

**DATE:** September 14, 2016  
**TO:** Board of Commissioners  
**FROM:** Kimberly Branam, Executive Director  
**SUBJECT:** Report Number 16-50

Authorizing Actions Associated with 9101 Foster, LLC for Development, Construction, and Management of the 9101 SE Foster Road Project within the Lents Town Center Urban Renewal Area

**BOARD ACTION REQUESTED**

Adopt Resolution No. 7209

**ACTION DESCRIPTION**

If approved, these proposed actions by the Portland Development Commission (PDC) Board of Commissioners (Board) will authorize the Executive Director to take actions on behalf of PDC and on behalf of 9101 Foster, LLC (LLC) to complete the 54-unit 9101 Foster Road Building (Project) located at the intersection of SE 92<sup>nd</sup> Avenue and SE Foster Road (Property) in the Lents Town Center Urban Renewal Area (URA). For an Aerial and Project Summary, see Attachment A.

Specifically, this resolution will authorize:

1. PDC to make a loan to the LLC in an amount not to exceed \$15,100,000;
2. The LLC to borrow up to \$15,100,000 from PDC;
3. The LLC to borrow approximately \$1,152,000 from the Portland Housing Bureau (PHB);
4. The LLC to execute a guaranteed maximum price contract (GMP Contract) with Bremik Construction (Bremik) in an amount not to exceed \$12,201,957; and
5. The LLC to incur all other hard and soft costs associated with construction and stabilization of the Project, up to the total Project budget.

The Project description remains as it was originally proposed by Williams/Dame and Associates Inc. (WDA) in 2014 – a mixed-use building consisting of 54 market rate and affordable residential units, ground floor commercial space, and surface parking. When completed, the Project will contribute to the revitalization of the Lents Town Center and deliver on community, PDC, and City of Portland priorities commemorated in the Lents Five-Year Action Plan (Action Plan). Construction is anticipated to begin by early October 2016 and be completed by December 2017. PDC's Equity and Green Building policies will apply to the Project.

**BACKGROUND AND CONTEXT**

After a year of working together to advance the Project, PDC and WDA agreed that PDC would accept the permits, pre-development work product, and assignable contracts in lieu of predevelopment loan

repayment from WDA. Based on this agreement, at the June 8, 2016 meeting, the PDC Board approved the assignment in lieu and the creation of a special purpose entity (LLC) for the purpose of completing the Project. By creating the LLC, the PDC Board gave greater certainty to the Project by enabling certain senior lenders to refinance the Project that would not otherwise be able to do so without the LLC. Consequently the LLC formation will allow PDC to seek refinancing from the U.S. Housing and Urban Development (HUD) at a later date. Since the PDC Board approval in June to create the LLC, PDC has negotiated with PHB regarding their loan commitment and pursued GMP Contract negotiations with Bremik.

A summary of the draft terms of the GMP Contract are outlined in Exhibit A to Resolution No. 7209. The GMP Contract is but one component of the costs within the overarching development budget. In addition to the amount of the GMP Contract, it is anticipated other development costs will exceed the Executive Director’s authority. In order to maintain Project delivery schedule, staff is requesting delegation of approval authority to the LLC Manager – a role performed by the PDC Executive Director – for all other development related costs of the Project. Other anticipated costs include: \$1,000,000 of predevelopment work product; land purchase price of \$829,000; System Development Charges (SDCs) and special inspection charges of over \$900,000; potential construction-related change orders; future retail tenant improvements; and residential amenities. Staff will provide the PDC Board with quarterly status updates during construction.

