



Board Report

File #: 2022-0585, File Type: Program

Agenda Number: 8.

**PLANNING AND PROGRAMMING COMMITTEE
NOVEMBER 16, 2022**

SUBJECT: PEABODY WERDEN HOUSE LEASE OPTION AGREEMENT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer to execute an Option Agreement with East Los Angeles Community Corporation (Developer or ELACC) for the ground lease of Metro-owned property at 2400 E. 1st Street in Boyle Heights (Project Site);
- B. ADOPTING findings that the Peabody Werden House (Project) restoration and rehabilitation is categorically exempt from the California Environmental Quality Act, Cal. Pub. Res. Code §§ 21000 *et seq.* (CEQA) pursuant to Section 21084 of the California Public Resource Code and the following sections of the CEQA Guidelines, each of which provides separate and independent bases for exemption: (i) Sections 15301(d), (n), and (p) (existing facilities); (ii) Section 15302(c) (replacement or reconstruction of existing facilities involving negligible or no expansion of capacity); (iii) Section 15325(e) (transfers of ownership in the land to preserve existing natural conditions and historical resources); and (iv) Section 15332 (in-fill development projects); and
- C. AUTHORIZING the Chief Executive Officer to file a Notice of Exemption for the Project consistent with such exemptions.

ISSUE

In 2016, the Board of Directors authorized Metro staff to execute an Exclusive Negotiation Agreement and Planning Document (ENA) with ELACC and their development partner, Bridge Housing Corporation (Bridge), in support of a Joint Development project located adjacent to the 1st and Soto L (Gold) Line Station. Among other things, the ENA contemplated the restoration of an 1890's Victorian house commonly known as the Peabody Werden House (House) for community serving purposes sited on a portion of the Metro-owned joint development site located at 2400 E. 1st Street in Boyle Heights (Site B or the Project Site).

ELACC and Metro have developed a plan for renovation and programming of the House and are seeking authority to enter into an Option Agreement (Option) no later than December 31, 2022, to

satisfy certain statutory requirements under the California Surplus Land Act (SLA). Should the recommended actions be approved, additional planning, design, and community outreach will occur under the Option.

..Background

BACKGROUND

The Peabody Werden House is a “Queen Anne” Victorian style home built in approximately 1895 and currently owned by ELACC. The House sits on the Project Site, an approximately 0.29 acres of Metro-owned land at the southeast corner of 1st and Soto Street (Site B), across the street from the 1st and Soto Station and Los Lirios Apartments development site (Site A) (see Attachment A - Site Map).

In 2013, Metro issued a competitive Request for Proposal for both Site A and Site B, resulting in a short-term ENA with Bridge and ELACC. Following additional community engagement, in March 2016, the Board authorized a full ENA with Bridge and ELACC, which contemplated the placement and restoration of the House on Site B for a community-serving purpose. The House was originally located on an ELACC-owned property at the northeast corner of 1st and Soto Street, on which ELACC had plans to build a now-completed housing development (Cielito Lindo Apartments). Rather than demolish the House, ELACC worked with Metro to move it to Site B in 2016.

Funding sources for such rehabilitations are different and more limited than the sources available for new affordable housing projects, so the timeline for the development of the Site B Project was bifurcated from that of the Site A Project.

In March 2021, Metro and ELACC/Bridge entered into a Joint Development Agreement (JDA) to develop the affordable housing project on Site A. As of December 8, 2021, Metro ground leased Site A to develop the mixed-use affordable housing project, commonly known as the Los Lirios Apartments. Construction commenced in early 2022, is expected to be completed by the end of 2023, and will be available for tenant lease-up during the first quarter of 2024.

With Site A ground leased for the affordable housing component, the ENA was amended to allow for the continued planning and negotiations for the Site B Project, including negotiations regarding the terms and conditions under which an option to ground lease Site B would be granted.

DISCUSSION

The Developer’s underlying Project consists of the restoration and rehabilitation of the Victorian era House for community serving purposes. The target population will be low- and moderate-income households that live in and around the Boyle Heights community. Under the ENA, the Developer has prepared an initial construction cost budget and related studies in support of the renovation of the House. The cost of remodeling the House for adaptive community uses is estimated to be approximately \$3.2 million. The House will need accessible upgrades such as a ramp and an accessible bathroom or kitchen, as well as the installation of an HVAC system for it to be used for community serving needs. Though it is not on the Historic Register, the Developer intends to rehabilitate the House consistent with its turn-of-the-twentieth century look, finish, and color palette.

ELACC is interested in working with a development partner that has the financial capacity and operating expertise to preserve and restore/rehabilitate the House and turn it into a community serving space. It is anticipated that such an entity would assist with funding the House's design, permit, restoration and programming. ELACC would require a joint venture agreement or similar instrument with the development partner to accomplish these goals in alignment with the Option. ELACC is presently speaking with several viable organizations to explore joint venture opportunities. The Developer is expected to engage community members to discuss the full spectrum of potential services once the Option is executed. In addition to community services, input will also be sought for the landscaping and greening of Site B, as well as a call for public art for the Project.

The Option Agreement will include specific deal terms, which can be found in the attached Term Sheet (see Attachment B - Peabody Werden House Term Sheet). Before entering into any ground lease for the Project, the Developer would be required to satisfy certain closing conditions set forth in the Option, including:

- Delivery of financial assurances to Metro evidencing the ability to pay for all rehabilitation costs.
- Metro review and approval of all construction documents in final form.
- Evidence of all governmental approvals, including building permits, will allow the Developer to build out the Site B Project successfully.
- Delivery of all performance bonds and completion guarantees necessary to demonstrate successful completion as evidenced by a certificate of occupancy.
- Metro will have reviewed and approved all proposed community services and related programming contemplated by the Developer.

The Option period will encompass one year with the ability to extend it for two additional one-year periods at the discretion of Metro. As proposed, the option would be for a ground lease term (Term) for a period of 20 years with two (2) five-year options to extend at the discretion of both parties. During the Term, the Developer would be solely responsible for upkeep and maintenance of the Site B Project. Metro will reserve the right to conduct regular monitoring reviews of Site B along with the programmatic activities to ensure conformance with community serving uses. A fee of \$25,000 will be collected from the Developer during the Option period to pay for third-party consultant costs.

Bridge has assigned its remaining interest in the ENA to ELACC such that ELACC remains the only developer for the Site B Project. Upon execution of the Option, the Developer intends to conduct additional community outreach and select a service provider with the financial capacity and operational experience to assist in the rehabilitation process and operate the updated facility on a long-term basis. Ultimate oversight and control of the House would be established through a ground lease with Metro.

