



## Board Report

File #: 2024-0277, File Type: Motion / Motion Response

Agenda Number: 16.

### PLANNING AND PROGRAMMING COMMITTEE JUNE 20, 2024

**SUBJECT: JOINT DEVELOPMENT POLICY AND EXCLUSIVE NEGOTIATION AGREEMENT**

**ACTION: APPROVE RECOMMENDATIONS**

#### **RECOMMENDATION**

APPROVE the:

- A. Amended Joint Development Policy (Attachment A); and
- B. Amended Exclusive Negotiations Agreement (ENA) Key Terms (Attachment B) for 10K Sites.

#### **ISSUE**

In March 2024, the Board approved the ENA Key Terms with the following amendments:

- Report back on the ENA template to clearly communicate participation with community-based organizations (CBOs), allowing for community-based development organizations (CBDOs) to work directly with Metro as the prime or sub-prime contractor. This would allow for CBO/CBDO participation, not exclusive of the Joint Development Bench. Include engagement with general contractors and subcontractors for the inclusion of Small Business Enterprise, Disadvantaged Business Enterprise, Disabled Veterans Business Enterprise, and Minority and Women Business Enterprise; and
- Directed the CEO to improve the contract language for RFPs and to work with cities to help streamline the entitlement process and work with the developers to streamline the capital stack.

Staff is seeking Board approval of an Amended Joint Development (JD) Policy and Amended ENA Key Terms (Attachment A and B) to incorporate the Board approved amendments.

#### **BACKGROUND**

##### *Joint Development (JD) Policy*

In June 2021, the Board adopted an updated JD Policy. The JD Policy states, "Metro will require,

wherever feasible, that developers collaborate with local Community-Based Organizations (CBOs), both formally as development partners or informally as community partners providing independent community-level input on the project scope, design and program.” The JD Policy also states, “Development teams shall provide opportunities for Metro-certified Small Business Enterprises (SBE), Disadvantaged Business Enterprises (DBE), and Disabled Veterans Business Enterprises (DVBE) to partner in their projects through the delivery of professional or construction services.” Additionally, the JD Policy notes that proposals will be evaluated based on their potential to be delivered fastest, having a clear schedule for implementation, and/or not requiring discretionary local actions.

### *Acceleration Strategies and Developer Bench*

To facilitate the accelerated delivery of housing and to achieve the Board-directed goal of growing the JD housing portfolio to 10,000 units by 2031 (5,000 income-restricted), in April 2023, the Board adopted 27 strategies to accelerate the creation of new housing units on 20 Metro-owned sites located throughout Los Angeles County (10K Sites) by 2031. Consistent with the strategies approved by the Board, Metro released a Request for Qualifications (RFQ) in August 2023 to establish a bench of developers (JD Developer Bench) eligible to respond to future 10K Site Requests for Proposals (RFPs). The RFQ awarded points to applicants who demonstrated experience creating opportunities for CBOs and SBE/DBE/DVBE firms, and/or local businesses in past projects through subleasing or as providers of community, professional, and/or construction services.

With input from Los Angeles County community organizations and developers, Metro defined a community-based development organization (CBDO) as “a nonprofit, tax-exempt, housing developer with a commitment to a geographic community and a stated intention of generating community scale outcomes including building wealth, increasing economic stability, improving health, or advancing equity through its projects and programs or partnerships with other organizations.” Metro conducted targeted outreach through direct phone calls and emails to CBDOs rooted in the communities in which the 10K Sites are located and encouraged them to respond to the RFQ. CBDOs were awarded five points (out of 100 total possible points) in RFQ evaluations, and in March 2024, the Board approved the JD Developer Bench and amendments which included 80 approved developers, 25 of which were identified as CBDOs. These CBDOs may respond to future RFPs as lead or co-developers.

## **DISCUSSION**

### *JD Policy Revisions*

Given the CBDO definition had not been established in 2021 when the JD Policy was adopted, staff recommends the JD Policy be amended per Attachment A to incorporate the CBDO definition and align provisions meant to boost CBDO participation. The JD Policy revisions also require developers to track and report outcomes related to CBDO, CBO, and SBE/DBE/DVBE participation throughout the ENA phase. Additional revisions have been made to the JD Policy to align with the acceleration strategies adopted by the Board in April 2023.

### *Requests for Proposals*

To carry out the commitments contained in the amended JD Policy, future 10K Site RFPs will award

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additional points in evaluations if a CBDO is the lead developer. For partnerships where the CBDO is not the lead developer, they must have an active role and financial stake in the development in order to receive points in the scoring of RFP proposals. So as not to exclude CBDOs who may not have participated in the RFQ process, developers on the JD Bench may identify CBDOs as co-developers in responding to site-specific RFPs.

The RFPs will also require developers to collaborate with CBOs wherever feasible and provide opportunities for Metro-certified SBEs/DBEs/DVBEs. Points will be awarded based on each proposer's demonstrated track record and level of commitment in partnering with CBOs and targeted business enterprises in project delivery.

During the solicitation process, staff will host "Building Partnerships" events that will highlight upcoming development opportunities and help connect prospective Developers, especially CBDOs (including but not limited to those on the JD Developer Bench) with CBOs and SBEs/DBEs/DVBEs to encourage partnerships and joint ventures that can respond to RFPs. In addition to the JD interested parties list, to reach a broad audience, JD staff will utilize the Metro CBO Database managed by the Office of Equity and Race and lists of certified firms maintained by the Diversity and Economic Opportunity Department.

#### *ENA Key Terms*

Staff recommends revising the ENA Key Terms per Attachment B to reflect Metro's commitment to CBDO leadership, and CBO and SBE/DBE/DVBE participation in the delivery of JD projects. The proposed revisions to the ENA Key Terms will require developers to report quarterly on CBDO, CBO, and SBE/DBE/DVBE participation during the negotiations phase.

#### *Streamlining Entitlements and Delivery*

As previously noted, in April 2023, the Board approved 27 strategies to accelerate the delivery of joint development projects. Staff is in the process of carrying out these process improvements with the intent of reducing JD project delivery from an average of 10 years to five or less. While local entitlements and CEQA approvals have historically been a factor in long delivery timeframes, continued streamlining for affordable housing and transit-oriented developments at both the State and local levels, is resulting in significantly accelerated approvals. Additionally, Metro's State and Federal Legislative Program includes goals to support legislation and funding opportunities that incentivize, support, and accelerate the development of affordable housing around transit. Staff continues to monitor legislation that relates to transit-oriented development and housing interests and administer TOC Technical Assistance grants to local jurisdictions to foster transit-supportive plans and policies that promote equitable TOC outcomes, including through transit-oriented development.

