

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kim Walesh  
Jim Ortbal

**SUBJECT:** SEE BELOW

**DATE:** October 10, 2017

Approved

D. D. Syl

Date

10/19/17

**COUNCIL DISTRICT: 3**

**SUBJECT: AUTHORITY FOR CITY MANAGER OR HIS DESIGNEE TO  
NEGOTIATE AND EXECUTE AN AGREEMENT FOR THE PURCHASE  
OF REAL PROPERTY LOCATED AT 130 & 150 NORTH AUTUMN  
STREET AND 405, 407 & 447 WEST ST. JOHN STREET**

## RECOMMENDATION

- a) Authorize the City Manager to negotiate and execute all documents necessary for the acquisition of the property located at 130 & 150 North Autumn Street and 405, 407, and 447 West St. John Street (former Milligan News property), Assessor's Parcel Numbers 259-29-033, -102, -072, -071, -032, in an amount not to exceed \$11,924,750 from the Milligan Family Trust including any amendments or modifications.
- b) Approve the Relocation Plan for commercial and residential tenants in compliance with California Code of Regulations Section 6038.

## OUTCOME

Acquisition of this property positions the City for the future construction of the Autumn Street Extension in support of development covered in the Downtown Strategy Plan.

## BACKGROUND

The City plans to replace Autumn Street between West St. John Street and Julian Street with a new roadway that completes the direct connection between I-280 and Coleman Avenue. This linkage is an essential mitigation to the planned development within the Downtown, and Diridon Station Area Plans. Additionally, since the new roadway may take some time complete, the property can possibly serve as interim uses, such as surface parking, which will require additional evaluation from staff.

## **ANALYSIS**

An appraisal was commissioned in September 2016, and completed by Carneghi and Nakasako in October 2016. The appraised value of the 2.533-acre (110,335 square foot) property was set at \$9,930,000 (\$90/sf). The Milligan family, as the property owners, made a counter offer of \$11,042,460 (\$100/sf), based on their analysis of land value trends in and around the area. Staff believes that the counter offer is reasonable, given the ongoing increases in demand for property in the Diridon Station area. Working with the City's Environmental Services staff, Phase 1 and Phase 2 site analyses have been completed. The analyses indicate that site cleanup requirements are relatively minor in cost (approximately \$25,000), as the owners previously resolved contaminated soil issues.

Because the City is acquiring the property, a formal relocation plan must be prepared. The relocation consultants interview the tenants to determine the needs of each tenant. Residential tenant needs are evaluated by family size and income. The commercial tenants are also evaluated for their specific business needs. Based on these interviews, the consultants assist in identifying potential relocation opportunities and, most importantly, identifying the amounts of relocation funds each eligible party will receive from the City.

Relocation expenses, estimated at \$400,000, will be required before the City can make site modifications and move forward with either a parking facility or the roadway project. One of the tenants requiring relocation is residential and two are commercial. The relocation consultant was advised of a home occupation associated with the residential tenants. City staff will work with the tenants and the property owner to complete the mandatory relocation per required procedures prior to close of escrow. A draft relocation plan was prepared by Overland, Pacific, Cutler, Inc., a relocation specialty firm. The consultants interviewed the tenants to establish family size and commercial needs. Based on these interviews, in compliance with state law, the relocation plan was drafted and circulated for 30 days to accommodate public review. A relocation plan is necessary because the tenants are to be relocated as a result of the City's acquisition. Within three (3) days after execution of the Agreement, the property owners are required to provide the commercial tenants with 30 days' notice to terminate their leases and to provide the residential tenants with 60 days' notice to terminate their tenancy. The owners will use commercially reasonable efforts to ensure the tenants vacate pursuant to the notices to terminate. However, if the tenants have not vacated by the closing date, the owners are not in breach and escrow will close regardless of the fact that the tenants remain in possession. The City is solely responsible for relocation of the tenants and any relocation expenses or costs, including any expenses and costs related to unlawful detainer. The City is assisting the owners and the tenants with the relocation process.

The Sharks lease a portion of the building at 447 West St. John. There are several options for the future of this building. In the Coleman Avenue/Autumn Street Improvement Project Final EIR, the eastern portion of this building is identified as a significant historic resource that may be relocated off-site pursuant to required mitigation measures under CEQA.

