



File #: 21-0378, Version: 1

REPORT TO COUNCIL

SUBJECT

Selection of a Configuration of the Mary Avenue Overcrossing to be Defined as the Proposed Project in an Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA); Approve Budget Modification No. 21 in the Amount of \$273,092 from the Transportation Impact Fee funds; and Increase the Kimley-Horn and Associates contract from \$666,550 to \$914,815.

REPORT IN BRIEF

The Mary Avenue Overcrossing project to extend Mary Avenue north from Almanor Avenue over U.S. 101 and State Route 237 to 11th Avenue at Discovery Way in Moffett Park has been included in multiple city planning and policy documents over the years. The project requires an Environmental Impact Report (EIR) adhering to California Environmental Quality Act (CEQA) requirements to move forward. The EIR will analyze various environmental impacts that the project may have on the surrounding community and transportation network.

The current planning process was started in 2016, with a scope based on community stakeholder input received at that time, which envisioned the EIR analyzing five different configurations as potential “projects”. However, in 2017, a California appellate court opinion (*Washoe Meadows Community v. Department of Parks and Recreation* (2017) 17 Cal.App.5th 277) rejected the concept of multiple “projects” for purposes of the EIR analysis. Instead, CEQA requires a single definition of the proposed “Project.” Other potential options can be compared and evaluated as Project “alternatives.”

In addition to selecting a Project description for purposes of the CEQA analysis in the EIR, additional consultant scope is necessary to move the environmental review forward. This scope consists of: additional public outreach, updating the traffic analysis growth projections, revising the traffic analysis to consider vehicle miles traveled (VMT) as a metric for CEQA analysis of traffic impacts instead of level of service (LOS), performing LOS analysis as a local metric for intersections, and adjusting traffic counts. A 10% contingency is also included.

BACKGROUND

On October 4, 2016, Council awarded a contract to Kimley-Horn and Associates to prepare the Environmental Impact Report (EIR) for the Mary Avenue Overcrossing Project (RTC No. 16-0862). The project proposes to construct an extension of Mary Avenue north from Almanor Avenue over U.S. 101 and State Route 237 and connecting to 11th Avenue at Discovery Way in the Moffett Park area. Attachment 1 shows the project location.

Kimley-Horn and Associates developed five project configurations for this study. The five options are as follows:

- Option 1: Four vehicular lanes (two in each of the northbound and southbound directions), a protected cycle track and sidewalks
- Option 2: Two vehicular lanes (one northbound and one southbound), a protected two-way cycle track and sidewalks
- Option 3: Two high-occupancy vehicle (HOV)/bus/shuttle lanes (one northbound and one southbound), a protected two-way cycle track and sidewalks
- Option 4: A bicycle and pedestrian overcrossing
- Option 5: No build - Removal of the Mary Avenue overcrossing from the General Plan

Conceptual cross sections and alignments of Options 1 through 4 are included as Attachments 2 and 3.

Staff updated City Council on the project timeline, outreach efforts, and the five options under consideration in a study session on February 28, 2017 (RTC No. 17-0335). Council requested that staff develop a framework of criteria to help Council with the selection of a preferred option at the Final EIR stage.

On March 7, 2017, the City released a Notice of Preparation (NOP) for the Mary Avenue Overcrossing EIR outlining these five options as potential “projects”, and Kimley-Horn and Associates began preparation of the EIR.

On November 15, 2017, the California Court of Appeals, First Appellate District, issued a decision (*Washoe Meadows Community v. Department of Parks and Recreation*) that rejected the concept of a multi-project EIR. In this case, an EIR was prepared that identified five potential projects without defining the preferred or proposed project. The court held that this approach violated CEQA because the EIR failed to provide the public with an “accurate, stable and finite” project description. Because of this case law, the City’s Office of the City Attorney (OCA) recommended that the Mary Avenue Overcrossing project select a single option as the proposed “project” for description in the EIR. This would avoid an unacceptable risk of a successful legal challenge to the EIR. Additional work was required to provide comparison metrics to assist the City Council in selecting one of the five options as the “Project” for purposes of the EIR.

