



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Paul Krutko

SUBJECT: Proposed Major League
Soccer Stadium Development

DATE: May 25, 2007

Approved

Date

5/29/07

COUNCIL DISTRICT: 3
SNI AREA: N/A

RECOMMENDATION

Adoption of a resolution to:

- (a) Authorize the City Manager to Negotiate and Execute a Non-Binding Memorandum of Understanding with FWSH Partners, LLC Regarding Shared Aspirations to Bring a Professional, Major League Soccer Program Back to the City, to Explore the Construction of a Stadium for that Purpose and to Explore the Possible Conversion of the iStar Property, Located at Hwy 85 and Cottle Road from an Industrial Park General Plan Land Use Designation to a Residential Land Use Designation for the Express Purpose of Financing the Development of a Professional Soccer Stadium at an Alternate Site.
- (b) Authorize the City Manager to Enter into an Exclusive Right to Negotiate (ERN) agreement with FWSH Partners, LLC for the Development of the 75-acre City owned Land Located at 1125 Coleman Avenue, for the possible Development of a Professional Soccer Stadium and Transit Oriented Office, Research and Development, Hotel and Retail Development for a period up to September 15, 2007. If a Satisfactory Agreement Cannot be Achieved by September 15, 2007, City staff will proceed with a Request for Proposal to the General Development Community for the 75 acres.

OUTCOME

The purpose of this memorandum is to outline a strategy to bring a professional Major League Soccer (MLS) team back to the City of San Jose and develop the City owned Airport West Property for economic development purposes. This strategy involves three major components. The first is City Council's preliminary views on the concept of pursuing Major League Soccer and facilitating the construction of a stadium.

The second component involves possibly converting the iStar property from an Industrial General Plan and Land Use designation to a Residential designation. The conversion would provide substantial financing to support development of a stadium for professional league soccer. The third component is the proposal for FWSH Partners LLC ("FWSH Partners") to enter into an Exclusive Right to Negotiate for the City owned 75-acre Airport West Property located at 1125 Coleman Avenue for the possible development of a stadium and transit oriented development including office, research and development and hotel and retail development.

EXECUTIVE SUMMARY

Staff is recommending to the Council approval of a non-binding Memorandum of Understanding with FWSH Partners that could lead to the development of a professional soccer specific stadium in San Jose that would be the home of a new Major Soccer League franchise. This franchise, the new Earthquakes would receive that name, the team colors and records of the former Earthquakes franchise that has been held in trust by MLS. The key element of this MOU is a statement of the City's willingness to consider the conversion of the 75-acre iStar Property that is currently zoned for commercial and industrial uses to residential zoning. Such a conversion is estimated to generate \$80 M in private capital that would support FWSH Partners investment in the construction of a new 20,000-seat stadium. The proposed MOU terms envision that the current commercial and industrial capacity of the iStar Property could be transferred to adjacent commercial and industrial sites nearby in Edenvale intensifying those properties development entitlements. Any housing development contemplated on the iStar Property would need to comply with all city policies and ordinances related to residential development.

Staff is further recommending that the City enter into a period of exclusive land lease negotiations with FWSH Partners for the redevelopment of the City owned 75 acre Airport West Property (formerly FMC) as a site for the soccer stadium and 2.25 M square feet of ancillary office research and development, commercial and hotel uses. The land lease would be at minimum fair market value and the City would benefit from the sales and property tax revenue generated by the Stadium and the ancillary development. It is envisioned that the revenues from the lease would be used to pay the debt service on the City of San Jose Financing Authority Lease Revenue Bonds and HUD loan used to acquire the property. If a land lease and appropriate development agreements were not negotiated successfully by September 15, 2007, the City would proceed to issue a request for proposals to the general development community for the Airport West Property.

BACKGROUND

Soccer in San Jose has a proud history. The history of the San Jose Earthquakes has been marked by great on-field success and significant fan support despite operating in the oldest, undersized non-soccer specific venue in the league. Ownership of the team was consistently troubled; still fan support for the team was always strong. Attendance steadily rose from 2001 forward, despite the team's uncertain ownership and inadequate playing facilities.

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In November 2005, the owner of the San Jose Earthquakes Major League Soccer (MLS) team, AEG announced its intention to move the Earthquakes to Houston, Texas for the 2006 season. Against a deadline established by AEG to find a new local owner, a City team worked with the owners of the San Jose Sharks, Silicon Valley Sports and Entertainment (SVSE) on the possibility of purchasing the team.

A prerequisite for considering such a purchase was the construction of a new stadium for the team. Following substantive discussion, SVSE advised the City that it would not move forward with a purchase of the Earthquakes.

