
Memorandum
Economic Development & Base Reuse Department

TO: Concord City Council

FROM: Guy Bjerke, Director of the Economic Development & Base Reuse Department

DATE: November 19, 2020

RE: Project Restart Analysis

1. Introduction

The purpose of this memo is to provide a shared base of information to the Concord City Council, the community, potential developers, and others interested in the restart of the Concord Naval Weapons Station (CNWS) project. The City Council will discuss the information and questions in this memo in two special Council meetings held on December 10, 2020, and January 7, 2021.

This memo reviews where the project has been and where the project currently stands. In Sections 2, 3, and 4 staff summarizes the project's history; the property and project status; and key aspects of the project as found in the adopted Area Plan.

As part of preparing this memo, the City team interviewed a range of builders to determine how the project is perceived by the development community. The information obtained from that outreach is summarized in Section 5 of this memo.

In Section 6 the memo describes potential master developer selection processes including Requests for Qualifications (RFQ); Requests for Proposals (RFP); and a two-step process – RFQs, followed by invited RFPs. The City team is recommending a hybrid RFQ process to include answers to specific questions as a method to determine compatibility with the Council's goals for the project.

Most importantly, in Section 7 staff presents the City Council with three questions that are fundamental to restarting the Reuse Project:

1. Should the City proceed with selecting a new master developer to work with the City in a public-private partnership, rather than taking a different approach to implementing the project?
2. Is the hybrid RFQ approach to master developer selection as outlined in Section 6 Council's desired approach? (*Subject to Council approval of criteria and questions included in the RFQ*); and
3. What should the RFQ state about Council's expectations for implementation of the Area Plan, community benefits and the trade-offs that may be necessary to have a financially feasible project? (*While there are many clear desires that have been expressed for the project since*

community discussion began in 2006, there are financial considerations that constrain the ability of the project to fulfill all those desires. The City Council saw this in the Council meetings held with Lennar in January of 2020, and those financial considerations were echoed in the developer discussions described in Section 5.)

The City Manager and I acknowledge that the topic of this memo is complicated; questions and ideas not outlined in this memo are likely to come up as the community and Council discuss how to restart the CNWS development process. Staff's goal in this process is to support the Council as it sets the direction and next steps for moving this project forward.

2. Reuse Project Timeline

The Reuse Project began in 2005 when the former Concord Naval Weapons Station (CNWS) was approved for closure. Following are key milestones for the project in the years leading up to 2020. Throughout this time, the City has been monitoring the Navy's work on remediation, collaborating with the Navy on property management, and progressing the natural resource permitting strategy.

2005 – Base approved for closure

2006 – Goals and Guiding Principles adopted by City Council

2010 – Reuse Plan approved by City Council and submitted to Navy

2012 – Area Plan adopted by City Council and incorporated into General Plan

2012 – Legally binding agreements executed with the Department of Housing and Urban Development (HUD) for land dedicated to homeless housing and food bank

2014 – Master developer Request for Qualifications (all-comers) and Request for Proposals (short-list) issued and proposals received

2015 – Term sheet negotiated with two finalist master developers

2016 – Lennar Concord LLC (Lennar) selected as master developer

2017 – Navy completed required federal environmental review (NEPA) of property transfer

2017-2019 – Administrative draft Specific Plan developed by Lennar and submitted to City staff, notice of preparation (NOP) for planned environmental impact report (EIR) circulated, development and land transfer terms partially negotiated with Lennar, Navy; Green Frame Linear Park zoning adopted

2019 – Conservation Open Space property assigned to the National Park Service in advance of anticipated transfer to the East Bay Regional Park District

2020 – Agreement with Lennar expired; City staff has been coordinating with the Navy and conducting market sounding to obtain feedback on seeking a new master developer

3. Property and Project Status

The Navy still owns the portion of the property planned for development by the City of Concord. This section provides background on the entire property and project as context.

a. Ownership and Transfer Status

Of the total roughly 5,000-acre site of the former Concord Naval Weapons Station, approximately 2,350 acres will transfer to the City as an Economic Development Conveyance (EDC) for reuse, with an emphasis on job creation in recognition of the jobs that were lost due to the closure of the Base. The Navy completed an environmental impact statement (EIS) with a record of decision in 2017 to environmentally clear the federal action of transferring the land to the City for the purposes of being developed as described in the Area Plan.

