



## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Robert M. Pann</i> 14 Aug 2019		GENERAL MANAGER ACTION REQ'D: Approve and forward to the Board		
DATE: 8/5/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Joseph Basuino Dept: Planning, Development and Construction	General Counsel <i>V. B. [Signature]</i> 8/14/19 [ ]	Controller/Treasurer <i>[Signature]</i> 8/14/19 [ ]	District Secretary [ ]	BARC <i>[Signature]</i> 8/13/2019 [ ]
Signature/Date: <i>Joseph M. Basuino</i> 8-13-19				
Status: Routed		Date Created: 8/5/2019		

### Re-Authorization for the North Concord/Martinez Station Transit Oriented Development Exclusive Negotiating Agreement Award

#### PURPOSE:

To authorize the General Manager or his designee to execute an Exclusive Negotiating Agreement ("ENA") with Brookfield Residential for Transit-Oriented Development ("TOD") at the North Concord/Martinez BART station.

#### DISCUSSION:

BART owns approximately 20 acres at the North Concord/Martinez BART Station consisting of the parking lot and the transit center (the "BART Property"). Currently, BART staff is engaged with the City of Concord ("City") and community in developing the Concord Reuse Specific Plan ("Specific Plan"), initiated in 2017 which includes the BART Property. The Specific Plan, Environmental Impact Report ("EIR") and associated entitlements are expected to be completed in mid- 2020. The Specific Plan will establish zoning and environmental clearance for the former Concord Naval Weapons Station (the "Base"), the BART property, and the former Coast Guard Property to the south of BART. FivePoint will develop Phase I of the former Base, and the City of Concord has selected DeNova Homes to re-develop the former Coast Guard property.

The BART property is a key area within the Specific Plan boundaries in which development interests are not represented by a developer. Staff have found that this places BART at a disadvantage in negotiating future uses, infrastructure needs, and circulation within the Specific Plan, which is far more detailed than a typical City planning document where no developers are directly seeking entitlements. For this reason, BART initiated a solicitation process during the summer of 2018 seeking a team to advance the development process.



Based on the anticipated draft Specific Plan and BART policies, the District sought a financially feasible, long-term, mixed-use development, featuring commercial office, affordable and market-rate housing, with a focus on active access and a sustainable long-term parking strategy.

On December 6, 2018, following a lengthy evaluation process, the BART Board authorized staff to enter into an ENA with a team comprised of Brookfield Residential and Novin Development Corporation (“Brookfield/Novin”). Unfortunately, Brookfield and Novin were unable to successfully reach agreement regarding the terms of this proposed partnership. In April 2019, Brookfield and Novin informed BART staff that they had dissolved their partnership.

On April 17, 2019 staff reissued the Request for Qualifications (“RFQ”) by invitation to the developers that previously responded. Brookfield Residential and Novin Development Corporation were invited to submit separate responses. All teams were welcome to add, replace, or remove team members, so long as the lead developers remained the same. The four teams invited were:

- Brookfield Properties
- Novin Development Corporation
- The Michaels Organization
- Essex Properties

An invitation only RFQ provided expediency in the process, given the ongoing planning efforts and imminent release of a draft Specific Plan and EIR. Since the last solicitation process occurred less than a year ago, and economic conditions have not substantially changed in the area, it was not anticipated that new parties would be interested in the offering. BART’s solicitation and scoring process was also largely unchanged. On May 10, 2019, BART received three submittals in response to the RFQ. Essex Properties did not respond to the RFQ.

An evaluation committee comprised of seven individuals from BART and Contra Costa County reviewed and scored the written proposals, with additional analysis of financial strengths completed by Economic and Planning Systems, a consultant firm working with BART. Although BART’s original intent was to include City of Concord staff and Community Advisory Committee members on the evaluation panel, the City of Concord’s attorney again determined that these parties had a conflict of interest, therefore the City declined to participate in the evaluation process.

Three development teams were invited to participate in oral interviews on June 4, 2019. The teams were:

- Brookfield Residential
- Novin Development Corporation
- The Michaels Organization

Proposals were scored using criteria in the following categories:

- *Direct relevant qualifications and experience of Developer Team.* Experience with:



Master planning and mixed-use development; negotiating and executing complex land transactions; public agency partnerships, particularly transit; and large-scale infrastructure investment.

- *Preliminary development concept and proposed project approach.* Demonstration that: Concept meets BART's goals and objectives for site while being sensitive to community transition; approach addresses real estate market context, development phasing and finance, and community concerns; development concept is compatible with the City's Area Plan; and proposed approach shows overall innovation and creativity.
- *Financial capability of Developer Team, including lender references.* Demonstrated ability to secure funding and financing for a long term, multi-phase project; and provided lender references.
- *Roles and responsibilities of Developer Team.* Provided organizational chart that meets required disciplines with relevant project manager experience and clear delineation of roles and responsibilities; and Small Business ("SB") participation commitment percentage.

As unanimously identified by the selection committee, the top scoring proposal was from Brookfield Residential. The Brookfield team's higher rating was based on the basis of:

- Assembling a strong local development team, which included prime consultants and a 20% commitment to Small Business participation.
- Extensive experience with multiple public agencies and large multi-phased projects.
- Proposed project alignment with the Area Plan.
- Financial strength indicating an ability to fund predevelopment and other expenses.
- Past history of working with adjacent developers to finance infrastructure.

Staff therefore requests authorization to enter into an ENA with Brookfield Residential for a period of 24 months with an option to extend for an additional 12 months if project milestones are met, to advance a transit-oriented development project at the North Concord/Martinez BART station. If staff determines that Brookfield Residential has substantially met the terms of the ENA, but is not ready to return to the Board with a project and ground lease option at the end of the 36-month ENA period, staff may return to the Board to request an extension of the ENA term with Brookfield Residential. This development is expected to be longer term in nature than a typical BART project due to the larger scale master planning efforts, and the large size of the property. Therefore a longer ENA period is requested to allow additional time to work within the City's specific plan process, while ensuring additional time beyond that process for other tasks needed to complete any additional entitlement process needed for the BART property specifically.

#### **FISCAL IMPACT:**

If approved, BART Real Estate and Property Development Department staff will work with the selected developer to execute an ENA and initiate work on development scoping. BART Staff time (0.5-0.75 FTE) is programmed into the operating budget and the department work



plan already. BART will receive a \$100,000 ENA fee to compensate BART staff time and consultant and legal fees during the term of this ENA, with a provision in the ENA that this amount will be increased to compensate for BART's expenses as negotiated. This action will not have any impact on unprogrammed District reserves.

Revenues to BART associated with ground lease terms and ridership increases are yet to be determined, but staff will ensure that the combination of the ground lease and ridership revenues result in a net positive fiscal impact to BART. The BART Board will review the terms of the deal at key milestones to monitor its fiscal impact and ultimately approve the deal terms.

**ALTERNATIVES:**

1. Do not authorize staff to proceed with an ENA with Brookfield Residential.
2. Authorize staff to proceed with an ENA with a different team.
3. Do not authorize staff to pursue the North Concord/Martinez TOD without further direction from the Board.

**RECOMMENDATION:**

Adopt the following Motion.

**MOTION:**

Authorize the General Manager or his designee to enter into an Exclusive Negotiating Agreement with the development team led by Brookfield Residential for a term of 24 months, with an option to extend the Exclusive Negotiating Agreement period an additional 12 months if key milestones are substantially met.