AEG was aware of the City's efforts and, although they were committed to moving the Earthquakes to Houston, supportive of Major League Soccer awarding a new MLS franchise to northern California generally and San Jose specifically. On December 15, 2005, the day AEG announced the move of the Earthquakes to Houston, Mr. Lew Wolff, Co-Owner and Managing General Partner of the Oakland Athletics Major League Baseball team, publicly indicated his organization's desire to bring major league soccer back to San Jose. Major League Soccer in acknowledgement of the outstanding fan support for the Earthquakes franchise reserved the Earthquake name, colors and records in trust for a potential expansion franchise. Subsequently, FWSH Partners negotiated the rights to purchase an expansion franchise. The reported price for a MLS franchise is \$15 M. Mr. Wolff has indicated that he will exercise his rights to obtain a franchise only if that new team can be housed in a new stadium designed specifically to house a professional soccer team. Since early 2006, FWSH Partners and his team negotiated with San Jose State University (SJSU) for the development of a MLS stadium on SJSU owned land that would also house inter-collegiate football. Those negotiations terminated in April 2007.

Mr. Wolff has a clear vision for bringing the Earthquakes back to San Jose in a new stadium through 100% private financing. The financing plan would not require any public investment and would build the stadium debt free. The plan is based on the concept of using the profits from the sale of the iStar parcel located in the Edenvale area to pay for the stadium construction on a site within the city. The purpose of the proposed Council action is to obtain preliminary direction from the City Council in regards to Mr. Wolff's proposal to change the general plan land use classification and zoning of a site in the Edenvale area to generate approximately \$80 M to support the construction cost of a new MLS soccer stadium in San Jose on the Airport West Property or another site to be identified within the city.

In 2004, the City Council authorized the purchase of the 75-acre Airport West property. Approximately 6 acres of the City's 75-acre property is in the City of Santa Clara. Prior to City purchase of the land, FMC obtained entitlements for 2.25M square feet of office, research and development, hotel and retail development. Revenues generated on-site will assist in diminishing the City's structural deficit. The western end of the property will be adjacent to the Santa Clara BART station and as such is an ideal location for transit-oriented design. VTA has indicated that it will purchase approximately 9 acres of the property at the northern end of the property for a Bart maintenance facility.

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The City purchased the Airport West Property in two phases; the total purchase price for the land was approximately \$82 million. Annual debt service on the property currently is approximately \$7.5 million. Of this amount, the debt service on the 23-acre portion is roughly \$2.1 million annually. The City completed the purchase of 52 acres in 2005. The remaining 23 acres of land closed escrow in May of 2006.

The purchase price for the 52 acres was paid with the proceeds of lease revenue bonds issued by the City of San Jose Financing Authority (the "Authority").

The City and the Authority then entered into a lease/lease-back arrangement under which the City subleases the 52-acre site from the Authority. The lease payments from the City to the Authority are the source of the Authority's repayment of the lease revenue bonds. The City's initial purpose for the use of the 52 acre site in the relatively short term was for Airport tenant employee parking, construction lay-down associated with the construction of the Airport Master Plan projects and the development of a rental car storage facility.

The Airport allocates funds to pay for the debt service associated with the Airport's use of 52 acres. However, as the Airport has not identified uses for the entire 52 acres, a portion of the debt service for the 52 acres is being paid with the proceeds of taxable commercial paper issued through the Airport's commercial paper program. A portion of the debt used to purchase the 52 acres was tax-exempt financing. If private uses occur, the tax-exempt debt would need to be refunded with taxable debt prior to entering into any lease with FWSH Partners. This will increase the annual debt service.

The 23 acres site was purchased with a loan from the Department of Housing and Urban Development. OED staff also secured a \$2 million grant that is currently paying debt service on the property. In August 2004 when the City Council authorized the purchase of the property, it also approved a loan from the Airport not to exceed \$3,735,000; provided that the loan of Airport funds for debt service payments on the Section 108 loan may occur only after Airport revenues have been applied to all other uses required under the airline leases and the Master Trust Agreement for the issuance of Airport bonds. The intention was to provide additional support for the project if interim uses were not secured prior to exhausting the \$2 million grant for debt service.

Mr. Wolff is requesting to enter into an Exclusive Right to Negotiate with the City for the 75-acre Airport West to develop the soccer stadium and the transit-oriented development envisioned for the site. The ERN is proposed to be in effect until September 15, 2007.

