

VTA JOINT DEVELOPMENT PROGRAM GUIDANCE DOCUMENTS

PREAMBLE

The Santa Clara Valley Transportation Authority (VTA) has an extensive portfolio of real estate assets, many of which are underutilized and/or have potential for transit-oriented development. VTA's ongoing expansion of its transit system, including Bus Rapid Transit, light-rail, and other modes, also presents opportunities to acquire additional real estate assets to support further Transit-Oriented Development. VTA recognizes the importance of acquiring and developing these real estate assets, as reflected in the agency's creation and ongoing support of the Joint Development Program (JDP). The JDP has primary organizational responsibility for managing the process by which development of VTA's real estate assets occurs.

To ensure the success of the JDP, the VTA Board of Directors has mandated this major organizational effort be guided in principle and procedure by the Joint Development Policy (Part I of the JDP Guidance Documents) and the Joint Development Implementation Plan (Part II of the JDP Guidance Documents), as amended by the Board from time to time.

The Joint Development Policy sets forth the fundamental principles that guide the JDP. This document articulates the primary goal of VTA's JDP as that of providing appropriate stewardship of VTA's real estate assets through maximization of their respective economic values. Secondary goals of the JDP are to create vibrant community assets in the form of transit-oriented development that includes affordable housing and enhances VTA's transit operations through improvements in ridership and infrastructure. All of these goals shall be accomplished through a broad-based site-appropriate development process which includes both comprehensive intra-agency coordination and extensive collaboration with external stakeholders both interested in and affected by VTA's JDP.

The Joint Development Implementation Plan, which comprises Part II of this document, lays out procedures which expand upon the core principles articulated in Part I. Together, these principles and procedures outline an intentioned path for VTA staff to follow to achieve success for the JDP. Starting with priority-setting of VTA's joint development assets, this path includes procedures for collaborative identification of site-appropriate development concepts, competitive developer selection processes, and industry standard legal instruments for effective public-private partnerships with selected developers. The Joint Development Implementation Plan also specifies VTA processes to ensure intra-agency consultation and guidance, collaboration with affected localities, and an open public participation process.

PART I: JOINT DEVELOPMENT POLICY

I. MISSION STATEMENT

The mission of VTA's Joint Development Program is to provide appropriate stewardship of VTA's real estate assets by maximizing their respective economic values through site-appropriate development that also increases transit ridership, creates vibrant community assets and enhances the long-term life of VTA's facilities.

II. GOALS

The goals of the Joint Development Program are set forth below, in priority order. These goals and their respective priorities shall inform the entire arc of development pursued under the Joint Development Program. In instances where a conflict appears either among these goals or between these goals and the interests of stakeholders, these goals and their respective priorities shall govern VTA's actions.

- A. Revenue. To provide a long-term, stable source of revenue for VTA by obtaining fair market value on ground lease of its real property assets through an open and competitive development process.
- B. Transit-Oriented Development. To carry out transit-oriented development, where appropriate, that provides the highest and best use of each site, conforms to the regulations of the affected jurisdiction in which the site is located, provides affordable housing, and achieves the goals set forth in VTA's Community Design and Transportation Manual for high quality design and community benefits. This includes acquisition of new sites and use of construction staging areas for Joint Development, pursuant to applicable funding and regulatory guidance, in order to create additional projects.
- C. Transit Operations. To create development that results in ridership growth on VTA's multi-modal transit system and/or enhances VTA's operational infrastructure. This includes evaluation of all new transit projects, including their construction staging areas, for the potential to create additional sites for Joint Development, consistent with applicable funding and regulatory guidance.

III. OBJECTIVES

The aforementioned Goals shall be met through implementation of the following Objectives, as each may be further articulated in Part II, the Joint Development Implementation Plan.

- A. REVENUE
 - 1. Return on Investment. For each Joint Development asset, VTA shall achieve a rate of return over the life of the asset that is competitive in the market and reflects fair market value. VTA will maximize long-term returns by entering into Joint Development projects through long-term

ground leases with significant participation to share in project upside, except as otherwise approved by the VTA Board of Directors. VTA will develop portfolio return metrics to evaluate the long-term benefits from the Joint Development program, including increases in ridership.

2. Participation in Asset Value Increase. For each Joint Development asset involving a long-term lease, VTA shall seek financial participation in the increase in the asset's value over time in the form of market competitive contractual mechanisms.
3. Use of Proceeds. Proceeds from the Joint Development Program shall be set aside in a special fund within the agency's fiscal organization and shall be appropriated for use from this fund for the continued operation and development of the agency, as determined by the VTA Board of Directors from time to time through formal actions. These uses include support for increased land-use density to support Joint Development and Transit-Oriented Development around station areas and along transit corridors, as well as other one-time uses.

The General Manager is authorized to negotiate and execute agreements and expend funds to support implementation of the Joint Development Policy, provided such agreements and expenditures are consistent with the provisions of Administrative Code Sections 5-3 and 9-2.

B. TRANSIT-ORIENTED DEVELOPMENT

1. High Density Development. Residential development projects pursued under the Joint Development Program shall strive to provide higher density consistent with TOD best practices at VTA's transit stations and the downtown or core areas of the local jurisdictions in which the projects are situated.
2. Land Use Policies. Development projects pursued under the Joint Development Program shall comply with all the review and approval policies and procedures of the local jurisdictions in which the respective projects are sited. The Joint Development Program will work with local jurisdictions in support of higher-density land uses consistent with TOD best practices.
3. Stakeholder Interests. Development projects pursued under the Joint Development Program shall address stakeholder interests to the extent consistent with the Joint Development Policy. This includes the creation of community workforce opportunities.
4. Urban Design Standards. Development projects pursued under the Joint Development Program shall strive to incorporate the urban design concepts, principles and guidance set forth in VTA's Community Design and Transportation Program, the urban design standards of the localities

with jurisdiction over them, and the “best practices” identified by industry leaders in transit-oriented development.

5. Site Circulation. Development projects pursued under the Joint Development Program shall incorporate efficient and safe vehicular, bicycle and pedestrian circulation and promote convenient, accessible and safe connections to transit service.
6. Project Parking. Each development project shall provide parking commensurate with demand forecasts and smart growth principles resulting from site evaluation documents. These documents may include environmental impact reports, on-site and off-site parking analyses, shuttle and bus linkages, and non-physical solutions to parking that are consistent with local jurisdiction requirements.

C. TRANSIT OPERATIONS

1. Transit and Ridership Improvements. Development projects pursued under the Joint Development Program shall strive to include physical improvements and/or transit programs that encourage utilization of multi-modal transit services and increase long-term ridership.
2. VTA Operational Requirements. The Joint Development Program shall be implemented in a manner that is mindful of VTA’s necessity to manage costs, maximize revenues and balance system expansion with the maintenance of existing service.
3. Replacement Parking. For any development project pursued at a VTA park-and-ride, a site-by-site analysis shall be undertaken to determine the appropriate level at which existing parking should be replaced, with full consideration of the relative growth in future ridership that can result from dense Joint Development versus provision of future parking spaces.

IV. JOINT DEVELOPMENT REAL ESTATE ASSETS

The identification of appropriate real estate assets for Joint Development is a prerequisite to the successful fulfillment of the Joint Development Program. As such, the Joint Development Program shall generate and maintain management information tools that catalog the agency’s extensive portfolio of real estate assets and identify those best suited for Joint Development within specified timeframes.