To the extent the Developer does not exercise the Option, Metro will issue a separate procurement in conformance with HCD and the SLA. This will entail seeking an affordable housing use over a community serving project. In this case, the outcome of the House and its future viability would be unknown.

EQUITY PLATFORM

The proposed development at the Project Site is representative of Metro's JD Program to pursue greatly needed community services in conjunction with and in close proximity to high quality affordable housing opportunities, among other community policy goals. Adopted in June 2021, the Metro JD Policy is centered on four main goals: (1) equity and inclusion, (2) access, (3) performance, and (4) innovation. The JD Policy Mission Statement is to "create high-quality homes, jobs, and places near transit for those who need them most, as soon as possible."

The eventual restoration/rehabilitation of the House for adaptive community uses next to an existing Joint Development affordable housing project will create an enhanced community serving public infrastructure, jobs, and other transit-supportive amenities. The Project also creates opportunities to enhance access to Metro's L Line (Gold).

This Project falls within an Equity Focused Community, benefitting community members adjacent to the Project and other lower income Los Angeles County residents in need of social services and affordable housing. The Developer will continue building on the years of prior community outreach for this Project as specified by the requirements under the ENA and commitments identified within the Option.

In response to community and stakeholder concerns, the Option will provide a path forward for identifying key community-based services currently lacking in the immediate area. The intent is to build out the facility and provide such services on a long-term basis through a credible non-profit and/or related entity with the required organizational capacity and demonstrated track record to maintain a facility like the House long-term. To achieve this outcome, ELACC intends to stabilize the House and work with the service provider to provide the appropriate community services. Onsite activities may include but are not limited to, a senior citizens nutrition center, literacy workshops, housing, and employment guidance opportunities.

As part of any future construction activities, Metro will require the Developer to submit a construction work plan that addresses mitigation measures to limit dust, traffic, and noise for surrounding small businesses and neighbors. During the Term of the Option, the Developer will work with Metro to define programmatic services and the target audience. Initial discussions have focused on offering services to residents of Boyle Heights and the surrounding area with a specific focus on those considered low- and moderate-income. This will be verified and documented as part of the service intake process once the Project is operational.

Throughout this process, the Developer has expressed a strong commitment to community engagement and share Metro's belief that stakeholder input will be critical to this effort's success. Once the Project's entitlements have been submitted, community engagement in coordination with the Developer will involve different methods such as design review workshops (online and/or in-person when possible) public neighborhood council meetings, and potential pop-up events. As with similar JD outreach efforts, engagement will be conducted in English, Spanish, and other languages

deemed appropriate to reach a broad audience of stakeholders.

DETERMINATION OF SAFETY IMPACT

Approval of the Option Agreement will have no direct impact on safety. Proposed work on the House or Site B will be reviewed by Construction Management, Operations, as well as Metro Safety and Security to ensure there are no indirect safety impacts and that any improvements contribute to safer, more secure station environment.

FINANCIAL IMPACT

Funding for joint development activities related to the Option and the Project is included in the adopted FY23 budget in Cost Center 2210, Project 401019 (1st and Soto).

Impact to Budget

There is no impact to the FY23 budget. If executed, the Option will require the Developer to pay Metro a \$25,000 Option fee, which staff have determined will be adequate to cover actual costs incurred by Metro in the planning and negotiations of a ground lease.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommendation supports strategic plan Goal #2 to provide outstanding trip experiences for all users of the transportation system and Goal #3, to enhance community and lives through mobility and access to opportunity.

ALTERNATIVES CONSIDERED

The alternative to pursuing an Option with the Developer would entail missing the SLA identified deadline for having a binding agreement in place by December 31, 2022. In doing so Metro would have to take possession of the House and issue a procurement for the redevelopment of Site B as a "housing first" development as prescribed by the SLA. This would be counter to the intent of the Metro Board in its original 2016 action and neighborhood stakeholders when a community-serving project was first proposed for Site B.

NEXT STEPS

Upon approval of the recommended action, staff will prepare and execute the Option. This process will need to be completed on or before December 31, 2022, to maintain compliance with the California Surplus Land Act's "grandfathering exemption" for the disposition of certain properties that meet the requirements set forth in Government Code Section 54234(a)(1).

Once the Option agreement is executed, staff will continue working with the Developer on plans for the restoration and rehabilitation of the House. In addition, staff will work with the Developer to continue to conduct Developer-led community outreach meetings regarding the potential programming, progress with entitlements and ongoing interface with community stakeholders. Presentations will also be given to the Boyle Heights Neighborhood Council as further progress is

made. Upon exercise of the Option by the Developer, and satisfaction of certain conditions precedent outlined in the Project Term Sheet, Metro and the Developer will enter into the ground lease for the Site B Project.

ATTACHMENTS

Attachment A - Site Map

Attachment B - Project Term Sheet

Prepared by: Jeffrey Ross, Senior Transportation Planner, Countywide Planning & Development, (213) 547-4200.

