

CERONE TRANSIT-ORIENTED DEVELOPMENT

Request for Proposals

By Respondents Pre-Qualified via RFQ



REQUEST FOR PROPOSALS

Cerone Transit-Oriented Development Project

Proposals must be submitted to:

Santa Clara Valley Transportation Authority
ATTN: Josselyn Hazen
3331 North 1st Street, Building A, San José, CA 95134

DEADLINE: Submit by 4:00 PM PT on November 8, 2019.

This Request for Proposals is open only to invited teams that successfully met the qualifications outlined in the Cerone Property Request for Qualifications, which closed on July 26, 2019.

Respondents that successfully qualified for this opportunity during the Qualification stage have been notified of their eligibility to submit a proposal.

Note Regarding the Public Records Act:

The California Public Records Act (California Government Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the material submitted may be made available to the public.

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RFP Schedule

Pre-Qualified Developers notified of Eligibility to submit
Deadline for RFP Written Questions
VTA Response to RFP Written Questions
RFP Submittal Deadline
RFP Interviews (*subject to change*)
VTA Selection of Qualified Developer (*subject to change*)

August 16, 2019
September 20, 2019
October 4, 2019
November 8, 2019
Week of November 18, 2019
January 2020

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1. Introduction

The Santa Clara Valley Transportation Authority (“VTA”), a California special district, issued a Request for Qualifications (“RFQ”) on May 29, 2019 to create a high-quality commercial development (“Project”) for the approximately 28.8 acres of the Cerone site located at the southeast corner of Zanker Road and State Route 237, San José, CA 95134 (“Property”). The general layout of the Property is shown in [Figure 1](#).



Figure 1. Property

At the conclusion of the RFQ solicitation period, three responsive statements of qualifications (“SOQs”) were received from development teams (individually a “Respondent” and in the plural, “Respondents”). Having successfully met the requirements of the RFQ, the qualified Respondents are now invited to submit a proposal (“Proposal”) consistent with this RFP.

Each Proposal must address and meet all of the submittal requirements described in [Sections 4](#) and [5](#), below, and will be evaluated as described in [Section 6](#).

A. Site and Project Summary

The Property is located at the southeast corner of Zanker Road and State Route 237 in San José, California. The roughly 28.8 acre site is generally flat, and is currently used as part of VTA’s Cerone Maintenance Facility. It consists of portions of APNs 097-04-020 and 097-04-037, as shown in [Figure 2](#).

VTA intends to offer the Property for development under a long-term ground lease from VTA. VTA intends to enter into an Exclusive Negotiations Agreement (“ENA”) with the selected Respondent (who may be a single developer or an affiliated group of developers and/or contractors) whose qualifications and development Proposal VTA



Figure 2. Assessor Parcel Nos.

deems to be best suited to achieve the objectives described in this RFP (“**Developer**”). Successful completion of negotiations will lead to VTA's and Developer's execution of a Lease Option Agreement (“**LOA**”) for the Property, and execution of a long-term ground lease with a maximum term of 65 years.

B. Objectives

VTA is seeking Proposals that will:

- Generate revenue to support VTA operations by obtaining fair market value ground rent on the agency's real property assets. VTA is looking for Proposals that maximize VTA's ground rent revenue and are consistent with VTA's Joint Development Policy (**Appendix 5**).
- Support the City's job creation goals for the North San José Employment Land Area as stated in the General Plan (**Appendix 7**).
- Create a vibrant, state-of-the art, high-value commercial development, which can include a variety of uses such as industrial, office, creative office/industrial, hospitality, and retail. Provide outstanding urban design and utilize green and sustainable design to minimize vehicle and building-related greenhouse gas emissions.
- Relocate and provide continued access to VTA bus yard operations in an efficient and cost-effective manner.
- Enhance transit connectivity by working with VTA to create a dedicated bus lane and additional bus stops that will serve the Project.
- Contribute to the City's traffic mitigation efforts, as required by the City.
- Provide community workforce opportunities, including workforce re-entry programs and/or workforce apprenticeship opportunities that would create access to construction careers.

VTA encourages Respondents to think creatively about how to best meet VTA's objectives for the Project as described above. VTA is willing to consider any approach that would accomplish its objectives in a superior manner.

2. Site Description

A. Location

Figure 3 shows the Property's location in the larger region. The Property is located in a high-profile location along the State Route 237 corridor between Milpitas and Santa Clara. It lies within the Silicon Valley's "Golden Triangle," which contains a major concentration of technology sector employment and has experienced a high level of new development and redevelopment over the past few years.



Figure 3. Regional Context Map

The City of San José ("City") defines North San José as the area bounded by State Route 237 on the north, Interstate 880 or Coyote Creek on the east and south and the Guadalupe River to the west. North San José is a largely commercial area characterized by low-density office and industrial parks and campuses.



Figure 4. Nearby Commercial/Industrial Investments

As one of San José's most significant employment hubs, North San José has been the focus of City planning efforts to modestly intensify commercial and limited residential uses (these efforts are described in greater detail in the following section). The Property is located approximately five miles from the San José International Airport and eight miles from Downtown San José. Figure 4 shows the commercial and industrial investments nearby.

B. Surrounding Land Uses

The Property is largely undeveloped, aside from VTA employee parking and ancillary facilities that will have to be relocated during the Project. It is bounded by State Route 237 to the north, Zanker Road to the west, office park development to the south - occupied by Cisco, and VTA's Cerone Maintenance Facility to the east. The Property is surrounded by a mix of land uses. To the west of the Property there is a collection of business parks and the Westwinds mobile home park (note: VTA anticipates working with the Developer to engage with the residents of Westwinds during the project planning process). The area to the north contains vacant land, and the City of San José Water Pollution Control Facility, and Calpine's Los Esteros power generation plant. A vacant parcel to the northeast of the Property is owned by Microsoft and the company has indicated that it plans a light industrial center that would include a data center complex. To the east is the Cerone Maintenance Facility, and beyond that, Coyote Creek and the McCarthy Center business park. A major Cisco campus is located directly south of the Property. Many of the business parks in the general area have been recently renovated or are currently undergoing renovation.

