



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein
Matt Cano
Robert Sapient Jr.
Jim Shannon

SUBJECT: SEE BELOW

DATE: February 16, 2021

Approved D. DSYL

Date

2/18/ 2021

COUNCIL DISTRICT: 3

**SUBJECT: PURCHASE AND SALE OF PROPERTIES AT NORTH 13TH STREET AND
EAST SANTA CLARA STREET AND APPROPRIATION ACTIONS**

RECOMMENDATION

(a) Adopt a resolution authorizing the City Manager to:

- (1) Negotiate and execute a Purchase and Sale Agreement, and all other documents necessary to effectuate the property transfer between the City of San Jose and the Valley Transportation Authority (VTA), for the sale of the properties known as 575-579 East Santa Clara Street, identified as Assessor's Parcel Numbers 467-16-091 and 467-16-092, in the amount of \$2,500,000;
- (2) Declare the 575-579 East Santa Clara property (APNs 467-16-091 and 467-16-092) as "exempt surplus land" to the needs of the City pursuant to Cal. Gov. Code §54221(f)(1)(D), San Jose Municipal Code 4.20.080 and in accordance with Council Policy 7-13(D)(3);
- (3) Negotiate and execute a Cooperation and Reimbursement Agreement between the City of San Jose and the VTA to offset additional environmental remediation, mitigation, and construction costs for the City's use of the Option Property, in the amount of \$300,000; and
- (4) Exercise the Option to Purchase Agreement between the City of San Jose and the Santa Clara County Housing Authority (Housing Authority) dated August 24, 2020 (Option Agreement), for the purchase of the property located at 601 East Santa Clara Street, identified as Assessor's Parcel Number 467-15-010, in the amount of \$2,194,200.

(b) Adopt the following 2020-2021 Appropriation Ordinance and Funding Sources Resolution amendments in the Public Safety and Infrastructure Bond Fund:

- (1) Establish the Other Revenue appropriation in the amount of \$2,500,000;
- (2) Establish the Revenue from Local Agencies in the amount of \$300,000; and
- (3) Increase the Measure T – Fire Station 8 Relocation appropriation to the Public Works Department by \$2,800,000.

OUTCOME

Approval of the resolution will authorize City staff to negotiate and execute a purchase and sale agreement for the City to sell 575-579 East Santa Clara Street (“575 E. Santa Clara”) to the Valley Transportation Authority (“VTA”) for \$2,500,000, subject to the City’s retention of an easement retaining four parking spaces for future City use.

The City holds an Option to purchase the property located across North 13th Street at 601 East Santa Clara Street (“Option Property”) from the Santa Clara County Housing Authority (“Housing Authority”) for \$2,194,200. The City will execute this Option concurrently with the sale of 575 E. Santa Clara to the VTA.

As a condition of the sale to the VTA, the City will negotiate and execute a cooperation and reimbursement agreement for the VTA to pay \$300,000 to offset additional costs of development on the Option Property.

The City’s sale of 575 E. Santa Clara will allow the VTA to construct necessary Bay Area Rapid Transit (“BART”) infrastructure, including a ventilation and access shaft. \$150,000 of the proceeds of the sale will be paid to the Housing Authority to satisfy a reimbursement obligation. The Option Property will be purchased out of the balance of the proceeds.

After all actions are complete, the City will receive the Option Property, an easement for four parking spaces on 575 E. Santa Clara, and \$455,800 to offset any future City development on the Option Property. Project planning for a potential fire station would commence upon the City’s ownership of the Option Property.

BACKGROUND

On November 6, 2018 the City of San Jose voters passed Measure T—The Disaster Preparedness, Public Safety and Infrastructure Bond which authorized the City to issue up to \$650 million in general obligation bonds to fund public safety, emergency and disaster responses, infrastructure, and roads. On November 27, 2018, City Council unanimously approved a report titled *General Obligation Bond (Measure T-The Disaster Preparedness, Public Safety and Infrastructure Bond) Item 8.43*, which included Mayor Liccardo’s recommendation to expedite the construction of Fire Station 37, add at least two new fire

stations, and rebuild/relocate two fire stations, including Fire Station 8.

