



Board Report

File #: 2024-0277, File Type: Motion / Motion Response

Agenda Number: 16.

PLANNING AND PROGRAMMING COMMITTEE  
JUNE 20, 2024

SUBJECT: JOINT DEVELOPMENT POLICY AND EXCLUSIVE NEGOTIATION AGREEMENT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

APPROVE the:

- A. Amended Joint Development Policy (Attachment A); and
- B. Amended Exclusive Negotiations Agreement (ENA) Key Terms (Attachment B) for 10K Sites.

ISSUE

In March 2024, the Board approved the ENA Key Terms with the following amendments:

- Report back on the ENA template to clearly communicate participation with community-based organizations (CBOs), allowing for community-based development organizations (CBDOs) to work directly with Metro as the prime or sub-prime contractor. This would allow for CBO/CBDO participation, not exclusive of the Joint Development Bench. Include engagement with general contractors and subcontractors for the inclusion of Small Business Enterprise, Disadvantaged Business Enterprise, Disabled Veterans Business Enterprise, and Minority and Women Business Enterprise; and
- Directed the CEO to improve the contract language for RFPs and to work with cities to help streamline the entitlement process and work with the developers to streamline the capital stack.

Staff is seeking Board approval of an Amended Joint Development (JD) Policy and Amended ENA Key Terms (Attachment A and B) to incorporate the Board approved amendments.

BACKGROUND

*Joint Development (JD) Policy*

In June 2021, the Board adopted an updated JD Policy. The JD Policy states, "Metro will require,

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wherever feasible, that developers collaborate with local Community-Based Organizations (CBOs), both formally as development partners or informally as community partners providing independent community-level input on the project scope, design and program.” The JD Policy also states, “Development teams shall provide opportunities for Metro-certified Small Business Enterprises (SBE), Disadvantaged Business Enterprises (DBE), and Disabled Veterans Business Enterprises (DVBE) to partner in their projects through the delivery of professional or construction services.” Additionally, the JD Policy notes that proposals will be evaluated based on their potential to be delivered fastest, having a clear schedule for implementation, and/or not requiring discretionary local actions.

#### *Acceleration Strategies and Developer Bench*

To facilitate the accelerated delivery of housing and to achieve the Board-directed goal of growing the JD housing portfolio to 10,000 units by 2031 (5,000 income-restricted), in April 2023, the Board adopted 27 strategies to accelerate the creation of new housing units on 20 Metro-owned sites located throughout Los Angeles County (10K Sites) by 2031. Consistent with the strategies approved by the Board, Metro released a Request for Qualifications (RFQ) in August 2023 to establish a bench of developers (JD Developer Bench) eligible to respond to future 10K Site Requests for Proposals (RFPs). The RFQ awarded points to applicants who demonstrated experience creating opportunities for CBOs and SBE/DBE/DVBE firms, and/or local businesses in past projects through subleasing or as providers of community, professional, and/or construction services.

With input from Los Angeles County community organizations and developers, Metro defined a community-based development organization (CBDO) as “a nonprofit, tax-exempt, housing developer with a commitment to a geographic community and a stated intention of generating community scale outcomes including building wealth, increasing economic stability, improving health, or advancing equity through its projects and programs or partnerships with other organizations.” Metro conducted targeted outreach through direct phone calls and emails to CBDOs rooted in the communities in which the 10K Sites are located and encouraged them to respond to the RFQ. CBDOs were awarded five points (out of 100 total possible points) in RFQ evaluations, and in March 2024, the Board approved the JD Developer Bench and amendments which included 80 approved developers, 25 of which were identified as CBDOs. These CBDOs may respond to future RFPs as lead or co-developers.

## **DISCUSSION**

#### *JD Policy Revisions*

Given the CBDO definition had not been established in 2021 when the JD Policy was adopted, staff recommends the JD Policy be amended per Attachment A to incorporate the CBDO definition and align provisions meant to boost CBDO participation. The JD Policy revisions also require developers to track and report outcomes related to CBDO, CBO, and SBE/DBE/DVBE participation throughout the ENA phase. Additional revisions have been made to the JD Policy to align with the acceleration strategies adopted by the Board in April 2023.

#### *Requests for Proposals*

To carry out the commitments contained in the amended JD Policy, future 10K Site RFPs will award

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additional points in evaluations if a CBDO is the lead developer. For partnerships where the CBDO is not the lead developer, they must have an active role and financial stake in the development in order to receive points in the scoring of RFP proposals. So as not to exclude CBDOs who may not have participated in the RFQ process, developers on the JD Bench may identify CBDOs as co-developers in responding to site-specific RFPs.

The RFPs will also require developers to collaborate with CBOs wherever feasible and provide opportunities for Metro-certified SBEs/DBEs/DVBEs. Points will be awarded based on each proposer's demonstrated track record and level of commitment in partnering with CBOs and targeted business enterprises in project delivery.

During the solicitation process, staff will host "Building Partnerships" events that will highlight upcoming development opportunities and help connect prospective Developers, especially CBDOs (including but not limited to those on the JD Developer Bench) with CBOs and SBEs/DBEs/DVBEs to encourage partnerships and joint ventures that can respond to RFPs. In addition to the JD interested parties list, to reach a broad audience, JD staff will utilize the Metro CBO Database managed by the Office of Equity and Race and lists of certified firms maintained by the Diversity and Economic Opportunity Department.

