



Board Report

File #: 2024-0035, File Type: Project

Agenda Number: 16.

PLANNING AND PROGRAMMING COMMITTEE
MARCH 20, 2024

SUBJECT: CESAR E. CHAVEZ AND FICKETT JOINT DEVELOPMENT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer, or designee, to execute and enter into a joint development agreement (“JDA”), ground lease (“Ground Lease”), and other related documents with Chavez Fickett, L.P. (“Developer”), an affiliate of Abode Communities, for the construction and operation of a mixed-use, affordable housing project (“Project”) on approximately 68,100 square feet (1.56-acres) of Metro-owned property located at the corner of Cesar E. Chavez Avenue and Fickett Street in Boyle Heights (“Site”) in accordance with the Summary of Key Terms and Conditions attached hereto as Attachment A;
- B. AUTHORIZING a discount to the appraised fair market rental value for the Site of 67% or \$6,900,000 under the Ground Lease as set forth in the Summary of Key Terms and Conditions for the Ground Lease; and
- C. FINDING that the Project is exempt from the California Environmental Quality Act (“CEQA”), consistent with the environmental studies and reports set forth in Attachment B, pursuant to Sections 21080(b)(9) and 21084 of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines; and authorizing the Chief Executive Officer to file a Notice of Exemption for the Project consistent with said exemption.

ISSUE

Since 2018, staff and the Developer have collaborated under a Board-authorized Exclusive Negotiation Agreement and Planning Document (“ENA”) to conduct community outreach, refine the Project design, negotiate key terms and conditions for a JDA and Ground Lease, and study relevant CEQA issues. To advance the project into construction, authorization for the JDA and findings relevant to CEQA are required.

BACKGROUND

In February 2017, Metro published a comprehensive set of Development Guidelines for the Site which represented the culmination of substantial public input and addressed housing needs, commercial and retail opportunities and identified neighborhood amenities to benefit the Boyle Heights Community. This was followed by the issuance of an RFP for development services to achieve the goals outlined in the Development Guidelines. In January 2018, the Metro Board authorized the execution of an ENA with Abode Communities for the Site. The ENA has allowed staff and the Developer to explore the feasibility of the proposed Project; conduct additional, project-specific community outreach; study relevant CEQA issues; and negotiate the key terms and conditions of the JDA and Ground Lease that will ultimately provide for the Project's construction and operation on the Site.

The Site and the Project

The Site is comprised of approximately 68,100 square feet of Metro-owned property bounded by Cesar E. Chavez Avenue to the north, Matthews Street to the west, Fickett Street to the east, and a residential neighborhood to the south. The Metro E (formerly Gold) Line Soto Station is located approximately one-quarter mile south of the Site. This property was originally purchased for the extension of the Metro B (Red) Line subway into Boyle Heights, but with the construction of the Metro E Line's Eastside Extension, it is no longer needed for this purpose.

Community Engagement

The recommended actions follow extensive stakeholder outreach and community engagement by Metro and the Developer. Metro began the outreach process in February 2016. The stakeholder engagement process consisted of various community-focused events, workshops, and a comprehensive community meeting attended by nearly 60 participants. Comments were also taken online and accepted via email and regular mail for those who were not able to attend in person. Later in 2016, Metro formed a Design Review Advisory Committee (DRAC) to provide design oversight and help to move forward the Development Guidelines and the RFP for joint development of the Site.

Following the execution of the ENA in March 2018, the Project entered a new phase of Developer-led community outreach that consisted of a series of six community meetings and concluded with the approval of the preliminary design by the DRAC. In September 2022, the Developer provided a Project update to the Planning and Land Use Committee (PLUM) of the Boyle Heights Neighborhood Council, received input on community needs and concerns, and obtained feedback on proposed design elements. In February 2023, the Developer conducted a virtual meeting with local business owners and related stakeholders to discuss the proposed ground floor retail space and garner ideas on current service gaps in the community and possible tenants that would be interested in the space. In November 2023, residents and other interested parties in proximity to the Site were invited to hear about the status of the Project and provide additional input related to design, residential programming, onsite services, commercial space, and project site amenities.

