



Board Report

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Agenda Number: 5.

EXECUTIVE MANAGEMENT COMMITTEE NOVEMBER 16, 2017

SUBJECT: CESAR E. CHAVEZ AND SOTO JOINT DEVELOPMENT

**ACTION: AUTHORIZE EXECUTION OF A JOINT DEVELOPMENT AGREEMENT AND
GROUND LEASE WITH LA VERANDA, L.P.**

RECOMMENDATION

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer to execute and enter into a joint development agreement (“JDA”), ground lease (“Ground Lease”) and other related documents with La Veranda, L.P. (the “Developer”), an affiliate of Abode Communities, for the construction and operation of a mixed-use, affordable housing project (the “Project”) on 85,378 square feet of Metro-owned property located near the corner of Cesar E. Chavez Avenue and Soto Street in Boyle Heights (the “Site”) in accordance with the Summary of Key Terms and Conditions attached hereto as Attachment A;
- B. AUTHORIZING an exception to the Joint Development Policy, to allow for a 42% discount to the fair market rent for the Site under the Ground Lease (above the current policy limit of 30%) to allow the Project to be financially feasible while meeting the community’s desire for deeper affordability of the housing units; and
- C. FINDING that the Project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 21080(b)(9) of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines in accordance with the Qualifying Criteria set forth on Attachment C and authorize the Chief Executive Officer to file a Notice of Exemption for the Project consistent with such exemption.

ISSUE

In November 2015, the Board authorized execution of an Exclusive Negotiation Agreement and Planning Document (“ENA”) with Abode Communities for the Site. The ENA has allowed staff and Abode to explore the feasibility of the proposed Project, conduct additional, project-specific community outreach, undertake CEQA clearance for the Project 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. Since all of these efforts have been concluded favorably, it is time to move to

the next step of the development process, execution of the JDA. The Ground Lease will be executed thereafter upon satisfaction of the JDA's conditions. Attachment A summarizes the key terms and conditions of the proposed JDA and Ground Lease. Included in these terms is a negotiated capitalized rent under the Ground Lease that has been discounted 42% from the fair market capitalized rent for the Site. This discount is above the Joint Development Policy's discount cap of 30%.

DISCUSSION

The Project and the Site

The Site is comprised of approximately 85,378 square feet of Metro-owned property bounded by Cesar E. Chavez Avenue to the north, Soto Street to the west, Mathews Street to the east, and a residential neighborhood to the south. The Metro Gold Line Soto Station is located about one-quarter mile south of the Site. This property was originally purchased for extension of the Metro Red/Purple Line subway into Boyle Heights, but with the construction of the Metro Gold Line's Eastside Extension, it is no longer needed for this purpose.

The Project contemplates 76 affordable rental apartments, one unrestricted property manager's apartment, approximately 8,000 square feet of retail space, 40 residential parking spaces, and 16 commercial parking spaces. Attachment B provides a conceptual site plan and renderings for the Project. The affordable rental apartments are made up of two and three bedroom units with affordability levels ranging from 30% of area median income ("AMI") to 50% of AMI.

The Developer intends to include Affordable Housing and Sustainable Communities (AHSC) funding as part of its capital stack 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. In an effort to provide a competitive AHSC application, the Developer intends to allocate approximately \$3,000,000 of its award to transportation improvements that will further reduce such emissions. Metro and the Developer are currently scoping potential transportation improvements to include in the Developer's AHSC application.

Community Engagement

The recommended actions follow extensive stakeholder outreach by Metro and Abode. This effort started under a Short Term ENA, which was executed by the parties in March 2015 for the sole purpose of conducting project-specific community outreach. Outreach continued throughout the term of the ENA, which was executed in December 2015. Thus far, these efforts have resulted in approval of the proposed Project by the Boyle Heights Neighborhood Council in October 2015, approval of the Project's conceptual plan by the Boyle Heights Design Review Advisory Committee in June 2016, and Metro and the Developer's agreement on the terms and conditions regarding deeper Project affordability noted above. Outreach efforts will continue throughout the term of the JDA to keep the community informed of the Project's progress through the development process.

The JDA and Ground Lease Terms

Attachment A provides the summary of key terms and conditions for the JDA and Ground Lease. The terms of the JDA are focused on the Developer bringing the Project through full financing and construction readiness. The JDA:

- Identifies specific rounds of affordable housing financing to which the Developer must apply;
- Provides Metro with a Holding Rent of \$7,690/month during the JDA term, which will be applied to the capitalized rent due under the Ground Lease in the event that the Ground Lease is executed;
- Provides Metro with the right to review and approve the design of the Project as it progresses to completion;
- Recovers 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
- Sets forth the conditions for execution of the Ground Lease.

The Ground Lease will be executed once the conditions set forth in the JDA are met. Key terms of the Ground Lease include:

- A term of 65 years;
- Metro's receipt of a one-time capitalized rent payment of \$3,691,277 upon execution of the Ground Lease, which provides the bulk of Metro's compensation; and
- Metro's receipt of 25% of all gross rent paid or credited to Developer for use of the Project's 8,000 square feet of commercial space.