During a regular business item on February 27, 2018 (RTC No. 17-1180), Council authorized the City Manager to execute a contract amendment with Kimley-Horn and Associates in the amount of \$42,800 to undertake additional work required by CEQA to choose a project option for the purposes of the EIR, approved an increase in the contract contingency of \$4,756 and approved a Budget Modification in the amount of \$47,556. The Council also approved a \$25,000 increase in the budget authority for additional public outreach efforts. Council approved a total increase to the project of \$72,556.

On June 30, 2020, Council adopted Council Policy 1.2.8: Transportation Analysis Policy (RTC No. 20-0640) that established Vehicle Miles Traveled (VMT) as the threshold of significance for transportation impacts analysis under CEQA. All environmental documents with a traffic analysis must use VMT as the threshold of significance instead of the previously utilized Level of Service (LOS) for CEQA. Level of Service is to be used as a local operational measure of intersection efficiency.

EXISTING POLICY

Council Policy 1.2.8 Transportation Analysis Policy

This policy updated the transportation impact analysis criteria to include both Vehicle Miles Traveled (VMT) as required by CEQA and Level of Service (LOS) as an operational measurement of intersection efficiency.

General Plan, Chapter 3, Land Use and Transportation Element

The 2017 Land Use and Transportation Element (LUTE) of the Sunnyvale General Plan lists goals and policies that emphasize the need to provide an effective multimodal transportation system.

Complete Streets Policy

The Complete Streets Policy was adopted by City Council on December 6, 2016 through Resolution No. 793-16 (RTC 16-0972) and amended on August 28, 2018 through Resolution No. 896-18 (RTC 18-0642). Through this policy, the City commits to creating and maintaining Complete Streets that provide safe, sustainable, integrated, efficient and convenient transportation systems that serve all categories of users and maintain sensitivity to local conditions.

Transportation Impact Fee Program

The City's Transportation Impact Fee (TIF) program addresses citywide transportation needs and ensures that all development projects that add new trips to the street network pay a fair share of future transportation improvement costs.

Peery Park Specific Plan

The Mary Avenue Overcrossing project's pedestrian and bicycle connections and new street segment are listed in the 2016 Peery Park Specific Plan.

Moffett Park Specific Plan

Within the 2013 Moffett Park Specific Plan (MPSP), the Mary Avenue Overcrossing project is listed as one of two of "the most significant transportation improvements necessary to facilitate the development of Moffett Park".

Climate Action Plan

City Council adopted the Climate Action Plan (CAP) on May 20, 2014, which includes various strategies to reduce greenhouse gas (GHG) emissions.

Active Transportation Plan

The 2020 Sunnyvale Active Transportation Plan (ATP) includes the Mary Avenue Overcrossing project as a recommendation within the Bicycle Plan and the Pedestrian Plan.

Pursuant to Sunnyvale Charter Section 1305, at any meeting after the adoption of the budget, the City Council may amend or supplement the budget by a motion adopted by affirmative votes of at least four members to authorize the transfer of unused balances appropriated for one purpose or another, or to appropriate available revenue included in the budget.

ENVIRONMENTAL REVIEW

Section 15004(b) of the CEQA Guidelines provides that an EIR should be prepared "as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment."

The action being considered merely defines the proposed Project and directs staff to proceed with the preparation of an EIR for the Mary Avenue Overcrossing. This action does not approve construction of the Mary Avenue Overcrossing or any particular option, including the “No Project” alternative. Therefore, the present action is not itself a project that requires separate environmental review (CEQA Guidelines Section 15061(b)(3).)

DISCUSSION

Defining the Project for Purposes of the EIR

The five options identified for this project are as follows:

- Option 1: Four vehicular lanes (two in each of the northbound and southbound directions), a protected cycle track and sidewalks
- Option 2: Two vehicular lanes (one northbound and one southbound), a protected two-way cycle track and sidewalks
- Option 3: Two high-occupancy vehicle (HOV)/bus/shuttle lanes (one northbound and one southbound), a protected two-way cycle track and sidewalks
- Option 4: A bicycle and pedestrian overcrossing
- Option 5: No build - Removal of the Mary Avenue overcrossing from the General Plan

Staff recommends that Option 2 be selected as the “Project” for purposes of the EIR project description. However, the EIR will fully evaluate the other four options as Project alternatives. After completion of the EIR, the City Council may exercise its discretion to select either the recommended Project or one of the alternatives as the configuration to be designed and built, or the City Council may opt for “no project”.

