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Metropolitan Transportation
Authority
One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

File #:2015-1588, **File Type:**Program

Agenda Number:

EXECUTIVE MANAGEMENT COMMITTEE
JANUARY 21, 2015

SUBJECT: METRO'S INVOLVEMENT IN AFFORDABLE HOUSING

ACTION: RECEIVE AND FILE UPDATES ON ADDITIONAL AFFORDABLE HOUSING

RECOMMENDATION

Receive and file report update.

DISCUSSION

In March of 2015, the Metro Board of Directors approved a motion (Attachment A) directing staff to report back on several actions that support affordable housing creation and preservation around transit. Two of those actions were implemented through amendments to the Metro Joint Development (JD) Policy, authorized in July of 2015.

This report discusses the status of additional actions and projects:

- Proposed structure of a Transit Oriented Communities Loan Program
- Development of Memoranda of Understanding with local municipalities
- Analysis of the efficacy of the new Joint Development land discounting policy
- Metro Joint Development affordable housing projects currently in progress
- Affordable Housing Pass Program

Transit Oriented Communities Loan Program

As directed in the March motion, staff has worked with the California Community Foundation, Low Income Investment Fund, and Enterprise Community Partners in order to develop the structure of the housing portion of a Transit Oriented Communities Loan Program (TOCLP), to create and preserve affordable housing around transit. The details of the fund are described in Attachment B, and are summarized below. In addition, Metro is working with LA County Community Development Commission (CDC) to create a structure for the small business portion of the TOCLP.

TOCLP - Housing

The aim of this program is to stabilize neighborhoods with Metro transit investments where increasing housing prices and rents may be causing economic dislocation. The program will assist by creating new affordable housing projects and preserving existing, naturally-occurring lower-rent housing. This would be achieved through two program segments:

- Predevelopment loan segment (15-25% of program depending on its size)
    - This segment of the program would provide predevelopment financing for new affordable housing projects, including such items as entitlements, acquisition, and environmental costs
    - Projects would be required to have site control and a development strategy
    - Financing would leverage typical affordable housing financing (i.e. LIHTC, municipal housing trust funds) and Affordable Housing and Sustainable Communities (AHSC) cap-and-trade funding
    - Financing could create a competitive pipeline of transactions for AHSC funding by providing community based developers, in partnership with financially strong developers, extra resources to act quickly and efficiently
    - The loan origination period would be three years from the establishment of the program
    - Program is intended to be revolving, with terms of 2-3 years

- Preservation and expansion of existing lower-rent housing segment (75-85% of program depending its size) with ultimate conversion to Affordable Housing
    - This segment of the program would provide loans to purchase and preserve existing, naturally-occurring, lower-rent housing properties that support a strategy for future expansion of the number of affordable units
    - Eligible borrowers would need to be non-profit, mission-driven developers or be partnered with a non-profit, mission-driven developer, with encouragement to neighborhood community development corporations to joint-venture with experienced partners
    - Properties would be immediately covenanted as rent restricted housing properties and tenant rents would be stabilized at those affordable at the 80% area median income (AMI) level
    - Loans would provide patient funding to hold properties 5-10 years while developing plans for affordable housing expansion
    - Properties would ultimately be redeveloped into new affordable housing projects with a higher number of units than the original building at 30% to 60% AMI
    - Borrowers would be expected to work to secure AHSC funding as well as typical affordable housing financing to complete projects
    - Loans would have a 5-year term with interest-only payments, plus an optional additional 5-year term, with amortizing payments (residual receipts for the program loan)
    - Funds would revolve as early as every 5 years as loans are repaid from permanent financing sources

- Eligible Geographies
    - For both loan segments, projects would be eligible that are within a ½ mile of existing or near term planned Metro fixed-guideway stations, or within a ½ mile of the intersection of two high frequency bus lines (with peak period headways of 15 minutes or less) - consistent with the State definition for high quality transit areas (HQTAs).

- Leveraging and Risk Allocation of Funds
    - Metro's investment is expected to be leveraged up to 2-3 times with foundation and community development financial institution (CDFI) funding.
    - The proposal assumes Metro's funds would be the most at risk, followed by the Foundations and then the CDFI funds. Metro staff is working with the partners to find mitigation approaches to such risk allocation.

- *Criteria*
    - Staff has prepared a draft of the criteria that would be used to determine, at a staff level, the eligibility of a project for participation in the program. That criteria is included in Attachment C.

TOCLP - Business

In September 2015 the Metro Board approved a motion (Attachment D) that allocated $500,000 of the previously allocated $10,000,000 for a small business loan piece of the TOCLP. At $500,000, potential non-profit and private sector partners determined that this size of a small business program is too small to justify the administrative costs. Staff also consulted the LA County CDC on the potential for partnering with Metro to pursue lending opportunities and leverage County funds. The CDC advised that they could administer the funds, but that a minimum program size that would be workable would be $1,000,000. Staff will continue to explore delivery options for this program.

Previous reports and motions on Metro's involvement with affordable housing have established a nexus between public transit funding and the preservation and creation of affordable housing near transit. Transit riders are disproportionally low-income residents and transit investments may be in neighborhoods with increasing rents that displace residents. Creating and preserving affordable housing near transit can help protect and expand Metro ridership.

A nexus also exists between small businesses and transit investments for the following reasons:

- The location of small businesses adjacent to transit reduces the necessity for multiple trips and further incentivizes use of public transportation rather than single occupant vehicles. Transit riders will be more likely to patronize a small business if it is along or near their path of travel to or from transit.

- Employees of small businesses will be more likely to take transit to work if that small business is adjacent to transit.

- In order to make transit most effective and efficient at serving riders and businesses, development should be concentrated around transit. Concentration of development has the potential to raise land prices and commercial rents that may result in economic dislocation of smaller, less profitable business. Those businesses should be encouraged to stay near or come to transit in order that small businesses will receive equitable benefits from transit investments.

- Metro investments promise jobs, economic development, and community benefit. In order to distribute transit benefits equitably, small businesses should be assisted in and encouraged to remain close to transit, or locate new enterprises near transit.

Timing of Metro Investment

The March motion that directed Metro's investment in this fund called for up to $10 million to be allocated annually at $2 million per year for five years. To leverage the expected foundation and CDFI investments described in this outline, the total $10 million will need to be obligated in a contract. If the $10 million is allocated annually and subject to annual appropriation, the foundation and CDFI investments will be committed each year as well, limiting the number of projects that can be built or preserved each year. A better match for the startup of the program (as year one will include structuring costs) and management of the funds, would be a three-year investment period to match the three-year origination period set forth in the guidelines.

This shorter origination period will mean that new projects can be supported earlier and properties can be purchased and preserved sooner, thereby being more effective and cost-efficient at stabilizing neighborhoods that may be experiencing rapid change and increasing land values.

<u>Memoranda of Understanding (MOUs) with Municipalities</u>

Staff has transmitted a draft MOU to the City of Los Angeles and is negotiating the terms with the City. Metro and the City have attended meetings and exchanged edits on the MOU and are close to finalizing the document. Staff will engage other Cities and the County to pursue similar MOUs upon completion of the MOU with the City of Los Angeles, using the Los Angeles MOU as a template.

<u>Analysis of Impacts of the Discounting Policy</u>

In July of 2015 the Board acted to amend the Metro Joint Development Policy to allow for discounts on joint development ground leases on a case by case basis to help finance affordable housing. The discount is proportionate to the percentage of affordable units and is capped at 30%. Staff transmitted a memorandum to the Board on December 8, 2015 (Attachment E) which analyzes the impacts of the discount policy. At a high level, the goal of reducing the income targets for affordable units is very expensive and cannot be financed by the discounting policy alone. Staff will continue to analyze the effects of the discounting policy and how affordable housing developers are able to use it.

<u>In progress Metro Joint Development Affordable Housing Projects</u>

1st and Boyle - Santa Cecilia

The Santa Cecilia Project at 1st and Boyle in Boyle Heights is under construction with an estimated completion date in late 2016. This project will provide 80 units of affordable family housing and approximately 4,000 square feet of ground floor retail. The affordability ranges are targeted at families at 30%-60% of the area median income.

