



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Adopt Resolutions Authorizing the City Manager or His Designee to Execute Agreements for Purchase of Certain Real Estate Rights and Acceptance of Easements, and Adopt a Resolution Summarily Vacating Existing Aerial Easements, all in Relation to the Fair Oaks Avenue Overhead Bridge Rehabilitation Project

#### **BACKGROUND**

The Fair Oaks Avenue Overhead Bridge (bridge) is located on Fair Oaks Avenue between Kifer Road and Evelyn Avenue. The bridge crosses over Hendy Avenue, railroad tracks owned by the Peninsula Corridor Joint Powers Board (Caltrain), and is adjacent to an apartment community. The bridge was constructed in 1967 and was seismically retrofitted in both 1981 and 1993. Caltrans inspects the bridge, and evaluates its structural integrity and functionality every two years. As of April 2016, Caltrans records indicate that the bridge has significant deck cracking and spalling; as well as inadequate sidewalk width, barriers and approach railings. The bridge is considered safe for driving but needs a substantial rehabilitation.

The Fair Oaks Avenue Overhead Bridge Rehabilitation Project (Project) will rehabilitate the bridge to address several identified structural deficiencies and will expand bicycle and pedestrian amenities. The rehabilitated bridge will maintain its current automobile capacity of two travel lanes in each direction, however, the Project will widen existing bicycle lanes from five feet to six feet and will add a sidewalk on the east side of the bridge. Currently, the bridge does not have a sidewalk and pedestrians use the pedestrian overcrossing (POC) structure over the Caltrain tracks adjacent to the bridge. The Project proposes to remove the POC, which itself has several inadequacies. The ramps on the POC are too steep to comply with the Americans with Disabilities Act (ADA) and the southern entry point to the POC can be challenging for pedestrians to locate. The obscurity of the POC and its access points has made the POC an "attractive nuisance" for graffiti and improper disposal of garbage/waste. The project will also improve the portion of Hendy Avenue running beneath the bridge by reducing the curvature of the roadway to improve visibility for drivers. Improvements to the intersections at the northern and southern ends of the bridge will be completed. These improvements are intended to enhance safety of drivers, pedestrians, and bicyclists using the bridge and its connecting roadways, as well as complying with ADA requirements.

After completion of the engineering design of the Project, it was determined that easements are required over adjacent properties; Heritage Park Apartments, owned by Monument 3: Realty Fund VIII, Ltd and Monument 3: Realty Fund VII, Ltd, and Home Depot, to proceed with the construction of the Project.

On January 24, 2017 Council approved RTC No. 16-0996 authorizing the execution of agreements with Monument 3: Realty Fund VII, LTD., A California Limited Partnership and Monument 3: Realty

Fund VIII, LTD., A California Limited Partnership, collectively the owners of Heritage Park Apartments, for certain real estate rights and the acceptance of two temporary construction easements and two aerial easement deeds, necessary for the completion of the Project; no agreement was reached with Home Depot at that time. The two aerial easements with Heritage Park Apartments were never granted due to the restriction of a loan on the Heritage Parks Apartment lands and the temporary construction easements negotiated with Heritage Park Apartments at that time, provided for only 18 months of access.

### **EXISTING POLICY**

**General Plan, Chapter 3, Policy LT-5.4** - Maintain Roadways and traffic control devices in good operating condition and;

**General Plan, Chapter 3, Policy LT-5.8** - Provide a safe and comfortable system of pedestrian and bicycle pathways

### **ENVIRONMENTAL REVIEW**

The adoption of the Resolutions to execute the purchase agreement, the agreement with AT&T for relocation of underground utilities and to accept the easements are exempt from environmental review pursuant to California Environmental Quality Act ("CEQA") Guidelines section 15168(c)(2) and (4) and Public Resources Code Section 21094 (c). The project is within the scope of the certified Environmental Impact Report and adopted the Mitigation Monitoring and Reporting Program for the Fair Oaks Avenue Overhead Bridge Rehabilitation Project on March 17, 2015 (RTC No. 15-0143).

### **DISCUSSION**

As negotiations with Home Depot concluded, the City was informed by California Department of Transportation (Caltrans) that the City would have to have legal access to all impacted properties (both Heritage Park Apartments and Home Depot) prior to the bidding process and until completion of the project. Before work on the bridge can begin, PG&E and AT&T must relocate some existing underground utilities on and near the Home Depot property to eliminate conflicts with the new bridge improvements as described further below. The utility relocation is expected to take 9 months. Combining the 9 months' utility relocation and the 18-month bridge construction, temporary construction easements of 27 months with each of the owners of the adjacent properties is necessary to comply with federal funding requirements to complete the Project. Due to this requirement, the City re-negotiated the temporary construction easement with Heritage Park Apartments to be 27-months long. This resulted in an updated settlement amount that is reflective of current market values.

The City proposes to phase the construction portion of the Project over approximately 18 months. During this time, temporary lane reductions on the bridge and brief bridge closures may be required. In addition, the portion of Hendy Avenue beneath the bridge would be closed for up to several months. The extent of the temporary Hendy Avenue closure would restrict public access to the Hendy Avenue driveway entrance into the Home Depot parking lot, but not other public driveways into the Home Depot property. Continuous access for emergency vehicles would be allowed. The anticipated construction method does not include the use of pile driving, which substantially reduces the potential for disruptive noise and vibration effects. Construction was originally anticipated to begin in the spring of 2016, but due to delays in negotiating with all the affected property owners along the bridge for the required easements, it is anticipated to begin in spring of 2019.