	June 24, 2015 – Resolution No. 7132	February 10, 2016 – Resolution No. 7168	September 14, 2016 – Resolution No. 7209
Loan Recipient	WDA	WDA	9101 Foster, LLC
PDC Loan Amount	\$4,750,000	\$6,200,000	\$7,480,000*
<b>Total Project Cost</b>	<b>\$15,702,000</b>	<b>\$16,592,000</b>	<b>\$16,245,125</b>

\* After senior-debt refinance

Staff, with PDC Financial Investment Committee input, has reviewed various financing options, including carrying senior construction financing for the Project. In order to achieve the primary objectives of maintaining Project costs and schedules in spite of the change in ownership, staff is not including any senior construction financing from the capital sources. PDC and PHB resources will fund all development costs through their respective loan programs, with loan terms provided in the Exhibits to Resolution No. 7209. There are several benefits associated with the elimination of senior construction financing: all Project income will be available to service PDC and PHB debt, sizable third party financing fees (approximately \$300,000) are deferred, and interest reserves (approximately \$260,000) are avoided. Additionally, the LLC will not be charging a developer fee (\$532,000), which will further reduce overall Project costs.

It is anticipated that the Project will be refinanced within four years of Project completion. The size of the future senior loan is expected to be approximately \$6,900,000 and is anticipated to be a HUD-backed private loan. The proceeds of this refinance will be used to partially repay the PDC loan, thereby recapitalizing the Lents Town Center Urban Renewal Area budget in order to enable future redevelopment efforts. PHB has provided a commitment to restructure its loan as necessary at the time of refinance. Collectively, this financing approach will result in timely delivery of the Project while optimizing funds available for other Action Plan projects.

### **PUBLIC PARTICIPATION AND FEEDBACK**

There has been no formal public outreach process regarding the Project's change in ownership and financing structure. However, PDC staff provided notification and discussed these changes with community members prior to the June 8, 2016, PDC Board action forming the LLC. PDC staff maintains regular contact with local stakeholders and community groups, particularly the Lents Neighborhood Association, to provide ongoing updates about this Project and the other three Lents Town Center redevelopment projects underway. Community advocates have expressed their strong desire to see the Project move forward on schedule, provided it does not compromise other shared PDC and community priorities in the Lents Town Center, particularly the redevelopment of the PDC owned property at SE 92<sup>nd</sup> Avenue and Harold Street.

### **BUDGET AND FINANCIAL INFORMATION**

The Lents Town Center URA fiscal year (FY) 2016-17 Adopted Budget and Five-Year Forecast, as shown in Attachment B, reflects dated estimates in project costs in the Commercial Property Lending (CPRL) line item. Staff will be providing recommended FY 2016-17 Adopted Budget revisions to the PDC Board for consideration in November 2016 that reflect the necessary adjustments. These changes will include an increase to line of credit draws in FY 2016-17 and an increase to the CPRL line item in FY 2016-17. This will be offset by decreases in line of credit and CPRL in FY 2017-18.

It is important to note that this action will impact the timing and available funds for other priorities identified in the Action Plan. In particular, any projects that would be funded through the Commercial Property Lending activity would be on hold until FY 2017-18, at the earliest, extending the Action Plan implementation by approximately three years. Priority projects potentially impacted by this change include the PDC owned property at 92nd and Harold Street and the Architectural Iron Products building and property located adjacent to the MAX station on Foster Road, which have been identified as key priorities by the community. Refinancing the Project after stabilization will be necessary for PDC to deliver on other Action Plan priorities. As mentioned above, Lents stakeholders have been apprised of these budgetary considerations as this process has proceeded.

### **RISK ASSESSMENT**

Construction projects carry many inherent risks, including cost overruns, scope changes, schedule delays, and contractor claims and liabilities. PDC General Counsel and outside counsel have made appropriate adjustments to GMP Contract language, contingency budgets, and insurance coverages to mitigate these risks to the LLC.

The Project proforma is based on a series of internal and external assumptions, including: award of SDC exemptions for the affordable residential units, award of residential property tax exemption through PHB's Multifamily Tax Exemption (MULTE) program, avoidance of construction cost overruns beyond the budgeted contingency, and the ability to achieve projected rents and occupancy in both the residential and commercial portions of the Project. Both the SDC waiver and MULTE programs are administered by PHB. The Project's ability to adequately service its associated loans depends upon the veracity of these assumptions. Proforma assumptions have been conservatively underwritten by both PDC and PHB staff; the SDC and MULTE applications are in process; and the GMP form of contract serves to protect PDC from many construction cost risks.

