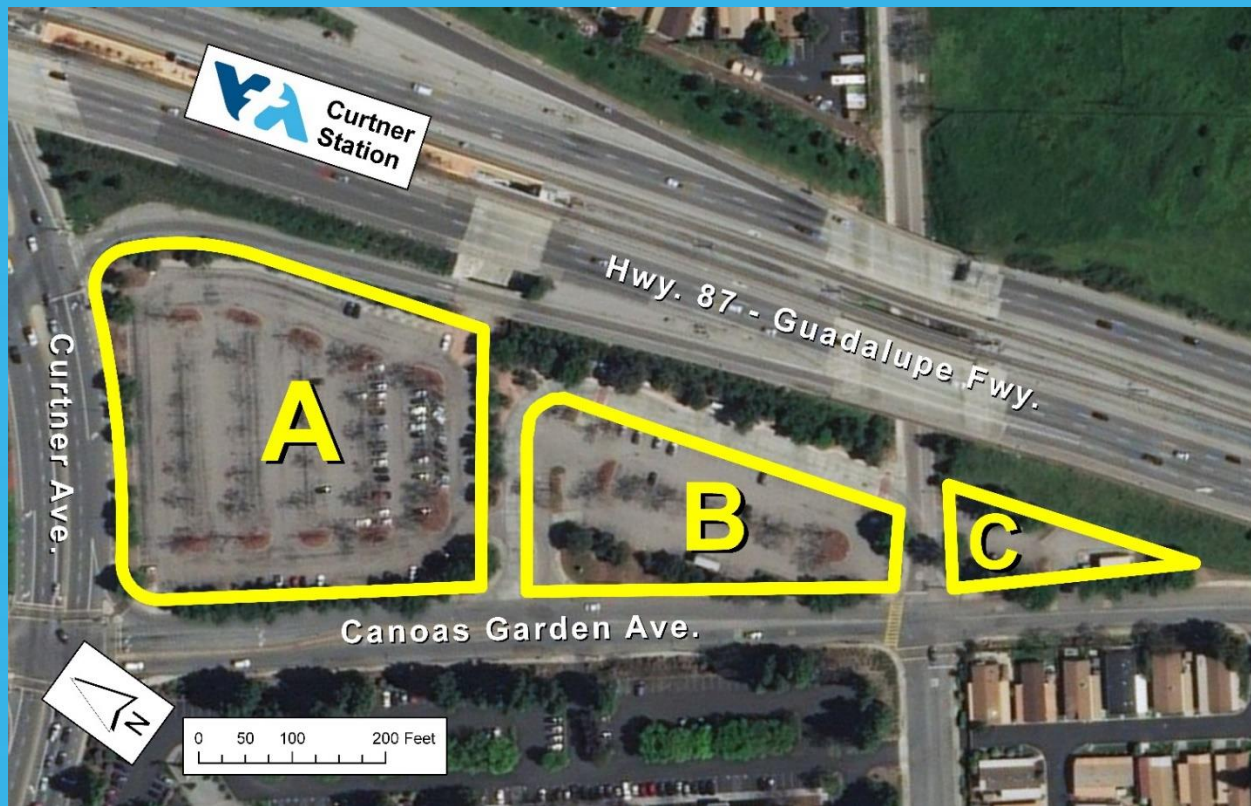


# Curtner Station Transit-Oriented Development

## Request for Proposals

*By Respondents Pre-Qualified via RFQ*



## REQUEST FOR PROPOSALS

### Curtner Transit-Oriented Development Project

**Proposals must be submitted to:**

Santa Clara Valley Transportation Authority  
ATTN: Josselyn Hazen  
3331 North 1<sup>st</sup> Street, Building A, San José, CA 95134

**DEADLINE: Submit by 4:00 PM PT on April 17, 2020.**

This Request for Proposals is open only to invited teams that successfully met the qualifications outlined in the Curtner Property Request for Qualifications, which closed on November 1, 2019.

Respondents that successfully qualified for this opportunity during the qualification stage have been notified of their eligibility to submit a proposal.

*Note Regarding the Public Records Act:*

*The California Public Records Act (California Government Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the material submitted may be made available to the public.*

## VTA Contacts:

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## RFP Schedule

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Pre-Qualified Developers notified of Eligibility to submit  
RFP Issuance  
Deadline for RFP Written Questions  
VTA Response to RFP Written Questions  
RFP Submittal Deadline  
RFP Interviews (*subject to change*)  
VTA Selection of Qualified Developer (*subject to change*)

**November 20, 2019**  
**January 31, 2020**  
**February 28, 2020**  
**March 13, 2020**  
**April 17, 2020**  
**Week of April 27, 2020**  
**August 2020**

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## 1. Introduction

The Santa Clara Valley Transportation Authority (“VTA”), a California special district, is pleased to issue this Request for Proposals (“RFP”) to create a high-quality mixed-use, mixed-income transit-oriented development (“Project”) at a central location south of Downtown San Jose. VTA is seeking proposals from qualified respondents (“Respondents”) to develop up to 3.7 acres of VTA property located at Curtner Avenue and Highway 87, San Jose, CA (“Property”). A more complete description of the Property is found under Section 2, below; see also **Figure 1** for the Property’s general location).

Each proposal must include all of the requirements described in Section 4 below.

### A. Site and Project Summary

The Property is located adjacent to the Curtner Light Rail Station. It currently serves as a park and ride lot. VTA intends to offer the Property or a portion thereof under a long-term ground lease from VTA.

VTA intends to enter into an Exclusive Negotiations Agreement (“ENA”) with the selected Respondent (who may be a single developer or an affiliated group of developers and/or contractors) whose qualifications and development proposal VTA deems to be best suited to achieve the objectives described in this RFP (“Developer”). Successful completion of negotiations will lead to a Lease Option Agreement (“LOA”) and execution of a long-term ground lease with a maximum initial term of 65 years (plus potential extensions).



