



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Paul Krutko

SUBJECT: See Below

DATE: April 3, 2009

Approved

Date

COUNCIL DISTRICT: # 3
SNI AREA: NA

SUBJECT

AMENDMENT OF BUSINESS TERMS FOR THE OPTION AND PURCHASE AND SALE OF THE AIRPORT WEST PROPERTY AND FOR ITS ECONOMIC DEVELOPMENT AND THE ADJACENT DEVELOPMENT OF A MAJOR LEAGUE SOCCER STADIUM.

RECOMMENDATION

Adoption of a Resolution:

1. Approving the revised business terms for the Amended and Restated Option Agreements and the Purchase and Sale Agreements with Coleman Airport Partners LLC and FWSH Partners LLC for the property located at 1125 Coleman Avenue.
2. Authorizing the City Manager or her designee to negotiate and execute an Amended and Restated Option agreement and a Purchase and Sale Agreement for the property located at 1125 Coleman Avenue for the development of a) 1.5 million square feet of office R&D development, 300 hotel rooms, 95,000 square feet of retail space and the required parking for all uses including a proposed stadium, and b) a soccer stadium on 14 acres.
3. Accept the updated Cost Benefit Analysis for the project.

OUTCOME

The Developers of the project, Coleman Airport Partners LLC and FWSH Partners LLC, have advised City staff that they wish to move forward with development of the site, but cannot

April 3, 2009

Subject: Amended Business Terms for the Option and Purchase and Sale of the Airport West Property

Page 2

proceed under the current terms of the agreement due to the downturn in the economy and lack of liquidity in the marketplace. Current economic conditions have virtually eliminated the demand for new construction in Silicon Valley of all product types including office, retail and residential. Approval of the proposed recommended actions will allow the development of the Airport West site to move forward despite difficult economic conditions, while minimizing or eliminating any negative impacts on the General Fund. The Airport West property would continue to be developed separately with a) 1.5 million square feet of office/R&D space, 95,000 square feet of retail space, and 300 hotel rooms development and b) a 14 acre parcel, slightly larger than the original 13.5 acre parcel, to be reserved for a 15,000 seat soccer stadium.

The developers have requested that the proposed projects will now be separated to allow the soccer stadium to proceed prior to development of the other portions of the site. The developers intend to use private equity and debt financing to construct the soccer stadium within a two- to three-year timeframe. The stadium project no longer requires that any action be approved for the iStar property to fund the stadium portion of the project.

BACKGROUND

In 2005, the City of San Jose purchased the 74.8 acre property located at 1125 Coleman Avenue from FMC. The property is now known as the Airport West property. The City's original intent was to purchase only 52 acres to support the Airport expansion program. FMC was unwilling to negotiate with the City for a partial acquisition of the site. In order to assist the Airport, the City acquired the additional 23.23 acres. The land was required for construction lay down, interim staff parking and off-Airport rental car operations. The long-term intention was to develop the entire site for airport and economic development purposes to support job and revenue generation.

The purchase price of the property in 2005 was \$25 per square foot, at a cost of approximately \$81.5 million dollars. The cost of the property to fund the transaction, related improvements to the property and other costs associated with the acquisition was \$100.5 million. The purchase was made in two installments. In February of 2005 approximately 52 acres of the property were purchased through the issuance of Lease Revenue Bonds in the amount of \$80,025,000 million dollars to fund the purchase price, improvements to the property and other costs associated with the acquisition. In May of 2006, the City drew on a HUD Section 108 loan in the amount of \$25.4 million to purchase the remaining 23.2 acre portion of the property. Site improvement costs required for the airport uses and financing costs, net of scheduled principal payments made through the current fiscal year, have brought the total debt on the property to approximately \$100.5 million. The HUD loan is secured by a portion of the FMC property, the City's CDBG allocation and additional City property. Debt service payments for the 23.2 acres of property purchased with the HUD loan are an obligation of the General Fund. Although debt service payments for the 52 acre property purchased with the lease revenue bonds are also a General Fund obligation, the Airport makes lease payments to the General Fund that are equal to the debt service associated with the 52 acre property. To cover these lease payments, the Airport has borrowed the funds by issuing commercial paper notes totaling approximately \$9.4 million through June 2008.

