

REDEVELOPMENT AGENCY  
BOARD

HARRY S. MAVROGENES  
EXECUTIVE DIRECTOR

SEE BELOW

FEBRUARY 23, 2007

### **INFORMATION**

**SUBJECT: BEA SYSTEMS ACQUISITION OF THE SOBRATO TOWER  
AND SUBSEQUENT RELOCATION FROM NORTH SAN  
JOSE TO DOWNTOWN SAN JOSE**

Since early November 2006, Redevelopment Agency staff and BEA Systems executives, in coordination with the Sobrato Development Companies, have been exploring opportunities for the move of the BEA Systems headquarters to the “Sobrato Building” at 488 Almaden Boulevard in Downtown San Jose. BEA Systems currently leases 225,000 sf of space on North First Street.

On Thursday, February 22, 2007, BEA Systems announced its intention to acquire the building at 488 Almaden Boulevard, with assistance from the San Jose Redevelopment Agency, and executed a Letter of Intent with the Redevelopment Agency to pursue a Property Use Agreement. Escrow is expected to close in April 2007.

This item is being brought to the Agency Board’s attention because of the major significance of this site to the economic vitality of the Downtown and because of recent public and media interest. This acquisition and the occupancy of all 380,000 square feet will reduce the Class A building vacancy rate from 18.6% to 10.8%. It is estimated that over 1,000 BEA employees and contract workers will be housed in the building generating multiplier impacts on the downtown economy. An article regarding the BEA acquisition of the site appeared in the San Jose Mercury News this morning.

The Agency’s discussions with BEA since last Fall has centered on issues that would help close the financial gap between the sale and purchase price of the 488 Almaden Blvd. building.

Agency staff has negotiated a term sheet with BEA Systems and prepared a cost/benefit analysis, market analysis, and related due diligence as required under Redevelopment Law so that we could determine practical alternatives to present to the Agency Board. Staff is prepared to submit the terms and conditions of the Property Use Agreement to the Agency Board for its consideration and approval at the March 20, 2007 Board meeting. The goal is to release the staff report on March 6, 2007, two weeks prior to the Board meeting, as required under the Council/Agency policy. The summary of the deal terms and the executed Letter of Intent between the Agency and BEA System is attached for your reference.

HARRY S. MAVROGENES  
Executive Director

Encl.

## ATTACHMENT

### BEA SYSTEMS – SUMMARY HIGHLIGHTS

#### About BEA:

- BEA is the world's leading \$1.4 billion application infrastructure software company
- Currently located in a 225,000sf building on North First Street
- Employs 800 people in San Jose; 5000 worldwide

#### 488 Almaden Boulevard Building

- 380,000 sf Class A office
- Will become BEA Corporate Headquarters
- BEA plans to relocate its workforce of approximately 1,000 employees and contract workers to the downtown location by the first half of next year.
- Estimated Total Assessed Value of Building is expected to be doubled at a minimum
- Approximately \$25 million landlord and tenant improvement investment
- 

#### Letter of Intent (LOI) between Agency and BEA

- Executed on 2/22/07
- Speaks to the city's interest to create a cluster of technology companies in Downtown
- Office vacancy rate in downtown Class A office decreases from 18.6% to 10.8%.  
Overall office vacancy would reduce from 21% to 16%

#### Proposed Deal Terms:

- BEA shall occupy at least 51% of the building at all times
- Estimated Tax Increment over 28 years through FY 2035-36 (the current life of the Guadalupe/Auzerais Redevelopment Area) in today's dollars = approximately \$19 million (total in real dollars = approximately \$35 million)
- Agency Participation in the deal = \$13.32 million over 15 years; with larger payments in years 1-5
- Public use of parking spaces: 30-year use of 388 spaces weekday nights, 7pm-midnight; and 842 spaces weekends/holidays from 8am-12 midnight
- Agency receives 50% of net operating profit from parking garage revenues
- Agency to lease 30,000 sf of the building for 5 years for the purpose of subleasing the space for same period to emerging technology company/companies
- Agency to allow BEA weekday, daytime, use 45 parking spaces on Agency-owned parking lot at Balbach/Almaden

