



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein
John Ristow

SUBJECT: SEE BELOW

DATE: September 25, 2023

Approved

Date

10/13/23

COUNCIL DISTRICT: 6

**SUBJECT: ACTIONS RELATED TO THE ACQUISITION OF PROPERTY
LOCATED AT 32-60 STOCKTON AVENUE**

REASON FOR REPLACEMENT

This replacement memorandum clarifies the Seller's legal entity and the entity that purchased 32-60 Stockton Avenue in August 2020 and April 2022. Urban Catalyst LLC is not involved in this project and did not purchase 32-60 Stockton Avenue. Chunhong Liu, Trustee of the Thang Do and Chunhong Liu Revocable Trust dated January 29, 2008 purchased the properties in August 2020 and April 2022, with development representation by UC TDT Apollo JV, LLC, an affiliate of UC Apollo LLC.

RECOMMENDATION

Adopt a resolution authorizing the City Manager or designee to:

- (a) Negotiate and execute a purchase and sale agreement with Chunhong Liu, Trustee of the Thang Do and Chunhong Liu Revocable Trust dated January 29, 2008, for approximately 1.12 acres (48,830 square feet) of land commonly known as 32-60 Stockton Avenue located at the northeast corner of Stockton Avenue and Santa Clara Street, identified as Assessor's Parcel Numbers 259-28-001 and 259-28-002, for a price of \$23,800,000;
- (b) Deliver an I.R.S. §1033 letter to seller;
- (c) Negotiate and execute all other documents necessary to effectuate the transfer to the City;
- (d) Negotiate and execute all documents and contracts necessary for the relocation of tenants currently occupying 32-60 Stockton Avenue, including approval of the Final Relocation Plan and disbursement of necessary payments as required by relocation statute, not to exceed \$350,000; and
- (e) Negotiate and execute an amendment to the Cooperative Agreement for San José Diridon Integrated Station to address property acquisitions required for future project needs and

maintenance of the property by the City in the interim before it is needed for construction.

SUMMARY AND OUTCOME

Approval of the resolution will authorize the City Manager or designee to negotiate and execute a purchase and sale agreement to acquire the property identified as Assessor's Parcel Numbers (APN) 259-28-001 and 259-28-002, commonly known as 32-60 Stockton Avenue, (**Attachment A** – Assessor's Parcel Map) for a purchase price of \$23,800,000. The Santa Clara Valley Transportation Authority (VTA) may assume the role of buyer in the purchase and sale agreement under the same terms and conditions. The City, VTA, Caltrain, the California High-speed Rail Authority, and the Metropolitan Transportation Commission (collectively the Partner Agencies) need to acquire this property to facilitate the California High-Speed Rail and San José Diridon Station construction projects (**Attachment B** - Subject Property with Conceptual Transit Boundary and Rail Improvements).

Once acquired, City and/or VTA staff will consider interim land uses for the site. This may include maintaining the existing car wash and/or the creation of a surface parking lot. The property owner would assume the existing car wash and billboard lease for the duration of the lease term with the possibility of extending the lease on a month-to-month basis. However, the long-term goal would be to remove the billboard from City property.

Updating the cooperative agreement among the Partner Agencies will provide for protective acquisitions to secure property required for future project needs and direct the property's transfer to the governance entity dedicated to the Diridon Integrated Station project once that entity is established. Whether the City or the VTA takes title to the property in the interim, it will ultimately be transferred to the future Diridon Integrated Station governing body.

BACKGROUND

The subject property, identified as APNs 259-28-001 and 259-28-002, are located at 32-60 Stockton Avenue on the northeast corner of Stockton Avenue and Santa Clara Street. The property has a general plan designation of downtown and is zoned DC Downtown Primary Commercial. The property consists of two parcels, approximately 1.12 acres (48,830 square feet) in size, containing a combined 16,000 square feet of building space. The existing structures include a vacant auto repair building, a leased carwash with ancillary buildings, and a billboard.

