



File #:2023-0165

DATE: December 5, 2023

EAST HARBOR ISLAND REDEVELOPMENT:

- A) RESOLUTION AUTHORIZING STAFF TO SIGN A NON-BINDING TERM SHEET WITH TOPGOLF USA SDP, LLC**
- B) RESOLUTION DIRECTING STAFF TO ISSUE ONE OR MORE REQUESTS FOR PROPOSALS FOR THE REDEVELOPMENT OF APPROXIMATELY 6.5 ACRES OF LAND AT EAST HARBOR ISLAND PURSUANT TO BOARD POLICY 360**

EXECUTIVE SUMMARY:

East Harbor Island (EHI) is conveniently located directly south of the San Diego International Airport and nestled between Downtown San Diego and the Point Loma Peninsula, with proximity to regional roadways and freeways (see Attachment A - East Harbor Island Location Map). This area provides panoramic views of the Bay and Downtown San Diego, as well as accessibility and views of the nearby aviation activity. The basin side of EHI hosts the San Diego Harbor Police facilities at the entry to the island, while a large portion on the north side of the area is underutilized with existing off-airport parking and rental car surface parking. With a number of existing leases on holdover or soon expiring, the EHI basin represents an exciting redevelopment opportunity to replace existing airport industrial uses with a vibrant commercial development that includes stimulating public spaces and waterfront access and uses that will attract members of the public to the site.

Since 2019, staff has undertaken an effort to rethink the configuration of EHI with input from the Board of Port Commissioners (Board) and stakeholders. As a result of those efforts, the District entered into an Exclusive Negotiating Agreement (ENA) with Topgolf USA SDP, LLC (Topgolf) which has resulted in the attached term sheet (Term Sheet) (Attachment B - Topgolf Non-binding Term Sheet). This Term Sheet is beneficial to the District by providing considerable rent upon commencement of operations with no ramp up period, a fair contribution from Topgolf for a portion of the public infrastructure costs at East Harbor Island, and a community benefits package that includes numerous programs for local communities and organizations. Staff recommends that the Board authorize staff to sign the non-binding Term Sheet with Topgolf. Staff additionally notes that the Term Sheet in no way binds the District to any agreement or action, and any decision whether or not to enter into a binding agreement with Topgolf or take any discretionary actions in connection with the same will be within the Board's sole and absolute discretion.

Based on unsolicited interest from the market as well as input from consultants and lessons learned from similar District redevelopment efforts, staff has determined that the formation of an

entertainment district would be the best use of the approximately 6.5 acre site (Site) adjacent to the proposed Topgolf facility. Staff has been working with the consultant, CIVITAS, on development concepts for EHI that include multiple entertainment venues in a variety of orientations to test fit the potential development. Staff believes that an entertainment district, with Topgolf as the anchor, would improve public access, provide a variety of experiences at different price points, further activate Harbor Island, and increase revenues to the District with a much quicker time to market as compared to hospitality uses. Staff commissioned economic consultant RSG to conduct a market study which concluded that there is strong market demand for these types of uses in this location (Attachment C - Market Study). Staff recommends the Board authorize staff to issue one or more Requests for Proposals (RFP) for the Site based on the development concepts prepared by CIVITAS (Attachment D - Development Concepts) and discussed in this agenda.

RECOMMENDATION:

- A) Adopt a Resolution authorizing staff to sign a non-binding term sheet with Topgolf USA SDP, LLC; and
- B) Adopt a Resolution directing staff to issue one or more requests for proposals for the redevelopment of approximately 6.5 acres of land at East Harbor Island pursuant to Board Policy 360

FISCAL IMPACT:

Although the Board's actions today do not have an immediate fiscal impact, if the District issues one or more RFP's, it is anticipated that any resulting project(s) would increase rent paid to the District and costs of any additional environmental review would be borne by the selected final proposer(s). Additionally, if the District negotiates and enters into a lease with Topgolf based on the nonbinding term sheet (any such decision to be made in the Board's sole and absolute discretion), staff projects rent to the District in accordance with the term sheet.

COMPASS STRATEGIC GOALS:

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

- 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.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

Background

Over the last 25 years, there have been multiple planning frameworks, concepts, proposals, and solicitations with the goal of redeveloping EHI. None of these were successful. Today, as evidenced by the nonbinding term sheet staff negotiated with Topgolf, the District is making significant progress with a prospective tenant and further, staff has a recommended approach for the balance of EHI supported by staff's own experience and research, a market study, and a conceptual development

scenario to guide future solicitations.

