



BART TOD Policy Update: Unsolicited Proposals for Property Development



May 23, 2019
BART Board of Directors



Presentation Overview

1. Overview of Proposed Review Process of Unsolicited Proposals
2. New Unsolicited Proposal Review Fee
3. Proposed TOD Policy Amendment
4. Next Steps





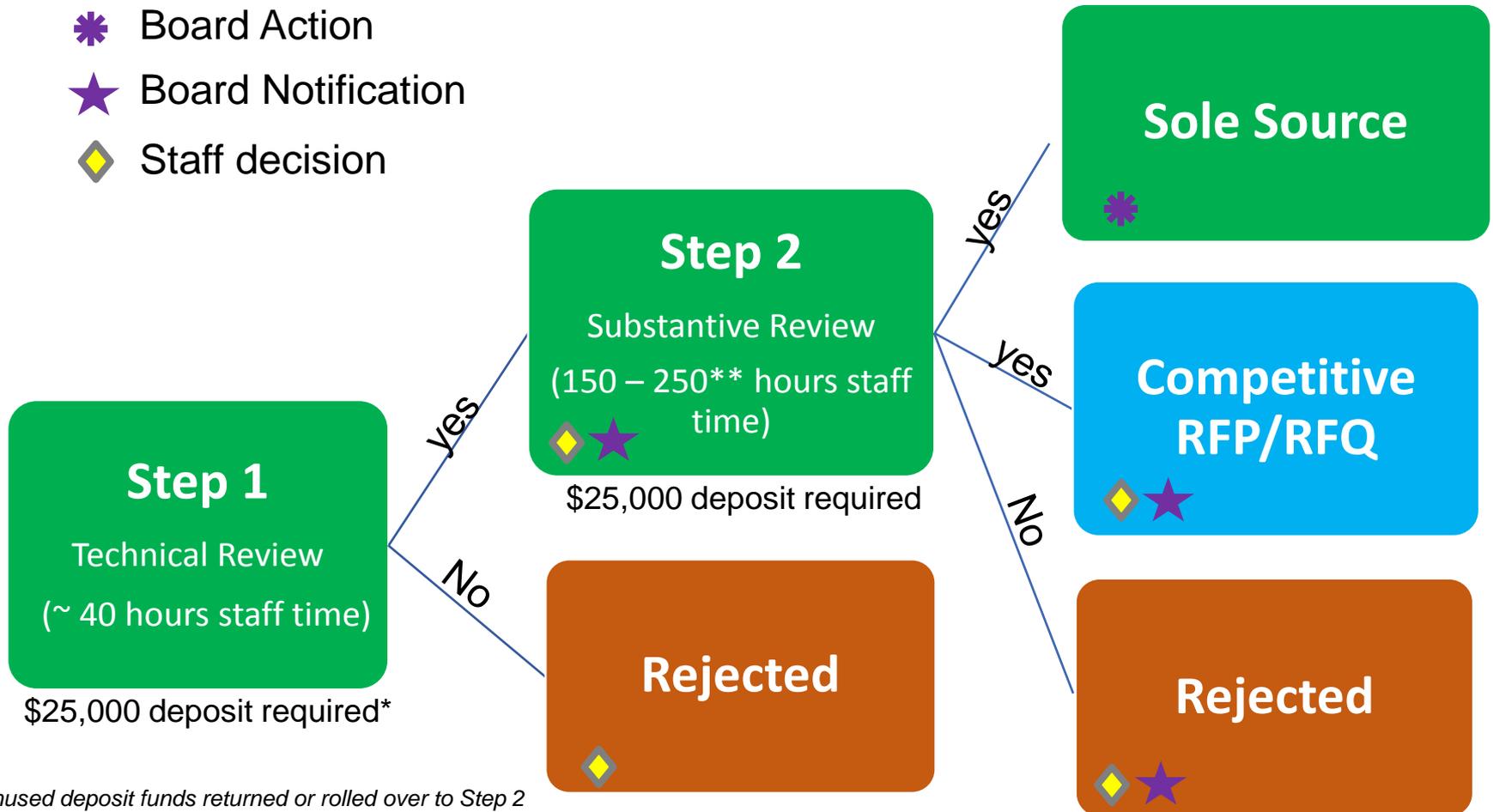
Unsolicited Proposals for Property Development

- Currently no specific review process exists
- BART receives inquiries on a regular basis
 - *Pro: can respond to innovative and/or market driven proposals*
 - *Con: disrupts workplan and redirects from other priorities*
- Proposed review process:
 - *Proposer to pay all staff/consultant review costs*
 - *Requires board approval of new fee*
 - *Provides consistency and transparency*
 - *Two step process allows quick initial assessment*



Unsolicited Proposal Two Step Review Process

- * Board Action
- ★ Board Notification
- ◇ Staff decision



* Unused deposit funds returned or rolled over to Step 2

**Dependent on project complexity



Step 1 (Technical Review) Review Criteria

- Aligned with BART's TOD guidelines and policies
- Staff capacity exists
- Proposer qualifications
- No long term operational need for site or specified need can be accommodated within project
- Analysis of proposal vs. current zoning or AB2923
- Meets four or more of defined criteria
 - *Community benefits, ridership, innovation, partnerships, adjacent land, regional use, affordable housing, catalytic project, concentration of jobs, etc.*



Step 2 (Substantive Review) Review Criteria

- Provides opportunity not readily available through the market
- Innovative or unique
- Robust transit and community benefits
- High quality design, including significant multimodal access improvements
- Robust community outreach plan and City support
- Significant ridership
- Economic and regulatory feasibility
- Financial offer
- Proven development team experience and capitalization



Step 2 Results

BART rejects proposal

- Staff decision based on evaluation
- Board notified of decision and reasoning

Staff opens Competitive RFP/RFQ process

- Interest in proposal but market may yield competitive project
- Staff decision based on evaluation
- Board notified of decision and reasoning

Staff recommends Sole Source

- Unsolicited Proposal procedure includes criteria
- Board action required
 - *Next step would be an Exclusive Negotiation Agreement*



Unsolicited Proposal Review Fee

- Board approval and noticed public hearing required
- Board approved similar review fees in 2006
 - *Permit applications, Plan review, and Easements*
- Fee calculated using current salary/benefits for staff involved in review (including overhead)
- Reimbursement agreement will be required for all unsolicited proposal applications
 - *\$25,000 deposit is in alignment with current RFQ/RFP requirement*
 - *All unused funds will be returned unless Proposer chooses to roll funds over to next step*



Unsolicited Proposal Fee Calculation

- **Calculate annually based on current salary/benefit data for employee classifications reviewing proposals**
 - *i.e. property development officer, engineer, planner*
 - *Weighted average to account for positions that spend more time on the review*
 - *Incorporate Cost Allocation Plan (CAP) rate which accounts for general overhead costs*



Unsolicited Proposal – Proposed Policy Framework

- Modify Strategy A: “Manage Resources Strategically to Support Transit-Oriented Development.”
4. (NEW): Develop a procedure that will allow BART to respond to unsolicited proposals for property development on sites not identified in the 4-Year Workplan. Although BART does not encourage unsolicited proposals, they can be a valuable means for BART to partner with local communities and/or the development community to produce innovative or unique developments that deliver benefits in excess of what is typically provided by the market.*

**existing number 4 becomes number 5*



Unsolicited Proposals –Next Steps

- Proposed TOD policy amendment to address unsolicited proposals brought back to Board for approval - June 2019
- Review fee for Unsolicited Proposals brought back to Board for approval - June 2019