The Navy could transfer the EDC acreage to the City for less than fair market value but is seeking compensation for the increased value of the land as a result of reuse. Navy compensation is subject to negotiation with the City and its master developer partner and approval of the Secretary of the Navy and the Department of Defense. Navy compensation will be documented in an EDC Agreement between the City and the Navy.

In 2006/2007, in accord with requirements of the Base Realignment and Closure Act (BRAC) the City solicited interest in land to be conveyed for Public Benefit and land to be transferred for satisfying requirements for the homeless. The City accepted two complete applications for a Public Benefit Conveyance (PBC) totalling approximately 2,600 acres from the East Bay Regional Park District (EBRPD) and the 78 acres from the Sheriff's Department/Contra Costa County Fire.

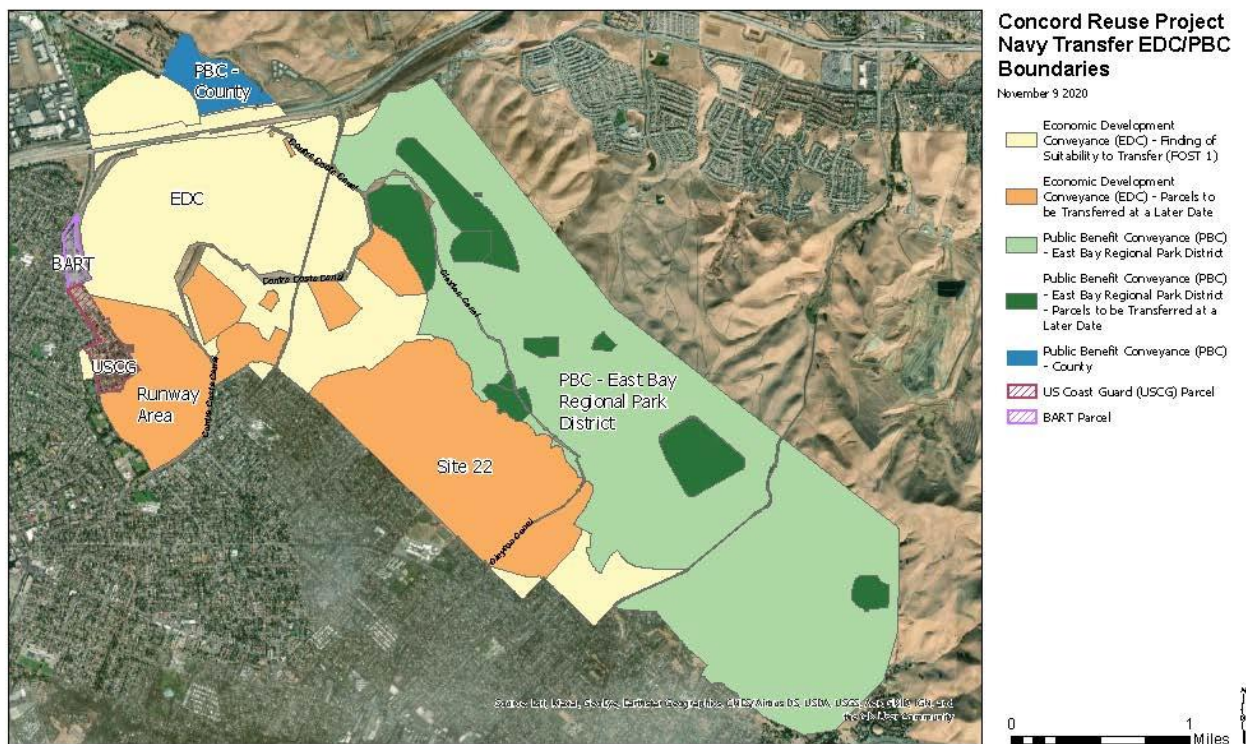
The City received 13 applications for land to support homeless needs. These were combined into one application coordinated by Contra Costa County. Legally Binding Agreements (LBAs) were approved by the federal Department of Housing and Urban Development (HUD), which confirmed the transfer of 16 acres of land to the County and homeless providers for transitional multifamily housing and 10 acres to the Food Bank of Contra Costa/Solano for food bank purposes. Both transfers will be at no cost.