Aligned with Metro's commitment to delivering housing as quickly as possible, proposals that demonstrate a commitment to streamlining and acceleration will be awarded additional points. With innovation as a core value of the JD Policy, RFP evaluations will award additional points to proposers who present feasible and innovative funding strategies.

#### **DETERMINATION OF SAFETY IMPACT**

The approval of these recommendations will not impact the safety of our customers and employees.

## **FINANCIAL IMPACT**

Approval of these recommendations will not impact the existing FY24 or approved FY25 budget for Cost Center 2210 (Joint Development), Project 401300 “Joint Dev. 10K Homes” which includes funding to support the release of the site-specific RFPs to the Developer Bench. The funding source for the project is General Fund, which is eligible for bus and rail operation and capital projects, however, Metro collects an ENA fee from development partners to defray transaction costs.

## **EQUITY PLATFORM**

Harnessing the local expertise of CBDOs, CBOs, and SBEs/DBEs/DVBEs will help Metro effectuate meaningful community engagement and develop JD projects that include elements that benefit, enhance, and respond to the needs of surrounding communities. The proposed revisions to the Joint Development Policy and ENA Key Terms will memorialize Metro’s CBDO definition and commitment to CBDO, CBO, and SBE/DBE/DVBE participation in the delivery of JD projects. This will create opportunities for CBOs and SBE/DBE/DVBE firms that historically have not had the opportunity to participate in major development projects. The intent is to build relationships with these community organizations and companies, strengthen their capacity, and integrate public benefits such as job training, new leasing opportunities for local businesses, and social services into the developments that provide value to the surrounding community beyond just housing. The proposed revisions to the ENA Key Terms will create accountability and reporting requirements for the selected developers during the ENA phase.

## **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

By approving these recommendations, Metro will advance Vision 2028 Strategic Plan Goal #3, “to enhance communities and lives through mobility and access to opportunity,” by activating several transit-oriented communities with catalytic development projects that will bring housing, jobs, and services to neighborhoods across the Metro system and Los Angeles County at-large.

## **ALTERNATIVES CONSIDERED**

The Board could defer or deny approval of the recommendations. This is not recommended as the measures seek to incorporate approved Board amendments related to Metro’s commitment to making joint development opportunities available for CBDOs, CBOs, and targeted business enterprises to lead and participate in the delivery of joint development projects. Additional delay would constrain Metro in meeting its 10,000-unit goal by 2031 and its ability to urgently contribute needed solutions to the regional housing shortage.

## **NEXT STEPS**

If the Board approves these recommendations, staff will incorporate amendments as indicated in Attachment A and B and invite the JD Developer Bench to respond to site-specific RFPs for 10K Sites. Building Partnerships events will be held and promoted utilizing Metro’s CBO, CBDO, and SBE/DBE/DVBE lists. After developers are selected for specific sites, staff will execute an ENA

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consistent with the Board-approved ENA Key Terms. Metro will require developers to report quarterly on CBDQ, CBO, and SBE/DBE/DVBE leadership and participation. This data and other significant milestones will be reported to the Board and the public through an online dashboard. Once the project entitlements are in place, staff will return to the Board for approval of JDA and Ground Lease terms, including CBO and SBE/DBE/DVBE participation commitments for the construction and delivery of the particular project.

## **ATTACHMENTS**

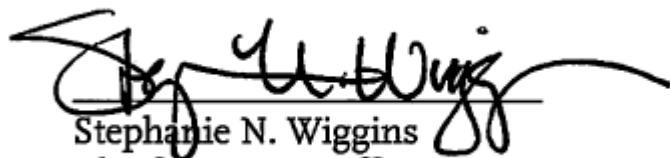
Attachment A - Amended Joint Development Policy

Attachment B - Amended ENA Key Terms

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ATTACHMENT A – Amended JD Policy

# Joint Development Policy



**Metro**<sup>®</sup>

JUNE 2024

## I. INTRODUCTION

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### **Vision 2028 Strategic Plan**

The Los Angeles County Metropolitan Transportation Authority (Metro) Vision 2028 Strategic Plan encourages the development of affordable housing near transit in order to give more people, especially in low-income communities, better access to transit.

### **Metro Joint Development**

The Metro Joint Development (JD) Program is a real estate development program for properties owned by Metro.

This document serves to inform communities in which JD projects are constructed, developers who build them, and the general public, about the values, policies, and processes that govern the JD Program.

### **Land Use and Transit**

Transit systems are most effective if they are surrounded by transit-supportive land uses that includes jobs, housing, schools, and amenities. While Metro does not have land use authority in Los Angeles County (the local jurisdictions hold this power), Metro can leverage the land it owns on behalf of the public, usually adjacent or proximate to Metro's transit infrastructure, to deliver transit-supportive uses (to the extent these uses comply with local land use policies).

### **Housing Affordability**

Los Angeles County is suffering from a severe housing affordability crisis which is disproportionately impacting low-income residents, who make up Metro's core ridership.

### **Purpose**

This policy is intended to enable Metro to build as much quality housing near transit as possible, for those who need it most, as soon as possible. Additionally, the Policy will continue to enable the development of other transit-serving uses (beyond housing) that will increase access to opportunity and support an efficient transit network.

## II. VALUES & GOALS

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### Equity & Inclusion

- Deliver housing and amenities for everyone, focusing benefits for historically disadvantaged communities.
- Actively engage community members.

### Access

- Preserve, protect and promote transit infrastructure and use.
- Respect communities around transit by stabilizing and enhancing housing and other amenities.
- Increase transit ridership and decrease single occupancy vehicle use.

### Performance

- Leverage the value of the JD portfolio to maximize and accelerate positive impact.
- Streamline process to deliver projects faster without compromising quality or cutting corners.
- Measure the impact of the JD Program with specific performance metrics.

### Innovation

- Lead the region and nation by driving innovation around transit-oriented housing.
- Pursue new methods of engagement, financing, and construction to deliver projects faster and more equitably.

**MISSION STATEMENT:** Create high-quality homes, jobs, and places near transit for those who need them most, as soon as possible.



### III. POLICIES

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#### A. Income-Restricted Housing

##### 1. Affordable First.

Metro will pursue all new JD sites for housing developments with 100% of residential units as Income-Restricted to persons and families of Extremely Low, Very Low, Lower or Moderate Income, in alignment with neighborhood incomes, as further described below.

##### 2. Neighborhood Alignment.

Metro will consider the local context and select an appropriate range of housing types to meet the needs of a diversity of household incomes, sizes, and ages. Metro will determine the affordability levels of any Income-Restricted Units by evaluating neighborhood income and rent levels as further described in the Process Section.