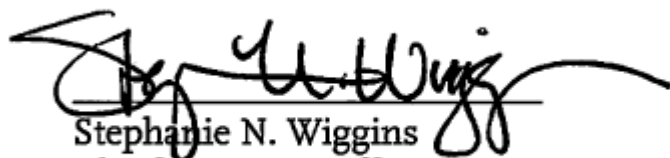
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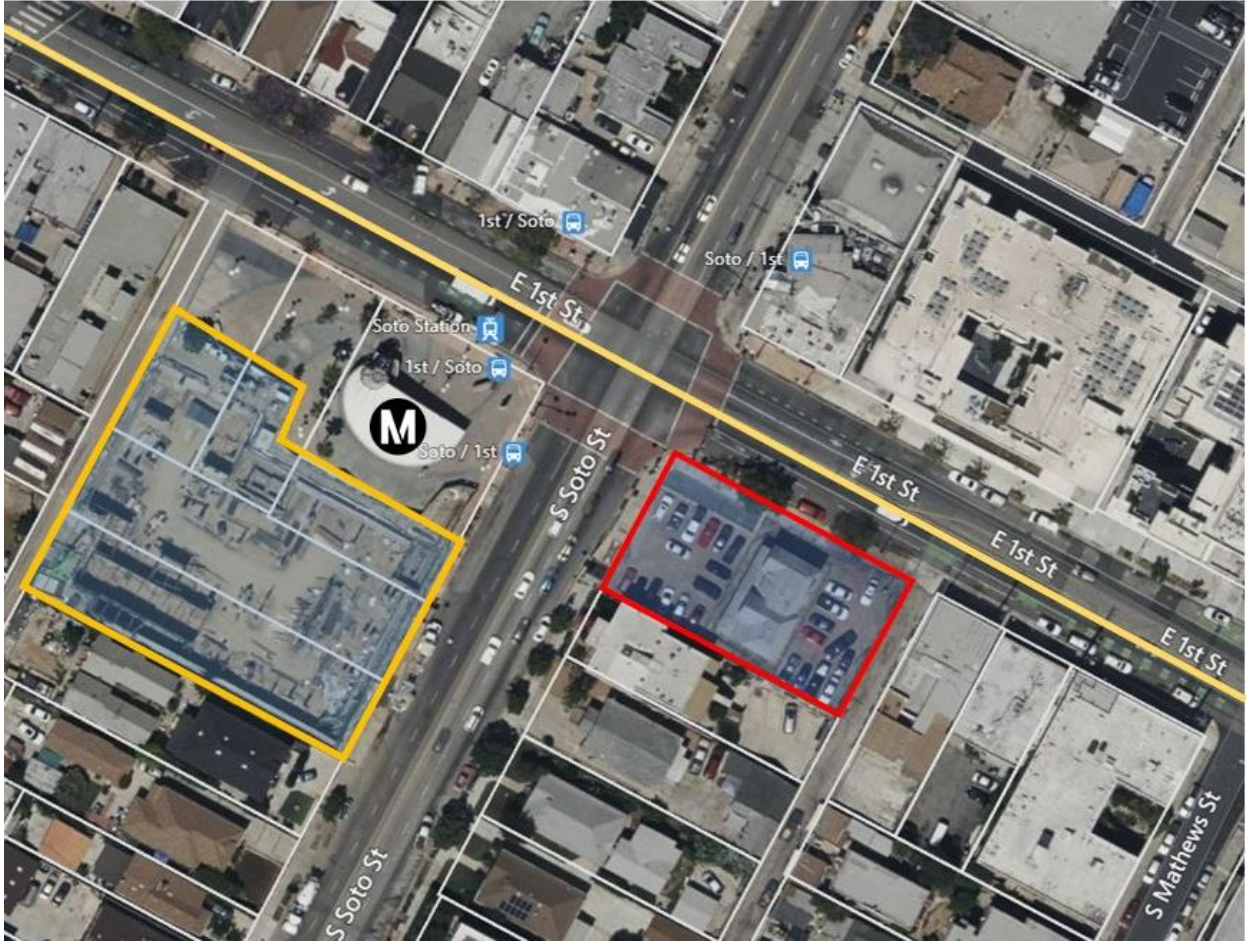
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Stephanie N. Wiggins
Chief Executive Officer

Attachment A

Site Map



Site A: Metro property, Site of Los Lirios Apartments



Site B: Metro Project Site holding Peabody Werden House



Metro L (Gold) Line



1st / Soto L Line Station Portal

**SUMMARY OF KEY TERMS AND CONDITIONS OF
OPTION AGREEMENT AND GROUND LEASE
FOR
2400 EAST 1ST STREET
(PEABODY WERDEN HOUSE)**

DATED: NOVEMBER __, 2022

*This Summary of Key Terms and Conditions (“**Term Sheet**”) outlines the key terms and conditions of a development transaction by and between the Los Angeles County Metropolitan Transportation Authority (“**LACMTA**”) and East LA Community Corporation, a California nonprofit public benefit corporation (the “**Developer**”), with respect to certain LACMTA real property located at 2400 East 1st Street in the community of Boyle Heights, in the City of Los Angeles. The development transaction contemplates, among other things, (a) a proposed Option Agreement (the “**Option Agreement**”) between LACMTA and Developer, and (b) a proposed ground lease (the “**Ground Lease**”) between LACMTA and a limited partnership that is an affiliate of Developer and created for the purposes of the execution of the Project defined below (“**Ground Lease Tenant**”). The purpose and intent of this Term Sheet is to set forth the general terms and conditions of the development transaction, including the Option Agreement and Ground Lease. Any Section numbers referenced herein shall refer to the corresponding Section numbers in this Term Sheet.*

1. GENERAL DESCRIPTION

- 1.1 DEVELOPMENT SITE:** LACMTA is the fee owner of that certain real property consisting of approximately 1.53 acres of land located in the community of Boyle Heights, at the intersection of 1st Street and Soto Street in the City of Los Angeles, County of Los Angeles, State of California, as more particularly described in Exhibit A attached hereto (the “**LACMTA Property**”). The LACMTA Property is comprised of two (2) sites, including (1) an approximately 1.24 acre portion that is located on the southwest corner of 1st Street and Soto Street (“**Site A**”), and (2) an approximately 0.29 acre portion that is located on the southeast corner of 1st Street and Soto Street, as more particularly depicted in Exhibit B (“**Site B**”). Site A has been ground leased for the development of an affordable housing project consisting of approximately sixty-four (64) rental apartment units, approximately two thousand four hundred and forty (2,440) square feet of commercial space, and approximately fifty (50) parking spaces (collectively, the “**Los Lirios Development**”).
- 1.2 PROPOSED PROJECT:** Developer was granted a license to place an approximately three thousand five hundred ninety-three (3,593) square foot, two-story single-family “Queen Anne” Victorian style home originally

constructed in the 1890s, which is commonly known as the Peabody Werden House (the “**House**”), on a portion of Site Bin 2016. Developer desires to lease a portion of Site B (as depicted in Exhibit B, the “**Premises**”) from Metro in order to facilitate the restoration and rehabilitation of the House and surrounding Premises (the “**Project**”) for the purpose of providing publicly accessible open space and community serving uses (the “**Community Services**”) for the Los Lirios Development and surrounding community, the final programming of which shall be subject to LACMTA’s review and approval.

1.3 SERVICE PROVIDER: In order to facilitate the completion and operation of the Project, Developer desires, subject to LACMTA’s prior review and approval, to partner with a third-party service provider who will bring (a) financial capacity to develop the Project, and (b) substantial experience and expertise in providing the Community Services.

2. GENERAL CONDITIONS

2.1 DEVELOPMENT ENTITLEMENTS & OTHER LEGAL REQUIREMENTS:

Prior to entering into the Ground Lease, Developer will have, at its sole cost and expense, obtained all required governmental approvals necessary for the Project, and shall comply with all applicable requirements of the land use authority, as well as any other applicable legal requirements related to or required for the Project.

