File #: 2020-0279, **File Type:** Agreement **Agenda Number:** 20.

PLANNING AND PROGRAMMING COMMITTEE
AUGUST 19, 2020

SUBJECT: VERMONT/SANTA MONICA JOINT DEVELOPMENT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

A. AUTHORIZING the Chief Executive Officer (CEO) to execute a Purchase and Sale Agreement and agreements containing conditions, covenants, restrictions and easements with SMV Housing, L.P. (Developer), an affiliate of LTSC Community Development Corporation (LTSC), that provide for Developer's purchase from Metro of approximately 33,682 square feet of real property (Metro JD Property) next to the Vermont/Santa Monica B (Red) Line Station and the construction and operation of a mixed-use, affordable housing project (Project) on the Metro JD Property and adjacent Developer-owned property (collectively, Site), subject to Federal Transit Administration (FTA) and California Transportation Commission (CTC) concurrence;

B. ADOPTING the attached resolution (Attachment D) authorizing the CEO or his designee to apply for, receive an allocation of funds, and to enter into, execute, and deliver a State of California Standard Agreement, and any and all other documents required or deemed necessary related to the California Department of Housing and Community Development Transit-Oriented Development (TOD) Housing Program in an amount not to exceed $5,000,000 (TOD Grant) to fund station plaza improvements in support of the Project; and

C. FINDING that the Project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332/Class 32 (In-Fill Development Projects) of the CEQA Guidelines, and statutorily exempt pursuant to Public Resources Code Section §21080.27(a)(3) and Section §21080.27(b)(2) and to authorize the CEO to file a Notice of Exemption for the Project consistent with such exemptions.

ISSUE

In January 2017, Metro received an Unsolicited Joint Development Proposal from the Developer which contemplated joint development of Metro-owned property and adjacent privately-owned parcels at the Vermont/Santa Monica B (Red) Line Station. In March 2018, the Metro Board of Directors approved entering into an Exclusive Negotiation Agreement and Planning Document (ENA) with the Developer, which will expire in September 2020. The ENA has allowed staff and the Developer to explore the feasibility of the proposed Project, conduct community outreach, undertake CEQA clearance and negotiate the key terms and conditions of a Purchase and Sale Agreement (PSA) that will ultimately provide for the Developer's construction and operation of the Project on the Site. Since these efforts have concluded favorably, staff recommends executing a PSA subject to the closing conditions further described below.

BACKGROUND

Site Description

The Site is located in the City of Los Angeles East Hollywood community and is surrounded by several prominent neighborhoods, including Hollywood, Silver Lake, and Los Feliz. Metro currently owns four (4) parcels at the Site with a total area of 46,105 square feet (1.05 acres). Portions of the Metro property are currently leased by adjacent businesses for parking. The PSA would transfer ownership of the approximately 33,682 square feet (0.77 acres) Metro JD Property to the Developer. Metro would retain ownership of the remaining approximately 12,423 square feet (0.27 acres) which includes the station plaza and portal. The Developer owns four adjacent parcels totaling 20,499 square feet (0.47 acres) and, when combined with the Metro JD Property, make for a total of 54,181 square feet (1.24 acres) and creates a more regular street-to-street lot suitable for mixed-use development (see Attachment A - Site Map).

A study was conducted in December 2015 to determine the feasibility of development on just the Metro-owned properties at the Vermont/Santa Monica Station. The analysis concluded that, due to the constraints of the irregularly shaped parcels and location of the station's portal and plaza, the only potentially feasible development scenario would be limited to a small single-story 20,000 square foot shopping center with 37 surface parking spaces. While technically feasible, this scenario with solely the Metro-owned parcels was not deemed to be the highest and best use for this high traffic urban corridor and staff decided to not actively pursue joint development of the site at that time.