Westlake MacArthur Park Phase B
The Westlake MacArthur Park Phase B Project in Westlake is fully entitled and expected to begin construction in early 2017. The project will provide 82 affordable housing units and 6,000-12,000 square feet of ground floor retail. The affordability of the units will be a combination of low-moderate, low and very-low income units. The project received $5 million in Affordable Housing Sustainable Communities (AHSC) Cap-and-Trade funding and is seeking additional funding from the City of Los Angeles.

Taylor Yard - Lot 2B
The Taylor Yard - Lot 2B Project is awaiting entitlement approval from the City of Los Angles. The project will provide 42 affordable units. The affordability of the units will be a combination of low-moderate, low and very-low income units.

1st and Lorena
The 1st and Lorena Project was approved by the Boyle Heights Neighborhood Council and is securing entitlements. Through a community outreach process, the project has been modified to include 49 units of affordable family housing with 10,000 square feet of ground floor commercial space. Twenty-four of the units will be offered as supportive housing for veterans.

Cesar Chavez and Soto
The Cesar Chavez and Soto project was approved by the Boyle Heights Neighborhood Council and is beginning entitlements in early 2016. The proposed project is comprised of 77 units of affordable family housing, both two and three bedrooms, and will include 8,500 square feet of ground floor retail. The affordability of the units will be a combination of low-moderate, low and very-low income units. The project is being proposed by Abode Communities, a non-profit affordable housing developer.

1st and Soto
The 1st and Soto project was approved by the Boyle Heights Neighborhood Council and is in a short-term Exclusive Negotiations Agreement with Metro. The proposed project is comprised of 66 units of affordable family housing, studios, one, two and three bedrooms, over 5000 sq. ft. of ground floor commercial space. The affordability of the units will be a combination of low and very-low income units.

In total, these projects would create an additional 396 units of affordable housing, 354 of which are adjacent to or near Metro Rail stations, and all of which are in HQTAs.

Affordable Housing Pass Program

Metro has several existing group rate pass programs which are undergoing a review to streamline the programs. These programs are run by the Communications Department and the Finance and Budget Department, which are reviewing the programs together. As part of that process, they will develop terms for an affordable housing pass program. Current Board direction has requested a program that would be available only to residents of affordable units in Metro joint developments. If the action were expanded, Metro could create a program that would be available to applicants of the AHSC Cap-and-Trade funding. This could award more points to AHSC applications from LA County and gain more funding for transit-oriented affordable housing in LA County.

NEXT STEPS

Staff will pursue these remaining initiatives and report back to the Board on progress and options.

ATTACHMENTS

Attachment A - Board Motion 51.1 - March 2015
Attachment B - TOCLP Housing Structure
Attachment C - Criteria for TOCLP Participation
Attachment D - Board Motion 58 - September 2015
Attachment E - Board Memo - Reporting Back on Item 68 of July 2015 Board of Directors Meeting

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Reviewed by: Martha Welborne, FAIA, Chief Planning Officer, (213) 922-7267

ATTACHMENT A

51.1

MAYOR ERIC GARCETTI, SUPERVISOR RIDLEY-THOMAS, SUPERVISOR SHEILA KUEHL, SUPERVISOR HILDA SOLIS, DIRECTOR MIKE BONIN & DIRECTOR JACQUELYN DUPONT-WALKER

Public Transportation, Affordable Housing, & Environment

MTA has been a national leader among major transportation agencies in working with local jurisdictions and affordable housing developers in the production of affordable housing through MTA's Joint Development Program.

According to updated information from MTA, nearly 2,077 units, or 33% of all units, developed through MTA's Joint Development Program are affordable units.

According to a recent study from UCLA's Ziman Center for Real Estate, Los Angeles is the least affordable rental market in the country, based on the portion of a renters' income that goes to pay rent.

Since 2009, the Los Angeles County Metropolitan Transportation Agency (MTA) has made significant contributions toward reducing air pollution through investments in compressed natural gas (CNG) buses, new and expanded transit lines, additional bicycling programs, and rideshare projects. However, to achieve 25 percent reduction in Greenhouse Gas emissions (GHG) by 2020—following the goal set forth by the U.S. Environmental Protection Agency (EPA)—Los Angeles County needs to do more.

Last year, MTA joined with the California Community Foundation and the California Endowment to study:

A. The status of affordable housing financing resources in Los Angeles County;
B. The role that other major transit agencies nationwide have played in affordable housing support;
C. The options available to MTA to continue its successful inclusion of affordable units in MTA Joint Development Projects; and,
D. What can MTA and others do to support and protect affordable housing near transit throughout the County.

While MTA cannot shoulder the burden of affordable housing creation alone, it can work in partnership with local communities to protect and create affordable housing near transit in order to preserve ridership and the associated greenhouse gas benefits.

It is now time to consider policy and program implementation that ensures MTA's success in affordable housing production continues.

WE THEREFORE MOVE that the CEO direct staff to report back to the Board with the following items:

A. Amendment to MTA's Joint Development Policy, establishing a goal that in the aggregate, affordable housing units represent 35% of all residential units developed on MTA-owned property;

B. Recommended criteria under which MTA would allow proportional discounts to the fair market value of MTA owned property for the purpose of contributing towards the cost of affordable housing;

FURTHERMORE, WE MOVE that the CEO direct staff to:

C. Develop a memorandum of understanding with interested local cities and the County of Los Angeles to promote co-investment along transit corridors, such as leveraging municipally-controlled affordable housing and small business dollars for MTA's Joint Development affordable housing sites;

D. Negotiate terms and conditions for the Board's consideration that reflect MTA's participation in the collaborative creation of a multi-partner Countywide Transit Oriented Affordable Housing loan fund, and report back to the Board on the following:

   1. Criteria for eligible joint development projects, including neighborhood serving businesses to be funded by the loan fund;

   2. Administration of the fund;

   3. Loan Program Structure;

E. Report back to the Board during the FY2015-16 Budget regarding the feasibility to budget $2 million annually for 5 years, up to $10 million to establish the fund; and

F. Work with the affordable housing community to establish a revenue neutral TAP purchase program that provides passes to current and future occupants of MTA joint developments.

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Memorandum:

To: LACMTA
Cal Hollis
Marie Sullivan

From: Ann Sewill, California Community Foundation
Cecile Chalifour, Low Income Investment Fund
Jacqueline Waggoner, Enterprise Community Partners

Date: December 2, 2015

RE: DRAFT Preliminary Lending Products of a Transit Oriented Communities Loan Program

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I. Program Overview

This memo intends to describe the purpose and products of a Transit Oriented Communities Loan Program (TOCLP or Program), which would encourage the production and preservation of affordable homes within a half mile of a station or stop in a high quality transit area (HQTA) as defined by the State of California Office of Planning and Research (OPR), including future stations or stops anticipated to be completed within the next 10 years. Program funds from Metro and foundations' Program Related Investments (PRI) will leverage capital from participating Community Development Financial Institutions (CDFIs). The Program would offer two loan products which would support the production and preservation of affordable homes: (a) Predevelopment Loan Product and (b) Preserving and Expanding Affordability Loan (PEAL) Product. The Predevelopment Loan Product would be for new projects with site control with an achievable strategy and schedule of milestones for securing needed financing. The PEAL Product is meant to help affordable housing developers purchase and hold multifamily properties for preservation and eventual expansion of the number of affordable units. Additional details are outlined below.

II. Program Participants and Timing

In addition to Metro's contribution of $9.5MM, we are anticipating philanthropic contribution of PRI capital of $10.5MM for a total program of $20MM. These funds would be leveraged by CDFIs for a total goal of $53MM-$95MM. Local and national foundations have expressed interest in participating in the program, including but not limited to the California Community Foundation and the California Endowment.

The Metro Board of Directors has currently approved a commitment of $9.5MM over the next 5 years in equal annual contributions through annual budget appropriations. Spreading the deployment of capital contributions over time would significantly impact the deployment of the program overall. Metro will need to fund its prorata share of each loan at time of closing; because of the uncertain nature of annual appropriations, other program participants could not bridge Metro's participation. It would mean reducing the ability to preserve and produce affordable housing at the onset of the program. As land prices around transit increase over time, future project costs would be more expensive, increasing the overall cost of development. As the development timeline can vary significantly for any given project, having fewer loans originated early in the program term means the program will deliver completed units much later, and at higher cost, than if deployment is front-loaded.