A. REAL ESTATE ASSET INVENTORY

VTA staff shall compile and maintain a comprehensive Real Estate Inventory (RE Inventory) which identifies all real estate assets that are owned, leased or otherwise controlled by VTA and available for revenue generation through leasing, development or other asset disposition. This RE Inventory shall include, for each asset, all reasonably ascertainable data on its respective location, size,

physical features, current uses, planning constraints, and environmental characteristics. The RE Inventory shall be reviewed regularly by VTA staff and updated as significant information is made available with respect to any identified assets or as new assets are acquired by VTA.

B. JOINT DEVELOPMENT PORTFOLIO

From the RE Inventory, VTA staff shall identify a subset of assets which have reasonable potential for Joint Development over time and shall categorize them into a Joint Development Portfolio. The assets in the Joint Development Portfolio will be reviewed and re-categorized as the RE Inventory is updated. Further guidance on the Joint Development Portfolio shall be set forth in the Joint Development Implementation Plan.

C. JOINT DEVELOPMENT PRIORITY SCHEDULE

From time to time but not less than every five years, VTA staff shall propose to the VTA Board of Directors a specific set of assets from the Joint Development Portfolio that have been evaluated through economic and other analyses and determined to hold the greatest potential to become an active development project for the VTA's Joint Development Program in the foreseeable future. The intention of the Priority Schedule is to target VTA's limited resources toward those assets which have greater certainty and capacity to generate revenue and meet the other goals set forth in this Joint Development Policy. The Joint Development Priority Schedule shall be developed through a participatory process with the local jurisdictions having land use control and subsequently proposed to the VTA Board of Directors for formal adoption and fiscal appropriation authority. VTA staff may initiate formal contractual negotiations for Joint Development assets not on the Priority Schedule only upon approval of an amendment to the Priority Schedule by the Board of Directors. Further guidance on the Joint Development Portfolio shall be set forth in the Joint Development Implementation Plan.

V. PARTICIPATORY PROCESS

The Joint Development Program shall carry out its activities so as to advance relationship-building with the wider communities affected by VTA's operations. The Joint Development Implementation Plan provides further information on the various means through which the Joint Development Program shall solicit input from local jurisdictions and other stakeholders.

A. OUTREACH TO LOCAL JURISDICTIONS

VTA shall engage fully and collaboratively with the local jurisdictions in which VTA's Joint Development assets are located and will solicit input from the appropriate staff and decision makers of these jurisdictions with respect to land uses, development parameters, and other regulatory issues while balancing the necessity to meet the core goals associated with the Joint Development Program as outlined in this Joint Development Policy.

B. COLLABORATION

The Joint Development Program shall employ all effective means to facilitate information-sharing, tap expertise and plan collaboratively with local jurisdictions and other agencies working to meet regional transit goals.

C. STAKEHOLDER INPUT

VTA shall endeavor to implement a participatory process for every Joint Development project so as to obtain maximum stakeholder input. To this end, VTA shall not, in most instances, propose to develop a Joint Development asset listed in the Joint Development Priority Schedule until the agency has gone thru a specific development strategy for that asset which includes adequate consultation with the community and other stakeholders. Further guidance on the participatory process shall be set forth in the Joint Development Implementation Plan.

VI. ORGANIZATIONAL COMMITMENT

Cooperation and teamwork throughout the VTA organizational structure are essential to the success of the Joint Development Program. VTA is committed to providing the requisite technical, legal and financial support necessary for performing the complex task of developing urban real estate assets under the Joint Development Program.

A. MANAGEMENT ADVISORY GROUP

Management of the various divisions within VTA shall provide regular input to the Joint Development Program on general activities as well as specific projects through a newly created Joint Development Management Advisory Group, led by the Joint Development Program.

B. INTRA-AGENCY SUPPORT

VTA's organizational functions shall provide technical information and administrative support to the Joint Development Program as needed, particularly with respect to the compilation and ongoing maintenance of the asset management tools outlined in Section IV of this Joint Development Policy.

C. PROJECT TEAM

Each significant Joint Development asset requiring VTA oversight and coordination will be assigned a Project Team assembled from the various technical and support units of the agency as required, under the coordination of a Joint Development Project Manager. The intent of the Project Team is to avoid unintended consequences to VTA's various functional divisions, conserve scarce agency funds and staff resources, and tap into the experience and expertise of the agency's staff so as to generate the best real estate solutions for each such asset.

D. STAFF AND FUNDING RESOURCES

VTA recognizes that the development of complex real estate assets as contemplated in the Joint Development Program requires an initial investment of staff and financial resources and is committed to allocating such resources.

PART II: JOINT DEVELOPMENT GUIDANCE DOCUMENTS IMPLEMENTATION PLAN

I. INTRODUCTION

The Joint Development Implementation Plan comprises Part II of the Joint Development Guidance Documents. Expanding upon the core principles outlined in Part I, the Joint Development Policy, this document summarizes the sequence of steps that will take place to successfully carry out the Joint Development Program.

As used in the Joint Development Guidance Documents, the term “Joint Development” shall mean the development of a transit agency’s real estate assets through a public private partnership. While real estate development is not a core function of a transit agency such as VTA, it is an activity that is commonly practiced among public transit providers across the nation empowered with such authority. VTA’s statutory authority for the Joint Development Program exists in various legislative actions.¹ In fact, VTA is one of only three transit operators in California that has the statutory authority to acquire land entirely for the purpose of transit-oriented development.² This state support for VTA’s Joint Development is consistent with federal guidance, in that the Federal Transit Administration encourages public transit agencies to pursue incidental uses of their real property that raise additional revenues for the transit system or, at a reasonable cost, enhance system ridership.³

As noted in the Joint Development Policy, the approach outlined in this Implementation Plan is intended to be consistent with the other policies and goals set herein; to be clear and uniform for all projects; to involve close communication and collaboration with affected jurisdictions; to follow a competitive developer selection process; to include “best practices” in the public-private contracting arena; and to be fair and transparent to developers, jurisdictions, real estate markets and the public.

The Implementation Plan covers the following topics:

- A. **REAL ESTATE INVENTORY (RE Inventory)**. A comprehensive summary of basic data on all VTA-owned or -leased sites, or those otherwise controlled by

¹ Assembly Bill (AB) No. 1937, Dutra (enacted February 2002) allows a transit operator to enter into agreements with a public agency, public utility or person or entity for the purpose of joint development. See also Santa Clara Valley Transportation Authority Act (California Public Utilities Code 100000 et. seq)

² AB No. 670, Papan (enacted February 1999) allows VTA, the San Mateo County Transit District and the Bay Area Rapid Transit District to acquire land entirely for a project that is a commercial, residential or mixed use development that is undertaken in connection with existing, planned or proposed transit facilities and is located ¼ mile or less from the external boundaries of that facility.”

³ Federal Transit Law (FR/Vol. 72, No.25/Wednesday, February 7, 2007/Notices)

VTA, and which are available for revenue generation through leasing, development or other asset disposition.