C. Property Connectivity, Access, and Visibility

Access to the Property is provided via two existing driveways along Zanker Road that align with the intersections of Zanker Road with Holger Way and Baypointe Parkway. The Property is situated in the eastern end of San José near San José's northeast border with Milpitas. The Property is approximately 1.3 miles from I-880 to the east, approximately one mile from North First Street and five miles from Highway 101 to the west.

The Property has extensive frontage on Zanker Road giving it good visibility. The average daily traffic count for Zanker Road north of River Oaks Parkway is approximately 12,500 vehicles. It has limited frontage on State Route 237 and while the Property has some visibility from this highway, a berm supporting the east-bound on-ramp to State Route 237 blocks visibility into the northwest corner of the Property. State Route 237 has an average daily traffic count of approximately 134,000 vehicles.

D. Current and Future VTA Functions at Cerone

The Cerone Operating Division is responsible for the day-to-day operations and maintenance of a portion of the existing VTA bus fleet.

The Cerone Maintenance Facility includes sufficient storage capacity to accommodate 204 buses, however VTA currently stores and maintains only 148 buses at this facility. The facility is also home to VTA's Overhaul and Repair (O&R) Division, bus stop maintenance staff, as well as a portion of the paratransit vehicle fleet storage and office space. The O&R Division manages the heavy maintenance and repair of the entire VTA bus fleet including buses housed at the two other VTA bus facilities (North Yard and Chaboya Divisions).

Bus dispatch in the morning begins at 5:00 am and reaches its peak between 6:00 am and 7:00 am, with over 60 buses dispatched between 5:00 am and 7:00 am. The second peak dispatch time occurs between 1:00 pm and 3:00 pm.

The Cerone Maintenance Yard will continue to be active after the completion of the Project on the developable portion of the Property. In the future, VTA plans to intensify VTA's usage of the portion of the Property that will be retained by VTA. Under VTA's 2010 Facility Master Plan, parking and support areas that are currently outside the fence that encloses the Cerone Division as well as the parking areas currently located on the Property, will be relocated by VTA at the expense of the Developer to an area at the southeast corner of the Cerone Maintenance Yard (an illustrative concept is shown in Figure 5). The Developer will also be expected to incorporate a dedicated bus lane into the Project plans as well as new bus stops serving the Project; the bus lane and new bus stops will be created at the Developer's expense.



Figure 5. Facilities Optimization Plan, Phase 1

3. Development Process

A. Existing and Potential New Entitlements

The Property is split between two General Plan designations: the northern portion of the Property is designated CIC-Combined Commercial and Industrial and the southern portion of the Property is designated IP-Industrial Park. Under the Zoning Ordinance, the entirety of the Property is zoned as IP-Industrial Park.

According to the North San José Area Development Plan, properties located outside the Core Area are granted allocation up to a floor area ratio (FAR) of 0.4. However, as stated in the North San José Area Development Plan, such properties can exceed 0.4 FAR if they meet defined criteria in the Policy, such as exceptional architecture design treatments and Transportation Demand Management (TDM) measures. VTA seeks to maximize densities for all uses on the Property and will encourage the Developer to work with the City to maximize FAR on the Property beyond the City’s base entitlement of 501,811 square feet.

General Plan:

CIC-Combined Industrial/Commercial. The CIC-Combined Industrial/Commercial General Plan designation allows a floor area ratio up to 12.0 (one to 24 stories). It is a highly flexible category that accommodates office, industrial, and some retail uses (or mixes of these uses) at varying intensities. The designation discourages small-scale retail, such as suburban strip-centers, but allows larger, big-box projects because they blend the forms and uses of retail and warehouses. The General Plan acknowledges the broadness of the designation and defers to the Zoning Ordinance on matters of use and form at specific sites.



Figure 6. General Plan Designations

Industrial Park. The IP-Industrial Park General Plan designation allows a floor area ratio up to 10.0 (two to 15 stories). It accommodates a diverse collection of industrial users, including research and development, manufacturing, and offices. Unlike the City’s Light Industrial and Heavy Industrial categories, the Industrial Park designation allows hazardous or nuisance-producing uses only if their impacts can be mitigated through design controls. It also has much

more stringent performance and design standards under the Zoning Ordinance than other industrial uses. It differs from the Combined Industrial/Commercial designation in that it limits commercial uses, such as retail, to those that serve the businesses and employees of the immediate area and, preferably, that are integrated within a predominantly industrial development. However, as enabled by the North San José Retail and Amenity Strategy, additional flexibility may be provided for retail and service commercial uses within the North San José Development Policy area through the City’s discretionary review and permitting process.

Zoning:

Industrial Park. Like the Industrial Park General Plan designation, IP-Industrial Park zoning allows “a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices.” It permits building heights up to 120 feet. Commercial support uses are permitted upon meeting specific criteria.

Warehouse-style retail is conditionally permitted. When overlaid with a Combined Industrial/Commercial General Plan designation, as it is on the northern parcel of the Cerone Site, Industrial Park zoning permits a “broader range of uses such as retail, church/religious assembly, social and community centers, recreational uses, or similar uses” that do not compromise the overall industrial character of the area. Hotel uses are also conditionally permitted on properties with the Combined Industrial/Commercial General Plan designation.



Figure 7. Zoning Designations

Additional Relevant Policies

The following policies and designations also affect the Property.

- **North San José Employment Land Area.** Under San José’s General Plan (**Appendix 7**), the property is part of the North San José Employment Land Area.
- **North San José Area Development Policy (ADP) (Appendix 8)**
- **North San José ADP Neighborhoods Plan (Appendix 9)**
- **North San José Urban Design Guidelines (Appendix 10)**

B. Easement Requirements

There are a variety of existing easements primarily in the northern and western frontages of the Property, including but not limited to property rights held by Caltrans for State Route 237; the City of San José for North First Street roadways, sanitary sewer lines, and water lines; and PG&E along North First Street for electric lines. All Respondents must independently review (with their own counsel and/or consultants in their discretion) all easements and title conditions to fully understand the status of title for the Property.

Figure 8, below, contains an illustration of those existing easements discussed above; in addition, two significant easements, are discussed in subsections 1 and 2 of this Section B.