April 3, 2009

Subject: Amended Business Terms for the Option and Purchase and Sale of the Airport West Property

Page 3

In 2006, the Airport expansion program was decreased by 75% from \$4.5 billion to approximately \$1.5 billion. The Airport has used the 52 acres at Airport West for construction lay down and contract parking. This use is coming to an end with the completion of the Airport expansion construction program.

In June 2007, the City Council authorized staff to enter into an Exclusive Negotiations Agreement (ENA) to develop approximately 66 acres for economic development purposes including a soccer stadium. The remaining 9.3 acres had been identified in the BART expansion process as a potential location of a part of the train servicing yard as that site is adjacent at the end of the line proposed just east of the Airport West property in Santa Clara. The City's Municipal Code allows the private sale of property for economic development purposes. In May of 2008, a Memorandum of Understanding (MOU) between the City, Coleman Airport Partners, FWSH Partners, and Earthquakes Soccer was approved by the City Council. The MOU included the following terms:

- 66 of the 75 acres would be purchased by the developers for \$132 million, with a two-year option period ending in June 2010, when the City would receive a net amount of \$120 million.
- The Developers agreed to make option payments of \$6 million annually to cover the existing debt-service on the property during the escrow period. The \$12 million of option payments would be deducted from the \$132 million sale price.
- 13.5 acres of the 66 acres would be reserved for a soccer stadium. Stadium financing was in part contingent upon the proceeds of the sale of the iStar property if the property was converted from industrial and retail uses to residential use.
- The Developers agreed to purchase the remaining 9.3 acres of property at a price of \$18.6 million if VTA decided not purchase the property for a BART maintenance yard within the timeframes established in the MOU.
- Developers agreed to provide a Letter of Credit (LOC) in the amount of \$3 million. The LOC was intended to assist the City in covering debt service payments if the Developers terminated the transaction after the initial 90 days period, of any option period, allowing the City to pay some of the debt service while it conducted a Request for Proposals (RFP) process for disposition of the property.

ANALYSIS

Current Status of the Property

To date the Developers have paid \$6 million in required option payments and have provided the required Letter of Credit which is in effect until October 31, 2009. The Developers have made substantial investment in planning, design, and preconstruction work for development of the site. Over the last year, the Finance Department has strategically responded to market conditions and refinanced the outstanding debt on the portion of the property financed with lease revenue bonds. Debt service payments for the property are financed with variable rate debt and are currently less than the Developer's option payments. The Budget Office accordingly has reserved an amount

HONORABLE MAYOR AND CITY COUNCIL

April 3, 2009

Subject: Amended Business Terms for the Option and Purchase and Sale of the Airport West Property

Page 4

of \$2.3 million from the option payments to pay project debt service, in the event that additional option payments are not received.

In December 2008, Coleman Airport Partners and FWSH Partners notified the City that they would terminate the agreement prior to March 31, 2009 due to the changed economic environment making the current Agreement an unviable business transaction. A termination before March 31 would preclude the City from accessing the Letter of Credit. The City Council on March 24, 2009 approved the elimination of the Letter of Credit so that the City and Developers can continue to negotiate the new business terms for the Option Agreement and the Purchase Agreements. The Developers have requested that the City renegotiate the terms of the purchase of the property to reflect the downturn in the economy and related decrease in property values. The Developers are confident in the long-term viability of the site and want to move the project forward with renegotiated terms that reflect the near-term economy. The Developer's proposal does provide for the City to share some of the benefits of an upturn in the economy during the option period.

Near-Term Economic Conditions

Due to the global recession and credit crisis, construction of new office, R&D, and residential development is frozen across the nation. Land values across Silicon Valley have diminished precipitously, leasing activity has decreased significantly, and construction of most new projects has been placed on hold. Developers and tenants are conserving cash until such time that there is more liquidity in the market place and evidence of stabilization in major economic indicators.