Figure 1. Curtner Station Site

Parcel A (approximately 2.44 acres) is available for mixed-use transit-oriented development. Parcel B will be retained by VTA for existing bus circulation; however, a portion of Parcel B (comprising approximately 1.27 acres) could be available if the Respondent is able to replace a minimum of 100 displaced transit parking stalls through shared parking or other creative solutions. Parcel C is irregularly shaped but could be made available if it is reasonably necessary for the development of the Project. VTA is amenable to alternative suggestions and creativity regarding potential relocation or reuse of the bus loop on Parcel B, at the Developer’s expense,

so long as transit services do not experience long-term disruption and the Respondent demonstrates how changes better serve the Project and VTA.

## B. Objectives

VTA is seeking proposals that will:

- Increase transit ridership and provide access improvements such that the final development, net of any changes to transit parking, results in a net increase in transit ridership.
- Advance overall objectives of VTA’s TOD policy (**Appendix 7**).
- Meet or exceed the affordable housing requirements of VTA’s Affordable Housing Policy (**Appendix 16**). VTA’s Affordable Housing Policy mandates that residential developments contain a minimum of 20 percent of residential units that are affordable to low-income households (earning 60 percent or less of Area Median Income (“AMI”)), with half of those units affordable to very low-or extremely low-income households (earning 50 percent of AMI or lower).
- VTA prefers a mixed-income approach where Proposals integrate market rate and affordable units in the same building(s), although separate leaseholds for market rate and affordable will be considered.
- Incorporate creative and innovative approaches to development and serve as a catalyst to establish a transit-oriented community in the station area.
- Generate revenue to support VTA transit operations and investment by maximizing long term ground lease revenue.
- Engage with the community in the development of the Project, to ensure an equitable development project that aims to provide benefits to the local community.
- Create a vibrant, high-quality mixed-use development. This includes outstanding urban design to provide high-quality, active, and safe public civic spaces. Utilize green and sustainable design to minimize vehicle and building-related greenhouse gas emissions.
- Enhance station access and mobility through creation of a transit plaza, improved pedestrian and bike safety, and wayfinding to the station area.
- Provide community workforce opportunities during construction of the Project including workforce apprenticeship opportunities that create access to construction careers.

VTA encourages Respondents to think creatively about how to best meet VTA’s objectives for the Project as described in this Section 1B. VTA is willing to consider any approach that would accomplish its objectives in a superior manner.

The City of San Jose has established the following requirements and objectives for this Project that will need to be met in order for the selected Developer to obtain necessary development approvals from the City:

- Compliance with land uses permitted under the Envision San Jose 2040 General Plan (“**General Plan**”) and Signature Review Urban Plan Village Plan context (**Appendix 9**).
- Inclusion of community amenities in the development that can serve to: (i) activate the development; (ii) provide community gathering space; (iii) provide infrastructure for services; and/or (iv) create a sense of place. These amenities should enhance the quality of life for the residents of the property, while also benefitting the adjacent neighborhoods and communities.
- Support and enhancement of the local trail system and connectivity for pedestrian and bike safety as well as wayfinding to the station.



## 2. Site Description

### A. Location

The Property is located at Curtner Road and Highway 87, San Jose, CA 95125. It is comprised of the following parcels: APN's 455-19-137, -138, -140, -143, -147, -148, and aggregates approximately 3.7 acres.

The Property is adjacent to the Curtner Light Rail Station with access to VTA Light Rail and Bus.

### B. Local Amenities

The Project is an 11-minute walk to nearby amenities at Willow Glen Village (located at the intersection of Curtner Avenue and Almaden Road), which contains a variety of eateries, banking services, and a CineLux Cinema. Nearby, outdoor activities include Canoas Park (1 mi.), Wallenberg Park (1.4 mi.), and the Guadalupe Bike Path. The Project's associated public schools include Canoas Elementary, Willow Glen Middle School, and Willow Glen High School.

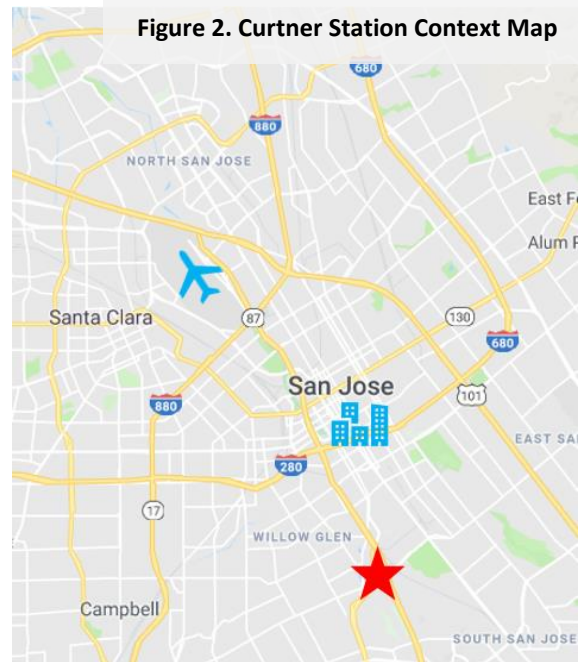


Figure 3. Curtner Station Map

### C. Transit Services



Figure 4. Curtner Station Light Rail Platform

Curtner Station is an intermodal passenger transportation station served by the VTA light rail and bus systems. The Curtner Light Rail Station is on the Santa Teresa line, which spans from Santa Teresa to Alum Rock. The station also serves the 26 Bus Line, which travels from Sunnyvale/Lockheed Martin Transit Center to Eastridge Transit Center.



Figure 5. Curtner Station Entrance

### 3. Development Process

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**Please note:** Regardless of any provision in this RFP, discussions of existing legal requirements and policies in this RFP are not intended as a substitute for Respondent’s obligation to seek independent legal analysis of any and all requirements that might affect development of the Property.

Respondent is wholly responsible for confirming all current governmental and regulatory fees, assessments and taxes applicable to the Project.

Respondent’s proposal must meet both VTA’s Affordable Housing Policy [**Appendix 16**] and the City of San Jose’s Inclusionary Housing Policy requirements. VTA’s Policy requires that affordable units be built within the Property boundaries.

The Respondent will be fully responsible for understanding and complying with the City’s Inclusionary Housing Ordinance, VTA’s Affordable Housing Policy and any other applicable laws or policies.

