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August 18, 2020

Honorable Members of the Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton Goodlett Place
San Francisco, CA 94102

Subject: Project-Specific Ordinance for the Potrero Yard Modernization Project

Honorable Members of the Board of Supervisors:

The San Francisco Municipal Transportation Agency (SFMTA) submits, for your consideration, information to support an ordinance for the Potrero Yard Modernization Project (Project). The SFMTA is exploring the feasibility of simultaneously developing a new bus maintenance and storage facility with multi-family housing, including affordable housing, and small commercial uses on the Project site.

The ordinance would authorize the SFMTA to use a joint-development procurement method to deliver the Project after completing CEQA review. The ordinance would exempt the Project from certain contracting requirements under Chapters 6, 14B, 21, and 23 of the Administrative Code, but still require payment of prevailing wages, implementation of a local business enterprise utilization program, and compliance with the City's local hire policy and first source hiring ordinance. The ordinance would also authorize the best-value selection of the Project's developer team, and payment of a design stipend to up to two unsuccessful respondent teams.

Background

The Project could replace the Potrero Yard's obsolete maintenance building and bus yard in the Mission District with a modern and efficient trolley and battery-electric bus maintenance and storage facility. The SFMTA would use the bus facility to do routine maintenance on buses, to provide open, naturally lit, and well-ventilated working conditions for employees, to ensure resiliency to climate change and natural disasters, and to improve transit service.

Under the City's Public Land for Housing program, the SFMTA is working with other City departments, including San Francisco Planning, the Mayor's Office of Housing and Community Development, and the Office of Economic and Workforce Development, to explore integrating housing and small commercial uses with the bus facility.

Based on internal analyses and an extensive public outreach program, the SFMTA anticipates that housing is a feasible and compatible use at the project site. The SFMTA estimates the Project could accommodate a range of 525 to 575 residential units, with an affordability target of at least 50 percent. The SFMTA will encourage the Project to seek additional funds to maximize the affordability percentage, even up to 100 percent.



SFMTA

The SFMTA estimates the cost to construct the Project would be approximately \$500 million (in 2019 dollars and exclusive of costs not directly related to construction, such as design, financing, and permitting). The SFMTA anticipates starting construction in 2023 and completing construction in 2026. The SFMTA is working with the Department of Public Works to assist with procurement and delivery of the Project.

The financial, construction cost, and budgetary assumptions used for the Project are all based on pre-COVID-19 conditions. While the goals of the Project have not changed (e.g., the size of the housing component and the minimum 50 percent affordability target), funding sources and market conditions are more uncertain than they were earlier in the year. The SFMTA will continue to work diligently with our fellow City departments to pursue the Project's goals to the best of our ability in the face of challenges related to COVID-19.

Because of the Project's multiple components and objectives, the SFMTA and Public Works have determined it is appropriate, and in the City's best interest to deliver the Project utilizing a joint-development procurement method. On April 7, 2020 the SFMTA Board of Directors approved a resolution authorizing the use of a joint development procurement method for the Project and authorizing the Director of Transportation to seek approval from the Board of Supervisors for a Project-specific ordinance to implement the joint development procurement method for the Project.

Joint-Development Procurement Method

Unlike conventional methods of contracting for new construction, in which discrete functions are procured through separate solicitations, joint development projects use a single private entity that has the full responsibility and financial liability for performing a significant number of services in connection with a project.

The joint-development procurement method would provide a long-term contractual arrangement between the SFMTA and a joint development partner. Under this arrangement, the joint development partner would be the single point-of-responsibility for managing contractors (e.g., design-build contractors, maintenance contractors for private housing development) and successfully delivering the Project.

The SFMTA would retain ownership of the of the Project site and bus facility, while the joint development partner would deliver the entire Project and would obtain property rights in the private housing development for the duration of the long-term contract (e.g., based on air rights or another contractual mechanism). In addition, the SFMTA seeks to enter into an operations and maintenance agreement with the joint development partner to provide assurances on quality and durability of construction methods and equipment design related to the building structure and major building systems (e.g. HVAC).