At the July 12, 2022 Board meeting, staff presented a proposed development configuration of public space and commercial development for EHI and provided an update on funding options for the necessary public infrastructure on EHI. The Board directed staff to move forward with the proposed conceptual development configuration for EHI, continue analyzing potential funding options for the public infrastructure, and return to the Board for preliminary project review and authorization to commence environmental review with Topgolf once Topgolf provided the submittals pursuant to the ENA. At the December 13, 2022 Board meeting, staff, presented the draft project description for Topgolf's proposed project for preliminary project review and the Board authorized staff to commence California Environmental Quality Act (CEQA) environmental review for the project.

Since the December 13, 2022 Board meeting, staff has been diligently advancing the EHI redevelopment efforts on several fronts. Staff commenced environmental review that covers the proposed Topgolf project, demolition of the existing rental car companies, and the necessary public infrastructure at EHI. Staff and Topgolf have come to agreement on a non-binding Term Sheet, as discussed below, that will provide a framework of terms in connection with negotiations for a potential future lease agreement after the completion of CEQA. Rick Engineering is advancing the public infrastructure necessary to redevelop EHI to 30% design level. Staff has been routinely meeting with the existing rental car companies to discuss fulfilling their end of lease term obligations. Lastly, staff has worked with a knowledgeable team of consultants to plan for one or more RFP(s) for the remaining EHI development area adjacent to Topgolf.

Topgolf Term Sheet

Since early 2023, District staff and Topgolf have had held regular meetings to discuss deal structure and negotiate the attached non-binding Term Sheet. In connection with Term Sheet negotiations and as part of staff's due diligence, staff received and reviewed an updated project pro-forma, reviewed the financials of a Topgolf facility in Ontario, California similar to the one proposed on tidelands, and received and provided feedback on Topgolf's updated community benefits package.

The Term Sheet provides a proposed lease term of 20 years with four, five-year options to extend. Minimum annual rent following completion of construction is set at \$1,527,000; however projected rent upon commencement of operations is approximately \$1.9 million in year one of operations based on percentage rental rate projections. The terms also provide for a pro-rata contribution not to exceed \$4 million from Topgolf for a portion of the public infrastructure costs at EHI, and a community benefits package that includes numerous programs for the local communities and organizations. Staff notes that the non-binding Term Sheet, which attached in as Attachment B, is not comprehensive in addressing all deal points to be included in any future agreement and in no way binds the Board to any future decision with respect to EHI, but rather provides a negotiating framework for any potential future agreement to be submitted to the Board for consideration, with any ultimate approval or denial being within the Board's sole and absolute discretion. In addition, any definitive agreement would not be entered into prior to completion of CEQA review for the proposed Topgolf project.

Staff recommends that the Board authorize staff to sign the attached non-binding Term Sheet with Topgolf and commence negotiations for a definitive agreement to advance the project as the anchor

for an entertainment district on EHI.

Shift from Hospitality to Entertainment District

The proposed conceptual development configuration presented to the Board at the July 12, 2022 Board meeting included two hotels adjacent the proposed Topgolf facility as a concept for redevelopment of EHI. Soon after the announcement that Topgolf was interested in EHI, staff began receiving unsolicited inquiries from multiple retail operators with an emphasis on blending entertainment with quality food and drinks (“Eatertainment”). Eatertainment concepts have many advantages when compared to more challenging projects:

- Support a broad range of price points;
- Little to no ramp up and stabilization period;
- Popular with locals and visitors;
- Can be clustered as part of an entertainment district; and
- Relatively short permitting and development timeline.

Sensing a shift in the development potential for EHI, coupled with staff’s preliminary research into these concepts, staff began to pivot toward the concept of an entertainment district as a redevelopment strategy. Topgolf would serve as the anchor for an entertainment district comprised of one or more Eatertainment concepts. Entertainment districts are venue-anchored retail properties that offer multiple experiences including dining, live entertainment, recreational opportunities, Eatertainment operators, and other attractions. They share common public spaces that can be regularly programmed and activated. Entertainment districts cluster a variety of activities and recreational offerings to extend users’ stay and create an environment that promotes socialization and gathering.

Rather than seek more hotel rooms for EHI which already includes the potential for an additional 450 rooms under a lease option to Sunroad, an entertainment district on EHI, if successful, would add no cost amenities and amenities at various price points for the public, marina slip renters, and hotel guests. New hotel projects take a considerable amount of time to bring to market and have been increasingly more difficult over the years due to additional regulations, and fluctuating market conditions including underwriting requirements combined with added construction costs due in part to lower cost overnight accommodation requirements.