ANALYSIS

Summary of the Proposed Memorandum of Understanding Concept

Mr. Wolff secured the rights to obtain a new Northern California MLS franchise for a 3-year period. Wolff's preference is to have the team be located in San Jose. The cost of acquiring the franchise rights and organizing a new team coupled with the relatively thin margins in professional sports operations, have made Mr. Wolff unwilling to take on any private debt financing to build the stadium. As a result, Mr. Wolff is proposing to utilize the capital that

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could be raised from the increased land valuation that results from changing the General Plan designation and zoning of an industrial parcel to a residential designation to finance a significant portion of the construction cost for the stadium. Understanding the emphasis that the Mayor and City Council has placed on retaining as much industrially designated land as possible in San Jose, FWSH Partners is seeking a non-binding MOU that spells out how a development agreement could be negotiated, that ultimately could allow for Council consideration of the conversion of the iStar parcel. If Council would not even preliminarily support the concept of a possible conversion of the iStar site, then Wolff would likely discontinue his stadium efforts in San Jose in this privately financed manner.

Under the proposed scenario, FWSH Partners proposes to exercise its rights for a new MLS franchise team once a non-binding Memorandum of Understanding is executed.

The non-binding nature of the MOU means that the Council would not be pre-committing itself to any particular Council decisions related to the ultimate conversion of the iStar site, but the Council would be indicating that it generally supports the idea and believes it warrants exploration. If FWSH Partner's plans ultimately materialize, FWSH Partners has indicated he would seek to reinstate play by the new team in San Jose in an existing facility by 2009 and ideally complete stadium construction by 2010.

Summary of the Proposed Exclusive Right to Negotiate for the Airport West Property

FWSH Partners has expressed interest in the Airport West Property as a possible stadium site. The property, formerly known as the FMC property includes 75-acres and is located at 1125 Coleman Avenue adjacent to the San Jose Airport and the new Coleman I-880 interchange.

Mr. Wolff and his team have requested the ability to enter into an Exclusive Right to Negotiate (ERN) for the entire 75-acres of the Airport West Property. Securing the ancillary development that the Airport West site affords is critical to successfully developing the stadium project. In the previous negotiations with San Jose State, the University would have provided the land for the stadium for free. At the Airport West site, Mr. Wolff and his team will be required to pay a sufficient rent for the property both to provide the necessary revenue to pay the City's lease payments to the Authority as well as the costs of servicing those bonds and the HUD loan debt service. There will be additional costs associated with the refunding of the tax-exempt debt with taxable debt. As a result the access to ancillary development is important.

The proposed ERN is to be in effect for a period up to September 15, 2007, at the end of which the parties would have to come to terms. If a successful agreement cannot be accomplished, staff will release a Request for Proposals to the general development community for the full 75-acre property. Under the terms of the Municipal Code the City may enter into private negotiations for City property for redevelopment or economic development purposes.

Mr. Wolff's preliminary proposal would incorporate the stadium and the development of the TOD, office, R&D, hotel and retail uses. The ability for City staff to enter directly into an ERN with Mr. Wolff could assist the City in its obligation to pay debt service on the property in the shortest timeframe possible.

Large Fan Support and Very High Youth Participation

Major league soccer in San Jose, began with the Clash team in 1996 with 31,683 fans cheering as the Clash defeated the D.C. United 1-0. In 2000, the Clash became the Earthquakes. In that year the Earthquakes became the MLS Cup Champions. In 2001, the Earthquakes fell just short of the MLS Cup. In 2003, the Earthquakes won the Western Conference Championship and again the MLS Cup Championship for the second time. The fan base for the Earthquakes has continued to expand consistently from 1996 to 2005. Participation at every level from youth league to young adult-to-adult league play has continued to expand rapidly in San Jose and the South Bay.

San Jose is the ideal market for MLS given its culturally diverse population. San Jose has the highest percentage of population in the 18 to 49-age range, key for those attending sporting events. Furthermore, the Northern California area has the highest youth participation rates in youth soccer in the United States by a wide margin.

It is estimated that approximately 220,000 youngsters play soccer in Northern California. The state that comes closest to that level of participation is Massachusetts with approximately 190,000 participants.

The remainder of this memo provides detailed information and analysis of specific elements of the proposed MOU and ERN:

iStar Property

A parcel of land in Edenvale, known as the iStar Property has been identified by FWSH Partners for possible conversion to residential uses. The 75-acre parcel is adjacent to and south of the Hitachi redevelopment project site between Monterey Highway and State Route 85.

The property currently carries an IP General Plan and Zoning designation and allows for the development of 1,000,000 square feet of office industrial development and up to 450,000 square feet of retail development. FWSH Partners is proposing that the entire property be converted to residential development with a density designation of 15 to 24 units per acre (approximately 1100-1500 total units)

FWSH Partners has successfully negotiated an option for the property. The site is within a Redevelopment Area and would be required to meet the requirement that 20% of the units developed there be affordable to low and moderate income households. The proposed residential development would be required to mitigate any traffic impacts as well as any other impacts identified through the environmental impact analysis. The project would also be required to provide on-site parklands consistent with City ordinances and policies. FWSH Partners estimates that the change in land use designation for this parcel will generate \$80 M in capital that they would commit to use to fund the majority of construction costs for a new soccer stadium. FWSH's ownership group has stated that they would provide the remainder of the construction capital and guarantee completion of the stadium facility.