Relocating Fire Station 8 is the second highest priority for Measure T's fire station program objectives. According to a report of point-in-time assessment of response time analysis entitled "*2019 Fire Station Placement Priority Order*," Fire Station 8 is amongst the top six highest emergency response areas in the City.

Fire Station 8 is currently located at the intersection of South 17th Street and East Santa Clara Street, and sits at the edge of a riparian embankment adjacent to Coyote Creek. The station must be relocated due to the risk of erosion compromising the structural integrity of the structure. The Fire Department finds that the fire station is otherwise ideally located and recommends relocation to the closest available site.

On June 30, 2020, the Council approved the acquisition of 575 E. Santa Clara from the Housing Authority for \$2,350,000, which was based on an original contract price of \$2,500,000 subject to a \$150,000 discount for environmental conditions. The \$150,000 environmental discount must be repaid to the Housing Authority if the City sells the property without first performing environmental remediation. To date, the City has not completed any environmental remediation on the site and Council has taken no action, aside from the initial purchase of both properties, to initiate any building or construction process.

At the time that the City purchased the 575 Santa Clara property, the VTA was also considering acquiring the property to construct BART infrastructure, but the VTA was not actively pursuing a deal with the Housing Authority. To provide flexibility in case the VTA decided to move forward with acquisition, the City and the Housing Authority agreed to a purchase option on the Housing Authority's site across the street. The purchase option was based on the same per-square foot land value as the price that the City paid for 575 E. Santa Clara.

Both the 575 E. Santa Clara and the Option Property are suitable relocation sites for Fire Station 8. The BART project, however, must locate a venting shaft and emergency access at 575 E. Santa Clara which would negatively affect the use of the property as a potential fire station. Staff engaged the VTA to explore a way to accommodate both a fire station and BART's infrastructure on the 575 E. Santa Clara site but determined that to be infeasible due to logistical constraints.

ANALYSIS

Option Property

The Option Property is approximately 0.34 acres in size with a rectangular shape and a corner lot configuration at the signalized intersection of North 13th Street and East Santa Clara Street. Site access is provided via two curb cuts along North 13th Street. The property has a general plan designation of Mixed Use Commercial and is zoned General Commercial. The site is currently a vacant paved parking lot.

Based on an investigation conducted by the Environmental Services Department and Cornerstone Earth Group, the Option Property had a leaking underground gasoline tank that was

removed. The leaking tank contaminated soil groundwater that will require mitigation to accommodate a fire station. Environmental work would consist of excavation and disposal of contaminated soil, backfill with clean fill, treatment of contaminated groundwater and a vapor barrier. This work is anticipated to take up to one year to complete and cost roughly \$350,000.

575 E. Santa Clara Swap for Option Property

575 E. Santa Clara is the preferred site to relocate Fire Station 8 due to its larger size and having less environmental contamination than the Option Property. However, the VTA must acquire 575 E. Santa Clara from the City to accommodate BART infrastructure that cannot be located elsewhere. The VTA has agreed to make the City's swap of 575 E. Santa Clara for the Option Property impact and revenue neutral.

The Option Property is smaller and more constrained than 575 E. Santa Clara. To offset this, the VTA will grant the City an easement for four parking spaces on 575 E. Santa Clara to be retained for City use. This parking area will complement the available parking on the Option Property and should allow the City to accommodate fire station amenities and features on the Option Property.

A fire station will likely be more costly to construct on the Option Property. The site is smaller, which may require the construction of a second floor to provide the same amount of building space as a single-story building would on 575 E. Santa Clara. This second-floor area would add to the cost of construction and is estimated by the Public Works department to be approximately \$255,800.