##### 3. Minimum Affordability.

If development of 100% Income-Restricted Units are determined to be infeasible, at least 25% of units will be affordable to Lower Income households or below, or an equivalent number of Income-Restricted Units at income levels calculated to an equivalent “Affordability Score,” defined below. A Mixed-Income Project may also be pursued if a greater number or depth of Income-Restricted units can be generated in a Mixed-Income Project than in a 100% Income-Restricted project.

##### 4. Affordability Definitions.

The “Affordability Score” is a measure of the overall project affordability levels determined by the percentage of Income-Restricted Units and their depth of affordability. Scores will be determined consistent with the following equivalent unit mixes. Scores may also be adjusted to encourage additional housing-related benefits.

- Extremely Low Income: 11% of units
- Very Low Income: 15% of units
- Lower Income: 25% of units
- Moderate Income: 50% of units

“Area Median Income” or “AMI” is the median annual income for a family or household in the County of Los Angeles. This amount is established each year by the United States Department of Housing and Urban Development (HUD) and published annually by the California Department of Housing and Community Development (HCD). As a point of reference, in April 2021, the Los Angeles County AMI for a three-person household was \$106,400. The commonly used income categories are approximately as follows, subject to variations for household size and other factors:

- Extremely Low Income: 0 to 30% of AMI
- Very Low Income: >30% to 50% of AMI

- Lower Income: >50% to 80% of AMI
- Moderate Income: >80% to 120% of AMI

“Income-Restricted Units” are housing units that are reserved for people or households earning no more than a certain threshold income.

A “Mixed-Income Project” is a JD project with both Income-Restricted Units and market rate units.

“Neighborhood AMI” is a measure of the median income in a neighborhood surrounding a proposed JD project and will only be used to inform income levels for Income-Restricted Units where Neighborhood AMI is lower than County AMI.

## **B. Transportation & Access**

### **1. Transit-Supportive Land Use.**

Metro will prioritize trip generating uses on JD sites to allow more people to drive less and access transit more. Projects will be prioritized which include more housing units for transit riders or a greater intensity of activity.

### **2. Preservation of Transit Facilities.**

Metro must retain authority over its transit facilities and services, and development shall not negatively impact existing or future public transportation facilities.

### **3. Transit Connections.**

Metro will maximize connections to transit facilities from and through JD projects, where appropriate. Projects are encouraged which provide for increased station access using buses, active transportation, and other alternative modes of travel. Projects should include provisions for effective and flexible curbside management of last-mile goods delivery and shared mobility services such as rideshare, microtransit, carshare, and carpools to minimize unintended consequences.

### **4. Parking.**

Metro will require projects that include parking spaces for residential uses to be at a ratio no higher than 0.5 parking spaces per bedroom. If the resulting residential parking is less than the minimum required by local land use policies, then JD projects will include residential parking at ratios no higher than the minimum required by such local policies. For JD projects built on existing park and ride lots or providing park and ride spaces, Metro will consider parking demand and pricing strategies when determining a strategy for replacement parking, if applicable.

- Unbundled Parking. All off-street parking spaces related to residential uses in a JD project must be “unbundled” (i.e., marketed and rented separately from the

units within the project) in order to capture the actual cost to construct and maintain the dedicated parking spaces. An exception may be granted for Income-Restricted Units, if required by funding sources.

- Shared Parking. Metro will evaluate and pursue, wherever possible, shared parking strategies with the overarching goal of reducing the total number of off-site spaces constructed on the JD site.
- Replacement Parking. In the event that a Metro JD project is pursued on an existing Metro park and ride lot, demand-responsive considerations should inform replacement parking, if any.

## 5. Equity.

Metro will ensure that all projects are consistent with the Metro Equity Platform. Projects will be analyzed with Metro equity analysis tools and will strive to address past unintended consequences and provide the most opportunity to the most vulnerable populations, especially transit-dependent residents. In addition, Metro will ensure that JD projects comply with FTA Title VI Civil Rights and Environmental Justice requirements. Compliance with Title VI will be required of developers selected for JD projects.

## C. **Resources**

### 1. Maximize Benefit.

Metro will seek the project that secures the best value for the public which may include affordable housing, public amenities or financial return that can be reinvested into Transit Oriented Communities activities.

### 2. Land Subsidies.

Where appropriate, and necessary for project feasibility, Metro may, subject to the approval of the Metro Board of Directors ("Board"), subsidize JD projects by discounting ground leases below the fair market value in order to accommodate transit infrastructure, Income-Restricted Units or other community benefits. Ground lease discounts from fair market value will be disclosed to the Board in an absolute dollar amount when transaction terms are presented to the Board for approval.

### 3. Collaborative Contribution.

Projects are encouraged which obtain capital, loans, grants, in-lieu contributions, or strategic partnerships from other agencies, including use of Local Return dollars in accordance with the Board-adopted TOC Policy, to create greater community economic benefit to JD projects.

### 4. Land Ownership.

Metro will retain fee ownership of its land, relying on long-term ground leases to develop its property. In exceptional cases where Metro's continued ownership of a property is

neither convenient nor necessary, Metro may sell the property in fee to the developer. In the event that a fee disposition of Metro property is necessary for a JD project, Metro will place a covenant on the property requiring that any Income-Restricted Units developed remain Income-Restricted in perpetuity, where feasible, and in any case for a period of not less than 99 years.

5. Use of Proceeds.

Proceeds from JD projects will be reinvested in Transit Oriented Communities activities.

6. Strategic Acquisition.

To encourage opportunities for JD projects surrounding transit investments, Metro will evaluate transit corridor projects in the initial planning (e.g., during the environmental and preliminary engineering phases) and shall seek to create the most advantageous conditions for JD projects in the acquisition of required property, location of new station sites, and construction of station facilities.

**D. Community Outreach**

1. Community Engagement.

Metro will pro-actively engage with the communities throughout the JD process and require that developers do so as well.

2. CBO Participation.

Metro will require, wherever feasible, that developers collaborate with local Community Based Organizations (CBOs), both formally as development partners or informally as community partners providing independent community-level input on the project scope, design and program.

3. 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 JD projects must follow local laws and land use policies of the jurisdiction in which they are located.

**E. Developer Solicitation.**

1. Competitive Solicitation.

Metro's preferred method for selection of developers for its JD projects is conducted through a full, open and competitive selection process that is further detailed in the Process section.