In January upon learning of the Developer's unwillingness to continue under the current Agreement and request to restructure, staff decided to obtain a new appraisal as a basis for the new negotiated price for the Airport West property. The appraiser retained by the City, Carneghi, Blum and Partners is the same appraiser that conducted the November 2007 appraisal for the City. In preliminary work, Carneghi estimates that the property has lost one third of the value identified in the November 2007 appraisal. Under the current agreement, Coleman Airport Partners and FWSH Partners agreed to pay \$46 per square foot for the land for an overall value of approximately \$150 million for the entire 74.8 acre parcel. The city anticipates that the new negotiated price will be significantly less than the previous appraisal.

Outstanding Debt

In 2005, the City purchased approximately 52 acres with lease revenue bonds through the City's Financing Authority. The City obtained a HUD loan for the remaining 23.23 acres. The lease revenue bonds are secured by the 52 acres of the Airport West property and the HUD loan is secured by 23.23 acres of the Airport West property in addition to CDBG funds and additional City property. Additionally, the Airport issued \$9,467,000 in commercial paper notes, secured by Airport revenues, to make debt service payments to the General Fund associated with the Airport's use of 52 acres of land for construction lay down and contractor parking at the Airport West property. The debt secured by the property must be eliminated in order to complete a sale of the property. The unsecured commercial paper debt is not secured by the property, and could be paid by the Airport or other sources to be identified.

April 3, 2009

Subject: Amended Business Terms for the Option and Purchase and Sale of the Airport West Property

Page 5

Outstanding Debt Related to Acquisition and Use of Airport West Property
(As of march 31, 2009)

<u>Debt Instrument</u>	<u>Security/Source of Payment</u>	<u>Outstanding Debt</u>
Lease Revenue Bonds	Lease Payments on 52-acre	\$ 67,195,000
<u>HUD Section 108 Loan</u>	23-acre Property	<u>23,923,000</u>
Total Land-Secured Debt		\$ 91,118,000
<u>Airport Commercial Paper Notes</u>	Airport Revenues	<u>\$ 9,467,000</u>
Total Outstanding Debt		\$ 100,585,000

Revised Business Terms

Coleman Partners and FWSH Partners are proposing to purchase 64.5 acres for \$89,010,000. Staff is recommending Council approve this price and the following revised business terms:

- Developers could proceed first with purchase of a 14 acre site for the new Earthquakes stadium while continuing to option the balance of the site for future acquisition and development.
- The purchase price for the stadium is \$7 million. The stadium site would be sold with none of the development entitlement rights.
- Construction of the stadium would proceed within a two to three year period.
- The Developers anticipate the cost to build the stadium at \$50 million to \$60 million.
- The Developers would continue to option 50.5 acres for development of the 1.5 million square feet of office R&D, retail and hotel development.
- The option period for the commercial development would be extended to July 31, 2013.
- Option payments offered for the newly proposed four year period total \$7 million.
- Option payments under the new agreement would not be applicable to the purchase price and are non-refundable.
- \$5 million of the \$6 million previously paid by the developer to date would be applied to the purchase price consistent with the terms of the existing agreement.
- Proceeding with the stadium is no longer dependent on conversion of the iStar property from industrial to residential uses. The Developers have indicated that they may bring forward a request to convert the iStar property at a later date as a stand alone project.
- The Developer would not be required to purchase the 9.3 acres that has been previously identified for BART related uses.
- If the Developer exercises the option to purchase after January 1, 2011 the City shall have the right to reappraise the property. If the property increases in value the City would receive 50% of the increased value up to a cap of \$10 per square foot. If the property is appraised

April 3, 2009

Subject: Amended Business Terms for the Option and Purchase and Sale of the Airport West Property

Page 6

after 2012 the City shall receive 60% of the increased value up to a cap of \$12 per square foot.

The City will need to discuss the new revised business terms with HUD to obtain consent to sell a portion of the property which secures the HUD obligation. Sale of the 9.3 acre parcel would similarly require the approval of Bank of America, the entity that holds the Letter of Credit for the 52 acre parcel supporting the City's lease revenue bonds.

Cost Benefit Analysis

In 2008, staff prepared a Cost Benefit Analysis for the proposed Airport West project. The report, conducted by Economic & Planning Systems (EPS) and Sports Economics, identified approximately \$2 billion in economic impact and showed that the project had a net fiscal benefit to the City and Redevelopment Agency.