The Partner Agencies have been working on plans to comprehensively rebuild San José Diridon Station in anticipation of electrified Caltrain, BART, California High-Speed Rail, and other expanded transit service options. The property is located within the footprint of anticipated future rail infrastructure. A rebuilt San José Diridon Station is a central component of the land use framework that the City adopted with the 2021 amendment to the Diridon Station Area Plan. The

Diridon Station Area Plan proposes up to 12,900 new homes, up to 13.7 million square feet of new office space, and an additional one million square feet of active use and retail space. This equates to space for an estimated 44,000 new jobs in the area directly around San José Diridon Station.

In 2018, voters throughout the Bay Area approved Regional Measure 3 (RM 3), which included dedicated funding for the San José Diridon Station project. RM 3 funds are allocated by the Metropolitan Transportation Commission; the Commission is scheduled to review a request to allocate funding to cover this purchase on October 25, 2023. VTA is the recipient of funding for the San José Diridon Station per RM 3. As such, VTA will fund escrow to acquire the property.

Between August 2021 and April 2022, Chunhong Liu, Trustee of the Thang Do and Chunhong Liu Revocable Trust dated January 29, 2008, with development representation by UC TDT Apollo JV, LLC, an affiliate of UC Apollo LLC, purchased the two separate parcels comprising the property in separate arm's-length transactions at a combined total sales price of \$15,100,000. The property was sold unentitled. In late 2022, the property was entitled for the Apollo mixed-use development, primarily consisting of 471 residential units and ground-floor retail.

ANALYSIS

The City is leading the effort to acquire these properties because they represent two parcels at the northern throat of the existing San José Diridon Station that are critical for the expansion of future rail service. Significant portions of the site are also required for construction and ancillary uses by the California High Speed Rail Authority in its preferred project (environmentally cleared in 2022). There are no alternative parcels that can accommodate these needs.

The City and VTA agreed to modify the Cooperative Agreement for San José Diridon Integrated Station to establish protocols for the protective acquisition of properties critical to the project's success. Protective acquisition is necessary to ensure that private development does not significantly increase the cost of building the project. The Cooperative Agreement will ensure that whichever entity owns the land in the interim, the land would be conveyed to a new governance entity dedicated to the project if and when the said entity is established. As stated above, existing land uses may persist on the site until construction of the future San José Diridon Station project begins. Relocation costs will be the responsibility of the entity instigating the relocation. For example, if the City determines that surface parking is required to ensure compliance with its contractual obligation for SAP Center event parking, then the City would be responsible for eligible relocation costs, which could then be recouped from future parking revenues. If the relocation is not required until construction of the Diridon Integrated Station, then responsibility for eligible relocation costs would fall to the station project itself.

While VTA may take title to the property by assuming the purchase and sale agreement, the City may maintain the property in the interim. Regardless of who controls the property, maintenance and operational costs will be covered by revenue from the site and net revenues will accrue to the

Diridon Integrated Station project. Reimbursement of City management costs will be included in an amendment to the Cooperative Agreement. Transparent accounting will be required for lease revenues, operations and maintenance costs, and net revenues accruing to the Diridon Integrated Station project.

Summary of Key Terms of the Purchase and Sale Agreement:

- Purchase price: \$23,800,000.
- The City, at its discretion, may assign the purchase and sale agreement to the VTA. The VTA would assume the purchase and sale agreement under the same terms and conditions.
- Removal from title of all outstanding debts, including taxes and a \$5,600,000 deed of trust.
- Purchase is contingent upon receiving Metropolitan Transportation Commission funding authorization, which is expected to be heard on October 25, 2023.
- As-is acquisition, buyer to assume closing costs.
- Buyer to deliver an I.R.S. §1033 exchange letter to seller at closing.
- The anticipated close is 30 days after the execution of a purchase agreement, but in no event later than December 31, 2023.