The Navy requires concurrence by state and federal regulatory agencies on a Finding of Suitability for Transfer (FOST) to allow transfer of property. The FOST determination indicates the regulatory agencies believe sufficient remediation has been completed to protect the public health for the land uses in the City's adopted Area Plan. The Navy has completed a FOST for a first transfer of 1,304 acres, shown in pale yellow on the figure below. However, state and federal agencies have delayed final FOST approval until an investigation can be completed for Polyfluoroalkyl substances (PFAS) which were recently added to the national list of contaminants of concern. The Navy is conducting surveys and anticipates readiness for transfer in 2023. This first transfer is expected to be followed by additional FOSTs, shown in orange, until the full EDC area is transferred. The City and Navy anticipate transfer of most of the orange areas within a few years following the first

transfer, except the Runway Area and Site 22 (also known as Bunker City), which are expected to be available for transfer several years later.

A separate FOST was approved to support the PBC land transfer to the EBRPD. The Navy has commenced transfer of 2,210 acres to the EBRPD, shown in light green on the figure; these acres will ultimately be followed by the areas shown in dark green as they are deemed ready for transfer.

Land for the PBC for the County (78 acres, shown in blue on the figure) is slated for transfer in or after 2023.



b. Infrastructure and Community Facilities

The Navy retains responsibility to maintain infrastructure, roadways and provide security until property is transferred. However, none of the existing infrastructure on the base is useable for future development. New infrastructure including utilities (sewer collection, water supply (both potable and recycled), electrical transmission, distribution, and an associated substation, stormwater conveyance and treatment, and telecommunications) will need to be provided to support development. New development will also require new roadways, parks, community centers and other community facilities. In 2013, the LRA’s consultant Arup prepared a high-level [estimate](#) of infrastructure and community facilities costs and determined a value in 2013 dollars of approximately \$2 billion.

c. Planning status.

After four years of City and community collaboration, the City Council adopted a final Reuse Plan in 2010. However, the Reuse Plan is a federal document without regulatory authority under California land use law, so the City chose to amend its General Plan to reflect the vision of the community. To do this, the City created the more detailed Concord Reuse Project Area Plan and amended its General Plan to incorporate it by reference.

The Area Plan¹ reflects the Reuse Plan's goals and concepts developed with the community and converts them into policies and standards for land use, community facilities (such as parks), transportation, environmental protection, economic development, public benefits, affordable housing, and public safety. The Area Plan consists of three books describing the overarching vision and standards, detailed policies, and a climate action plan.

The Area Plan is part of the General Plan, with programmatic CEQA clearance. Before development can take place, a Specific Plan and project-level EIR will need to be prepared in support of entitlements. An administrative draft Specific Plan document exists, developed by the Lennar team, but it has not been completed or published nor did it address all issues of importance in the community. Given the passage of time and changes in the economy, including the pandemic and its impacts on demand, financial feasibility and construction costs, the document is best viewed as a reference. The document will be posted on the [project website](#) by December 17, 2020.