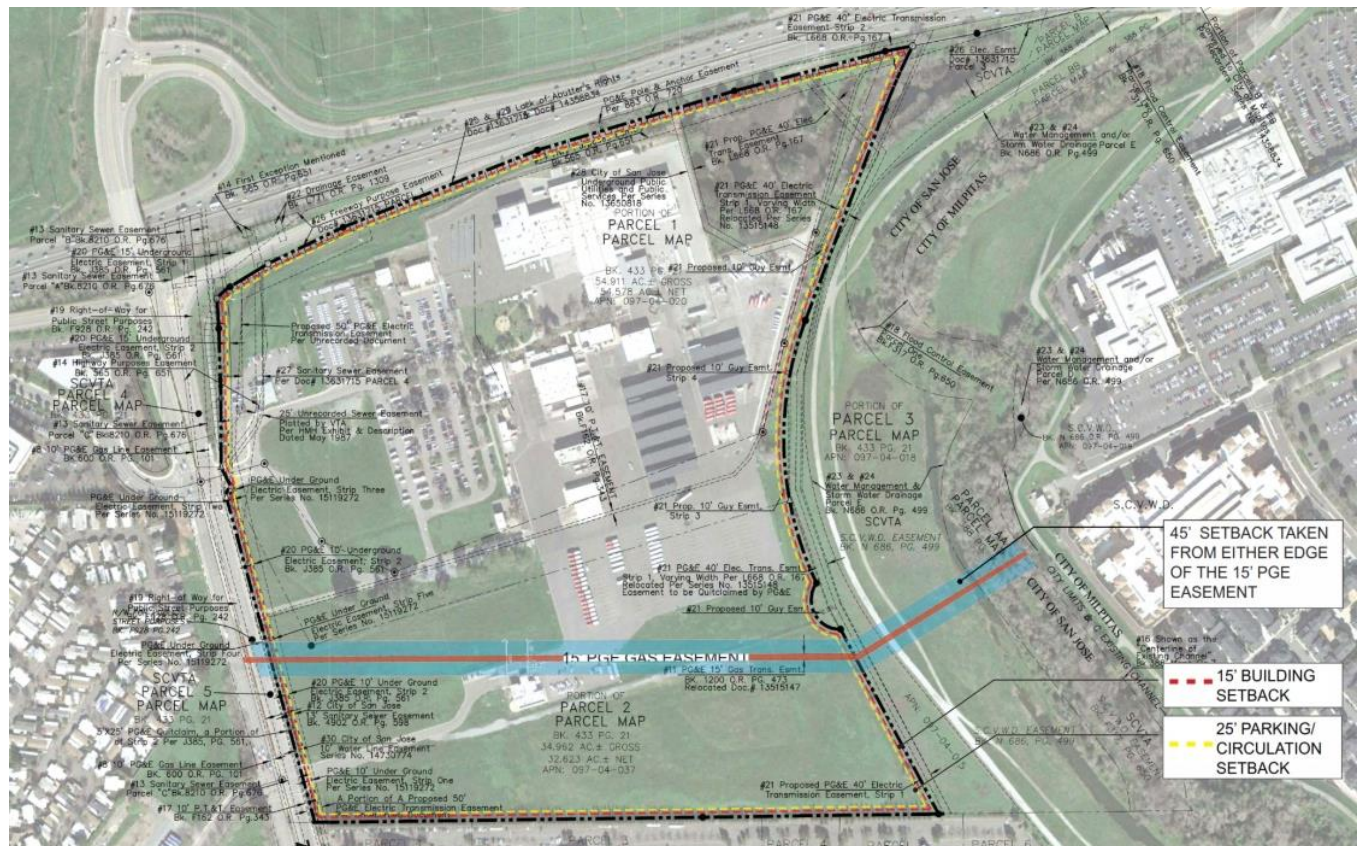


Figure 8. Cerone Property Easement Exhibit

1. Pacific Telephone and Telegraph. An easement issued to Pacific Telephone and Telegraph, the predecessor to AT&T, runs from east to west across the middle area of the Property. This is an old easement that VTA understands to contain cabling connecting local telephone service centers.

2. PG&E High Pressure Gas Line. Pursuant to rights granted under an easement, a PG&E high pressure natural gas distribution pipeline currently passes through the southern portion of the Property from Zanker Road to the eastern edge of the riparian corridor (see Figure 8), and is located in the area zoned IP, north of the current main access road to the Cerone Maintenance Facility. No buildings or structures can be built above this gas line, and a 45' separation must

remain between the pipeline and adjacent buildings. Because of this, it is anticipated that the area above the pipeline would be used for landscaping, parking, or internal access roads for any new development. PG&E recently replaced the pipeline to meet current standards and VTA is informed that PG&E does not intend to relocate this high pressure pipeline elsewhere on the Property or expand the width of the existing easement. However, all Respondents will be responsible for independently verifying PG&E's intentions.

3. Reserved Access to Support Ongoing and Future VTA Operations. Please refer to Section 2, Part D for an overview of current and future VTA functions at the Property. Parking and support areas that are currently outside the fence that encloses the Cerone Maintenance Facility as well as parking on the Property will be relocated at the expense of the Developer (an illustrative concept is shown in [Figure 5](#)). The plan to provide this access will then be part of the rights of VTA reserved under the Ground Lease. Additionally, the Developer must construct a dedicated bus lane through which VTA buses may access the Cerone Maintenance Facility.

C. Property Changes Necessary for VTA Operations

Prior to development, VTA expects to work with the Developer to create a plan for the following changes to the yard:

1. Relocation of bus parking north of the current location and implementation of a more stacked parking configuration for buses.
2. Relocation of employee parking to the current southerly bus parking area. It is anticipated that parking would be surface parking, throughout all phases of construction.
3. Relocation of paratransit parking and buildings to a location south of the proposed employee parking area. Such relocation includes new fuel, wash, maintenance buildings for paratransit. It would also require addition of some new pavement for paratransit vehicle parking.
4. Relocation of non-revenue vehicles/bus stop maintenance to a location just north of the existing operations building.
5. Realignment of the southern entry road to enlarge the size of the potential property for joint development and to clean up the current "jog" in this access road.
6. Relocation of entrance station/guard/vaulting to a location shown near new employee parking lot. (Existing building removed to accommodate access road realignment.)