### **ALTERNATIVE ACTIONS**

The PDC Board may elect to specify alternative terms for any of the proposed loans as described in the resolution Exhibits. Such adjustments could impact the Project delivery schedule and financial

implications for either the Project or availability/timing of resources for other Lents Town Center projects. In addition, the PDC Board may elect to amend any or all of the proposed authorizations or reject the authorization request in their entirety and either direct staff to discontinue the Project completion process or solicit a replacement developer.

**ATTACHMENTS**

- A. Aerial and Project Summary
- B. LTCURA Five Year Forecast

### Aerial and Project Summary

<b>Project Name:</b>	9101 Foster Road
<b>Description:</b>	0.63-acre vacant parcel
<b>Location:</b>	Northwest corner of the intersection of SE 92 <sup>nd</sup> Avenue and SE Foster Road
<b>URA:</b>	Lents Town Center
<b>Current Phase:</b>	Development Design & Permitting
<b>Next Milestone:</b>	Loan Closing
<b>Completion Target:</b>	December 2017
<b>Outcome:</b>	65,504 square foot, mixed-use building with 54 apartment units (16 of which will be affordable to 60 percent median family income) 7,359 square feet of ground floor retail space, and 31 parking stalls.



**Lents Town Center URA Adopted FY 2016-17 Budget**

**Financial Summary  
 Five-Year Forecast**

<u>Lents Town Center URA Fund</u>	<u>Revised FY 2015-16</u>	<u>Adopted FY 2016-17</u>	<u>Forecast FY 2017-18</u>	<u>Forecast FY 2018-19</u>	<u>Forecast FY 2019-20</u>	<u>Forecast FY 2020-21</u>
<b>Resources</b>						
Beginning Fund Balance	18,589,745	17,066,817	249,609	4,057,406	5,500,042	19,567,946
<b>Revenue</b>						
Fees and Charges	50,300	31,211	31,462	3,539	4,107	3,390
Interest on Investments	61,040	51,118	665	1,607	8,938	72,951
Loan Collections	209,149	122,117	172,490	187,830	301,365	158,002
TIF - Short Term Debt	9,990,000	9,990,000	10,989,000	10,087,961	10,304,003	-
TIF - Long Term Debt	0	6,700,000	26,000,000	-	11,989,114	-
Property Sales	0	1,203,000	180,000	-	1,345,000	-
Rent and Property Income	61,025	109,545	58,874	58,874	2	1
Reimbursements	82,500	73,056	81,593	81,593	81,593	81,593
<b>Total Revenue</b>	<b>10,454,014</b>	<b>18,280,047</b>	<b>37,514,084</b>	<b>10,421,404</b>	<b>24,034,122</b>	<b>315,937</b>
<b>Total Resources</b>	<b>29,043,759</b>	<b>35,346,864</b>	<b>37,763,693</b>	<b>14,478,810</b>	<b>29,534,164</b>	<b>19,883,883</b>
<b>Requirements</b>						
<b>Administration</b>						
A00029-Debt Management-LTC	19,327	20,000	20,000	20,000	20,000	20,000
<b>Administration Total</b>	<b>19,327</b>	<b>20,000</b>	<b>20,000</b>	<b>20,000</b>	<b>20,000</b>	<b>20,000</b>
<b>Economic Development</b>						
<b>Traded Sector</b>						
A00113-Business Development-LTC	20,000	20,000	20,000	20,000	20,000	20,000
A00380-Lean Manufacturing-LTC	30,000	30,000	30,000	30,000	30,000	30,000
<b>Community Economic Development</b>						
A00121-Community Development-LTC	50,000	50,000	50,000	50,000	50,000	50,000
<b>Business Lending</b>						
A00208-BL -General-LTC	700,100	700,300	700,300	700,300	700,300	300,300
<b>Economic Development Total</b>	<b>800,100</b>	<b>800,300</b>	<b>800,300</b>	<b>800,300</b>	<b>800,300</b>	<b>400,300</b>
<b>Housing</b>						
A00159-Home Repair Projects-LTC	500,000	-	-	-	-	-
A00161-Home Buyer Assistance-LTC	500,000	-	-	-	-	-
A00170-Affordable Housing-LTC	202,475	11,953,402	13,571,255	3,280,913	4,165,000	4,371,849
A00180-PHB Staff & Admin-LTC	592,365	-	-	-	-	-
<b>Housing Total</b>	<b>1,794,840</b>	<b>11,953,402</b>	<b>13,571,255</b>	<b>3,280,913</b>	<b>4,165,000</b>	<b>4,371,849</b>
<b>Infrastructure</b>						
<b>Parks</b>						
A00239-Walker Stadium-LTC	200,000	-	-	-	-	-
A00240-Leach Botanical Grdns-LTC	41,334	1,890,989	-	-	-	-
<b>Transportation</b>						
A00243-Foster-52nd to 82nd-LTC	740,000	1,200,000	-	-	-	-
A00244-Lents Entryway-LTC	12,641	-	-	-	-	-
<b>Infrastructure Total</b>	<b>993,975</b>	<b>3,090,989</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Property Redevelopment</b>						
<b>Real Estate</b>						
A00325-Lents Little Lge Fld-LTC	7,375	7,500	7,500	7,500	7,500	-
A00326-Bakery Block-LTC	290,787	106,000	95,937	95,937	95,937	95,937
A00327-LTC II Parking Lot-LTC	7,840	8,200	8,200	8,200	8,200	-
A00328-MetroAuto Whisl WLot-LTC	66,620	9,500	9,500	-	-	-
A00329-MetroAuto Bldg & Lot-LTC	351	50	50	50	50	50
A00330-ArchctctronPrdctBldg-LTC	212,100	12,100	12,100	12,100	12,100	-
A00332-Real Estate Mgmt-LTC	69,883	33,000	33,000	33,000	33,000	33,000
<b>Commercial Property Lending</b>						
A00365-CPRL-General-LTC	4,502,000	15,515,000	15,515,000	1,001,000	1,001,000	1,001,000
<b>Redevelopment Strategy</b>						
A00323-LTC Town Ctr Redev-LTC	100,000	-	-	-	-	-
A00331-Project Development-LTC	100,000	200,000	150,000	150,000	150,000	150,000
<b>Redevelopment Grants</b>						
A00130-CLG-General-LTC	450,000	250,000	250,000	250,000	250,000	250,000
A00137-DOS-General-LTC	75,000	150,000	150,000	150,000	150,000	150,000