DISCUSSION

The Project, to be named "Chavez Gardens", contemplates 109 affordable rental apartments, one

unrestricted property manager's apartment, approximately 3,000 square feet of commercial space, 44 residential parking spaces, and 6 commercial parking spaces. Renderings and a site plan for the Project are identified in Attachment C. The affordable rental apartments are made up of studio, one-, two-, and three-bedroom units with affordability levels ranging from 30% of the County Area Median Income ("AMI") to 50% of AMI. In furtherance of the JD Policy, the unit AMI thresholds reach deep levels of affordability with 100% of the units protected by an income restriction for the full Term of the Ground Lease.

The 3,000 square feet of commercial space will be located at the corner of Cesar E. Chavez Avenue and Fickett Street. The space is envisioned as an amenity for the residents and the greater neighborhood. The current concept is food service with an eatery component; however, the Developer is proactively engaging with local businesses, residents, and community-based organizations to identify opportunities to provide or preserve small businesses or organizations that would meet service or retail needs in the neighborhood.

Summary Analysis of Financial Terms

Staff engaged a third-party consultant to analyze the project financials and prepare a report describing the financial feasibility of the Project, the proposed discount to the Ground Lease payment, and the overall financial offer to Metro. The summary findings are as follows:

- An appraisal procured by Metro concluded that the Fair Market Value (FMV) of the leased fee interest in the subject property is \$10.35 million.
- The Project design is sound, and the total development costs as shown in the Developer-provided underwriting analysis are reasonable and supportable given the current market and hard cost data. The developer has explored all means to reduce per-unit project costs, including simplifying the use of materials, structural systems, and efficiencies in building design.
- The operating proforma is based on reasonable assumptions about rents, vacancies, and operating expenses.
- The Developer's proposed financing plan assumes accessing all available subsidies and resources, including tax credit equity, Developer equity, assumed grants, and a conventional permanent loan.
- Discounting the Metro land to \$3.45 million, or 33% of FMV, is necessary to ensure Project feasibility.

Ground Lease Rent Discount

Affordable housing development relies on multiple sources of funding such as tax credits, housing vouchers, bank debt, and investor equity to provide the capital necessary for development. Land costs, particularly when the site is owned by a public agency, may be discounted to reduce total development costs and make the project economically feasible. The discounted land becomes, in effect, one of the sources of development capital. The discount required depends on the overall project feasibility. The land value that makes this project feasible is a one-time ground rent payment of \$3.45 million due and payable at the close of the Ground Lease escrow which represents a 67%

discount on the FMV rent of \$10.35 million.

In 2021, the Board approved an update to the Joint Development Policy, which allows flexibility to discount Ground Lease rent commensurate with the community benefits. However, under the Joint Development Policy in place at the time of the March 2018, ENA, a discount that exceeds 30% of the FMV was deemed an exception that requires Board approval, as is being sought here.

Given the challenging economic environment, limited subsidies available, and the provision of 109 affordable units targeting very low-income residents, staff recommend approving this discount, which is equivalent to contributing approximately \$63,303 per unit to the Project. With a total development cost of \$97.50 million, Metro's land discount of \$6.9 million represents only 7% of total capital sources. And, over the course of the 75-year Lease, Metro's cost to ensure affordability represents only \$884 per unit per year.

Other Project Revenues

The Project will also generate the following additional revenue opportunities:

- A holding rent of 0.25% of the appraised value during the JDA Term (\$1,980 per month) will be credited to the total prepaid ground rent.
- A participation rent of 25% of all gross income received from the 3,000 square feet of ground-floor commercial space. Metro would forego collection of rent if the Developer leases to a Metro-approved organization providing community benefits/services to residents of the building and surrounding community.
- 20% of all net refinancing proceeds and a 20% share of all net sales proceeds less accumulated Ground Lease payments not to exceed the FMV of the land.

