



COUNCIL AGENDA: 08-23-05
ITEM: 2.2 (a)

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: LEE PRICE
CITY CLERK

SUBJECT: ORDINANCE NO. 27492
Approving development agreement with
Hitachi Global Storage Technologies, Inc.

DATE: August 16, 2005

RECOMMENDATION

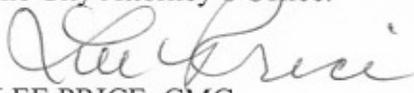
Re-adopt Ordinance No. 27492 – Approving development agreement with Hitachi Global Storage Technologies, Inc.

BACKGROUND

This ordinance was passed for publication on June 21, 2005 and finally adopted on August 9, 2005. Due to a technical issue with the required legal publication, an accurate title for this ordinance was not published and, therefore, the ordinance needs to be readopted. Republication of the correct title of this ordinance occurred in the San José Post Record on August 17, 2005.

COORDINATION

Preparation of this report has been coordinated with the City Attorney's Office.


LEE PRICE, CMC
City Clerk

Attachment: Ordinance No. 27492



ORDINANCE NO. 27492

**AN ORDINANCE OF THE CITY OF SAN JOSE APPROVING
A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF
SAN JOSE AND HITACHI GLOBAL STORAGE
TECHNOLOGIES, INC. RELATIVE TO THE DEVELOPMENT
OF CERTAIN PROPERTY LOCATED WITHIN THE CITY OF
SAN JOSE, CALIFORNIA**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

SECTION 1. This Ordinance is adopted under the authority of Government Code Sections 65864 *et seq.* and pursuant to the provisions of City of San José Ordinance No. 24297, which ordinance establishes procedures and requirements for consideration of development agreements within the City of San José (hereinafter the "ENABLING ORDINANCE").

SECTION 2. This Ordinance incorporates by reference as though fully set forth herein that certain form of a Development Agreement by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY") and HITACHI GLOBAL STORAGE TECHNOLOGIES, INC., a Delaware corporation (hereinafter "HITACHI") attached hereto as EXHIBIT "A" (hereinafter "DEVELOPMENT AGREEMENT").

SECTION 3. The HITACHI project described within the DEVELOPMENT AGREEMENT and the DEVELOPMENT AGREEMENT were the subject of an Environmental Impact Report ("EIR") prepared in conformance with the California Environmental Quality Act of 1970 ("CEQA"), together with State Guidelines and the provisions of Title 21 of the San José Municipal Code implementing CEQA, all as amended from time to time; the EIR was found by the Planning Commission of the City of San Jose to be completed in compliance with CEQA and to represent the independent judgment of CITY on June 6, 2005, and the City Council considered and approved the information and conclusions contained in the EIR and adopted findings and a Mitigation Monitoring Program in connection therewith prior to approving this Ordinance.

SECTION 4. The Council of the City of San Jose finds that the following are the relevant facts concerning the proposed DEVELOPMENT AGREEMENT:

1. The General Plan for the area subject to this Agreement is, pursuant to City's General Plan Amendment GP04-02-01, designated Mixed Use with No Underlying Designation.
2. HITACHI intends that the City of San Jose will continue to be HITACHI's headquarters as more fully described in the DEVELOPMENT AGREEMENT.
3. HITACHI proposes to develop, consistent with the General Plan, as amended, and the Development Approvals as set forth in the DEVELOPMENT AGREEMENT, a project consisting of relocating and consolidating approximately 3.6 million square feet of existing office/research and development, manufacturing and storage, and other industrial and industrial park uses onto a portion of the Subject Property (which Subject Property is described in the DEVELOPMENT AGREEMENT) and to develop the remainder of the Subject Property with up to 2930 residential units and up to 460,000 square feet of retail uses, all as more specifically set forth in the DEVELOPMENT AGREEMENT.
4. It is estimated that HITACHI employs approximately 2,500 employees at its locations within the City of San José.
5. HITACHI requests a DEVELOPMENT AGREEMENT to enable and assure phased and orderly development of the Subject Property site.
6. Consistent with the information set forth in RECITAL I of the DEVELOPMENT AGREEMENT:
 - a. Development of the project as set forth in the EIR for the project is consistent with the General Plan and all applicable specific and area plans and policies, as amended;
 - b. Development of the project should be encouraged because it will help (as set forth in CITY's resolution setting forth the EIR findings related to the project) meet important economic, social, environmental and planning goals of CITY, including but not limited to the CITY's

Economic Development Strategy, Strategic Initiative #5 Creating an Entrepreneurial Environment – Support the Growth of Local Businesses, Small and Large in Tech as well as Non-tech Fields, locating of jobs near housing to reduce commutes for San Jose residents, facilitating San Jose as a viable and desirable location for development of new technologies and innovations and associated industrial job opportunities, redeveloping underutilized property near transit investment with jobs and housing so as to encourage use of transit, contributing funding toward a new grade-separated pedestrian connection to Caltrain to further facilitate use of transit, advancing funding for transportation improvements in the area that will alleviate existing traffic congestion, dedicating park space to CITY for use by San José residents, and facilitating increases in sales and property tax revenues necessary to provide services to San José residents;