Adherence to Framework for Consideration of Industrial Conversion

On May 15, 2007, the City Council accepted a conceptual approach to revising the Framework for Employment Land Conversions.

The FWSH Partners proposal aligns with the proposed revised Framework, including the additions made by Mayor Reed's supplemental memorandum. This staff evaluation is noted at the outset because it is this Framework analysis that allows even an initial consideration of FWSH Partner's proposal and that also frames some of the parameters within which any proposal would need to comport. The proposed Framework revision includes the following:

- (1) There shall be "no net loss" of total employment capacity as the result of any amendment to the General Plan.
- (2) There shall be "no net loss" of acreage or square footage within the light or heavy industrial designations.
- (3) Applications for conversions to support public infrastructure may be accepted only after the infrastructure has been designated by the Council.
- (4) "Extraordinary Economic Benefit" conversions must meet the above criteria and shall be limited to instances where there will be an increase or retention of jobs and a significant increase in revenue to the city, and/or a capital contribution for investments in economic development like the Catalyst fund or the Economic Development Reserve.

Central to the proposed new Framework is a provision that any proposed conversion must retain jobs capacity within the City. City and Agency staff has engaged a transportation consultant to study the potential impacts of transferring displaced office-industrial capacity to other nearby office-industrial parcels in Edenvale. As was the case in North San Jose and at the Hitachi site, there are owners of office-industrial properties with low floor area ratios that are interested in being allowed to redevelop their sites more intensively. The intensification of Edenvale will contribute to the City's efforts in encouraging alternative commute patterns.

In order to affect the transfer of development capacity to nearby sites, it is anticipated that a traffic mitigation fee would be required of those properties receiving additional development capacity in order to fund the necessary traffic capacity required to support the reallocation of industrial capacity. This model, of property owners who gain substantial benefit through enhanced development capacity, paying a traffic mitigation fee has been used previously in Edenvale and will be employed in the North San Jose Vision Plan. As part of the Council consideration of a future General Plan amendment for the iStar Property, the Council would also consider an update to the Edenvale Area Development Policy to acknowledge the retention of jobs in the Policy area, their transfer to other properties, and any revisions to the transportation plan. If the traffic report identifies impacts at any of the regional facilities included in the Edenvale Area Development Policy, the project will be required to pay a fair share contribution.

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There is no light or heavy industrial land on the iStar parcel, so that parameter in the proposed new Framework does not apply. Per the public infrastructure criterion, the City Council needs to “designate” a soccer stadium as a public infrastructure objective to be pursued. Council’s consideration and action on this memorandum is intended to satisfy the public infrastructure designation. Finally, the extraordinary benefit criterion would be met by the \$80 M in capital for stadium construction, along with the 2.25 M square feet of office research and development, retail and hotel development on the Airport West Property. While not strictly defined as extraordinary benefit, the opportunity to move industrially development capacity in Edenvale will also result in revenue and job capacity.

Protection of City of San Jose Interests

In the event a development agreement for the iStar Property results, the agreement would provide that if, for whatever reason, the iStar Property is converted to residential use and a stadium cannot be successfully erected in San Jose, funds generated through the conversion and sale of the iStar Property (currently estimated at \$80 M) would be donated to the City.

Airport West Property

The Airport West Property has been owned twice by the City of San Jose. The first time was in the early part of the last century. In the 1930’s the Federal government asked that the City sell the land to the FMC Corporation for defense manufacturing purposes. The 150 acres purchased by FMC was adjacent to the Airport and the City did not envision the need for what was at the time seemingly excess land. Until 15 years ago, FMC’s 3,000 employees worked on site manufacturing the Bradley fighting vehicle. The City negotiated unsuccessfully with FMC to repurchase the property on two previous occasions. Early in the 1990’s, FMC sold 25 acres of land that now houses the Costco in Santa Clara to Ed Storm. In the late 1990’s, FMC sold 25 acres at the southern end of the property to Eli Reinhardt. In 2005, Ed Storm purchased the 25 acres immediately to the north of the City’s holdings.

In 2002, FMC and Mr. Reinhardt entitled 100 acres of the property for 3 million square feet of transit oriented office, R&D, retail and hotel development. BART had already designated the property as the location for a station and maintenance yard. VTA will purchase approximately 9-acres of the Airport West Property to accommodate the maintenance yard. The City’s portion of the development allows up to 2.25 million square feet of related development.