Summary of Terms

Key terms of the JDA and Ground Lease include:

- A JDA term of 18 months with an option to extend up to an additional 12 months;
- Metro's right to review and approve the design of the Project as it progresses to completion;
- Cost recovery of Metro's transaction-related and other support costs, including the cost of in-house staff time (except for Joint Development staff) and fees related to consultants and other third parties (except for in-house and outside legal counsel with respect to negotiation and preparation of the JDA and Ground Lease); and,
- Conditions for execution of Ground Lease, including that project financing, governmental approvals, payment and performance bonds, completion guaranty and the Project Labor Agreement are in place.
- Ground Lease term of 75 years;
- Restriction to ensure continued affordability for the full term of the Ground Lease; and,

- A one-time capitalized rent payment of \$3.45 million upon execution of the Ground Lease.

Considerations

Federal Transit Administration Review

The Site was acquired in 1999 using grant funding from the Federal Transit Administration (FTA). While this site is technically an “excess property” pursuant to the FTA definitions, the FTA has reviewed the terms of the JDA and Ground Lease and has no objections to the overall deal structure, including the proposed rental discount for affordable housing.

CEQA Actions

Staff has reviewed the environmental studies and reports set forth in Attachment B which demonstrate the Project qualifies for a categorical exemption under Sections 21080(b)(9) and 21084 of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines. As the lead agency decision-making body for the Project, the Board will satisfy its obligations under CEQA by considering the documentation in Attachment B, and finding that the Project meets all criteria of the In-Fill Development exemption and that the Project will not cause a significant impact on the environment.

Surplus Land Act

It has been determined the Project, as presented, is exempt from the Surplus Land Act (“SLA”), Government Code Section 54220 *et seq.*, pursuant to Section 54234(a)(3) of the SLA, which is described as Exemption Category 1 in the State Department of Housing and Community Development’s (HCD) Guide to Exemptions from the Standard Surplus Land Act Process for Local Agencies (Cities, Counties, Special Districts, Joint Powers Authorities, Successor Agencies, etc. issued in July 2022 (the “Grandfathering Exemption”). Under this Grandfathering Exemption, the SLA as it existed on December 31, 2019 applies if, in relevant part: (1) as of September 30, 2019, the local agency issued a competitive request for proposal for the development of the property that includes at least 100 residential units (at least 25% of which are restricted to lower-income households as referenced in the statute), (2) a disposition and development agreement for the property is entered into not later than December 31, 2024; and (3) the property is disposed of before March 31, 2026.

The determination that this Project qualifies for the Grandfathering Exemption has been made based on the following transaction deal points:

1. The competitive request for proposals to develop the Site was issued prior to the SLA-imposed deadline of September 30, 2019.
2. The Project exceeds the requirement of having 25% of the units being restricted to lower-income households as defined in Section 50079.5 of the Health and Safety Code.
3. Once completed, rental housing in the Project will be subject to an affordability covenant recorded against the land for a term of 75 years, which is longer than the minimum threshold of 55 years set forth in the SLA.
4. The Joint Development Agreement (“JDA”), which serves as the Project’s disposition and development agreement between Metro and the Developer, will be entered into in advance of the December 31, 2024, deadline set forth in Government Code Section 54234(a)(3).

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5. Prior to March 31, 2026, Metro intends to complete the disposition of the Property pursuant to the JDA.

Because the Project fits within the conditions prescribed in the above-referenced section of the SLA, no further action is necessary upon approval and execution of the JDA.

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. All safety measures and associated requirements to be met by the Developer and its construction contractor will be identified in the JDA and subsequent Ground Lease.

FINANCIAL IMPACT

Adoption of the subject action would not have a detrimental impact on the agency. Though there would be a discount to the FMV of the Ground Lease to make the Project financially feasible, Metro would still realize a substantial cash payment. Funding for Joint Development activities related to this Project is included in the FY24 Budget under Project 401037, Task 01, Cost Center 2210.

Impact to Budget

Proceeds from the capitalized Ground Lease will be deposited into a Joint Development revenue account as prescribed by the 2021 Joint Development Policy. Funds in this account would be used in furtherance of Transit Oriented Communities activities including future Joint Development projects.

EQUITY PLATFORM

The proposed development at the Chavez/Fickett site is representative of Metro's Joint Development Policy goals to provide as much housing as possible as quickly as possible for those who need it most. The proposed action will allow Metro to work with the Developer to secure financing, conduct additional outreach, and obtain permits for 109 units of affordable housing. This will also include 3,000 square feet of commercial space incentivized by Metro to target services geared to residents of the building and surrounding community, enhanced public infrastructure, jobs and other transit-supportive amenities.