d. BART Property status

The 18-acre North Concord BART station parking lot is immediately adjacent to the CNWS. Access to BART and creating transit-oriented development (TOD) is a core tenet of the Area Plan, and the station parking lot was included in the Area Plan in anticipation of a coordinated approach to TOD around the station. The property was also included in the Lennar-led Specific Plan effort. BART has selected a developer (Brookfield Residential) to enter into an exclusive negotiating agreement (ENA) for the BART property. The ENA has not yet been executed. BART has been collaborative with the City of Concord on planning for the site. The site's regulatory context has changed in recent years with the passage of AB 2923 in 2018. The bill changed how development on BART-owned property is regulated, requiring cities and counties to rezone for consistency with BART's TOD Guidelines. While the Area Plan designation for the North Concord BART property is consistent with TOD, the site is not yet zoned and will need to be zoned prior to July 1, 2022 or the BART TOD guidelines will be the guiding document for future use of the site.

e. Adjacent Coast Guard Property status

The 59-acre Coast Guard site is adjacent to the CNWS but is not part of the property discussed in this memo. The site was not included in the Area Plan but was included within the Lennar-led Specific Plan effort. It currently is not zoned for development and will need to be rezoned prior to development. Coordination between the two projects will be necessary, given shared infrastructure and circulation needs. The Coast Guard property currently includes a mix of duplex units (built in 1965) on the northern half of the property and triplex units (built in 1989) on the southern half of

¹ Visit concordreuseproject.org to see the Area Plan and other key documents

the property for a total of 328 units. In December 2019, the City offered to purchase the property through the General Services Administration (GSA). In March 2020, the GSA, rejected the City's offer for purchase of the property, and decided to move forward with an invitation for bids and auction process. On October 15, 2020, the auction was initiated by the GSA, and is expected to last approximately 45 days. The GSA will enter a 90-day escrow period shortly after the auction if there is a successful bidder. A new developer could be in place for the Coast Guard site by March 2021.

f. Surplus Lands Act

AB 1486 amended the Surplus Lands Act effective January 1, 2020, making several changes to the Act that may be applicable to the CNWS property. These include requiring surplus land to be made available for purchase by affordable housing sponsors before it can be sold to a developer for development of other uses. While the City has committed to making 25% of the housing units on the base available for affordable housing, the process outlined in the amended Surplus Lands Act is different from the agreement reached with affordable housing sponsors and documented in Resolution 12-4823.3 and could impact the selection of a new master developer. Consequently, the City is working with other communities in California with military bases in the base reuse (BRAC) process to seek an exemption for such projects from the legislature in the 2021 legislative session. If such an exemption is not possible, the project's progress and schedule are very likely to be impacted because the City would need to comply with the Surplus Lands Act, as amended by AB 1486.

4. Key Aspects of the Project

This section provides a very high-level summary of key aspects of the project. For readers who are new to the project, there is a wealth of material on the project website: www.concordreuseproject.org.

a. Reuse Project goals:

World Class Project: Adopt an innovative, long-term view that will benefit future generations, encourage a sense of community pride, and be recognized internationally.

Balanced Approach: Balance a broad range of community needs, regional and local requirements, and the need for parks & open space, with the need for jobs, housing and community facilities.

Economically Viable & Sustainable: Maintain long-term economic viability of the project by ensuring that capital costs, future operations and maintenance costs are satisfied on a self-sustaining basis.

Quality of Life: Build on community assets and opportunities, address critical needs, create net positive benefits, and provide new opportunities to live, work and play.

b. Area Plan development program:

- i. Approximately 12,000 housing units at a range of densities, oriented to take advantage of the North Concord BART station

- ii. Approximately 6 million square feet of commercial uses, from neighborhood-serving retail to commercial flex
 - iii. 25% affordable housing (see next section)
 - iv. Campus district – for a university or a combination of educational, research or cultural uses
 - v. Community facilities – tournament sports complex, citywide parks, local parks, library, community centers (for groups such as teens, veterans, seniors, and others).
- c. Affordable housing:

The City Council established a goal of 25% affordable housing by providing free land and finished pads (see also [City Council Resolution 12-4823.3](#)). To construct the affordable units and provide ongoing maintenance and services, affordable housing developers will need to secure funding. There are a variety of sources, which are usually combined for individual projects, including tax credits, grants and loans.

