

**SUMMARY OF KEY TERMS AND CONDITIONS
OF PERPETUAL EASEMENT AGREEMENT AND RECIPROCAL EASEMENT AGREEMENT
FOR THE IVY STATION PROJECT AT THE CULVER CITY STATION**

DATED: OCTOBER 20, 2016

GENERAL DESCRIPTION

- OPTION AGREEMENT:** There is an existing Option Agreement for Perpetual Easement dated as of September 29, 2011, among the Los Angeles County Metropolitan Transportation Authority (“**LACMTA**”), the City of Culver City (“**City**”), and the Culver City Redevelopment Agency (the “**Former Agency**”), recorded on October 3, 2011 in the Official Records of Los Angeles County, California as Instrument No. 20111337175 (the “**Option Agreement**”). Under the Option Agreement, LACMTA granted to the City and the Former Agency an option to acquire a perpetual easement over the LACMTA Easement Area (as defined below) on the terms and conditions set forth in the Option Agreement. The Project has evolved and different rights are being requested which requires staff to return to the Board for approval of the transaction described herein.
- PARTIES:** The parties to the Perpetual Easement Agreement (the “**Easement Agreement**”) are LACMTA, a California county transportation authority existing under the authority of the California Public Utilities Code, and the City, a municipal corporation and charter city of the State of California.
- The parties to the Reciprocal Easement Agreement and Declaration of Covenants, Conditions and Restrictions (the “**REA**”) are LACMTA, the City, and the Successor Agency to the Former Agency (“**Successor Agency**”). The City and Successor Agency will assign their rights and obligations under the REA immediately to Culver Station LLC, a Delaware limited liability company (“**Developer**”), an affiliate of Lowe Enterprises Real Estate Group.
- PROJECT SITE:** The Project site is bounded by Washington Boulevard to southeast, National Boulevard to the northeast, Venice Boulevard to the northwest, and the Metro Expo Line right-of-way to the south and is located within both the City of Culver City and the City of Los Angeles (the “**Project Site**”). The total developable area of the Project Site is 5.53 acres and includes 1.67 acres of

Metro right-of-way (the "**LACMTA Easement Area**"). The City and Successor Agency own the balance of the Project Site. The LACMTA Easement Area consists of the northerly ninety-one feet (91') of the one hundred fifty foot (150') LACMTA right-of-way (the "**LACMTA Parcel**") and excludes the southerly fifty-nine feet (59') of the LACMTA Parcel (the "**Station Parcel**") which houses the Metro Culver City Station (the "**Station**") and Metro Expo Line. The Project Site is further depicted in Attachment A to the Board report.

PROPOSED PROJECT:

The proposed Ivy Station development project (the "**Project**") will be constructed on the Project Site by Developer, or another development entity created by Developer, at Developer's or such entity's sole cost and expense. The Project will include approximately 148 hotel rooms, approximately 200 residential units, approximately 197,000 square feet of office use, approximately 57,800 square feet of retail and restaurant use, and approximately 1480 parking spaces in a three-level subterranean structure ("**Parking Structure**"), including 300 dedicated LACMTA parking spaces as further described herein, plus approximately 50 surface parking spaces, 8 of which will be dedicated LACMTA park-and-ride spaces. The Project will also include approximately 100,000 square feet of outdoor open space accessible to the public.

A site plan and renderings detailing the proposed Project are included as Attachment B to the Board report and are subject to modification and revision as set forth herein.

PHASED DEVELOPMENT:

The Project is anticipated to be constructed in a single phase.