As further set forth in Section 7.B, below, no warranty is made or implied as to any of the information, descriptions, opinions or legal references contained in this RFP.

#### A. Existing and Potential New Entitlements

The existing land use for the parcel is outlined in the City of San Jose General Plan and Zoning Ordinance. The current General Plan Designation is NCC – Neighborhood Community Commercial, and the underlying zoning is R-1-8, CO, and PQP.

The Property is located within the Curtner Light Rail/Caltrain Urban Village (VR8). Zoning and permitting will be subject to the Signature Review process as required by the City of San Jose. Per General Plan Policy IP-5.10, residential mixed-use projects may proceed ahead of preparation of an Urban Village Plan as a “Signature Project.” Respondents must review these applicable standards and submit their proposals based on the most current requirements. Without limiting that obligation, under Policy IP-5.10, Signature Projects must meet the following requirements:

1. Within the Urban Village areas, Signature Projects are appropriate on sites with an Urban Village, residential, or commercial Land Use / Transportation Diagram designation.
2. Incorporate job growth capacity above the average density of jobs/acre planned for the developable portions of the entire Urban Village Planning area and, for portions of a Signature Project that include housing, incorporate housing density at or above the average density of dwelling units per acre planned for the entire Urban Village Planning area.

3. The commercial/office component of the Signature Project must be constructed before or concurrently with the residential component.
4. Be located at a visible, prominent location within the Urban Village so that it can be an example for, but not impose obstacles to, subsequent other development within the Urban Village area.

Additionally, Signature Projects will be reviewed for conformance with the following objectives:

1. Inclusion of public parklands and/or privately maintained, publicly-accessible plazas or open space areas.
2. Achievement of the pedestrian friendly design guideline objectives identified within the General Plan.
3. Provision of a substantive opportunity for input by interested community members in the planning and design process.
4. Demonstration of high-quality architectural, landscape and site design features.
5. Consistency with the recommendations of the City's Urban Design Review process or equivalent recommending process if the Project is subject to review by such a process.

The City has provided VTA with preliminary acceptable residential densities and minimum commercial square footage for the Project to meet Signature Project eligibility requirements. At 5.55 acres, the City has directed that the Project will require a minimum of 305 housing units, and approximately 17,000 (0.07 FAR) commercial sq. ft. Calculations are based on gross acreage for the site. These calculations are provided as general guidance, actual densities and commercial requirements will need to be reviewed and approved by the City of San Jose. VTA strongly encourages proposals that maximize mixed-use densities.

The City of San Jose is reviewing potential streamlining for housing entitlements through California Assembly Bill No. 3194 (AB 3194). See **Appendix 22**. Such streamlining may be applicable to this project. Respondents are advised to reach out to Jared Hart at the City of San Jose's Planning Department for further information, which VTA expressly permits during proposal preparation.

## B. Community Outreach and Entitlement Process

VTA seeks to select a Developer prior to submittal of a development application, in order to allow VTA, the Developer, the community, and the City to work together to finalize the application. The selected Developer will be responsible for entitlement costs and will work with VTA to prepare and submit an application for any necessary land use changes.

In cooperation with VTA, the Developer, at its own cost and expense, will work with the City and VTA to develop the design, site plan, and financing structure for development of a mutually

agreeable vision for the Project. Once fully conceived, the Project plans will be submitted to the City for final permitting approval.

Throughout the Project, the Developer, in cooperation with VTA, will host community meetings to advance neighborhood awareness and gain stakeholder insight and opinions. All outreach and engagement efforts must include best practice cultural competency standards and comply with VTA's Public Participation Plan (**Appendix 10**).

VTA hosted a community meeting in January 2018 to receive neighborhood and stakeholder input. Certain meeting materials, including notes and letters received are provided in **Appendix 11**.

### C. City of San Jose Ordinances and Impact Fees

The Project must comply with all City of San Jose (the "City") ordinances and pay all applicable developer impact fees. The City is in the process of updating its development fee structures as well as its Inclusionary Housing Ordinance ("IHO"). Consult with the City to identify all applicable fees and ordinances for the implementation of the proposal being submitted.

### D. VTA's Transit-Oriented Development (TOD) Program

VTA has adopted a policy framework that provides guidance for its transit-oriented development ("TOD") efforts. This framework consists of the *Transit-Oriented Development Policy* (**Appendix 7**), which establishes clear goals for the program. The mission of VTA's *TOD Program* is to provide appropriate stewardship of VTA's publicly-owned real estate assets by maximizing their economic value with site-appropriate development. Such development is expected to increase transit ridership, create vibrant community assets that support adjacent private Transit-Oriented Development, generate revenue to support VTA, and enhance the long-term viability of VTA's facilities. The Project is subject to VTA's TOD Policy.

### E. VTA Green Building Policy

VTA's "Green Building Policy" and "Sustainable Landscape Policy" establish a comprehensive framework for VTA to incorporate green building and sustainable landscape principles into TOD projects, to conserve natural resources, reduce waste, support the local economy, provide healthy indoor environments, and generate long-term cost savings for the operation of facilities on VTA land. Development partners are encouraged to incorporate green building principles into projects to the maximum extent possible. Application of these policies (see **Appendix 8**) should begin at the earliest stages of planning, design and construction, and apply to processes and ongoing operation of projects on VTA land.

### F. Federal Compliance

Respondent understands that there is a federal interest in this Property, and acknowledges that, as a result of the federal interest, federal laws, regulations, policies, and related

administrative procedures apply to the LOA and the Project. The Developer will be responsible for understanding and complying with all applicable federal laws, regulations, policies, and related administrative practices, including those prohibiting discrimination on the basis of disability, conflicts of interest and debarment and suspension. To assist Respondent in its proposal, VTA has attached a compilation of recent versions of these laws, regulations, policies, and related administrative practices, attached hereto as **Appendix 12**, which Respondent must thoroughly review before submitting its proposal. The most recent of such federal laws, regulations, policies, and related administrative practices at the time will govern the Project, unless the Federal Transit Administration (“FTA”) issues a written determination otherwise. The Developer must ensure compliance by its subcontractors with, and include appropriate flow down provisions in each of its lower-tier subcontracts as required by applicable federal laws, regulations, policies, and related administrative practices, to implement these standards, whether or not required herein.