The Airport West Property, due to the several decades of heavy industrial uses on-site, was extensively contaminated. The Department of Toxic Substance Control has overseen the remediation of the property over the last 14 years. The property has obtained No Further Action letters for soil and ground water on site. Pump and treat facilities will remain on-site for the foreseeable future ensuring that the ground water is clean. Despite the extensive clean-up efforts the DTSC has placed a deed restriction on the property so that housing, schools and other “sensitive receptors” may not reside on site. In addition, DTSC will need to consent to any future development on the site. DTSC has stated it is committed to the successful reuse of Brownfield sites under its jurisdiction.

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The Office of Economic Development has already begun the development of the RFP for the Airport West Property. A City team including the City Attorney's Office, the Airport, Planning, Building, Code Enforcement, Transportation, Public Works and Finance is collaborating on the project. OED has been directed to provide an RFP for the 23.23 acres controlled by the City. In order to maximize responses to the RFP, OED proposes including all 75 acres in the RFP process. Airport staff supports the proposal, as more developers are likely to respond to the larger site opportunity, providing a broader base for decision making relative to the site. OED and the Airport will closely coordinate to ensure that the Airport's need for construction lay-down and parking is accommodated as Airport construction continues.

Wolff/Storm Airport West Development Proposal

FWSH Partners development partner is Ed Storm of Hunter Storm Properties. As mentioned earlier in the memorandum, Mr. Storm owns 50 acres of the former FMC property. The northern most portion of Mr. Storm's holdings includes a Costco, Staples, McDonalds, Starbucks and other retail stores. Mr. Wolff and Mr. Storm have identified the Airport West location as a possible stadium location. Their proposal would allow the development of an approximately 15,000-20,000-seat modern soccer stadium and related parking.

Both Mr. Wolff and Mr. Storm have extensive development portfolios including the type of development described to occur on the Airport West Property. Their combined development histories and skill sets make them likely developers for the Airport West property, even with the proposed stadium.

FWSH Partners and Mr. Storm have indicated their interest in constructing 2.25 M square feet of transit oriented development consistent with existing entitlements. Both developers have extensive portfolios including all types of commercial development. The developers want to explore their ability to construct both the stadium and the intended 2.25 M square feet of development on site. It may be possible to intensify the uses on site, taking advantage of the enhanced traffic capacity provided by the new Hwy 880/Coleman interchange. A traffic analysis will be conducted in association with the proposed project and the project proposal will include all needed infrastructure. Airport height restrictions will be carefully studied to determine any impact on the development capacity of the site. The notion of maximizing capacity on site is consistent with the City's smart growth and economic development policies.

FWSH Partners and Mr. Storm are seeking an Exclusive Right to Negotiate a lease agreement with the City for the property. As mentioned previously, the City can for economic development purposes enter into direct negotiations for City owned property under the Municipal Code. The ERN period is proposed to end by September 15, 2007. OED will employ a third party land use and economic consultant to review the terms of the proposal generated. If the parties cannot reach agreement at that time, staff will move forward with an RFP for the Airport West Property. OED staff had been directed to put out an RFP for the 23.23 acres of land controlled by the City. In order to maximize responses to the RFP, OED proposes including all 75 acres in the RFP process.

POLICY ALTERNATIVES

Alternative #1: Retain the iStar site under its current commercial and industrial zoning.

Pros: Preserves the employment potential of the site.

Cons: Eliminates the private financing source for the proposed stadium.

Reason for not recommending: Without the conversion of the iStar property to a residential designation, the project cannot advance under 100% private financing in San Jose, forcing FWSH to locate the stadium elsewhere in Northern California.

Alternative #2: Deny staff request to exclusively negotiate with FWSH partners (have FWSH to participate in an RFP process for the Airport West Property)

Pros: Allows City to review and compare stadium and ancillary development proposal to other responses to Airport West RFP.

Cons: May require City to pay additional months of debt service on Airport West Property during an RFP process; delays project several additional months.

Reason for not recommending: Staff has had many conversations with potential developers and users about sub-parcels of the property. This is the first proposal for a comprehensive redevelopment of the property to its full entitlement potential; Additional time without a tenant on the Airport West site will place additional burden on City finances.

Alternative #3: Find an alternative site for the stadium

Pros: Preserves potential for additional R&D/office development on the Airport West property.

Cons: Comparable privately held sites do not provide similar ease of access to the interstate, Downtown, and the proposed Santa Clara BART portal; City does not control another developable 75 acre site and SJSU has removed its South Campus from consideration as a potential site for the stadium.

Reason for not recommending: Other properties do not advance goals of the City's Economic Development Strategy as effectively as Airport West location.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)
- Criteria 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)**
- Criteria 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. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

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This memorandum will be posted to the City's website. Staff is available to respond to questions from the public. If land use applications are filed on the iStar and/or Airport West properties, staff will follow Council Policy 6-30; Public Outreach. In addition, required environmental documents also provide opportunities for public input.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, Department of Transportation, Public Works Department, Redevelopment Agency, and the Department of Planning, Building and Code Enforcement.