2.2 AS-IS CONDITION: The Premises are being offered to Developer and Ground Lease Tenant under the Ground Lease in their as-is condition, without any warranty by LACMTA.

2.3 COMPLIANCE WITH LAWS:

During the term of the Option Agreement and Ground Lease, Developer and Ground Lease Tenant (as applicable), at their sole expense, will comply with all applicable federal, state and local laws, ordinances, regulations, rules and orders with respect to their respective rights and responsibilities under the Option Agreement and Ground Lease, including but not limited to all applicable zoning, land use, planning and entitlement-related requirements and other legal requirements related to the Project. Developer will acknowledge in the Option Agreement that, in LACMTA’s performance of its obligations and adherence to the terms and conditions of the Option Agreement, LACMTA is subject to all applicable federal and state laws (including, but not limited to, California Government Code Section 54220 *et seq.* (the

“**Surplus Land Act**”), and that LACMTA shall not be obligated to perform any obligation or adhere to any covenant under the Option Agreement if such performance or adherence would result in a violation of any such laws.

2.4 SUPERSEEDURE:

This Term Sheet supersedes and replaces any and all term sheets or summaries of key terms and conditions relating to the Premises, the Project or any joint development agreement or ground lease with respect to the Premises dated prior to the date of this Term Sheet. Notwithstanding the foregoing, that certain Exclusive Negotiation Agreement and Planning Document between LACMTA and Developer, dated June 22, 2016 (as amended, the “**ENA**”), shall remain in full force and effect and be unchanged by this Term Sheet.

3. KEY OPTION AGREEMENT TERMS:

3.1 GENERAL:

After the LACMTA Board has authorized execution of the Option Agreement and other transaction-related documents in accordance with this Term Sheet, then LACMTA and Developer will enter into an Option Agreement containing terms and conditions that are substantially consistent with those set forth in this Term Sheet, subject to any modifications as directed by the LACMTA Board that are agreed to by Developer.

3.2 TERM:

The term of the Option Agreement (the “**Option Agreement Term**”) would commence upon execution of the Option Agreement by LACMTA and Developer (the “**Option Agreement Commencement Date**”) and expire on date (“**Option Agreement Expiration Date**”) that is the earlier of: (a) the date that is twelve (12) months thereafter, or (b) the date on which the Ground Lease is executed by LACMTA and Ground Lease Tenant. Notwithstanding the foregoing, if LACMTA determines that Developer has been working in good faith to fulfill its obligations under the Option Agreement, LACMTA will have the ability to, in its sole and absolute discretion, extend the Option Agreement Expiration Date for up to two (2) consecutive periods of twelve (12) months each. LACMTA will have the right to terminate the Option Agreement for defaults that will be detailed in the Option Agreement, subject to applicable notice and cure periods.

3.3 HOLDING RENT:

As consideration for the rights granted to Developer during the Option Agreement Term, commencing with the Option Agreement Commencement Date and continuing throughout the Option Agreement Term, Developer will pay LACMTA a monthly non-refundable holding rent (“**Holding Rent**”) at the commencement of each month of the Option Agreement Term in an amount equal to one thousand dollars (\$1,000). Holding Rent for partial months at

the beginning and end of the Option Agreement Term will be prorated. All Holding Rent due LACMTA will be non-refundable.

3.4 CLOSING/CONDITIONS TO CLOSING:

DURING THE OPTION AGREEMENT TERM, LACMTA AND DEVELOPER WILL (A) OPEN AN ESCROW ("**Escrow**") with Commonwealth Title and (b) work in good faith to satisfy certain conditions precedent to execution of the Ground Lease that will be set forth in the Option Agreement (the "**Closing Conditions**"). When all of the Closing Conditions have been satisfied (or waived by the applicable party) and when Developer has assigned to Ground Lease Tenant Developer's right under the Option Agreement to enter into the Ground Lease, then Ground Lease Tenant and LACMTA will enter into the Ground Lease. The "**Closing**" shall occur on the date that Ground Lease Tenant and LACMTA enter into the Ground Lease and LACMTA receives all rent and other amounts then due LACMTA under the Option Agreement, the Ground Lease and all other documents and agreements related to the Project or the Ground Lease transaction. Documents related to Closing, including, without limitation, the Ground Lease, will be executed by LACMTA, as one party, and Developer and/or Ground Lease Tenant, as the other party(ies), as is necessary to properly effectuate the Closing.

The Closing Conditions will include, without limitation, the following requirements:

(i) Developer's delivery of evidence and assurances ("**Financial Assurances**") to LACMTA, via documentation provided by Developer to the satisfaction of LACMTA, demonstrating that Ground Lease Tenant has sufficient financial resources in place to execute the Project, which Financial Assurances will include evidence that all funding sources completion and operation of the Project are fully committed without reservation;

(ii) Developer's (or Ground Lease Tenant's) receipt of all governmental approvals necessary for the Project, including LACMTA's approval of any Final Construction Documents (defined below) (such LACMTA-approved Final Construction Documents, the "**Approved Construction Documents**"), and a "ready to issue" letter from the City of Los Angeles for any permits necessary for the Project in accordance with the Approved Construction Documents, as applicable;

(iii) Ground Lease Tenant and LACMTA shall have executed and delivered to Escrow the Ground Lease and any other required transaction documents, all as contemplated in the Option Agreement;

(iv) LACMTA shall have determined that the Project, Ground Lease Transaction, and other matters contemplated by this Term Sheet meet any applicable Federal, State, or bond funding restrictions/requirements/approvals;

(v) LACMTA shall have received from Ground Lease Tenant payment and performance bonds, and a completion guaranty guaranteeing and securing Completion of the Project (as defined below), each in a form satisfactory to LACMTA;

(vi) LACMTA shall have received assurances from Developer that Ground Lease Tenant is ready to commence work on the Project promptly following the Closing; and

(vii) LACMTA shall have reviewed and approved the anticipated Community Services that will be provided at the Project upon Completion of the Project.

As used in this Term Sheet, the term “**Completion of the Project**” shall occur when Ground Lease Tenant receives a final certificate of occupancy from the City of Los Angeles permitting occupancy of the entire Project.