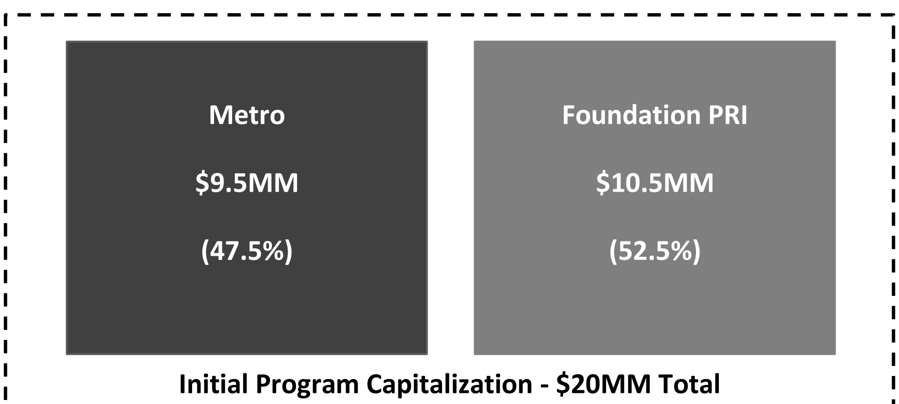
Ideally, the Program would launch with a total contribution of $20MM at closing, including the full extent of the Metro board's commitment of $9.5MM within the first 3 years. This would facilitate a three year initial origination period to deploy 100% of program capital, with an overall 13-year Program, as detailed below. The Program is anticipated to be deployed through approximately 10-15 initial loans, and revolve as loans are repaid. Based upon past experience, three years is a reasonable expectation for full capital deployment; however it could be possible to exhaust program funds even faster, given the right market conditions if 100% of Program funds were available at Program launch.

III. Preliminary Program Structure

Metro/PRI Contribution

- $20MM total contribution, including $10.5MM PRI capital and $9.5MM from Metro, for a leverage ratio of roughly 1:1. An additional $33MM to $75MM in CDFI funds is anticipated to be leveraged.
- Metro and PRI funds will be pari passu
- Metro/PRI Program funds will be held by the California Community Foundation, at no charge
- Fund Management and Servicing Fee to be determined
- At the project level: No fees and 1% interest rate

Figure 1. Initial Program Capitalization



Overall Program Funding through CDFI Leverage:

- The Metro/PRI contribution will leverage between $33MM and $75MM in CDFI funds. The overall program amount will vary depending upon the pro-rata share of deals closed under each product, as they have different leverage, as well as the loan size of the PEAL loans
- Total overall Program size of $53MM to $95MM
- Predevelopment Loan product allocation – 25% (5-8 loans)
- PEAL product allocation - 75% (5-12 loans)
- Allocation of funds between the two products might be modified, depending on deployment with approval of the program funders (Metro and the foundations)
- If additional PRI funds are raised, allocation of funds between the products will be revisited.

Figure 2. Overall Program Funding with CDFI Leverage

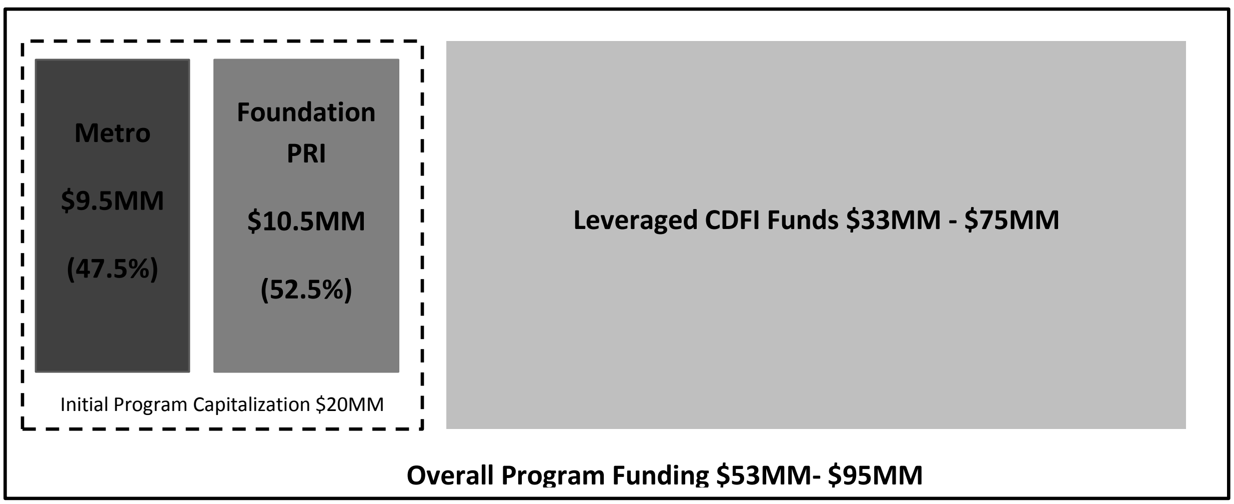
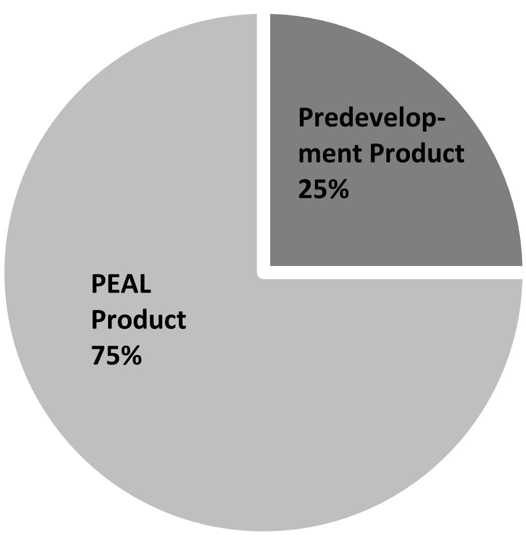


Figure 3. Program Allocation, $53MM to $95MM Total



Program Terms:

- 13-year Program, with a 3-year initial origination period, to allow for a maximum of 10 year loan term (Metro/PRI and CDFI contributions to be co-terminus)
- Project loan terms as short as 2 years up to 10 years (as 2 consecutive 5-year terms)
- Revolving, with new loans originated as loans are repaid
- Long term affordability restrictions (apply to future development for predevelopment loans and proposed redevelopment for PEAL loans):
  - **100% Affordable:** 100% of units restricted to 60% or below AMI (or meet mixed-income rules below); or
  - **Mixed-Income:** Minimum 75% of residential units developed as affordable housing to receive full loan; if less than 75%, project loan amount will be adjusted. Or,
  - **Mixed-Use:** Minimum 75% of total square footage will be developed as affordable housing to receive full loan; if less than 75%, project loan amount will be adjusted
- Repayment without meeting redevelopment target (PEAL product): in the event borrower is unable to realize a redevelopment project as originally planned, sales proceeds would be subject to an equity recapture requirement.

Impact and Risk:

- Predevelopment Loans
  - Up to $1MM in Metro/PRI contribution, in 2 installments, subject to evidence of committed permanent take-out financing for the second installment
  - Program Loans will be unsecured with priority of repayment to CDFI loans
  - 100% Recourse to borrower and 100% guarantee from sponsor

- Preserving and Expanding Affordability Loans (PEAL)
  - Up to the lower of $2MM or 120% LTV, in Metro/PRI contribution
  - Metro/PRI contributions are subordinate to CDFI contributions
  - 100% Recourse to Borrower
  - Repayment guarantee from sponsor (and principal, if for-profit sponsor) for loan amount above 75% LTV

- Borrower Profile
  - Non-profit developers, acting solely or in joint-venture with a for-profit developer, with a minimum of 3-5 years of experience in affordable housing development, a successful track record of obtaining public and private financing for at least 2 similar projects, and experience managing assets similar in size and budget. We encourage strong joint venture partnerships with neighborhood Community Development Corporations (CDCs) and non-profit developers as a strategy to optimize developers' different strengths and expertise and to use the CDCs' familiarity with communities,

particularly in addressing displacement issues. Joint venture agreement should specify an active role for the non-profit or CDC partner.