- B. JOINT DEVELOPMENT PORTFOLIO (Portfolio). A subset of the RE Inventory and the established list of those VTA's assets which have joint development potential.
- C. JOINT DEVELOPMENT PRIORITY SCHEDULE (Priority Schedule). The official VTA document which sets forth a limited number of high-priority sites for development and which the Board formally adopts.
- D. DEVELOPMENT STRATEGY AND SITE DEVELOPMENT CONCEPT. To be generated for each site as it moves forward in the development process in a collaborative process with the affected jurisdiction, the public and others as appropriate.
- E. DEVELOPER SELECTION PROCESS. The process by which the VTA will solicit interest in developing specific sites, whether via Request for Qualifications, or Request for Proposal.
- F. JOINT DEVELOPMENT AGREEMENTS. The legal agreements between VTA and the selected developer for any given project.
- G. POST-CONSTRUCTION REVIEW. A staff review of the effectiveness of the process and procedures established for VTA Joint Development Projects.

These are discussed in turn, as they represent a sequence of activities by VTA staff and the Board.

II. REAL ESTATE INVENTORY

VTA is the fee title holder of an extensive portfolio of real estate assets along key transit corridors in Santa Clara County. To enable their proper management and utilization, these assets will be catalogued in a comprehensive inventory referred to as the Real Estate Inventory (RE Inventory) in accordance with the procedures outlined below.

A. COMPILATION OF RE INVENTORY

The RE Inventory will consist of all real property assets meeting the following criteria:

- 1) is owned, leased or otherwise controlled by VTA; and
- 2) offers potential for revenue generation through leasing, joint development, licensing or other asset disposition.

In addition to cataloguing each asset by the appropriate markers (e.g., location, type of property, parcel numbers, etc.), the RE Inventory will include a comprehensive summary of basic data pertinent to each asset. This data generally

will consist of information that can be easily collected from existing external and internal sources (e.g., VTA files, title records, local land use regulations, internet tools, etc.). Examples of pertinent data for each asset include, without limitation, the following:

- 1) each location and ownership;
- 2) demographic profile;
- 3) distance to public transit stations and/or stops;
- 4) summary statement of land use setting;
- 5) land use regulations that apply;
- 6) alternative transportation modes located within ½ mile of the sites;
- 7) the status of the site's availability for development; and
- 8) any known environmental constraints.

For ease of use and maximum access across the organization, VTA staff will make every effort possible to compile the RE Inventory using the most appropriate technological tools then available (e.g. GIS, SAP, PATH, and Excel).

The most current RE Inventory shall be incorporated by reference into this Implementation Plan and included as Attachment 1.

B. CATEGORIZATION OF ASSETS

In addition to the above-mentioned compilation, the RE Inventory will segregate the assets into strategic categories based upon preliminary assessments of their respective real estate potentials and/or anticipated uses by VTA staff. The goal of this categorization is to enable VTA staff to formulate site-appropriate real estate management plans for each of the catalogued assets, including without limitation, joint development in accordance with the Joint Development Guidance Documents, interim leasing and licensing pursuant to VTA's leasing policies and procedures, and transfer or other disposition as determined by VTA from time to time.

VTA Real Estate management will determine these categories and may rename, expand or altogether delete them as necessary from time to time. The initial categories determined appropriate for the RE Inventory include the following:

1. Joint Development. This category consists of those assets with potential for Joint Development, either in the near or long term. Special import will be given to those assets with strong transit-oriented development viability and/or long-term revenue potential through ground leasing or a joint venture development structure. Assets in this category may also include those which require value-added investment to be made to them prior to

development. Value-added investment includes any pre-development or disposition work performed for an asset, such as site remediation or improvements, site assembly, facilities relocation, entitlement work and pre-design. A cost benefit analysis should be done prior to investment is made in any value added work for an asset. The assets in this category will comprise the Joint Development Portfolio and are further discussed in Section III below.

2. Interim Leasing. This category consists of those assets that have limited near term Joint Development potential, are currently available and/or significantly underutilized, do not warrant permanent disposition due to anticipated favorable, long-term market shifts, yet offer interim revenue potential through leasing, licensing or other asset management. These assets should be managed through VTA's leasing policies and procedures in a manner that is industry competitive yet compatible with the organization's core purposes.
3. Permanent Disposition. This category is reserved for those assets that offer limited Joint Development potential, either because of their small sizes (which limit the economic viability of a public private partnership), the complexity of their local land use regulatory environments, difficult site attributes/constraints, or other factors affecting their development feasibility. These properties may be either disposed of for fair market value pursuant to VTA's disposition policies and procedures or used for exchange of fair market value property with private or public entities as determined by the VTA through formal actions. Properties in this category should not be considered for joint development once active disposition strategies have been implemented without a thorough analysis at the staff level of such reconsideration.
4. Land Banking. Assets in this category include those which do not readily fall into one of the above-mentioned categories due to any number of factors, including the insufficiency of information necessary to ascertain the asset's potential, contingency upon the occurrence of future events, planning efforts and/or capital projects, and anticipated favorable changes in the long term market dynamics relevant to the asset. Any asset in the Land Banking category should be regularly assessed for its suitability for interim leasing and deployed on such a strategic plan as appropriate.

The attached Exhibit A illustrates the categorization of assets as described above.

The above categorization of assets is only a preliminary assessment of the respective assets' potential and not intended to be a final determination of their disposition. As such, the RE Inventory may place the same asset into multiple categories if several disposition strategies appear viable, key data to narrow the categorization is not readily available, or further refinement is contingent upon the occurrence of future events, planning efforts or capital projects.

C. UPDATES TO RE INVENTORY

The RE Inventory will be periodically reviewed and updated as necessary to reflect new acquisitions and other asset dispositions so as to ensure its accuracy and completeness to the maximum extent possible. The categorization of assets, in a manner consistent with the procedures outlined above, may be modified at staff level from time to time, as new information is learned about particular assets and/or to address VTA's changing real estate needs. However, the creation or deletion of any category of asset altogether (from those categories noted in Section II.B. above) must be done through a VTA Board-approved amendment of this Implementation Plan.

Of critical import will be synchronization of the RE Inventory with VTA's planned system extensions and upgrades as well as key regulations governing any given site. New land use regulations and plans -- especially those affecting housing density and location and those affecting transit funding -- should be incorporated in the RE Inventory, including updated Regional Plans from the Metropolitan Transportation Commission and the Association of Bay Area Governments (which provides population projections that govern the "Housing Elements" of each jurisdiction's General Plan or Special Area Plan).

III. JOINT DEVELOPMENT PORTFOLIO

Undertaking a robust joint development program is a highly complex undertaking and requires a systematic plan of action. The starting point for such a plan of action is the category of Joint Development assets catalogued in the RE Inventory. To truly understand their Joint Development potential, these assets must be analyzed further through an economic gauge. One industry standard gauge is a residual land value analysis to determine the market-based value of these assets for near-term development. Other economic methodologies may be used as appropriate.

A. INITIAL ECONOMIC ANALYSES

First-level financial evaluations for the assets in the Joint Development Category will be carried out to estimate what each given site would yield to VTA, financially, as expressed in relative terms. This task requires each site to be evaluated broadly for its general characteristics of development (such as height, density, parking requirements, etc.) and then by alternative development uses (residential housing, office, retail, and/or mixed-use). Parking requirements per type of development are also estimated.