## 2. Unsolicited Proposals.

Staff may consider unsolicited proposals that seek the right to develop or improve Metro property by bringing unique benefit to a Metro site such as adjacent property or innovative design. For example, a successful proposal might add additional land area to a Metro site that would enable the combined properties to support a superior development than the Metro property alone. Unsolicited proposals must comply with all policies set forth herein.

If pursued, Metro will conduct market and zoning analysis, study the surrounding Neighborhood AMI, and seek input of impacted stakeholders to ensure the unsolicited proposal is in alignment with community needs.

## F. **Project Requirements.**

### 1. Small & Disadvantaged Businesses.

Development teams shall provide opportunities for Metro-certified Small Business Enterprises (SBE), Disadvantaged Business Enterprises (DBE), and Disabled Veterans Business Enterprises (DVBE), ~~and Minority and Women Business Enterprises (MWBEs)~~ to partner in their projects through the delivery of professional or construction services.

### 2. Design Excellence.

Metro is committed to design excellence in JD projects. Metro will promote context sensitive planning, architectural integration, and quality materials for all programmatic elements of JD sites. Metro will ensure that projects demonstrate a high quality of design that is both sensitive to community context and enhances the surrounding community. If applicable, staff may require developers to incorporate community-appropriate public art and/or Metro directional signage into the proposed project.

JD projects will often require a signage and wayfinding program connecting the development to the transit system. These designs must reinforce Metro's brand identity and shall be prepared by a professional environmental graphic design consultant contracted by the Developer. JD projects may also provide opportunities for developers to commission public art in order to support cultural equity and articulate a community identity. Emphasis should be focus on spaces with high visibility and opportunity for architectural integration.

### 3. Sustainability.

Metro will require that JD projects shall be built to the latest green building codes and in accordance with the Metro Moving Beyond Sustainability plan.

### 4. Project Labor.

Metro will apply its agency-wide Project Labor Agreement and Construction Careers Policy to JD projects that meet the following thresholds: a mixed-use project containing both a

residential and a commercial component, where there are more than sixty (60) residential units being built; a residential only project that exceeds sixty (60) residential units; or a commercial only project (retail, office or hotel) that exceeds forty thousand (40,000) square feet of space.

## IV. PROCESS

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While this document is Board-adopted, Metro may continue to refine this Process section administratively as needed, so long as any refinements are in keeping with the Policy statements set forth in the previous Policy Section.

### A. Site Selection

#### 1. Acquisition.

In the initial planning of a transit corridor project (e.g., during the environmental and preliminary engineering phases), Metro may conduct site analysis and evaluate proposed station sites for their JD potential. Working with Metro's Corridor Planning, Real Estate and Program Management departments, JD staff shall review proposed transit project property acquisitions for JD potential before the acquisition footprint is established and cleared during environmental review.

#### 2. Site Prioritization.

The JD staff has finite resources; therefore, the decision to begin a JD project must be made carefully, factoring in several criteria including, but not limited to market conditions, community input, ability to generate Income-Restricted Units, potential for local jurisdiction partnerships, and Metro resources. The JD workplan will prioritize projects with consideration of the following:

- Neighborhood Stabilization. Metro will prioritize projects located in areas at higher risk of displacement based on the most recent and reputable data available.
- Equity Focus Communities (EFCs). Metro will prioritize projects that fall within the Equity Focus Community geographies which have lacked investment and experienced disenfranchisement, as defined in Metro's Long Range Transportation Plan.
- Access to Opportunities. Metro will prioritize projects that deliver Income-Restricted Units in areas with greater access to opportunities, such as jobs, schools, and other amenities.
- Streamlining. Metro will evaluate projects based on their potential to be delivered quickly and with the least cost to Metro.
- Maximizing Impact. Metro will prioritize projects that can best leverage transit supportive land use policies and deliver the greatest public benefit.

## B. Project Scoping

### 1. Site Analysis.

At the outset of the site selection process, staff shall conduct zoning and market analysis to determine the capacity of a JD site for housing units, community benefits and financial potential. Staff will conduct a community needs assessment and asset mapping to identify opportunities for the development program to leverage existing community resources and fill gaps where they exist. Potential JD sites will be evaluated through Metro equity analysis tools to address past unintended consequences and provide the most opportunity to the most vulnerable populations, especially transit-dependent residents. Metro will estimate any additional costs of upgrades required to develop the property in a manner that preserves existing transit infrastructure and operations. Examples of such costs include adding a new entrance, building replacement park and ride parking, or development features necessary to span or otherwise accommodate existing transit infrastructure.

### 2. Neighborhood Income Analysis.

As part of the site analysis, Metro will evaluate income and rent data for the area that is within an approximately 15-minute walk of the site. The evaluation will include an historic “lookback” to determine a baseline “Neighborhood AMI” that will inform the threshold of household income levels and rents that will be targeted for projects with Income-Restricted Units. The neighborhood income and rent data will inform the outreach and preparation of Development Guidelines, with a goal of aligning housing affordability levels with the needs of the neighborhood and ensuring a realistic conversation about tradeoffs.

### 3. Community Engagement.

Outreach should focus on upfront visioning and community updates throughout the process. In conducting outreach, Metro will utilize a breadth of outreach tools designed to broaden participation beyond traditional channels for gathering community input including, but not limited to focus groups, one-on-one meetings, workshops, pop-up events, attending other community meetings and events, intercept surveys, participation in community events, as well as virtual and online tools such as online surveys and virtual workshops to reach a broader stakeholder base.

Metro will consult with local jurisdictions and conduct outreach to solicit input from the community surrounding a JD site. JD staff, working closely with Metro Community and Construction Relations staff, shall work with community stakeholders and the local jurisdiction to define a vision for the potential project.

### 4. Development Guidelines.

Upon determination of a unified vision that is desirable to the community and economically feasible, Metro will prepare Development Guidelines ~~which will be presented to the Board for approval.~~ The Development Guidelines will articulate the following project expectations:



- Scale and Program. Results of the market and zoning analysis, community outreach, and neighborhood income and rent levels will be reflected in the Development Guidelines to set expectations for proposals.
- Transit Infrastructure Requirements. (if applicable). To the extent that additional transit investments are required to create a developable parcel, the scope and estimated cost for such improvements will be disclosed.
- Regulatory and Planning Framework. In communities where there has been a recent community plan or specific plan update or extensive outreach and visioning effort, the Development Guidelines will be informed by that document. The Development Guidelines will also incorporate relevant Metro plans and policies.
- Community-Informed Development Vision. The Development Guidelines will outline site-specific, community-informed priorities based on site analysis and community outreach.
- Project Checklist. Transit-oriented developments are expected to be walkable, human-scaled, and supportive of alternative transportation modes, among other attributes. These attributes will comprise a standardized “project checklist” to include design-related expectations such as the treatment of ground floor uses, pedestrian enhancements, community spaces and the like.
- Design Criteria. The Development Guidelines will specify urban design elements and site plan expectations unique to the site, as well as environmental graphics and public art for each project, if applicable.
- Community-Informed Evaluation Criteria. Community members will be invited to provide input on the evaluation criteria as part of the Development Guidelines so that the ultimate determining factors for selection are transparently communicated before a solicitation.