#### Other Agency/City Benefit/Assistance:

- Facilitate expedited development permit process
- Coordinate activities with utilities, VTA and others as necessary
- Assist with pursuing enterprise zone benefits
- Approximately 150 construction employees with \$8 million payroll
- 800-1000 employees with approximately \$140 million annual direct payroll to visit downtown restaurants, arts and entertainment venues
- Additional hotel rooms and convention center activity

**CONFIDENTIAL**

February 15, 2007

William M. Klein  
Executive Vice President  
Corporate Development  
BEA Systems, Inc.  
2315 North First Street  
San Jose, CA 95131

Dear Bill:

Attached for your review is an updated Term Sheet, which captures BEA's request to reduce the number of parking spaces available to the Agency in the evenings.

If the terms of this Revised Term Sheet are acceptable to you as the basis for preparing a Building Use Agreement, and other pertinent legal documents associated with this Agreement, please sign and return this letter as soon as possible.

If all legal documents between the Agency and BEA are executed by February 27, 2007, we will be able to present this action to the Agency Board for approval on March 20, 2007.

Sincerely,



HARRY S. MAVROGENES  
Executive Director

The undersigned agrees with the terms of this Letter of Intent.



WILLIAM M. KLEIN  
Executive Vice President  
BEA Systems, Inc.

**EXHIBIT A**

**SAN JOSE REDEVELOPMENT AGENCY (AGENCY)  
REVISED TERM SHEET  
TO BEA SYSTEMS INC. (BEA)  
ON PROPERTY AT 488 ALMADEN BLVD. ("BUILDING")  
DATED FEBRUARY 15, 2007**

**[SUBJECT TO AGENCY BOARD APPROVAL]**

## SUMMARY OF TERMS

BEA intends to acquire a 380,000 square foot Class A office building located at 488 Almaden Blvd. in Downtown San Jose. BEA intends to complete its transaction with Sobrato Development Companies in April 2007.

AGENCY shall enter into a Building Use Agreement with BEA, subject to REDEVELOPMENT AGENCY BOARD approval, to obtain

- i. public parking rights in the parking garage located in the building; and
- ii. a covenant from BEA requiring that BEA maintain its corporate headquarters in the building and that BEA occupy at least 51% of the building.

If BEA acquires the property, AGENCY agrees to pay BEA for the Public Use Rights up to \$13.32 million over a 15-year term for the use of a block of restricted parking spaces in the parking garage of the Building. Parking spaces to be open for public use over a 30-year period from 2008 to 2038.

AGENCY agrees to pay BEA an advance use fee of approximately \$4.36 million in Years 1 through 5, as shown below; the first payment due on July 1, 2008. The advance use fee shall be paid as follows:

Year 1: \$1,850,000  
Year 2: \$ 740,000  
Year 3: \$ 740,000  
Year 4: \$ 518,000  
Year 5: \$ 518,000

The balance of the \$13.32 million would be paid annually beginning July 1, 2008 over a 15-year period ending July 1, 2022 as shown on the attached Schedule of Annual Payments.

AGENCY agrees to, subject to AGENCY BOARD approval, lease up to 30,000 square feet of office space in the building, specifically for the purpose of subleasing such space subject to reasonable approval by BEA.

## **SPECIFICS OF THE PROPOSAL**

### **1. PROPERTY USE AGREEMENT FOR PARKING SPACES**

AGENCY shall have right to use:

- 388 restricted parking spaces in the building parking garage, located in the three (3) below grade levels (P1, P2, & P3) for public use on weekday nights from 7:00 pm to 12 midnight; and
- 842 restricted parking spaces in the building parking garage, generally located between P3 and Floor 4, for public use on weekends and holidays from 8:00 am to 12 midnight.

The terms and conditions of such use would be set forth in a parking operations plan.

BEA shall operate and maintain the parking garage and fund all costs related to the parking garage.

Public use of the parking spaces shall be for a period of 30 years commencing on July 1, 2008 and terminating on June 30, 2038.

AGENCY receives 50% of the net operating profit from parking garage revenues after deduction of operating expenses on annual basis.

BEA shall have the right to cancel the parking obligation at an agreed upon cancellation fee outlined in the attachment.