From these typical prototypes, an estimate is generated on the potential cost at which the site could be developed for a given use at a given density. Overall land value is thus estimated. In addition, using recently published secondary data sources of the prices at which similar projects have sold, or rented, revenues are projected for each type of use at a given site. Comparing the costs with the revenues, a very broad-scale analysis of the residential land value is obtained.

The result is not an actual figure, but a relative range of costs and a relative range of potential financial return to VTA for each development alternative.

For example, Site A may be evaluated for its potential to support (a) 20 units of housing at low-density with surface parking; compared to (b) 40 units of medium-density housing with a garage; or (c) 100 units of housing with underground parking. Construction costs will vary depending on the scenario. Prices will also vary on what a developer could sell housing units for, or in the case of rental housing, what rental rates could be charged. Through calculations that determine the resulting residual land value of various options, the VTA can estimate relative returns to the agency of different options. (NOTE: These estimates may differ from those that would result strictly from a land appraisal, as the theoretical scenarios that are evaluated consider such factors as the potential to alter zoning, change in housing density permitted, and other factors.)

As the evaluation process proceeds, VTA seeks early and continuous consultation and input from local regulatory agencies, the community and other stakeholders as identified. The iterations of these communications inform the final consideration of a site's potential.

Any newly acquired assets included in the RE Inventory Joint Development category are to be evaluated through similar economic methodology. Their respective residual land values shall be compared to the values obtained in the last analysis conducted for the previously categorized assets so as to inform the path on which the newly acquired assets should proceed in accordance with the steps outlined below.

B. CATALOGUING BY DEVELOPMENT PROTOTYPE

The residual land values and other economic analysis, if any, calculated above shall be used to refine the assets into a Joint Development Portfolio. This portfolio shall consist of only those assets that have identified to have true economic potential for joint development, either near or long term. In addition to the site specific data included in the RE Inventory, the Joint Development Portfolio shall include the development prototypes likely to be suitable for the respective assets and shall catalog the assets according to these prototypes.

Similar to the RE Inventory, VTA staff will make every effort possible to compile and maintain the Joint Development Portfolio using the most appropriate technological tools then available (e.g., GIS, SAP, PATH, Excel).

The most current Joint Development Portfolio shall be incorporated by reference into this Implementation Plan and included as Attachment 2.

C. UPDATES TO JOINT DEVELOPMENT PORTFOLIO

The Joint Development Portfolio will be periodically reviewed and updated as necessary, particularly when the RE Inventory is updated so as to ensure its

accuracy and completeness to the maximum extent possible. The Joint Development Portfolio may be modified at VTA staff level from time to time, as new information is learned about particular assets and/or to address VTA's changing real estate needs.

IV. THE JOINT DEVELOPMENT PRIORITY SCHEDULE

From the Joint Development Portfolio, VTA staff will, from time to time, but not less than every five years, propose to the VTA Board a specific set of VTA real estate assets that will become the priority joint development sites for the organization, either because these sites warrant certain value-added investment to be made by VTA in the near term and/or these sites have been determined to hold the greatest potential for joint development project in the foreseeable future. The priority assets, as approved by the VTA Board, will comprise the Joint Development Priority Schedule (Priority Schedule).

A. GOALS OF PRIORITY SCHEDULE

The primary intention of the Priority Schedule is to target VTA's limited resources toward those assets which have greater certainty and capacity to generate revenue as well as meet the other goals of the Joint Development Policy. VTA's real estate holdings are extensive and a focused plan of action for the implementation of VTA's Joint Development Program is necessary to reach success. Moreover, many of VTA's real estate assets have complex operational and site constraints and involve multiple stakeholders and cannot all be developed at the same time or without concerted efforts at the organizational level.

In addition to identifying those assets with the most near term development potential, the Priority Schedule may also be used to ascertain those select sites which necessitate near term value add investment to be made to them by VTA. Not all sites within the Joint Development Portfolio will be deemed ripe for development immediately. Specific site issues, pre-development requirements, entitlement reviews and local planning agency plans will affect the timing of VTA's Joint Development efforts. The need for infrastructure replacement, ascertaining the extent of environmental contamination, moving or replacing VTA transit-related functions, terminating or buying-out existing leaseholds, clarifying title disputes to land parcels, completing a community's General Plan update are all examples of pre-development constraints that would delay a site's development.

While these constraints would prevent the immediate development of certain sites, they may nonetheless warrant VTA to focus the organization's near term efforts on the constrained sites. This is due to any number of factors, such as that the constraints are related to VTA's other time-sensitive efforts or needs; the sites themselves offer tremendous Joint Development potential once the constraints are properly addressed; and there exists strong external interest for a particular site either because of market-driven forces or local jurisdictional objectives. These

constraints, if sufficiently weighty in comparison to other factors, may justify the relevant sites to be identified as near term priorities on the Priority Schedule.

Given the above, the expectation is that the Priority Schedule will be a formal compilation of the known technical and planning issues for each site identified in the Joint Development Portfolio. The document will identify as near-term “priority sites” those assets that either offer near term high-economic value or are in need of focused value-add investment efforts. In addition to these “priority sites,” the Priority Schedule will indicate the relative timeliness for Joint Development (or value-add investment) of the remainder of the assets itemized in the Joint Development Portfolio.

B. PRIORITIZATION CRITERIA

To create the Priority Schedule, the VTA Joint Development Program staff and consultants will employ professional evaluation of the Joint Development Portfolio assets using criteria that include the sites’ physical attributes and constraints; the potential economic values resulting from anticipated joint development; the potential impacts on other VTA projects or activities Joint Development of the respective assets will have; any environmental and other significant constraints pertaining to each site; and the local land use regulatory environment relevant to each asset. The weighting given to the respective prioritization criteria will be consistent with the Joint Development Policy.

Each asset will be assessed by the following prioritization criteria to address site-specific issues:

1. Parcel and/or Asset Size and Improvements. Is the site of a suitable size for a public private partnership structure? Does it contain improvements to be reused, sold or replaced? Are there other improvements on site?
2. Transit Access/Impacts. Does the site have access to existing light-rail, Caltrain, BART, VTA, high speed rail, or other transit services or is it scheduled to have access in a planned extension? Will Joint Development of the site impact VTA’s transit operations or facilities, either favorably or negatively?
3. Site Availability. Is the site compatible with VTA plans and operations and available for redevelopment or does VTA have commitments for the site that constrain its use?
4. Location Efficiency. Is the site located in close proximity to job-generating centers and to commercial services that serve commuters and residents? Will joint development of the site encourage/increase transit use?

5. Developer/Market Interest. Has developer interest been expressed in the site or similar development proximate to the site? Is there a market for the type of product anticipated on the site through Joint Development?
6. Land Use Policy. Is the site located in a jurisdiction with land use designations conducive to the anticipated development or would a zoning and/or General Plan Amendment be required?
7. Municipal Responsiveness. What is the initial response by the local jurisdiction's staff to VTA outreach regarding Joint Development on the site? What is the existing or anticipated response by local residents and other stakeholders to joint development on the site?
8. Environmental Constraints. Is the site located in an area with known soils contamination, in a floodplain, or along a riparian corridor? What level of review and impact mitigation would be required for the anticipated development prototypes under the California Environmental Quality Act or the National Environmental Protection Act?
9. Revenue. Is Joint Development likely to generate positive cash flow, preferably in the form of a long-term revenue stream, to VTA? Is a significant upfront investment required by VTA to generate the anticipated revenue?
10. Other Criteria. As discussed above, constrained sites may also become near term priorities for VTA due to any number of factors, including other VTA time-sensitive efforts or needs, market forces and local jurisdictional preferences. These factors will be considered in the prioritization of the assets as appropriate.