## C. Developer Selection

### 1. Project Solicitation.

~~After Board approval of the Development Guidelines,~~ Metro will solicit proposals for development of a JD site through a Request for Information and Qualifications (RFIQ) and/or an Request for Proposals (RFP). Because of the unique nature of JD transactions and their divergence from a typical public procurement of goods or services, the developer solicitation process will use the Metro Acquisition Policy as a general guideline. Unique processes may be pursued in order to bring forward the best value project for Metro and the community. The RFIQ/RFP process will adhere to applicable state and federal codes, and, if the subject site was purchased with federal funding, will conform to Federal Transit

Administration FTA circular 7050.1B, which governs JD projects, as it may be amended from time-to-time.

## 2. Community-Based Development Organizations (CBDOs).

Following input from Los Angeles County-based community organizations and developers, in 2023 Metro defined a CBDO as “a nonprofit, tax-exempt, housing developer with a commitment to a geographic community and a stated intention of generating community scale outcomes including building wealth, increasing economic stability, improving health, or advancing equity through its projects and programs or partnerships with other organizations.” Harnessing the local expertise of CBDOs will help Metro effectuate meaningful community engagement and develop JD projects that include elements that benefit, enhance, and respond to the needs of surrounding communities. Metro will require, wherever feasible, that development teams be led by or include CBDOs. If a CBDO is a partner rather than the lead developer, it must have an active role and financial stake in the development.

## 3. Fostering Partnerships.

During the solicitation process, staff may host a “Building Partnerships” event to highlight small businesses and local CBOs with the goal of connecting them with potential developer proposers, especially CBDOs.

## 4. Proposal Evaluation.

Metro will assemble an evaluation panel generally consisting of key Metro personnel, a representative of the local jurisdiction, and a community stakeholder, to the extent feasible and appropriate. Additionally, an urban design or development consultant, financial services consultant, community representative, and/or local jurisdiction technical staff may be used to provide support and advisory services in the evaluation of proposals. The evaluation panel will evaluate JD proposals and select a developer ~~to be recommended to the Board~~ or defer a JD project if none of the proposals maximize JD objectives.

## 5. Evaluation Criteria.

JD proposals will be evaluated based on their conformance with site-specific Development Guidelines and their support of the JD Policy. The selection team will evaluate various criteria and award points for project attributes including, but not limited to, the following:

1. Vision, Scope and Design. Projects that carry out Metro’s JD Policies herein and the vision for the JD site as described in the site-specific Development Guidelines.
2. Affordability. Projects with a greater number of Income-Restricted Units, and/or deeper affordability levels following the Affordability Score and the alignment of affordability levels with Neighborhood AMI.

3. Transit-supportive Land Uses. Projects with trip-generating uses that allow more people to drive less and access transit more.
4. Financials. Projects with a reasonable and financially feasible proforma that compensates Metro at a fair market value for the land.
5. Implementation Streamlining. Projects that have a clear schedule for implementation, have the potential to be delivered fastest and with the least cost to Metro; projects that are “by-right” and do not require discretionary local actions; and projects with demonstrated community support that are less likely to be delayed by opposition.
6. Development Team. ~~Proposers with demonstrated experience and success and proposers that consist of partnering with~~ CBOs, SBEs, DBEs, and DVBES, ~~and MWBEs~~; Proposer teams where a CBDO is the lead developer or where a non-CBDO has committed to a partnership with a CBDO. Additional points will be awarded if the lead developer is a CBDO.
7. Community Engagement. Proposals that reflect robust engagement with CBOs and other community stakeholders as part of the development process.

#### 6. Unsolicited Proposals.

Metro will evaluate unsolicited proposals using a three-phased approach:

- Phase One: Conceptual Proposal
- Phase Two: Detailed Proposal
- Phase Three: Community Outreach and Preliminary Discussions

Metro will respond to unsolicited proposals by following federal procurement guidelines for competitive procurement. Metro may, at any time, choose not to proceed further with any unsolicited proposal.

##### *Phase One – Conceptual Proposal*

Phase One includes a basic threshold review and evaluation of conceptual proposals, based on their compliance with the policies set forth in Section III, the site prioritization metrics set forth in Section IV.A.2, and the availability of staff resources at the time of receipt. Unsolicited proposals will only be accepted from developers with site-control of adjacent properties. If staff determines that the Phase One proposal should proceed, staff will request additional detailed information in a Phase Two proposal.

##### *Phase Two – Detailed Proposal*

During Phase Two, developers can meet with JD staff to better understand the process and the requirements for the proposed project. A Phase Two proposal will be evaluated based on its advancement of the policy priorities set forth in this document and the evaluation criteria set forth in Section IV.C.4. If Metro intends to move forward with a Phase Two proposal, JD staff and the proposers shall conduct outreach to targeted stakeholders in Phase Three.

### *Phase Three – Community Outreach and Preliminary Discussions*

During Phase Three, Metro and the developer will conduct robust community outreach to understand the reception of the proposed project by the community. This outreach may consist of:

- meeting with local elected officials and municipal staff where the subject property is located;
- meeting with key community and business stakeholder groups;
- convening a public open house seeking community feedback;
- collecting written feedback or survey responses received on-line; and
- conducting virtual workshops, pop-ups, participating in community events, station intercept surveys, etc.

In response to the community input, the developer will be asked to address concerns raised and may submit a revised detailed proposal in response to public feedback. If the project is successful in addressing community concerns and JD staff determines a viable project can move forward, the proposal will be recommended to the Board to enter into an Exclusive Negotiation Agreement.

## **D. Development Phase**

### **1. Exclusive Negotiation.**

Following either the RFIQ/RFP or unsolicited proposal processes described above, Metro may decide to enter into an Exclusive Negotiation Agreement and Planning Document (ENA) with a developer. ~~Before recommending the selected developer's proposal to the Board, Metro will negotiate and execute an ENA with the developer. Upon approval of a recommended developer and authorization by the Board, Metro will execute the ENA with the developer (unless the Board has delegated such authority to staff as was done for 10K Sites subject to the JD Developer Bench approved by the Board in March 2024).~~

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

- Create a robust community engagement plan that will carry throughout the design, entitlement and construction process for the project.
- Negotiate in good faith, including such project design and project financing information as necessary for staff to negotiate a transaction.
- In consideration for entering into the ENA, the developer will provide Metro a non-refundable fee and will also provide Metro with a deposit to pay Metro's actual costs to negotiate and evaluate the proposal, including certain Metro in-house and third-party costs.
- Report on CBDO, CBO, SBE, DBE, and DVBE participation in the delivery of projects.