### **2. COVENANT FOR CORPORATE HEADQUARTERS**

BEA is recognized as the world's leading application infrastructure software company. Headquartered in North San Jose in a 225,000 square foot campus on North First Street, BEA currently employs approximately 800 people.

AGENCY supports BEA's corporate vision to relocate its headquarters operation in a Downtown Class A office tower because it speaks to the CITY's and AGENCY's interest to create a cluster of technology companies in the city center.

BEA covenants to house its corporate headquarters at 488 Almaden Blvd., and be the primary user occupying at least 51% of the total Building space. BEA acknowledges its intention to utilize the entire building for its business operations over time.

### **3. CORPORATE SIGNAGE**

BEA is responsible for funding the design, fabrication and installation of its corporate signage program. BEA shall work with AGENCY and CITY staff on design review and the permit process.

### **4. OTHER AGENCY ASSISTANCE**

AGENCY and CITY staff shall assist BEA development team with facilitating an expedited development permit process.

AGENCY shall assist BEA development team to coordinate activities with PG&E and other utility companies, Valley Transportation Authority, and any other public agencies as needed.

AGENCY and CITY staff shall assist BEA to pursue Enterprise Zone benefits specifically as it relates to obtaining new employee tax credits and manufacturing and communications-related equipment tax credits, and other programs such as Employee Training Funds.

BEA agrees to work with CITY staff to ensure that the sales and use taxes related to operations and activities on and in connection with the subject property will be reported and allocated by the applicant in accordance with applicable law to maximize the CITY's sales and use tax revenues, representing significant additional revenue annually.

From time to time, AGENCY staff shall assist BEA with facilitating company product launches, press conferences and press releases, special events and ceremonies to highlight the operations and milestone accomplishments of the company.

### **5. AGENCY LEASE OF OFFICE SPACE IN THE BUILDING**

AGENCY agrees to lease up to 30,000 sf of office space in the building, which shall include three (3) parking spaces per 1,000 sf (90 spaces) in the building parking garage, for a period of 5 years at a \$2 per square foot NNN lease rate beginning July 1, 2008, with an escalation of 3.0% compounded annually. Leased space shall be delivered by BEA to AGENCY as a warm shell with open office build-out that is mutually agreed upon at an estimated cost ranging from \$40-\$50/sf. The parties acknowledge that the AGENCY does not intend to occupy the leased space.

## **SUBLEASE**

AGENCY shall have the right to sublease the office space subject to reasonable approval of BEA during the 5-year lease term. Criteria shall be established in the lease to define acceptable subtenants.

At any point before AGENCY subleases the office space, BEA shall have the right to recapture all or any portion of the leased space at which time the AGENCY's obligations as to such leased space shall terminate. After the initial sublease of the leased space by the AGENCY, if any subtenant vacates the leased space during the term of the lease, BEA shall have the right to recapture any such subleased space.

## **6. USE OF PARKING SPACES ON AGENCY OWNED SURFACE PARKING LOT**

To provide for BEA parking needs during business hours and to provide parking for employees, visitors, clients, and service providers, the AGENCY agrees to allow BEA to use 45 parking spaces on an Agency-owned surface parking lot located at the southeast corner of Almaden Blvd. and Balbach Street commonly known as the Almaden/Balbach Parking Lot. These spaces will be made available to BEA for its exclusive use at a cost of \$1 per year, Monday through Friday from 6:00 am to 6:00 pm, for the entire term of the Agreement from 2008 to 2038. The Agency shall maintain use of said spaces for public use in the evenings, weekends and holidays, during the time that the parking spaces are not in exclusive use by BEA. A Property Use Agreement between BEA and AGENCY shall outline the terms of this arrangement.

During the term of the parking agreement, AGENCY will agree not to negotiate with any third party for acquisition or development of the AGENCY lot and, at any time during the term of the parking agreement or upon termination of the parking agreement, the AGENCY will negotiate with BEA for the acquisition and development of the AGENCY lot. The development of the AGENCY parking lot could include the continued use of the lot for parking purposes.

BEA hereby acknowledges that the AGENCY lot is situated within the boundaries of the annual Grand Prix Champ Car race course, which is held at the end of July. The lot is inaccessible for a period of approximately 10 days before, during and after the race. Therefore, the lot will not be available for use by BEA during this period.

