



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** July 28, 2011

**COUNCIL DISTRICT:** 4  
**SNI AREA:** N/A

**SUBJECT: DA08-004. THIRD AMENDMENT TO THE DEVELOPMENT AGREEMENT, ADOPTED ON JUNE 13, 2000 AND AMENDED IN JUNE 2008, AND DECEMBER 2008, BETWEEN CISCO TECHNOLOGY, INC. AND THE CITY OF SAN JOSE TO REMOVE A REQUIREMENT THAT HALF OF THE 2.3 MILLION SQUARE-FOOT PROJECT ENTITLED BE CONSTRUCTED WITHIN 12 YEARS OF THE EXECUTED AGREEMENT.**

## **RECOMMENDATION**

The Planning Commission voted 6-0-1 (Commissioner Platten absent) to recommend that the City Council approve an amendment to the Development Agreement between Cisco Technology, Inc. and the City of San Jose to remove a requirement that half of the 2.3 million square-foot project entitled be constructed within 12 years of the executed agreement.

## **OUTCOME**

Should the City Council approve the Development Agreement Amendment, the requirement to construct half of the entitled square footage would be removed thus allowing the agreement to continue to be in effect for the remaining eight years.

## **BACKGROUND**

On July 27, 2011, the Planning Commission held a public hearing to consider the proposed Third Amendment to the Development Agreement between Cisco Technology, Inc. and the City of San Jose. The Director of Planning, Building and Code Enforcement recommended approval of the proposed Development Agreement Amendment. Staff gave a brief report on the proposed amendment to the Development Agreement. Margo Bradish, representing the applicant, spoke briefly on the proposed amendment and indicated the strong relationship between Cisco and the City, and the value to the local economy that Cisco presents.

There were no other speakers present on the item. The Commission voted 6-0-1 (Commissioner Platten absent) to recommend approval to the City Council of the proposed amendment to the Development Agreement.

## **ANALYSIS**

An analysis of the purpose and implications of the Third Amendment to the Development Agreement is contained in the attached staff report.

## **EVALUATION AND FOLLOW-UP**

The applicant will be required to comply with the terms of the Amended Development Agreement to maintain their vested rights through the Development Agreement's expiration in 2020.

## **POLICY ALTERNATIVES**

The Council could choose to not approve an Amendment to the Development Agreement and continue to require that half of the entitled 2.3 million square feet be constructed by 2012. Should Cisco not be able to meet this obligation the Development Agreement would lapse.

## **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)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30; Public Outreach Policy. An on-site sign was posted at the project site. Over one thousand notices of the public hearings were distributed to the owners and tenants of all properties located within Alviso and posted on the City website. The notice of the proposed Development Agreement Amendment was also published in the local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

## **COORDINATION**

This project was coordinated with the Office of Economic Development and the City Attorney.

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**FISCAL/POLICY ALIGNMENT**

This project is consistent with applicable General Plan policies as further discussed in attached staff report.

**CEQA**

Reuse of Cisco Site 6 Environmental Impact Report, Resolution No. 69636.

/S/  
JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions, please contact Nanci Klein at 535-8184.

Attachments:  
Report to the Planning Commission