



Los Angeles County
Metropolitan
Transportation
Authority

One Gateway Plaza
Los Angeles, CA
90012

213.922.6000

March 27, 1997

TO: REAL ESTATE AND ASSET DEVELOPMENT
COMMITTEE

FROM: LINDA BOHLINGER, INTERIM CHIEF EXECUTIVE
OFFICER

SUBJECT: WESTLAKE/MACARTHUR PARK DEVELOPMENT

RECOMMENDATION

Authorize the Interim CEO to amend the Exclusive Negotiation Agreement (ENA) to form a 501(c)4 non-profit corporation for the purpose of receiving a State of California Economic Development Agency (EDA) Grant and for the purpose of implementing the joint development project with Catellus Development Corporation above the Westlake/MacArthur Park Metro Red Line Station.

ALTERNATIVES CONSIDERED

Alternatives could include a request that the State issue the EDA Grant directly to the MTA. This action was rejected since it could jeopardize the timing of the EDA Grant and subsequently the EDA funding.

Alternatives include directing development of the project by using a for profit corporation or private firm. The EDA Grant restrictions do not allow usage of the EDA funds directly through a for profit corporation.

IMPACT ON BUDGET AND OBJECTIVES

Costs associated with the formation of the 501(c)4 non-profit corporation and environmental costs requested in this report have previously been approved in the MTA budget for this project. These costs are expenses against the development and are anticipated to be paid back from the proceeds of the development.

BACKGROUND

The proposed development includes the construction of a 40,000 square foot grocery store, approximately 20,000 square feet of mixed retail, a police sub-station funded through the City of Los Angeles, improvements to Metro Red Line Station Plaza and approximately 600 space parking structure. This is a reduction in development from the originally proposed master plan. The development was scaled back to meet the limitations of the following: the City of Los Angeles Community Redevelopment Agency

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(CRA) has not yet adopted its recovery/redevelopment plan for the area, the available financing is limited to funding the components listed above and, the largest adjacent property owner has expressed interest in developing his property separate but complimentary to this development. This reduced development plan is designed to act as a catalyst for development surrounding the station and is designed to compliment future growth in the immediate area.

The Westlake/MacArthur Park area has the highest population density in the City of Los Angeles (35,000 people within a three block radius of the station), some of the lowest per household incomes (15,000 per household) and highest transit dependency (75% of the households do not own cars). The majority of housing in the area was built prior to 1948. In order to encourage revitalization, create employment opportunities and provide essential services for the area, the MTA Board directed staff to enter into an Exclusive Right to Negotiate (ERN) with the Catellus Development Corporation for the development of Westlake/MacArthur Park Station Area Master Plan. The documentation from that effort has been called an Exclusive Negotiation Agreement (ENA)). The ENA was negotiated and signed in late 1996. The Catellus Development Corporation was previously selected through a MTA Request for Proposals process.

The MTA currently owns approximately four acres of property above the Westlake/MacArthur Park Station. The State EDA grant is for the specific purpose of purchasing two parcels adjacent to the MTA property for the construction of a grocery store. The proposed 501(c)4 non-profit corporation would be formed for the purposes of owning property, and facilitating construction of the development. The MTA has previously used a similar 501(c)4 form for the construction of the MTA Gateway project. An identical legal entity would be used for the construction of the Westlake/MacArthur Park Development.

Project Financing

The proposed financing for this development includes securing a \$3,000,000 EDA grant from the State of California, the City of Los Angeles has previously committed \$7,000,000 of City of Los Angeles funds, including funds previously awarded to the City through the Call for projects, \$1,500,000 in Transit Capital awarded to the MTA by the State of California and an as yet unidentified \$4,500,000 for the construction of the approximately \$16,000,000 development. The project is anticipated to be constructed with minimal if any debt or debt service.

Implementation

The incorporating entities, MTA and Catellus will retain the law firm of Sheppard, Mullin, Richter, and Hampton to incorporate the 501(c)4 non-profit corporation and to represent it as a neutral legal counsel one it is formed. Sheppard, Mullin, Richter, and Hampton is currently the neutral legal counsel to Union Station Gateway Inc., and, therefore is thoroughly familiar with this type of corporate structure. Estimated costs of incorporation and obtaining of non-profit status is \$12,000.