FISCAL/POLICY ALIGNMENT

The proposal and staff recommendation support the City's Economic Development Strategy.

BUDGET REFERENCE

Not applicable.

CEQA

Not a Project. As described above, the proposed actions are Council's preliminary direction to pursue a non-binding MOU and to enter into an ERN. Neither action commits the City Council to any particular future decisions related to the ultimate conversion of the iStar site, the location and development of a soccer stadium, and the development of the Airport West property with transit-oriented development. Appropriate environmental review as required by CEQA would be conducted to inform those future City Council actions.



PAUL KRUTKO
Chief Development Officer,
City Managers Office

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

ATTACHMENT A

Term Sheet for Developing, Locating and Financing Stadium Development
Between
FWSH Partners, LLC
And the City of San Jose (CSJ)

Summary of Terms

- FWSH Partners LLC and the City of San Jose desire to bring professional, Major League Soccer back to San Jose.
- FWSH seeks a non-binding MOU in light of the significant financial investment required to reinstate MLS in San Jose.
- FWSH Partners, LLC intends to build a modern 15-20,000-seat stadium within the City of San Jose.
- The majority members of FWSH Partners, LLC control the exclusive rights to initiate a professional major league soccer team program in the Northern California area.
- FWSH Partners intend to privately finance the development and operations of the proposed stadium debt-free with no contribution of public dollars.
- FWSH seeks to convert a 77-acre parcel known as the iStar Property, located adjacent to Cottle Road and Hwy 85 from industrial land to residential land.
- An anticipated amount of \$80 M may be generated from the re-entitlement of the land and is to be used to finance the stadium.
- FWSH has identified the City-owned Airport West Property located at 1125 Coleman Avenue as one possible location for the stadium.
- Any ultimate stadium proposal would need review under CEQA.
- FWSH seeks an Exclusive Right to Negotiate with the City for the Airport West Property. The ERN period would be completed by September 15, 2007.

Termination

Either the City or FWSH Partners may terminate the MOU with or without cause with at least sixty (60) days written notice.

Stadium Financing

- Costs of acquiring the MLS franchise rights and organizing a new team well exceed \$15 M.
- Professional soccer has insufficient operating margins to support debt or provide a return to equity invested to construct a stadium.
- FWSH is unwilling to take on private debt financing, incurring substantial financing cost to develop the stadium.
- FWSH proposes to utilize the capital raised from two sources 1) from the increased land valuation that results from changing industrially zoned land to residential land. 2) from ancillary development possible at the Airport West Property.

iStar Residential Development

FWSH Interests

- FWSH intends to develop between 1,100 – 1,500 residential units on the property with 20% of the units conforming to the affordable housing requirements for the Edenvale Redevelopment Project Area.
- FWSH has secured an option for the property with the owner of the iStar Property.
- FWSH acknowledges that the proposed project will require CEQA evaluation.
- FWSH agrees to comply with CEQA requirements in conjunction with its iStar development proposal.
- FWSH agrees to provide all transportation and public works requirements associated with the proposed iStar development.
- FWSH agrees to provide all parkland associated with the proposed iStar development.

City Interests

- The City intends that the 1M square feet of industrial development currently entitled for the iStar property be reallocated within the Edenvale Redevelopment Project area thereby ensuring the retention of job and revenue capacity intended to be generated by the Edenvale Redevelopment Project Area.
- The City by entering into an MOU does not in anyway relinquish or diminish the City's rights and responsibilities in evaluating any development proposal for the iStar site.
- FWSH will warrant that if the stadium project is not ultimately achieved, but that the development of the iStar project has preceded, an amount of \$80 M will be donated to the City by a date no later than seven (7) years after the entitlement of the iStar property.

Airport West Property

FWSH Interests

- FWSH has identified the Airport West Property located at 1125 Coleman Avenue as a potential site for the development of the Stadium.
- The Airport West site consists of 75-acres and provides the opportunity for ancillary development that can assist in the development of the stadium.
- FWSH seeks an Exclusive Right to Negotiate for the Airport West Property.
- The ERN for the Airport West Property is proposed to be in effect until September 15, 2007.
- FWSH would develop the stadium and transit oriented development currently included in the current entitlements for the Airport West property.

City Interests

- The City of San Jose intends to retain ownership of the Airport West Property.
- The City of San Jose intends to cause transit-oriented development to be constructed on the Airport West site including office, R&D, hotel and retail development.

- The City intends that the proposed development and revenues generated by the proposed development eliminate the City and Airport's debt service obligation associated with the property and provide revenues for the General Fund and Airport Enterprise Fund.
- The City intends, and FWSH concurs, that no public funds will be used to support any stadium proposal on the Airport West Property or any other property.
- The City of San Jose intends to maximize development within the perimeters of any covenants and regulatory conditions on the Airport West Property.