#### *ENA Key Terms*

Staff recommends revising the ENA Key Terms per Attachment B to reflect Metro's commitment to CBDO leadership, and CBO and SBE/DBE/DVBE participation in the delivery of JD projects. The proposed revisions to the ENA Key Terms will require developers to report quarterly on CBDO, CBO, and SBE/DBE/DVBE participation during the negotiations phase.

#### *Streamlining Entitlements and Delivery*

As previously noted, in April 2023, the Board approved 27 strategies to accelerate the delivery of joint development projects. Staff is in the process of carrying out these process improvements with the intent of reducing JD project delivery from an average of 10 years to five or less. While local entitlements and CEQA approvals have historically been a factor in long delivery timeframes, continued streamlining for affordable housing and transit-oriented developments at both the State and local levels, is resulting in significantly accelerated approvals. Additionally, Metro's State and Federal Legislative Program includes goals to support legislation and funding opportunities that incentivize, support, and accelerate the development of affordable housing around transit. Staff continues to monitor legislation that relates to transit-oriented development and housing interests and administer TOC Technical Assistance grants to local jurisdictions to foster transit-supportive plans and policies that promote equitable TOC outcomes, including through transit-oriented development.

Aligned with Metro's commitment to delivering housing as quickly as possible, proposals that demonstrate a commitment to streamlining and acceleration will be awarded additional points. With innovation as a core value of the JD Policy, RFP evaluations will award additional points to proposers who present feasible and innovative funding strategies.

### **DETERMINATION OF SAFETY IMPACT**

The approval of these recommendations will not impact the safety of our customers and employees.

## **FINANCIAL IMPACT**

Approval of these recommendations will not impact the existing FY24 or approved FY25 budget for Cost Center 2210 (Joint Development), Project 401300 “Joint Dev. 10K Homes” which includes funding to support the release of the site-specific RFPs to the Developer Bench. The funding source for the project is General Fund, which is eligible for bus and rail operation and capital projects, however, Metro collects an ENA fee from development partners to defray transaction costs.

## **EQUITY PLATFORM**

Harnessing the local expertise of CBDOs, CBOs, and SBEs/DBEs/DVBEs will help Metro effectuate meaningful community engagement and develop JD projects that include elements that benefit, enhance, and respond to the needs of surrounding communities. The proposed revisions to the Joint Development Policy and ENA Key Terms will memorialize Metro’s CBDO definition and commitment to CBDO, CBO, and SBE/DBE/DVBE participation in the delivery of JD projects. This will create opportunities for CBOs and SBE/DBE/DVBE firms that historically have not had the opportunity to participate in major development projects. The intent is to build relationships with these community organizations and companies, strengthen their capacity, and integrate public benefits such as job training, new leasing opportunities for local businesses, and social services into the developments that provide value to the surrounding community beyond just housing. The proposed revisions to the ENA Key Terms will create accountability and reporting requirements for the selected developers during the ENA phase.

## **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

By approving these recommendations, Metro will advance Vision 2028 Strategic Plan Goal #3, “to enhance communities and lives through mobility and access to opportunity,” by activating several transit-oriented communities with catalytic development projects that will bring housing, jobs, and services to neighborhoods across the Metro system and Los Angeles County at-large.

## **ALTERNATIVES CONSIDERED**

The Board could defer or deny approval of the recommendations. This is not recommended as the measures seek to incorporate approved Board amendments related to Metro’s commitment to making joint development opportunities available for CBDOs, CBOs, and targeted business enterprises to lead and participate in the delivery of joint development projects. Additional delay would constrain Metro in meeting its 10,000-unit goal by 2031 and its ability to urgently contribute needed solutions to the regional housing shortage.

## **NEXT STEPS**

If the Board approves these recommendations, staff will incorporate amendments as indicated in Attachment A and B and invite the JD Developer Bench to respond to site-specific RFPs for 10K Sites. Building Partnerships events will be held and promoted utilizing Metro’s CBO, CBDO, and SBE/DBE/DVBE lists. After developers are selected for specific sites, staff will execute an ENA

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consistent with the Board-approved ENA Key Terms. Metro will require developers to report quarterly on CBDO, CBO, and SBE/DBE/DVBE leadership and participation. This data and other significant milestones will be reported to the Board and the public through an online dashboard. Once the project entitlements are in place, staff will return to the Board for approval of JDA and Ground Lease terms, including CBO and SBE/DBE/DVBE participation commitments for the construction and delivery of the particular project.

**ATTACHMENTS**

Attachment A - Amended Joint Development Policy

Attachment B - Amended ENA Key Terms

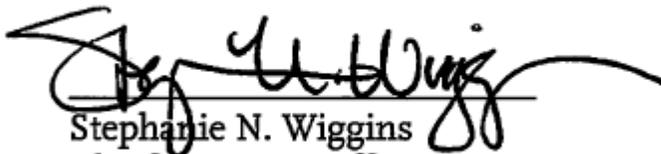
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