The Project cost is estimated at \$23.6 million for preliminary engineering, right-of-way work, including

acquisition and bridge construction. Federal grant funding will account for \$20.9 million (88.53%) of the total cost, with the remaining \$2.7 million to be funded by the City.

**Heritage Park Apartments Site (555 E. Washington Avenue):**

Heritage Park Apartments are currently owned by two different entities, with the property line separated by Fair Oaks Avenue Bridge. A temporary construction easement (TCE) is required on each side of the bridge during construction. The TCEs will have a 27-month duration which starts when the City notifies the owners of Heritage Park Apartments of the start of construction date. The City will vacate the existing aerial easement (AE) on the west side of the bridge, and acquire a new larger AE on the west side to include railing and street lights, and acquire another AE on the east side of the bridge to accommodate the new sidewalk and bicycle lane. (Attachment 1). The Purchase Agreement is Exhibit A of the corresponding resolution (Attachment 5).

**Home Depot Site (680 Kifer Road):**

AT&T owns and maintains underground copper and fiber optic cables within a 10' wide Pacific Telephone & Telegraph easement on the Home Depot property along the east side of Hendy Avenue. The bridge project involves installation of new columns with spread footings in the same location as the existing AT&T utilities. To create space for the new bridge footings, approximately 600 linear feet of the existing AT&T utilities must be relocated to a new easement. Since the AT&T utilities are in a private easement, the costs associated with the relocation must be borne by the Project. Before AT&T begins design and construction of the replacement utilities, they have requested that the City execute an "Application for Custom Work" (Attachment 2) that commits the City to reimbursing them for actual costs incurred related to the project.

The anticipated AT&T work involves the replacement of two manholes, approximately 600 feet of 16 conduits, 10 fiber optic cables, three copper cables and all associated splicing. The design and construction costs submitted by AT&T amount to \$2,022,825.78. This is within the amount authorized in the federal grant for relocation of AT&T facilities.

The Project requires from Home Depot the following acquisitions: a foundation easement for the footings of the bridge, a larger aerial easement for the sidewalk and bicycle lane, the existing AE will be vacated and a new larger AE will be acquired, a public utility easement for AT&T to locate their existing underground utilities and PG&E's utilities, and a TCE for a duration of 27 months to accommodate for the utility relocation and construction of the bridge. (Attachment 4). The various agreements with Home Depot are included as exhibits to the corresponding resolution (Attachment 4).

Since the Project is partly funded by a federal grant, there are certain rules and restrictions that must be followed when obtaining property for the Project. Universal Field Services, Inc. (Universal) was retained as a sub-consultant to the designer on behalf of the City to acquire the right-of-way required for the Project based on their knowledge and expertise in relation to the federal requirements.

**FISCAL IMPACT**

The total cost of the utility relocations and easement agreements is approximately \$3.3 million consisting of \$680,000 for the Home Depot agreement, \$600,000 for the Heritage Park Apartments agreement, and \$2.02 million for AT&T utility relocations.

This Project is funded by a combination of Federal Highway Bridge Program (HBP) revenues

(approximately \$20.9 million) and a local matching fund transfer from the Infrastructure Renovation and Replacement Fund (approximately \$2.7 million). The current budget reflects a total budget of \$22.85M. Staff has received approval for additional funding from Caltrans and will seek to appropriate those funds with the award of construction. Should any additional eligible grant funding sources become available, staff will evaluate the use of such funds to offset the \$2.7 million currently budgeted for the local match portion of the Project.

Acquisitions Costs:	\$3.3 M (includes cost of utility relocation)
Design Costs:	\$2.9 M
Construction costs:	<u>\$17.4 M</u>
Total estimate Project cost:	\$23.6 M (\$20.9 M federal grant + \$2.7 M City funds)

### **PUBLIC CONTACT**

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

### **STAFF RECOMMENDATION**

1. Adopt a resolution authorizing the City Manager or his designee to execute:
  - Agreement for Purchase of Certain Real Property Rights with HD Development of Maryland Inc.;
  - Application for Custom Work agreement with AT&T located on HD Development of Maryland Inc. property;
  - Acceptance of easements from HD Development of Maryland Inc. in relation to the Fair Oaks Avenue Overhead Bridge Rehabilitation Project;
  - A Landscape Agreement with HD Development of Maryland Inc.
2. Adopt a resolution authorizing the City Manager or his designee to execute:
  - Agreement for Purchase of Certain Real Property Rights with Monument 3: Realty Fund VII, LTD. and Monument 3: Realty Fund VIII, LTD;
  - Acceptance of easements from Monument 3: Realty Fund VII, LTD. and Monument 3: Realty Fund VIII, LTD, in relation to the Fair Oaks Avenue Overhead Bridge Rehabilitation Project; and
3. Adopt a resolution summarily vacating existing aerial easements related to the Fair Oaks Avenue Overhead Bridge Rehabilitation Project.

Prepared by: Sherine Nafie, City Property Administrator

Reviewed by: Charles Taylor, Director, Public Works

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

### **ATTACHMENTS**

1. Heritage Right-of-Way Exhibit
2. Application for Custom Work with AT&T
3. Home Depot Right-of-Way Exhibit
4. Resolution Authorizing Agreements for Purchase of Certain Property Rights and Acceptance of

Easements with HD Development of Maryland Inc

5. Resolution Authorizing Agreement for Purchase of Certain Property Rights and Acceptance of Easements with Heritage Apartments
6. Resolution Summarily Vacating a Portion of Existing Aerial Easements