3.5 OPTION AGREEMENT DESIGN REVIEW:

During the Option Agreement Term and the Restoration Period, LACMTA will have the right to review and approve the design of the Project to the extent of any design elements that affect, directly or indirectly the following (collectively, the “**LACMTA Design Concerns**”):

- (a) The LACMTA Operations-Related Concerns (defined below);
- (b) The exterior of the Project, including materials, paint colors, entries, fenestration, signage, equipment and utility locations, and lighting;
- (c) The public realm surrounding the Project, including public features such as outdoor seating, lighting, and street trees, and the pedestrian experience along Project frontages;
- (d) The open spaces on the Premises, including landscaped and hardscaped elements, and other public features such as seating and other street furnishings, lighting, and street trees;

- (e) The Project's public bicycle and vehicular elements and its public pedestrian elements and the relationship of such elements to building entries, transit service and the public realm and the quantity of private bicycle parking spaces for the Project, and the relationship of such private bicycle parking spaces to building entries;
- (f) A change in the scope of the Project from that set forth in the Section 1.2; and
- (g) Interior floor plans, including structural interior elements and interior finishes.

LACMTA's exercise of its rights hereunder for matters that are not related to LACMTA Operations-Related Concerns will be at LACMTA's reasonable discretion. LACMTA's exercise of its rights hereunder for matters that are related to LACMTA Operations-Related Concerns will be at LACMTA's sole and absolute discretion. LACMTA's design approval rights as set forth herein are, in part, intended to ensure that the Project meets LACMTA's Satisfactory Continuing Control Requirement (as defined in Section 4.14).

"Final Construction Documents" means any final plans and specifications approved by the City of Los Angeles for the execution of the Project and containing details as will be reasonably necessary to allow LACMTA to assess all impacts of such work in accordance with LACMTA's rights under the Option Agreement.

"LACMTA Operations-Related Concerns" means (a) the operations of LACMTA, including the experience of transit patrons and transit users, (b) LACMTA's exercise of its Retained Rights (defined below) and any area subject to the Retained Rights, (c) the Public Transit Facilities, the access to or from each of the same, and the maintenance, repair, modification, renovation and replacement of the same, (d) the lateral and subjacent support to the Public Transit Facilities and any area providing support necessary for LACMTA to exercise its Retained Rights, and (e) public, transit patron and LACMTA employee and contractor health and safety.

"LACMTA Transit Equipment" means all of the equipment, cable, conduit, fixtures, furnishings, and vehicles located or operating in, on, under, over, about, or adjacent to the LACMTA Property and used or installed by LACMTA for any transit purpose, including ticket vending machines, ticket validation and gating systems and other equipment serving a comparable function, map and

information cases and directional signs, lighting, security cameras, rail cars, vehicles, tracks, signaling devices, maintenance equipment, public address systems, fire protection equipment, communication antennas, and all other transit related or LACMTA related equipment and vehicles.

“Public Transit Facilities” means all transit-related or LACMTA-related improvements, structures, stations, equipment, fixtures, trains, subways, buses and furnishings now existing or hereafter located in, on, under, near, adjacent to, and/or passing through, the LACMTA Property, including, without limitation, any LACMTA Transit Equipment, water lines, sanitary sewer lines, storm sewer improvements, electrical lines, antennas, elevator, shafts, vents, portals, and exits.

3.6 OUTREACH:

During the Option Agreement Term, Developer would prepare an outreach plan (the **“Outreach Plan”**) for LACMTA’s review and approval, and lead and conduct public outreach in accordance with the Outreach Plan. The Outreach Plan shall provide multiple modes of collecting feedback, such as attendance at other organization’s events, pop-ups, on-line and in-person surveys and not fewer than two (2) community outreach events in order to solicit community input and feedback on service needs.

3.7 SCHEDULE OF PERFORMANCE:

During the Option Agreement Term, Developer would provide to LACMTA, for LACMTA’s review and approval, a schedule of performance for the Project, which will be maintained and updated regularly by Developer upon LACMTA’s request.

3.8 TRANSFERS, ASSIGNMENT AND SUBLETTING:

Except (a) for a one-time transfer by Developer to Ground Lease Tenant immediately prior to the execution of the Ground Lease and (b) as otherwise approved in writing by LACMTA in its sole and absolute discretion, Developer shall not transfer or assign its rights or obligations under the Option Agreement or any portion thereof.

4. KEY GROUND LEASE TERMS:

4.1 GROUND LEASE TENANT: The tenant under the Ground Lease will be the Ground Lease Tenant (defined in the preamble).

4.2 GROUND LEASE – GENERALLY:

At Closing, LACMTA, as landlord, and Ground Lease Tenant, as tenant, will enter into the Ground Lease, which will provide for the

execution of the Project on the Premises by Ground Lease Tenant, at Ground Lease Tenant's sole cost and expense. The Ground Lease will contain terms and conditions that are substantially consistent with those set forth in this Term Sheet, subject to such modifications as may be directed by the LACMTA Board that are agreed to by Ground Lease Tenant.

**4.3 REHABILITATION/
RESTORATION**

PERIOD:

The Project will be completed in accordance with the Approved Construction Documents. The Ground Lease will require commencement of the Project within thirty (30) days after the Commencement Date (defined below). The rehabilitation/restoration period for the Project ("**Restoration Period**") will commence on the Commencement Date and will terminate upon completion of rehabilitation/restoration of the Project in accordance with the Ground Lease

**4.4 UNSUBORDINATED
GROUND LEASE:**

Neither LACMTA's interests (including Federal and State interests as a providers of funds for the Metro L Line (formerly the Metro Gold Line)) under the Ground Lease nor LACMTA's Satisfactory Continuing Control Requirement will be subordinated to any interest that Ground Lease Tenant or its lenders or investors will have in the Premises.

**4.5 GROUND LEASE
PREMISES:**

The premises under the Ground Lease will be the Premises.

4.6 GROUND LEASE TERM:

The initial term of the Ground Lease (the "**Initial Ground Lease Term**") will commence on the date of the Closing, pursuant to the terms of the Option Agreement (such date being the "**Commencement Date**") and will expire on the date occurring twenty (20) years after the Commencement Date (the "**Ground Lease Term**"). There shall also be three (3) five-year options to extend the Term at the sole and absolute discretion of LACMTA.

**4.7 GROUND
RENT:**

Commencing on the Commencement Date of the Ground Lease, Ground Lease Tenant shall pay to LACMTA ground rent ("**Ground Rent**") that is the greater of (a) a capitalized rent payment ("**Capitalized Rent**") in an amount equal to the appraised value of the Premises less the estimated cost of the Project, as independently reviewed and verified by LACMTA, which Capitalized Rent shall be due upon execution of the Ground Lease, or (b) the amount of one hundred dollars (\$100.00) per annum for the Ground Lease Term. Any appraisal of the Premises will be prepared using USPAP guidelines and

completed not earlier than six months prior to the anticipated Commencement Date of the Ground Lease. The Ground Rent will stay in effect for the Ground Lease Term. LACMTA will have the right to audit all program activities at the Project in order to confirm the Community Services operating therein. Any material changes to the Community Services with respect to a portion of the Premises that is greater than 20% of leasable square footage that have not been approved in advance by LACMTA will trigger a re-examination of Ground Rent and subject the Project to a new Ground Rent calculation.