Pursuant to the most recent FTA Joint Development Circular (**Appendix 13**), VTA will submit an application to obtain FTA concurrence (approval) of the Project through submission of a Joint Development Project Request Form (**Appendix 13**). Respondents are encouraged to review and familiarize themselves with the Joint Development Circular, which requires, among other matters, that VTA retain continuing control of the property subject to joint development where new federal funds are not implicated.

### G. California Labor Code Requirements and VTA’s Community Workforce Agreement Policy

Developer will be responsible for understanding and complying with Labor Code requirements including prevailing wage requirements and the requirement for contractors to register with the CA Department of Industrial Relations. **Appendix 14** to this RFP sets forth provisions that will be included in the LOA and that must flow down to Developer’s contractors and subcontractors for construction of all improvements needed to complete the Project.

In September 2016, the VTA Board approved a VTA Community Workforce Agreement Policy for VTA construction projects (**Appendix 15**). VTA seeks to accomplish the goals of this policy in its TOD projects; Proposals will be evaluated based on its contribution to the stated goals of this policy. The goals of the Community Workforce Agreement Policy are to promote efficiency of construction operations, allow VTA construction projects to proceed without labor disputes, and promote careers in construction for under-represented workers, including current or past recipients of public assistance and/or foster care, persons who have been involved in reentry programs as well as US military veterans, the homeless, unemployed or low-income individuals, at-risk youth, survivors of human trafficking, women (to the extent allowed by California Proposition 209), or those who face other identified barriers to secure employment.

### H. Submittal Deposit and TOD Pre-Development Costs

Throughout the joint development effort between VTA and the Developer for the Curtner TOD Project, the Developer will be asked to fund the VTA’s “Curtner TOD” working account. The

intent is that VTA costs associated with the joint development and effort will be paid for (or reimbursed to VTA) by the Developer. In order to fund this account, VTA will require the Developer to take the following actions:

- The proposal must include a submittal deposit of Fifty Thousand Dollars (\$50,000). Respondent must make all checks payable to the *Santa Clara Valley Transportation Authority* with the following note in the memo: “Curtner TOD Deposit.”
- VTA will retain the submittal deposit without cashing it, unless and until execution of an ENA by Respondent and VTA, at which time the check will be cashed.
- Upon completion of negotiations and final execution of the LOA, the Developer must submit another Fifty Thousand Dollars (\$50,000) deposit for the purposes of funding pre-development expenditures.

The above-mentioned deposits will be placed in an account to offset VTA’s pre-development expenditures associated with the Project. If VTA and the Developer have entered into an ENA, Developer and VTA will negotiate a pre-development budget that is acceptable to both parties, and such budget will detail the application of pre-development funds to specific VTA costs (e.g. attorneys’ fees, consultant fees, etc.). The Respondent selected by VTA to negotiate under the ENA as the Developer may be obligated to provide further pre-development funding. Any pre-development funds that are unspent following commencement of construction will be credited against such Developer’s future ground lease payments. If the negotiations under the ENA fail to result in a LOA, the remaining balance in such account as of the expiration of the ENA, or the termination of negotiations under the ENA, after netting out any accrued expenses, will be refunded to the Respondent.

### I. Access Study:

The Project will be built in an operating transit environment, and continued transit patron access, and transit operations, during and after construction, is a high priority for VTA. For this reason, the Developer will be required to fund an access study that will be managed by VTA and prepared by one of VTA’s on-call consultants. This study will, among other things:

- Identify pedestrian and bicycle circulation enhancements required to ensure long term functionality and capacity of the VTA station entrances.
- Identify on-site and area multimodal transportation improvements to ensure the development adequately incorporates access from the community to the VTA station (with a focus on walk, bike, and transit access). This work will be coordinated with the City of San Jose’s separate required transportation impact study.
- Address any impacts related to the loss of VTA transit patron parking with non-auto access enhancements or other policy measures to ensure the Project results in increases to overall VTA ridership, and consider parking management on a neighborhood-wide scale.

- Identify transportation demand management principles to reduce Project parking demand and minimize Project-based vehicle miles traveled.

#### J. Legal Review:

Attachment of the federal laws and any other legal materials is done as a courtesy to Respondent and is not intended to be a substitute for independent review of these and other resources in connection with issuing a proposal, including e.g. a review of other applicable law, regulations, policies or administrative practices with counsel of Respondent's own choosing. VTA makes no representation or warranty that (i) the laws or regulations referenced herein are attached hereto are the only laws, regulations, policies or administrative practices that may apply to Respondent's proposal or the Project, or (ii) that any comments related to VTA's understanding of such laws, regulations, policies or administrative practices are correct.



## 4. Submittal Requirements

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### A. Submittal Instructions

No later than 4:00 pm Pacific Time on April 17, 2020, each Respondent must submit and deliver its proposal in accordance with the requirements for such submittal described in this RFP, and must include: the proposal, the Respondent's financial information and an Excel pro forma analysis of the financial performance of the proposed Project, together with the submittal deposit specified in this RFP.

Proposals and the submittal deposit must be delivered to the attention of Josselyn Hazen, VTA Real Estate & TOD, 3331 N. First Street, Building A, San José, CA 95134.

Proposals may be submitted electronically by email, or it may be hand-delivered on a USB drive. Submittal packages delivered with the Proposal on an USB drive will be time stamped upon receipt. (It is the Respondent's responsibility to ensure that the proposal is timely delivered to the VTA.)

Electronic submittals of the proposal (i.e. by email) are to be addressed as follows:  
Josselyn.Hazen@vta.org.

Respondent's financial information should be presented by email in a separate single .pdf document, and the document should be marked as "Confidential". While VTA has no intent to disclose material labeled "Confidential", if a lawful request for public records under the Public Records Act or another applicable public disclosure law is received and the material is not exempt from disclosure, VTA will be obliged to disclose such information to the requesting party. Respondent should consult with its own legal counsel if it has any questions about what material may be considered exempt from disclosure and any legal risks attendant in providing such material to VTA.