- Adequate organizational capacity and stability, without material defaults or material adverse financial change within the past 7 years

IV. Preliminary Loan Product Descriptions:

A. Predevelopment Loan Product
B. Preserving and Expanding Affordability Loan (PEAL) Product

A. Predevelopment Loan Product

Research[1] showed that predevelopment financing is key to developing affordable TOC developments, which can take more time than typical affordable housing deals-in particular if they include complex entitlements, a mixed-use component or some infrastructure work. The program will provide predevelopment financing for projects with site control, with an achievable strategy and schedule of milestones for securing the construction and permanent financing needed for affordable housing projects. Predevelopment loans will support projects that leverage typical affordable housing financing (i.e, a "typical" LIHTC structure) but would also compete well for permanent financing such as the Strategic Growth Council's Affordable Housing and Sustainable Communities (AHSC) program or Los Angeles County's affordable housing funds. One of the goals of the Predevelopment Loan Product is to support the creation of a strong pipeline of transactions to compete for AHSC by providing experienced developers extra resources to act quickly and efficiently. The goal is for borrowers to have projects in construction no later than within 2-3 years of the loan closing, and redeploy the funds as the loans are repaid.

Typical Predevelopment Loan Example:

Predevelopment Loan - $1,000,000

- $500,000 – Metro/PRI Contribution
- $500,000 – CDFI Contribution
- Borrower must demonstrate site control and milestones for securing project financing

Supplemental Predevelopment Loan – up to $500,000

- Metro/PRI Contribution
- If needed, once borrower can demonstrate committed permanent financing

Maximum Predevelopment financing for a project - $1,500,000

[1] Incentives to Encourage Equitable Development in Los Angeles County Transit Oriented Districts. Center for Transit-Oriented Development, Enterprise Community Partners, and Low Income Investment Fund. (2013)

Predevelopment Loan Program Guidelines:

Maximum Metro/PRI Contribution - $1,000,000

- **Term –** 24 months, with 12 month extension
- **Revolving –** assumes loans are repaid every 2 or 3 years
- **Collateral -** Unsecured
- **Recourse -** 100% recourse to borrower
- **Repayment Guarantee –** 100% repayment guarantee from sponsor (and principal, if for-profit sponsor) if borrower is a Single Purpose Entity
- **Equity –** The lower of $50,000 or 3-5% of predevelopment costs
- **Concentration –** Limit of 1 loan per developer, with exceptions contingent on approval from Program participants
- **Eligibility -** Experienced non-profit - or joint ventures with demonstrable project-level site control
- **Long term affordability restriction for proposed development**
    - 100% Affordable: 100% of units restricted to 60% or below AMI (or meet mixed-income rules below); or
    - Mixed-Income: Minimum 75% of residential units developed as affordable housing to receive full loan; if less than 75%, project loan amount will be adjusted. Or
    - Mixed-Use: Minimum 75% of total square footage will be developed as affordable housing to receive full loan; if less than 75%, project loan amount will be adjusted

B. Preserving and Expanding Affordability Loan (PEAL) Product

The PEAL Product is geared towards acquisition of existing apartment properties near Metro transit corridors in Los Angeles County. Research[1] has shown that proximity to transit can be a significant contributing factor to increasing market values and rents. Research has also shown that a large portion of the housing portfolio near transit in Los Angeles County is comprised of "naturally occurring affordable housing", non-restricted housing at rents lower than the average market rents, held stable temporarily by market forces and rent stabilization ordinances. As development occurs near the transit stops, consistent with SCAG's Sustainable Communities Strategy goal of encouraging most new development around transit, gentrification and displacement may occur. The purpose of the PEAL program is to help affordable housing developers purchase multifamily properties in advance of gentrification and displacement forces that might occur in order to preserve and expand the number of affordable units, with likely capacity on eligible sites to at least double the number of units or square footage.

The program products will provide patient funding for affordable housing developers to purchase qualified multifamily properties and hold for 5 – 10 years while community and site-specific plans are completed to significantly increase the number of affordable units.

The program products will provide a mechanism for borrowers to purchase at-risk buildings quickly, stabilize rents and occupancy costs, and secure entitlements to develop two to four times the number of existing affordable units on site. Fund managers and local government partners will work with borrowers to secure a property tax exemption during the holding period. To ensure enforcement of a “no net loss” policy, when the property is ready for redevelopment, existing tenants will be provided with relocation assistance and the opportunity to return to the completed project.

The goal is that many of the properties acquired with PEAL will secure funding from cap and trade, local housing funds and Low Income Housing Tax Credits to develop permanently affordable housing complexes with affordability secured by long term covenants. However, as developers might be unable to move forward a redevelopment project as planned, they will have to meet a “safe harbor” requirement – i.e. a project-specific minimum number of affordable units established at loan closing - in which case, there could be an equity split of sales proceeds with the borrower (level to be determined). If a developer doesn’t meet the safe harbor requirement, sales proceeds will be subject to an equity recapture requirement. In case sales proceeds with restrictions are not expected to be sufficient to pay off the debt, affordability requirements will be reduced to support debt repayment.

Typical PEAL Example:

Sources/Uses (24 units)

Sources	
CDFI Contribution –First Deed of Trust	$3,185,000
Metro/PRI Contribution	$1,040,000
Borrower Equity	$130,000
Total	$4,353,000
Uses	
Property Acquisition	$3,745,000
Fire/Life/Safety Repairs+Temp Relocation	$100,000
Replacement Reserves	$250,000
Operating Reserve	$50,000
Interest Reserve	$105,000
Legal, Appraisal, PNA, environmental, etc	$40,000
CDFI Loan Fees	$50,000
Metro/PRI Fees	$10,000
Total	$4,355,000

PEAL Program Guidelines:

Maximum Metro/PRI Contribution – the lowest of 120% LTV or $2MM
Term – 5-year initial interest-only term, plus optional additional 5-year term (amortizing for the CDFI contribution, residual receipts for the Metro/PRI contribution). The additional term will be contingent upon: lender's underwriting, co-terminus with the CDFI contribution, and the funding of a DCR reserve to ensure a 1.15 DCR as needed
Revolving – as early as every 5 years as loans repay
Recourse - 100% recourse to borrower
Eligible Properties - Eligible properties must satisfy minimum standards for safe, decent, and sanitary housing but might require some level of repair and rehabilitation.
Repayment Guarantee –Above 75% LTV repayment guarantee from sponsor if Borrower is a Single Purpose Entity (and principal, if for-profit sponsor)
Developer Equity Required – The lower of $100,000 or 3-5% of acquisition costs (exceptions for non-profit borrowers subject to approval by lenders)
Sinking Fund - Net cash flow during first term goes to a sinking fund, with an adjustable cap at an amount to be approved at closing; cash flow above cap to be distributed to borrower. Sinking Fund would be recast as a portion of the Debt Service Coverage reserve for the 2nd term
Short Term Affordability Restrictions During Preservation Period - 80% AMI affordability restrictions for the term of the loan; staff can approve exceptions down to a minimum of 75% of units restricted
Long term affordability restriction for proposed redevelopment -

- 100% Affordable: 100% of units restricted to 60% or below AMI (or meet mixed-income rules below); or
- Mixed-Income: Minimum 75% of residential units developed as affordable housing to receive full loan; if less than 75%, project loan amount will be adjusted. Or
- Mixed-Use: Minimum 75% of total square footage will be developed as affordable housing to receive full loan; if less than 75%, project loan amount will be adjusted

DRAFT

Criteria for approving applicants to the Transit Oriented Communities Loan Program

In addition to ensuring conformance with Board approved Program Guidelines, once adopted later this year, the following criteria would be applied by Metro Joint Development staff to any housing projects that are recommended for funding by the Transit Oriented Communities Loan Program (TOCLP) administrators. It would be used as a checklist to make sure that the projects meet Metro goals and specifications for a transit-oriented affordable housing project. There are two segments of the Program which follow the checklists outlined below.

Predevelopment Program

Size of project –

The project funded by TOCLP must have a minimum unit size of 49 units.