See [Figure 5](#) for an illustrative concept.

D. Community Outreach and Entitlement Process

VTA seeks to select a developer prior to submittal of a development application in order to allow VTA, the Selected Developer, the community, and the City to work together to finalize the application. The Selected Developer will be responsible for entitlement costs and will work with VTA to prepare and submit an application for any necessary land use changes.

Developer and VTA will work on a mutually agreeable design, site plan and financing structure for the Project. In conjunction with VTA, the Developer, at its own cost and expense, will then work with the City to develop the design, site plan, and financing structure for development of a mutually agreeable vision for the Property. Once fully conceived, the Project plans will be submitted to the City for final permitting approval.

Throughout the Project, the Developer, in cooperation with VTA, will host community meetings to advance awareness and gain stakeholder insight and opinions from residents of the Westwinds mobile home community. All outreach and engagement efforts must include best practice cultural competency standards and comply with VTA's Public Participation Plan (**Appendix 11**).

E. City of San José Ordinances and Impact Fees

The Project must comply with all City ordinances and pay all applicable developer impact fees. **Appendix 12** provides the Santa Clara Valley Habitat Agency Fee Schedule Fiscal Year 2018 – 2019, and **Appendix 13** contains the North San José Traffic Impact Fee Plan. Respondent is solely responsible for confirming the relevance and completeness of such ordinances and details thereof as they may be amended from time to time.

F. VTA Joint Development Program

VTA has adopted a policy framework that provides guidance for its transit-oriented development ("TOD") efforts. This framework consists of the *Joint Development Policy* (**Appendix 5**), which establishes clear goals for the program. The mission of VTA's *Joint Development Program* is to provide appropriate stewardship of VTA's publicly-owned real estate assets by maximizing their economic value with site-appropriate development. Such development is expected to generate revenue to support VTA, increase transit ridership, create vibrant community assets that support adjacent private Transit-Oriented Development, and enhance the long-term viability of VTA's facilities. The Project is subject to VTA's Joint Development Policy.

G. VTA Green Building Policy

VTA's "Green Building Policy" establishes a comprehensive framework for VTA to incorporate green building principles into Joint Development projects, to conserve natural resources, reduce waste, support the local economy, provide healthy indoor environments, and generate long-term cost savings for the operation of facilities on VTA land. Joint Development partners are encouraged to incorporate green building principles into projects to the maximum extent possible. Application of the policy (see **Appendix 6**) should begin at the earliest stages of planning, design and construction, and apply to processes and ongoing operation of projects on VTA land.

H. Federal Compliance

- Respondent understands that there may be a federal interest in this Property, and acknowledges that, as a result of the federal interest, federal laws, regulations, policies, and related administrative procedures apply to the LOA and the Project. The Developer will be responsible for understanding and complying with all applicable federal laws, regulations, policies, and related administrative practices, including those prohibiting discrimination on the basis of disability, conflicts of interest and debarment and suspension. Respondents must be able to demonstrate how the Project will meet the following Federal Transit Administration's ("FTA") criteria for transit-oriented joint development projects. Under these criteria development projects must: Include a transit element; and
- Enhance urban economic development or incorporates private investment including office, commercial, or residential development; and
- Enhance the effectiveness of a mass transit project, and the non-transit element is physically or functionally related to the mass transit project; or
- Create new or enhanced coordination between public transit and other forms of transportation; or,
- Include nonvehicular capital improvements that result in increased transit usage, in corridors supporting fixed guideway systems.

To assist Respondent in developing its Proposal, a compilation of recent versions of these laws, regulations, policies, and related administrative practices, is attached to this RFP as **Appendix 14**, which Respondent must thoroughly review before submitting its Proposal. The most recent of such federal laws, regulations, policies, and related administrative practices at the time will govern the Project, unless the FTA issues a written determination otherwise. The Developer must ensure compliance by its subcontractors with, and include appropriate flow down provisions in each of its lower-tier subcontracts as required by applicable federal laws, regulations, policies, and related administrative practices, whether or not required herein.

Following the most recent FTA Joint Development Circular (**Appendix 15**), VTA will submit an application to obtain FTA concurrence (approval) of the Project through submission of a Joint Development Project Request Form (**Appendix 15**). Respondents are encouraged to review and familiarize themselves with the Joint Development Circular, which requires, among other matters, that VTA retain continuing control of the Property.

I. Labor Code Requirements and VTA's Community Workforce Agreement Policy

Developer will be responsible for understanding and complying with all applicable labor laws, including prevailing wage requirements and the requirement for contractors to register with the Department of Industrial Relations. **Appendix 16** to this RFP sets forth provisions that will apply to the Project and that must be included in the LOA, and these Labor Code provisions must flow

down to Developer's contractors and subcontractors for construction of all improvements needed to complete the Project.

In September 2016, the VTA Board approved a VTA Community Workforce Agreement Policy for VTA construction projects (**Appendix 17**). The goals of the Community Workforce Agreement Policy are to promote efficiency of construction operations, allow VTA construction projects to proceed without labor disputes, and promote careers in construction for under-represented workers, including current or past recipients of public assistance and/or foster care, persons who have been involved in reentry programs as well as U.S. military veterans, the homeless, unemployed or low-income individuals, at-risk youth, survivors of human trafficking, women (to the extent allowed by California Proposition 209), or those who face other identified barriers to secure employment.

The Respondent will be asked to identify a specific, quantified commitment for the creation of apprenticeship opportunities for underrepresented workers as described in the preceding paragraph, and describe how the implementation of those opportunities will assist participants in attaining journeyman status (e.g., through a PLA or other arrangement with the local Building Trades Council).

The number and amount of apprenticeship opportunities and their potential to lead to careers in the construction industry will be a factor in evaluation of submittals and selection of a developer for exclusive negotiations.