At staff's request, EPS has updated the Cost Benefit Analysis (CBA) with the revised terms. The updated report is attached to this memorandum. The updated report is conservatively based on the same scenarios used to prepare the original Cost Benefit Analysis. The Developers have indicated that they would not move forward with a request for conversion of the iStar industrial commercial property to residential use at this time. Staff has subsequently included below an analysis excerpted from the updated CBA. The data outlined below shows only the impacts of development at the 74.8 acre parcel, with or without stadium development. It is important to note that the 74.8 acre parcel is entitled for 1.5 million square feet of office R&D development, 300 hotel rooms and 95 square feet of retail, regardless of a stadium development. Inclusion of the stadium yields the same amount and type of development but at greater density.

Airport West Development Fiscal impact on the General Fund

Report	No Stadium	W/Stadium	Difference
Feb 2008-Net. G.F.	\$1,884,000	\$2,116,000	\$232,000
March 2009 Net G.F.	\$1,579,000	\$1,775,000	\$196,000

The fiscal impacts yielded from the proposed project with the stadium are greater due to increased revenues anticipated from stadium activity. The loss in anticipated revenues between the 2008 report and current time frame relates to anticipated decrease in property tax, sales tax, and transient occupancy tax from the project. It is important to underscore that even with the changed economic conditions the impacts to the General Fund for the project remain positive, and are greater with the stadium as a component of the project.

One Time Construction Jobs

Report	No Stadium	W/Stadium	Difference
Feb 2008-Jobs	5,040	5,710	670
March 2009-Jobs	4,750	5,180	430

April 3, 2009

Subject: Amended Business Terms for the Option and Purchase and Sale of the Airport West Property

Page 7

The reduced number of jobs associated with the stadium occurs because the anticipated value of the stadium has diminished from \$100 million to \$60 million. The developers are proposing a more soccer specific “European” style stadium design. On-going jobs related to the proposed Airport West are estimated to remain the same at 5,000 sustained jobs.

Annual Economic Impact

Report	No Stadium	W/Stadium	Difference
Feb 2008-Direct Economic Impact	\$1,337 billion	\$1,399 billion	\$62 million
March 2009-Direct Economic Impact	\$1,416 billion	\$1,479 billion	\$63 million

* The Economic Impact modeling used by Economic & Planning Systems assumes the project is fully built out and includes inflationary impacts.

Economic Impact focuses on not only the direct income, spending and jobs associated with the development but also measures how those dollars flow through the economy, generating multiplier effects. Thus the total economic impact of adding a stadium to the Airport West development generates approximately \$62 million in additional annual spending. Note the higher values in 2009 are due to inflation variables in the analytic model.

City Council Decision

At this point in time, the City Council has two options on how to proceed:

- 1) The first is to restructure the original agreement to allow a 1.5 m square foot economic development project and the major league soccer stadium to proceed with revised terms.*
- 2) The second would be to allow the current agreement to terminate and to issue a Request for Proposals for the property. The following section analyzes these two options.*

Option 1 – Accept Developer’s Revised Proposal

The national and world economy has changed dramatically since the City entered into an exclusive negotiations agreement with the Developers in June 2007 and since the Council approved the original agreement in May 2008. The Developer’s proposed restructuring reflects this changed reality and the reduction in the site’s value in the last year.

Given the Developer’s independent financial capacity and proven track record for delivering projects, the fact that the Developers wish to continue with the project based on the strength of the site and a longer-term vision for continued prosperity in San Jose represents an important opportunity during this recession. The new proposal creates the opportunity for the Earthquakes Stadium to move forward without depending on a conversion of the i-Star property, providing much needed counter-cyclical investment and job creation in San Jose.

If the soccer stadium does not proceed on the 14 acre parcel, the developer would have the right to move forward with the economic development project. In that case a proportionate amount of the office R&D, hotel, and retail entitlement would be reserved for the 14 acres. A corresponding reduction in the purchase price for the 50.5 acre development parcel would also

April 3, 2009

Subject: Amended Business Terms for the Option and Purchase and Sale of the Airport West Property

Page 8

occur. Alternatively, the 14 acres could be reappraised if the stadium project was terminated and the property could be offered to the Developers. The Developers could seek to add additional entitlement to the 14 acre parcel.

