



## Board Report

File #: 2019-0053, File Type: Agreement

Agenda Number: 14.

### PLANNING AND PROGRAMMING COMMITTEE MARCH 20, 2019

**SUBJECT: JOINT DEVELOPMENT IN TAYLOR YARD**

**ACTION: APPROVE RECOMMENDATIONS**

#### **RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to amend an existing ground lease with Taylor Yard Commercial, LLC ("TYC") or its successor to:

- A. CHANGE the scope of development under the existing ground lease from approximately 16,690 square feet of retail space to approximately 56 units of affordable housing;
- B. EXTEND the deadline for commencement of construction under the existing ground lease from April 1, 2019 to April 1, 2022;
- C. PROVIDE for further extensions of this deadline to April 1, 2024, if deemed necessary or prudent;
- D. DELETE the requirement under the existing ground lease for the payment of percentage rent; and
- E. EXTEND the term of the existing ground lease to meet the requirements of TYC's funding partners, provided that such term shall not extend beyond March 31, 2092.

#### **ISSUE**

Metro's existing ground lease requires the tenant, TYC, to construct 16,690 square feet of retail space on a 0.75-acre portion of the Metro's ownership in Taylor Yard. The ground lease also requires TYC to commence construction of the retail space prior to April 1, 2019. Because of development challenges further described below, TYC will not be able to meet this deadline. To avoid a default under the ground lease and to allow for a more viable development of the premises, an amendment to the existing ground lease is required. This amendment will extend the term of the ground lease and the construction commencement deadline, change the scope of development from retail space to affordable housing, and delete the percentage rent payment. Each of these changes requires Board authority.

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## **BACKGROUND**

Since 2008, McCormack Baron Salazar, the parent company of TYC, and LA Urban Homes have been developing a 17-plus acre portion of Metro's Taylor Yard property in the Cypress Park neighborhood of Los Angeles. Such development has been undertaken by various development entities created by these developers pursuant to joint development agreements and ground leases entered into with Metro. To date, five separate projects and the Taylor Yard community infrastructure have been completed in accordance with existing Board authority. These projects currently provide 263 affordable apartments (108 for seniors), 95 market rate condominiums and 8,290 square feet of unleased commercial space. McCormack Baron Salazar plans to commence construction of another 42 affordable apartments in the coming year and the proposed scope change would add 56 additional units to the mix.

When the subject ground lease was executed in December 2014, TYC intended to construct a 16,690-square-foot, stand-alone retail facility on the 0.75-acre leased premises. This facility was slated for a drugstore retailer that would operate in the space under a retail sublease. Once constructed, the drugstore space would have boosted the Taylor Yard community's retail component to the 25,000 square feet authorized by the Board. However, this transaction never materialized, and the retail facility was never constructed. Without a commitment from a legitimate retail subtenant, TYC could not secure the construction financing needed to build the project. Since then, TYC has attempted to secure other retail subtenants, but these endeavors have also not been successful.

Staff and TYC have analyzed this situation and believe that securing a retail subtenant will be difficult due, in part, to the location of the 0.75-acre premises, the rise of internet-based retailers and the subsequent slowdown in the brick-and-mortar retail sector. The proposed scope change and extension of the construction commencement deadline should allow TYC to entitle, finance and start construction on an approximately 56-unit affordable housing project prior to April 1, 2022. However, in the event that there are project delays, staff is requesting the ability to extend this deadline to April 1, 2024, if deemed necessary or prudent.

The recommended change in the development scope from a retail project to an affordable housing project requires an extension of the ground lease term beyond the current December 2, 2082 expiration date. This extension is necessary to accommodate the length of required affordable housing covenants and restrictions that are imposed by certain State funding sources that will likely be used to finance the proposed project. The State will record these covenants and restrictions against TYC's leasehold interest in the premises after the project is constructed, but requires that the ground lease term extend at least sixty-five (65) years from the recordation date. The current ground lease term is not long enough to accommodate this requirement.