The Environmental Services Department analyzed the property for the presence of hazardous materials. The site has soil contamination in the shallow soil that will require extra soil disposal costs and a possible vapor barrier should any building improvements be constructed on the property. A cost estimate of the necessary remediation and mitigations should the property be developed with the Apollo project estimated a range of costs between \$416,000 and \$1,011,000. The mitigation costs would be significantly less if the property is used for rail purposes.

The City's due diligence investigations into environmental and title matters are complete.

EVALUATION AND FOLLOW-UP

The acquisition of the subject property is anticipated to be completed within 60 days from execution of the purchase and sale agreement.

COST SUMMARY/IMPLICATIONS

As VTA is proposed to assume the role of buyer and utilize RM 3 funding for the purchase, there is no direct cost impact to the City as a result of this action. The purchase contract is contingent on the Metropolitan Transportation Commission's approval of the VTA funding the acquisition with RM 3 funds. If the VTA does not receive this authorization, the City would not proceed with the purchase. Revenue from the site will cover ongoing maintenance costs. The mechanism for disbursement of these funds will be specified in a future amendment to the five-party

cooperative agreement among the Partner Agencies. If the City is required to operate and maintain the property after the purchase, any cost to the City will be recommended to be appropriated as part of a future budget process.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the departments of Environmental Services and Planning, Building, and Code Enforcement.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the October 17, 2023 City Council Meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/
NANCI KLEIN
Director of Economic Development
and Cultural Affairs

/s/
JOHN RISTOW
Director of Transportation

For questions, please contact Kevin Ice, Senior Real Estate Manager, Office of Economic Development and Cultural Affairs, at (408) 535-8197, or Jessica Zenk, Deputy Director of Transportation, at (408) 535-3543.

HONORABLE MAYOR AND CITY COUNCIL

September 25, 2023

Subject: Actions Related to the Acquisition of Property Located at 32-60 Stockton Avenue