An Excel spreadsheet used to prepare the proposed Project pro forma should be contained within a single Excel workbook that is unlocked and unprotected, and makes available for display all formulas used for calculation. The email submittal or a submittal with a USB drive should not contain any files other than the aforementioned three files (proposal, financial information, and Excel pro forma model).

VTA seeks responses that are clear, concise and to the point. The proposal should avoid extraneous marketing materials, overly-detailed specifications, and other material that increases the size of the submittal without providing meaningful additional information for proposal review.

VTA reserves the right in its sole discretion to request additional clarifying information regarding the items listed in this Section 4. A failure to provide such information may result in disqualifying the proposal from consideration.

## B. Respondent Team Introduction

The proposal must:

- Provide an introduction to the Respondent team, clearly identifying what form of organization will be used to implement the development (LLC, partnership, etc.) and the team's business address and location; identify the role and status of any partners in the Respondent organization who are equity partners or participants; and who is involved in controlling the Respondent entity, directly and indirectly, including non-equity members. If there is more than one proposed Developer entity, identify the nature of the affiliation between the proposed Developer entities, including roles and responsibilities and summary points on any agreements between the parties in pursuing the Project.
- Identify the Respondent team principal(s) authorized to execute and bind the Respondent to an agreement. Include the name, title, and contact information for the person(s) who will be authorized to execute the ENA, the Lease Option Agreement and Ground Lease between the Respondent and VTA (“**Key Persons**”).
- Identify the architect, landscape architect, engineering firm, and other professional services firms the Respondent proposes to use. Architecture Design/Build teams will not be accepted. Include references and representative project portfolio submissions for each one (limited to no more than 4 pages per professional services firm so identified).
- Identify the general contractor that the Respondent proposes to use. Include evidence of the Contractor’s relevant licenses for work in the State of California. Include references, portfolio examples and a current financial summary for the general contractor, including its capacity to bond.
- If the composition of the Respondent team has varied, or if the Respondent's representations under Section 5 of the RFQ, have changed in any material respect from the details provided in its submission of its RFQ to the VTA, the changes are to be detailed in the proposal.

## C. Development Proposal

The proposal must:

- Include a site plan.
- Include a development program on a future proposed parcel basis, if applicable, indicating use, square footage, and parking.

- Provide a narrative on the Respondent’s vision for the Project, including clear description of the proposed public benefits and how the Project meets the objectives listed in Section 1.B.
- Include preliminary elevations of any retail frontages or public entrance(s).
- Include visuals of the massing and articulation concepts.
- Demonstrate how the proposed project meets VTA’s Affordable Housing Policy (**Appendix 16**) including all uses and product types, proposed preliminary residential unit mix, and affordability mix.
- Include a detailed Project schedule describing the timelines for predevelopment and entitlement efforts for the Project, equity investment and financing schedule, construction timeline through certificate of occupancy, and schedule projections for stabilization. If the Project is phased, Respondent must specify the order in which individual phases are to be completed.

**VTA is willing to accept alternative creative and innovative approaches to development of the Property. If alternate solutions are proposed, provide one proposal that meets the requirements of this RFP, in addition to an alternate proposal pursuing a unique approach.**

#### D. Public Benefits

Proposals must:

- Clearly identify the proposed affordability mix for the Project. VTA requires that twenty percent (20%) of the on-site units be affordable to households at 60% AMI or lower; of such twenty percent (20%), at least one-half of those units must be available to very-low or extremely-low income households (50% AMI or lower). Proposals need to identify the unit mix (e.g., the number of units by bedroom count and by income level) for affordable units.
- Describe the Respondent’s track record in providing community workforce opportunities, as well as workforce re-entry programs and/or workforce apprenticeship opportunities that would create access to construction careers. Provide information on the Respondent’s track record in coordinating any of its community workforce programs with local Building Trades Councils.
  - Provide details on how the Project will achieve labor peace to ensure that the Project will proceed without labor disputes, in a timely and economically efficient manner.
  - Provide details on how the Project will achieve apprentice utilization goals, in accordance with State of California apprentice ratios for public works projects.
  - Include a program for underrepresented individuals to be hired as State of California registered apprentices. Describe the proposed employment opportunities, identifying the number of positions and hours that will be set-

aside for entry-level under-represented workers with a description of how this will create access to construction careers.

- Provide details on how the three objectives described above will be implemented, including specifics on any coordination with the local Building Trades Council.
- Describe the proposed approach for determining the number of apprenticeship opportunities for underrepresented workers and describe how the implementation of those opportunities will assist participants in attaining journeyman status.
- Provide details on how the proposed Project will promote the Countywide Bicycle Plan (**Appendix 17**), VTA Pedestrian Technical Guidelines and Bicycle Technical Guidelines (**Appendix 18**), and the VTA Pedestrian Access to Transit Plan (**Appendix 19**).
- Describe how the proposed Project will address and provide solutions for safety, wayfinding, and public art, trail enhancement, including at the station and station access areas, including the suggested concepts identified in **Appendix 20**.
- Describe the proposed approach to incorporating respectfulness and responsiveness to the cultural needs of diverse population groups (“Cultural Competency”). Engage with the community in all aspects of the Project to ensure an equitable development that aims for the highest community use.
- Describe how the proposed Project will incorporate green building and sustainable landscape design to minimize vehicle and building-related greenhouse gas emissions. VTA seeks to incorporate net-zero building to the greatest extent possible.
- Provide details on how the proposed Project will incorporate transportation demand management strategies to reduce car ownership and encourage non-vehicular transportation modes.

## E. Project Pro Forma

The Respondent’s financial offer must include a Project pro forma with the following information:

- A five-year Project pro-forma with proposed base rent and other ground lease terms
- The proposed key economic terms and conditions for the lease option agreement and the ground lease of the VTA Property (set forth on a preliminary basis), with the understanding that the agency’s goal is to obtain fair market value for all use types.
- Proposed key terms and conditions should include key provisions in any option agreement to enter into the ground lease, any Project completion guarantees and proposed guarantors (or qualifying standards for acceptable guarantors) (see below), annual ground rent payment (assuming a specified number of approved residential units and square feet of commercial space); escalations of, and/or adjustments to, base rent; participation structure(s) including payments arising from capital events; and lease

term. Respondent must assume that affordable units, at the expiration of restrictions associated with affordable housing financing (including Low Income Housing Tax Credits; “LIHTC”), will be refinanced so as to preserve long-term affordability (i.e., no future conversion of affordable units to market-rate units for the term of the ground lease).