During a project status study session with the City Council on February 2, 2021 (RTC No. 21-0020), background, project history, travel time estimates, and feedback received to date were presented.

Preferences were shared by some Councilmembers to select Option 2 as the project for the purposes of the EIR to encourage the most public involvement and feedback on the EIR process. Councilmembers also expressed interest in Options 1 and 3.

Transportation Analysis Refinement

As part of restarting the environmental analysis of the project, staff reviewed the assumptions of the traffic analyses performed and found that the projected traffic volumes were overly conservative and overstated potential transportation impacts. Based upon engineering judgement, knowledge of local traffic patterns and experience, adjustments are necessary to the analyses. A new volume projection method is advised by staff to be consistent with the land use as assumed in the General Plan, which will require additional efforts from the consultant team.

In addition, the pandemic and shelter-in-place orders changed traffic patterns on both a local and regional level. Standard practice for collecting existing traffic counts is no longer valid due to these traffic anomalies. Current practice is to either collect current traffic counts for use or to use previously collected traffic counts and adjust them per previous growth rates.

A separate project is currently underway to study the feasibility of grade separating Mary and Sunnyvale avenues from the Caltrain railroad tracks. The Mary Avenue Overcrossing project is being coordinated closely with special attention to the traffic conditions anticipated at the Mary Avenue

crossing location. The same City staff are working on both projects and the same traffic engineering consultant firm is working on both projects. The intention is to coordinate the analyses to ensure the overall network functions properly, regardless of the option selected for either project. Neither project proposes to adjust any lane configurations to change capacity between the two projects or along the Mary Avenue corridor.

Kimley-Horn and Associates Additional Scope

Additional scope is needed for the Kimley-Horn and Associates contract for \$248,265, as shown in the Second Amendment to Consultant Services Agreement (Attachment 6), increasing the total contract amount from \$666,550 to \$914,815. Additional work in this scope revision includes:

- Additional community outreach and coordination
- Complying with the CEQA requirement of using VMT as a metric instead of LOS
- Adjustment of traffic analyses due to overly conservative growth projections and the inability to collect new counts during the pandemic
- Updates to sections of the EIR that use the traffic analysis data, such as greenhouse gas emissions, air quality, energy conservation, and noise analysis

Contingency

To account for future minor adjustments to the Kimley-Horn and Associates scope that may be needed, a 10% contingency of \$24,827 has been included in the budget modification total.

Follow-up from February 28, 2021 Council Study Session

The following information is provided for information on project status and to follow-up on specific questions raised during the February 28, 2021 Council Study Session on this project.

Construction Cost Estimates

Construction cost estimates will be prepared as part of the EIR and will be presented with the Final EIR. Construction costs will be paid in part by 2016 VTA Measure B Local Streets and Roads program funds and the City’s Transportation Impact Fees collected from new developments. The remainder of funding will be determined once a preferred option for design is selected after the Final EIR and construction cost estimates are refined based on the design.

Volume Estimates

Vehicular volumes on Mathilda Avenue north of Maude Avenue have been estimated using the traffic model. These estimates were calculated for each of the options during the morning and afternoon peak commute periods and peak commute direction. In the morning peak, the main travel direction is northbound toward employment centers. In the afternoon peak, the main travel direction is southbound toward residential areas. Table 1 lists the best estimations for comparison purposes between the options showing what the traffic volumes on Mathilda Avenue north of Maude Avenue would look like due to redirection of travel patterns with each option.

