

**Board Report**

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**File #:** 2019-0194, **File Type:** Agreement

**Agenda Number:** 9.

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**PLANNING AND PROGRAMMING COMMITTEE  
MAY 15, 2019**

**SUBJECT: 1<sup>ST</sup> AND LORENA JOINT DEVELOPMENT**

**ACTION: APPROVE RECOMMENDATION**

**RECOMMENDATION**

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

**ISSUE**

Metro and A Community of Friends (Developer) are parties to an Exclusive Negotiations and Planning Agreement (ENA) for the development of a 49-unit mixed-use affordable housing project (Proposed Project) at 1<sup>st</sup> and Lorena that is set to expire on June 27, 2019. The Proposed Project entitlements have been held up pending resolution of a California Environmental Quality Act (CEQA) lawsuit from an adjacent property owner. An extension of the ENA term is necessary to allow the Developer to complete environmental clearance and finalize Joint Development Agreement (JDA) and Ground Lease (GL) terms, subject to Metro Board of Directors (Board) approval.

**BACKGROUND**

In June 2013, Metro and the Developer entered into an ENA to plan and consider the terms and conditions of a potential JDA and GL for development of a mixed-use affordable housing project on a 0.7-acre portion of a 1.26-acre Metro-owned site at the intersection of 1<sup>st</sup> St. and Lorena St. in Boyle Heights. The site is situated in the vicinity of the Metro Gold Line Indiana Station (see Attachment A - Site Map).

During the ENA term, which has included a number of extensions authorized by the Board, the Developer has diligently advanced the project through design development and entitlements including holding a number of community meetings and stakeholder engagements which helped shape the Proposed Project.

The Proposed Project scope calls for a mixed-use development inclusive of: 48 units of affordable housing primarily serving veterans and families earning 50% or below of the area median income, at least half of which will be reserved for homeless households; one market rate manager's unit; and

10,000 square feet of ground floor commercial space (see Attachment B - Project Scope). It is anticipated that approximately 50% of the retail space will be leased to community-serving uses supporting the needs of families and children.

In April 2016, an adjacent property owner filed a CEQA appeal with the City of Los Angeles (City), which delayed the issuance of project entitlements for nearly two years before the City Council ultimately rejected the appeal and granted the entitlements in March 2018. However, shortly after the City's action, the appellant filed a lawsuit further challenging the Proposed Project's CEQA clearance. A trial to resolve this suit was held in February 2019, and a ruling is expected in spring 2019.

## **DISCUSSION**

Metro Joint Development Policy and relevant case law do not allow the Metro Board to approve JDA and GL terms and authorize Metro to enter into related agreements until such time as a project has an environmental clearance under CEQA. Although a ruling in the lawsuit challenging the Proposed Project's CEQA clearance is imminently expected, the determination will be subject to a 60-day appeal, which if pursued, could take upwards of a year or more to resolve. Furthermore, the Developer has been unable to complete numerous other predevelopment activities, such as applying for and securing various sources of affordable housing financing necessary to construct the Proposed Project, pending resolution of the lawsuit.

Throughout the course of the ENA, the Developer has acted in good faith despite project delays that have been outside of their control. The recommended 24-month ENA term extension will allow the Developer to resolve the pending CEQA challenges, begin to assemble the Proposed Project's financing sources, and negotiate proposed JDA and GL terms with Metro, subject to Metro Board approval.

### **Equity Platform**

Consistent with the Equity Platform pillar "listen and learn", the Proposed Project has gone through a lengthy community engagement process and secured support of the local Neighborhood Council and the Boyle Heights Design Review Advisory Committee. Furthermore, the Proposed Project is an opportunity to "focus and deliver" by adding much needed, transit-oriented affordable housing stock in the community.

## **DETERMINATION OF SAFETY IMPACT**

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

## **FINANCIAL IMPACT**

Funding for joint development activities is included in the adopted FY19 and proposed FY20 budget under 401020.

### Impact to Budget

There is no impact to the FY19 budget and staff costs are included in the proposed FY20 budget to negotiate the proposed transaction and review design and other project documents, as necessary. No new capital investment or operating expenses are anticipated to implement the Proposed Project, and revenues from the Developer deposit will offset continued staff and project-related professional service costs.

### IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommendation supports strategic plan goal #3 “Enhance communities and lives through mobility and access to opportunity” by advancing a joint development project which will deliver critical community benefits, including transit-accessible affordable housing.

### ALTERNATIVES CONSIDERED

The Board could chose not to extend the ENA term, in which case the ENA would expire in June 2019. Metro could then choose to solicit a new developer and proposal for development of the project site. Staff does not recommend this alternative due to the Developer’s longstanding commitment to and financial investment in the Proposed Project, the fact that the challenges and delays have been outside of the Developer’s control, and because the proposed project is line with Metro’s Equity Platform and Strategic Plan goals.

### 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 consideration following Developer’s final resolution of the pending CEQA litigation. The Developer will keep the community informed of the status of the Project during the ENA extension period.

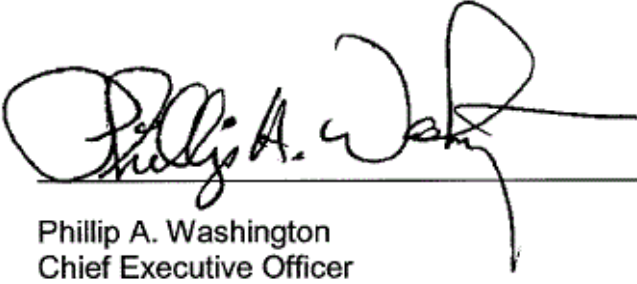
### ATTACHMENTS

Attachment A - Site Map

Attachment B - Project Scope

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