



## Board Report

File #: 2023-0544, File Type: Agreement

Agenda Number: 14.

### PLANNING AND PROGRAMMING COMMITTEE OCTOBER 18, 2023

**SUBJECT: TAYLOR YARD SENIOR HOUSING - GROUND LEASE TERM EXTENSION**

**ACTION: APPROVE RECOMMENDATIONS**

#### **RECOMMENDATIONS**

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer, or designee, to amend an existing ground lease with Taylor Yard Senior Housing, L.P. ("TYSH") to extend the 68-year term of the existing ground lease up to seven (7) additional years for a total term of up to 75 years to meet the lending requirements of the State of California Department of Housing and Community Development ("HCD").
- B. FINDING that the recommended amendment to the ground lease is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3); and
- C. AUTHORIZING the CEO or her designee to file a Notice of Exemption with the County Clerk and the State Clearinghouse.

#### **ISSUE**

Metro and TYSH are parties to a long-term ground lease that has provided for TYSH's construction and operation of a joint development project containing 107 affordable apartments for seniors and 8,290 square feet of commercial space (the "Senior Housing Project") on 1.8 acres of Metro property. The ground lease commenced on December 3, 2014, and has a Board-approved term of 68 years that will expire in approximately 59 years on December 2, 2082. The ground lease does not contain any options to extend.

TYSH is attempting to refinance the project's construction debt with new permanent financing, including a \$2.5 million loan from HCD. Current HCD lending regulations require the ground lease to have a remaining term of at least 65 years (approximately six years longer than the remaining ground lease term). The recommended action will allow Metro and TYSH to extend the ground lease term to accommodate TYSH's access to HCD financing.

#### **BACKGROUND**

The Senior Housing Project was completed in the summer of 2017 and has provided affordable apartments to 107 low-income senior households since then. The project is part of a larger community constructed by McCormack Baron Salazar, the parent company of TYSH, and LA Urban Homes on a 17-plus acre portion of Metro's Taylor Yard property in the Cypress Park neighborhood of Los Angeles. To date, six separate projects and most of the Taylor Yard community infrastructure have been completed in accordance with existing Board authority. Together, these projects provide 305 apartments (194 affordable apartments for families, 107 affordable apartments for seniors, and four unrestricted apartments for on-site managers), 95 market-rate condominiums, and 8,290 square feet of commercial space (see Attachment A - Unit and Affordability Breakdown).

An approximately 0.7-acre developable lot and an approximately 0.4-acre community park that will supplement existing green space within the development remain to be developed. Metro and McCormack Baron Salazar have started preliminary discussions regarding the proper scope of development for the 0.7-acre lot. These discussions will be followed by appropriate community outreach to help inform the ultimate project scope. McCormack Baron Salazar has been working with the Taylor Yard community on the final design, scope, and budget for the community park, which contemplates a tot lot, dog run and green space.

## **DISCUSSION**

Extending the ground lease term to accommodate HCD's lending requirements will allow for the Senior Housing Project's long-term financial viability. The capital stack comprising the Senior Housing Project's permanent financing includes loans from Chase Bank, HCD, and the Los Angeles Housing Department, along with tax credit equity allocated by the California Tax Credit Allocation Committee. Financing commitments from these entities, including HCD's \$2.5 million commitment, were secured before the ground lease's commencement. TYSH's original plan was to complete the project and convert its construction financing to permanent financing before December 2, 2017, the end of the ground lease's third year. This would have provided a remaining ground lease term of more than 65 years, meeting HCD's requirement. However, construction and financing-related complications prevented TYSH from converting its financing until now, leading to the need to extend the lease term.

In exchange for the term extension, Metro will require that the Senior Housing Project's 107 affordable apartments remain affordable to seniors over the entire ground lease term.