ATTACHMENT B

ENTITLEMENT PROCESS OUTLINE

The soccer stadium project will be required to go through the standard entitlement process as it relates to the iStar Property and to the Airport West Property.

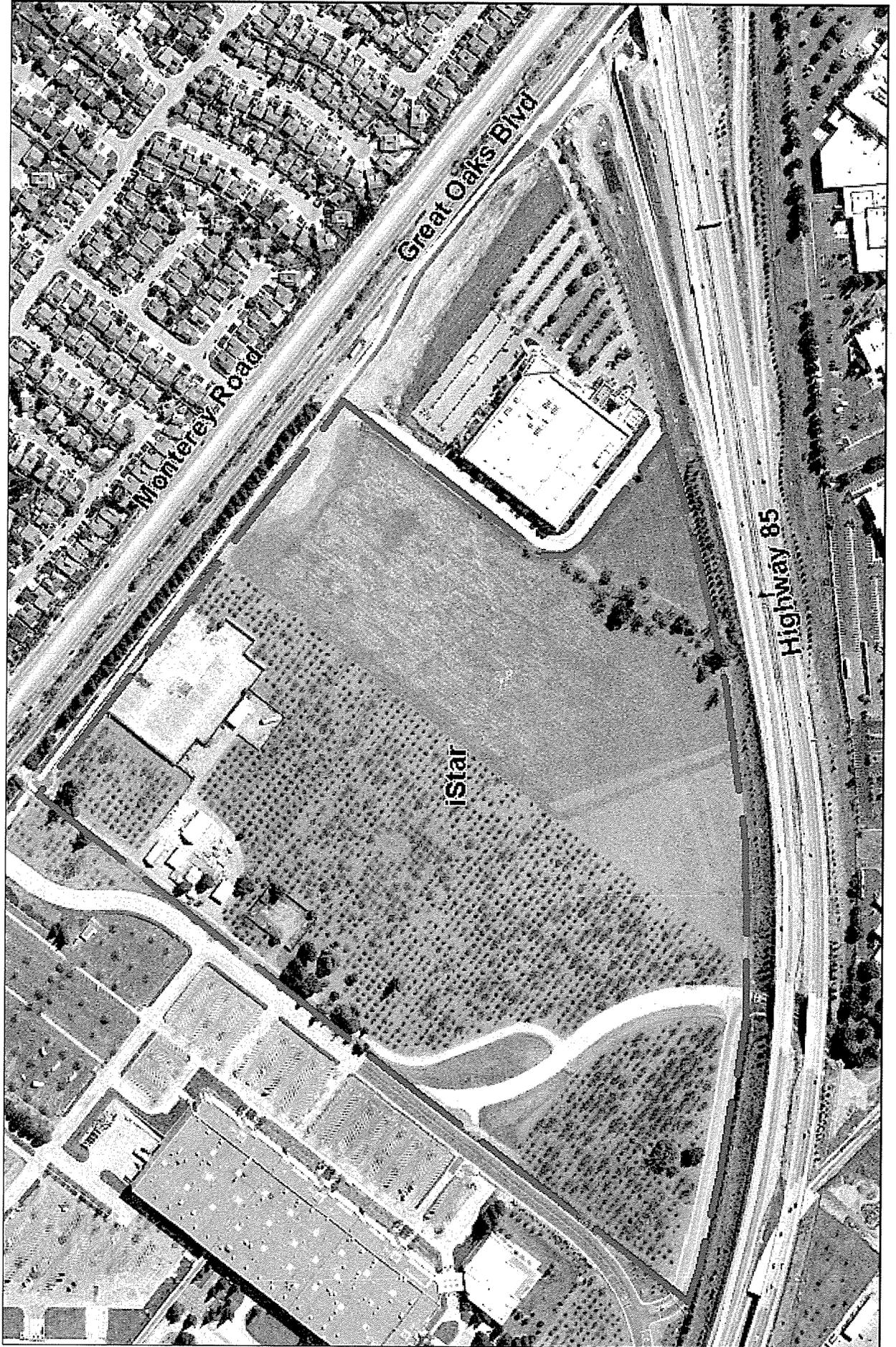
iStar Property

- FWSH will complete a full Environmental Impact Report including all required reports and documents.
- FWSH will file a complete application for a General Plan Amendment for the Property to be used for residential development.
- FWSH will file a complete application for a zoning amendment to rezone the property and for a planned development permit to implement the rezoning.
- FWSH will file a complete application to amend the Edenvale Area Development Policy and the Edenvale Redevelopment Implementation Plan.
- FWSH will file a complete application for a Development Agreement to implement the development.
- FWSH will file a complete application for a tentative subdivision map.
- FWSH shall bring these applications forward for consideration by the Planning Commission and the City Council in the case of the rezoning application and before the Director of Planning, Building and Code Enforcement in the case of the planned development permit.