### *Metro Responsibilities under the ENA:*

- During the negotiation period, provided that the developer is not in default of its obligations under the ENA, Metro will 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 will not solicit or entertain offers or proposals from other parties concerning the site.

### *Term of the ENA:*

- Unless otherwise approved by the Board, ENA terms will consist of a twenty-four (24) month base period with the option to extend up to a total of sixty (60) months administratively, with notifications to the Board which will include a project status update, reasons for the extension, and proposed next steps. In considering an extension, staff will determine whether substantial progress has been made towards fulfillment of the requirements of the ENA and may require payment of additional fees and/or deposits.

## 2. FTA Concurrence.

If a JD project will occupy land initially purchased with federal dollars, the project will need to obtain concurrence from the FTA in order to proceed.

## 3. Environmental Compliance.

Metro cannot enter an agreement that would legally obligate the project's completion until the 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. Metro is not the lead CEQA agency for JD projects; the agency with local regulatory land use authority generally serves that function.

## 4. Joint Development Agreement.

Upon satisfactory fulfillment of the development requirements in the ENA, negotiation of acceptable terms, and completion of the required environmental review ~~adoption of under CEQA findings by the lead agency~~, Metro will recommend that the Board (a) ~~adopt the take such action as required under CEQA findings as a responsible party~~ and (b) authorize entering into a JDA and Ground Lease for the implementation of a project. The JDA shall describe the rights and responsibilities of both parties as established in the ENA negotiations.

## 5. Ground Lease.

Upon satisfactory fulfillment of the closing conditions required in the JDA, and receipt of FTA concurrence, Metro will enter into a Ground Lease for the use of the site. The Ground Lease will describe the rights and responsibilities of both parties with respect to the site.

The 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.

## V. PROGRAM METRICS

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### A. Outcome Tracking

Metro will monitor and assess the JD Program and revise the JD Policy as needed. Metro will track the JD portfolio via a regularly updated dashboard of both completed and in-progress projects which will include data such as:

- Number and percentage of units by AMI levels
- Developer characteristics (ex. CBDO, market rate or non-profit, minority and/or women-led firms)
- Number of residents
- Resident employment and income characteristics
- Resident demographics
- Geographic distribution of JD projects
- Associated community benefits such as parks, community space, or street improvements
- Commercial space
- ~~Number and tenure of small businesses~~ CBO, SBE, DBE, and DVBE participation in the delivery of projects
- Construction and permanent jobs created
- First/last mile improvements
- Transit infrastructure improvements
- Revenue to Metro

Developers will be required to allow Metro to conduct annual commercial and residential tenant surveys to gather metrics for ongoing monitoring. Consistent with pillar one of the Equity Platform, requiring ground lessees to allow Metro to conduct an annual tenant survey would enable JD to track policy objectives such as transit use, demographic data (as allowed/feasible), car ownership, move in/move out information, revenue generation and qualitative data on the tenant satisfaction to help inform features of our projects (e.g., design issues, amenities, desired ground floor services, parking, and unit design).

In addition, Metro will conduct regular surveys of both existing and potential JD developers to identify areas of improvement for the JD Program.

## VI. LEGAL FRAMEWORK

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### A. Statutory Basis

The Metro JD 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. State Regulations

In response to the state housing crisis, a number of new laws have been adopted that prioritize and expedite the development of Income-Restricted Units, specifically on public lands such as Metro JD sites. In pursuing JD projects, Metro will comply with all relevant state laws.

Metro JD sites which were acquired with assistance from State funding sources may be subject to additional State laws or processes and will follow State guidance to ensure compliance.

### C. Federal Regulations

Metro JD sites which were acquired with assistance from the FTA are subject to and will follow FTA guidance and will be reviewed individually by the FTA to ensure compliance. Current guidance in FTA Circular 7050.1B on FTA-funded real property for joint development, stipulates that joint developments follow four criteria: subject JD projects

1. Economic Benefit – project must enhance economic benefit or incorporate private investment.
2. Public Transportation Benefit – project must enhance the effectiveness of public transportation and be related physically or functionally to public transportation, or it can establish new or enhanced coordination between public transportation and other modes.
3. Revenue – developer and Metro must negotiate and agree on the amount of revenue the project will provide to Metro. The FTA does not define what



amounts to a “fair share of revenue” but Metro will provide FTA with a reasonable determination that the terms and conditions of the joint development project are reasonable and fair to Metro.

4. Fair Share of Costs – developers and commercial tenants must pay a fair share of the costs through rental payments or other means. The FTA does not define what amounts to a fair share of the costs of the facility and will not impose a particular valuation methodology. Metro will determine how to document its reasonable determination that the rental payment, or other means, is reasonable and fair.

#### **D. Local Jurisdictions**

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

Los Angeles County  
Metropolitan Transportation Authority

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## Attachment B

### **AMENDED ENA KEY TERMS**

Below is a summary of key terms and conditions for a template Exclusive Negotiation Agreement (ENA). Any ENA that deviates from or is inconsistent with this summary will require Board approval for execution. For purposes of this document, “Developer” means the Developer selected from the Developer Bench following the issuance of an RFP for the joint development of a 10K Site. “Project” means the housing project proposed by the Developer; and “Project Site” refers to the 10K Site, provided that on some projects, the Project Site may also include adjacent property owned or controlled by the Developer. Metro and Developer may be referred to individually as “Party” or collectively as “Parties” in this summary.