GENERAL CONDITIONS

DEVELOPMENT

ENTITLEMENTS AND OTHER

LEGAL REQUIREMENTS:

Developer has, at its sole cost and expense, obtained all required entitlements for the Project from the City of Culver City and the City of Los Angeles. On March 28, 2016, Culver City's City Council adopted the final ordinance to conditionally approve Tentative Tract Map No. 73978 (the "**TTM**"), Comprehensive Plan (the "**Comprehensive Plan**") P2015-0141-CP, and Height Exception (the "**Height Exception**") P2015-0141-HTEX, for the Project. In addition to this, Culver City adopted a Mitigated Negative Declaration (the "**MND**") for the Project, in compliance

with the California Environmental Quality Act (“**CEQA**”). On July 15, 2016, the City of Los Angeles Planning Department issued an approval for Site Plan Review, Conditional Use Permits, and Zoning Administrator Determination for the Project. On October 11, 2016, Developer received approval from the Los Angeles City Council for a General Plan Amendment and the Zone Change/Height District Change. The REA and Easement Agreement will require Developer to comply with all conditions of approval to such land use entitlements, and all zoning and planning requirements and other legal requirements related to the development, construction, and operation of the Project. Prior to entering into the Easement Agreement and REA, the LACMTA Board will need to make the requisite findings based on the MND as a responsible agency pursuant to CEQA requirements.

AS-IS CONDITION: The easement over the LACMTA Easement Area is being granted to the City under the Easement Agreement in its as-is condition, without any warranty by LACMTA.

CLOSING: The Parties contemplate a single Closing, which will occur upon satisfaction or waiver by the appropriate party of all the Closing Conditions under the Option Agreement. At Closing, City and LACMTA will enter into the Easement Agreement, City, Successor Agency and LACMTA will enter into the REA, and the City and Successor Agency will transfer to Developer their respective fee interests in the Project Site and assign to Developer their interests under the Easement Agreement and REA, including the easement over the LACMTA Easement Area.

REPLACEMENT SPACES: As part of the closing, the License Agreement for Use, Operation, Maintenance and Repair of Temporary Parking Spaces executed on September 29, 2011 by and between LACMTA and the City (“**Temporary Parking License Agreement**”), shall be modified to include a license for LACMTA to use two hundred thirty-five (235) dedicated self-park parking spaces (“**Replacement Spaces**”), with no valet services required, and with no less than the existing ratio of standard stalls and compact stalls in the City’s Ince parking garage located at 9099 Ince Boulevard in Culver City (“**Ince Garage**”) at no cost to LACMTA, for the purpose of replacing parking spaces dedicated for LACMTA parking during construction of the Project. The Replacement Spaces shall be accessible 24 hours per day, seven days per week, without limitation. The Replacement Spaces shall be available for the

duration of the Project construction and until such time as the LACMTA Parking is made available.

TIEBACK EASEMENT:

In consideration for Developer being responsible for the cost to fabricate and maintain Transit Signage, LACMTA shall provide a Tieback Easement through a separate agreement in favor of the Developer who shall be responsible for the engineering and design, installation, tensioning and de-tensioning of the tiebacks and excavation shoring plan, as determined by Developer's general contractor subject to review and approval by LACMTA.

**REIMBURSEMENT
AGREEMENT:**

Pursuant to a separate Adjacent Development Funding Agreement, Developer will reimburse LACMTA for its reasonable costs incurred in connection with the Project, including, without limitation, reviewing plans and monitoring the construction of the Project. In addition, Developer will also reimburse LACMTA for its reasonable consulting costs and legal fees incurred in connection with this transaction.

KEY PERPETUAL EASEMENT TERMS:

GENERAL:

Consistent with the intent of the Option Agreement and after LACMTA Board approval and City and Developer acceptance of this Summary of Key Terms and Conditions, City and/or Developer has met all Conditions Precedent in the Option Agreement as further defined herein, Developer has met all CEQA requirements, and the LACMTA Board has made the requisite findings as a responsible agency pursuant to CEQA requirements, and the execution and delivery of the REA, LACMTA, and the City will enter into the Easement Agreement containing terms and conditions that are substantially consistent with those set forth in this Summary of Key Terms and Conditions, subject to any modifications as directed by the LACMTA Board.