In addition, the new proposal separates the construction of the stadium from a request to convert the 78 acre iStar property in Edenvale from industrial to residential development. The proposal recognizes also that, though the site has depreciated quickly, the site may also appreciate quickly once markets stabilize. The proposed new terms allow for a reappraisal of the property in 2011 or 2012 if the Developer has not yet completed acquisition of the property, enabling the City to recoup some of the additional increase in value and providing the developer an incentive for timely progress on the project.

The revised proposal provides the following key benefits:

- Developer to pay current market value for the property.
- Revised terms and proposed structure of the overall transaction protects the General Fund to the greatest extent possible.
- The stadium would be 100% privately financed.
- If the Developer's do not close escrow on the property prior to 2011, the property will be re-appraised and the City will share in any appreciation of the property.

The purchase price under the current agreement was sufficient to pay current debt service during the option period and pay off all secured debt as well as the unsecured debt. At that point, the City would have owned the 9.3 acres identified for the BART service yard for VTA, free and clear. That would not be the case under the Developer's revised proposal due to the downturn in economic conditions and the reduced value of the property as a whole.

The *revised proposal* offers a reduced purchase price of \$89,010,000 and a reduced amount for option payments. This is the developer's minimum bid and the City would not receive less than the Developer's offer. The City may receive additional dollars through a reappraisal if the Developer delays exercising their option after January 1, 2011. The City would credit \$5 million of the option payments paid to date to the purchase price, yielding the City \$84 million. In addition to the purchase price, the developer would pay up to \$7 million in option payments over the four year option period (through July 2013.) The \$7 million in option payments would be attributed to the 50.5 acre economic development parcel. A nominal option payment would be attributable to the 14 acre soccer parcel in light of the changed economic circumstances and the stadium's public purpose. The option payments are not applicable to the purchase price. Factoring in the option payments, the total amount paid to the City for the 64.5 acres would be \$91 million, at the end of the four year option period.

In order to provide the required debt service payments through 2013, staff could apply the \$2.3 million reserved by the Budget Office in addition to applying the proceeds from the sale of the 9.3 acre parcel and the 14 acre soccer parcel. Debt service payments anticipated for the 2009-2013 option period are approximately \$23 million. The following table summarizes this information:

April 3, 2009

Subject: Amended Business Terms for the Option and Purchase and Sale of the Airport West Property

Page 9

Sale Proceeds Applied to Debt Service

Fiscal Year	Sales Proceeds	Conexus Option Payments (\$7 million)	Debt Service ³	Cumulative General Fund Impact	Outstanding Debt
2009-2010	\$10,130,000 ¹	0	3,535,449	+8,894,551	99,577,000
2010-2011	\$7,010,000 ²	1,000,000	6,234,153	+10,670,398	98,539,000
2011-2012	0	2,500,000	7,814,033	+5,356,365	95,860,000
2012-2013	0	3,500,000	7,805,137	+1,051,228 ⁴	93,030,000

¹ 9.3 acre BART parcel

² 14 acre stadium parcel

³ City Debt Service paid from sale proceeds, no principal pay down

⁴ \$1.25 million of the FY 2008-09 (\$2.3 million) Option Reserve applied in FY 2012-13

Alternatively, the City could use the proceeds of the sale from the 9.3 acre parcel and the 14 acre parcel to reduce the secured debt on the property immediately. Outstanding debt service payments would be made from the General Fund. The Budget Office has already included the anticipated debt service payments in the 2010-2014 General Fund Forecast. The following table summarizes how the transaction would work if sales proceeds are used to pay down the secured debt.