1. **Term.** The initial term of the ENA is twelve (12) months (Term). The Term may be extended by Metro staff in twelve (12) month increments if Developer is making substantial progress toward completing the transaction, not to exceed a total of sixty (60) months.
2. **Right to Terminate.** The ENA may be terminated early by either Party in limited circumstances, including: (i) the transaction is not reasonably likely to be completed; (ii) the Project is infeasible or cannot be financed; (iii) the Project is not likely to be constructed in a reasonable timeframe; (iv) the non-terminating party is in default under the ENA; or (v) certain title issues are present. Additionally, Metro may terminate without cost or penalty if Metro staff determines that the process followed to enter into the ENA or Developer’s proposed Project does not comply with the Surplus Land Act.
3. **ENA Administration Fee.** Developer must pay a nonrefundable fee to Metro prior to the ENA’s effective date to cover Metro’s costs during the Term and to compensate Metro for exclusively negotiating with the Developer. The nonrefundable fee will be \$50,000 or more, depending on project size and complexity.
4. **Agreement to Negotiate Exclusively in Good Faith; No Metro Commitment to Any Project or Funding.**
  - The Parties will exclusively negotiate in good faith during the Term. The ENA itself does not establish the terms of a future ground lease, joint development agreement (JDA) or any other Project-related agreements (Project Agreements) necessary to convey and develop the Project Site with the Project.
  - The ENA does not commit Metro to approving the Project, approving other proposed improvements to the Project Site or to entering into any of the Project Agreements. Metro retains absolute sole discretion to request modifications to the Project, to impose mitigation measures, to evaluate Project alternatives (including the no project alternative), and to reject the Project as may be necessary to comply with CEQA.
  - The ENA also does not commit Metro to funding, subsidizing, or otherwise financially contributing to the Project. Metro will retain its full discretion as to approval of the Project contemplated by the ENA.

**5. Documents to be Negotiated; Metro Retained Rights.**

- The Parties will negotiate key terms for a JDA and form of ground lease (Term Sheet) for consideration by Metro's Board of Directors (Board). The Term Sheet will include the key terms and conditions that will be incorporated into the Project Agreements. Metro must receive Board authorization to execute the Project Agreements and such authorization will not be requested until all of the following have occurred: (i) the Term Sheet and the form of the JDA are agreed upon by the Parties; (ii) Metro staff has determined that all necessary CEQA-related documents have been prepared; and (iii) Metro staff has secured any required approval or concurrence of the Project (or the execution of the Project Agreements) by all applicable governmental or other funding entities.
- Each Party may decline to enter into any subsequent agreement (including any of the Project Agreements) if the Parties fail to agree upon mutually satisfactory terms. Except as provided in the ENA, neither Party has any duty, obligation, or liability under the ENA if the Parties fail to timely agree upon and execute the Project Agreements.
- If the Parties proceed with the transaction and the Project Agreements, Metro will retain certain rights with respect to the property to be ground leased (subject to limitations) throughout the life of the Project, as may be required by Federal Transit Administration funding. Those rights include, but are not limited to: (i) the right to install, operate and maintain public transit facilities; (ii) the right to install and maintain informational signage; (iii) the right to utilize sidewalks and common areas for pedestrian access and operations related to transit activities; (iv) inspection rights; and (v) all other rights not expressly granted to Developer in the ground lease.

**6. Schedule of Performance.** The ENA's Schedule of Performance contains key milestones for moving the Project forward. The milestones include, but are not limited to, public outreach requirements, title work, submittal of designs, CEQA compliance, entitlement submittal and Project proforma/financing plan submittal. Subject to a Valid Unavoidable Delay (discussed in Section 17 below), time is of the essence with respect to each Party's obligations under the Schedule of Performance. Failure of a Party to meet the milestones set forth in the Schedule of Performance shall constitute a breach under the ENA.

**7. Environmental Review.** Developer is responsible for all costs associated with CEQA compliance. Developer is responsible for preparing and submitting all Project-related CEQA documents (CEQA Documents) to the governmental agency with legal authority to issue entitlements for the Project (Entitling Authority), subject to Metro staff's advance review and approval. Metro will exercise its independent judgment and analysis in connection with any Project-related environmental reviews and will make its own determination as to what is required for Metro to satisfy the requirements of CEQA. Accordingly, Metro may require Developer to complete alternative CEQA studies and/or an alternative method to comply with CEQA than the Entitling Agency. These costs shall also be borne entirely by Developer.

**8. Project Entitlements.** Developer must prepare and submit all Project-related entitlement applications (Entitlement Applications) to the Entitling Authority, subject to Metro staff's advance review and approval. Developer is responsible for all costs associated with the Entitlement Applications. If Developer abandons an Entitlement Application for any reason, Metro may take over such application and Developer will cooperate with Metro to complete the entitlement process started by Developer. If the Project is not built, Developer will cooperate with Metro to remove any Project-related entitlements and/or encumbrances affecting Metro's property.

9. **Provision of Development Documents.** In addition to the CEQA Documents and the Entitlement Applications, Developer shall prepare at its sole cost and expense, but subject to Metro staff's independent review and judgment, all plans (including schematic design drawings) and other reports, investigations, studies, and related documents with respect to the Project Site, the Project, and Developer's intended use of the Project Site (collectively, Development Documents). In addition to the foregoing, Developer shall include in its contractors' and consultants' contracts, the right of Developer to assign the Development Documents to Metro.
10. **Ethics.** Developer (and Developer team members, as required by Metro Ethics) must remain in full compliance with: (i) Titles 4 (Procurement) and 5 (Ethics) of the Metro Administrative Code (Admin Code); (ii) all applicable provisions of Government Code sections 1090 and 87100 et seq.; and (iii) regulations governing campaign contributions to Board members imposed by Public Utilities Code section 130051.20, Government Code section 84300 et seq., and the Admin Code. Developer must also submit updated ethics declarations as required by Metro.
11. **Coordination.** Developer shall notify Metro regarding substantive meetings with governmental authorities concerning the Project, and Metro may participate in such meetings, at its discretion. The Parties will coordinate with each other and hold progress meetings to ensure compliance with the ENA.
12. **Development Team and Project Partners.** Developer will report quarterly on Community-Based Development Organizations (CBDO), community-based organizations, Small Business Enterprises (SBE), Disadvantaged Business Enterprises (DBE), and Disabled Veterans Business Enterprises (DVBE) participation in the delivery of projects.
13. **Community Outreach Plan.** Developer will perform community outreach in accordance with a Metro-approved community outreach plan attached to the ENA.
14. **Inspections.** Developer may conduct such due diligence inspections as the Parties deem necessary during the course of the Term to determine the condition of the Project Site and/or the Project's feasibility. Developer's entry onto the Project Site for such inspections will be in accordance with the terms and conditions of a right of entry agreement executed between the Parties. If the Project Site includes Developer-controlled property, Developer will similarly grant Metro with access to such property to conduct inspections.
15. **Title & Survey Review.** The Parties will conduct survey and title review for the Project Site. Specified title issues may be grounds for the ENA's early termination.
16. **Design Review.**
- The design of the Project shall be at Developer's sole cost and expense.
  - Developer shall prepare and submit to Metro staff the initial set of schematic design drawings for the Project, which represents a Logical Evolution of Developer's conceptual plan. Within this context, "Logical Evolution" means the further development, refinement, or amplification of the conceptual plan that flows logically, naturally, and foreseeably from the conceptual plan, and reflects (among other things) good architectural and engineering design, and complies with the terms of the ENA and all legal requirements. The schematic design drawings must be prepared by a qualified and licensed architect and/or engineer, as applicable.
  - Metro staff shall have the right to review and approve, disapprove, or request changes to the schematic design drawings, Project development schedules, and proposed methods of construction for all Project improvements. During this process, any Metro staff determination

regarding possible impacts on Metro's Development Related Concerns (as defined) shall be made in Metro's sole and absolute discretion. Among other things, Metro's Development Related Concerns include: (i) Metro's operations, including its ability to install, inspect, operate, maintain, repair, and replace public transit facilities; (ii) Metro's exercise of rights retained under the ENA; (iii) public health and safety; and (iv) access to and from Metro's property.

