



# Memorandum

**TO: HONORABLE MAYOR AND  
CITY COUNCIL**

**FROM: Paul Krutko**

**SUBJECT: See Below**

**DATE: September 13, 2010**

Approved

Date

9/15/10

Council District: 3

**SUBJECT: ADOPTION OF A RESOLUTION ALLOWING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AMENDMENTS TO THE TWO OPTION AGREEMENTS WITH COLEMAN AIRPORT PARTNERS LLC FOR THE 52 ACRE ECONOMIC DEVELOPMENT PORTION OF THE FORMER FMC PROPERTY LOCATED AT 1125 COLEMAN AVENUE TO ALLOW A 90-DAY EXTENSION OF THE OPTION PERIOD.**

## REASON FOR ADDENDUM

The current Option Agreement expires on September 30, 2010. Staff is requesting an additional 90-day extension in order to prepare the necessary documents to amend the Option Agreement.

## RECOMMENDATION

Adoption of a Resolution allowing the City Manager to negotiate and execute amendments to the two Amended and Restated Option Agreements with Coleman Airport Partners LLC for the former FMC property located at 1125 Coleman Avenue to allow a 90-day extension of the option period.

## OUTCOME

Approval of the proposed resolution will allow the City and developers to extend the existing Option Agreements. During the proposed extension period the City and developers will work to finalize the proposed Amendments for consideration by the Council. In the interim, the developers will continue to market the site for office, R&D, hotel and retail development. The goal is to develop the property in a manner that maximizes job and revenue creation as soon as possible including the construction of a soccer specific stadium for the San Jose Earthquakes. Staff will return to Council with completed agreements by the end of the proposed 90-day extension period.

## **BACKGROUND**

In 2005, the City of San Jose purchased the 74.8 acre property located at 1125 Coleman Avenue from FMC. The property is now known as the Airport West property. The City's intent was to purchase only 52 acres of the property to support the Airport expansion program. FMC was unwilling to sell the City a portion of the site. In order to assist the Airport, the City acquired the additional 23.23 acres. The Airport required significant land for construction lay down, interim parking and, at the time, off-Airport rental car operations. The long-term intention was to develop the entire site for economic development purposes to support job and revenue generation.

In May 2008, the City Council approved a Memorandum of Understanding (MOU) between the City and Coleman Airport Partners LLC that outlined the price, option period and uses on the roughly 75 acre property. Approved uses included the development of a proposed Earthquakes Major League Soccer Stadium on roughly 14 acres of the site. The balance of the site would include 1.5 million square feet of office, R&D, 300 hotel rooms and 95,000 square feet of retail space. On May 5, 2009 the City Council approved an amendment to the approved option terms for the property in recognition of the global economic crisis. The Option payment schedule currently in place for the economic development parcels includes: \$1 million to be paid June 30, 2010; \$2.5 million to be paid June 30, 2011; \$3.5 million to be paid June 30, 2012.

In May, 2010 Coleman Airport Partners indicated to staff that economic conditions related to new construction remain poor and requested a 90-Day extension of the Option Agreements to allow the developer and the City to renegotiate the current terms of the Amended and Restated Option Agreements. On June 22, 2010 the Council approved a 90-day extension to the Option Agreements. During the past three months staff and the developers have worked productively to outline amendments to the Option Agreements. Staff is requesting an additional 90-day extension to allow staff and the applicants to finalize the Amended Agreements and bring them to Council for review and approval.

## **ANALYSIS**

Due to continued weak global economic conditions construction of new office, R&D product throughout the country remains extremely low. Virtually no new construction of office product is taking place in Silicon Valley. Exceptions exist for a very few projects like the @First Brocade development for projects that had been financed prior to the global economic meltdown. The current blended vacancy rate for office product in San Jose stands at 28% and represents almost an increase of 40% over the year. Office lease rates have declined over the same time period by 13% to \$2.10 per square foot. Vacancy rates across R&D product in San Jose stands at 25% a year over year increase of 30%. Lease rates for R&D in San Jose have decreased 19% over the year long period. Companies seeking space are taking advantage of the abundance of vacant buildings and low lease costs to accommodate company real estate needs. Most

economists do not foresee significant changes in current conditions for the next two to three years.

Coleman Airport Partners continues to express a strong desire to develop the Airport West property. Ed Storm and Deke Hunter, Lew Wolff and John Fisher comprise Coleman Airport Partners. Ed Storm and Deke Hunter are the developers of the @First Brocade development and have a proven track record in the development of high-quality office, R&D product and of working productively with leading Silicon Valley companies. They also have partnered with Eli Rhinehart on three significant retail projects in San Jose. Projects include the new Loews development on Coleman Avenue and pending projects on Almaden Expressway and in Evergreen on Capitol Avenue. The developers continue to believe that the Airport West property is a premiere business site given the property's location adjacent to the Airport, a future Bay Area Rapid Transit (BART) station, at the gateway to Downtown San Jose and given the size of the property. The developers continue to market the property and believe that given weak economic conditions and the glut of available property, serious consideration of developing the site will not occur for the next 18-24 months. The developers are asking the City to consider a proposal to modify the current option payment schedule in recognition of the prolonged economic downturn

Staff recommends extending the current October 1, 2010 option deadline by 90-days to allow completed documents to be readied for Council review. If Council approves staff's request for an additional extension, staff will return to Council within the 90-day period with the completed documents prior to December 31, 2010.

### **CONCLUSION**

Approval of the proposed resolution allowing the City Manager to Negotiate and Execute Amendments to the Option Agreement with Coleman Airport Partners LLC for the former FMC Property for a 90-day extension will enable City staff to finalize the proposed Option Agreements and return to Council for review and approval.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and the Budget Office.

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

Over the 90-Day extension period, if approved, staff will work with Coleman Airport Partners LLC to finalize the related documents and return to Council within the 90-day extension period.

## POLICY ALTERNATIVES

**Alternative:** An alternative to approving the proposed extension to the existing option agreement, the City Council could terminate the existing Option and Purchase and Sale Agreements with Coleman Airport Partners.

**Pros:** The City could put the Property out for Request for Proposals either in the near-term or at such time before 2013 when the real estate and financial market improves.

**Cons:** Given market conditions, it is highly unlikely the City will be able to maintain the current price negotiated for the property. Speculative development to be constructed for Office space is not currently occurring in San Jose or the Silicon Valley. A major tenant will have to be secured prior to construction commencing on the property. Efforts to seek a new developer for the property at this time will likely result in decreased revenues and a longer development time for the Airport West Property.

**Reason for not recommending:** As mentioned above Coleman Airport Partners has the credibility and capacity needed to develop the Airport West Property. CAP is actively marketing the property. Financial and real estate markets have not recovered but are beginning to show some limited signs of improvement, new construction is not taking place. Many companies are utilizing this time to take advantage of substantial savings for existing properties in San Jose/Silicon Valley. Any action by the City to reappraise and enter into a new purchase agreement for the site now or in the near future will likely result in decreased revenues to the City.

## 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. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

The proposed resolution does not meet the criterion listed above. This memorandum has been posted on the City's website for review by interested parties.

## FISCAL/POLICY ALIGNMENT

This project is consistent with applicable City Council policies to add revenue and jobs.

Honorable Mayor and City Council

September 13, 2010

Subject: 90-Day Extension to the Airport West Option Agreement

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CEQA

CEQA – EIR Resolution No 71716, File No: PP08-093

A handwritten signature in black ink, appearing to read "Paul Krutko", with a long horizontal flourish extending to the right.

PAUL KRUTKO, Director  
Office of Economic Development