5. Project Restart Analysis

In August of 2020, the City team² initiated a process to review the project, following expiration of the agreement with Lennar, and identify a proposed approach to moving forward on the project. While there are many important points to be worked out through the planning process, the focus of this effort was on big picture steps required to resume planning entitlement, as well as EDC transfer negotiations with the Navy. The team focused on the following questions:

- a. What role should the City play in developing the property?

Up to this point, the City’s role has been defined as a partner to a master developer, working together to fulfill the terms of the pending EDC agreement with the Navy, ensuring the community’s vision as expressed in the Area Plan is carried through the project, overseeing development activities through its land use police powers, reviewing the Navy’s remediation activities, and providing supporting activities such as natural resource permitting. In this public-private partnership scenario, the master developer completes its work prior to entitlement “at risk,” meaning the master developer will not be repaid for costs incurred prior to entitlement until after City Council approvals are reached and a final agreement is signed. The master developer also provides funding for the City’s activities in support of the project.

The City team evaluated whether the City should take on the master developer role itself. To do so, the City would need to take on the staff and consultant costs for planning and entitling the project, negotiating EDC transfer with the Navy, resource agency permitting, and other project-related activities, rather than having a master developer pay most or all of those costs. The City would also need to bring on board significant development expertise. The City would be responsible for financing up-front infrastructure costs of up to \$500 million in advance of generating development revenue, which could be used repay those up-front expenditures over many years. While this would

² City staff: Valerie Barone, Guy Bjerke, Susanne Brown, Andrea Ouse, and Joan Ryan. LRA consultants/counsel: Paul Silvern, HR&A Advisors; Jerry Ramiza, Burke Williams & Sorenson; Alexandra Barnhill, Jarvis Fay; Dahlia Chazan, Arup; David Knisely, Garrity Knisely; Mary Smitheram-Sheldon, ALH Economics; and Mike Wright, The Wright Group.

give the City more control over the development process, the financial burden to the City is currently beyond the City's financial capabilities without significant impacts to existing services and programs or significant debt, or both. Additionally, it would put the City in a position of higher financial risk.

The City team reviewed these two options (public-private partnership vs. city as master developer) and considered experiences of other communities on similar projects in California and across the country. The most common approach for cities is to work with a master developer in a public-private partnership, and the primary reasons for that are expertise and funding. Expertise refers to depth of knowledge and experience with the process of building a significant expansion of the community. Funding refers to the ability to pay for the people with such expertise, including through down markets that may last several years, as well as financing for infrastructure. While the City of Concord could bring on the level of expertise necessary through a combination of hiring staff and additional consultants, the funding required for such expertise and infrastructure is not available based on current City finances.

b. How is the opportunity to develop some or all of the CNWS in partnership with the City of Concord viewed by the development community?

The City team discussed the project with approximately 15 developers³ with relevant expertise representing different points of view – large and small developers, locally-based (Bay Area and Contra Costa) and national developers, publicly-traded and privately-held developers, including some with military base or other large reuse project experience. The group of interviewees was representative, but not an exhaustive list of all potential master developer partners that could work with the City. Participation in these discussions was voluntary and informal and is not part of the selection process for a new master developer. Key topics and key findings follow:

i. *Topic:* Status of market, including impact of the pandemic

Findings: Participants overall viewed the pandemic as having a temporary impact on the market; they also pointed out some specific impacts. Access to the scale of capital required for significant up-front infrastructure investment is somewhat limited right now. Some saw this as a short-term challenge; while others suggested the City consider working with developers to do some early construction that does not require as much initial infrastructure investment so the project could begin to generate revenue that could then be invested into infrastructure.

