



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Paul Krutko

**SUBJECT:** See Below

**DATE:** November 13, 2009

Approved

Date

11/24/09

**COUNCIL DISTRICT:** 3  
**SNI AREA:** NA

**SUBJECT: GROUND LEASE WITH THE EARTHQUAKES LLC FOR DEVELOPMENT OF A 2.6 ACRE SOCCER PRACTICE FIELD AS AN INTERIM USE ON THE 74.8 ACRE CITY OWNED AIRPORT WEST PROPERTY**

## RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute a Ground Lease between the City of San Jose and the Earthquakes LLC for the development of a 2.6 acre soccer practice field as an interim use on the 74.8 acre City-owned Airport West Property located at 1125 Coleman Avenue.

## OUTCOME

A ground lease of 2.6 acres of the City's Airport West Property to the Earthquakes LLC to be developed and used as a practice field for the San Jose Earthquakes Major League Soccer team. The practice field would be an interim use and serve to meet the team's immediate daily training requirements. The team does not have adequate practice facilities currently. The Earthquakes currently have been attempting to utilize Buck Shaw Stadium Field at Santa Clara University, less than one mile from the Airport West Property site, as a practice field. However, because Buck Shaw Stadium Field is also used by the University for its own activities, the Earthquakes are not able to practice on a consistent schedule. For this reason, the Earthquakes have been exploring other practice field options in the Santa Clara County area, including sites outside of the City.

## **BACKGROUND**

On May 5, 2009 the City Council approved amended business terms with Coleman Airport Partners, FWSH LLC and the Earthquakes LLC for the development of the City's 74.8 acre Airport West Property. The amended business terms included the following uses:

- 50.5 acres to be developed with 1.5 million square feet of Office and R&D, approximately 95,000 square feet of retail development and 300 hotel rooms.
- 14 acres to be developed for a professional soccer stadium for the Major League Soccer Professional Earthquakes team.

The original agreement required the development team to purchase the site if VTA did not. The site had previously been considered for a BART train maintenance facility. Under the amended business terms Coleman Airport Partners and FWSH Inc. are not obligated to purchase 9.3 acres of the Airport West property.

In early 2009, the VTA announced that due to the serious economic downturn and related anticipated decline of sales tax revenue forecasted, development of some elements of the complete BART line to San Jose would be delayed. VTA notified the City that VTA would not need the 9.3 acres of land at Airport West.

On June 12, 2009 staff brought forward a request for Council to authorize the City Manager to negotiate and execute a Memorandum of Understanding between the City and the Earthquakes LLC for a 2.6 acre practice field on Airport West Property on land that was previously to be occupied by VTA. Staff now seeks authority to negotiate and execute a lease for the practice field based on the terms provided below.

In light of the General Fund debt service obligation on the 74.8 acre Airport West Property, staff is working to identify uses for the 9.3 acre site in order to raise needed revenue to support the General Fund. The 2010-2014 General Fund forecast includes the costs for debt service on the property over the forecast period.

Staff recognizes that there is a proposed stadium project that currently is being analyzed within the City's development application process, including the preparation of an EIR (available at <http://www.sanjoseca.gov/planning/eir/EIR.asp>). For this reason, staff would like to highlight the fact that this interim practice field proposal is a separate proposal that is unrelated to a possible stadium project. Whether or not a stadium ever materializes on the Airport West Property, the Earthquakes have a current and immediate need for a practice field, regardless of where any stadium may be sited in the future, and they currently are exploring all potential site possibilities that can fulfill this discrete, immediate need.

## ANALYSIS

### Proposed San Jose Earthquakes Practice Field

City staff was approached by representatives of the Earthquakes, LLC to consider the temporary use of a 2.6 acre practice field for the Earthquakes soccer team on the 9.4 portion of the Airport West Property site. While the Earthquakes are exploring alternative potential practice locations in the area, the Airport West Property Site is attractive because it is located near to Buck Shaw Stadium Field, where the Earthquakes currently play their games.

The lack of a dedicated professional practice field requires the Earthquakes to schedule team practices based on the availability of the Buck Shaw Stadium Field. The Buck Shaw Stadium field is also used by the Santa Clara University soccer team and other university related activities, so the Earthquakes are not able to practice on a consistent basis. Regularly scheduled practice is fundamental to a high performing professional sports team. The lack of a readily available practice field is significantly impacting the on-field performance of the team. The Earthquakes now see obtaining a practice field as an urgent need.

Alternative locations for a practice field in the area, other than Airport West, do not exist. The area around Buck Shaw Stadium is primarily a built out industrial area. The Earthquakes have been seeking a practice field site as far away as Morgan Hill. A temporary site closer to their current location for practice is highly desired.

