

**Board Report**

File #: 2017-0301, **File Type:** Agreement**Agenda Number:** 36.

**EXECUTIVE MANAGEMENT COMMITTEE
JUNE 15, 2017****SUBJECT: 1ST AND LORENA JOINT DEVELOPMENT****ACTION: AUTHORIZE AMENDMENT TO EXTEND EXISTING EXCLUSIVE NEGOTIATING AGREEMENT FOR 24 MONTHS****RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to execute an amendment to the Exclusive Negotiations and Planning Agreement with A Community of Friends to extend its term for an additional 24 months, for the joint development of Metro-owned property at 1st and Lorena Street along the Metro Gold Line Eastside Extension.

ISSUE

In June 2016, the LACMTA Board of Directors (Board) authorized a 12-month extension to the Exclusive Negotiations and Planning Agreement (ENA) with A Community of Friends (ACOF) (Developer) for the development of a 49-unit mixed-use affordable housing project (Proposed Project) at 1st and Lorena Street (See Attachment A, Site Map). During this extension term, the Developer has diligently pursued and performed its obligations under the ENA and the proposed project was on track to proceed to the Joint Development Agreement (JDA) phase with Metro by the end of the 12-month extension term. However, in April 2016, a CEQA appeal was filed against the Proposed Project with the City of Los Angeles (City) by an adjacent property owner. After one year, the matter was heard before the City of Los Angeles Planning and Land Use Management (PLUM) Committee on May 16, 2017; however the Committee continued the matter. A date has not been set for when it will be heard again. In light of this appeal, the Developer has requested a one-year extension to the ENA. However, Metro staff believes that in order to have sufficient time to resolve the matter more time is necessary; therefore, staff recommends that the Board authorize an additional extension to the ENA term for a period of 24 months, and grant an exception to the JD Policy's term limit to allow a full ENA term for a period of 72 months.

DISCUSSION**Background**

On June 27, 2013, the Developer and Metro entered into the ENA to plan and consider the terms and conditions of a potential Joint Development Agreement (JDA) and Ground Lease (GL) for

development of a transit-oriented mixed-use affordable housing development at 1st and Lorena in Boyle Heights. The term of the original ENA was 18 months. During that timeframe, the Developer advanced the Project through final design, and diligently pursued entitlements including the California Environmental Quality Act (CEQA) approval process and project approval requirements by the City. Community meetings were also held, as well as individual presentations to various community groups. However, additional time was needed to complete the City's entitlement/CEQA review and approval process and to continue the community engagement process. The Board granted an additional 12 months in December 2014 and another 6-month extension in December 2015, and subsequently an additional year in June 2016 to address the CEQA appeal.

When the Board approved the 12-month extension in June 2016, they also granted an exception to the JD Policy to permit a term of 48 months. If the requested extension is provided, the total term of the ENA will be for up to 72 months, requiring another exception to the JD Policy.

During the course of the ENA term to date, the Developer has actively worked to progress the Proposed Project to the JDA stage. Activities included conducting multiple community meetings to further engage the community and obtain their input, securing approval from the Boyle Heights Neighborhood Council (BHNC) as well as the Boyle Heights Design Review Advisory Committee (DRAC) and seeing the Project CEQA process through a final determination. To date, the Council Office for the Boyle Heights community has consistently opposed the proposed mixed-use development, preferring a project with significantly more commercial use. However, during the past year, the Developers have met with the adjacent property owners and the Council Office to address their concerns.

The CEQA appeal was heard at PLUM Committee on May 16, 2017; however, after all the testimony was taken, the Committee continued the matter. The appellant's attorney submitted a letter to the file which the City wants time to review. A date has not been set for when it will be heard again.