**Financial Summary  
 Five-Year Forecast**

<u>Lents Town Center URA Fund</u>	<u>Revised FY 2015-16</u>	<u>Adopted FY 2016-17</u>	<u>Forecast FY 2017-18</u>	<u>Forecast FY 2018-19</u>	<u>Forecast FY 2019-20</u>	<u>Forecast FY 2020-21</u>
A00145-SIP-General-LTC	300,000	600,000	600,000	600,000	600,000	600,000
A00149-GFGP-General-LTC	125,000	125,000	125,000	125,000	125,000	125,000
Property Redevelopment Total	6,306,956	17,016,350	16,956,287	2,432,787	2,432,787	2,404,987
<b>Total Program Expenditures</b>	<b>9,915,198</b>	<b>32,881,041</b>	<b>31,347,842</b>	<b>6,534,000</b>	<b>7,418,087</b>	<b>7,197,136</b>
Personnel Services	561,370	391,560	350,902	358,630	371,576	379,379
<b>Total Fund Expenditures</b>	<b>10,476,568</b>	<b>33,272,601</b>	<b>31,698,744</b>	<b>6,892,630</b>	<b>7,789,663</b>	<b>7,576,515</b>
Interfund Transfers - Indirect Charges	1,500,374	1,824,654	2,007,543	2,086,138	2,176,555	2,239,541
Contingency	17,066,817	249,609	4,057,406	5,500,042	19,567,946	10,067,827
<b>Total Fund Requirements</b>	<b>29,043,759</b>	<b>35,346,864</b>	<b>37,763,693</b>	<b>14,478,810</b>	<b>29,534,164</b>	<b>19,883,883</b>