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MTA will reimburse Catellus for costs advanced to complete the environmental documentation in an amount not to exceed \$50,000, to be paid through the non-profit corporation. Under the terms of the ENA the environmental clearance is a responsibility of the MTA, but to expedite the process the Catellus has agreed to advance the funds subject to reimbursement.


An amendment to the ENA is required to implement these changes.

ATTACHMENTS

PREPARED BY:

Robin Blair
Project Manager, Central Area Team

Andres Ocon
Director, Central Area Team

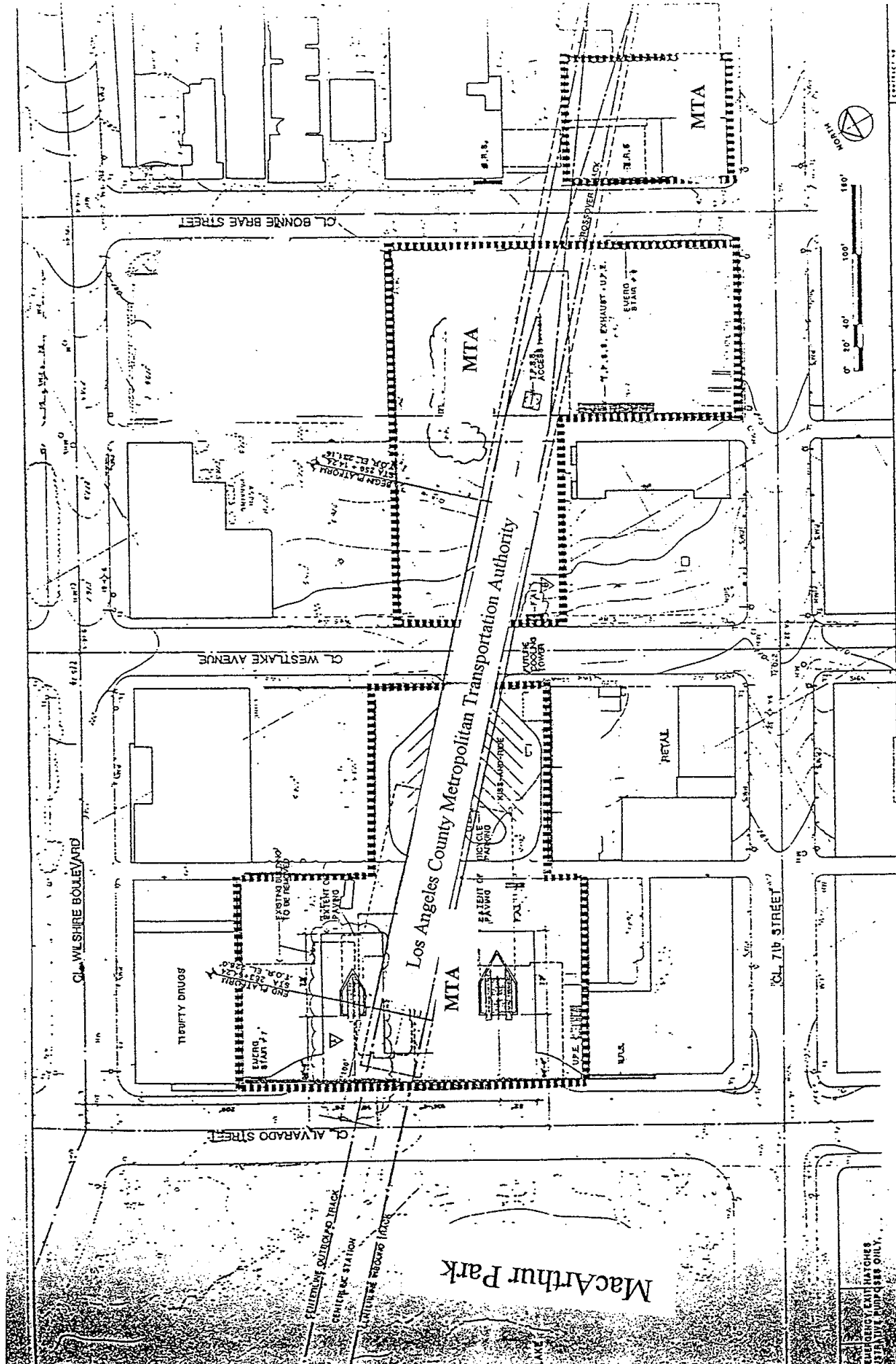


JAMES L. de la LOZA
Executive Officer
Regional Transportation Planning and Development