Airport West Property

- FWSH will complete a Supplemental EIR for the proposed Airport West Development.
- FWSH will file a complete application for a zoning amendment to rezone the property (if required) and for a planned-development permit to implement the zoning.
- FWSH shall bring these applications forward for consideration by the Planning Commission and the City Council in the case of the rezoning application and before the Director of Planning, Building and Code Enforcement in the case of the planned development permit.

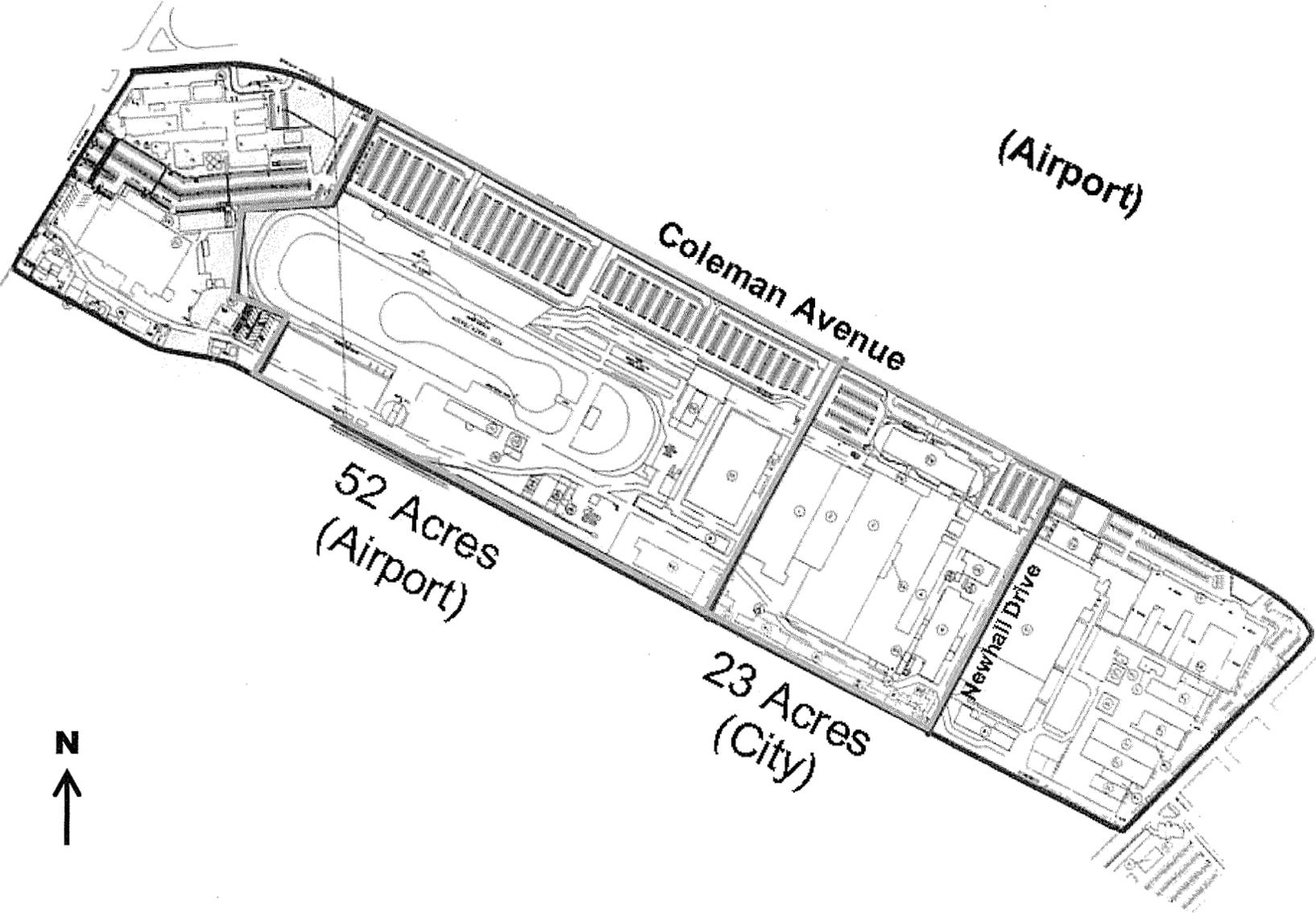
ATTACHMENT C: iSTAR PROPERTY



ATTACHMENT D: EDENVALE



ATTACHMENT E: AIRPORT WEST (FORMER FMC) PROPERTY



ATTACHMENT F: AIRPORT WEST ENVIRONS