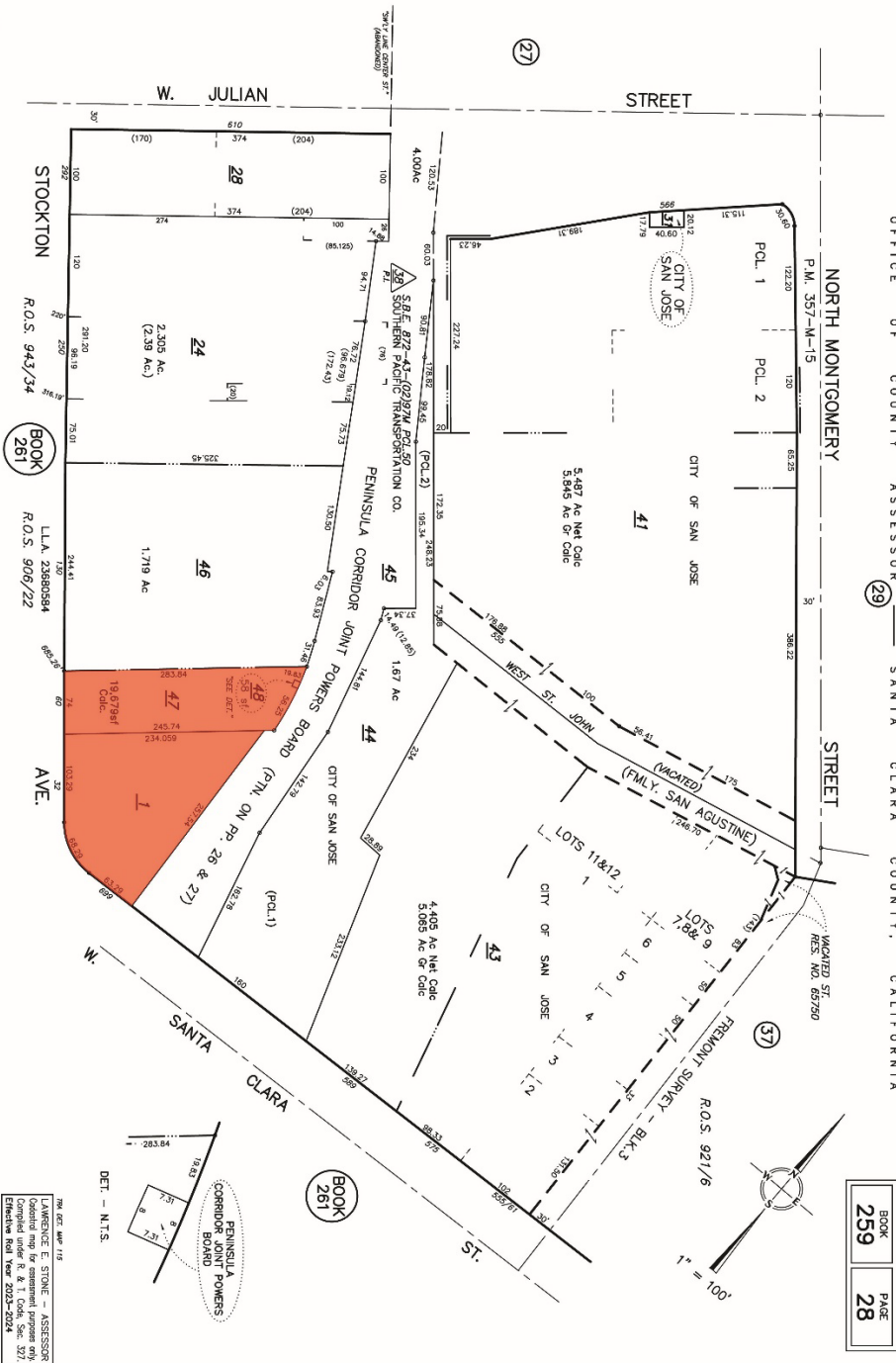
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Attachments:

A – Assessor’s Parcel Map

B – Subject Property with Conceptual Transit Boundary and Rail Improvements

Attachment A – Assessor's Parcel Map



Attachment B – Subject Property with Conceptual Transit Boundary and Rail Improvements