Sale Proceeds Applied to Secured Debt

Fiscal Year	Sales Proceeds	Conexus Option Payments (\$7 million)	Debt Service ³	Cumulative General Fund Impact	Outstanding Debt
2009-2010	\$10,130,000 ¹	0	940,404	(940,404) ⁴	82,437,000
2010-2011	\$7,010,000 ²	1,000,000	5,321,805	(5,262,209)	81,399,000
2011-2012	0	2,500,000	6,899,185	(9,661,394)	78,720,000
2012-2013	0	3,500,000	6,892,789	(13,054,182)	75,890,000

¹ 9.3 acre BART parcel

² 14 acre stadium parcel

³ Principal paid down from sale proceeds

⁴ \$2.3 million of the FY 2008-09 Option Reserve applied in FY 2009-10

The total amount of revenue received by the City will depend in part upon the timing of the close of escrow for the 50.5 acre development site. If escrow closes after 2011 or 2012 the property will be reappraised and the City may receive revenues in excess of the approximately \$84 million currently offered for the site. Final revenue to the City will also depend on the price paid

HONORABLE MAYOR AND CITY COUNCIL

April 3, 2009

Subject: Amended Business Terms for the Option and
Purchase and Sale of the Airport West Property

Page 10

for the 9.3 acre parcel previously identified for use by VTA for BART in the near term. Staff is exploring options for the disposal of the property.

If the economy improves over the escrow period, it is possible that the revenues obtained for the Airport West property will be sufficient to pay the debt service associated with the HUD loan for the 23.23 acre parcel and the bonds associated with the 52 acre parcel, but not sufficient to retire the approximately \$9.4 m in commercial paper notes incurred by the Airport. The Council could direct the Airport to pay the commercial paper note from Airport revenues or pay the note directly from the General Fund. Staff will bring forward a recommendation concerning the Airport's commercial paper obligation at the point in time the Developers exercise the purchase option.

Option 2 – Request for Proposal

The City could decide to allow the Developers to terminate the existing agreements and proceed with a Request for Proposals (RFP) for the property. The national and world economic situation described above make this approach more problematic than it would have been a year ago. Given the poor economic environment, it is highly unlikely that another developer will offer a comparable market acquisition price and cash for the property. The current developers have an incentive to work with the City as they have already paid \$6 million in option payments. Failure to reformulate the agreement would cause the Developers to forego the already paid option payments. In addition, a portion of the Developer team owns or represents the property immediate to the north and south of the City's 74.8 acre property, significantly adding to the value for the current Developers. It is more likely that a new development proposal will offer less revenue commensurate with the economic climate, while also offering low option payments for a period of time while the developer selected through an RFP proceeds to identify tenant companies to occupy buildings that it would build on the site.

The RFP process will conservatively require six to eight months to complete. Negotiations with a new development partner will likely require an additional six months. The General Fund would be obligated to pay debt service payments for the property during the RFP and negotiation period. As noted above the City has reserved \$2.3 M for future debt service payments. Choosing the option to RFP the property would likely result in an immediate negative impact to the General Fund and potentially diminish the revenue received from the sale of the property.

STAFF RECOMMENDATION

It is recommended to the City Council that the current agreement be restructured with the revised business terms described above.

April 3, 2009

Subject: Amended Business Terms for the Option and Purchase and Sale of the Airport West Property

Page 11

EVALUATION AND FOLLOW-UP

The City Manager, or her designee, as directed by the City Council will either proceed to negotiate and execute appropriate documents to restructure the current agreement based on the business terms outlined above or to initiate a request for proposals. If directed to initiate an RFP, that work would proceed immediately. If any of the project business terms need to be changed, staff will return to City Council for authorization.

POLICY ALTERNATIVES

Alternative: The City Council could direct staff to terminate the agreement with the current applicants and further direct staff to conduct a Request for Proposals (RFP) process for the Airport West Property.

Pros: The City could receive a higher price for the Airport West Property.

Cons: In the current economic climate, particularly in light of the difficulty obtaining real estate financing, it is not likely a greater price for the Airport West property could be obtained.

Reason for not recommending: The proposal being considered offers the City counter cyclical investment in a \$50-\$60 million dollar stadium and related construction jobs, securing a professional Major League Soccer team, and continues the partnership with Developers who have proven experience and access to capital that will be to quickly move forward with full development of the project when economic conditions improve.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.

This memorandum will be posted on the City's web site and the Office of Economic Development's website (www.sanjoseca.gov).