EXHIBIT B  
488 ALMADEN

REVISED PROPOSAL 2/15/07

Annual Payments by Agency for Parking Access  
388/Evening + 842/Weekend/Holiday Spaces

Beginning July 1st	Lease Year	Advance Use Fee	Annual Payment	Total Payments
2008	1	\$1,850,000	\$592,000	\$2,442,000
2009	2	\$740,000	\$603,840	\$1,343,840
2010	3	\$740,000	\$615,917	\$1,355,917
2011	4	\$518,000	\$628,235	\$1,146,235
2012	5	\$518,000	\$640,800	\$1,158,800
2013	6	\$0	\$653,616	\$653,616
2014	7	\$0	\$666,688	\$666,688
2015	8	\$0	\$680,022	\$680,022
2016	9	\$0	\$693,622	\$693,622
2017	10	\$0	\$707,495	\$707,495
2018	11	\$0	\$495,800	\$495,800
2019	12	\$0	\$495,800	\$495,800
2020	13	\$0	\$495,800	\$495,800
2021	14	\$0	\$495,800	\$495,800
2022	15	\$0	\$488,565	\$488,565
Total		\$4,366,000	\$8,954,000	\$13,320,000

**488 ALMADEN  
PROPOSAL - GARAGE SPACES WITH PUBLIC ACCESS**

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Lease Year	Beginning July 1st	Garage Spaces	Public Spaces		
			Weekdays		Weekends & Holidays
			Unrestricted Spaces	Restricted Spaces	Unrestricted Spaces
1	2008	1,108	0	388	842
2	2009		0	388	842
3	2010		0	388	842
4	2011		0	388	842
5	2012		0	388	842
6	2013		0	388	842
7	2014		0	388	842
8	2015		0	388	842
9	2016		0	388	842
10	2017		0	388	842
11	2018		0	388	842
12	2019		0	388	842
13	2020		0	388	842
14	2021		0	388	842
15	2022		0	388	842
16	2023		0	388	842
17	2024		0	388	842
18	2025		0	388	842
19	2026		0	388	842
20	2027		0	388	842
21	2028		0	388	842
22	2029		0	388	842
23	2030		0	388	842
24	2031		0	388	842
25	2032		0	388	842
26	2033		0	388	842
27	2034		0	388	842
28	2035		0	388	842
29	2036		0	388	842
30	2037		0	388	842

	<i>Per Floor</i>	<i>Cumulative Total</i>	
Garage Spaces	Below - P3	111	111 <--Weekdays + Weekend
	Below - P2	145	256 <--Weekdays + Weekend
	Below - P1	132	388 <--Weekdays + Weekend
	Street	63	451 <--Weekend & Holliday Only
	Floor 1	97	548 <--Weekend & Holliday Only
	Floor 2	102	650 <--Weekend & Holliday Only
	Floor 3	102	752 <--Weekend & Holliday Only
	Floor 4	90	842 <--Weekend & Holliday Only
	Floor 5	90	932
	Floor 6	90	1,022
	Floor 7	86	1,108
<b>Total Spaces</b>		<u>1,108</u>	