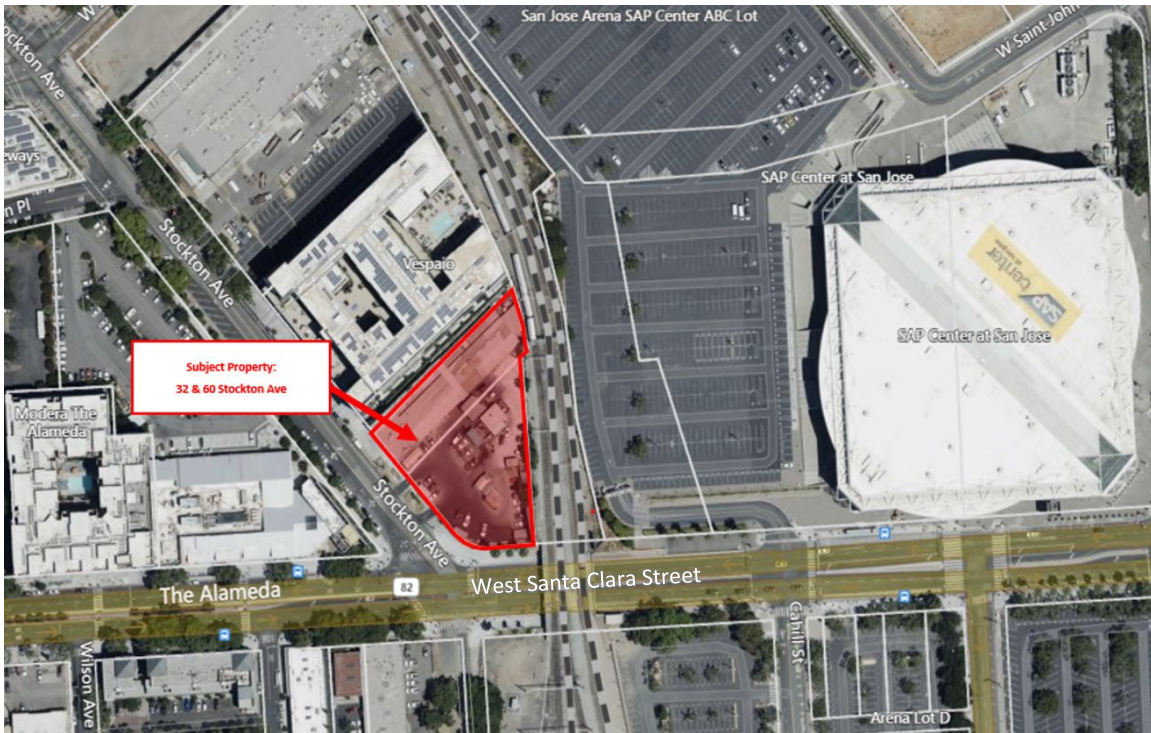


Figure 1: Location of Subject Property

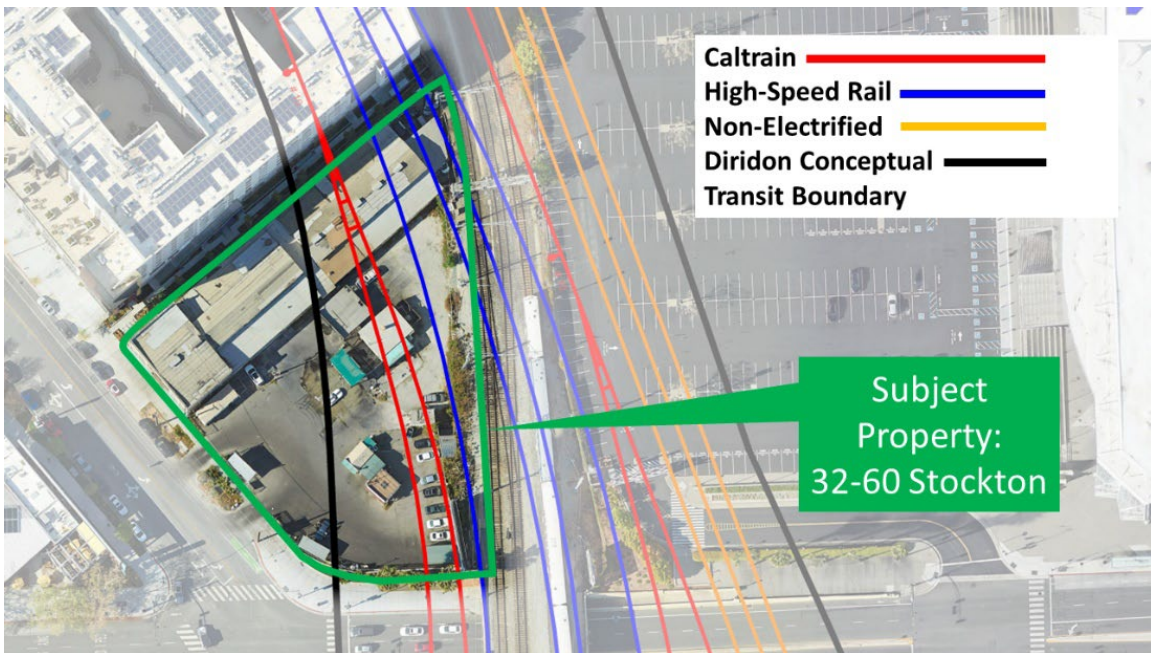


Figure 2: Diridon Integrated Station Transit Conceptual Boundary and Rail Alignment (2021)