Attachments:

Site Map
Amendment to ERN
Approval of Sheppard, Mullin, Richter, and Hampton

MTA HOLDINGS AT WESTLAKE/MACARTHUR PARK



Addendum 1

<p>DESIGNED BY: HWA</p> <p>DATE: 11/11/07</p> <p>DRAWN BY: J.P.</p> <p>CHECKED BY: J.P.</p> <p>SCALE: 1"=40'</p>	<p>PROJECT: WILSHIRE / ALVARADO STATION</p> <p>SITE PLAN</p> <p>PRELIMINARY</p>
<p>PREPARED BY: HARRY WEESE & ASSOCIATES</p> <p>ENVIRONMENTAL COLLABORATIVE, INC.</p> <p>3600 WILSHIRE AVENUE, SUITE 200</p> <p>LOS ANGELES, CA 90010</p> <p>TELEPHONE: (310) 553-0000</p> <p>FAX: (310) 553-0001</p> <p>WWW: www.harryweese.com</p>	<p>SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT</p> <p>METRO RAIL PROJECT</p>
<p>APPROVED BY: [Signature]</p>	<p>DATE: 11/11/07</p>

FIRST AMENDMENT TO EXCLUSIVE NEGOTIATION AGREEMENT

This First Amendment to Exclusive Negotiation Agreement ("Amendment") is made as of this ____ day of _____, 1997 by and among Catellus Development Corporation ("Developer") and The Los Angeles County Metropolitan Transportation Authority ("MTA").

RECITALS

A. MTA and Developer have executed that certain Exclusive Negotiation Agreement dated as of December 9, 1996 ("Agreement").

B. The Parties desire to mutually establish an entity through which the Project can be developed.

C. The Parties recognize that under the terms of the Agreement MTA was to complete the project specific Environmental Impact Report or other required documentation, and to bear the cost of complying with the California Environmental Quality Act. Under this amendment, Catellus will perform that task. Accordingly, MTA wishes to provide for reimbursement for costs specifically related to that effort, including costs of designated consultants.

D. The Parties now wish to confirm their mutual understanding on these and other issues, all as set forth below.

E. Capitalized terms not defined herein shall have the meaning attributed to them in the Agreement.

NOW, THEREFORE, in consideration of and reliance on the recitals above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Joint Venture Entity

1.1 MTA and Catellus agree that it is desirable and necessary to establish an entity ("Entity") through which Catellus and MTA shall develop the Project as soon as possible so that the Entity can apply for grants to assist in the financing of the Project.

1.2 MTA and Catellus agree that the Entity shall be a California non profit corporation modelled after the entity created for the "Gateway" project by MTA and Catellus.

1.3 Because the law firm of Sheppard, Mullin, Richter & Hampton ("SMRH") formed the Gateway entity, the parties agree that it would be most economical to retain SMRH to form the new Entity for this Project. Catellus shall retain SMRH and, after the new Entity is established SMRH shall represent the new Entity, and not either Party. MTA shall reimburse Catellus for one half of its out of pocket legal fees and costs paid to SMRH, pursuant to Article 3, to form the new Entity. The legal fees paid to SMRH, advanced by Catellus and MTA, shall be reimbursed to them from project funds.

2. Environmental Consultants

Catellus is authorized to retain and execute contracts with environmental consultants (collectively "Environmental Consultants") necessary to complete the tasks described in Recital C. Catellus must receive the prior approval of MTA to retain any consultants after the date hereof, and such approval shall not be unreasonably withheld. MTA hereby approves the retention of Myra Frank & Associates, Korve Engineering and/or Kaku & Associates to perform certain tasks, presently described in their contracts with the law firm of Brand, Farrar, which will be assigned to Catellus. The contracts with the Environmental Consultants shall provide that the Consultants will take direction from MTA as well as Catellus.

3. Fees and Reimbursement

MTA shall reimburse Catellus for its reasonable out-of-pocket expenses incurred in connection with its retention of the Environmental Consultants identified in Article 2, and one half of its out-of-pocket expenses for fees and costs paid to SMRH. Catellus shall submit an invoice of expenses incurred for the Environmental Consultants to MTA on a monthly basis.