**AGENCY COSTS  
AGENCY BENEFITS  
PAYBACK SCHEDULE - EARLY TERMINATION  
488 ALMADEN**

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FY Beginning July 1	Agency Costs					Agency Benefits		Payback Amount Upon Termination (3) (B. minus A.)		
	Agency Payments	Forgone Revenue 45 Spc Lot	Agency Lease Obligation @ \$24 + Exp	Agency Sublease Rent @ \$35 Fully Serviced	Agency Lease Net Cost	Total Agency Costs	A. PV of Future Costs (1)		Garage Benefit (2)	B. PV of Future Benefits (1)
1	\$2,442,000	\$32,000	\$1,170,000	\$1,050,000	\$120,000	\$2,594,000	\$10,570,000	\$442,800	\$12,841,000	\$2,271,000
2	\$1,343,840	\$32,960	\$1,205,100	\$1,081,500	\$123,600	\$1,500,400	\$9,386,000	\$456,084	\$12,770,000	\$3,384,000
3	\$1,355,917	\$33,949	\$1,241,253	\$1,113,945	\$127,308	\$1,517,174	\$8,151,000	\$469,767	\$12,684,000	\$4,533,000
4	\$1,146,235	\$34,967	\$1,278,491	\$1,147,363	\$131,127	\$1,312,330	\$7,083,000	\$483,860	\$12,580,000	\$5,497,000
5	\$1,158,800	\$36,016	\$1,316,845	\$1,181,784	\$135,061	\$1,329,877	\$5,986,000	\$498,375	\$12,459,000	\$6,493,000
6	\$653,616	\$37,097				\$690,713	\$5,454,000	\$513,327	\$12,320,000	\$6,966,000
7	\$666,688	\$38,210				\$704,898	\$4,913,000	\$528,726	\$12,161,000	\$7,248,000
8	\$680,022	\$39,356				\$719,378	\$4,341,000	\$544,588	\$11,981,000	\$7,640,000
9	\$693,622	\$40,537				\$734,159	\$3,737,000	\$560,926	\$11,779,000	\$8,042,000
10	\$707,495	\$41,753				\$749,248	\$3,099,000	\$577,754	\$11,555,000	\$8,456,000
11	\$495,800	\$43,005				\$538,805	\$2,654,000	\$595,086	\$11,307,000	\$8,863,000
12	\$495,800	\$44,295				\$540,095	\$2,193,000	\$612,939	\$11,033,000	\$8,840,000
13	\$495,800	\$45,624				\$541,424	\$1,717,000	\$631,327	\$10,733,000	\$9,016,000
14	\$495,800	\$46,993				\$542,793	\$1,226,000	\$650,267	\$10,404,000	\$9,178,000
15	\$488,565	\$48,403				\$536,968	\$726,000	\$669,775	\$10,047,000	\$9,321,000
16		\$49,855				\$49,855	\$698,000	\$688,868	\$9,658,000	\$8,960,000
17		\$51,351				\$51,351	\$668,000	\$710,564	\$9,237,000	\$8,559,000
18		\$52,891				\$52,891	\$635,000	\$731,881	\$8,783,000	\$8,148,000
19		\$54,478				\$54,478	\$599,000	\$753,837	\$8,292,000	\$7,693,000
20		\$56,112				\$56,112	\$561,000	\$776,452	\$7,765,000	\$7,204,000
21		\$57,796				\$57,796	\$520,000	\$799,746	\$7,198,000	\$6,673,000
22		\$59,529				\$59,529	\$476,000	\$823,738	\$6,590,000	\$6,114,000
23		\$61,315				\$61,315	\$429,000	\$848,451	\$5,939,000	\$5,510,000
24		\$63,155				\$63,155	\$379,000	\$873,904	\$5,243,000	\$4,864,000
25		\$65,049				\$65,049	\$325,000	\$900,121	\$4,501,000	\$4,176,000
26		\$67,001				\$67,001	\$268,000	\$927,125	\$3,708,000	\$3,440,000
27		\$69,011				\$69,011	\$207,000	\$954,939	\$2,865,000	\$2,658,000
28		\$71,081				\$71,081	\$142,000	\$983,587	\$1,967,000	\$1,825,000
29		\$73,214				\$73,214	\$73,000	\$1,013,094	\$1,013,000	\$940,000
30		\$75,410				\$75,410		\$1,043,487		
<b>Nominal Total</b>	<b>\$13,320,000</b>	<b>\$1,522,413</b>			<b>\$637,096</b>	<b>15,479,509</b>		<b>\$21,066,394</b>		
<b>Present Value (1)</b>	<b>\$11,266,000</b>	<b>\$932,000</b>			<b>\$583,000</b>	<b>\$12,781,000</b>		<b>\$12,897,000</b>		
										<b>101%</b>

(1) Discount rate = 3% per year  
(2) Value of benefit based on 388 public parking spaces with weekday and weekend access at \$60 per month and 454 spaces with access on weekends and holidays only at \$30 per month with 3% escalation in future years.  
(3) Calculation of payback amount based on termination at the end of each lease year - after Agency payments have been made and benefits have accrued.