J. Submittal Deposit & TOD Pre-Development Costs

Throughout the joint development effort between VTA and the Developer for the Cerone TOD Project, the Developer will be asked to fund the VTA's "Cerone TOD" working account. The intent is that VTA costs associated with the joint development and effort will be paid for (or reimbursed to VTA) by the Developer. In order to fund this account, VTA will require the Developer to take the following actions:

- The Proposal must include a submittal deposit of Fifty Thousand Dollars (\$50,000). Developer must make all checks payable to the *Santa Clara Valley Transportation Authority* with the following note in the memo: "Cerone TOD Deposit."
- VTA will retain the submittal deposit without cashing it, unless and until execution of an ENA by Respondent and VTA, at which time the check will be cashed.
- Upon completion of negotiations and final execution of the LOA, the Developer must submit another Fifty Thousand Dollars (\$50,000) deposit for the purposes of funding pre-development expenditures.

The above-mentioned deposits will be placed in an account to offset VTA's pre-development expenditures associated with the Project. If VTA and the Developer have entered into an ENA, Developer and VTA will negotiate a pre-development budget that is acceptable to both parties,

and such budget will detail the application of pre-development funds to specific VTA costs (e.g. attorneys' fees, consultant fees, etc.). The Respondent selected by VTA to negotiate under the ENA as the Developer may be obligated to provide further pre-development funding. Any pre-development funds that are unspent following commencement of construction will be credited against such Developer's future ground lease payments. If the negotiations under the ENA fail to result in a LOA, the remaining balance in such account as of the expiration of the ENA, or the termination of negotiations under the ENA, after netting out any accrued expenses, will be refunded to the Developer.

K. Legal Review

Attachment of the Federal Laws and any other legal materials is done as a courtesy to Respondent and is not intended to be a substitute for independent review of these and other resources in connection with issuing a Proposal, including e.g. a review of other applicable law, regulations, policies or administrative practices with counsel of Respondent's own choosing. VTA makes no representation or warranty that any laws or regulations referenced herein are attached hereto are the only laws, regulations, policies or administrative practices that may apply to Respondent's project or that any comments related to VTA's understanding of such laws, regulations, policies or administrative practices are correct.

4. Minimum Business Terms

VTA will enter into a LOA, which will grant the Developer the right to elect to enter into a long-term ground lease for the development of the Property. The following section describes the basic minimum ground lease terms. In their submittals, Respondents will be required to indicate acceptance of these basic business terms, or identify areas of disagreement with an explanation and suggestion of an alternative way to address the issue.

1. **Subordination** – The fee ownership will not be subordinated, but will include standard mortgagee protection provisions.
2. **Term** – VTA prefers a long-term ground lease with a maximum term of 65 years.
3. **Rent** – VTA seeks a return from the development site commensurate with a reasonable rate of return on the market value of the land. VTA prefers base rent structures that are based upon a percent of gross revenues with a minimum base rent established and adjusted based upon prior years revenue-generation experience.
4. **Assignment** – VTA will have the right to approve any assignment of the lease.
5. **Performance Benchmarks** – All documents, whether the Letter of Intent, option to lease, or lease itself, will contain time and performance benchmarks with clear termination provisions for non-performance.
6. **Assurances** – The ground lease will include provisions for completion guarantees, liquidated damages, performance bonds, or other remedies to ensure completion of the project.
7. **Development Program** – VTA seeks a Proposal that offers a development program that meets or exceeds the base entitlement for the Property.
8. **Dedicated on-site Bus Lane, Bus Stops, and Parking Relocation** – The Developer will be required to plan for and fund the relocation of VTA parking and the establishment of a dedicated bus lane through which VTA busses may access the Cerone site. The Developer will be expected to work with the VTA to establish new mutually agreeable bus stops that will serve the Project.

5. Proposal Requirements

A. Submittal Instructions

No later than 4:00 pm Pacific Time on November 8, 2019, each respondent must submit and deliver its Proposal in accordance with the requirements for such submittal described in this RFP, and must include: the Proposal, the Respondent's financial information and an Excel pro forma analysis of the financial performance of the proposed Project, together with the submittal deposit specified in this RFP.

Proposals may be submitted electronically by email (so long as it is less than 15 MB), or it may be hand-delivered on a USB drive. (It is the Respondent's responsibility to ensure that the Proposal is timely delivered to the VTA.)

Proposals and the submittal deposit must be delivered to the attention of Josselyn Hazen, VTA Real Estate & TOD, 3331 N. First Street, Building A, San José, CA 95134; electronic submittals by email are to be addressed as follows: Josselyn.Hazen@vta.org. Submittal packages with a thumb drive will be time stamped upon receipt.

Respondent's financial information should be presented by email in a separate single .pdf document that does not exceed 10 MB in size, and the document should be marked as "Confidential". While VTA will not disclose material labeled "Confidential" on its own, if a lawful request for public records under Public Records Act or another applicable public disclosure law is received and the material is not exempt from disclosure, VTA will be obliged to disclose such information. Respondent should consult with its own legal counsel if it has any questions about what material may be considered exempt from disclosure.

An Excel spreadsheet used to prepare the proposed Project pro forma should be contained within a single Excel workbook that is unlocked and unprotected, and makes available for display all formulas used for calculation. The email submittal or a submittal with a USB drive should not contain any files other than the aforementioned three files (Proposal, financial information, and Excel pro forma model).

VTA seeks responses that are clear, concise and to the point. The Proposal should avoid extraneous marketing materials, overly-detailed specifications, and other material that increases the size of the submittal without providing meaningful additional information for Proposal review.

VTA reserves the right in its sole discretion to request additional clarifying information regarding the items listed in this Section 5. A failure to provide such information may result in disqualifying the Proposal from consideration.

B. Respondent Team Introduction

The Proposal must:

- Provide an introduction to the Developer team, clearly identifying what form of organization will be used to implement the development (LLC, partnership, etc.) and the team's location; the status of equity partners or participants; and who is involved in controlling the developer entity, directly and indirectly, including non-equity members.
- Identify the Developer team principal(s) authorized to execute and bind the Developer to an agreement. Include the name, title, and contact information for the person(s) who will be authorized to execute the Lease Option Agreement and Ground Lease between the Respondent and VTA (“**Key Persons**”).
- Identify the Architect, Landscape Architect, Engineering Firm, and other professional services firms the Developer proposes to use. Include references and representative project portfolio submissions for each one (limited to no more than 4 pages per firm).
- Identify the General Contractor that the Developer proposes to use. Include evidence of the Contractor’s relevant licenses for work in the state of California. Include references, portfolio examples and a current financial summary for the General Contractor, including its capacity to bond.