COORDINATION

This memorandum was coordinated with the City Attorney's Office, the Airport, and the Finance Department,

April 3, 2009

Subject: Amended Business Terms for the Option and Purchase and Sale of the Airport West Property

Page 12

FISCAL/POLICY ALIGNMENT

The project aligns with the City's Economic Development Strategy #11 "Revise Key Land Use and Transportation Policies to Reflect the new Realities for the San Jose Economy", and Strategy #12, "Encourage Sporting Teams, Events, and Facilities, Professional as well as Amateur"

COST SUMMARY/IMPLICATIONS

Option Period

The severe economic downturn causes the City to consider difficult choices related to the proposed renegotiation of the Airport West project. As described above, the Developers desire to move forward with the project at a reduced purchase price of \$84 million for 64.5 acres of land and reduced option payments in the amount of \$7 million over a four year period. The debt service costs required through 2013 are anticipated to be approximately \$23 million. Staff has indicated that the application of the \$7 million in the Developer's option payments, the application of the \$2.3 million in General Fund reserves plus the application of the sale proceeds from both the 14 acre soccer parcel and the 9.3 acre parcel previously identified for use by BART could eliminate any impact to the General Fund in the short term to cover debt service prior to the sale of the 50.5 acre development parcel. There is potential risk to the General Fund in that purchase of the soccer parcel and the 9.3 acre parcel could be delayed and the amount obtained for the 9.3 acre parcel could be insufficient, causing the General Fund additional expense. An alternative approach would be to apply revenue generated through the sale of the 14 acre soccer stadium and the 9.3 acre parcel to pay down the secured debt. In this scenario the General Fund would pay for outstanding debt service payments until such time as the remaining 50.5 acres are sold. The Budget Office has already assumed debt service costs associated with the property in its current budget forecast.

Sale of the Property

As discussed above, the City has existing secured debt of \$91.1 million dollars for the 74.8 acre Airport West property. The Developer's proposed revised purchase price for the 64.5 acres of the property is \$89 million. \$5 million of the \$6 million previously paid by the Developers will be applicable to the purchase price at closing, so the total amount of revenue paid by the Developers for the property, if the property closed escrow prior to 2011 would be \$84 million. It should be noted that the City will proceed to dispose of the 9.3 acres through a separate process. As has been discussed above, the Airport has borrowed an additional \$9.4 million to cover its lease payments during the Airport construction period. To pay off the secured debt and commercial paper. If the sale of the 9.3 acres does not yield the sufficient amount, it may be necessary for the Airport to make payments to cover its commercial paper debt.

HONORABLE MAYOR AND CITY COUNCIL

April 3, 2009

Subject: Amended Business Terms for the Option and
Purchase and Sale of the Airport West Property

Page 13

The best case scenario for sale of the property would entail the Developer's purchasing the property as early as possible, limiting the City's carry costs on the property. The worst case scenario for the property would involve sale of the soccer and 9.3 acre parcels, application of the proceeds of those sales to debt service payments without subsequent sale of the property to the Developers. In this instance, diminished parcel size against the remaining debt for the full 74.8 acre parcel would represent the greatest risk of future indebtedness associated with the remaining 50.5 acre parcel. It is important to note that the smaller 50.5 acres retains all of the development entitlement that is currently spread across the 74.8 acres.

As discussed above, the option to RFP the property in this economic climate, in staff's opinion, represents an even greater risk to the City. The current developers are motivated to protect the investment they have already made in the site. In addition the developers have adjacent land holdings and stand to benefit from control over larger land holdings in a premier location near downtown San Jose and the Airport. Staff believes that responses to a hypothetical RFP will in all probability yield a developer who will offer a similar option arrangement at a significantly reduced price than that currently being offered by the current Developers. Option payments are also likely to be further reduced and the General Fund will be obligated to shoulder debt service payments during the RFP and negotiation period for the 74.8 acre property.

CEQA

CEQA: EIR Resolution No. 71716, File No: PP08-093

PAUL KRUTKO
Chief Development Officer

For questions please contact Paul Krutko, Chief Development Officer, at (408) 535-8181.