Proposed Ground Lease Rent Discount

The Capitalized Rent under the Ground Lease has been discounted approximately 42% from the fair market capitalized rent for the Site. In exchange for the portion of the discount that exceeds 30%, the Developer has agreed to adjust the unit mix of the Project to include additional units with deeper affordability levels than were originally proposed. The agreed upon unit mix and the changes from the originally proposed unit mix are outlined in Exhibit C to the Key Terms and Conditions attached hereto as Attachment A.

The recommended discount is in excess of the maximum 30% discount for affordable housing projects allowed under the Joint Development Policy. The 42% discount was negotiated by staff after an extensive analysis of the Project's financial feasibility with the support of a financial consultant. This analysis uncovered two main drivers of the need for the 42% discount. They are:

- (1) Community stakeholder desire for deeper affordability. During the community engagement process for the Project, stakeholders expressed a strong desire for deeper Project affordability; specifically requesting that units targeting families earning 60% of AMI be eliminated and exchanged for more units serving families at 30% - 50% of AMI. Metro and the Developer analyzed the cost of deepening the Project's affordability, looking at both the resultant reduction of available loan financing for the Project and increased operational costs.

- (2) Increase in land values and static Project revenue. During the two years between staff's receipt of the Developer's original proposal in April 2014 and the completion of an appraisal for the Site in June 2016, land values (and, thus, ground lease rents) in Boyle Heights increased significantly. (Staff estimates that land values nearly doubled.) During this same period, Developer's revenue sources, such as HUD-specified rental income and available subsidies, stayed relatively constant. Metro worked with the Developer to identify cost savings that they could employ at the Project, but in the end found that a capitalized rent discount was needed for the Project to be financially feasible.

While this site is technically an "excess property" pursuant to the Federal Transit Administration ("FTA") definitions, Metro has submitted the terms of the JDA and Ground Lease to FTA through their Joint Development Preliminary Review process, in particular because we are offering the proposed rental discount for affordable housing for the first time.

CEQA Actions

The City of Los Angeles, as the lead agency under CEQA, has determined that the Project is exempt from CEQA pursuant to Section 21080(b)(9) of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines because it is in compliance with all requirements for exemption thereunder. Staff is requesting that the Metro Board, as a potentially responsible agency, make a similar determination consistent with the requirements for exemption set forth on Attachment C. Staff is also requesting authorization to file a Notice of Exemption for the Project consistent with such determination.

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.

FINANCIAL IMPACT

Funding for joint development activities related to this Project is included in the FY18 Budget under Project 401003, Task 01, Cost Center 2210. Metro's financial compensation under the JDA and the Ground Lease is fair and reasonable and is detailed in Attachment A.

Impact to Budget

Metro costs related to the proposed Project that are not reimbursed by the Developer will be funded from General Fund local right-of-way lease revenues, which are eligible for bus and rail operating and capital expenses. Execution of the JDA and the Ground Lease will not impact the ongoing bus and rail operating or capital budgets, the Proposition A and C and TDA administration budgets or the Measure R administration budget. Revenues received under the Ground Lease and JDA must be used to fund eligible rail capital and operating expenses allowed under the original FTA grant providing funds to purchase the Site. Deposits from the Ground Lease and JDA will be used to offset

certain staff and consultant costs related to the Project.

ALTERNATIVES CONSIDERED

The Board could choose not to authorize execution of the JDA and Ground Lease. Staff is not recommending this option because the proposed Project is the product of a competitive solicitation and extensive community engagement, and, except as noted above, is consistent with the goals of Metro's Joint Development Policy. Further, the terms of the proposed JDA and Ground Lease are fair and reasonable. Electing not to authorize execution of the JDA and Ground Lease would unnecessarily delay development of the Site.

NEXT STEPS

Upon approval of the recommended actions, staff will complete and execute the JDA in substantial accordance with the terms and conditions set forth in Attachment A. Upon execution of the JDA, staff and the Developer will work to satisfy the conditions under the JDA necessary to execute the Ground Lease and commence construction of the Project. The Ground Lease and related documents will be executed thereafter in substantial accordance with the terms and conditions set forth in the JDA and Attachment A. In particular, the Developer will diligently attempt to secure all financing necessary for construction of the Project in accordance with Attachment A and staff and the Developer will work to advance the design of the Project to completion.

ATTACHMENTS

Attachment A - Summary of Key Terms and Conditions

Attachment B - Conceptual Site Plan and Renderings

Attachment C - Qualifying Criteria for CEQA Exemption

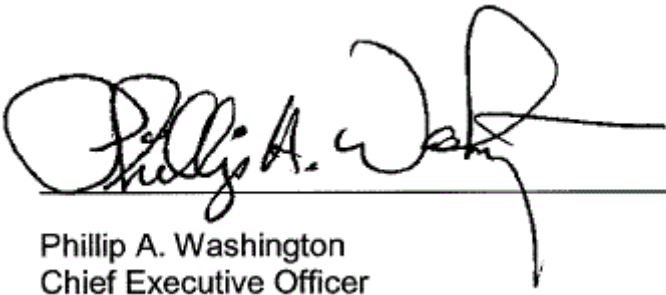
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