EHI Development Configurations

To better understand the development potential, Staff commissioned urban planning consultant CIVITAS to develop scenarios based on the entertainment district approach. CIVITAS is very familiar with the Site as they have been involved with the Port Master Plan Update (PMPU) and developed the conceptual development configuration for EHI that was presented to the Board at the December 13, 2022 meeting. To come up with the site plan, CIVITAS researched comparable venues across the country as examples to test fit different layouts and combinations of successful entertainment district concepts. The recommended configuration, shown on Attachment D, would form the basis for the proposed RFP(s) and seeks to capitalize on Topgolf as the potential anchor tenant with a cluster of other entertainment uses at all price points and ample outdoor space. As depicted on the recommended CIVITAS development scenario, an entertainment district could be entirely surface-

parked. Due to the significant cost required for structured parking, and the ability to bring these concepts to market more quickly and at a lower cost, staff recommends utilizing surface parking for both Topgolf and the proposed RFP's. In the future, if additional density is warranted, staff believes parking for those uses could be consolidated into a structure.

Market Study

In order to confirm the demand for retail and Eatertainment uses on EHI, staff commissioned economic consultant RSG to conduct a market demand study. RSG researched venues across the country along with other comparable entertainment districts to determine whether there is a viable market for these uses on EHI. The study concluded the following:

- Eatertainment interest is strong as evidenced by initial outreach;
- Downtown and East Harbor Island have competitive advantages;
- Land is available for short and long term leasing;
- Visitor, worker, and resident demand is strong; and
- The EHI location and amenities are compelling.

RSG noted that some, but not all, of these concepts have yet to enter into a lease with a public agency in their other locations. These other sites are fee-simple owned or leased with private parties. Staff and RSG believe that can be overcome given staff's success with other similarly situated tenants and further, that those not interested in leasing from a public agency will self-select out of the RFP. Based on these conclusions, staff recommends issuing one or more RFPs for entertainment and retail uses on EHI.

RFP Scope

The RFP(s) would solicit proposals from well-qualified development teams and businesses for the development of up to approximately 6.5 acres of land at the Site. It is contemplated that the project (s) could be undertaken by a single developer or could be split between two or more entertainment venues as shown on Attachment D. The entertainment district would include multiple entertainment and retail venues with a preference toward venues that focus on outdoor space and activation of no-cost and low-cost public areas within the Site.

Evaluation Criteria

Staff will evaluate proposals based on the specific list of criteria to be outlined in the RFP, which are summarized below. There will be no evaluation matrix and no points assigned, and neither of these are requirements for a development proposal RFP under Board Policy 360. Instead, Staff will evaluate the proposals considering any direction or criteria the Board may have along with the criteria listed below. Staff will use their best professional judgment and may use consultants to assist with the analysis. Recommendations advanced to the Board will be supported by a detailed, written justification sufficient to support staff's conclusions along with a financial analysis. Additionally, recommendations may be informed by the progress of price and terms of payment negotiating direction received from the Board in closed session or other objectives directed by the Board in open session, or some combination thereof.

Approach to Project

Details with respect to any proposed project, including preliminary site plans and conceptual renderings, a narrative on the site design, intended amenities, required public visual and physical access, acceptance of required and optional infrastructure, and a proposed operating/management structure.

Proposer's Relevant Experience

A summary of the respondent's development experience in the last ten years will be requested. The ideal respondent will have experience developing a successful entertainment venue from the ground up in the last five years, but respondents that have redeveloped, managed and operated similar projects will be considered if they are able to demonstrate to staff's satisfaction both the necessary resources to construct a proposed project, including a clear and concise construction plan, and clear qualifications for successful operations. Additionally, the proposers will be required to identify at least one precedent project as an example of their capabilities which staff may further research, including a site visit.

Capability to Perform

The RFP will require respondents to provide a preliminary financing plan. The plan shall identify if the respondent intends to self-finance, obtain private equity, pursue institutional debt, etc. If the respondent intends to self-finance the development costs, they will need to be able to demonstrate the individual(s) or entity has the capital available to do so. If the respondent intends to pursue private equity or institutional debt, they will be asked to provide letters of interest demonstrating their capability to perform.

Revenue and Expense Projections

Respondents will be required to provide a financial model in an editable format such as Excel that clearly outlines pre-development costs, construction costs and anticipated revenue and expenses for the first ten years of operation. Proposals must clearly indicate whether the development assumes any cost sharing with the District and whether a public subsidy is being requested.