C. Development Proposal

The Development Proposal must:

- Include a site plan.
- Include a development plan, on a sub-parcel basis, if applicable, indicating use, square footage, and parking.
- Provide a narrative on the Respondent’s vision for the Project, including clear description of the proposed public benefits and how the Project meets the objectives listed in Section 1.B.
- Illustrate how the Project satisfies demand for commercial uses in the area (and/or industrial, retail, or other uses in proposed plan).
- Illustrate how VTA parking will be relocated; illustrate how VTA’s dedicated bus lane and new bus stops will be integrated into the Project.
- Include preliminary elevations of any retail frontages or public entrance(s).
- Include proposed easement and access to remaining VTA property.
- Include visuals of the massing and articulation concepts.

- Indicate the proposed development program including all uses and product types.
- Include a thorough Project schedule detailing timelines for predevelopment and entitlement efforts for the Project, equity investment and financing schedules, construction timelines through certificate of occupancy, and schedule projections for stabilization. If the Project is phased, Respondent must specify the order in which individual phases are to be completed.

D. Project Pro Forma and Financial Offer

The Respondent's financial offer must include a Project pro forma with the following information:

- The proposed key economic terms and conditions for the ground lease of the VTA site (set forth on a preliminary basis), with the understanding that the agency's policy is to obtain fair market value of the land.
- Proposed key terms and conditions should include ground rent during pre-development, annual ground rent payment (assuming a specified number of approved square feet of commercial space); percentage of gross revenue rents and/or adjustments to base rent; participation structure(s) including payments arising from capital events; any rent resets, and lease term.
- A financial analysis of the Project including sources and uses of funds with an indication of the revenues and value of the development when completed compared to the costs of development, including predevelopment, site improvements, construction, and operations. The total development costs of the relocation of VTA parking, dedicated bus lane, and new bus stops should be reflected in the financial analysis and shown as separate items.
- An organizational chart that denotes the proposed partnership structures and associated cash flow
- If the Proposal contemplates use of a limited liability company or another Project-specific entity to hold the assets upon execution of the LOA or ground lease, identify the entity or entities that will provide any necessary completion or financing guarantees and provide financial information for all such guarantors. The Proposal must identify the terms of such completion or financing guarantees to address the financial risks through stabilization, and provide pro forma projections for the development entity's financial status after stabilization and any anticipated refinancing. These organizational charts or partnership descriptions must show entity liability throughout the life of the development (i.e., pre-development, construction and asset management).
- If the Proposal contemplates a ground lease term longer than 65 years (including any options), provide an explanation of why the additional length is necessary for the Project to be feasible.

E. Demonstration of Financial Capacity

The financial elements of the Proposal must also include the following information demonstrating the Respondent's financial capacity:

- The Developer's or its General Contractor's capability of providing security enhancements to ensure the full performance of the work and the ability to complete projects of similar scale on time and on budget.
- Evidence of capability to provide performance security for the completion of all leasehold improvements required to achieve full Project stabilization, as follows:
 - (a) A surety statement stating that the Developer or its prime contractor for the leasehold improvements has bonding capacity sufficient to permit issuance of a performance bond in an amount equal to at least one hundred percent (100%) of the cost of the proposed leasehold improvements; and
 - (b) A statement from a bank or financial institution having long-term, unsecured debt ratings of not less than "A/A2" from one of the major national rating agencies, committing to provide a letter of credit sufficient to cover ten percent (10%) of the cost of completion of the leasehold improvements; or
 - (c) Two years of financial statements that demonstrate sufficient liquid assets to fully guarantee pre-development expenditures prior to commencement of construction.

F. Public Benefits

Development Proposals must:

- Describe the Respondent's track record in providing community workforce opportunities, as well as workforce re-entry programs and/or workforce apprenticeship opportunities that would create access to construction careers.
 - Provide information on the Respondent's track record in coordinating any of its community workforce programs with local Building Trades Councils.
 - Provide details on how the Project will achieve labor peace and support Project efficiency, to ensure that the Project will proceed without labor disputes, in a timely and economically efficient manner.
 - Provide details on how the Project will achieve apprentice utilization goals, in accordance with State of California apprentice ratios for public works projects.
 - Include a program for underrepresented individuals to be hired as State of California registered apprentices. Describe the proposed employment opportunities, identifying the number of positions and hours that will be set-aside for entry-level under-represented workers with a description of how this will create access to construction careers.

- Identify a specific, quantified commitment for creation of apprenticeship opportunities for underrepresented workers and describe how the implementation of those opportunities will assist participants in attaining journeyman status.
- Provide details on how the objectives described above will be implemented, including specifics on any coordination with the local Building Trades Council.
- Provide details on how the proposed Project will promote the Countywide Bicycle Plan (**Appendix 18**), the VTA Pedestrian Technical Guidelines and Bicycle Technical Guidelines (**Appendix 19**), and the VTA Pedestrian Access to Transit Plan (**Appendix 20**).
- Describe how the Project will address and provide solutions for safety, wayfinding, and public art, trail enhancement, as may be required by the City.
- Provide details on how the Project will incorporate respectfulness and responsiveness to the cultural needs of diverse population groups (“Cultural Competency”) and engage with the community in the development of the Project, to ensure an equitable development that aims for the highest community use.
- Describe how the Project will incorporate green and sustainable design to minimize vehicle and building-related greenhouse gas emissions.
- Provide details on how the Project will incorporate TDM strategies to reduce car usage and encourage non-vehicular transportation modes.

G. Representations

Respondents must, in their Proposals, identify defaults, any judgments, pending litigation, contractual disputes, violation notices, or other regulatory matters if these occurred within the five years before the submittal date for the Proposal, for any of the following: (i) the proposed development entity, and (ii) any of its individual members or affiliates exercising direct or indirect control over the development entity, including all Key Persons. All Proposal forms included as **Appendix 1** to this RFP must be completed and executed by each development firm submitting through the Respondent. Each such form, plus a cover letter binding the Respondent to the Proposal for a period of not less than one year (the estimated ENA term), must be executed by a principal authorized to bind the relevant development firm included within the Respondent.