4. Miscellaneous

Except as expressly modified by this Amendment, the Agreement shall remain in full force and effect. The parties acknowledge that there are no defaults (or facts which, with the giving of notice and the passage of time, could ripen into defaults) under the Agreement.

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IN WITNESS WHEREOF, MTA and Developer have signed this Amendment as of the date first set forth above.

DEVELOPER

Catellus Development Corporation,
a Delaware corporation

MTA

Los Angeles County
Metropolitan Transportation Authority

By: _____
Its: _____

By: _____
Its: _____

Approved as to form:

DE WITT W. CLINTON
County Counsel

By: _____
JEFFREY J. LYON
Principal Deputy County Counsel



CATELLUS

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To: MTA Board of Directors

From: Miles Huber, Project Director
Catellus Development Corporation

Re: Westlake/MacArthur Park Development:
Request For Approval - Exclusive Negotiation Agreement ("ENA") Amendment
(Re-sending Real Estate and Asset Management Committee Memo. of 4/15/97)

Date: April 22, 1997

Request For Approval - ENA Amendment

Catellus Development Corporation respectfully requests the approval of the ENA amendment between the MTA and Catellus so as to allow the project to move forward via:

- 1) the formation of a 501(c)(4) non-profit joint development entity to implement the project and
- 2) authority for Catellus to retain consultants with regard to environmental clearance matters.

The 501(c)(4) Non Profit - Immediate Need for Formation to Receive the \$3.0 Million EDA Grant

The EDA approved the pre-application for the MacArthur Park project in February, 1997 for \$3.0 million. The EDA funds are on an expedited track and need to be utilized as soon as possible in qualifying projects. In the MacArthur Park project, these funds will be utilized for the acquisition of two properties adjacent to the MTA holdings, as well as demolition of an earthquake-damaged structure and offsite infrastructure improvements (to the extent of remaining funds).

For EDA approval, a non-profit entity is the highly preferred entity form. In terms of approval rankings, existing non-profits score above newly created non-profits. For this reason, we advise the mimicking of the Union Station Gateway, Inc ("USG"). As a reminder, USG is a non-profit corporation that was responsible for the oversight of the MTA Headquarters and Patsacuras Transit Plaza construction project.

The mimicking of the USG non-profit structure provides the following advantages :

- 1) an acceptable / known form of non-profit to receive EDA grant funds,
- 2) an easily implemented / well regarded structure for the MTA and Catellus to jointly implement and control the project, and
- 3) significant cost savings by decreasing legal set-up costs (i.e., known form / known counsel).

The immediate need for the entity to be set-up is to expedite the full EDA application and have an entity available to receive the grant. The receipt of the EDA grant is a critical path item. Once the grant is received, acquisition offers can be finalized with the two adjacent property owners. Once the acquisitions are completed, the project description and funding mechanisms can be finalized. At this time, EDA staff are awaiting the full application. Obviously, there are many competing projects and we should move forward as quickly as possible to utilize these essential funds.

The 501(c)(4) MacArthur Park Non-Profit - General Responsibilities and Board Structure

The general purpose of the MacArthur Park non-profit will be to implement the project. The entity would be responsible for providing effective project management, receiving grant and loan financing (including a mechanism to enable approved EDA and Call for Project funds), optimizing control of acquisition, design and construction services, administering contracts and accounting, and managing project budgets and schedules. The Board of Directors will also suggest a business entity / legal form to handle ongoing operations of the project at a later date.

Like USG, a 6 member Board of Directors will be selected consisting of 3 "Class A" MTA representatives or assignees and 3 "Class B" Catellus representatives. We encourage the selection of initial members of the MTA Class as soon as possible. Changes to the members of a particular Class are allowed at anytime by the respective Class. The Catellus representatives have been selected and are ready to proceed.

The 501(c)(4) MacArthur Park Non-Profit - Neutral Legal Counsel Approval

We suggest using the law firm of Sheppard, Mullin, Richter, and Hampton to serve as counsel to the entity. This firm is currently legal counsel for USG and, thus, can form the MacArthur Park non-profit entity quickly and at low cost (under \$12,000). The firm will prepare the articles of incorporation, by-laws, and actions of sole incorporator. Your approval of the ENA Amendment incorporates the acceptance of the 501(c)(4) as the initial business entity and the related retention of this law firm to set up the entity.

