvale and Toll Brothers Incorporated for the purchase of four privately-owned properties at 396 and 402 Charles Avenue, 397 and 403 Mathilda Avenue in substantially the same form attached hereto; Find that the project is exempt from CEQA pursuant to Guideline 15061(b)(3); and approve Budget Modification No. 1 to appropriate \$4.6 million from the General Fund Capital Improvement Projects Reserve to a new project to fund the purchase of these four privately-owned properties, including closing costs, title insurance, relocation services, and relocation assistance (pursuant to Government Code 7260 et seq.)
2. Authorize the City Manager to execute all implementing documents, including relocation transactions, close escrow and complete the sales transaction.
3. Do not approve the Purchase and Sales Agreement between the City of Sunnyvale and Toll Brothers Incorporated for the purchase of four privately-owned properties at 396 and 402 Charles Avenue, 397 and 403 Mathilda Avenue in the amount of \$4.3 million and proceed as directed by Council.

**STAFF RECOMMENDATION**

Alternatives 1 and 2: 1) Approve the Purchase and Sales Agreement between the City of Sunnyvale and Toll Brothers Incorporated for the purchase of four privately-owned properties at 396 and 402 Charles Avenue, 397 and 403 Mathilda Avenue in substantially the same form attached hereto; Find that the project is exempt from CEQA pursuant to Guideline 15061(b)(3); and approve Budget Modification No. 1 to appropriate \$4.6 million from the General Fund Capital Improvement Projects Reserve to a new project to fund the purchase of these four privately-owned properties, including closing costs, title insurance, relocation services, and relocation assistance (pursuant to Government

Code 7260 et seq.); and, 2) Authorize the City Manager to execute all implementing documents, including relocation transactions, close escrow and complete the sales transaction.

Purchase of these properties is consistent with previous Council direction and would give the City greater control over the future land uses in Block 15 of the Downtown Specific Plan.

Prepared by: Christina Uribe, Acting City Property Administrator

Reviewed by: Kent Steffens, Assistant City Manager

Reviewed by: Grace K. Leung, Director, Finance

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Aerial Map of Block 15
2. RTC 14-1059
3. Purchase and Sales Agreement