The Option Property has larger quantities of soil contamination, which requires more excavation and off-hauling of soil to remediate. In addition, contaminated groundwater will likely need to be treated and a vapor barrier to be installed further protecting any potential fire station occupants from potential exposure to contamination. Staff has estimated the cost for the environmental remediation and clean-up is approximately \$350,000. Since a clean-up cost of \$150,000 has already been allocated to this project for estimated remediation at 575 E. Santa Clara, this adds approximately \$200,000 to the original allocated cost of environmental remediation and clean up.

The City acquired 575 E. Santa Clara at the amount of \$2,350,000 in August 2020. The VTA has agreed to pay the City \$2,500,000 for 575 E. Santa Clara, which fully compensates the City's investment in the property after paying back the \$150,000 reimbursement obligation due to the Housing Authority. Staff has reviewed the current market and agreed that the land value holds the same as the City's purchase price about 5 months ago.

All told, Public Works staff estimates a total of \$455,800 for both the additional environmental clean-up (\$200,000) and construction (\$255,800) costs of developing a potential fire station on the Option Property, as opposed to 575 E. Santa Clara. The VTA has agreed to reimburse the City \$300,000, which offsets this additional cost when combined with the value of the parking easement to be retained by the City.

Should the City acquire the Option Property, the planning, design, and construction of any fire station development would be subject to future discretionary action of the Council and CEQA review.

Given the VTA's need for the 575 E. Santa Clara property to be used for BART and the potential of the Option Property as a site to potentially replace the aging Fire Station No. 8, staff has determined that the 575 E Santa Clara property is surplus to the needs and use of the City and should be transferred to the VTA for its continued public use as "exempt surplus land" under Cal. Gov. Code §54221(f)(1)(D), San Jose Municipal Code Title 4.20.080 and in accordance with Council Policy 7-13(D)(3).

CONCLUSION

Approval of the recommendation will direct staff to sell 575 E. Santa Clara Street to the VTA as "exempt surplus land", and subsequently acquire 601 E. Santa Clara Street from the Housing Authority. The VTA has agreed to offset the City's additional cost of construction on 601 E. Santa Clara Street so the move is revenue-neutral to the City. This arrangement will allow the City to potentially relocate Fire Station 8 while accommodating the needs of the VTA's BART extension to downtown. After the swap, the City will receive 601 E. Santa Clara Street, an easement for four parking spaces on 575 E. Santa Clara Street, and a net of \$455,800 to offset the cost of constructing a fire station on the Option Property.

EVALUATION AND FOLLOW-UP

The transfer of the properties is anticipated to be completed within 60 days, upon execution of a purchase and sale agreement with the VTA. The Public Works Department will be responsible for the delivery of any new fire station project, which will be subject to CEQA review and future discretionary action of the Council. Public Works will also demolish the existing Fire Station 8 after relocation.

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

The proposed project aligns with the City's General Plan and the Measure T Bond program.

COST SUMMARY/IMPLICATIONS

This recommendations in this memorandum will approve the sale of 575 E. Santa Clara Street and purchase of the Option Property for the relocation of Fire Station 8. All costs to facilitate the recommended land acquisition will be funded by sale of 575 E. Santa Clara Street to the VTA as shown in the table below depicting the budget actions recommended in the Public Safety and Infrastructure Bond Fund:

Source	
575 E. Santa Clara Property Sale Proceeds	\$2,500,000
VTA Reimbursement Agreement to offset environmental mitigation and increased construction costs	\$300,000
Total Source	\$2,800,000
Use	
Purchase of Option Property	\$2,194,200
Reimbursement to Housing Authority	\$150,000
Additional Construction Costs	\$455,800
Total Use	\$2,800,000

The 2021-2025 Adopted Capital Improvement Program includes a five-year total budget of \$16.0 million, with \$6.3 million allocated in 2020-2021, in the Public Safety Capital Program for Measure T - Fire Station 8 Relocation. Appropriations actions in the Public Safety and Infrastructure Bond Fund are included in this memorandum to recognize the property sale proceeds and the reimbursement from VTA totaling \$2.8 million, and to increase the Measure T – Fire Station 8 Relocation expenditure appropriation by the same amount.

