



## San Diego Unified Port District

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3165 Pacific Hwy.  
San Diego, CA 92101

## Legislation Text

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File #: 2018-0009, Version: 1

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DATE: March 13, 2018

**SUBJECT:**

**PRESENTATION AND UPDATE ON THE REDEVELOPMENT OF THE CENTRAL EMBARCADERO, INCLUDING CHANGES TO THE PROPOSED DEVELOPMENT**

**EXECUTIVE SUMMARY:**

On February 22, 2016, staff issued a Request for Proposals 16-04ME (RFP)<sup>1</sup> for the redevelopment of 70 acres of land and water situated between downtown and the Bay in the District's Central Embarcadero area (Redevelopment Site). The Redevelopment Site is bordered by the USS Midway Museum and Harbor Drive to the north, Manchester Grand Hyatt and Kettner Boulevard to the east, and San Diego Bay to the south and west. The Redevelopment Site also includes Embarcadero Marina Park North, Ruocco Park and Tuna Harbor. A location map is attached for reference (Attachment A).

On May 2, 2016, the District received 11 proposals and six were deemed complete. On July 13, 2016, the Board directed staff to enter into exclusive discussions with the 1HWY1 team and to further evaluate their Seaport San Diego (Seaport) proposal, while not making a final selection or eliminating the other five proposals/proposers on the RFP.<sup>2</sup> The 1HWY1 team that was part of the Seaport proposal consisted of the following entities: Protea Waterfront Development, LLC (PWD) as the proposed managing member, ThrillCorp, RCI Group and OdySea.

Following an extensive due diligence process, on November 8, 2016, the Board selected 1HWY1 as the successful proposer, concluded the RFP process, and eliminated the other five proposers.<sup>2</sup> The Board also directed staff to continue due diligence excluding any hotel due diligence and return to the Board at a future meeting to enter into a preliminary agreement with 1HWY1.

At its May 16, 2017 meeting, the Board directed staff to enter into an Exclusive Negotiating Agreement (ENA) with PWD, which was entered into as of October 2, 2017.<sup>3</sup> Among other things, the ENA required PWD to cause the formation of the 1HWY1 entity within 90 days of entering into the ENA and submit a project description within one year of entering into the ENA. The ENA also included a detailed pre-development and feasibility milestones schedule, which the 1HWY1 development team has met to date. The following are examples of the key pre-development and feasibility milestones that the 1HWY1 team has completed to date:

- Formation of 1HWY1, LLC, a Delaware limited liability company (1HWY1)
- Market demand and feasibility study based on RFP proposal
- On-site due diligence, including geotechnical and civil investigation

In addition, 1HWY1 is expected to submit the following items in the coming months:

- Preliminary cost estimates for the programmatic components
- Financial feasibility update

Since the RFP concluded, 1HWY1 has made revisions to its proposed development including modifications to the development program and reconfiguration of various programmatic components within the Redevelopment Site. 1HWY1 has stated that these revisions have been made to respond to due diligence findings, results of the market demand and feasibility study, and input from prospective partners to the proposed development. At the March Board meeting, the 1HWY1 team will be presenting the proposed revisions to the Board and will be seeking preliminary feedback related to proposed programmatic changes and reconfiguration of the Redevelopment Site. Based on the preliminary feedback provided by the Board and any public comment, as part of its next steps, 1HWY1 intends to further refine its development program, finalize the project description and on a parallel track update their financial models as required under the ENA. Prior to and during this time, staff plans on working with 1HWY1 to give further feedback on potential issues such as land and water use implications. Staff anticipates that 1HWY1 will be able to meet its deadline of submitting a project description in accordance with the terms of the ENA by October 2, 2018 and if this is the case, staff expects to return to the Board in the fall of this year with staff's preliminary analysis of the project description for the Board's consideration.

Board action is not required at this time, as 1HWY1 is only presenting an update to the Board on its proposed changes to their development proposal. 1HWY1 is seeking preliminary feedback from the Board prior to submitting its project description for staff's analysis and the Board's consideration in order to start the California Environmental Quality Act process. At the March Board meeting, the Board will not be approving the design or project description of the proposed development, the feedback provided by the Board will not be binding on the District, and the Board reserves its sole and absolute discretion to approve or disapprove any project description for the Redevelopment Site, the project and adopt all feasible mitigation measures, a project alternative, including the no project alternative and a Statement of Overriding Considerations, if applicable, in the future. Additionally, it is important to note that District staff has not analyzed the information provided by 1HWY1, including the development concept, its financial or physical feasibility or potential land use and entitlement implications.

### **RECOMMENDATION:**

Receive a presentation and update on the redevelopment of the Central Embarcadero, including changes to the proposed development.

### **FISCAL IMPACT:**

Receiving a presentation and update on the redevelopment of the Central Embarcadero will not have a direct fiscal impact. 1HWY1, as the "Developer" under the ENA, is responsible for all processing fees and costs associated with application for, and processing of, the environmental review. The proposed development is expected to generate future revenues for the District which will be evaluated as the land use and development programs are further refined.

### **COMPASS STRATEGIC GOALS:**

This agenda item supports the following Strategic Goals(s).