The completed Project will benefit qualified low-income residents in need of housing, as well as qualified households with disabilities who will be awarded one of the ADA-accessible units. The Project is located within an Equity Focus Community and offers housing for individuals earning 30%-50% of LA County AMI, which are appropriate levels of affordability in the local Boyle Heights community. These income-restricted units will benefit Metro's ridership base by offering housing accessible to the majority of the 83% of Metro riders who reported household incomes under \$50,000 in the 2022 Customer Experience Survey. By offering affordable housing adjacent to two high-frequency bus lines and the 1st/Soto E line station, the Project is anticipated to increase rates of transit use and enhance access to opportunities for the Chavez Gardens tenants. The Project will

also benefit adjacent community members who may use the commercial space and surrounding amenities. To encourage a community-focused commercial tenant, Metro will forgo its lease collection to the extent the Developer leases the space to a tenant providing community benefits to local residents and the surrounding community. In this way, the commercial space will be programmed to fit the needs of both the local community and Chavez Gardens tenants by providing a financial incentive to the Developer to lease space to tenants that provide beneficial services to residents of the building and surrounding neighborhood.

Since 2018, the Developer and Metro staff have conducted extensive outreach events to incorporate community input from the Boyle Heights Design Review Advisory Committee, Boyle Heights Neighborhood Council, the business community, and local stakeholders. The Developer continues to actively engage with and be responsive to all stakeholders through a coordinated community outreach process that involves multiple public engagement opportunities. The Developer will continue building on the years of prior community outreach established for the Project in the upcoming JDA period. As in previous JD outreach efforts, engagement will be conducted in English, Spanish, and other languages deemed appropriate to reach a broad audience of stakeholders.

As the Project progresses to construction, staff will work with the Developer and its general contractor to minimize any traffic impacts, dust, and noise associated with the Project's construction. These mitigation measures will be identified in the construction work plans and health and safety plans and reviewed by Metro staff prior to the execution of the Ground Lease documents.

Once completed, the 109 units of affordable housing will be protected by a long-term affordability restriction that is consistent with the term of the 75-year Ground Lease.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

Enhance communities and lives through mobility and access to opportunity, Initiative 3.2: Metro will leverage transit investments to catalyze transit-oriented communities and help stabilize neighborhoods where these investments are made.

ALTERNATIVES CONSIDERED

The Board could choose not to authorize the execution of the recommended actions. Staff does not recommend this option because the proposed Project is the product of competitive solicitation and extensive community engagement and is consistent with the goals of Metro's Joint Development Policy. Electing not to proceed would unnecessarily delay the development of the Site and jeopardize the build-out of 110, in-demand housing units, 109 of which are covenanted to extremely low- and very low-income households.

NEXT STEPS

Upon execution of the JDA, the Developer will submit final construction drawings for Metro and City approval, complete its financing package, and execute the Ground Lease, with construction anticipated to start in early 2025. The construction period is expected to last approximately 24 months. Targeted outreach to Boyle Heights residents who may qualify to live in the new housing was

initiated with the construction of the adjacent La Veranda joint development and will continue through the construction of the Chavez Gardens Project.

Developer-led outreach efforts will continue throughout the term of the JDA to keep the community informed of the Project's progress leading to the execution of the Ground Lease and the eventual start of construction. Methods of outreach will include face-to-face meetings, surveys, and focus group sessions with potential residents, current and prospective business owners, and operators of community-based organizations.

ATTACHMENTS

Attachment A - Summary of Key Terms and Conditions

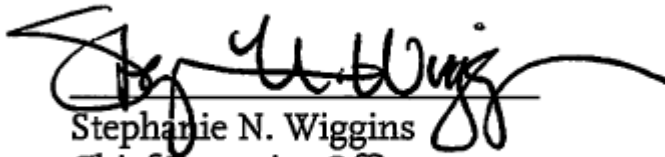
Attachment B - CEQA Studies and Reports

Attachment C - Renderings and Site Plan

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