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BUDGET REFERENCE

The table below identifies the fund and appropriation that will be credited with the revenue from the sale and reimbursement agreement recommended in this memo.

Fund #	APPN #	Appn. Name	Current Total Appn	Budget Action	2020-2021 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
498	414Z	Measure T – Fire Station 8 Relocation	\$6,255,000	\$2,800,000	V-483	10/20/2020, Ord 30494
498	R030	Other Revenue	\$0	\$2,500,000	N/A	N/A
498	R090	Revenue from Local Agencies	\$0	\$300,000	N/A	N/A

CEQA

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

/s/

NANCI KLEIN

Director of Economic Development

/s/

MATT CANO

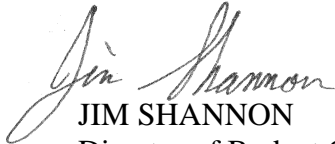
Director of Public Works

/s/

ROBERT SAPIEN JR

Fire Chief

Fire Department



JIM SHANNON

Director of Budget Office

I hereby certify that there will be available for appropriation in the Public Safety and Infrastructure Bond Fund in the Fiscal Year 2020-2021 moneys in excess of those heretofore appropriated there from, said excess being at least \$2,800,000.



JIM SHANNON

Budget Director

For questions, please contact Nanci Klein, Director of Economic Development, Director of Real Estate, at (408) 535-8184; or Matt Cano, Director of Public Works, at (408) 535-8477.

Attachments A-C

ATTACHMENT A

Aerial Map



ATTACHMENT B

Legal Description of 575 E. Santa Clara Street

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY LINE OF SANTA CLARA STREET AND THE SOUTHWESTERLY LINE OF 13TH STREET, RUNNING THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE OF 13TH STREET, 115 FEET AT RIGHT ANGLES SOUTHWESTERLY 90 FEET, THENCE AT RIGHT ANGLES SOUTHEASTERLY 90 FEET, THENCE AT AN ANGLE TO THE RIGHT OF 21° 48' A DISTANCE OF 26.92 FEET TO A POINT ON THE NORTHWESTERLY LINE OF SANTA CLARA STREET, WHICH SAID POINT BEARS SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SANTA CLARA STREET 100 FEET FROM THE INTERSECTION OF SAID NORTHWESTERLY LINE WITH THE SOUTHWESTERLY LINE OF 13TH STREET, AND THENCE NORTHEASTERLY ALONG SAID NORTHWESTERLY LINE OF SANTA CLARA STREET 100 FEET TO THE POINT OF BEGINNING AND BEING A PORTION OF LOT 10 IN BLOCK 15 OF THE NAGLEE AND SAINSEVAIN ADDITION TO THE SAID CITY OF SAN JOSE.

APN: 467-16-091

PARCEL TWO:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF SANTA CLARA STREET, DISTANT 150.50 FEET WESTERLY FROM THE INTERSECTION OF THE NORTHERLY LINE OF SANTA CLARA STREET WITH THE WESTERLY LINE OF THIRTEENTH STREET; RUNNING THENCE NORTHERLY AND PARALLEL WITH THE WESTERLY LINE OF THIRTEENTH STREET NINETY (90) FEET; THENCE AT RIGHT ANGLES EASTERLY AND PARALLEL WITH THE NORTHERLY LINE OF SANTA CLARA STREET 63.50 FEET; THENCE SOUTHERLY AT RIGHT ANGLES AND PARALLEL WITH THE WESTERLY LINE OF THIRTEENTH STREET NINETY (90) FEET TO THE NORTHERLY LINE OF SANTA CLARA STREET AND THENCE ALONG THE NORTHERLY LINE OF SANTA CLARA STREET 63.50 FEET TO THE POINT OF BEGINNING, AND BEING PORTIONS OF LOTS FIVE (5) AND TEN (10) IN BLOCK FIFTEEN (15) OF THE NAGLEE AND SAINSEVAIN ADDITION TO THE CITY OF SAN JOSE, AS RECORDED IN [BOOK "A" OF MAPS, PAGES 72 AND 73](#), IN THE OFFICE OF THE RECORDER OF SANTA CLARA, CALIFORNIA.