The SFMTA would pay the joint development partner to construct the bus facility through long-term performance-based availability payments instead of an upfront payment for the entire cost of construction. The cost of the housing component will be financed from non-SFMTA sources, including sources identified by the developer to maximize the number of affordable housing units. The joint development partner's compensation for the private housing development would be as a customary, at-risk private development through real estate revenue streams such as rents collected by the developer from tenants.



SFMTA

The joint development procurement method offers compelling advantages to meet the Project's objectives:

1. Mitigates cost and schedule risk by (a) selecting a joint development partner early in the CEQA process (currently underway) to provide input and develop a functional and attractive design that reflects input from the community; (b) agreeing on a fixed-price, date-certain contract with the private partner; and (c) incentivizing on-schedule construction by linking payments for the bus facility to occupancy readiness or substantial completion of the facility;
2. Transfers to the joint development partner the technical challenges of integrating the public bus facility and the private housing development and establishes the partner as the single point of responsibility for the Project.

Project-Specific Ordinance

The project-specific ordinance would authorize the SFMTA to use a joint development procurement method to deliver the Project, as follows:

1. Allow selection of a joint development partner using a two-step (i.e., request for qualifications and request for proposals), best-value procurement method rather than a low-bid method. The best-value method would allow the SFMTA and the Department of Public Works to more holistically evaluate the track record, capacity, skill, and quality of bidders rather than selecting solely on the basis of price.
2. Allow the SFMTA to enter into one or more agreements with the joint development partner for the design, construction, and financing of the Project, and the long-term maintenance of the non-transit components of the Project.
3. Authorize the payment of a stipend (in an amount to be determined by the Director of Transportation) to the two shortlisted proposers that are not selected through a request for proposals process. The receipt of a stipend would be contingent upon a proposal's being responsive to the request for proposals and the SFMTA having the right to own work product included in the proposal.
4. Exempt the Project from otherwise applicable sections of Chapters 6, 14B, 21, and 23 of Administrative Code, so long as the project agreements require payment of prevailing wages pursuant to Section 6.22(e) and Article VII of Chapter 23, compliance with the City's local hire policy pursuant to Chapter 83, and implementation of a local business enterprise program in consultation with the City's Contract Monitoring Division.

Project-specific ordinances are common when departments have proposed utilization of novel project delivery methods not yet codified in the Administrative Code. Examples include the use of construction manager/general contractor (CM/GC) project delivery method for the Zuckerberg General Hospital



Rebuild and the new Public Safety Building. The 49 South Van Ness project also required special authorization by the Board of Supervisors.

Funding Impact

There is no immediate funding impact related to this project-specific ordinance. The SFMTA believes the joint development procurement method will ultimately provide savings to the SFMTA in terms of both project cost and schedule adherence.

The project specific ordinance would authorize payment of stipends to the two unsuccessful shortlisted proposers. The decision to pay stipends would be made by the Director of Transportation, subject to his budget authority. The Director would therefore determine whether the cost of a stipend would be outweighed by its potential benefits in terms of proposal quality.

Environmental Review

The SFMTA is undertaking CEQA review of the Project with the Planning Department. Authorization of the ordinance is not an approval of the Project and is not subject to CEQA review. Rather, this authorization is simply to put in place a procedure to continue to develop, study, and design the Project, and, if the Project is approved, to implement and deliver the Project.

No Project approval will occur until CEQA review is completed, and if and until the City decision-makers consider the information contained in the CEQA document and adopt the Project Environmental Impact Report.

Recommendation

To simultaneously develop and integrate a new bus maintenance and storage facility with private multi-family housing, including affordable housing, and other compatible uses, and mitigate schedule and budgetary risks, the SFMTA recommends that the Board of Supervisors approve a project-specific ordinance to use a joint development procurement method for the Potrero Yard Modernization Project.

Thank you for your consideration of the proposed ordinance. Should you have any questions or require more information, please contact Rafe Rabalais at 415-646-2764.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jeffrey Tumlin'.

Jeffrey Tumlin
Director of Transportation