Labor Relations Submittals under District Ordinance No. 3076

As applicable, respondents will be required to submit the commitments and information required under Ordinance No. 3076 Section 3(b) related to reduction of risk of labor disputes and past efforts toward utilization of Small Business Enterprises (SBE's).

Additionally, to ensure the District receives the best possible terms and the strongest concepts, Board Policy 360 provides:

From and after the date by which respondents submit their development proposals to the District, the real estate negotiation process shall be deemed to have commenced and staff shall have the ability to negotiate price and terms of payment with the respondent(s) including

but not limited to negotiating with one or more respondents sequentially or simultaneously; negotiating with one, or some, or all of the respondents; terminating the competitive process and rejecting all development proposals; and seeking best and final proposals from one or more respondents. At any time during the competitive process, the Board may direct staff to seek negotiating direction and staff reserves the right to seek Board direction on price and terms of payment.

RFP Timing and Marketing Opportunity at E3 Conference

Staff anticipates issuing the RFP(s) toward the end of the first quarter of calendar year 2024. The process from issuance of the RFP(s) to selection of a proposal is expected to take 6 months. In coordination with the District's Marketing and Communications Department, a comprehensive national marketing strategy will be developed featuring print and online advertising. District staff members are attending the Entertainment Experience Evolution "E3" conference in Los Angeles from February 6-7, 2024 to promote the availability of the RFP and meet with potential developers and businesses. The RFP(s) would be issued sometime after the E3 conference, and responses would be due in mid-2024. Staff anticipates returning to the Board no sooner than the third quarter of calendar year 2024 with recommendations.

Recommendation

EHI is a prime location with beautiful views of the San Diego Bay, downtown, and the Coronado bridge which makes it an ideal location for new development that will provide enhanced public access, recreation, and entertainment to visitors and residents of San Diego. The proposed Topgolf facility along with other potential entertainment venues at the Site would further activate Harbor Island and benefit existing tenants, as well as provide a comfortable outdoor-focused environment to enjoy new food and beverage options, multiple types of recreation, and additional public access features. Utilizing consultants such as CIVITAS and RSG, staff believes the Site is capable of fitting multiple configurations of entertainment venues, and that there is sufficient demand in the San Diego market for an entertainment district at this location. For these and the other reasons stated in this agenda, staff recommends the Board take the actions listed in this agenda.

General Counsel's Comments:

The Office of the General Counsel has reviewed the agenda sheet and attachments, as presented to it, and approves them as to form and legality.

Environmental Review:

The proposed Board actions, including without limitation, authorizing staff to sign a non-binding term sheet with Topgolf USA SDP, LLC and directing staff to issue a Request for Proposals for the redevelopment of approximately 6.5 acres of land at East Harbor Island pursuant to Board Policy 360, do not constitute a project under the definition 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. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of the proposed Board actions requiring the

District or the Board's discretionary approval resulting in a physical change to the environment would be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring implementation of mitigation measures, adopting an alternative, including without limitation, a "no project alternative" or adopting a Statement of Overriding Consideration, if required. The exercise of this discretion is in no way limited by the proposed Board actions. An Environmental Impact Report (EIR) will be prepared for the East Harbor Island Redevelopment/Topgolf Project and Port Master Plan Amendment. The Notice of Preparation and Initial Study for the Draft EIR was issued on Friday, November 17th, 2023 and is available for a minimum 30-day public review period. Therefore, no further CEQA review is required.

The proposed Board actions comply with Sections 21 and 35 of the Port Act, which allow for the Board to pass resolutions and to do all acts necessary and convenient for the exercise of its powers. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board actions are consistent with the Public Trust Doctrine.

The proposed Board actions do 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 there will not be, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, development within the District requires processing under the District's CDP Regulations. Future development would remain subject to its own independent review pursuant to the District's certified CDP Regulations, Port Master Plan (PMP), and Chapters 3 and 8 of the Coastal Act. The exercise of the District's discretion under the District's CDP Regulations is in no way limited by the proposed Board actions.

Diversity, Equity, and Inclusion Program:

This agenda sheet has no direct DEI impact on District workforce and contract reporting at this time.

PREPARED BY:

James Hammel
Department Manager, Real Estate

- Attachment(s):
Attachment A: East Harbor Island Location Map
Attachment B: Topgolf Non-Binding Term Sheet
Attachment C: Market Study
Attachment D: Development Concepts