

RESOLUTION 2016-177

RESOLUTION SELECTING A SUCCESSFUL PROPOSER AND CONCLUDING THE REQUEST FOR PROPOSALS SUBJECT TO THE DISTRICT'S RESERVATION OF CERTAIN RIGHTS THEREIN

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the legislature in 1962 pursuant to Harbors and Navigation Code Appendix 1 (Port Act); and

WHEREAS, on February 22, 2016, District staff issued a Request for Proposals 16-04ME (RFP) for the 70 acres of land and water located within the District's Central Embarcadero; and

WHEREAS, the RFP gives the District broad discretion in how a proposal/prosper is selected, as well as reserves certain District rights including, without limitation, the District's ability to reject or move forward any or all proposals or parts thereof, issue subsequent requests for proposals, postpone opening for its own convenience, remedy technical errors in the process, approve or disapprove the use of a particular proposer's sub-service providers, negotiate with any, all or none of the proposers, solicit best and final offers, award agreements to one or more proposers and waive informalities and irregularities in proposals (collectively, Reservation of Rights); and

WHEREAS, on May 2, 2016, the District received 11 proposals, of which, six were deemed complete and moved forward for consideration; and

WHEREAS, on June 13 and 14, 2016, the District hosted an open house, which over 1,200 members of the public attended to preview the six proposals, meet the development teams and provide comments; and

WHEREAS, on July 13, 2016, the Board of Port Commissioners (BPC) after thoroughly considering all the proposers/proposals, directed staff to enter into exclusive discussions with the 1HWY1 team and to further evaluate the Seaport San Diego (Seaport) proposal, while not making a final selection or eliminating the other five proposals/proposers; and

WHEREAS, the factors that the BPC expressed in directing staff to enter into the exclusive discussions included, but are not limited to, 1HWY1: provided the most comprehensive approach to the overall project; included a variety of exciting and innovative programmatic components (as identified in the RFP); comprised of a development team that is best in class and is well-qualified;

considered existing prioritized land uses on Tidelands; was heavily supported by stakeholders during public comment; and

WHEREAS, following the BPC's direction, staff immediately commenced a due diligence phase by forming a cross-functional team to develop questions regarding areas of the 1HWY1's proposal that staff believed needed clarification; and

WHEREAS, that supplemental information and analysis of the same has been presented to the BPC; and

WHEREAS, the BPC's action, including the selection of a successful proposer, does not bind the District to a definite course of action and the District retains the sole and absolute discretion to modify the proposal or any project arising therefrom, or to determine not to approve any project or entitlements for the same; and

WHEREAS, the BPC's action does not constitute an "approval" of a "project" under the California Environmental Quality Act and the BPC may, in its sole and absolute discretion, adopt (1) any and all feasible mitigation measures, (2) feasible alternatives to a project that may arise from the proposal, including a no project alternative, and/or (3) a statement of overriding consideration, if applicable; and

WHEREAS, the BPC has considered the entire record, including all proposals/proposers, the criteria in the RFP and how the proposals/proposers meet said criteria, and information provided to the BPC.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District as follows:

1HWY1 is the successful proposer of RFP 16-04ME, the RFP process is concluded, and the other five proposers are eliminate; provided, however, said selection is conditioned on the District's reservation of all its rights under the RFP 16-04ME and under applicable law, and 1HWY1 and the District shall not discuss, negotiate or enter into any agreements with 1HWY1 the logical consequence of which would provide for or facilitate a hotel development on the site until after the expiration date of a hotel restriction clause in that certain Exclusive Negotiating Agreement between the District and One Park Boulevard, LLC (District Document No. 58932).

BE IT FURTHER RESOLVED:

District staff continue the appropriate due diligence excluding any hotel due diligence and return to the Board at a future meeting to enter into a preliminary agreement with 1HWY1.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL


By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 8th day of November, 2016, by the following vote:

AYES: Bonelli, Castellanos, Malcolm, Merrifield, Nelson, and Valderrama.

NAYS: None.

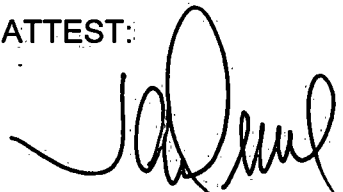
EXCUSED: Moore.

ABSENT: None.

ABSTAIN: None.


Marshall Merrifield, Chairman
Board of Port Commissioners

ATTEST:


Timothy A. Deuel
District Clerk

(Seal)