Affordability level –

The units funded by the TOCLP would be required to be income-restricted and targeted at residents earning 60% or below the area median income (AMI).

Preservation Program

Size of project –

The project funded by TOCLP must have an existing minimum unit size of 20 units, with likely capacity on the site to at least double the number of units or square footage when redeveloped.

Affordability level –

Once redeveloped, the new projects would be required to be income-restricted and targeted at residents earning 60% or below the area median income (AMI).

Both Products

Geography –

The project must fall within ½ mile of a station or stop in a high quality transit area (HQTA) as defined by the State of California Office of Planning and Research (OPR), including future stations or stops which are are anticipated to be completed in the next ten years.

Ease of access to transit –

There must be a safe path of travel to transit from the project. Residents of the project must be able to safely walk or bike to a nearby transit stop or station on existing or planned sidewalks or bicycle lanes and crosswalks at major intersections.

Proportion of affordable units –

The projects funded by TOCLP would be required to meet the following:

- 100% Affordable Housing: 100% of units restricted to 60% or below AMI (or meet mixed-income rules below); or

  Mixed-Income: Minimum 75% of residential units developed as affordable housing to receive full loan; if less than 75%, project loan amount will be adjusted. Or
- Mixed-Use: Minimum 75% of total square footage will be developed as affordable housing to receive full loan; if less than 75%, project loan amount will be adjusted

For both products, Metro staff has authority to approve exceptions to criteria limited to "affordability level", "proportion of affordable units", and "size of project".

Metro

Los Angeles County
Metropolitan Transportation
Authority
One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

Metro

Board Report

File #:2015-1479, **File Type:**Motion / Motion Response

Agenda Number:58.

REGULAR BOARD MEETING
SEPTEMBER 27, 2015

Motion by:

Ridley-Thomas, Garcetti, Dupont-Walker and Kuehl

September 27, 2015

Relating to Item 58, File ID 2015-1088;
IMPLEMENTATION OF AFFORDABLE HOUSING AND BUSINESS LOAN FUNDS

In March 2015, the Metropolitan Transportation Authority (Metro) Board of Directors (Board) directed the Chief Executive Officer to negotiate the terms and conditions for Metro's participation in a multi-partner Countywide Transit-Oriented Affordable Housing and Business Loan Fund (Proposed Fund). The purpose of the Proposed Fund was to promote development and preservation of affordable housing and small businesses within a half-mile of Metro rail stations, bus rapid transit or rapid bus stops.

Staff has engaged members of the community development and finance communities in exploring potential formats for the Proposed Fund with an emphasis on transit oriented communities. While the residential and commercial purposes of the Proposed Fund are synergistic, their administration, approach and objectives are materially different, therefore necessitating two separate funding frameworks.

With regard to the Affordable Housing Loan Fund, staff has identified a consortium led by the California Community Foundation and Low Income Investment Fund that has the local experience, depth of potential investor interest and deep experience in creating and implementing housing investment funds to meet the Board's objectives for this investment. The consortium has committed to securing over $60 million to match Metro's $10 million commitment in order to meaningfully capitalize the loan fund.

With regard to the Business Loan Fund, staff has reached out to a number of impacted stakeholders, and has indicators that a potential comprehensive package of loan products requires additional consideration. However, staff has identified an immediate and critical gap in available funding for commercial tenant improvements both as a component of mixed-use affordable housing projects and in small, free standing commercial properties in close proximity to transit facilities, but the challenge extends to community-based retail tenants within one and one-half mile of transit corridors. With regard to ground floor retail in mixed-use affordable housing projects, a study by the City of Los Angeles indicated that nearly 20% of the City of LA's funded affordable housing projects have vacancies, with most of these vacancies concentrated in underserved neighborhoods. In addition, Metro affordable housing joint developments have chronic vacancies at Hollywood and Western, Westlake MacArthur Park, 1st and Boyle, and Del Mar Stations. Providing grants to support the establishment of local, small businesses within projects such as these can support local economic development initiatives and promote job creation while lowering the risks of displacement and contributing to the revitalization of transit-oriented communities.

MOTION by Ridley-Thomas, Garcetti, Dupont-Walker and Kuehl directing the Chief Executive Officer to move forward with implementation of Affordable Housing and Business Loan Funds as follows:

A. Engage the consortium led by California Community Foundation and Low Income Investment Fund to negotiate terms and conditions, in a multi-partner Countywide Transit-Oriented Affordable Housing Loan Fund to support the production and preservation of transit-oriented affordable housing (including mixed use projects)that leverages Metro's financial contribution, as previously approved by the Boardin March 2015, and return to the Board for approval of the final terms and conditions;

B. Design a pilot Countywide Transit-Oriented Small Business Loan Fund program to provide financing under favorable terms for commercial tenant improvements within transit adjacent, mixed use (including affordable housing) or commercial projects with particular emphasis on tenant improvements for local small businesses, with priority for ones that have been operating in the community for at least 5 years. Should Metro be unable to administer the loan fund internally, the agency should contract with an external administrator with relevant expertise (e.g. community development financial institutions, banks, the Community Development Commission, or small business centers);

C. Continue research and engagement with community development financial institutions, municipalities, private sector banks, regional economic development corporations, and other interested parties on the potential expansion of the Countywide Transit-Oriented Small Business Loan Fund program to include a variety of financial products and report back within 120 days;

D. For purposes of furthering the above described objectives, amend the budget to initially allocate $500,000 of the previously-committed funding for the Affordable Housing and Business Loan Fund to the pilot Countywide Transit-Oriented Small Business Loan Fund, to be dispersed over the next two fiscal years, and be administered by the Office of Management and Budget and the Diversity & Economic Opportunity Department, in coordination with the Office of Countywide Planning and Development; and

E. Provide a quarterly written update to the Board on the status, implementation and impacts of both Loan Fund programs.

ATTACHMENT E

Los Angeles County
Metropolitan Transportation Authority

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Metro

DECEMBER 9, 2015

TO: **BOARD OF DIRECTORS**

THROUGH: **PHILLIP A. WASHINGTON**
CHIEF EXECUTIVE OFFICER PAW

FROM: **MARTHA WELBORNE, FAIA**
CHIEF PLANNING OFFICER kCEW

SUBJECT: **REPORT BACK ON ITEM 68.1 ON THE JULY 23, 2015 MEETING OF THE BOARD OF DIRECTORS**

ISSUE

At the July 23, 2015 meeting of the Metro Board of Directors, two motions from Directors Solis, Ridley-Thomas, Kuehl, Dupont-Walker, DuBois and Knabe were joined together to adopt actions related to the updated Joint Development Policy. The approved motion contained items 1 – 4. Direction from Item 1 was taken and reported back to the Board in two Board Boxes dated September 17 and 30, 2015. This Board Box provides a report back on Items 2 – 4.

DISCUSSION

Below is a report back on each direction within Item 68.1.

> ***2. After Implementation, further analyze the proposed land discount policy to evaluate whether it can be used as a tool to encourage the development of more very low or extremely low income units and report back to the Board within 120 days with a summary of the potential benefits and consequences to linking the land discount to the percentage of very low or extremely low income units in a project.***

Joint Development (JD) staff is in active negotiations with 4 affordable housing developers, all of whom are considering this newly approved land use discount as a mechanism to address funding gaps. Of these four projects, three have specifically committed to increasing the number of units targeting very low or extremely low income households. While the JD team is still in the implementation phase, and therefore does not have complete information upon which to report, staff can provide some preliminary findings with respect to this item:

Evaluation of the land discount: Abode Communities, a nonprofit affordable housing developer with over 40 years of experience and 34 affordable housing properties developed, provided a preliminary analysis of the cost to change a unit serving a household at 60% area median income (AMI) to a unit to serve a household at 30% area median income (AMI). This analysis assumes the financing structure of a typical 9% Low Income Housing Tax Credit-funded project. In summary: to change a 60% AMI unit to a 30% AMI units requires about $371,000 in additional upfront development subsidies. Such a large additional subsidy amount will result in the maximum property discount funding very few if any additional 30% AMI units.

Increasing the number of 30% AMI units has two effects on the property:

(1) *It creates a funding shortfall in the original development funding.* In terms of the original development funding (upfront), the gap is about $50,000 per unit. In other words, to create one more 30% AMI unit, requires an additional $50,000 in upfront subsidy.