- A financial analysis of the Project including sources and uses of funds with an indication of the revenues and value of the development when completed and the application of any public financing resources (tax credits, etc.) compared to the costs of development, including predevelopment, site improvements, construction, and operations. This analysis should separately address both market-rate and BMR components of the proposed Project.
- An organizational chart that denotes the proposed partnership structures and associated cash flow (i.e., sale or secondary use of tax credits and required Project equity).
- If the proposal contemplates use of a limited liability company or another Project-specific entity to hold the assets upon execution of the option agreement or ground lease, identify the entity that will provide any necessary completion or financing guarantees. The proposal must identify the terms of such completion or financing guarantees to address the financial risks through stabilization, and provide pro forma projections for the development entity's financial status after stabilization and any anticipated refinancing. These organizational charts or partnership descriptions must show entity liability throughout the life of the development (i.e., pre-development, construction and asset management).
- The timing and amount of periodic ground rent increases, as well as all proposed milestones for readjustment of ground rent, such as periodic reappraisals, refinancing, sale of the ground lease interest, and similar capital events.
- If the proposal contemplates a ground lease term longer than 65 years (including any options), an explanation of why the additional length is necessary for the Project to be feasible.

## F. Demonstration of Financial Capacity

The financial proposal must also include the following information demonstrating the Respondent's financial capacity:

- A statement describing the Respondent's experience and track record in securing public and private funding for affordable housing projects.
- Portfolios of similar or like projects that are now complete and stabilized, including projects with similar financing requirements completed within the past three years that establish the Respondent's ability to obtain equity and debt financing for its proposed Project. Respondent should also provide capital source references for at least three recently completed projects.

- Description of the proposed approach to obtaining financing for the Project, including any preliminary lender feedback or interest in projects of this type.
- The Respondent's or its general contractor's capability of providing security enhancements to ensure the full performance of the work and the ability to complete projects of similar scale on time and on budget.
- Evidence of capability to provide performance security for the completion of all Ground Lease improvements required to achieve full Project stabilization, as follows:
  - (a) A surety statement stating that the Respondent or its prime contractor for the leasehold improvements has bonding capacity sufficient to permit issuance of a performance bond in an amount equal to at least one hundred percent (100%) of the cost of the proposed leasehold improvements; and
  - (b) A statement from a bank or financial institution having long-term, unsecured debt ratings of not less than "A/A2" from one of the major national rating agencies, committing to provide a letter of credit sufficient to cover at least ten percent (10%) of the cost of completion of the ground lease improvements; or
  - (c) Two years of financial statements that demonstrate sufficient liquid assets to fully guarantee anticipated pre-development expenditures prior to commencement of construction.

## G. Identification of Legal Disputes

Respondents must, in their proposals, identify defaults, any judgments, pending litigation, contractual disputes, violation notices, or other regulatory matters within the past five years for the proposed development entity or any of its individual members or affiliates exercising direct or indirect control over the development entity, including all Key Persons. All proposal forms included as **Appendix 1** to this RFP must be completed and executed by each development firm included within the Respondent. Each such form, plus a cover letter binding the Respondent to the proposal for a period of not less than one year (the estimated ENA term), must be executed by a principal authorized to bind the relevant development firm included within the Respondent.

## H. Representations and Certifications

**Respondents must certify the completeness of the information provided in their submittal. The omission of information that VTA deems material in its sole discretion will result in the submittal being deemed non-responsive, and such proposal will not, in VTA's sole discretion, be further reviewed or evaluated by the VTA review team.**

**Each Respondent, in submitting its Proposal, hereby represents and warrants that, unless expressly noted to the contrary in the Proposal: (i) Respondent owns all rights to any copyright, patent, or other intellectual property reflected in the materials so submitted to VTA in the Proposal or hereafter provided to VTA without qualification; (ii) no portion of the**

**Proposal does or will infringe the intellectual property rights of any third party, either on its own or in combination with any other designs provided by the Respondent in pursuit of the Project; and (ii) VTA has the right to review, copy, and disseminate such Proposal and its materials to third parties without liability to any third party for infringing any such intellectual property rights.**

**Respondent will hold harmless, defend and indemnify VTA, its directors, officers, agents, successors and assigns from and against any claims, liability, loss, damages, judgments, orders, penalties or costs (including, e.g. attorney's fees and court costs) arising from or out of any breach by Respondent of the warranties provided in Section H.**

## 5. Evaluation Criteria

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VTA will be evaluating the RFP submissions based on the following evaluation criteria, identified in paragraphs A through D of this Section 5. These criteria will be evaluated individually and in combination to determine which proposal has the potential to best realize VTA's overall goals and objectives.

### A. Quality of Development Proposal

*VTA seeks development proposals for high-quality mixed-use equitable Transit-Oriented Development ("TOD") that represents best practices, supports TOD on other adjacent and nearby sites, and maximizes benefits for both VTA and the community. The criteria that VTA will use to evaluate development proposals include but are not limited to:*

- The quality of the proposal's site plan, which must include drawings that show architectural articulation/massing concept, and elevations for retail and housing. VTA is looking for demonstration of vision for quality design and materials to be utilized on site.
- The proposed affordable housing percentages and unit mix. VTA desires a mix of both market rate and affordable housing at the Project, with an affordability percentage amount of twenty percent (20%) on-site units affordable to households at 60% AMI or lower; of such twenty percent (20%), at least one-half of those units must be available to very-low or extremely-low income households (50% AMI or lower). The expertise and number of completed projects for the affordable housing member of the Respondent team will be included in the evaluation of this criterion.
- Diversity of affordable unit mix offerings.
- Integration of market rate and affordable units in the same building(s).
- Potential risk and timing implications if a General Plan Amendment is required for the Proposal.