GRANT OF EASEMENT:

LACMTA shall grant to City a perpetual easement on, under, and above the LACMTA Easement Area to construct, use, operate, maintain, repair and/or reconstruct parking uses, transit plaza uses, and residential and commercial uses of up to 100,000 square feet (excluding parking uses), of which not more than 10,000 square feet may be in the below grade portion of the LACMTA Easement Area.

TERM: The Easement Agreement shall be effective upon execution by LACMTA and the City and the grant of easement and all of the covenants contained within shall continue in full force in perpetuity subject to certain rights and remedies of LACMTA described below.

REMEDIES: If the Developer fails to complete the initial construction of the LACMTA Parking, LACMTA is entitled to certain remedies as more particularly described in the Easement Agreement and REA, which may result in termination of the Easement Agreement. If the Easement Agreement terminates at such time, the Option Agreement will be automatically reinstated as described in the Easement Agreement.

Further, if the Project is constructed by Developer but Developer fails to restore the LACMTA Parking within a negotiated period after a casualty event, LACMTA will be entitled to certain remedies as more particularly described in the Easement Agreement and REA, which may result in termination of the Easement Agreement. If the Easement Agreement terminates at such time, the Option Agreement may be reinstated as described in the Easement Agreement and REA so that the City will have the right, within an agreed period, to bring a new developer to the Project and obtain a replacement easement to allow the new project to proceed on similar terms to the existing Easement Agreement.

NON-PEAK PARKING During the first year of LACMTA Parking operation and thereafter, LACMTA will determine, in good faith, and notify the City for the upcoming year how many LACMTA Parking spaces, if any, may be available for use by City during “non-peak” hours on a seasonal basis. Based on LACMTA’s determination of available spaces, the City may submit a proposal for LACMTA’s consideration on the use by the City of such spaces during such non-peak hours, including proposed terms for any revenue sharing, vacation of such spaces each night by the recommencement of transit services at the Station the next morning, and other terms relating to such use by the City. LACMTA will consider any such proposal in its reasonable discretion, and if approved by LACMTA, such terms will be incorporated into a separate License Agreement between LACMTA and the City, and subject to certain terms in the REA that will be applicable only if LACMTA enters such License Agreement with the City. Notwithstanding the above, the City may

submit a proposal in the first year of operation for LACMTA consideration subject to the availability of sufficient data to determine non-peak hours and available spaces at LACMTA's sole and absolute discretion.

During the period that the Station is being operated for transit purposes, if LACMTA receives a proposal for the use of some of the LACMTA Parking from one or more third parties (other than the City) and if LACMTA is willing to accept such proposal, then prior to accepting such proposal LACMTA will first notify the City of such proposal and give the City 15 days to respond to LACMTA that the City wishes to match the terms of such proposal and use such LACMTA Parking spaces on the same terms. If the City timely accepts the terms of such proposal, then LACMTA will enter into a license with the City on such terms. If the City fails to timely accept the proposal, then LACMTA may provide for the use of the LACMTA Parking spaces by such third party.

During any period in which the Station is not being operated for transit purposes, LACMTA may provide for the use of the LACMTA Parking spaces by any third party without any limitation, provided that LACMTA shall still consider, in LACMTA's reasonable discretion, any City proposal for non-peak hour use of such LACMTA Parking spaces (i.e., when the parking is available for uses other than use by LACMTA or its permittees).