Project Description

The Project consists of a total of one hundred and eighty-five (185) affordable rental units including ninety-one (91) units restricted to households earning 50% of Area Median Income (AMI) or less and ninety-four (94) special needs units restricted to households earning 30% of AMI or less. There will be two (2) unrestricted managers' units and sixty-nine (69) parking spaces. Metro's Joint Development Policy seeks to facilitate construction of affordable housing units such that 35% of the total housing units in the Metro Joint Development portfolio are affordable for residents earning 60% or less of AMI. This Project would support that goal by bringing the total affordable units completed, in construction and/or in negotiations to 37%. Though these units may sit on adjacent private property, they are developed in partnership with Metro through its Joint Development program.

Approximately 22,000 square feet of ground floor commercial space would be provided, along with on-site supportive services, community space and a federally-qualified health clinic. LTSC's Small Business Program, in partnership with local East Hollywood organizations, intends to recruit longtime area businesses to rent space in the proposed food hall that would surround the plaza. In order to enhance the overall pedestrian experience and connect with the existing neighborhood fabric, the Project includes transit-related infrastructure and pedestrian amenities including new landscaping, a self-service Metro Bike Hub, upgraded lighting, and street furniture.

The Developer has secured Affordable Housing and Sustainable Communities (AHSC) funding as part of its capital sources for the Project. The AHSC Program is a competitive funding program that uses State Cap and Trade funds to finance infill and compact development projects that reduce greenhouse gas emissions through new transportation improvements. In partnership with the City of Los Angeles, a portion of the AHSC award will be used to purchase new electric DASH buses, bus shelters, streetlights, installation of new crosswalks and sidewalks and closing of gaps in the area's bike network. See Attachment B for a Project rendering and site plan.

Community Engagement

Since entering into an ENA with Metro in March 2018, the Developer has engaged with more than 500 local stakeholders and two dozen local organizations. Initial outreach was conducted via door-knocking and in-depth conversations with neighbors surrounding the Site. Community engagement progressed to meetings with area institutions including Los Angeles City College, the Blind Children's Center, the Braille Institute, John Wesley Community Health Center, Children's Hospital Los Angeles, Kaiser Permanente, and the Los Angeles LGBT Center. The East Hollywood Business Improvement District and East Hollywood Neighborhood Council voted to formally support the Project at their fall 2019 meetings. Outreach efforts will continue throughout the term of the PSA to keep the community informed of the Project's development progress.

DISCUSSION

Sale of Property

Metro Joint Development projects typically utilize long-term ground leases. Through the ENA period, Metro staff and the Developer determined that entitling a project across multiple ownerships would create insurmountable obstacles to securing planning and land use entitlements from the City of Los Angeles. Given the configuration of the parcels, it was infeasible to design the buildings in a way that would not cross over property lines with differing ownership. In addition, in order to adequately protect Metro's interest in the event of ground lease default, Metro would be required to retain rights to automatically acquire the Developer's property to ensure continuous operation of the Project. Such an acquisition would present challenges, including securing funds within a short period of time to purchase the Developer's improvements on the Metro JD Property in the event of a default under a ground lease. It was thus determined that a ground lease structure would not be possible. Instead, staff recommends fee simple sale of portions of the currently underutilized Metro JD Property to the Developer while retaining certain rights that will unequivocally safeguard and preserve Metro's ability to operate, maintain, and access the adjacent public transit facilities, as further described below.

Although the contemplated transaction will be a fee simple sale of the Metro JD Property to a third party, Metro entered into the ENA prior to September 30, 2019 and the PSA requires that the sale be completed by December 31, 2022; therefore Metro is not required to follow the procedural steps of the amended Surplus Land Act (Cal. Gov. Code §§ 54220 *et seq.*) (SLA) that became effective January 1, 2020 (See: Cal. Gov. Code Sec. 54234). The procedural requirements of the prior version of the SLA also do not apply because the sale is not a sale of "surplus" land that is not needed for Metro's use (See: Cal. Gov. Code § 54221(b) in effect prior to January 1, 2020). Metro's authority to jointly develop the Project is within Metro's express statutory authority (see: Cal. Pub. Util. Code §

30634) and the Project clearly advances Metro's policy goals of providing for affordable housing and promoting transit oriented communities. Metro will ensure that the Metro JD Property will continue to be used for agency uses following completion of the sale by recording against the Site a set of CCRs (described below) containing enforcement rights for Metro.

