

# County of Santa Clara Office of the County Executive



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CE04 121608

Prepared by: Patrick Love  
Asset & Economic Development  
Director

DATE: December 16, 2008

TO: Board of Supervisors

FROM:

A handwritten signature in black ink, appearing to read "Gary Graves".

Gary A. Graves  
Acting County Executive

SUBJECT: Exclusive Negotiating Agreement with Catellus for Fairgrounds Development

## **RECOMMENDED ACTION**

Approve Exclusive Negotiating Rights Agreement (ENA) with Catellus relating to negotiations for a Term Sheet to be subsequently approved by the Board of Supervisors for the Fairgrounds Development.

## **FISCAL IMPLICATIONS**

There is no impact to the General Fund associated with this Agreement. It is simply an agreement that permits and defines the parameters for negotiations between the County and Catellus on proposed terms related to the Fairgrounds Development. As stated in the original Developer RFP, Catellus will be responsible for all costs of planning and implementing the development, including all costs associated with the City's public outreach process, CEQA, and the City's entitlement process. The developer will also be responsible for the County's costs for financial consultation and attorneys during the negotiation and due diligence phases of the project proposal. Upon ultimate implementation of a development plan, the County will realize significant new ongoing revenues in the form of long-term ground leases and/or the proceeds from the potential sale of some portion of the Fairgrounds land, should that be approved by the Board. The amount of new revenue is not predictable at this time, since it will vary greatly depending on the ultimate land use decisions of the Board and the actual developments that may be pursued after all approvals are in place. At this point, it is the intent of Administration to ultimately enter into long-term ground leases for any parcels that are developed

for commercial development and rental housing, and recommend sale of only those parcels that may be devoted to for-sale housing.

## **REASONS FOR RECOMMENDATION**

Approval of the ENA is the next step in the Fairgrounds Pre-Development process, and it directly responds to the Board's September 9, 2008 approval to enter into exclusive negotiations and create an ENA with Catellus, the number one firm selected in the Developer RFP selection process. Attached is the approved Board transmittal from that action.

***It is important to emphasize that approving the ENA does not constitute a Developer Term Sheet or a Development Agreement.***

The Term Sheet would be brought back for Board approval in 2009 following the County's preliminary public outreach program, which the Board directed the Administration to undertake following the October 22, 2008 Board Workshop on the Fairgrounds Development. The Term Sheet would define the basic structure of the master development, identifying the components of the development by project, and including the basic land values and economic parameters for the County and Developer. A Disposition and Development Agreement (DDA) would follow in 2009 or 2010, defining all the terms and conditions of the subsequent development. The timing of the DDA is uncertain at this point because its terms and conditions will depend greatly on the outcome of the CEQA and City entitlement processes.

## **BACKGROUND**

Attached is the approved Board transmittal from September 8, 2008, authorizing the Administration to enter into exclusive negotiations and create an ENA with Catellus. The transmittal includes a very detailed background about the developer selection process, the negotiation process, the key milestones ahead for the next few years, and other pertinent background information summarizing the Fairgrounds Development process from its inception in May 2007 (Board direction to select a developer) to the present recommendation.

## **CONSEQUENCES OF NEGATIVE ACTION**

Without the approval of the ENA, the developer negotiations and pre-development phase could not proceed.

## **STEPS FOLLOWING APPROVAL**

Following approval of the ENA, the Administration will continue with the County's preliminary public outreach efforts while negotiating a Term Sheet that would be brought back for Board approval in Spring 2009.

## **ATTACHMENTS**

- Approved Board Transmittal from September 9, 2008, Item 39, Authorizing Exclusive Negotiations with Catellus
- Exclusive Negotiating Rights Agreement with Catellus