CONDITIONS TO CLOSING:

The following conditions precedent ("**Conditions Precedent**") shall be satisfied (or waived by LACMTA) prior to executing the Easement Agreement: (a) Construction drawings for the Project, as further defined in the Easement Agreement, shall have been 100% completed and approved by any governmental agency having jurisdiction thereof and by LACMTA; (b) all permits and approvals required by any governmental agency having jurisdiction thereof, as further defined in the Easement Agreement, shall have been obtained and the Developer shall have complied with, or shall have caused compliance with all applicable laws, rules and regulations, including, without limitation, full compliance with CEQA; (c) Developer shall have provided LACMTA with reasonably satisfactory evidence that the Developer has sufficient funding in place to pay for the cost of construction and completion of the Parking Structure (including the Shoring Wall); (d) the City, Successor Agency and Developer shall have executed the REA subject to the terms and conditions described below concurrently with the Easement Agreement; (e) the City shall have exercised in

writing the option to acquire the Easement as set forth in the Option Agreement (to be delivered concurrently with Closing); (f) the City shall have, concurrently with its execution and delivery of the Easement Agreement and the REA conveyed title to all parcels in the Project Site owned by it to Developer; and (g) the Successor Agency shall have, concurrently with its execution and delivery of the REA conveyed title to all parcels in the Project Site owned by it to Developer.

KEY RECIPROCAL EASEMENT AGREEMENT TERMS:

GENERAL:

Consistent with the intent of the Option Agreement, and after LACMTA Board approval and City and Developer acceptance of this Summary of Key Terms and Conditions, City and/or Developer has met all Conditions Precedent in the Option Agreement as further defined herein, Developer has met all CEQA requirements, and the LACMTA Board has made the requisite findings as a responsible agency pursuant to CEQA requirements, LACMTA, the City and Successor Agency will enter into the REA, with Developer concurrence, containing terms and conditions that are substantially consistent with those set forth in this Summary of Key Terms and Conditions, subject to any modifications as directed by the LACMTA Board.

Under the REA, LACMTA shall grant to Developer a set of easements for the use of the LACMTA Easement Area for the construction of the Parking Structure, the Hotel, Apartments, Office and Retail uses.

LACMTA PARKING AND PICK-UP/DROP-OFF:

In consideration of rights granted by LACMTA in the Easement Agreement, under the REA, LACMTA shall be provided, at no cost of LACMTA, with a permanent right to use 300 dedicated self-park parking stalls on the P-3 level of the subterranean parking structure of the Project with gated access control (the "**LACMTA Parking**"). In addition, LACMTA shall be provided by easement eight (8) dedicated self-park parking stalls, three (3) of which shall have electric vehicle charging stations installed, in the at-grade short term surface parking lot to support LACMTA's Clean Mobility Center at the Station (the "**CMC Parking**"). The LACMTA Parking and CMC Parking shall be accessible 24 hours per day, seven days per week, without limitation. The short-term surface parking lot shall also include a LACMTA pick-up and drop-off zone. Developer shall pay for the premium for an ALTA title insurance

policy insuring LACMTA's ownership interest in the easements granted to LACMTA under the REA.

LACMTA RIGHTS:

LACMTA will have full rights to the use of and revenues from the LACMTA Parking under the terms set forth in the REA. The Parking Owner shall grant LACMTA a non-exclusive easement: a) in, on, over, across and through certain Vehicular Ways in the Parking Structure for vehicular ingress, egress and passage to, from and between the LACMTA Parking and Parking Structure entrances, and b) in, on, over, across and through certain Parking Structure Pedestrian Ways and Parking Structure Vertical Transportation Elements for pedestrian ingress, egress and passage to, from and between the LACMTA Parking, At Grade Pedestrian Ways and the Station, such areas which shall be accessible 24 hours per day, seven days per week without limitation.

LACMTA rights under the REA are not dependent on the operation of rail or other transit service at the Station and LACMTA shall retain parking rights in Parking Structure, and in, on, over, across and through Parking Structure entrances, Parking Structure Pedestrian Ways and Parking Structure Vertical Transportation Elements.

TRANSIT PROXIMITY RISK:

Developer will waive, release and indemnify LACMTA, City and the Successor Agency from claims from Developer, contractors, users and/or occupants of the Project arising from their adjacency and proximity to the Station and Metro Expo Line and the public transit uses conducted thereon by LACMTA, including any disturbance, inconvenience, annoyance and nuisance associated with or related to (a) the construction, operation, use, repair, maintenance, replacement or reconstruction on or of transit facilities, (b) the operation of public transit service, (c) the activities of LACMTA's patrons, employees, contractors, consultants, or agents in and around the Station and transit facilities, including vehicle exhaust, noise, vibration, odor, and lighting from the Station Parcel (collectively, the "**Transit Proximity Risks**").