(2) *It creates a shortfall in the annual operating budget/ cash flow (funds remaining after all expenses and mortgages have been paid).* A shortfall in the cash flow means the property will be operating in the red and unable to pay all its expenses. In order to have a viable project, a developer must be able to show at least 30 years of positive cash flow (matching the standard term of a 30-year mortgage). Further magnifying this problem, it is Abode's experience that families earning 30% AMI have more service related needs which actually increases the operating expenses. Thus, the funding shortfall would be even higher.

Abode identified two ways to meet the operating expense shortfall created by increasing the number of units targeting 30% AMI:

- *Obtain operating subsidy:* The only operating subsidy currently available are Project Based Vouchers (PBV), which are highly competitive and available only to homeless, special needs projects. In the last NOFA (Notice of Funding Availability) issued by the County of Los Angeles, 100% of the units receiving vouchers were required to serve homeless households. Additionally, 50% of those units were required to serve individual with special needs (mental/physical/development disability, substance abuse, HIV/AIDS) who were also chronically homeless. While housing for these populations is in high need, this subsidy program does not address the subsidy needs for a typical 30% AMI unit serving a non-special needs or homeless family.
- *Decrease the debt service requirement (permanent loan amount):* This is the only viable option in order to assure the required 30 year positive cash flow. In order to increase the number of 30% AMI units by 1 unit, about $20,000

less per year is available for debt service (in other words, the maximum payment amount towards the mortgage is decreased by $20,000) which results in a decrease of the permanent loan amount of $321,000. Additional up-front subsidies in this amount would be required to cover this gap.

.Potential Benefits:

- *Reflection of Community Income Levels:* Lowering affordability levels may allow an affordable housing project to better reflect the income distribution of the community in which the project is situated. This can garner more support from local stakeholders and allow a project to meet a community's housing needs.

- *Transit Riders are Predominantly Lower Income:* 70% of Metro riders earn less than $25,000 per year. It is in Metro's best interest to ensure that the housing provided at its transit stations serves its riders and promotes transit use.

Potential Disadvantages:

- *The Financing Gap.* Affordable housing projects face a gap in their financing needs. The joint development land discount is seen as a way to partially mitigate that gap. Tying the land discount to deeper affordability requirements creates additional gap rather than filling an existing gap, so at best the requirement has no impact on the original gap, at worst, it could deepen the gap if the discount cannot cover the total cost of lowering the affordability levels.

- *Reflection of Community Income Levels:* While many communities will see that lowering affordability levels allows a project to better match the income make-up of their households, in some communities this will not be the case. Affordable housing projects are more likely to garner support when the income levels targeted match the needs of those of the community where it is situated.

3. A percentage of lease revenue generated from joint development projects support transportation uses including, using a portion of lease revenue income to pursue First/Last Mile projects within ½ mile of station areas, active transportation uses and wayfinding.

The Joint Development Team will work with developers, community stakeholders and internal Metro departments to determine potential application of lease revenues generated by joint development projects for First/Last Mile, active transportation and wayfinding projects within ½ mile of station areas. These assessments will occur on a project by project basis. Staff will negotiate the scope, costs and appropriate application of Metro lease revenues for these improvements during the Exclusive Negotiation phase of a joint development. The final scope and terms for any such use of lease revenues will be brought to the Board for consideration as part of the lease teams for the Joint Development Agreement and Ground Lease for each Joint Development project.

4. Structure the proposed joint development process to ensure that local jurisdictions with land use responsibility collaborate on the community engagement process to ensure that all joint development projects are consistent with local desires and can be approved by the local jurisdiction.

The *Joint Development Program: Policy and Process* document approved by the Metro Board on July 2015 contains explicit reference to the importance of collaboration with local jurisdictions; for community engagement, examination of land use regulations, and even selection of developers for joint development sites. This policy document (updated slightly in September 2015 to reflect direction on affordable housing) is attached, and references to the role of and collaboration with local jurisdictions in the joint development process are highlighted.

Background

The items above are in reference to the updated *Joint Development Program: Policy and Process* document, which was approved by the Metro Board on July 23, 2015.

NEXT STEPS

The Joint Development team is continuing to negotiate the first four (4) affordable housing projects that will be eligible for the land use discount. Upon completion of negotiations, staff will report back on the cost associated with lowering the affordability levels to support households at the very low and extremely low income levels.

Attachments:

A. Item 68.1 July 23 2015 Board Motion
B. Joint Development Program: Policy and Process

Metro

Los Angeles County
Metropolitan Transportation
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One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

Metro

Board Report

File #:2015-1175, File Type:Motion / Motion Response | Agenda Number:68.1

REGULAR BOARD MEETING
JULY 23, 2015

Motion by:

Supervisor Solis, Ridley-Thomas, Kuehl and Dupont-Walker as combined with Dubois and Knabe Motion

July 23, 2015

File ID 2015-0554, Relating to Item 68: Joint Development Policy

The Metro Joint Development Program is a real property asset development and management program designed to promote catalytic private and/or public sector developments on Metro-owned properties. The Joint Development Policy is being updated to promote the development of affordable housing on Metro properties, given the vital importance of sustaining and growing ridership by facilitating the production of housing that is affordable to lower-income transit-dependent riders. The vast majority of Metro's riders earn less than $25,000 per year, and are therefore considered to be low, very low, and extremely low-income individuals and families. The Metro Joint Development Policy should be designed to expressly encourage the development of housing that would serve those populations.

WE THEREFORE MOVE that the Board of Directors instruct the Chief Executive Officer to take the following actions:

1. Amend the Joint Development Policy to:

   a. Define affordable housing as housing that is covenant-controlled, provided on an income-restricted basis to qualifying tenants earning 60% or less than Area Medium Income as defined by the CA Tax Credit Allocation Committee, and often subsidized by public or non-profit funding sources; and

   b. Include language that promotes the consideration of affordable housing that has deeper affordability, including the creation of new units affordable to very low-income and extremely low-income households; and

2. After implementation, further analyze the proposed land discount policy to evaluate whether it can be used as a tool to encourage the development of more very low or extremely low income units and report back to the Board within 120 days with a summary of the potential

benefits and consequences to linking the land discount to the percentage of very low or extremely low income units in a project.

3. A percentage of lease revenue generated from joint development projects support transportation uses including, using a portion of lease revenue income to pursue First/Last Mile projects within ½ mile of station areas, active transportation uses and wayfinding.

4. Structure the proposed joint development process to ensure that local jurisdictions with land use responsibility collaborate on the community engagement process to ensure that all joint development projects are consistent with local desires and can be approved by the local jurisdiction.

ATTACHMENT B

METRO JOINT DEVELOPMENT PROGRAM: POLICIES AND PROCESS

Updated September 2015

TABLE OF CONTENTS

LIST OF EXHIBITS

I. INTRODUCTION / PURPOSE

The Metro Joint Development Program is a real estate development program for properties owned by the Los Angeles County Metropolitan Transportation Authority (Metro). It is a real property asset development and management program designed to secure the most appropriate private and/or public sector developments for Metro-owned properties.

This document outlines the objectives, policies and process that will guide the Metro Joint Development Program as it develops Metro-owned properties. It serves to inform communities in which joint developments take place, developers who build them, and the general public, about the objectives, policies, and processes that govern the Joint Development Program.

In addition, this document explains how local and federal policies guide Metro joint development, where applicable.

II. OBJECTIVES / GOALS

The Joint Development Program is centered on three main goals:

A. Transit Prioritization:

1. Preserve Properties for Transit Use. Metro will preserve the ability to safely operate and maintain transportation facilities on its properties.

2. Increase Transit Ridership. The Joint Development Program aims to reduce greenhouse gas emissions and increase transit ridership by attracting new riders and increasing the number of transit trips generated from joint development projects.

B. Community Integration, Engagement, Affordable Housing and Design:
Metro's Joint Development Program will seek projects that engage stakeholders and create vibrant, transit-oriented communities that offer a range of housing types, job opportunities, and services centered around public transit facilities.

1. Community Integration. Metro will seek to create projects that are compatible with the surrounding community and reflect the needs and desires of the neighborhood in which they are situated. Like any private development, joint developments are subject to the land use policies and approval processes of the host jurisdiction.