4.8 NET LEASE:

All rent to be paid by Ground Lease Tenant under the Ground Lease will be absolutely net to LACMTA, without offset, deduction or withholding. Ground Lease Tenant will be responsible for all capital costs and operating expenses attributable to the completion and operation and maintenance of the Project, including all taxes and assessments levied upon the Project or any interest in the Ground Lease. Ground Lease Tenant is aware that the Premises are also subject to possessory interest taxes, which will be paid by Ground Lease Tenant.

**4.9 GROUND LEASE
DESIGN REVIEW:**

Ground Lease Tenant shall not make any changes to the Approved Construction Documents or the Project that affect the LACMTA Design Concerns without the prior consent of LACMTA and any such changes will be requested in writing by Ground Lease Tenant. During the Restoration Period, LACMTA will have design review rights with respect to any such changes in the same manner as set forth in Section 3.5. LACMTA's exercise of its rights hereunder for changes that are not related to LACMTA Operations-Related Concerns will be at LACMTA's reasonable discretion. LACMTA's exercise of its rights hereunder for changes that are related to LACMTA Operations-Related Concerns will be at LACMTA's sole and absolute discretion. In addition to the foregoing, LACMTA shall retain similar design approval rights as set forth in Section 3.5 for any substantive Project changes or improvements sought by Ground Lease Tenant after the Project. LACMTA's design approval rights as set forth herein are, in part, intended to ensure that the Project meets LACMTA's Satisfactory Continuing Control Requirement.

**4.10 MAINTENANCE AND
OPERATIONS:**

During the Ground Lease Term, Ground Lease Tenant will be required to maintain and operate all portions of the Project and the Premises at its sole cost and expense pursuant to maintenance and operations standards set forth in the Ground Lease.

4.11 FINANCING AND ENCUMBRANCES:

Subject to LACMTA's reasonable approval, Ground Lease Tenant may encumber its leasehold estate with mortgages, deeds of trust or other financing instruments; provided, however, in no event shall LACMTA's fee title interest, the rent payable to LACMTA under the Ground Lease or LACMTA's Satisfactory Continuing Control Requirement, be subordinated or subject to Ground Lease Tenant's financing or other claims or liens. Such encumbrances and financings will be subject to LACMTA's reasonable approval, except with respect to certain "**Permitted Financing Events**" meeting specific criteria to be set forth in the Ground Lease, which shall not require LACMTA's approval. Subject to the satisfaction of specific criteria to be set forth in the Ground Lease and provided that such financing is from institutional lenders, governmental lenders or quasi-governmental lenders, Permitted Financing Events will include such financing as is required to convert from construction to permanent financing.

4.12 FEDERAL CIVIL RIGHTS COVENANTS:

Ground Lease Tenant shall comply with all applicable Federal nondiscrimination requirements, including applicable sections of Title 49 of the Code of Federal Regulations.

4.13 TRANSFERS, ASSIGNMENT, & SUBLETTING:

Except for limited permitted exceptions to be set forth in the Ground Lease, Ground Lease Tenant shall not transfer, assign or sublet its rights or obligations under the Ground Lease, or any beneficial interests in Ground Lease Tenant (each, a "**Transfer**"):

- a. Prior to Completion of the Project; and
- b. After Completion of the Project, except in accordance with reasonable transfer criteria (including, without limitation, criteria regarding the creditworthiness and experience of any proposed transferee and its affiliates, the extent to which any proposed occupancy resulting from the Transfer continues to meet community needs, and applicable Federal and State approvals and provisions regarding debarment and suspension) to be negotiated by LACMTA and Ground Lease Tenant and included in the Ground Lease.

Notwithstanding the foregoing, the Ground Lease will allow Ground Lease Tenant to make certain "**Permitted Transfers**" without LACMTA's consent; provided that (a) Ground Lease Tenant is not in breach or default under the Ground Lease, (b) Ground Lease Tenant provides written notice to LACMTA of Ground Lease Tenant's intent to effectuate a Permitted Transfer in

accordance with time frames set forth in the Ground Lease and with sufficient detail for LACMTA to reasonably determine that the intended Transfer is a Permitted Transfer, (c) Ground Lease Tenant provides written notice to LACMTA of the consummation of the Transfer in accordance with time frames set forth in the Ground Lease and with sufficient detail for LACMTA to reasonably determine that the Transfer was a Permitted Transfer, (d) the Permitted Transfer complies fully with all applicable provisions of the Ground Lease, (e) no Permitted Transfer shall release Ground Lease Tenant from any part of its obligations under the Ground Lease, except as expressly set forth in the Ground Lease, and (f) no such Permitted Transfer shall result in a Change of Control, except as expressly permitted in the Ground Lease.

Subject to the conditions set forth in the previous sentence, the term “**Permitted Transfers**” will include: (i) a transfer of the initial limited partnership interest in Ground Lease Tenant to an investor limited partner and the subsequent transfer of such investor’s limited partnership interest in Ground Lease Tenant to another investor or an affiliate of Ground Lease Tenant (even if such transfer constitutes a Change of Control), (ii) the transfer of Ground Lease Tenant’s interest to an affiliate of Ground Lease Tenant (which LACMTA and Ground Lease Tenant acknowledge could result in a Change of Control), and (iii) the replacement of Ground Lease Tenant’s general partner for cause with an affiliate of the limited partner in accordance with the terms of Ground Lease Tenant’s partnership agreement (which LACMTA and Ground Lease Tenant acknowledge will result in a Change of Control), provided that in each case such investor or affiliate meets certain transferee requirements set forth in the Ground Lease. “**Change of Control**” means (a) a change in the identity of the entity with the power to direct or cause the direction of the management and policies of Ground Lease Tenant, whether through the ownership of voting securities, by contract or otherwise, or (b) the transfer, directly or indirectly, of fifty percent (50%) or more of the beneficial ownership interest in Ground Lease Tenant.