### Practice Field

Under the proposal, the Earthquakes would construct a natural turf field at the team's sole expense. Preliminary cost estimates indicate the Earthquakes would spend approximately \$1.2 million on the preparation and construction of the 2.6 acre practice field.

It is intended that the proposed soccer practice field is at the rear of the Airport West property, have no development rights, and have no signage rights on either Coleman Avenue or limited visibility on Newhall Avenue. The site also has minimal access or circulation presently. Development of a practice field would represent a low intensity interim use, not requiring additional traffic capacity, allowing the possibility for the site to be redeveloped with more intensive uses at a later time.

### Proposed Business Terms

Proposed business terms for the ground lease of the practice field require Earthquakes LLC to:

- Pay any and all costs associated with construction and maintenance of the practice field.
- Pay any and all costs associated with site preparation, including demolition of existing structures if required.
- Pay for any offsite improvements if required.

- Comply with all City regulations and policies.
- Insure that no hazardous materials would be introduced onto the site and in the event any hazardous materials were generated by the Earthquakes LLC, the Earthquakes and their sponsors would be solely responsible for remediation.
- The term of the lease would be for a period of 10 years with a 5 year option.
- If for any reason the Earthquakes vacated the site, the City would have full use of the practice field improvements constructed by the Earthquakes. If the City or another agency caused the Earthquakes to vacate the site in order to use it for another public purpose, the Earthquakes would be reimbursed for the cost of construction of the field. The Earthquakes could also terminate the Agreement before the end of the term. Each party would be required to give the other 90 days notice to terminate the agreement in such an event.
- The Earthquakes would pay a sum equal to \$2,000 per month for use of the site or \$24,000 annually. The proposed rent for the practice field is based on rates charged for use of City practice fields by the Department of Parks Recreation and Neighborhood Services.
- A Consumers Price Index (CPI) will be applied to the lease. The CPI would not exceed 4% annually and would be assessed every five years.

It is intended that the proposed site for the practice field comes with no entitlement, is at the rear of the property, has no signage rights and has limited access. The practice field is essential to the operations of a successful soccer team.

### **EVALUATION AND FOLLOW-UP**

Staff will provide an information memorandum to the City Council once a lease has been executed with the Earthquakes LLC for a practice field and will inform the Council as to the timelines for construction of the field. The Earthquakes LLC will need to obtain the necessary permits from the Department of Planning, Building, and Code Enforcement to allow construction of the field in accordance with the requirements of the site's Planned Development Zoning.

### **POLICY ALTERNATIVES**

*Alternative: The City Council could direct staff to bring forward alternatives for the full 9.3 acre portion of the Airport West property.*

**Pros:** A larger property could potentially yield the City greater returns to defray General Fund debt service obligations.

**Cons:** A practice field near the team's current stadium would be a significant benefit to the team's day-to-day training. Due to the low intensity development required of a practice field; the

field can be an interim use on the property allowing in the future more intense development on the site in the future.

**Reason for not recommending:** The 9.3 acre site has no associated development entitlement and has no visibility from Coleman Avenue or Newhall Avenue. Reuse of the site is limited.

### **PUBLIC OUTREACH/INTEREST**

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

This memorandum will be posted on the City's web site for the December 15, 2009 agenda and the Office of Economic Development's website ([www.sanjoseca.gov](http://www.sanjoseca.gov)).

### **COORDINATION**

This memorandum was coordinated with the City Attorney's Office, the Planning Department, the Department of Parks Recreation and Neighborhood Services, the Budget Office, the Department of Transportation, and the Finance Department.

### **FISCAL/POLICY ALIGNMENT**

The project aligns with the City's Economic Development Strategy #12, "Encourage Sporting Teams, Events, and Facilities, Professional as well as Amateur".

### **COST SUMMARY/IMPLICATIONS**

With respect to the proposed Earthquakes Major League Soccer team practice field, the Earthquakes LLC would be responsible for all one-time and ongoing costs associated with the construction and operation of the practice field. Lease payments would be made to the City for the proposed practice field City The 2010-2014 General Fund Forecast includes the costs for the debt service payment on the property over the Forecast period.

HONORABLE MAYOR AND CITY COUNCIL

November 16, 2009

**Subject: Proposed Earthquakes Practice Field**

Page 6

**CEQA**

Resolution No. 71716

Development of the subject 2.6 acre property was included as part of the FMC Coleman Planned Development Zoning Final EIR, which evaluated a range of commercial and other uses on the larger 92.5 acre FMC property.

  
PAUL KRUTKO  
Chief Development Officer

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