RETAINED RIGHTS:

LACMTA reserves the right to install, construct, inspect, operate, maintain, repair, use, add and replace all transit- or LACMTA-related improvements, structures, vehicles, equipment, fixtures, and furnishings now existing or hereafter located in, on, under and/or adjacent to, or passing through the Station Parcel and/or the Station. LACMTA does not give Developer or its successors

any rights to control, impact or otherwise affect the use or operation of the Station Parcel (other than in the landscape easement area described below) or the Expo Line Rail improvements.

**PARKING OPERATION
AND MAINTENANCE:**

Developer shall be responsible for developing, constructing, operating, maintaining and repairing LACMTA Parking. LACMTA shall have no responsibility for such costs.

LACMTA shall have rights to approve the LACMTA Parking operator and the parking operations agreement with respect to LACMTA's interest in the LACMTA Parking. LACMTA specifications for parking control shall be included in the Parking Structure software/operations and LACMTA shall have the right to review and approve the parking control equipment with regard to compatibility with LACMTA's established plan for access and revenue collection. The LACMTA Parking shall be maintained in a condition consistent with the best other facilities owned by LACMTA and LACMTA shall have self-help rights after 30-days if Parking Structure is not repaired, notwithstanding that parking control equipment shall be repaired within four (4) hours of a reported breakdown and the Parking Structure operator must provide personnel to manually control access to the LACMTA Parking during any equipment failure.

The Developer shall provide, or cause to be provided, monthly revenue reconciliation to LACMTA for all revenue from the LACMTA Parking and LACMTA shall have the right to audit parking revenue collection records pertaining to the LACMTA Parking.

SIGNAGE:

The Developer shall be responsible for the fabrication, installation and maintenance of directional, way-finding, information, transit station identification and transit facility identification signs throughout and along the perimeter of the Project Site (the "**Transit Signage**") for purposes of directing LACMTA patrons to, from and between the public transit facilities (including the Station and LACMTA Parking) and the public streets, sidewalks and rights of way. The Developer's obligations with respect to signage on the LACMTA Parcel is limited to the LACMTA Easement Area. LACMTA shall have rights to review and approve location and content of Transit Signage.

LANDSCAPE EASEMENTS: LACMTA shall grant the Developer easements within the LACMTA Station Parcel to allow for landscaping and planters to enhance integration of the Project with the Station. The improvements shall not interfere with LACMTA or emergency vehicle access to the Station and shall be installed and maintained by the Developer at its cost.

CONSTRUCTION: The wall of the Parking Structure along the southern edge of the LACMTA Easement Area will include, at no cost to LACMTA, a shoring wall system for purposes of protecting the Station and the Metro Expo Line right-of-way from adverse impacts such as weakening of subjacent support due to excavation for and the construction of the Parking Structure (the “**Shoring Wall**”). Design drawings and plans for the Parking Structure (including the Shoring Wall), including a construction work plan, shall be submitted to and approved by LACMTA prior to and as a condition to LACMTA’s entry into the Easement Agreement and REA.

Any construction work done for the Project in the LACMTA Easement Area must be in compliance with any applicable LACMTA work rules, track allocation procedure and permit process and LACMTA shall have the right to monitor and oversee construction of the Project including the Shoring Wall and Parking Structure to ensure LACMTA’s infrastructure and operations are not compromised. LACMTA shall be entitled to injunctive relief immediately halting construction of the Parking Structure and any other improvements on the LACMTA Easement Area in the event that LACMTA infrastructure or operations are compromised at LACMTA’s sole and absolute discretion.