- A Port that the public understands and trusts.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.

### **DISCUSSION:**

On December 8, 2015, the Board directed staff to issue an RFP for the Redevelopment Site. Following an extensive solicitation and due diligence process, the Board selected the 1HWY1 team in November, 2016 to develop the Redevelopment Site. The discussion below provides background on the selection process as well as a high level overview of the progress made to date by 1HWY1.

#### ***RFP Process***

On February 22, 2016, staff issued the RFP for redevelopment of the Redevelopment Site. On May 2, 2016, the District received 11 proposals, of which, six were deemed complete from:

- Gafcon, Inc. (on behalf of 1HWY1) - San Diego, CA
- Great Western Pacific - Seattle, WA
- HKS - New York, NY
- McWhinney - Denver, CO
- OliverMcMillan, Inc. - San Diego, CA
- Ripley Entertainment, Inc. - Orlando, FL

On July 13, 2016, the Board directed staff to enter into exclusive discussions with the 1HWY1 team and to further evaluate the Seaport proposal, while not making a final selection or eliminating the other five proposals/proposers. Following the Board's direction, staff conducted a preliminary due diligence phase and issued a Supplemental Information Request to the 1HWY1 team and responses were provided between August 5 and September 19, 2016.

At the November 8, 2016 meeting, the Board selected 1HWY1 as the successful proposer, concluded the RFP process, and eliminated the other five proposers. The Board also directed staff to continue post-selection due diligence excluding any hotel due diligence and return to the Board at a future meeting to enter into a preliminary agreement with 1HWY1.

#### ***Exclusive Negotiating Agreement***

At its May 16, 2017 meeting, the Board directed staff to enter into a two-year ENA with PWD, the proposed managing member of 1HWY1. Following the Board's direction, staff worked diligently with the 1HWY1 team to complete negotiations and enter into an ENA. On October 2, 2017, the District entered into an ENA with PWD. Under the terms of the ENA, PWD was required to cause the formation of the 1HWY1 entity within 90 days of entering into the ENA, at which time PWD would assign all of its rights and obligations under the ENA to the 1HWY1 entity and the 1HWY1 entity would assume all of PWD's rights and obligations under the ENA. In addition, the ENA includes a detailed pre-development and feasibility milestones schedule. The ENA also requires the submission

of a project description by October 2, 2018 and includes a requirement for submittal of periodic financial feasibility updates.

The 1HWY1 development team and District staff has been meeting regularly since the ENA was executed to move the Seaport development program forward and achieve the pre-development and feasibility milestones of the ENA. A high level summary of the key milestones achieved to date is outlined below:

*Formation of 1HWY1:* As required under the ENA, PWD has formed 1HWY1. The ENA required that PWD submit evidence to the District of the formation of 1HWY1 by January 2, 2018. Staff received the formation package from PWD on January 2, 2018 and as of February 16, 2018 all of PWD's rights and obligations under the ENA have been assigned to 1HWY1 and 1HWY1 has assumed all of the rights and obligations of PWD under the ENA. 1HWY1 is comprised of PWD as the managing member, ThrillCorp, Inc. as a member, RCI SD, LLC as a member, and OdySea San Diego, LLC as a member.

*Market Demand and Feasibility Study:* As required under the ENA, a market demand and feasibility study was submitted on October 16, 2017 for the programmatic components proposed as part of the original RFP proposal. Staff requested additional information and clarification be provided by January 20, 2018. This information was received from 1HWY1 and an on-going review of the study is being conducted in coordination with the District's economic consultant, Jones Lang LaSalle (JLL).

*Physical Due Diligence:* 1HWY1 has performed physical due diligence on the Redevelopment Site, including on-site civil engineering and geotechnical investigations. Based on 1HWY1's reported findings to date and other factors, 1HWY1 has made revisions to their Seaport proposal, which include a reconfiguration/relocation of several programmatic components to address the new site constraints.

*Upcoming Milestones:* Under the terms of the ENA, 1HWY1 is expected to submit various items listed in the pre-development and feasibility milestones schedule. The upcoming deadlines include submission of preliminary cost estimates for the various programmatic components as well as a financial feasibility updates.

### **1HWY1 Programmatic Changes**

Under the ENA, a project description is required to be submitted by October 2, 2018. 1HWY1 has been working on refining their proposed development and has made revisions to their previously submitted Seaport proposal. The 1HWY1 team is seeking to obtain early feedback from the Board on the proposed changes and will be presenting the Board with an overview of the changes to their proposed development at the March meeting. It is important to note that District staff has a high level understanding of the proposed changes which have been outlined below but has not conducted a detailed analysis of 1HWY1's proposed changes. As is typical at this stage in the development process, there may be certain implications associated with the proposed development program, including, but not limited to, financial and physical feasibility, land and water use changes, as well as consistency with the California Coastal Act and Public Trust Doctrine that have not been analyzed. These issues and others will be analyzed in detail as the process moves forward. The presentation will not include financial projections or cost estimates related to the proposed development. 1HWY1 has stated that it expects financial models will be developed after receiving feedback from the Board.