The recommended changes will also alter the Board-approved financial provisions already contained in the subject ground lease to a de minimis extent. As a consequence of the proposed change in the development scope, Metro will be forgoing approximately \$1,000 in annual percentage rent that would otherwise be received each year under the current retail ground lease if the retail project were constructed. This requirement will not be included in the amended ground lease because Metro's residential ground leases, typically, are not structured with a percentage rent requirement. Metro has already received the capitalized base rent for the ground lease's full 68-year term. This amount was

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equal to the Consumer Price Index (CPI)-adjusted fair market value of the premises in February 2012 and was paid at ground lease execution.

### Equity Platform

The proposed change in scope is consistent with the Equity Platform as it will provide much needed affordable housing for lower income households in a neighborhood that is experiencing gentrification pressures. In addition, McCormack Baron Salazar has a track record of engaging with the neighboring community and will continue to do so with respect to the scope change and the ultimate design of the proposed project.

### **DETERMINATION OF SAFETY IMPACT**

Approval of this item will have no impact on safety. Staff will review the design of the proposed project and will provide appropriate construction oversight to ensure that the project does not adversely impact Metro property or service or the continued safety of staff, contractors and the public.

### **FINANCIAL IMPACT**

Adoption of the recommended actions would not impact Metro's budget. Funding for joint development activities related to this project is included in the FY19 Budget in Cost Center 2210, under Project 401006. As noted above, Metro will forego \$1,000 in annual percentage rent as a consequence of eliminating retail space from the project, but has already received capitalized ground rent covering the premises for the full 68-year term of the ground lease. This rent was received when the ground lease was executed in December 2014.

### Impact to Budget

Metro costs related to the proposed project are funded from a combination of developer reimbursements under the ground lease and General Fund local right-of-way lease revenues, which are eligible for bus and rail operating and capital expenses. The recommended actions will not impact the ongoing bus and rail operating or capital budgets, the Proposition A and C and TDA administration budgets or the Measure R administration budget.

### **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 change in development scope will result in the addition of approximately 56 units of much-needed affordable housing to Los Angeles county's housing stock.

### **ALTERNATIVES CONSIDERED**

The Board could choose not to proceed with the recommended actions and require the ground lease to remain unamended. Staff does not recommend this alternative because it would ultimately lead to

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a ground lease default by TYC on April 1, 2019 due to TYC's failure to commence construction of the retail project. Such a default, if uncured, would lead to Metro's termination of the ground lease or the continuation of the ground lease under default. Neither of these options is desirable as they do not present a clear path forward for development of the premises. The Board could also choose to extend the construction commencement deadline, but still require that the retail project be constructed on the premises. This alternative is not recommended either, given the poor prospects for securing a retail subtenant for the project.

**NEXT STEPS**

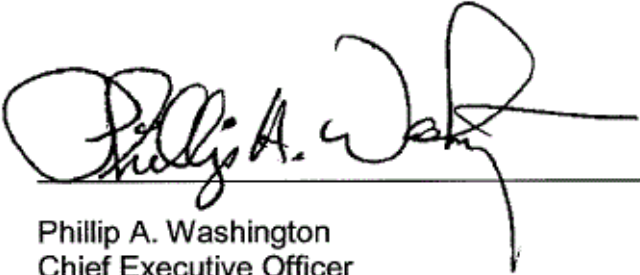
Upon authorization of the recommended actions, staff and TYC will amend the existing ground lease with the changes approved by the Board. Thereafter, TYC will seek entitlements and financing for the rescope affordable housing project, subject to Metro oversight in accordance with the amended ground lease. Staff and TYC will also provide the Greater Cypress Park Neighborhood Council with a project update, informing them of the change in development scope and the path forward for the approximately 56-unit affordable housing project.

**ATTACHMENTS**

None.