**17. Indemnity & Insurance.**

- Except for claims arising solely from Metro's gross negligence or willful misconduct, Developer will indemnify, defend (with counsel approved by Metro) and hold harmless Metro and the Metro Parties (as defined) from specified Project-related liability, claims, losses, costs, expenses or damages arising from or caused by Developer and the Developer Parties (as defined).
- Developer must obtain for itself, and the Developer Parties, insurance in accordance with Metro's requirements.

**18. Breach & Default.**

- A Party is in breach under the ENA if it fails to: (i) perform any obligation, or to comply with any covenant, restriction, term or condition in the ENA; or (ii) meet the milestones set forth in the Schedule of Performance.
- Subject to limited exceptions, a breach will become a default if the aggrieved Party provides written notice to the Party committing the breach and the breaching Party thereafter fails to cure within a specified time period. The breaching Party can extend its time to cure if there is a "Valid Unavoidable Delay," which is a delay agreed upon by both Parties as being valid and unavoidable, in accordance with a process provided under the ENA (e.g., this may include a force majeure event). Notwithstanding, the deadline to cure a breach may not be extended due to a Valid Unavoidable Delay by more than sixty (60) days; nor may the Term be extended due to a Valid Unavoidable Delay.

**19. Upon Termination of ENA; Limitation on Metro Damages & Remedies.**

- If the ENA expires or terminates and the Parties have not executed a JDA, then: (i) any rights or interest Developer may have under the ENA shall cease without notice; (ii) any Development Documents will become Metro's personal property; and (iii) Metro may use, develop (alone or with another entity) or dispose of the Project Site as it determines appropriate in its sole discretion.
- If Metro defaults under the ENA (i.e., fails to perform an obligation as described in Section 17), Metro will pay Developer liquidated damages in an amount equal to not to exceed two hundred and fifty thousand (\$250,000.00) (Liquidated Damages Amount). The Liquidated Damages Amount will be Developer's sole and exclusive remedy (inclusive of any attorneys' fees and costs) arising from Metro's default. Upon such a default and Metro's payment of the Liquidated Damages Amount, the ENA will terminate.

**20. Assignment.** Except as otherwise agreed to by Metro staff, Developer may not assign its rights or duties under the ENA to any other person or entity. Notwithstanding, Developer's shareholders, partners, members or other equity holders may transfer, sell, exchange, assign, or divest themselves of any interest they have in Developer so long as a change of Control (as defined) of Developer does not occur.



# **We're supporting thriving communities.**

## **Joint Development Policy and Exclusive Negotiations Agreement**

Planning and Programming Committee  
Legistar File #2024-0277  
June 20, 2024



# Recommendations

## CONSIDER:

- A. APPROVING the Amended Joint Development Policy (Attachment A) and
- B. APPROVING the Amended Exclusive Negotiation Agreements Key Terms (Attachment B) for 10K Sites.



# March 2024 Motion

**DUPONT-WALKER AMENDMENT:** Report back on the ENA template to clearly communicate participation with community-based organizations (CBOs), allowing for community development-based organizations (CDBOs) to work directly with Metro as the prime or sub-prime contractor. This would allow for CBO/CDBO participation, not exclusive of the Joint Development Bench. Include engagement with general contractors and subcontractors for the inclusion of Small Business Enterprise, Disadvantaged Business Enterprise, Disabled Veterans Business Enterprise, and Minority Women Business Enterprise.

**DUTRA AMENDMENT:** Directed the CEO to improve the contract language for RFPs and to work with the cities to help streamline the entitlement process and work with the developers to streamline the capital stack.

# Background

## Joint Development Policy:

- Requires that Developers collaborate with local Community-Based Organizations (CBOs) in the delivery of JD projects to the extent feasible.
- Requires Developers provide opportunities for Metro-certified Small Business Enterprises (SBE), Disadvantaged Business Enterprises (DBE), and Disabled Veterans Business Enterprises (DVBE) to partner in their projects through the delivery of professional or construction services.

## Acceleration Strategies and Developer Bench

- April 2023 – Board adopted 27 strategies to accelerate project delivery
- Targeted outreach to Community Based Development Organizations (CBDOs) with additional points awarded in Developer Bench RFQ
- 25 of 80 Bench Developers identified as CBDOs



# Responses to Motion

- Amend JD Policy to incorporate definitions of CBDOs, require meaningful CBDO leadership and participation where feasible, and other modifications to align JD Policy with acceleration strategies approved by the Board in April 2023.
- Additional points for proposals where CBDO is lead developer. If CBDO is partner, they must have an active role and financial stake to receive additional points.
- Award points in site-specific RFPs for demonstrated track record and level of commitment to partnering with CBOs and SBEs/DBEs/DVBEs in project delivery.
- Host 'Building Partnership' events to connect prospective Developers (especially CBDOs) and targeted Metro business enterprises.
- Amend ENA Key Terms to require developers to report quarterly on CBDO, CBO, and SBE/DBE/DVBE leadership and participation in the delivery of projects.
- On-going streamlining of entitlements, financing in collaboration with local jurisdictions and developer partners.

# Next Steps

- Conduct outreach to the 10K communities, which will then inform RFP evaluation criteria for each 10K Site.
- Invite the Developer Bench to respond to site-specific RFPs for 10K Sites beginning mid-to-late 2024.
- Building Partnerships events
- Complete RFP evaluations and enter into ENAs with the selected developers.
- Updates on developer selection and team composition, project proposals, CBO participation, SBE/DBE/DVBE commitments, and other significant milestones will be reported to the Board and public through a dashboard.
- Return to Board after entitlements are in place for approval of terms for Joint Development Agreements (JDAs) and ground leases.