EXCEPTING THEREFROM THAT PORTION THEREOF LYING WITHIN THE FOLLOWING DESCRIBED PARCEL:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY LINE OF SANTA CLARA STREET AND THE SOUTHWESTERLY LINE OF 13TH STREET; RUNNING THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE OF 13TH STREET, 115 FEET; THENCE AT RIGHT ANGLES SOUTHWESTERLY 90 FEET; THENCE AT RIGHT ANGLES SOUTHEASTERLY 90 FEET; THENCE AT AN ANGLE TO THE RIGHT OF 21° 48' A DISTANCE OF 26.92 FEET TO A POINT ON THE NORTHWESTERLY LINE OF SANTA CLARA STREET, WHICH SAID POINT BEARS SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SANTA CLARA STREET 100 FEET FROM THE INTERSECTION OF SAID NORTHWESTERLY LINE WITH THE SOUTHWESTERLY LINE OF 13TH STREET, AND THENCE NORTHEASTERLY ALONG SAID NORTHWESTERLY LINE OF SANTA CLARA STREET 100 FEET TO THE POINT OF BEGINNING AND BEING A PORTION OF LOT 10 IN BLOCK 15 OF THE NAGLEE AND SAINSEVAIN ADDITION TO THE CITY OF SAN JOSE.

APN: 467-16-092.

ATTACHMENT C

Legal Description of Option Property

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY LINE OF SANTA CLARA STREET WITH THE NORTHEASTERLY LINE OF THIRTEENTH STREET, FORMERLY TWELFTH STREET; THENCE NORTHEASTERLY ALONG THE NORTHWESTERLY LINE OF SANTA CLARA STREET 150.68 FEET, MORE OR LESS, TO THE MOST SOUTHERLY CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO JOSEPH SCHUPP BY DEED RECORDED ON OCTOBER 11, 1888 IN BOOK 107 OF DEEDS, PAGE 622, SANTA CLARA COUNTY RECORDS, SAID CORNER BEING DISTANT SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SANTA CLARA STREET, 100 FEET FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY LINE OF SANTA CLARA STREET WITH THE SOUTHWESTERLY LINE OF FOURTEENTH STREET, FORMERLY PRIEST STREET; THENCE LEAVING SAID SANTA CLARA STREET, AND RUNNING AT RIGHT ANGLES NORTHWESTERLY ALONG THE SAID SOUTHWESTERLY LINE OF THE PARCEL OF LAND CONVEYED TO JOSEPH SCHUPP, 100 FEET TO A POINT; THENCE RUNNING AT A RIGHT ANGLE SOUTHWESTERLY AND PARALLEL WITH THE NORTHWESTERLY LINE OF SANTA CLARA STREET, 150.68 FEET, MORE OR LESS, TO THE NORTHEASTERLY LINE OF THIRTEENTH STREET; THENCE RUNNING SOUTHEASTERLY ALONG SAID NORTHEASTERLY LINE OF THIRTEENTH STREET, 100 FEET TO THE POINT OF BEGINNING, BEING A PORTION OF LOT 5 AND A PORTION OF LOT 10, IN BLOCK 16 OF THE NAGLEE AND SAINSEVAIN ADDITION TO THE CITY OF SAN JOSE.

APN: 467-15-010