



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Approve the Purchase and Sale Agreement Between the City of Sunnyvale and Edward W. and Kathryn A. Woodhall Trust for the Purchase of 970 W. Evelyn Avenue (APN: 165-20-017) and Approve Budget Modification No. 6 in the Amount of \$8,580,000

#### **BACKGROUND**

When the City of Sunnyvale was conducting public outreach for the grade separation project taking place at Mary Avenue and Evelyn Avenue, Edward Woodhall the owner of 970 W. Evelyn Avenue approached the City indicating that he is looking to retire and would be willing to sell his property to the City. Since the property at 970 W. Evelyn Avenue is required for all options that the City is considering for the design of the Mary Avenue grade separation project, Council directed staff to proceed with voluntary negotiations to acquire the property.

#### **EXISTING POLICY**

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

##### **Section 1: Acquisition of Real Property for Municipal Purposes**

Real property shall be acquired for current or future municipal purposes, and/or to benefit the community. The City shall acquire real property in accordance with Sunnyvale Municipal Code Chapter 2.07.

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**

The California Environmental Quality Act (CEQA), Guidelines Section 15004(b)(1) provides that "[w]ith public projects, at the earliest feasible time, project sponsors shall incorporate environmental considerations into project conceptualization, design, and planning. CEQA compliance should be completed prior to acquisition of a site for a public project." Notwithstanding this general rule, however, Section 15004(b)(2)(a) provides that "agencies may designate a preferred site for CEQA review and may enter into land acquisition agreements when the agency has conditioned the agency's future use of the site on CEQA compliance." In this case, the property will not be used for the Mary Avenue grade separation until the CEQA process for that project is completed and the project is approved in compliance with CEQA. A condition to that effect has been included in staff's recommended actions.

## **DISCUSSION**

The City is looking to purchase 970 W. Evelyn Avenue to use the property as part of the Mary Avenue Grade Separation Project (the “Project”). The Project will, among other benefits, reduce the risk of collisions between trains and pedestrians, bicyclists, and vehicles, and reduce congestion due to increased train activity thus creating a safer and more accessible community. The Project is currently in the preliminary design phase which is expected to be completed in early to mid-2022. Environmental studies and final design is anticipated to take approximately two years after that.

970 W. Evelyn Avenue is a 1.31-acre site, improved with a single-story single-tenant auto body building containing 20,240 square feet. The entire property is leased to Golden West Collision Center Inc. (the “Tenant”) to operate an auto body shop. The building was built in 1979 and is kept in good condition.

The Tenant has an active lease that will be assigned to the City with an expiration date of June 30, 2025 and a current monthly rent of about \$32,000 net to the landlord, increasing annually by CPI. The Tenant is responsible for the maintenance of the property except for structural repairs that include the foundation, exterior walls, exterior roof and the replacement of any component of the mechanical system that can't be reasonably repaired by the Tenant. The Tenant waived their right to first refusal, as they could not match the negotiated terms. There is no termination for convenience clause however the end of the lease works for the timelines of the Project.

### **Fundamental Terms and Conditions:**

- Purchase price: \$8,500,000.
- Property sold in “as-is” condition.
- Initial deposit: \$100,000 payable within 5 days of a fully executed agreement.
- Close of Escrow: 15 days after removal of contingencies.

The City completed an appraisal report and reviewed a preliminary title report, no concerns were identified. A phase I environmental review and assessment will be completed during the 30-day contingency period.

## **FISCAL IMPACT**

The purchase price is \$8,500,000 and the estimated closing costs and expenses are around \$80,000. Funding is from the Capital Projects Fund - Transportation Impact Fee Sub-fund as the acquisition is part of the cost for the grade separation project. Rental revenue from the property lease will also be deposited to the Transportation Impact Fee Sub-fund.

Staff recommends approval of Budget Modification No. 6 to create a new project to appropriate \$8,580,000 to fund this acquisition.

**Budget Modification No. 6  
FY 2021/22**

	Current	Increase/ (Decrease)	Revised
<b><u>Capital Projects Fund -</u></b>			
<b><u>Transportation Impact</u></b>			
<b><u>Fee Sub-fund</u></b>			
<b><u>Expenditures</u></b>			
New Project - Acquisition of\$ 0 970 W. Evelyn Ave.		\$ 8,580,000	\$ 8,580,000
 <b><u>Reserves</u></b>			
Capital Reserve	\$ 43,662,356	(\$ 8,580,000)	\$ 35,082,356

**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. Authorize the City Manager to execute the Purchase and Sale Agreement, in substantially the same form as Attachment 1 to the report, and any other necessary documents for the purchase of real property located at 970 W. Evelyn Avenue for \$8,500,000, approve Budget Modification No. 6 in the amount of \$8,580,000 and sign any lease documents to transfer the lease to the City or extend it until the Project starts, and direct that the property not be used for the purposes of the Mary Avenue grade separation until CEQA review for that project has been completed and the project is approved in compliance with CEQA.
2. Direct staff to negotiate different terms with Edward W. and Kathryn A. Woodhall Trust as determined by Council.
3. Do not approve the Purchase and Sale Agreement between the City of Sunnyvale and Edward W. and Kathryn A. Woodhall Trust, and the City does not purchase 970 W. Evelyn Avenue

**STAFF RECOMMENDATION**

Alternative 1: Authorize the City Manager to execute the Purchase and Sale Agreement, in substantially the same form as Attachment 1 to the report, and any other necessary documents for the purchase of real property located at 970 W. Evelyn Avenue for \$8,500,000, approve Budget Modification No. 6 in the amount of \$8,580,000 and sign any lease documents to transfer the lease to the City or extend it until the Project starts and direct that the property not be used for the purposes of the Mary Avenue grade separation until CEQA review for that project has been completed and the project is approved in compliance with CEQA.

Prepared by: Sherine Nafie, City Property Administrator

Reviewed by: Tim Kirby, Director of Finance

Reviewed by: Chip Taylor, Director, Public Works

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

**ATTACHMENTS**

1. Standard Offer, Agreement and Escrow Instructions for Purchase of Real Estate "Purchase and Sale Agreement"
2. Standard Estoppel Certificate - By Lessee