Most respondents agreed medium-density residential uses, between 10 and 30 units to the acre, is very marketable now and into the foreseeable future. Several also mentioned warehousing and distribution facilities to support e-commerce. The medium-density residential uses would create demand for supporting retail uses, but other types of non-residential uses such as office are more difficult to predict right now, as is demand for higher-density housing. One widely shared observation was that developers will be looking for flexibility to be integrated into the Specific Plan and future entitlements.

³ Brookfield Residential; Catellus; City Ventures; De Nova; LendLease; Lowe; Related California; Sares Regis; Seeno; Shea Homes; Signature Properties; Southern Land Company (Nimitz Group); Strada; TMG; Toll Brothers

ii. *Topic:* View of the project as a development opportunity

Findings: There was a lot of interest in the opportunity of developing the base, particularly for the development types mentioned above. This interest was tempered by concerns about project-related uncertainties, including financial feasibility and potential trade-offs between project components and community benefits. These include:

1. Specific Plan process – Prefer clarity around the planning and entitlement process to reduce the amount of time the selected developer is working at risk.
2. Area Plan/Community Benefits requirements – Prefer as much clarity as possible about the City’s expectations around development program and community benefits. These expectations are provided in the Area Plan, as discussed in Section 4 (Key Aspects of the Project), but respondents seek to understand which aspects of the development are of higher and lower priority.
3. Labor – Prefer City to clarify requirements so union labor participation/prevaling wage requirements for vertical construction, as well as work rules, can be resolved. This builds on the assumption that all horizontal construction (for infrastructure and all community facilities, horizontal and vertical) would be done at prevailing wage rates, with less certainty about requirements around vertical construction of each building type: single- and multi-family housing and different types of commercial buildings.
4. Navy transfer – Prefer to progress toward an agreement with the Navy about compensation for the property as soon as possible. Without such an agreement, uncertainty about total project costs makes it difficult to establish what is feasible for the project overall.
5. Infrastructure/project financing – Infrastructure costs, combined with other costs of implementing the project were a significant concern to potential master developers. The need for infrastructure is a certainty because there is currently no usable infrastructure on the site. Respondents would like to better understand the City’s desired approach to infrastructure financing. This could include private equity, a community facilities district (CFD), enhanced infrastructure financing district (EIFD), joint pursuit of statewide infrastructure grants, or some other mechanism.

iii. *Topic:* Selection process for a new master developer

Findings: A consideration the team heard from multiple developers about the selection process was a desire to streamline the process to participate. Two ideas were shared by a few of the developers.

One was to provide as much clarity as possible about the City’s land use and community benefit objectives, so proposers understand the parameters for their submittals.

The second was a strong preference for the City Council to select a partner based on a request for qualifications (RFQ) or similar submittal and initiate direct negotiations with the

selected party. Respondents preferred this approach over a request for proposals (RFP), which would require them to invest significantly in preparing a response with a conceptual development proposal and pro forma.

There were also concerns about an RFP with open response, rather than based on a pre-qualified list filtered through an initial RFQ. In other words, if the City were to go the RFP route, some developers recommended the City use a 2-step RFQ process to pre-qualify teams to compete.

Developers gave varied responses with respect to whether the City should look for a master developer for just a phase 1, as was done with Lennar's selection, or use a different approach. Lennar was selected to be the preferred Master Developer for the first 500 acres of development, with the understanding that City reserved the right to require competition for future phases. The City could also have appointed Lennar as the master developer of future phases without going through a competitive selection process, if phase 1 performance was strong and targets were met. Some developers consulted felt a similar approach would still be acceptable. A few smaller firms would prefer a smaller first phase to reduce the up-front infrastructure investment, and some larger firms preferred a single procurement for the entire EDC area to ensure they would be able to realize the full benefit of early investment in later years.