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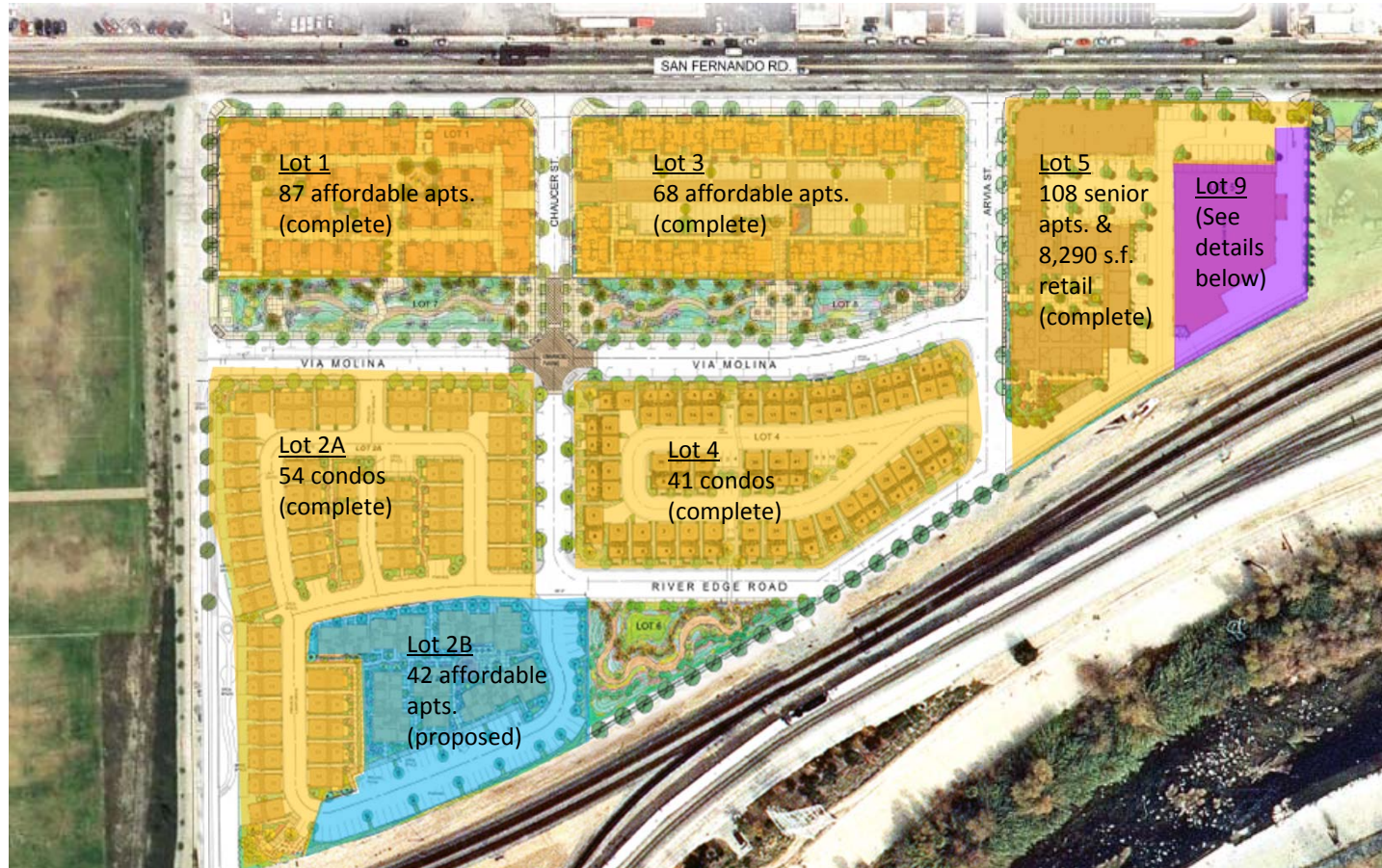
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Phillip A. Washington  
Chief Executive Officer

# Joint Development in Taylor Yard (Item 14)



## Recommendation regarding Lot 9:

- A. CHANGE the scope of development from  $\pm$  16,690 sq. ft. of retail space to  $\pm$  56 units of affordable housing;
- B. EXTEND the deadline for commencement of construction from 4/1/19 to 4/1/22;
- C. PROVIDE for further extensions of this deadline to 4/1/24, if deemed necessary or prudent;
- D. DELETE the requirement for the payment of percentage rent;
- E. EXTEND the ground lease term up to 10.33 years to accommodate affordable housing covenants and restrictions.