### B. Offer/Terms to VTA

*VTA seeks financial proposals that maximize VTA's long-term financial return. VTA also seeks to maximize public benefits, including, but not limited to, affordable housing, a quantifiable increase in community workforce opportunities, and station access and area enhancements. The criteria that VTA will use to evaluate proposals, include, but are not limited to:*

- Reasonableness of Summary Financial Analysis. The economic feasibility of the proposed development and reasonableness of key assumptions. It should be apparent that the proposed development can achieve long-term financial feasibility based on proposed financing mechanisms, assumed LIHTC pricing, and projected expenses and income.



- The overall economic benefits offered. VTA will be evaluating the detailed financial terms contained within the submittal based on the greatest overall economic benefits offered. VTA will evaluate the financial benefits offered on a net present value (NPV) basis.
- Public benefits provided. VTA prefers a development proposal that clearly demonstrates a TOD vision defining connectivity for increased ridership opportunities. VTA desires submissions that include community workforce opportunities, minimal greenhouse gas generation, and incentives and Transportation Demand Management (“TDM”) measures designed to promote transit use, such as providing residents with VTA SmartPasses, on-site facilities for bicycle storage and repair, bike and car share programs, electric car charging stations, and kiss-n-ride drop-off areas.
- Station Area Enhancements. VTA seeks proposals that include an enhanced station area and improved access. Examples of desired enhancements include creation of a pedestrian focused transit plaza, bike paths, and wayfinding improvements.

### C. Respondent Team Experience

*VTA seeks demonstrated experience within the Respondent team with: (i) the successful development and operation of one or more mixed-use housing projects similar to what is envisioned for the Curtner Station Park and Ride lot, including the ability to successfully work with public agencies and diverse communities; and (ii) the successful completion of multiple affordable housing development projects that utilize LIHTC and/or other public and private sources of funds. The criteria that VTA will use to evaluate experience include but are not limited to:*

- Key Person Experience. VTA seeks a team with Key Persons who have a minimum of five (5) years on projects of similar scale and scope. Demonstration of experience working with public entities is a plus. In order to ensure that any change is not detrimental to the Project, VTA will expect to be granted: (i) the right to take commercially reasonable measures to assess any proposed replacement for any Key Person(s) comprising the Respondent team; and (ii) the right to approve such replacement.
- Respondent Team Experience. VTA will be looking for demonstration of a minimum of ten (10) years’ experience on projects of similar scale and scope from each entity comprising the Respondent team.
- Project References. VTA seeks submissions that include detailed project references and testimonies of third-party partners for projects of similar scope and scale. VTA will be looking for Respondents with creative problem-solving ability, cohesion amongst team members, and mutually beneficial experiences in public-private sector partnerships.
- Urban Design Experience. VTA desires demonstrated success in activating ground level uses in an urban environment, incorporating unique neighborhood-serving aspects that are sensitive to surrounding community context (e.g. retail, lighting, crime prevention through environmental design, signage, civic space, etc.), and design that implements and integrates enhanced pedestrian, bicycle, and/or transit connectivity.

- Mobility Management Experience. VTA seeks a team that has experience incorporating transportation demand management amenities (e.g. transit passes for residents, bike share, car share) to reduce car ownership and encourage non-vehicular transportation modes.
- Green Building Experience. VTA seeks a team that has experience designing and operating environmentally sustainable mixed-use projects.

#### D. Financial Capacity and Strength of the Respondent Team

*VTA seeks a Respondent who has the capability to obtain financing for the proposed Project, as demonstrated by its previous history of completed projects, as well as current financing activities for pending projects. The criteria that VTA will use to evaluate financial capacity includes but is not limited to:*

- Security. The Respondent provides evidence of its ability to provide adequate financial security as described in **Appendix 21**.
- Demonstration of Financial Capacity. VTA is looking for a track record of responsible (non-default) loan management, successful and repeat lending experiences and partnerships, and positive financial performance.
- LIHTC/Public and/or Equivalent Private Funding. VTA will be looking for a demonstration of experience with LIHTC and track record of securing public and/or private funding for affordable housing projects.

## 6. RFP Selection Process and Post Selection Project Development

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Submitted Proposals will be reviewed by an evaluation panel consisting of VTA staff and one or more city or community representatives. The evaluation panel will conduct interviews as it deems appropriate, and prepare an evaluation report with a recommendation to the VTA Board of Directors.

Once the VTA Board has selected a Developer for exclusive negotiations, VTA staff and legal counsel will engage with the selected Developer in negotiating and executing the ENA. If the negotiations for the ENA are unsuccessful, or the ENA is entered into but expires, the VTA may move to the next most qualified Respondent and pursue the ENA and follow-through agreements, or, alternatively, reissue the RFP, terminate the process entirely, or take any other measures it deems appropriate, as determined in its sole discretion.

The exclusive negotiations period will include pre-development work by the Developer and VTA (collectively the “Parties”) to refine the proposed Project, engage the community and other stakeholders, and develop a term sheet for the proposed LOA and ground lease. Upon successful completion of exclusive negotiations, the Parties will enter into a LOA. If the Parties are unsuccessful in those negotiations, VTA may move to the next most qualified Respondent, reissue the RFP, terminate the RFP process, or take any other measures it deems appropriate, as determined in its sole discretion. If VTA elects to reissue the RFP or terminate the RFP process all together, the VTA shall have no liability or obligation to any Respondent for the costs or effort expended in addressing and responding to the RFP through such date of termination.

Once approved by VTA Board and executed by the Board’s designee, the LOA will contractually commit VTA to execution of a ground lease following Developer satisfaction of any applicable conditions and contingencies identified in the LOA; this can include entitlement approvals, design approvals, and financing. The LOA and the ground lease negotiation may occur at the same time for expediency, subject to VTA discretion.

Concurrently with the above negotiations, the Developer will finalize Project entitlements including the PD Permit and any necessary City of San José building permits.

It is expected that the LOA will provide that, upon satisfaction of all contingencies in the LOA, including any required permitting and financial guarantees, the Developer may exercise its option right under the LOA, whereupon the Parties will execute the ground lease and the Project development will commence.

VTA will be actively engaged throughout the construction and asset management phases of the Project to insure Project compliance with the applicable LOA and ground lease terms.