C. STAKEHOLDER REVIEWS

To enable an informed application of the prioritization criteria for the various assets being considered, VTA Joint Development staff will solicit stakeholder input through an iterative process of site evaluation and response by the following groups and agencies:

1. Intra-Agency. Joint Development staff will review sites with appropriate VTA departments with the purpose of identifying physical planning issues, timing, costs associated with redevelopment of a site currently in use for a VTA purpose and related organizational concerns.
2. Local Jurisdictions. Joint Development staff will review the sites with officials of the relevant jurisdictions in order to identify local planning agency goals and objectives regarding the specific sites and to identify other key constraints and opportunities regarding the implementation of a Joint Development effort in that jurisdiction.

3. Regional Bodies. As appropriate, the Joint Development staff will inform, seek input from and collaborate with regional organizations such as the Metropolitan Transportation Commission, the Association of Bay Area Governments, and the Silicon Valley Leadership Group regarding VTA's Joint Development program generally and Joint Development priorities specifically.
4. General Public. The Joint Development staff will acquaint the general public with VTA's Joint Development program and solicit input from the public on VTA's Joint Development priorities, as deemed appropriate by staff.
5. VTA Management. The VTA Joint Development staff will seek early and regular input from relevant management levels, including the General Manager, across the organization on the Priority Schedule as it is being formulated and finalized for Board approval.
6. VTA Board Committees. The final draft Priority Schedule will be presented to the appropriate advisory and standing committees of VTA's Board for consideration and approval pursuant to VTA's established Board adoption policies and procedures.

D. FORMAL VTA BOARD ADOPTION

The VTA Joint Development Program will seek VTA Board approval for the Priority Schedule. The staff report for the proposed Board agenda item will provide all requisite information necessary to make an informed decision regarding the various assets under consideration. Such information will include, at a minimum, an overview of the physical attributes of the respective assets; a summary of the findings of the various technical, planning and economic analyses conducted; intra-agency feedback on the proposed Priority Schedule; input received from the various localities and the general public during the stakeholder review process; and the deciding factors for the staff's recommendations.

Once approved by the VTA Board, the Priority Schedule will serve as the framework for the Joint Development Program's ongoing efforts until it is amended consistent with the procedures outlined below. Specifically, the priority sites identified on the approved Priority Schedule will be the primary focus of VTA efforts, including all significant expenditures made for Joint Development activities. Nonetheless, because of the dynamic nature of real estate development and to ensure that all opportunities are considered as presented, the procedures outlined in this Implementation Plan should not be deemed a prohibition for the VTA Joint Development Program to engage in routine development activities regarding the overall Joint Development Portfolio, such as conducting preliminary analysis, responding to questions from or engaging in general discussions with external parties, or conducting basic due diligence regarding Joint Development opportunities for assets other than the approved priority sites. If after such routine development activities, the VTA Joint Development Program determines that any

given asset should become a “priority site” on the Priority Schedule, it should seek a formal amendment to the Priority Schedule pursuant to the procedures outlined below.

The most current Priority Schedule shall be incorporated by reference into this Implementation Plan and included as Attachment 3.

E. AMENDMENT PROCESS

The Priority Schedule is intended to be a relatively stable document that will be renewed from time to time, but not less often than every five years. However, land development is subject to a great many unforeseen circumstances that can affect a given site’s priority in the Priority Schedule. Thus, the Joint Development staff may propose a formal amendment of the Priority Schedule at any time for any reason, including: at the conclusion of site build- out, if significant new information about a site is uncovered; if an opportunity for development of a site not on the Priority Schedule appears; dramatic market changes affecting the site’s near term viability; or potential impacts or interests from other VTA projects or external parties. The amendment of the Priority Schedule would only occur if the Joint Development Program has gone through the process noted above to examine a site, analyzed it against the listed prioritization criteria, and solicited the input of key stakeholders through the outreach process noted above.

V. **SITE-SPECIFIC DEVELOPMENT STRATEGIES**

The next step for each of the priority sites identified in the approved Priority Schedule is either to implement the recommended value-add strategies or to enter into a development path, as appropriate. In the case of the former sites, the value-add strategies will be implemented as envisioned in the Priority Schedule in a manner deemed appropriate by the Joint Development Program and General Manager and consistent with the Joint Development Guidance Documents.

In the case of the priority sites embarking upon a development path, VTA’s Joint Development Program will follow the procedures outlined below to ensure that a consensus- driven, participatory process is employed.

A. FORMULATION OF DEVELOPMENT CONCEPT

For each relevant priority site, VTA’s Joint Development Program will define, at a conceptual level, a viable development prototype consistent with the procedures outlined below. The viability of a development prototype will be ascertained from both a market perspective through early developer outreach as well as from an entitlement perspective through a collaborative process involving the affected land use jurisdictions and other key stakeholders. The intention is to arrive at a development prototype that has a mix of uses, desired density, height and bulk requirements, general aesthetic and design elements, and site-specific improvements most likely to be supported by both the affected community and the market. The collection of proposed features for the site that results from this early consensus-building process is referred to as the “Development Concept.”

This early consensus-building process will include the following activities for most sites (see Exhibit B for a schematic representation of the sequence discussed):

1. Developer Response. The Joint Development Program will hold developer conferences or similar efforts in order to obtain responses as to the market-readiness of various kinds of uses proposed for the site and to identify potential constraints and opportunities reflected by this market-oriented group.
2. Local Jurisdiction/Stakeholder Reviews. The Joint Development Program will carry out extensive consultations with the officials of the affected local jurisdictions as well as with key stakeholders identified by the local officials to help define the parameters of the Development Concept and the likely land use regulatory process for such a project.
3. Public Outreach. The Joint Development Program will hold workshops and other kinds of community outreach consistent with the plans and procedures of the jurisdiction(s) involved to obtain early community response to the site uses and concepts being considered.
4. Intra-Agency Consultations. The Joint Development Program will create an internal, multi-departmental VTA “Project Team,” as appropriate; to examine the iterative development concept as it is being formulated.
5. Regional Bodies. As appropriate, the Joint Development staff will meet with regional organizations such as the Metropolitan Transportation Commission, the Association of Bay Area Governments, and the Silicon Valley Leadership Group as the Development Concept is defined to identify grant funding or other economic incentives for such development.
6. VTA Board Committee Reviews. The Joint Development Program will present any final draft Development Concept to the appropriate advisory and standing committees of VTA’s Board for consideration and approval pursuant to VTA’s established policies and procedures for Board adoption.

B. VTA BOARD APPROVAL

The VTA Joint Development Program will seek VTA Board approval for the final Development Concept formulated for a given site prior to soliciting developer proposals for the development opportunity. The staff report for the proposed Board agenda item will describe the key elements of the Development Concept, the various steps taken to solicit input and build early consensus on the proposed concept, and the next steps. These next steps, in most cases, will include competitive solicitation of developer proposals and entering into contractual agreements with the selected developer(s), consistent with VTA’s policies and the procedures outlined below. If staff recommends VTA engage in a competitive solicitation process through the issuance of a Request for Proposals (RFP), the

Board would approve the substantive terms of such a competitive solicitation at the same time it approves the Development Concept.