Table 1: Vehicle Volumes on Mathilda Avenue north of Maude Avenue

	AM Peak Northbound (vehicles per hour)	PM Peak Southbound (vehicles per hour)
Existing (pre-COVID-19) *	2,424	2,465

Option 1 Year 2035: 4 vehicle lanes	2,675	2,811
Option 2 Year 2035: 2 vehicle lanes	2,724	2,978
Option 3 Year 2035: 2 HOV only lanes	2,861	3,201
Option 4 Year 2035: Bike and pedestrian only overcrossing	2,866	3,358
General Plan build out (2035) and Option 5: No Project	2,866	3,358

* Existing volumes were collected in November 2015

Option 1 is anticipated to have the lowest vehicular volume on Mathilda Avenue just north of Maude Avenue since the Mary Avenue Overcrossing would have four vehicle lanes, drawing more traffic away from Mathilda Avenue. Options 3 and 4 are expected to have the highest volumes on Mathilda Avenue since single-occupant vehicles would not be able to travel on a Mary Avenue Overcrossing. Option 5, which is also the General Plan build out, would also experience the highest volumes since there would not be a Mary Avenue Overcrossing.

On both corridors, Option 4 volumes are shown the same as General Plan build out/Option 5 because the model does not account for roadway users shifting mode from driving/carpooling to walking/biking with the proposed options.

Travel Time Estimates and Outreach

Staff updated City Council on the travel time estimates and outreach efforts in a study session on February 2, 2021 (RTC No. 21-0020). The presentation from that meeting is included as Attachment 7.

FISCAL IMPACT

In order to fund the project staff is recommending approval of Budget Modification No. 21 to appropriate \$273,092 in additional Transportation Impact Fees.

**Budget Modification No. 21
FY 2020/21**

	Current	Increase/ (Decrease)	Revised
<u>Capital Projects Fund - Transportation Impact Fee Sub-Fund</u>			
<u>Expenditures</u>			
Project 832440 - Mary Avenue Overcrossing Environmental Impact Report	\$ 758,681	\$ 273,092	\$ 1,031,773
 <u>Reserves</u>			
Capital Projects Reserve	\$ 40,257,258	(\$ 273,092)	\$ 39,984,166

PUBLIC CONTACT

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

ALTERNATIVES

1. Select Option 2 as the "Project" for purposes of the project definition in the EIR for the Mary Avenue Overcrossing and fully evaluate the other four options as Project alternatives, Approve Budget Modification No. 21 in the Amount of \$273,092 from the Transportation Impact Fee funds, Approve a Second Amendment in substantially the same form as Attachment 6 to the report to the Kimley-Horn and Associates Contract to change the scope of work and increase the contract amount from \$666,550 to \$914,815 and approve a 10% contingency for the additional scope of work.
2. Select one of the other options (1, 3 or 4) as the "Project", Approve Budget Modification No. 21 in the amount of \$273,092 from the Transportation Impact Fee funds, Approve a Second Amendment in substantially the same form as Attachment 6 to the report to the Kimley-Horn and Associates Contract to change the scope of work and increase the contract amount from \$666,550 to \$914,815 and approve a 10% contingency for the additional scope of work.

STAFF RECOMMENDATION

Alternative 1: Select Option 2 as the "Project" for the purposes of the project definition in the EIR for the Mary Avenue Overcrossing and fully evaluate the other four options as Project alternatives, Approve Budget Modification no. 21 in the Amount of \$273,092 from the Transportation Impact Fee funds, Approve a Second Amendment in substantially the same form as Attachment 6 to the report to the Kimley-Horn and Associates Contract to change the scope of work and increase the contract amount from \$666,550 to \$914,815 and approve a 10% contingency for the additional scope of work.

Staff recommends Alternative 1, so that Option 2 is selected as the "Project" for purposes of the EIR project description. At a Study Session on February 2, 2021, some Councilmembers expressed a preference to select Option 2 as the project for the purposes of the EIR. This option is likely to encourage the most public involvement and feedback on the EIR process. Staff agrees that this will allow the Council to make the most informed decision on the preferred project at the Final EIR stage. Option 2 also allows for better mobility in the area by reducing travel times and allowing more opportunities for all modes of travel. The preferred project ultimately selected for Mary Avenue Overcrossing can be different from the project for purposes of the EIR being selected now.

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Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Project location
2. Conceptual cross sections of Options 1 through 4

3. Conceptual alignments of Options 1 through 4
4. Existing Moffett Park area ingress and egress points
5. Community Meeting postcard notification area
6. Second Amendment to Consultant Services Agreement
7. Presentation from February 2, 2021 City Council Study Session