Respondents must certify the completeness of the information provided in their Proposal. The omission of information that VTA deems material in its sole discretion will result in the Proposal being deemed non-responsive, and such Proposal will not, in VTA’s sole discretion, be further reviewed or evaluated by the VTA review team.

6. Evaluation Criteria

VTA will be evaluating the RFP submissions based on the following evaluation criteria, identified in paragraphs A through D of this Section 6. These criteria will be evaluated individually and in combination to determine which Proposal has the potential to best realize VTA's overall goals and objectives as set forth in this RFP.

A. Quality of Development Proposal

VTA seeks development Proposals for a state-of-the-art, high-value, commercial mixed-use development that represents best practices and maximizes benefits for both VTA and the community. VTA is seeking Proposals that will maximize VTA's ground rent revenue and that are consistent with VTA's Joint Development Policy, and support the City's job creation goals for the North San José Employment Land Area as stated in the General Plan. VTA will prefer Proposals that enhance transit connectivity through the creation of a dedicated on-site bus lane and additional bus stops that will serve the Project.

The criteria that VTA will use to evaluate development Proposals include the quality of the Proposal's site plan and the degree to which the Proposal works within the existing planning framework. Proposals must include drawings that show architectural articulation/massing concept, and elevations for retail. VTA is looking for demonstration of vision for quality design and materials to be utilized on site commensurate with the uses proposed.

B. Offer/Terms to VTA

VTA seeks financial proposals that maximize VTA's long-term financial return. VTA also seeks to maximize public benefits, including, but not limited to contributing to the City's goals of increasing employment opportunities in San José. The criteria that VTA will use to evaluate Proposals, include, but are not limited to:

- Reasonableness of Summary Financial Analysis. The economic and market feasibility of the proposed development and reasonableness of key assumptions. It should be apparent that the proposed development can achieve long-term financial feasibility based on proposed financing mechanisms and projected expenses and income.
- The overall economic benefits offered. VTA will be evaluating the detailed financial terms contained within the Proposal that is submitted, based on the greatest overall economic benefits offered. VTA will evaluate proposed ground rent offered on a net present value (NPV) basis. Financial offers that fully recognize VTA's land contribution to the income-producing potential of the project are preferred.

C. Respondent Team Experience

VTA seeks demonstrated experience within the Respondent team with the successful development and operation of one or more commercial projects similar to what is envisioned for

the Cerone Property, including the ability to successfully work with public agencies and diverse communities. The criteria that VTA will use to evaluate experience include but are not limited to:

- Key Person Experience. VTA seeks a team with project experience of Key Persons for a minimum of five (5) years on projects of similar scale and scope. Demonstration of experience working with public entities is a plus. In order to ensure that any change is not detrimental to the Project, VTA will expect to be granted (i) the right to take commercially reasonable measures to assess any proposed replacement for any Key Person(s) comprising the Respondent team, and (ii) the right to approve such replacement.
- Project References. VTA seeks submissions to include detailed project references and testimonies of third-party partners for projects of similar scope and scale. VTA will be looking for Respondents with creative problem-solving ability, cohesion amongst team members, and mutually beneficial experiences in public-private sector partnerships.
- Urban Design Experience. VTA desires demonstrated success in activating ground level uses in an urban environment, incorporating unique neighborhood-serving aspects that are sensitive to surrounding community context (e.g. retail, lighting, crime prevention through environmental design, signage, civic space, etc.), and design that implements and integrates enhanced pedestrian, bicycle, and/or transit connectivity.
- Mobility Management Experience. VTA seeks a team that has experience incorporating transportation demand management amenities (e.g. transit passes,, bike share, car share) to reduce car ownership and encourage non-vehicular transportation modes.
- Green Building Experience. VTA seeks a team that has experience designing and operating environmentally sustainable commercial projects.

D. Financial Capacity and Strength of the Respondent Team

VTA seeks a Respondent that has the capability to obtain financing for the proposed Project, as demonstrated by its previous history of completed projects, as well as current financing activities for pending projects. The criteria that VTA will use to evaluate financial capacity includes but is not limited to:

- Security. The Respondent provides evidence of its ability to provide adequate financial security as described in **Appendix 21**.
- Demonstration of Financial Capacity. VTA is looking for a track record of responsible (non-default) loan management, successful and repeat lending experiences and partnerships, and positive financial performance.

7. RFP Selection Process and Post Selection Project Development

Submitted Proposals will be reviewed by an evaluation panel consisting of VTA staff and one or more community representatives. The evaluation panel will conduct interviews as it deems appropriate, and prepare an evaluation report with a recommendation to the VTA Board of Directors.

Once the VTA Board has selected a Developer for exclusive negotiations, VTA staff and legal counsel engage with the selected Developer in negotiating and executing the ENA. If the negotiations are unsuccessful, or the ENA expires, the VTA may move to the next most qualified Respondent, reissue the RFP, terminate the process entirely, or take any other measures it deems appropriate, as determined in its sole discretion.

The exclusive negotiations period will include pre-development work by the Developer and VTA (collectively the “Parties”) to refine the proposed Project, engage the community and other stakeholders, and develop a term sheet for the proposed LOA and ground lease. Upon successful completion of exclusive negotiations, the Parties will enter into a LOA. If the Parties are unsuccessful in those negotiations, VTA may move to the next most qualified Respondent, reissue the RFP or terminate the RFP process, or take any other measures it deems appropriate, as determined in its sole discretion. In electing to so terminate the RFP process, the VTA shall have no liability or obligation to any Respondent for the costs or effort expended in addressing and responding to the RFP through such date of termination.

Once approved by VTA Board and executed by the Board’s designee, the LOA will contractually commit VTA to execution of a ground lease following Developer satisfaction of any applicable conditions and contingencies identified in the LOA; this can include, entitlement approvals, design approvals, and financing. The LOA and the ground lease negotiation may occur at the same time for expediency, subject to VTA discretion.

Concurrently with the above negotiations, the Developer will finalize Project entitlements including the PD Permit and any necessary City of San José building permits.

Upon satisfaction of all contingencies in the LOA and applicable permitting, the Parties will execute the ground lease and the Project development will commence.