However, where the consultative process does not result in a clearly defined Development Concept for a given site, staff's recommendation may be that VTA initiate a Request for Qualifications (RFQ) process to generate new ideas for the site pursuant to the RFQ procedures outlined below. In this case, staff will recommend the substantive terms of such an RFQ for the Board to approve.

If the participatory process identifies significant constraints on moving forward with any Development Concept for a priority site, the Joint Development Program should present such information to the Board and recommend either amending the Priority Schedule to recharacterize the priority of the site or a strategy for resolving the identified constraints prior to pursuing any further development activities on the site.

Once approved by the VTA Board, the Development Concept will form the basis for the subsequent joint development actions on the site, as described in more detail below.

VI. TOD PARKING POLICY

A. VISION

The VTA Transit-Oriented Development (TOD) Parking Policy establishes VTA's approach to maintaining the optimal level of parking availability at its transit stations that supports the creation of new Joint Development (JD) projects on VTA-owned sites and grows transit ridership. VTA is committed to maximizing multimodal access to transit stations, incorporating access improvements (including parking) into JD projects, and considering current and future station-area wide goals and needs in the evaluation of parking strategies.

A successful Parking Policy will facilitate the creation of new TOD projects on VTA-owned sites at stations, continue to accommodate those who currently drive to stations, increase transit ridership and VTA's farebox and other revenues.

B. DEFINITION

Joint Development (JD) refers to VTA's development of Transit-Oriented Development (TOD) on sites it owns pursuant to the Federal Transit Administration's Joint Development Circular. JD is a transit-agency specific implementation of TOD and thus a specific subset of all TOD projects. TOD refers to compact, walkable, pedestrian-oriented, mixed-use development that is centered around high-quality transit systems and is not dependent on cars to attract residents and businesses.

C. PURPOSE

This TOD Parking Policy seeks to grow ridership through management of VTA's transit parking assets to ensure that parking is sized and located to optimize ridership, to promote transit access while taking advantage of Transportation Demand Management (TDM) tools that encourage alternatives to the automobile, and to facilitate access for people of all mobility needs.

D. STRATEGIES

1. Parking Needs. Historically, less than half of all parking at VTA stations has been utilized by transit riders, in part because many riders access VTA light rail by modes other than private automobile. Determining how much parking should be retained for transit riders in conjunction with new TOD requires consideration and balance of expanded ridership opportunities resulting from both TOD and TDM measures. Full evaluation of TOD, TDM and ridership opportunities allows VTA to maximize ridership growth through utilization of multiple effective means to access stations.
2. Site Specific Analysis. Each individual site will be analyzed through the VTA Parking Model (created by an expert independent consultant retained by VTA) which reviews ridership gains created by TOD, weighs parking supply and demand, measures potential impacts of removal of parking and provision of paid parking, and calculates farebox and revenue benefits of TOD. The model results in net new ridership and annual revenues data to assist VTA staff in making informed recommendations to the VTA Board for station area parking strategies. The VTA Parking Model establishes optimal site-specific parking recommendations that:
 - i. consider the potential increase in ridership and revenue benefits associated with TOD;
 - ii. compare the projected increase in land value and fare revenue versus the capital and operating costs of future parking alternatives;
 - iii. quantify the opportunity to accommodate new riders arriving by shuttle, taxi, transportation network company (ride-hailing) services, and other first/last mile solutions; and
 - iv. measure collective net increases to ridership.
3. Best Practices. A variety of proven and emerging TDM measures can be used in combination to ensure that parking at VTA stations and other VTA-controlled real estate maximizes ridership through TOD and non-auto access, while still providing parking for riders who drive to stations. Staff will coordinate with both Planning and Programing and local planning departments to understand site specific TDM policy context, analysis and/or existing TDM review infrastructure. Prior to development at each VTA-controlled site, the VTA General Manager or designee will

review and either approve or direct the VTA Project Manager to modify requirements for application of best practice TDM measures utilized at the site, including but not limited to:

- a. shared-use parking agreements with neighboring uses;
- b. parking districts
- c. paid parking to fund transit operations, including dynamic (time-of-day based) pricing, for transit riders and/or other users;
- d. time limits to promote parking turnover;
- e. real-time, on-site and mobile device updates regarding parking availability;
- f. amenities for bicyclists, pedestrians, and special needs travelers, such as shelters, lockers, and mode-supportive routes and surfacing;
- g. valet parking (for vehicles and bicyclists);
- h. preferential parking for high-occupancy and/or clean air vehicles
- i. transit passes; and/or
- j. car, bike and scooter share programs.

VTA will cooperate with partner agencies, jurisdictions, and local employers in determining the need for, and potentially establishing as appropriate, Transportation Management Associations to implement TDM measures.

4. Paid Parking. Paid parking is an important TDM tool that can be utilized to shift parking supply and demand to underutilized parking areas throughout the JD Portfolio. Paid parking will be explored on a site by site basis and brought to the VTA Board to allow for site specific discussion and consideration. Any initial paid parking programs will be done on a pilot basis to allow for needed site-specific adjustments.
5. Station Area Access. First and last mile solutions are critical for transit users. Ensuring that riders can conveniently arrive at stations and navigate through them will help limit the need for parking and facilitate site design opportunities for housing and other community-supporting TOD uses and activities. Development proposals on VTA-controlled real estate within ¼-mile of a VTA station shall include a station access and wayfinding plan that analyzes station-specific access patterns and shows:
 - a. where riders who arrive by private vehicle will park and the route(s) they will travel from parking to transit boarding areas; and
 - b. where riders arriving by shuttle, paratransit, and ride-hailing services will be dropped off and the route(s) they will travel to transit boarding areas; and
 - c. locations for arrival by bicycles, pedestrian, and special mobility needs travelers, and the route(s) they will travel to transit boarding areas.

Development proposals for all VTA-controlled real estate shall include a curb management plan that designates locations and standing time limits for drop-off and pick-up by non-parking shuttles, taxis, paratransit, and ride-hailing and other private vehicles.

6. Local Regulations. Municipal parking regulations often need updating to reflect changes in the way that transit riders and TOD communities now use parking compared to times past. Refining local standards can help ensure efficient use of parking that promotes ridership and revenue growth and high-quality, sustainable TOD. VTA will work with local jurisdictions to promote updating of regulations to:
 - a. eliminate minimum parking requirements for TOD (and establishing maximum parking ratios if and as appropriate);
 - b. unbundle parking, such that it can be leased separately from buildings; and
 - c. establish facilities standards for passenger drop-off and pick-up and non-vehicular access for new residential and mixed-use development.

E. IMPLEMENTATION

- a. Staff will work to insure individual site-specific analysis occurs in accordance with the Board approved VTA TOD Parking Policy.
- b. Individual site evaluation results will be summarized for Board review prior to or concurrent with approval of individual TOD Joint Development Agreement (JDA) terms.
- c. The General Manager or Designee has the authority to approve best practice VTA TOD Parking Policy implementation adjustments as needed.