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The table below summarizes the proposed changes to 1HWY1's programmatic components:

<b>Programmatic Component</b>	<b>1HWY1 RFP Proposal</b>	<b>1HWY1 Current Proposal</b>
Retail	388,625 square feet (SF)	277,712 SF
Aquarium	178,490 SF	192,050 SF
Spire	18,000 SF	84,600 SF
Full Service Hotel	500 rooms	231 rooms + 8 villas
Micro-Hotel	350 rooms	350 rooms
Hostel	225 rooms	237 rooms
Education Center	65,150 SF	84,600 SF
Office	19,130 SF	144,987 SF
Parking	2,410 spaces	2,328 spaces
Event Center	20,000 SF	20,000 SF
Public Realm *	31 acres (75%)	31 acres (75%)
<b>Water-Oriented Facilities</b>		
Dockage	10,670 linear feet	13,200 linear feet
Slips	164	200
Commercial Fishing	N/A	13.1 acres

\*Public Realm includes parks, promenades, open spaces, pedestrian oriented streets and other public amenities

A narrative prepared by 1HWY1 that summarizes the proposed changes to each of the programmatic components with graphics illustrating the current location and size of the programmatic components has been included as Attachment B.

### **Key Issues for Consideration**

Prior to refining their project description to include the new programmatic components, 1HWY1 will be seeking feedback from the Board on the following three topics:

- Changes in programmatic components
- Reconfiguration of programmatic components
- New proposed water side components

Additionally, at the Port Master Plan Update (PMPU) workshop scheduled for March 28, 2018, staff will discuss the proposed land and water uses of the project site and surrounding areas and high level policy concepts for the area. Staff will also solicit the Board's and public's input on the land and water uses and policy concepts at that time, which may further give 1HWY1 feedback on its proposed development concept.

Based on the feedback at this meeting and at the PMPU workshop, 1HWY1 intends to further refine their development program, finalize the project description and update their financial model as required under the ENA. 1HWY1 is expected to complete its project description by October of this year, upon which staff will review and analyze the project description and if it meets the requirements of the ENA, present it to the Board for their consideration at a future meeting in late fall of this year to start the entitlement process.

### **Conclusion and Next Steps**

The progress made to date is an important step towards finalizing the proposed development's overall development program. After receiving 1HWY1's presentation and public comment, the Board may provide 1HWY1 with feedback on the current changes to the proposed development. After receiving feedback from the Board and public comment at this meeting and potentially at the March 28, 2018 PMPU workshop, 1HWY1 proposes to further refine their development program, finalize their project description and update their financial model for submittal to the District, with the understanding that any feedback provided by the Board will not be binding on the District. Consequently, the Board will continue to have the sole and absolute discretion to approve or deny a future project description, the project itself and adopt all feasible mitigation measures, a project alternative, including the no project alternative and a Statement of Overriding Considerations, if applicable.

### **General Counsel's Comments:**

The General Counsel's Office has reviewed the agenda sheet as presented to it and approves it as to form and legality.

### **Environmental Review:**

This presentation to the Board on the Redevelopment of the Central Embarcadero does not constitute a "project" or an "approval" of a "project" under the definitions set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur, including, without limitation, physical changes within the District's jurisdiction. CEQA requires that the District adequately assess the environmental impacts of its projects. This presentation to staff will not bind the District to a definite course of action prior to CEQA review. Full CEQA analysis will be completed prior to the approval of any projects that may be contemplated as part of the plan for the Redevelopment of the Central Embarcadero. Moreover, the Board/District in its sole and absolute discretion, reserves its discretion to adopt any and all feasible mitigation measures, alternatives to the project, including a no project alternative, a statement of overriding consideration, if applicable, as well as approve or disapprove the project and any necessary permits or entitlements. Based on the totality of the circumstances and the entire record, the Board's direction does not commit the District to a definite course of action prior to CEQA review being conducted. No further action under CEQA is required at this time.

In addition, the proposed Board action allows for the District to implement its obligations under the Port Act. Section 87 of the Port Act allows for all visitor-serving commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

Finally, this presentation to the Board does not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit (CDP) Regulations because it will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a CDP or exclusion is not required. However, the District's projects require processing under the District's CDP Regulations. The Board will consider approval of future development projects formulated as a result

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of the plan for the Redevelopment of the Central Embarcadero after the appropriate documentation under District's CDP Regulations has been completed and authorized by the Board, if necessary. The Board's direction in no way limits the exercise of the District's discretion under the District's CDP Regulations.

**Equal Opportunity Program:** A Small Business Enterprise (SBE) Participation Plan including SBE goals for design/construction and leasing/operations will be submitted prior to entering into a Definitive Agreement.

**PREPARED BY:**

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**Attachment(s):**

Attachment A: Location Map

Attachment B: 1HWY1 Revisions and Narrative

1. Request for Proposals 16-04ME, District Clerk No. 65204
2. The complete July 13, 2016 and November 8, 2016, BPC agenda sheets, with all attachments, can be found in Granicus-Legistar on the District's website at: <https://www.portofsandiego.org/read-board-agendas.html>.
3. Exclusive Negotiating Agreement, District Clerk No. 67343