As the Site was acquired in the early 1990s using funding from both the Federal Transit Administration (FTA) and State bonds, Metro submitted the terms of the PSA to the FTA and the California Transportation Commission (CTC). CTC and FTA concurrence of the Project and sale of portions of the Metro property are expected in August 2020.

<u>Purchase Price Discount</u>
The Metro Joint Development Policy adopted in 2016 allows Metro to discount joint development dispositions below the fair market value in order to accommodate affordable housing for households earning 60% or less of AMI. The proportional discount may not be greater than the proportion of affordable units to the total number of housing units in the project, with a maximum discount of 30%. The Metro JD Property was appraised at approximately $10,200,000. Since 100% of the Project's units will be limited to households earning 30-50% of AMI, the purchase price has been discounted by 30% ($3,060,000) resulting in a price of $7,140,000. As soil contamination has been identified on a portion of the Metro property, a maximum of $375,000 of the $7,140,000 will be held in escrow to cover potential expenses related to environmental clean-up. Any unused escrow funds will be released to Metro at the conclusion of construction.

<u>PSA Terms</u>
Attachment C provides the summary of key terms and conditions for the PSA. The terms of the PSA Closing Conditions are focused on the Developer bringing the Project through full financing and construction readiness whereupon, if all the conditions included in the PSA are satisfied, the parties would close on the transaction and transfer the Metro JD Property. Key PSA Closing Conditions include:

- Escrow period of two (2) years, with the option to extend an additional three (3) years
- Developer must demonstrate to Metro that they have the financial resources sufficient to design, construct and operate the Project
- Developer has received all required governmental approvals (including Metro approval of final construction documents)
- Metro has received a payment of $7,140,000 (with $375,000 held in escrow for environmental cleanup, if required)
- Covenants, Conditions and Restrictions (CCRs), as described further below, will be concurrently recorded on the properties

Upon closing and transfer of the Metro JD Property, the CCRs will govern the ongoing relationship between Metro and the Developer, similar to a ground lease. Key terms in the CCRs include:

- Requirement that all units remain affordable for a period of ninety-nine (99) years
- Ninety-one (91) units shall be restricted to households earning no more than 50% of AMI and ninety-four (94) units shall be restricted to households earning no more than 30% of AMI for a minimum of 55 years
- For 55 - 99-years, all 185 units shall be reserved for occupancy by households with an

adjusted income that does not exceed sixty percent (60%) of AMI
- Retained rights to maintain public access to the public transit facilities
- Metro's right to review, inspect and approve any changes to the Project's design, and review/approve major improvements to the Project
- LEED Silver sustainability construction standards
- Requirement to comply with Metro's Project Labor Agreement and Construction Careers Policy
- If the Developer fails to complete construction of the Project within four years, Metro would retain the right to rescind the Metro JD Property transfer and concurrently acquire the Developer property at Fair Market Value
- Maintenance and operations standards
- Requirements for permitted transferees
- Use restrictions

<u>California Department of Housing and Community Development TOD Housing Program</u>
In April 2020, the California Department of Housing and Community Development (HCD) released a Notice of Funding Availability (NOFA) for approximately $141 million in funds for the Transit-Oriented Development (TOD) Housing Program. This funding provides low-interest permanent loans up to $10 million per rental housing project and grants up to $5 million per locality/public transit agency for infrastructure projects necessary for housing developments, or to facilitate connections between these developments and a transit station. In July 2020, the Developer submitted a TOD Housing Program application to fund additional improvements to the Metro plaza area such as more expansive landscaping and hardscaping upgrades, seating areas and wayfinding/signage.