4.14 RETAINED RIGHTS:

LACMTA shall retain from the rights granted to Ground Lease Tenant under the Ground Lease certain rights as will be further described in detail in the Ground Lease, relating to the following: (1) the right to install, construct, inspect, operate, maintain repair, expand and replace Public Transit Facilities in, on, under, over, and adjacent to the Premises as LACMTA may deem necessary; (2) the right to install, use, repair, maintain, and replace along the perimeter of the Premises public streets, sidewalks and/or rights-of-way (including, without limitation, on the exterior of the Project’s buildings) (a) lighting, security cameras, and related conduit,

cable, wiring and other appurtenances, (b) informational, directional and way-finding signs for the purpose of directing the public to, from and between LACMTA transit options and other public transit options in the area; provided, however, LACMTA shall not install any such signage, lighting, security cameras, conduit, cable, wiring or appurtenances on the Premises or the Project without Ground Lease Tenant's prior written approval, which shall not be unreasonably withheld, conditioned or delayed; (3) the right to enter upon and inspect the Premises, with reasonable notice to Ground Lease Tenant, and anytime during normal business hours for purposes of conducting normal and periodic inspections of the Premises and the Project and to confirm Ground Lease Tenant's compliance with the terms and conditions of the Ground Lease; and (4) all rights not explicitly granted to Ground Lease Tenant in the Ground Lease (the "**Retained Rights**"). The Retained Rights shall, among other things, ensure that the Premises remain available for the transit purposes originally authorized by the LACMTA's Federal and the State funding partners ("**LACMTA's Satisfactory Continuing Control Requirement**"). In exercising the Retained Rights, LACMTA shall use, good faith efforts to coordinate any construction, repair, maintenance or similar activities with Ground Lease Tenant so as to minimize the impact of such activities on each of Ground Lease Tenant's and Ground Lease Tenant's subtenants' usage of the Premises in accordance with the Ground Lease.

4.15 OTHER:

Other customary and relevant provisions contained in other recent LACMTA ground leases will be included in the Ground Lease, including, without limitation, (a) LACMTA's standard transit proximity risk waiver, assumption of risk and indemnity language related to the Project's proximity to rail and other transit operations and infrastructure and (b) provisions relating to insurance and indemnity.

5. LACMTA COSTS

5.1 LACMTA COSTS:

Developer and Ground Lease Tenant acknowledge and agree that LACMTA will incur certain actual costs (the "**LACMTA Costs**") related to (a) the Project and (b) negotiation of the terms and conditions of the transactions contemplated under the Option Agreement and the Ground Lease. The LACMTA Costs will include, without limitation, the actual cost of in-house staff time (including LACMTA overhead and administrative costs) and third party consultation fees (including, but not limited to, fees related to legal counsel, consultants, engineers, architects, and advisors) for financial analyses, design review (including reviewing plans and specifications for the Project and engineering and other reports

related to the Project), negotiations, appraisals, document preparation, services related to development, planning, engineering, construction safety, construction management, construction support, and construction logistics, oversight and inspection, and other reasonable services related to the Project and the transactions contemplated under the Option Agreement and Ground Lease, *but shall exclude* the cost of LACMTA Joint Development staff, and LACMTA's in-house and outside legal counsel with respect to negotiation and preparation of the Option Agreement, Ground Lease and related transaction documents.

5.2 OPTION FEE:

On the Option Agreement Commencement Date, Developer shall pay LACMTA an amount of \$25,000 (the "**Option Fee**") to apply to LACMTA Costs (whether accruing prior to or after the Option Agreement Commencement Date).

EXHIBIT A

LACMTA Property



The LACMTA Property consists of Site A and Site B, as follows:

Site A (1.24 acres):

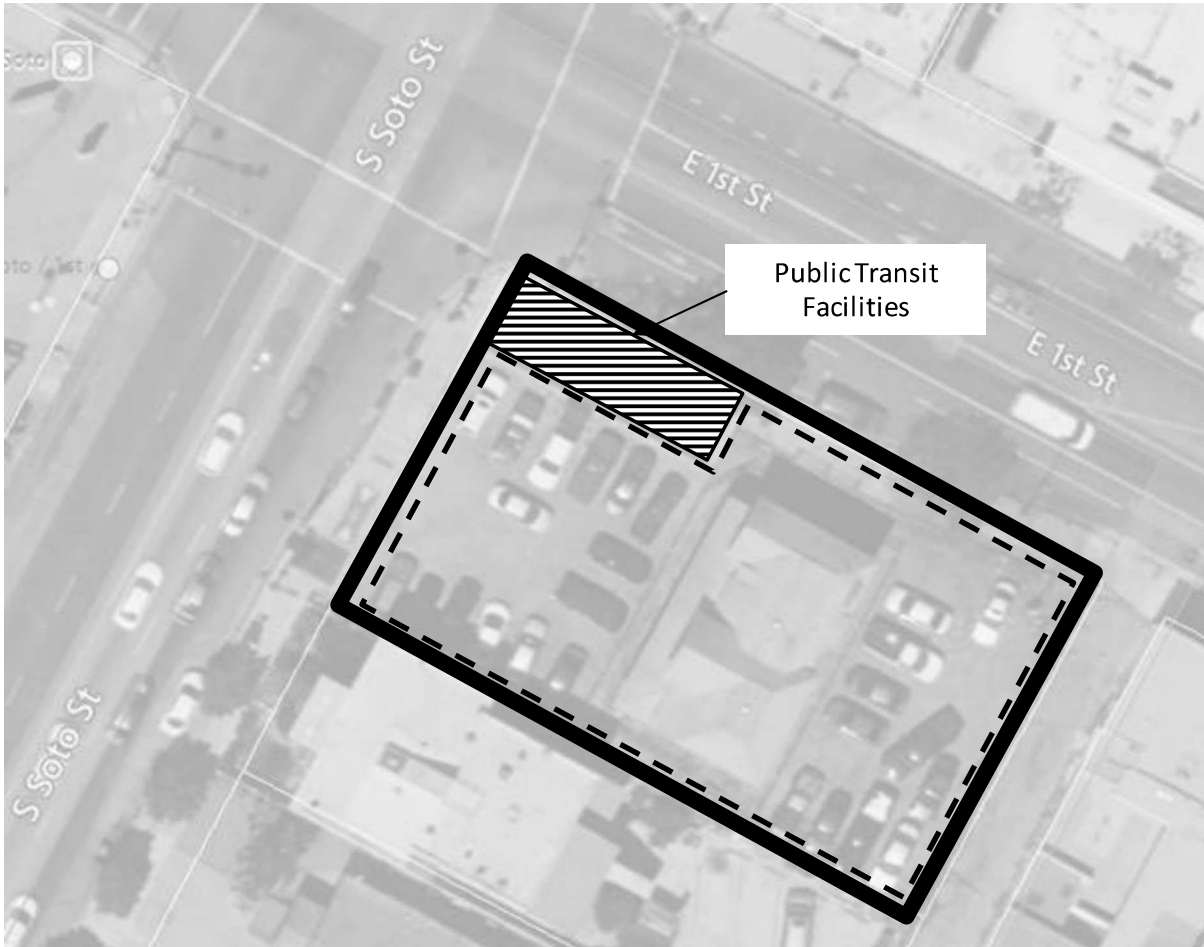
- Parcel 1 - 2310 East 1st Street, APN 5183-009-908, 0.16 acres, Zoned C2-1
- Parcel 2 - 2316 East 1st Street, APN 5183-009-905, 0.16 acres, Zoned C2-1
- Parcel 3 - 2322 East 1st Street, APN 5183-009-906, 0.16 acres, Zoned C2-1
- Parcel 4 - 2328 East 1st Street, APN 5183-009-909, 0.23 acres, Zoned C2-1
- Parcel 5 - 113 South Soto Street, APN 5183-009-910, 0.09 acres, Zoned C2-1
- Parcel 6 - 119 South Soto Street, APN 5183-009-904, 0.23 acres, Zoned RD1.5-1
- Parcel 7 - 121 South Soto Street, APN 5183-009-907, 0.22 acres, Zoned RD1.5-1