At the commencement of the ground lease, Metro received a capitalized base rent payment of \$2,877,131, covering the ground lease's current 68-year term. This amount was equal to the Consumer Price Index-adjusted fair market value of the premises in February 2012. Given that TYSH has already provided Metro with a payment equal to the premises' fair market value, and that the project's 107 affordable units will remain affordable to seniors over the entire ground lease term, staff is not recommending that TYSH provide additional monetary compensation for the ground lease extension.

## **CEQA Determination**

CEQA requires analysis of agency approvals of discretionary "projects." A "project," under CEQA, is

defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment” (CEQA Guidelines Section 15378). Staff has reviewed the proposed extension to the ground lease to determine the required level of review under CEQA.

The proposed action is exempt from CEQA under CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption). Section 15061(b)(3) of the CEQA Guidelines states that an activity is covered by the commonsense exemption if such activity does not have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA review.

There is no possibility that the proposed extension of the ground lease will result in a physical change in the environment. The subject property is occupied by an existing mixed-use project containing a small amount of ground-floor commercial space and affordable housing for low-income seniors, and there are no plans to modify the existing use. The extension of the ground lease will not disturb the physical environment. Therefore, no further environmental review is required.

### **EQUITY PLATFORM**

The impacts of the recommended action will primarily benefit the low-income seniors currently housed in the Senior Housing Project’s 107 affordable apartments, who would remain housed in the project without disruption. This recommended action will improve Metro’s equity outcomes by allowing residents from marginalized populations to continue to pay below-market rents for housing in LA County’s high-cost housing market.

Alternatively, failure to take the recommended action would likely lead to Taylor Yard Senior Housing defaulting on their construction loan, the construction lender foreclosing on the Senior Housing Project, and potential disruption of project operations, leading to an unsettling environment for the project’s senior residents. No burdens are foreseen from this action and no community outreach is needed, as the recommended action would merely extend the term of an existing ground lease allowing the ground lease tenant to access permanent financing for an already constructed and operating project.

### **DETERMINATION OF SAFETY IMPACT**

Approval of this item will have no impact on safety.

### **FINANCIAL IMPACT**

#### **Impact to Budget**

Adoption of the recommended actions would not impact Metro’s budget. Funding for joint development activities related to this project is included in the FY24 Budget in Cost Center 2210, under Project 401006.

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## **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The recommended actions support Goal #3 of the Metro Vision 2028 Strategic Plan, which seeks to enhance communities and lives through mobility and access to opportunity. The recommended extension of the ground lease term will allow the Senior Housing Project to remain financially viable, providing much-needed affordable housing to Los Angeles County's senior citizens.

## **ALTERNATIVES CONSIDERED**

The Board could choose not to proceed with the recommended action to extend the ground lease term. Staff does not recommend this alternative because it would likely lead to a default by TYSH on its construction loan, foreclosure by TYSH's construction lender, and, ultimately, a new operator for the Senior Housing Project selected by that lender.

In addition, failure to proceed with the recommended action could result in the California Tax Credit Allocation Committee imposing a severe penalty on McCormack Baron Salazar. The committee has given TYSH until November 1, 2023, to submit the Senior Housing Project's "placed in service" documentation, which includes evidence of the project's permanent financing and a request for issuance of the tax credits already allocated to the project by the committee.

## **NEXT STEPS**

Upon authorization of the recommended actions, staff and TYSH will amend the ground lease to: (a) extend the ground lease term up to seven years, ensuring that the remaining term meets HCD's 65-year requirement, and (b) ensure the Senior Housing Project's 107 affordable senior apartments remain affordable throughout the entire term. The ground lease amendment will be completed as part of the closing for the Senior Housing Project's permanent financing, which would occur immediately following the Board's action on October 26, 2023, to accommodate the California Tax Credit Allocation Committee's November 1, 2023 submittal deadline for disbursement of tax credits.

Also, with Board approval of the staff recommendation, staff will file the CEQA Notice of Exemption with both the Los Angeles County Clerk and the State Clearinghouse.

## **ATTACHMENTS**

Attachment A - Unit and Affordability Breakdown

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