As a condition of Developer's application, HCD requires that the Metro Board adopt a resolution authorizing the CEO or his designee to apply for, receive the allocated infrastructure grant funds, and to enter into, execute, and deliver a State of California Standard Agreement for such funding, and any and all other documents required or deemed necessary related to the TOD Housing Program infrastructure grant in support of the Project. HCD requires this resolution be adopted and submitted by August 31, 2020. See Attachment D for the resolution.

<u>CEQA Actions</u>
The City of Los Angeles, as the lead agency under CEQA, has determined that the Project is statutorily exempt pursuant to Public Resources Code Section §21080.27(a)(3) and §21080.27(b)(2) and categorically exempt from CEQA pursuant to California Public Resources Code Section 15332/Class 32 (In-Fill Development Projects) as described in Attachment E.

Metro staff concurs with the City's determination and finds that Project is statutorily exempt pursuant to Public Resources Code Section §21080.27(a)(3) and Section §21080.27(b)(2); and categorically exempt under CEQA pursuant to California Public Resources Code Section 15332/Class 32 (In-Fill Development Projects) of the CEQA Guidelines. Staff is requesting that the Metro Board make a similar determination as a responsible agency consistent with the requirements for exemption set forth in Attachment E. Staff is also requesting authorization to file a Notice of Exemption for the Project consistent with such determination.

Equity Platform

Consistent with the Equity Platform pillar “listen and learn,” the Project undertook a lengthy community engagement process. The Developer was required to engage with stakeholders and refine the Project in response to feedback. Furthermore, the Project is an opportunity to “focus and deliver” by adding much needed, transit-oriented affordable housing, support services and other community benefits in the East Hollywood community.

DETERMINATION OF SAFETY IMPACT

Approval of this item will have no impact on safety. Staff will continue to oversee the development and construction of the Project on the Site to ensure that it does not adversely impact Metro property or the continued safety of staff, contractors and the public. In addition, the implementation of this Project at the Vermont/Santa Monica Station will offer opportunities to improve safety for transit riders through better pedestrian and bicycle connections and improvements to the existing plaza at the station entrance.

FINANCIAL IMPACT

Pursuant to the PSA, certain staff and consultant costs are reimbursed through a developer deposit, and execution of a PSA will provide a source of revenues going forward. No new capital investment or operating expenses are anticipated to implement the Project.

Impact to Budget

Continued work under the PSA is included in the proposed FY21 budget in Cost Center 2210 (Joint Development) under Project 401004 (Vermont/Santa Monica Joint Development). Staff and consultant costs are proposed in the FY21 budget to review design and other projects documents.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

This recommendation supports the Strategic Plan Goal to “enhance communities and lives through mobility and access to opportunity”, specifically Initiative 3.2 which states “Metro will leverage its transit investments to catalyze transit-oriented communities and help stabilize neighborhoods where these investments are made.” The proposed Project will deliver a number of community benefits, including transit-accessible, low-income housing and new commercial/community space.

ALTERNATIVES CONSIDERED

The Board could choose not to authorize execution of the PSA. Staff does not recommend this option because the proposed Project is the product of extensive negotiations and community engagement and is consistent with the goals of Metro’s Joint Development Policy including the development of affordable housing. Electing not to authorize execution of the PSA would unnecessarily delay development of the Site.

The Board may choose not to approve the resolution in Attachment D. Staff does not recommend this alternative because Metro would not be able to accept the infrastructure grant (if awarded) to support improvements to the Vermont/Santa Monica Station plaza.

NEXT STEPS

Upon approval of the recommended actions, staff and the Developer will work to satisfy the Closing Conditions. The PSA will be executed thereafter in substantial accordance with the terms and conditions set forth in Attachment C. HCD TOD Housing Program awards will be announced in October 2020. It is anticipated that construction will commence in spring 2021 with completion in mid -2023.

ATTACHMENTS

Attachment A - Site Map
Attachment B - Project Rendering and Site Plan
Attachment C - PSA Terms and Conditions
Attachment D - HCD TOD Grant Resolution
Attachment E - Qualifying Criteria for CEQA Exemption

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