(Parcel 1 contains a traction power substation serving the Metro Gold Line. Parcels 2, 3 and 4 contain at-grade landscaping, plaza, subway and portal improvements and other subsurface subway station improvements. Parcel 5 and a portion of Parcel 6 contain at-grade landscaping and plaza improvements.)

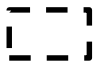
Site B (0.29 acres):

- Parcel 8 - 2400 East 1st Street, APN 5180-003-900, 0.29 acres, Zoned C2-1, which contains at-grade and subsurface subway station improvements.

EXHIBIT B
Site B and Premises



Site B



Premises



Next stop: building communities.

Peabody Werden House Joint Development

Planning and Programming Committee
November 16, 2022
Legistar File 2022-0585

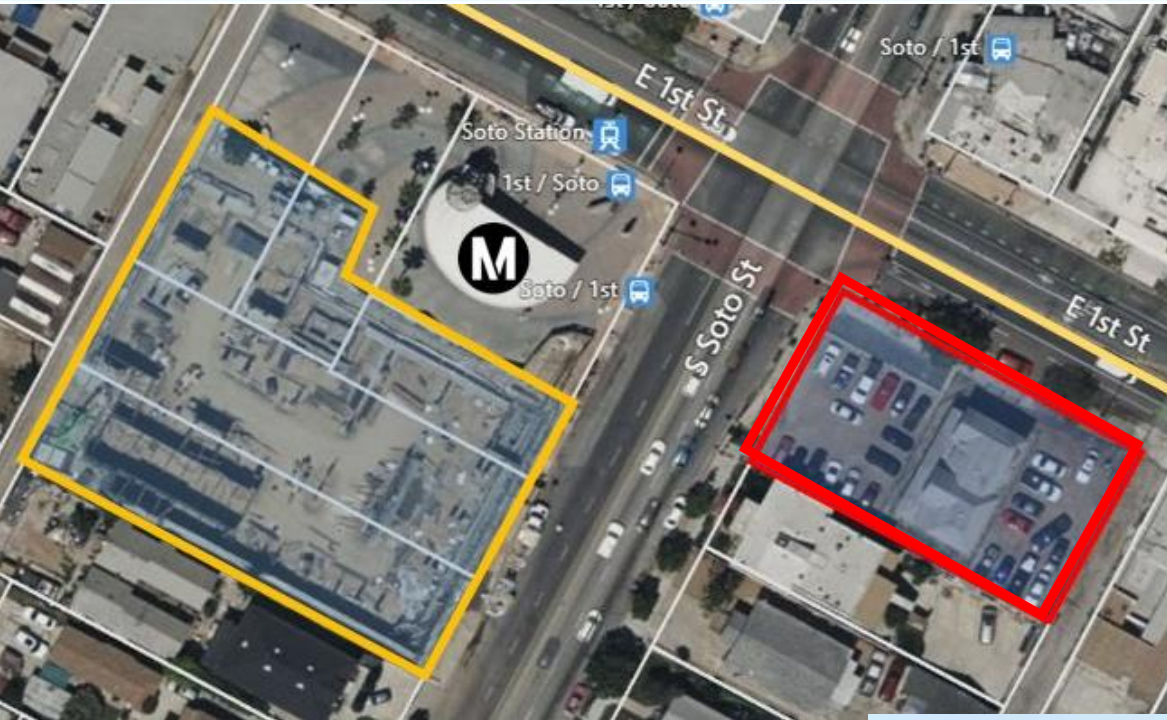


Recommendations

CONSIDER:

- A. AUTHORIZE the CEO to execute an Option Agreement with East Los Angeles Community Corporation (Developer or ELACC) to grant an option to Developer for the ground lease of Metro owned property at 2400 E. 1st Street in Boyle Heights;
- B. ADOPT findings that the Project is categorically exempt, and;
- C. AUTHORIZE the CEO to file a Notice of Exemption

Site Overview



Site A: Metro property, site of Los Lirios Apartments



Site B: Project Site, holding Peabody Werden House



Metro Gold Line



1st/Soto L (Gold) Line Station



Peabody Werden Site Background/Status

- Metro entered into an ENA in 2016 with Developer BRIDGE/ELACC for the 1st/Soto Joint Development adjacent to the L line station.
- **Site A** was designated as mixed-use affordable housing site. In Dec. 2021 Metro entered into a ground lease with the Developer to construct the Los Lirios Apartments on Site A.
- **Site B**, the site of the Peabody Werden House (House), was designated for community serving uses, including restoration of the 1890's Victorian House.
- The ENA was amended in 2022 to allow continued planning for Site B with ELACC, including negotiation of terms and conditions under which a ground lease of Site B would be granted.
- ELACC and Metro developed a plan for renovation and programming of the House, and are seeking authority to enter into an Option Agreement by Dec. 31, 2022, to satisfy the statutory requirements under the CA Surplus Land Act

Next Steps

- 2022:** Execute the Option by December 31, 2022, to maintain compliance with the California Surplus Land Act.
- 2023:** Developer engages the community to discuss the full spectrum of potential services; identifies appropriate programming; continues planning, design and iterative outreach.
- 2024:** Developer secures programming partner and funding; execute ground lease; start construction.
- On-going:** Stakeholder updates.