VII. AFFORDABLE HOUSING POLICY

A. VTA AFFORDABLE HOUSING PRODUCTION TARGET FOR JOINT DEVELOPMENT

1. Overall Portfolio Target. VTA has set a portfolio target of 35% affordable housing production at build out for joint development projects in VTA's system. For units in joint developments to be considered affordable, they must be targeted at households earning no more than 60% of Area Median Income (AMI) for Santa Clara County.
2. Individual Project Minimum. Each Joint Development project or station area with residential units will be required to provide a minimum of 20% affordable housing.
3. Deeper Affordability Requirement. At least one-half of affordable housing units will be targeted at Extremely-Low and Very Low Income Households (households earning 50% AMI or less).

4. Establish An In-Lieu Fee. VTA will establish an in-lieu fee to allow developers the option of paying a fee rather than including a specified number of affordable units in a joint development project, and will report back to the Board on its implementation and usage.

B. STRATEGIES TO INCREASE AFFORDABLE HOUSING IN JOINT DEVELOPMENT PROJECTS

1. Upzoning Incentive. On a per-project or per-station area basis, VTA will set a higher target for affordable housing production, to the extent that the local land use jurisdiction rezones the VTA joint development site to allow denser residential development (“upzoning”) that will increase the value of VTA’s property. Up to one-half of the increased number of units from upzoning would be allocated to affordable housing production, up to a maximum of 35% affordable housing in an individual joint development project or a station area.
2. Proposal Scoring Benefit. All VTA Joint Development competitive offerings for developer selection will contain competitive selection criteria that provide a scoring benefit to developers who incorporate affordable housing developers into their development team; and include a greater proportion in their development concept and development proposal submittals of affordable housing units, and/or deeper affordability, and/or more family sized units (3-bedrooms or more).
3. Partnership with Local Jurisdictions. VTA will pursue partnerships with local jurisdictions to leverage their expertise and resources to increase affordable housing production at VTA joint development sites. This could facilitate access to Low Income Housing Tax Credits, local jurisdiction in-lieu fees, applications to the Affordable Housing and Sustainable Communities (AHSC) Program, and other resources. It could also include public education on the benefits of affordable housing production to generate local support.
4. Support for Affordable Housing Projects. VTA will provide endorsements and other support as appropriate for affordable housing development applications or proposals for grant or other affordable housing funding. This applies to projects on VTA joint development sites, as well as sites on property owned by others within station areas, where the project would increase transit ridership and where its land use type and density range reflects best practices for transit-oriented development.

C. IMPLEMENTATION ACTIONS FOR THE AFFORDABLE HOUSING POLICY

1. Authorization for 100% Affordable Development. The General Manager may propose an individual joint development offering with 100% affordable residential units, as needed to enable VTA to achieve targeted levels of affordable housing production. For 100% affordable residential

joint development projects, at least 50% of the units would be targeted at Extremely-Low and Very Low Income Households (households earning 50% of Area Median Income or lower), and all units would be targeted at households earning no higher than 60% of Area Median Income.

2. Development of New Approaches for Affordable Housing Production. The General Manager is authorized to develop and implement new or flexible approaches for development of affordable housing pursuant to VTA's affordable housing policy, in order to better advance its goals and respond to changes in market or other conditions. The General Manager will notify the Administration & Finance Committee whenever this discretionary authority is exercised.
3. Modification of Resolutions of Necessity. To the extent needed, the Board will conduct hearings for new resolutions of necessity to allow properties previously acquired by eminent domain for limited transit uses to be used for Joint Development affordable housing production.
4. No Land Write-Downs. VTA will not provide write-downs in land value, or other direct financial assistance, for affordable housing units on Joint Development sites.
5. Identify Grant Funding, Financial Assistance. VTA will work to identify grants and other financial assistance that can be made available for individual joint developments that include affordable housing.
6. Application of Higher Local Requirements. If a local jurisdiction has an affordable housing production requirement that is equal to or exceeds those in VTA's Joint Development policy, the local jurisdiction's requirement will apply.
7. Preparation of an Annual Report. VTA will prepare an annual report identifying its affordable housing production to date as a percent of joint development residential units, and identify affordable housing units currently in pre-development or under construction.
8. Evaluation of Ridership Impacts. The ridership impacts of affordable housing and joint development will be tracked.

VII. DEVELOPER SELECTION PROCESS

After engaging in the participatory process outlined in Section IV above, VTA must next determine which of two possible routes the agency wishes to take to select developers with direct experience in the type of site use and design concept contemplated for a given site, either through an RFP or an RFQ leading to an RFP. By orchestrating a process that is specific to each site—and is based on the Development Concept for a particular mix of use contemplated for that site—VTA expects to be able to target projects to those developers with direct experience in the particular mix of uses proposed for a given jurisdiction.

As noted above, where the consultative process did not result in a clearly defined Development Concept for a given site, staff's recommendation may be to embark upon an RFQ process to generate new ideas for the site. Where a clear Development Concept does result from the consultations with stakeholders, VTA will, in most cases, issue an RFP.

A. REQUEST FOR PROPOSAL (RFP)

For sites where the VTA Board determines an RFP is the appropriate vehicle, the Board would approve the substantive terms of such an issuance at the same time it approves the Development Concept. Generally, the RFP would require respondents to provide a site development proposal that satisfies the approved Development Concept, a financial pro forma laying out proposed financial terms, and a schedule of development. Market-standard requirements for the given Development Concept also would be called out in the specific

RFP document and/or in separate VTA procurement policies and procedures. At a minimum, the RFP would include the:

1. Developer Qualifications. Extensive firm and project team experience in transit- oriented development projects, in projects that have generated strong revenue generation for public agencies as joint partners, in achieving required high-quality urban design, and in managing highly complex construction projects on time and budget.
2. Commitment to Environmental Building Practices. Experience in construction projects that include environmentally-sustainable practices and products, in conformance with local jurisdiction requirements, and that have achieved LEED certification or similar building measures.
3. Strong Familiarity with Complex Land Use Environments. Strong familiarity with and, preferably, proven success with navigating development projects through complex land use regulatory environments.
4. Ground Lease Management. For projects that involve ground leases with VTA, experience with public agencies, with successful property management and profit- and- loss management of real estate developments over time, and/or in the sales and leasing of residential and commercial development products, as appropriate.

B. REQUEST FOR QUALIFICATIONS, QUALIFIED DEVELOPER LIST, AND RFP

As noted above, in some cases where a clear Development Concept has not emerged or there is a desire to test market feasibility of a potential design concept or concepts, VTA may first issue an RFQ to identify a set of qualified developers with experience in the type of uses contemplated for a given site and the capacity to enter into a public-private project of the type envisioned. Those developers selected to be on the "Qualified Developer List" will then receive an RFP soliciting their interest in constructing the project and fulfilling the financial goals

of the VTA with the project. The VTA Board must approve the terms and conditions set forth in the RFQ, as well as the subsequent Qualified Developer List and RFP.

C. PROPOSAL EVALUATION PROCESS

To review and score the RFPs, VTA will establish a proposal evaluation process that involves agency staff from the VTA Project Team and the Joint Development Program and the appropriate staff from the local jurisdictions, consistent with VTA's competitive bidding process. The process will employ evaluation criteria selected for each project based on the circumstances at hand, and those criteria will be included in a subsequent action item to the Board concerning any proposed developer.