The Project

The original project scope included 48 affordable housing units; 24 units for households with special needs and 24 family units, with one manager's unit, and limited ground floor commercial. Since the project's inception, the Developer has been meeting with community stakeholders, and during the ENA extension periods held numerous meetings with stakeholders. In response to stakeholder feedback, the project scope was modified and is now comprised of 24 units of affordable housing for disabled/homeless veterans, 24 units of affordable family housing and 10,000 square feet of ground floor commercial space (see Attachment C Project Scope). Furthermore, in response to additional community feedback, the Developer is exploring including childcare and fitness facilities, and approximately 5,000 square feet of general retail business services. This modified scope, as well as the final design, was presented to the Boyle Heights Neighborhood Council on July 22, 2015. The Council approved the project 15-1. Their testimony spoke to the need for housing for veterans and low income families. Sixty percent of the units will be for individuals/families at 30% Area Median Income (AMI).

Entitlement Status

The City Planning Department issued a Director's Determination dated March 2, 2016 (See Attachment B Director's Determination) approving certain incentives for the Proposed Project, and approving a Mitigated Negative Declaration and corresponding Mitigation Monitoring Program as the Proposed Project's environmental clearance pursuant to CEQA. The deadline to file an appeal to the Director's Determination was March 17, 2016, and no appeal was filed by that date. As such, the Developer filed a Notice of Determination with the County of Los Angeles on March 21, 2016. Thereafter, a CEQA appeal was filed with the City of Angeles by an adjacent property owner on April 20, 2016, and the City has accepted the appeal for hearing.

The CEQA appeal was heard at the PLUM Committee on May 16, 2017; however, after all the testimony was taken, the Committee continued the matter. The appellant's attorney submitted a letter to the file which the City needs time to review. A date has not been set for when it will be heard again. We are recommending a 24-month extension to the ENA to allow time for the resolution of the CEQA matter. Pursuant to state law, staff cannot seek Board authorization of a JDA before CEQA approval has been granted by the City of Los Angeles.

DETERMINATION OF SAFETY IMPACT

Approval of this item will have no impact on safety as it only seeks a time extension for the ENA. No improvements will be constructed during the exclusive negotiations period. An analysis of safety impacts will be completed and submitted to the Board if negotiations result in a JDA and GL.

FINANCIAL IMPACT

Funding for joint development activities is included in the FY18 budget under Project 401020.

Impact to Budget

There is no impact to the FY16-17 budget and staff costs are included in the proposed FY18 budget to negotiate the proposed transaction, supervise any related design, review environmental documents and provide Metro oversight during construction. However, no new capital investment or operating expenses are anticipated to implement this project. Revenues from the Developer deposit will offset continued staff and project related professional services costs.

ALTERNATIVES CONSIDERED

The Board could choose not to extend the ENA term and instead solicit a new developer. Staff does not recommend this alternative due to the current Developer's longstanding commitment to and financial investment in the Proposed Project, substantial progress achieved towards the Proposed Project's development and overall community benefits. Moreover, the Developer has engaged the community, culminating in obtaining approval of the Proposed Project from the BHNC in a 15-1 vote. This project will serve the needs of those with the lowest income - one of the most needed forms of housing in the Boyle Heights community.

NEXT STEPS

Upon approval of the recommended action, staff will prepare and execute an amendment to the ENA providing for a 24-month extension of the term. Staff will continue working with the Developer to finalize negotiations for a JDA and GL, and will present the terms of such agreements to the Board for its consideration following resolution of the CEQA matter.

ATTACHMENTS

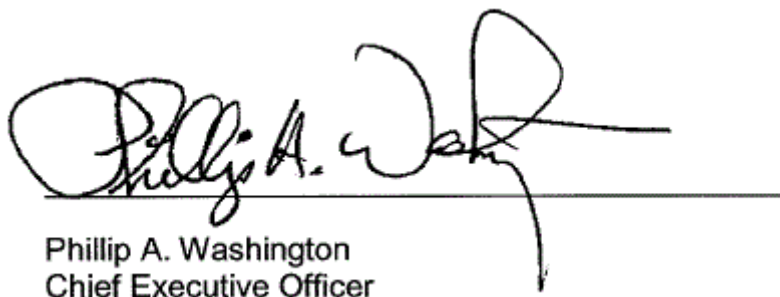
Attachment A - Site Map

Attachment B - Director's Determination

Attachment C - Project Scope

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