6. Developer Selection Process Recommendations

The City team reviewed process options for selecting a new master developer, informed by the results of the developer discussions described in Section 5 and the team's experience with other solicitations. These include:

a. Two-step RFQ then RFP solicitation

Process: First, release an RFQ, open to all who are interested in proposing. Statements of qualifications would then be scored against criteria including performance on past projects, financial capacity to deliver the project, and references. Several firms would be invited to participate in an interview. Following the interviews, a short list of between two and five firms would be established and an RFP released to that short list. Proposals from those two to five firms would provide a conceptual vision for the project, including development program and community benefits. These submittals would be supported by a pro forma reflecting each developer's expectations about costs to develop the project and expected income from the development over time. The information in the proposal about the development program and community benefits would be the basis for a negotiating agreement between the City and developer.

Timing: Each step in such a process would be expected to take a minimum of four months from the time the RFQ or RFP is issued, including time for developers to respond, City team to score the statement of qualifications or proposal, interviews to be held, and a recommendation to the City Council finalized. Between the RFQ and RFP processes the City team would need a minimum of a month to finalize the RFP to ensure it would best distinguish among the finalist proposers.

b. RFQ solicitation

Process: The RFQ process described above would be completed, except that following the interviews a recommendation for a selected firm would be made to the City Council. Following selection, the developer would begin work with the City team to establish a development program and community benefits. The information about the development program and community benefits would be the basis for a negotiating agreement between the City and developer.

Timing: This process would be expected to take a minimum of four months as described above.

c. Hybrid RFQ solicitation

Process: The RFQ process described above would be completed, with the addition of a series of questions about the firm's approach to the project, responses to which would be included in the scoring process. Following selection of a firm by Council, the developer would begin work with the City team to establish a development program and community benefits. The information about the development program and community benefits would be the basis for a negotiating agreement between the City and developer.

Timing: This process would be expected to take a minimum of four months as described above.

City Team Recommendation: The City team suggests the City move forward with the hybrid approach (c above). This hybrid approach balances a goal for speed with the desire to understand the selected developer's approach to the project

In the hybrid RFQ, the qualifications requested would include a description of the proposed team, their approach to working with the City, their vision for the project, examples of past similar projects (scale and scope), demonstration of financial capabilities, and references.

Additionally, Council's direction in response to this memo will help the City team in refining selection criteria, key topics to address, and specific questions to be included in a hybrid RFQ. The RFQ, including selection criteria and specific questions, would be provided for Council review at a public meeting prior to release of the solicitation. Proposed topics for questions include:

1. Vision for the project and approach to adhering to the adopted Area Plan
2. Approach to completing planning and entitlement
3. Approach to affordable housing
4. Approach to ensuring opportunities for union labor participation in vertical construction
5. Approach to establishing phasing and a starting point for development
6. Approach to facilitating City's efforts to reach agreement with the Navy on an EDC

Staff's goal is to release the solicitation in February 2021. Respondents would have approximately 90 days to formulate their responses; the City team would score responses against established criteria in April and May; the Council would interview top respondents in July and make a final selection of a development partner in September.

7. Questions for City Council

This section lists questions the City team desires to discuss with the City Council at the December 10, 2020, and January 7, 2021, special meetings. There will likely be additional questions or topics raised on December 10 that the Council will want to discuss on December 10 or January 7. The questions below build on the background provided in this memo.

1. Should the City proceed with selecting a new master developer to work with the City in a public-private partnership, rather than taking a different approach to implementing the project?
2. Is the hybrid RFQ approach to master developer selection as outlined in Section 6 Council's desired approach? (*Subject to Council approval of criteria and questions included in the RFQ*); and
3. What should the RFQ state about Council's expectations for implementation of the Area Plan, community benefits and the trade-offs that may be necessary to have a financially feasible project? (*While there are many clear desires that have been expressed for the project since community discussion began in 2006, there are financial considerations that constrain the ability of the project to fulfill all those desires. The City Council saw this in the Council meetings held with Lennar in January of 2020, and those financial considerations were echoed in the developer discussions described in Section 5.*)