For projects involving an RFQ, the initial review will be by VTA staff only, but any subsequent RFP resulting from the RFQ would involve the larger team as noted above.

The assembled group reserves the right not to select a developer from the RFP process and to re-structure the RFP or RFQ if the response is unsatisfactory.

From time to time, the Joint Development Program will solicit external comments on the efficiency of the process and solicit comments on how it may be improved.

D. VTA BOARD APPROVAL OF DEVELOPER'S PROPOSED RESPONSE

The VTA Board must approve the proposed selection by VTA of a Developer's Response to the RFP. Following established procedure, the approval will generally be limited to acceptance of the Design Concept and will include approval to enter into negotiations with a Developer toward an Exclusive Negotiation Agreement. The approval is conducted formally in an open session properly noticed and includes consideration of the Developer's response to the RFP, including the response to all terms and conditions as set forth in the approved RFP. The Board reserves the right to request negotiation with the selected developer to improve the proposal as necessary. The Board also reserves the right to reject the staff proposal and to select an alternative or to order the staff to conduct an additional review process.

The staff report prepared for the Board's consideration of the item will fully explain key issues in the RFP or RFQ, summarize the responses received to the RFP or RFQ, the process by which the Developer's proposal was reviewed, the ranking of the selected proposal, and any significant matters the staff and believe important for the Board's informed review. If the proposal is not unanimously supported by the VTA staff, the reasons for differences in scoring, or position, will be summarized for the Board in the staff report.

E. UNSOLICITED DEVELOPMENT PROPOSALS

From time to time, VTA may receive unsolicited offers to acquire or develop sites. Notwithstanding the competitive solicitation process outlined above, the Joint Development Program will examine any such offers based on the criteria described below. The primary intention is to ascertain if the unsolicited offers have the likelihood to achieve the Joint Development Policy objectives better than the standard procedures outlined in this Implementation Plan.

Specifically, the unsolicited offers would be considered only if:

- The unsolicited property is not located at or near a light rail, Caltrain or BART station;
- The unsolicited property does not offer significant potential for Joint Development through a public private partnership;
- The unsolicited property size is very limited; and
- A financial analysis of the proposal concludes that accepting the offer is more cost-effective to VTA than the costs associated with the competitive solicitation process required in the Guidance Documents.

Upon determining that an unsolicited offer should be considered, the Joint Development Program should initiate the participatory process outlined above to determine the level of internal and external consensus for the unsolicited offer and make a recommendation to the VTA Board for formal action.

VIII. DEVELOPMENT PATH – EXCLUSIVE NEGOTIATING AGREEMENT AND JOINT DEVELOPMENT AGREEMENT

For all projects, following selection of a Developer, the VTA Board will authorize the General Manager to negotiate and execute an Exclusive Negotiating Agreement (ENA) between the Developer and VTA. The ENA grants the Developer sole opportunity to propose a development project for the land subject to the ENA during the term of the ENA. If all the terms of the ENA are subsequently satisfied, including the approval by the local jurisdiction of the project, the VTA Board may approve a proposed Joint Development Agreement (JDA) which sets forth the respective obligations of the Developer and VTA regarding development of the site and compensation to VTA and defines the legal structure between the Developer and VTA that is most appropriate for the particular project.

A. EXCLUSIVE NEGOTIATING AGREEMENT

The ENA establishes a project schedule under which the developer is permitted to carry out certain tasks to develop a project and the VTA is obligated to provide appropriate assistance and review. A non-refundable fee is charged by VTA for all ENAs, to include fees for VTA staffing to the necessary coordination, technical reviews and agency support during the term of the ENA. Developer task include the following, among others:

1. Due Diligence. To conduct due diligence investigations of the subject property, including title searches, property inspections, environmental test, and similar work.
2. Stakeholder Involvement. To meet with stakeholders on alternative proposals for the site, including the jurisdiction, the general public, VTA advisory groups and others.
3. Final Project Design and Uses. To propose a final project design and mix of uses to the VTA Board for their approval in a format set forth by VTA as part of the approval.
4. Financial Pro Forma. To produce a financial pro forma for the final project in sufficient detail to permit financial analysis by VTA.
5. Submittal to Local Planning Authority for Approval. If the final project is approved, to submit a formal application including the project information to the local governmental jurisdiction for planning approvals.
6. Joint Development Agreement Negotiation. To negotiate a Joint Development Agreement for subsequent approval.

B. JOINT DEVELOPMENT AGREEMENT

Subsequent to approval of a project by the VTA Board and the local land use having jurisdiction, VTA will negotiate a JDA that is project-appropriate and reflective of industry standards for public-private property development. The JDA covers the following topics in most cases:

1. Ownership. Assignment, transfers and management control is established.
2. Site Description and Development Site Plan. Maps, legal description of the property, including air space development rights, and other requirements that may be specific to the VTA (track alignment paths, for example); site plan; specific technical plans for construction, grading and landscaping; subdivision maps and similar maps.
3. Permit Requirements. An enumeration of the permits and planning approvals and covenants that VTA will cooperate with the Developer to obtain, to include permitted and prohibited uses.
4. Funding and Financing. Evidence of financial capability to carry out the project; compensation and other payments required to be conveyed to VTA, payments of taxes and insurance; hold harmless and indemnity clauses; allocation of liability and responsibility for remediation of environmental contamination.

5. Environmental and Other Entitlements. Certifications of compliance with environmental regulations and restrictions required by the state, regional agencies, the federal government or other entities.
6. Specification of VTA Approval Rights of Approval. Depending on the site, there may be an extensive list of matters the VTA will retain the rights to approve, such as vehicular entrances and exits, relocation of property, ownership rights of leaseholds and similar matters.

IX. POST-CONSTRUCTION REVIEW

The Post-Construction Review will be led by the Project Team and VTA Project Manager, who will prepare a report on the effectiveness of the process and procedures and provide an opportunity for VTA staff and management and to amend these. Typically occurring at the 11th month after a Certificate of Occupancy is issued by the local jurisdiction, such a review would include:

- Examining the developer selection process at close of construction to determine if adequate criteria were used and if the developer's communications, documentation and responsiveness were in accord with the ENA;
- Determining if the quality of construction as determined by the punch list of remaining issues;
- Noting any desired changes to VTA specifications for future similar projects, noting quality of materials, aesthetic requirements or engineering requirements;
- Noting the effects on transit operations and whether they were properly accounted for in the project scope;
- Concluding if the budget and change orders fell within expected parameters;
- Examining the revenue projections included in the JDA and noting any unusual market conditions, use changes or other factors that may affect the revenue projection;
- Project Team effectiveness in identifying critical issues, responding to requests for information by developer and identifying issues for the developer to respond to, this portion of the report to include suggestions for improvements in the project management process; and
- Other matters that may arise in the course of the project.

This report would be made available to the VTA General Manager and a summary may be provided to the Board or a subcommittee as it deems appropriate.

INDEX OF ATTACHMENTS/EXHIBITS

ATTACHMENT 1: Real Estate Inventory

ATTACHMENT 2: Joint Development Portfolio

Available at <http://www.vta.org/realestate/jointdevelopmentportfolio>

ATTACHMENT 3: Priority Schedule

[TO BE ATTACHED AND INCORPORATED WHEN CREATED]