October 10, 2017

**Subject: Acquisition of 130/150 North Autumn Street and 405/407/447 West St. John Street**

Page 3

The Sharks have signed a waiver of relocation benefits in exchange for remaining on the property until the building they occupy is used instead for another purpose, or the building may be relocated pursuant to the mitigation in the Coleman Avenue/Autumn Street Improvement Project Final EIR. If the building is not relocated for some reason in accordance with this mitigation or retained in its current location, then additional environmental review will be needed.

Staff has negotiated the following terms to incorporate into a Purchase and Sale Agreement (PSA) with the Milligan Family Trust:

1. **Purchase Price:** \$11,042,460
2. **Condition:** Property to be sold "As-Is"
3. **Tenants:** To be relocated prior to close of escrow. Current owner will provide 30-day notice for tenants to vacate once PSA is fully executed. City of San Jose to be responsible for relocation of tenants and any costs associated with relocation of tenants.
4. **Close of Escrow:** No later than 60 days after PSA is fully executed.

#### **EVALUATION AND FOLLOW-UP**

The Department of Transportation and the Public Works Department are responsible for the delivery of the new roadway. The next phase of project development is to continue to work on funding and design of the new roadway and evaluate possible interim uses, such as surface parking.

#### **PUBLIC OUTREACH**

Planned acquisition of this property and use for Autumn Parkway has been the subject of public communication through projects such as the Diridon Station Area Plan and the Downtown Strategy. This memorandum will be posted on the City's website for the October 31, 2017 City Council Agenda.

#### **COORDINATION**

These actions and this memo have been coordinated with the City's Department of Transportation, the Public Works Department, Environmental Services, and the Department of Planning, Building and Code Enforcement, as well as the City Attorney's Office and the City Manager's Budget Office.

**COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

**COST SUMMARY/IMPLICATIONS**

## 1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:

Purchase Price	\$11,042,460
Closing Costs	\$165,640
Hazmat Estimate	\$25,000
Demolition Estimate	\$291,650
Relocation Estimate	<u>\$400,000</u>

<b>Total</b>	<b>\$11,924,750</b>
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## 2. SOURCE OF FUNDING: Building and Structure Construction Tax Fund (Fund 429).

3. The 2017-2018 Adopted Capital Budget additionally includes \$7.0 million in the Autumn Parkway Reserve to purchase the remaining property and frontage road easements along Autumn Street between Julian Street and Park Avenue to complete the roadway project. The estimated funding shortfall to complete the design and construction of the full extension between Julian Street to Park Avenue is approximately \$16.8 million. Further extensions of the roadway project will be developed in phases as needs are confirmed.

**BUDGET REFERENCE**

The table below describes the appropriation actions recommended as part of this memorandum.

Fund #	Appn #	Appn Name	Total Appn	Amt for Contract	2017-2018 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
429	7389	Autumn Street Extension	\$13,150,000	\$11,924,750	946	06/20/17 29962

HONORABLE MAYOR AND CITY COUNCIL

October 10, 2017

**Subject: Acquisition of 130/150 North Autumn Street and 405/407/447 West St. John Street**

Page 5

**CEQA**

Determination of Consistency with the Coleman Avenue/Autumn Street Improvement Project Final Integrated Focused Environmental Impact Report (Resolution No. 74870); the San Jose Downtown Strategy 2000 Final Environmental Impact Report, (Resolution No. 72767), and addenda thereto; the Diridon Station Area Plan Final Environmental Impact Report (Resolution No. 77096), and addenda thereto; and the Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San Jose 2040 General Plan Supplemental Environmental Impact Report (Resolution 77617), and addenda thereto; File No. PP17-066.

/s/

KIM WALES

Deputy City Manager

Director of Economic Development

/s/

JIM ORTBAL

Director of Transportation

For questions, please contact Bill Ekern, Project Manager, at (408) 535-7637.

Attachment

# Site Map

OFFICE OF COUNTY ASSESSOR

30

SANTA CLARA COUNTY, CALIFORNIA

R.O.S. 666/5  
QUADRUPE RIVER

BOOK  
259  
PAGE  
29

