

**Board Report**

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**File #:** 2017-0140, **File Type:** Project**Agenda Number:** 40

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**REGULAR BOARD MEETING  
MAY 25, 2017****SUBJECT: WESTLAKE/MACARTHUR PARK STATION JOINT DEVELOPMENT****ACTION: AUTHORIZE EXTENDING THE TERM OF AN EXISTING JOINT DEVELOPMENT AGREEMENT****RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to amend **Metro's Second Revised Amended and Restated Joint Development Agreement ("JDA") with MacArthur Park Metro, LLC, ("MPM")** to: (a) extend the term of the JDA to December 31, 2017, and (b) allow Metro to terminate the JDA if Metro reasonably determines that the Ground Lease will not be executed prior to December 31, 2017 or that the mixed-use joint development project contemplated in the JDA (the "Phase B Project") is not feasible.

**ISSUE**

Metro and MPM are now parties to the JDA, which is scheduled to expire on April 30, 2017. Metro and MPM would like to extend the term of the JDA to December 31, 2017 to provide additional time to address current financing and construction cost challenges for the Phase B Project, while providing Metro with the flexibility to terminate the JDA as noted in the recommendation.

**DISCUSSION**

Metro and MPM executed the JDA on June 27, 2016. The JDA contemplates execution of a long-term ground lease ("Ground Lease") that will provide for MPM's construction and operation of the Phase B Project, but only after certain contingencies are met. One of these contingencies requires MPM to secure all construction and permanent financing for the project to the reasonable satisfaction of Metro. Such financing seemed to be in place in September 2016 when MPM secured a Low-Income Housing Tax Credit ("LIHTC") allocation for the Phase B Project from the California Tax Credit Allocation Committee ("TCAC"). At the time, this allocation was estimated to be worth \$26 million in equity financing and represented the project's final funding piece.

Since then, the value of the tax credits has gone down approximately \$3 million (12% decrease) and the cost of the project has gone up approximately \$7 million (14% increase), resulting in a \$10 million funding gap for the project. The reduction in the value of the tax credits has resulted from uncertainty to the LIHTC market since the November 2016 election, reflecting speculation that tax

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reform/reduction is likely under the Republican Congress and the Trump administration. The increase in project cost stems from recent construction bids received by MPM that are higher than the \$51.6 million project cost anticipated when MPM applied for their LIHTC allocation in 2016.

At present, staff and MPM are working to close the Ground Lease transaction prior to TCAC's current June 30, 2017 deadline. This deadline reflects extensions granted by TCAC to recipients of LIHTCs in the second half of 2016 in response to the uncertainty in the LIHTC market. These extensions total approximately 3.5 months. The proposed action will allow the parties to continue to address the \$10 million funding gap under the aegis of the JDA through the end of the year, in the event Metro and MPM need the time and TCAC grants further extensions. The proposed action will also allow staff to terminate the JDA at any time, if staff reasonably determines that: (a) the Ground Lease will not likely be executed prior to December 31, 2017, or (b) the Phase B Project is not feasible.

The Phase B Project is the second phase of a mixed-use project situated at and adjacent to the Westlake/MacArthur Park Metro Red/Purple Line station. The Phase B Project consists of 82 affordable apartments, 6,000 to 12,000 square feet of retail space, and structured residential parking. To provide for the mixed-use project, the Westlake/MacArthur Park subway station's existing north portal, which fronts on Alvarado Street, and its adjoining, subterranean access will be closed. In its place, a new "replacement" subway portal will be constructed as part of the project at Westlake Avenue. The first phase of the mixed-use development is located across Westlake Avenue, was completed in May 2012, and contains 90 affordable apartments, approximately 20,000 square feet of retail space and 233 structured parking spaces.

### **DETERMINATION OF SAFETY IMPACT**

Approval of this item will have no impact on safety. During the design review and construction processes under the JDA and Ground Lease, Metro staff will review and comment on the proposed Phase B Project to ensure that the station, portal and public areas on Metro's property are protected and maintained to the highest levels of safety.

### **FINANCIAL IMPACT**

Approval of this item will not have a quantitative impact to Metro's finances in excess of those set forth in the approved FY17 budget. Since the JDA and Ground Lease are multi-year contracts, the Senior Executive Officer, Countywide Planning & Development and Chief Planning Officer will be accountable for budgeting any costs associated with the JDA, Ground Lease and the proposed Phase B Project in future years. MPM has already provided Metro with a \$50,000 deposit under the JDA to defray Metro design review costs. If the Ground Lease is executed, Metro construction oversight, which is estimated to commence in FY18, will be performed by existing Metro staff and/or third party contractors. The cost of these efforts has been included in the Planning Department's proposed FY18 budget. MPM will provide \$100,000 towards this cost via a deposit under the Ground Lease.

### **Impact to Budget**

Metro costs associated with the JDA, Ground Lease and Phase B Project will be funded with a

combination of local right-of-way lease revenues and developer funds. Local right-of-way lease revenues are eligible for bus/rail operating and capital expenses. Execution of the JDA and Ground Lease will not impact ongoing bus and rail operating and capital costs, the Proposition A and C and TDA administration budgets or the Measure R administration budget.

### **ALTERNATIVES CONSIDERED**

The Board could choose not to proceed with the recommended action. If the Board elects this option, Metro and MPM would have until April 30, 2017 to close the Ground Lease transaction contemplated under the JDA. This is not possible. So, as of this date, MPM's development rights with respect to the Phase B Project site would cease and staff would be at liberty to seek new development proposals for this Metro-owned property from the development community via a new competitive process. Staff does not recommend proceeding with this alternative because such action would delay development of the Phase B Project site and may not result in a development proposal that is more preferable than the current MPM proposal. Also, a new solicitation would not leverage staff's and MPM's current prior efforts with respect to the proposed Phase B Project.

### **NEXT STEPS**

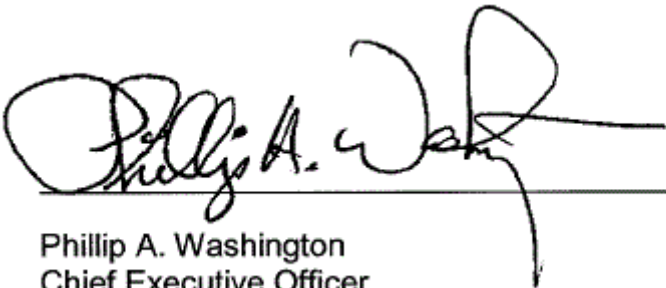
Upon approval of the recommended action, Metro and MPM will execute an amendment to the JDA (a) extending its term to December 31, 2017, and (b) incorporating Metro's termination provisions. Staff and MPM will also continue to work to resolve the Phase B Project's funding and cost challenges in an effort to execute the Ground Lease and commence construction of the Phase B Project as soon as possible.

### **ATTACHMENTS**

None

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