## 7. General Information

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### A. Disqualification

To be considered for this Project, the Respondent and any firms identified as team members must have all necessary licenses, registration, and credentials required for the services they will perform, and cannot be deemed ineligible to bid on, work on, or be awarded a public works project pursuant to § 1777.1 or 1777.7 of the Labor Code.

VTA, in its sole discretion, may disqualify a Respondent or proposal if it becomes aware, or has credible evidence, of any of the following:

- Contact regarding this RFP between Respondent or any agent of Respondent with any VTA official, Board Member, or employee, outside of a properly noticed VTA public meeting, except for those contacts listed on Page 2 (as it may be updated by the VTA) from the time of issuance of this RFP until the VTA Board approves selection of a Developer for ENA negotiations.
- Collusion, either directly or indirectly, amongst Respondents with regard to any key terms of this RFP.
- Attempting to influence any VTA official or employee throughout the RFP process with regard to development specifications, evaluation process or final selection.
- Offering gifts, even of minimal value, to any VTA official or employee.
- Omissions, misrepresentations, or false information that may impact VTA's accurate and fair evaluation of the proposals.
- Criminal conduct by Respondent or any member of Respondent's team.
- The Proposal's failure to meet the conditions of any mandatory proposal submission requirements set forth in this RFP.
- Respondent's or a member of Respondent's team's inability to complete or perform the work described in the Proposal.
- Respondent or a member of Respondent's team's litigation or pending litigation with VTA.
- Financial insolvency of Respondent or any member of Respondent's team.
- The default of Respondent or of any member of Respondent's team under any agreement with VTA.

Furthermore, a Respondent's failure to provide complete and/or accurate information in response to this RFP may disqualify the Respondent from further participation in this selection process as determined in VTA's sole discretion. A response may be corrected, modified, or

withdrawn, provided that a written request by Respondent is received by the VTA contacts (listed above) prior to the date and time designated in the RFP for receipt of proposals.

## B. No Warranty

It is assumed that the Respondent has made an independent and full investigation of all of the legal standards that apply to its pursuit of this RFP and its Proposal, so as to be fully informed of the extent and character of the services requested, the requirements of this RFP and any laws or regulations that may affect its ability to carry out the Project.

No warranty is made or implied as to any of the information, descriptions, opinions or legal references contained in this RFP (or otherwise provided by VTA staff) and Respondents are required to do their own due diligence as to all matters discussed herein and in their proposals and confirm all such details independently.

Respondents are required to examine this RFP, including all appendices and all public records relating to the Project carefully and fully inform themselves of all relevant information. Failure to do so will be at the Respondent's own risk.

## C. Expenses and Use of Submittals

All expenses involved with preparation and submission of responses to this RFP, including costs for attending any associated oral presentation, interview, or other pre-award activities, will be borne by the Respondent. All submittals and associated materials become and will remain the sole property of VTA.

## D. Rights of VTA

This RFP does not commit VTA to enter into an ENA, nor does it obligate VTA to make payment to any Respondent. Costs incurred in preparation and submission of Proposals, review of the Property and associated due diligence, or in negotiating a LOA and ground lease will be solely borne by the Respondent.

VTA may investigate the qualifications of any Respondent under consideration, require confirmation of information furnished by the Respondent, and require additional evidence or qualifications to perform the services, provide financial assurances, or meet any other condition or requirement described in this RFP, in each instance in VTA's sole discretion.

VTA reserves the right, in its sole discretion, to:

- Reject any or all submittals or to advertise for new submittals if the best interests of VTA and/or the public will be promoted thereby.
- Modify the RFP process (with appropriate notice to Respondents).
- Issue subsequent Requests for Proposals.
- Postpone Proposal opening for its own convenience.

- Remedy technical errors in the Request for Proposal process.
- Approve or disapprove the use of particular partners/subcontractors.
- Solicit best and final offers from all or some of the Respondent(s).
- Waive weaknesses, informalities and minor irregularities in proposals, permit corrections, and seek and receive clarifications to a submittal or Proposal.
- Conduct interviews at its discretion.
- Hold meetings, conduct discussions, and communicate with one or more of the Respondent(s) responding to this RFP to seek an improved understanding and evaluation of submittals and/or proposals.
- Accept other than the highest offer or Proposal offering the greatest financial benefits.
- Negotiate with any, all or none of the Respondent(s).
- Terminate negotiations with the Developer, at any time and in VTA's sole discretion, prior to VTA's entry into the ENA.

VTA's waiver of minor irregularities will in no way modify this RFP or excuse the Respondent from full compliance with requirements if the Respondent is selected for negotiation. VTA will have full and sole discretion to determine the criteria and process of evaluation for this RFP, which (if any) Respondent will be selected for negotiation of a LOA and ground lease, or whether or not a LOA and ground lease will ever be awarded as a result of this RFP.

All information, including plans, specifications, and photos, submitted to VTA by each Respondent, whether or not selected, in response to this RFP will automatically become the property of VTA and may be used without restriction or liability by VTA.

## 8. Appendix List

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1. **Proposal Forms (including: Iran Contracting form, Non-Collusion Declaration)**
2. **APN Map**
3. **Title Report and Exceptions Map**
4. **Phase I ESA Report**
5. **Base Map**
6. **Preliminary Placeworks Concepts**
7. **VTA's Transit-Oriented Development Policy**
8. **VTA Green Building & Sustainable Landscape Policies**
9. **Envision San Jose 2040 General Plan and Urban Village Plan Context**
10. **VTA's Public Participation Plan**
11. **January 2018 Community Meeting Day After Report and Feedback**
12. **Federal Laws, Regulations, Policies and Related Administrative Practices**
13. **FTA Joint Development Circular, Joint Development Project Request Form**
14. **California Labor Code requirements (applicable to entire Project)**
15. **VTA Community Workforce Agreement Policy**
16. **VTA Affordable Housing Policy**
17. **Countywide Bicycle Plan**
18. **VTA Pedestrian Technical Guidelines and Bicycle Technical Guidelines**
19. **VTA Pedestrian Access to Transit Plan**
20. **RELM Studio Urban Design Analysis**
21. **Insurance Requirements**
22. **CSJ Informational Memo AB3194**