Environmental Clearance Contracts - Catellus Willing to Cover Upfront Costs

To expedite the environmental clearance process, Catellus is willing to cover the upfront cost responsibilities of retaining environmental and traffic consultants, subject to reimbursement as provided in the ENA amendment. For your information, the environmental clearance costs were MTA's only project costs as negotiated in the ENA. These costs, as well as Catellus upfront / predevelopment costs, are anticipated to be ultimately reimbursed from project funding.

We request your approval of Catellus' retaining the consultants via the ENA Amendment. This is a preferred position requested by MTA staff and will allow this process to move forward. The MTA will retain the right for review of this process. As envisioned currently, the project description of a 600 car parking structure, 40,000 sq. ft. grocery store, 20,000 sq. ft of small business/kiosk space, 20,000 sq. ft. community center/space, and plaza upgrades will likely only require a Mitigated Negative Declaration. If achieved, the environmental clearance process will be relatively quick (20 weeks) and very cost effective.

Ongoing MTA Board Approval

The MTA Real Estate Committee and Board of Directors will have an ongoing role in the project. We request your continued support of project financing through the upcoming Call For Projects. Your committee will also review the Development Agreement between Catellus and MTA (scheduled for June). Thank you.

MTA Memo Attachment - Project Update: Westlake/ MacArthur Park

The Westlake / MacArthur Park project is moving forward on many fronts. Through the efforts of Councilmember Hernandez' office, City of Los Angeles Departments (especially the Los Angeles Dept. of Transportation), the MTA, CRA, and Catellus Development Corporation, the project appears achievable in the near term. We are working toward a construction start in early 1998. Councilmember Hernandez' office has been a leader in the effort to revitalize the area and, after a long wait, the Councilmember and his staff are seeing the light at the end of the tunnel.

Design: The project is moving forward on the design front. An achievable project on 4 acres of land is planned. An affordable, major grocery store (40,000 sf), small business space (20,000 sf), farmers market area, and other community-oriented space (20,000 sf) are planned to serve the area's population. Together with physical improvements to the Metrorail plaza and a new 4 level garage (480 to 600 stalls), these enhancements will serve as a central gathering area and marketplace for the community. Physical connections between the intermodal facilities and market areas will be designed to create a well-balanced development at a very human scale. The total cost of these improvements is estimated to be between \$16 and \$20 million.

Financing: The project financing front is also moving forward. The EDA approved a pre-application for \$3.0 million in February. Call for Projects funds of \$5.5 million are approved and ready for release. Another \$1.5 million in TCI funding only needs CTC approval in June and, just yesterday, the MTA gave high rankings to another \$3.2 million in the current Call for Projects. Positively assuming all the grants come to fruition, a total of over \$13 million will be available. Community Development Bank officials have also promised the Councilmember's office that needed loan funds (up to \$10 million) will be made available.

As one can see, the project is primarily grant driven. The combination of high construction costs (building over the Metrorail and poor soils) in a depressed rental market (low rental rates) area has created the need for governmental assistance to revitalize the area. The combined City, MTA, and Catellus team has come to the conclusion that minimizing debt service will help the project move forward. Thus, we are attempting to keep loans to a minimum.

Feasibility: With the assumed grant levels, the project's feasibility is also moving forward and looks very achievable. The EDA grants will be utilized for two private area acquisitions, demolition, and offsite infrastructure. The Call for Projects funds will be utilized for the intermodal components of the parking garage, plaza enhancements and related pedestrian and vehicular connections. Community Development Bank funds will be utilized for commercial building and related components. To minimize any exposure to these loans, we are considering a ground lease of the grocery store area. Final feasibility aspects and the overall quality of the project will, of course, depend on the finalized design plans and maintenance of current project funding levels.

Entitlements: The project is moving forward on the entitlement front. Catellus and the Councilmember's office have been working with all the City departments to move the project forward. The City departments are being very cooperative and creative to keep the project on track. No major issues are expected to impact the project plan or schedule.

Environmental Clearance and Business Entity Set-up: The remaining issues, environmental clearance and creation of a non-profit entity to implement the project, can move forward with the MTA's approval as discussed above.