2. Community Engagement. Metro will ensure that the Joint Development Process actively engages community members at every development stage.

3. Affordable Housing. Metro's Joint Development Program seeks to facilitate construction of affordable housing units, such that 35% of the total housing units in the Metro joint development portfolio are affordable for residents earning 60% or less of the Area Median Income (AMI). (The joint development portfolio includes properties for which Metro maintains long term ownership. It does not include surplus land that is sold in fee.) (Affordable housing is defined as housing that is covenant-controlled, provided on an income-restricted basis to qualifying residents earning 60% or less than AMI as defined by the CA Tax Credit Allocation Committee, and often subsidized by public or non-profit funding sources.)

4. Design and Placemaking. Metro's Joint Development Program will pursue high quality design that enhances the surrounding community and creates inviting spaces and places around Metro transit facilities.

C. Fiscal Responsibility:

1. Maximize Revenue. Joint development projects are expected to generate value to Metro based on maximizing ground rent revenues received, or equivalent benefits negotiated, for the use of Metro property.

2. Minimize Risk. Projects should minimize financial risk to Metro.

3. Feasibility. Projects should be viable, now and in the future.

III. POLICIES

To achieve its goals, the Joint Development Program shall conform to the following policies:

A. Transit Prioritization and Integration:

1. Preservation of Transit Facilities. Metro shall retain authority over its transit facilities and services, and no development shall negatively impact existing or future public transportation facilities, nor shall any development obligate Metro to any particular operational level of service.

2. Density and Program. Metro will prioritize dense, trip generating uses on joint development sites.

3. Transit Connections. Metro will maximize connections to transit facilities from and through joint developments, where appropriate. Projects are encouraged which provide for increased station access using buses, active transportation, and other alternative modes of travel.

B. Community Outreach:

1. Community Engagement. Metro will pro-actively engage with the communities where the joint development projects occur through a variety of methods, which may include charrettes, focus groups, workshops, email updates, and social media communications. Developers selected for joint development projects shall be required to create a community engagement plan.

2. Local Collaboration. Metro will consult and work cooperatively with local jurisdictions and developers to encourage transit-supportive, high-quality development at stations and surrounding properties. All developments must follow the local laws and policies of the jurisdiction in which they reside. Local land use policies therefore govern for all sites.

3. Design Rigor. Projects shall demonstrate a high quality of design that is both sensitive to community context and enhances the surrounding community.

C. Financial Policies:

1. Risk Minimization. Projects should not require commitment of Metro financial resources, should minimize any investment risk to Metro, and should maximize asset security for Metro.

2. Collaborative Contribution. Projects are encouraged which obtain capital or in-lieu contributions from other public agencies to create greater community economic benefit to Metro-sponsored joint development projects.

3. Ground Lease Preference. Use of a long term ground lease is generally preferred to fee disposition.

D. Federal Policies:

Many joint development properties were purchased with some funding from the federal government. The federal agency for transit funding, the Federal Transit Administration (FTA) therefore must review and approve joint developments on land that was acquired with any federal funds. Additional details on this process are outlined in the Legal Framework section V.B. Federal Regulations

E. Affordable Housing Policies:

A large portion of Metro riders are low-income and transit dependent. Meanwhile, Metro transportation investments have the potential to raise the value of property near Metro transit investments. Thus, it is in Metro's and the community's interest to maintain and grow ridership by promoting the development of affordable housing on appropriate Metro joint development sites. In addition, State and Federal guidance encourages coordination of investments and policies to accommodate affordable housing near transit. Metro will define affordable housing as housing for residents earning 60% or less than AMI, and will prioritize units with even deeper affordability levels for very low income and extremely low income residents. Metro will use the following policies to promote affordable housing on joint development sites:

1. Range of Types. Joint development projects with a residential component are encouraged to provide a range of housing types to meet the needs of a diversity of household incomes, sizes, and ages.

2. Land Discounting. Where appropriate, and subject to FTA approval (if applicable), Metro may discount joint development ground leases below the fair market value in order to accommodate affordable housing. Such a land discount may not be greater than 30% of the fair market value.

3. Proportional Land Discounting for Affordable Housing. The proportional discount of the ground lease may not be greater than the proportion of affordable units to the total number of housing units in the project, with a maximum discount of 30%. For example, land value for a project that has 20% affordable units could be discounted up to 20%. Land value for a project with 100% affordable housing could be discounted up to 30%. In the case of mixed use projects, the discount will be to the land value attributable to the housing portion of the project.

F. **Development Solicitation Policies:**

1. Competitive Solicitation. Metro will seek to develop joint development sites via a competitive selection process that is further detailed in the following Process Section. The competitive process will be managed through the Vendor/Contract Management Department and will be consistent with Procurement Policies.

2. Unsolicited Proposals. Metro does not encourage unsolicited proposals. Metro will consider unsolicited proposals in limited cases, including, but not limited to, the instance of small or constrained sites with adjacent landowners whose property could be combined with Metro property to create a suitable development site. Further detail regarding the process for unsolicited proposals is also included in the following Process Section.

G. **Acquisition Policies:**

1. To encourage opportunities for joint developments surrounding transit investments, when appropriate, Metro will consider joint development opportunities in the acquisition of required property, location of new station sites, and construction of station facilities.

2. In the initial planning of a transit corridor project (e.g., during the environmental and preliminary engineering phases), Metro may conduct site analysis, include a preliminary layout of each passenger station site, develop conceptual urban design strategies integrating station sites with adjacent communities, and evaluate proposed station sites for their joint development potential.

IV. PROCESS

A. Inventory and Site Selection:

1. Inventory. Metro maintains an inventory of properties that are potential sites for future joint development. Metro staff will monitor market conditions and communicate with local jurisdictions and stakeholders about development potential.

2. Site Selection. The determination to select sites for joint development is dependent on several factors including, but not limited to: market conditions, community input, local jurisdictions, and Metro resources. These factors may provide the basis for establishing project priorities, project implementation strategies, and ultimately the creation of Development Guidelines, to ensure maximum attainment of Metro's Joint Development Objectives.

3. Determination of Financing Requirements. Upon the selection of a site for a joint development project, Metro staff will determine the funding sources that were involved in the acquisition of the selected site. Depending upon the financing that was used, the project may be subject to review by the FTA, the California Department of Transportation (Caltrans), and/or review pertaining to the presence of tax-exempt bonds.

B. Community Outreach and Scoping

1. Community Engagement. Once a site has been selected for a potential joint development, Metro will consult with local jurisdictions and conduct outreach to solicit input from the community surrounding the site. The Joint Development Program staff, working closely with Metro Community Relations, will work with the community stakeholders and local jurisdiction to determine a vision for the potential project.

2. Development Guidelines. Upon determination of a unified vision that is desirable to the community and economically feasible, Metro will prepare Development Guidelines specific to the site. The Development Guidelines will articulate the intensity and type of land uses that Metro and the community desire for that site, as well as any desired transit and urban design features. The Development Guidelines will be presented to the Metro Board for approval. Within Metro, the Development Guidelines shall be informed by:

    a. Existing or planned transit stations or stops
    b. Metro Rail Design Criteria
    c. Input from the Metro Operations Department
    d. The First/Last Mile Strategic Plan
    e. The Complete Streets Policy
    f. The Sustainability Policy

g. The Supportive Transit Parking Plan (once completed and adopted)
h. The Public Restroom Policy
i. Other policies and departments as applicable

C. <u>**Competitive Solicitation Process:**</u>

1. <u>Solicitation.</u> After Board approval of the Development Guidelines, Metro will solicit proposals for joint development of the site through a Request for Information and Qualifications (RFIQ) and/or a Request for Proposals (RFP). The standard RFIQ/RFP procedure will be managed through the Vendor/Contract Management Department and will be consistent with Procurement Policies and must conform to FTA circular 7050.1, which governs joint development.