- c. The DEVELOPMENT AGREEMENT will facilitate the development of the project in the manner proposed in the DEVELOPMENT AGREEMENT for the further reasons set forth in Recital Q of the DEVELOPMENT AGREEMENT;
- d. HITACHI will incur unusually substantial costs in order to provide public improvements, facilities and services from which the public will benefit, including substantial financial contribution to construction of a pedestrian grade-separated connection to the adjacent Caltrain station, advancement of substantial funds to construct a loop ramp for access to northbound State Route 85 from northbound Cottle Road (an improvement which will alleviate existing traffic congestion) and substantial financial contribution to the funding of improvements called for in the Edenvale Area Development Policy, as set forth in more detail in the DEVELOPMENT AGREEMENT and (ii) HITACHI has made commitments to a very high standard of quality for the project and has agreed to development limitations beyond that required by the existing CITY zoning code, as set forth in the project description and project-included mitigation measures in the EIR and in the Development Approvals described in the DEVELOPMENT AGREEMENT; and
- e. Development of the project will make a substantial contribution to the economic development of San Jose in that: (i) it will have research, manufacturing and office uses as a component of the project, (ii) the Subject Property is located on a legal parcel of at least five (5) acres, (iii) it will create or retain at least five hundred (500) jobs in San Jose, (iv) as set forth in that certain Memorandum of Understanding Among CITY, the Redevelopment Agency of CITY and HITACHI, dated May 21, 2004 ("MOU"), the project qualifies as a "Special Handling" project as defined in City Council Policy 6-17 because it would be built for use by HITACHI, an identified private sector user (and HITACHI is

indicating by entry into the DEVELOPMENT AGREEMENT intention to occupy the project) and the project will generate or retain at least five hundred (500) jobs in San Jose and (v) it includes retail businesses that will generate sales tax revenue for CITY, and it will allow HITACHI to locate its headquarters in San Jose in that the project and the assurances provided by the DEVELOPMENT AGREEMENT are necessary for HITACHI to be able to viably maintain its headquarters, research & development, manufacturing and other operations at its locations in San Jose, as set forth in the MOU.

SECTION 5. This Council, based upon analysis of the facts set forth above, finds and concludes that HITACHI's proposed development, as described in the DEVELOPMENT AGREEMENT, will make a substantial contribution to the economic development of CITY through the creation, retention or expansion of at least 500 jobs in CITY and the generation of fees, revenues and taxes to CITY.

SECTION 6. Based upon the foregoing facts, findings, and conclusions, and as required by Section 10 of the ENABLING ORDINANCE, the City Council hereby adopts the following as its findings:

1. The proposed HITACHI development is consistent with the General Plan, as amended, and all applicable specific or area plans of CITY.
2. The proposed HITACHI development should be encouraged in order to meet important economic, social, environmental or planning goals of CITY.
3. The proposed DEVELOPMENT AGREEMENT will facilitate the development of the Subject Property in the manner proposed in the DEVELOPMENT AGREEMENT.
4. The proposed HITACHI development will make a substantial contribution to the economic development of CITY in that:
 - a. The proposed development will have as its primary use existing office/R&D, manufacturing and storage and other industrial and industrial park uses; and

- b. The proposed development is located on a legal parcel of at least five (5) acres; and
 - c. The proposed development will create or retain at least 500 jobs in CITY; and
 - d. The proposed project qualifies as a "Special Handling" project as defined under City Council Policy 6-17 in that the project is user built, HITACHI has indicated a strong interest in occupying the project, the project will generate or retain at least 500 jobs in CITY, and the project will generate fees, revenues and taxes to CITY; and
 - e. HITACHI will incur unusually substantial costs to provide public improvements and facilities, as more specifically described in the DEVELOPMENT AGREEMENT, from which the public will benefit, HITACHI has made a commitment to a very high standard of quality and has agreed to development standards beyond that required by CITY's Zoning Code.
5. The proposed DEVELOPMENT AGREEMENT is consistent with the provisions of the ENABLING ORDINANCE (Ordinance No. 24297) and is in the public interest.

SECTION 7. The City Council hereby approves the proposed DEVELOPMENT AGREEMENT in substantially the form attached hereto as EXHIBIT "A" and hereby authorizes and directs the City Clerk to execute the DEVELOPMENT AGREEMENT,

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substantially in the form attached hereto as EXHIBIT "A," on behalf of the CITY as soon as this ordinance becomes effective.

PASSED FOR PUBLICATION of title this 21st day of June, 2005, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,
PYLE, REED, WILLIAMS, YEAGER; GONZALES

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

VACANT: DISTRICT 7

RON GONZALES
Mayor

ATTEST:

LEE PRICE, CMC
City Clerk

EXHIBIT "A"

DEVELOPMENT AGREEMENT
BY AND AMONG
THE CITY OF SAN JOSE,
THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE
AND
HITACHI GLOBAL STORAGE TECHNOLOGIES, INC.
RELATIVE TO THE DEVELOPMENT OF
REAL PROPERTY IN SAN JOSE

This document is on file in the Office of the City Clerk.