

Date: January 28, 2008

Committee Meeting Date: January 17, 2008

Board Meeting Date: February 7, 2008

BOARD MEMORANDUM

ACTION ITEM

TO: Santa Clara Valley Transportation Authority
Board of Directors

THROUGH: Michael T. Burns
General Manager

FROM: John H. Ristow
Chief CMA Officer

SUBJECT: West San Carlos Joint Development – Extension of Exclusive Negotiating
Period with Developer

Policy-Related Action: Yes

Government Code Section 84308 Applies: Yes

RECOMMENDATION:

Authorize the General Manager to extend the exclusive negotiating period with Green Republic, LLC, the selected developer on the West San Carlos Joint Development Project, for up to 180 days (to June 27, 2008).

BACKGROUND:

On August 2, 2006, the VTA Board of Directors selected Green Republic, LLC as the selected Developer for the West San Carlos Joint Development site. At its March 2007 meeting, the Board authorized the General Manager to enter into an Exclusive Negotiating Agreement (ENA) with the Developer in accordance with VTA's Joint Development Program Policy. The ENA commits VTA and the Developer to negotiate exclusively with each other, in good faith, over a specific period of time, to arrive at the terms of a Disposition and Development Agreement (DDA). It is anticipated that this DDA will result in the sale of the West San Carlos property to the Developer for construction of a residential housing and retail project that will achieve the goals of the Joint Development Program, while providing benefits to the community and setting high standards for future Transit-Oriented Development throughout the region. The original ENA negotiating period was extended by the General Manager, under the provisions of the ENA, to the end of 2007.

DISCUSSION:

Since the Board's approval of the ENA, the Developer and VTA have met regularly to fulfill the requirements of the ENA and negotiate the terms of the DDA. The negotiating process has been

interactive, cooperative and collaborative. However, recent downturns in the residential real estate market have presented the development team with significant challenges to formulate a practicable project concept that will achieve the Developer's and VTA's financial goals as well as the design expectations of VTA and the City.

In order to provide adequate time for VTA and the Developer to finalize and agree upon the design concepts for the Project in terms of the site plan, building height and mass, retail space, public areas, and the number and mix of residential units, staff is recommending that the General Manager be given the authority to extend the ENA period, in his discretion, for up to 180 days (to June 27, 2008). This extension will allow sufficient time for the development team to finalize the design concepts and financial terms of the transaction.

Next Steps

The Developer will be required to deliver a final concept plan to VTA no later than February 22, 2008. Following successful negotiation of a DDA and its approval by the VTA Board, the Developer will continue with its community outreach and needs ascertainment efforts and will move forward with the City of San Jose entitlement approval process to secure the necessary agreements, general plan amendments, rezoning, or development permits. This process will include an extensive public involvement process, environmental clearance, City staff review and conditioning of the development permit. While these entitlement activities will be the responsibility of the developer, VTA will remain involved as a partner in this joint effort, in accordance with the terms to be contained in the DDA.

ALTERNATIVES:

The Board may choose not to grant the request.

FISCAL IMPACT:

There is no fiscal impact to granting the extension. Not granting the extension, however, will result in a cessation of the DDA negotiations, forcing VTA to either seek negotiations with the second development team selected or re-issue a Request for Proposals for the site, resulting in considerable delays in the ultimate development of the site.

STANDING COMMITTEE DISCUSSION/RECOMMENDATION:

The Congestion Management Program & Planning Committee met as a Committee of the Whole, with Members Kniss and Kishimoto in attendance, on January 17, 2008, and by consensus recommended that this item be forwarded to the Board of Directors. Discussion centered on the need for this extension given the amount of time and effort invested by VTA thus far, and the reality of the current economic conditions.

Prepared by: Chris Augenstein, Deputy Director, Planning