VTA will be actively engaged throughout the construction and asset management phases of the Project to insure Project compliance with the applicable LOA and ground lease terms.

8. General Information

A. Disqualification

To be considered for this Project, the Respondent and any firms identified as team members must have all necessary licenses, registration, and credentials required for the services they will perform, and cannot be deemed ineligible to bid on, work on, or be awarded a public works project pursuant to § 1777.1 or 1777.7 of the Labor Code.

VTA, in its sole discretion, may disqualify a Respondent or Proposal if it becomes aware, or has credible evidence, of any of the following:

- Contact regarding this RFP between Respondent or any agent of Respondent with any VTA official, Board Member, or employee, outside of a properly noticed VTA public meeting, except for those contacts listed on Page 2 (as it may be updated by the VTA) from the time of issuance of this RFP until the VTA Board approves selection of a Developer for ENA negotiations.
- Collusion, either directly or indirectly, amongst Respondents with regard to any key terms of this RFP.
- Attempting to influence any VTA official or employee throughout the RFP process with regard to development specifications, evaluation process or final selection.
- Offering gifts or souvenirs, even of minimal value, to any VTA official or employee.
- Omissions, misrepresentations, or false information that may impact VTA's accurate and fair evaluation of the Proposals.
- Criminal conduct by Respondent or any member of Respondent's team.
- The Proposal's failure to meet conditioning of any mandatory proposal submission requirements set forth in this RFP.
- Respondent's or a member of Respondent's team's inability to complete or perform the work described in the Proposal.
- Respondent or a member of Respondent's team's litigation or pending litigation against VTA.
- Financial insolvency of Respondent or any member of Respondent's team.
- The default of Respondent or of any member of Respondent's team under any agreement with VTA.

Furthermore, a Respondent's failure to provide complete and/or accurate information in response to this RFP may disqualify the Respondent from further participation in this selection process as determined in VTA's sole discretion. A response may be corrected, modified, or

withdrawn, provided that a written request by Respondent is received by the VTA contacts (listed above) prior to the date and time designated in the RFP for receipt of Proposals.

B. No Warranty

Respondents are required to examine this RFP, including all appendices and all public records relating to the Project carefully. Failure to do so will be at the Respondent's own risk. It is assumed that the Respondent has made full investigation so as to be fully informed of the extent and character of the services requested, the requirements of this RFP and any laws or regulations that may affect its ability to carry out the Project. No warranty is made or implied as to the accuracy and/or completeness of any of the information, descriptions, opinions or legal references contained in this RFP (or otherwise provided by VTA staff) and Respondents are required to do their own due diligence as to all matters discussed herein and in their Proposals.

C. Expenses and Use of Submittals

All expenses involved with preparation and submission of responses to this RFP, including costs for attending any associated oral presentation, interview, or other pre-award activities, will be borne by the Respondent. All submittals and associated materials become and will remain the sole property of VTA.

D. Rights of VTA

This RFP does not commit VTA to enter into an ENA, nor does it obligate VTA to make payment to any Respondent. Costs incurred in preparation and submission of Proposals, review of the site and associated due diligence, or in negotiating a LOA and ground lease will be solely borne by the Respondent.

VTA may investigate the qualifications of any Respondent under consideration, require confirmation of information furnished by the Respondent, and require additional evidence or qualifications to perform the services, provide financial assurances, or meet any other condition or requirement described in this RFP, in each instance in VTA's sole discretion.

VTA reserves the right, in its sole discretion, to:

- Reject any or all submittals or to advertise for new submittals if the best interests of VTA and/or the public will be promoted thereby.
- Modify the RFP process (with appropriate notice to Respondents).
- Issue subsequent Requests for Proposals with the same or different Project criteria.
- Postpone Proposal opening for its own convenience.
- Remedy technical errors in the Request for Proposal process.
- Approve or disapprove the use of particular partners/subcontractors.

- Solicit best and final offers from all or some of the Respondent(s).
- Waive weaknesses, informalities and minor irregularities in Proposals, permit corrections, and seek and receive clarifications to a submittal or Proposal.
- Conduct interviews at its discretion.
- Hold meetings, conduct discussions, and communicate with one or more of the Respondent(s) responding to this RFP to seek an improved understanding and evaluation of submittals and/or Proposals.
- Accept other than the highest offer.
- Negotiate with any, all or none of the Respondent(s).
- Terminate negotiations with the Respondent, at any time and in VTA's sole discretion, prior to VTA's entry into the ENA.

VTA's waiver of minor irregularities will in no way modify this RFP or excuse the Respondent from full compliance with requirements if the Respondent is selected for negotiation. VTA will have full and sole discretion to determine the criteria and process of evaluation for this RFP, which (if any) Respondent will be selected for negotiation of a LOA and ground lease, or whether or not a LOA and ground lease will ever be awarded as a result of this RFP.

All information, including plans, specifications, and photos, submitted to VTA by each Respondent, whether or not selected, in response to this RFP will automatically become the property of VTA and may be used without restriction or liability by VTA.

9. Appendix List

1. **Proposal Forms (including: Iran Contracting form, Non-Collusion Declaration)**
2. **APN Map**
3. **Title Report and Exceptions Map**
4. **Phase I ESA Report**
5. **VTA's Joint Development Policy**
6. **VTA Green Building & Sustainable Landscape Policies**
7. **Envision San José 2040 General Plan**
8. **North San José Area Development Policy (ADP)**
9. **North San José ADP Neighborhoods Plan**
10. **North San José Urban Design Guidelines**
11. **VTA's Public Participation Plan**
12. **Santa Clara Valley Habitat Agency Fee Schedule Fiscal Year 2018 - 2019**
13. **North San José Traffic Impact Fee Plan**
14. **Federal Laws, Regulations, Policies and Related Administrative Practices**
15. **FTA Joint Development Circular, Joint Development Project Request Form**
16. **California Labor Code requirements (applicable to entire Project)**
17. **VTA Community Workforce Agreement Policy**
18. **Countywide Bicycle Plan**
19. **VTA Pedestrian Technical Guidelines and Bicycle Technical Guidelines**
20. **VTA Pedestrian Access to Transit Plan**
21. **Insurance Requirements**