2. <u>Evaluation</u>. Joint development proposals shall be evaluated based on their support of the Joint Development Objectives and conformance with the site-specific Development Guidelines. Staff will assemble an evaluation panel generally consisting of key Metro personnel and a representative of the governing jurisdiction. Additionally, an urban design or development consultant, financial services consultant and/or local jurisdiction technical staff may be used to provide support and advisory services in the evaluation of proposals. The evaluation panel shall evaluate joint development proposals and advise the Metro Chief Executive Officer (CEO) on a developer to be recommended to the Board. The CEO may recommend a developer to the Board or defer joint development if none of the proposals maximize Joint Development Objectives.

3. <u>Unsolicited Proposals.</u> Neither Metro nor the FTA encourages unsolicited proposals. If Metro receives an unsolicited proposal for a joint development site, staff will evaluate the proposal and determine if further action should be taken. Unsolicited proposals shall only be recommended to the Metro Board for consideration under certain limited circumstances, including but not limited to:

   - The Metro property is a small or constrained site and the proposal is from an adjacent landowner(s) (or developer(s) with site control of adjacent properties) that make the Metro site feasible or better able achieve the Joint Development Objectives.
   - The proposal is feasible and meets the Joint Development Policy Objectives.

   In any case, unsolicited proposals on properties with an FTA interest are subject to FTA approval and FTA circular 7050.1. If these, and any other conditions identified during review of the unsolicited proposal are met, staff may recommend that the developer reach out to community stakeholders to seek input and then may recommend the proposal to the Metro Board. Even if these conditions are met, staff may open the site to a competitive solicitation process.

D. Development Phase:

1. Exclusive Negotiation Agreement and Planning Document. Before the CEO recommends the selected developer's proposal to the Metro Board, developer shall negotiate and sign an Exclusive Negotiation Agreement and Planning Document ("ENA"). (The ENA is not executed until both parties have signed.) The ENA will include a project concept, terms and conditions regarding community engagement, general planning and development goals, deposit and fees, design review and a predevelopment schedule agreed to by the proposed developer and Metro staff. Upon approval of a recommended developer and authorization by the Metro Board, the CEO shall execute the ENA with the developer.

Developer Responsibilities under the ENA include but are not limited to:

a. Negotiate in good faith, including such project design and project financing information as necessary for Metro staff to negotiate a transaction.

b. In consideration for entering into the ENA, the developer shall provide Metro a non-refundable fee in an amount determined by the CEO but in no event less than fifty thousand dollars $50,000 or such other consideration as determined by the CEO or designee.

c. In addition to the fee, the developer shall also provide Metro with a deposit in an initial amount determined by the CEO or designee to pay Metro's actual costs to negotiate and evaluate the proposal, including certain Metro in-house and third party costs.

d. Create a robust community engagement plan that will carry throughout the design, entitlement and construction process for the project.

Metro Responsibilities under the ENA:

e. During the negotiation period, provided that the developer is not in default of its obligations under the ENA, Metro shall negotiate exclusively and in good faith with the developer a Joint Development Agreement ("JDA") and Ground Lease to be entered into between Metro and the developer, and shall not solicit or entertain offers or proposals from other parties concerning the site.

Term of the ENA:

f. The term of the ENA shall generally be eighteen (18) months; provided, the term and any extensions shall not exceed thirty (30) months. In considering an extension, the CEO or designee shall determine whether substantial progress has been made towards fulfillment of the requirements of the ENA and may require payment of additional fee and/or deposit amounts.

2. Joint Development Agreement.

   a. Before the Metro Board can authorize a JDA for a project, the project must be environmentally cleared through the California Environmental Quality Act (CEQA). Metro is not the lead CEQA agency for joint development projects; the agency with local regulatory land use authority generally serves that function.

   b. Upon satisfactory fulfillment of the development requirements in the ENA, negotiation of acceptable terms, and adoption of CEQA findings by the lead agency, Metro staff will recommend to the Metro Board to (a) adopt the CEQA findings as a responsible party and (b) enter a Joint Development Agreement (JDA) for the implementation of a project. The JDA shall describe the rights and responsibilities of both parties. The recommendations may also include the terms for a Ground Lease, or another form of purchase and sale agreement as appropriate.

3. FTA Concurrence. Before LACMTA may enter into a ground lease, the project must seek and obtain concurrence from the FTA Regional office via a letter. Details on FTA requirements for concurrence are included in the Legal Framework section V.B Federal Guidelines.

4. Ground Lease. Upon satisfactory fulfillment of the closing conditions required in the JDA, and receipt of FTA concurrence, Metro shall enter into a Ground Lease for the lease of the site. The Ground Lease shall describe the rights and responsibilities of both parties with respect to the site. The Metro CEO or designee may also enter into such other documents and agreements to implement and administer the project as described in the JDA and Ground Lease.

5. Environmental Compliance. As noted above, Metro shall not approve or be committed to a project until the Metro Board - as a responsible agency under CEQA and/or NEPA - considers and analyzes the environmental impacts of the project. The project must be cleared through CEQA before a JDA or a Ground Lease can be approved by the Board.

V. LEGAL FRAMEWORK

A. Statutory Basis:

The Metro Joint Development Program maintains statutory basis as obtained by a predecessor agency, the Southern California Rapid Transit District. Under California Public Utilities Code, Section 30600: "the district may take by grant, purchase, gift, devise, or lease, or by condemnation, or otherwise acquire, and hold and enjoy, real and personal property of every kind within or without the district necessary or incidental to the full or convenient exercise of its powers. That property includes, but is not limited to, property necessary for, incidental to, or convenient for joint development and property physically or functionally related to rapid transit service or facilities. The Board may lease, sell, jointly develop, or otherwise dispose of any real or personal property within or without the district when, in its judgment, it is for the best interests of the district to do so."

B. FTA Regulations:

Metro joint development sites which were acquired with assistance from the FTA are subject to FTA joint development policies. Current guidance in FTA Circular 7050.1 on FTA-funded real property for joint development, stipulates that joint developments follow four criteria:

1. Economic Benefit – project must enhance economic benefit or incorporate private investment.
2. Public Transportation Benefit – project must provide physical transit improvement or enhanced connection between modes.
3. Revenue – generally, project must generate a fair share of revenue (at least equal to the amount of original federal investment) and be used for public transportation purposes.
4. Tenant Contributions – tenants pay a fair share of the costs through rental payments or other means.

Metro joint development sites which were acquired with FTA funds are subject to and will follow FTA guidance as it is updated from time to time. Joint development projects will be reviewed individually by the FTA to ensure compliance.

In addition, Metro is responsible to ensure that joint development projects comply with FTA Title VI Civil Rights and Environmental Justice requirements. Compliance with Title VI will be required of developer's selected for joint development projects.

C. Local Jurisdictions:

Metro joint developments are subject to local land use policies and procedures in the host jurisdiction, similar to any private development. The selected developer for any joint development site must follow the land use, zoning, permitting, and entitlement process for the local jurisdiction of that site.

EXHIBIT A: JOINT DEVELOPMENT PROCESS CHART

Metro Joint Development Process

STAGE	Initial Community Outreach	Developer Solicitation/ Selection**	Project Refinement, Joint Development Agreement (JDA) and Ground Lease (GL) Negotiations	Permitting and Construction
ACTIONS	>Community Meetings >Creation of Development Guidelines*	>Issue Request for Information and Qualifications (RFIQ) and/or Request for Proposals (RFP) >Evaluate Proposals >Community update	>Developers progress architectural design >Community outreach and input - several iterations >Entitlements and CEQA process*** >Negotiation of financial terms	>City engineering >Construction documents >City building permits >Seek Concurrence from FTA (for properties with federal interest) >City-related approvals >On-site construction >Occupancy
RESULT	Board approves Development Guidelines	Metro Board authorizes Exclusive Negotiation Agreement (ENA) with recommended developer(s)	Metro Board approves JDA and GL	Completed project
approximate overall time frame: 42 - 60 months				
	6 months	6 months	12 - 24 months	18 - 24 months

*Staff may undertake preliminary market analysis or related studies prior to the drafting of development guidelines.

**Once the RFIQ/RFP is released, Metro is in a "blackout" period. During this period, Metro cannot discuss the specific content of proposals until staff releases their recommendations for a developer. Metro can do general outreach to keep stakeholders appraised of the process and key dates.

***Proposed use requires local jurisdiction approval and may include environmental, zoning, and local plan consistency review and public hearings.

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