



**PLANNING AND PROGRAMMING COMMITTEE
MAY 20, 2009**

SUBJECT: CHAVEZ & FICKETT JOINT DEVELOPMENT

ACTION: AUTHORIZE THE EXECUTION OF A RENEGOTIATED JOINT DEVELOPMENT AGREEMENT, GROUND LEASE AND OTHER DOCUMENTS RELATED TO THE DEVELOPMENT OF 1.56 ACRES OF LACMTA PROPERTY AT AND NEAR THE SOUTHWEST CORNER OF CESAR E. CHAVEZ AVENUE AND FICKETT STREET IN BOYLE HEIGHTS

RECOMMENDATION

A. Find that it is in our best interest to:

1. Discontinue our pursuit of the previously Board-approved mixed-use market rate apartment and retail development with Cesar Chavez and Soto LLC on approximately 3.5 acres of our property lying between Soto Street and Fickett Street just southwest of Cesar E. Chavez Avenue (the "3.5-Acre Site");
2. Proceed with two separate but compatible developments on the 3.5-Acre Site, as follows:
 - a. Development of that 1.96-acre portion of the 3.5-Acre Site lying westerly of Mathews Street (the "West Development Site") with Cesar Chavez and Soto LLC (or another development entity created by JSM Construction and Polis Builders that is reasonably approved by the Chief Executive Officer);
 - b. Development of a mixed-use housing and retail project with McCormack Baron Salazar, Inc. (or a development entity controlled and managed by McCormack Baron Salazar, Inc. that is reasonably approved by the Chief Executive Officer) ("MBS") on that 1.56-acre portion of the 3.5-Acre Site lying easterly of Mathews Street (the "East Development Site") containing approximately 72 affordable apartments, a property manager's apartment and approximately 3,250 square feet of retail space (the "Project"), all in substantial accordance with the key terms and conditions set forth in Attachment A.

- B. Authorize the Chief Executive Officer to perform the following actions, each in substantial accordance with the key terms and conditions set forth on Attachment A:
1. Enter into a Joint Development Agreement (“JDA”) with MBS covering the development of the Project on the East Development Site;
 2. Extend the term of the JDA, if necessary or desirable, upon the expiration of the JDA term;
 3. Enter into and execute a ground lease and other related documents and agreements with MBS relating to the Project and the East Development Site; and
 4. Execute dedications and other grants of real property rights over portions of the East Development Site for public utility, street widening and other purposes related to the development of the Project.
- C. Authorize the Chief Executive Officer to file a Notice of Exemption for the Project as the Project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 21080(b)(9) of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines.

ISSUE

Proceeding with the recommended actions will change the scope of the development on the 3.5-Acre Site from that previously approved by the Board. It will also change the composition of the development team developing the Project on the East Development Site.

On May 3, 2006, the Board authorized the CEO to enter into a joint development agreement with Cesar Chavez and Soto LLC, a development entity that included JSM Construction and Polis Builders, for the development of 90 to 100 market-rate apartments and 40,000 to 50,000 square feet of retail/entertainment space on the 3.5-Acre Site. Following the turmoil in the credit markets and the decline in the overall economy in 2007 and 2008, the developer reassessed the proposed project’s scope and the composition of its development team. This re-evaluation resulted in a proposal to: (a) split the original development project into two separate, but compatible, development projects – one on the West Development Site and one on the East Development Site; and (b) create different development teams for each project. The West Development Site and the East Development Site are shown on Attachment B.

The first of the newly proposed projects contemplates the construction and operation of the Project on the East Development Site. The development team for this project will be lead by MBS, but JSM Construction and Polis Builders will continue to have a financial interest in the Project. MBS is an expert in the development of affordable housing projects like the Project. They are working with us on other joint development projects and are recommended by staff to assume responsibility for the development of the East Development Site. Attachment C provides a conceptual site plan and elevations for the Project.

Chavez and Soto LLC is in the process of reassessing the scope of the development on the West Development Site. We continue to negotiate with them regarding this development. Once JSM's reassessment is complete and our negotiations have concluded, we will bring the proposed development for the West Development Site to the Board for consideration, approval and authorization to proceed.

Staff has completed negotiations with MBS on the key terms and conditions relating to the development of the Project on the East Development Site, the JDA, the ground lease and the other real estate, development and related documents and agreements contemplated in the JDA. These key terms and conditions are detailed on Attachment A.

It is necessary to proceed with the recommended actions at this time to allow MBS to move forward with its efforts to secure approximately \$16 million in important tax credit financing for the Project. In early April, the State Tax Credit Allocation Committee ("STCAC") indicated that it would be awarding its entire 2009 tax credit allocation in September of this year. The STCAC set a June 9, 2009 deadline for receipt of funding requests. The State requires that all applicants have "control" of their development sites as of the application deadline to be considered for funding. Executed joint development agreements are deemed by the State to provide such "control." Board approval of the recommended actions will allow execution us to execute such a joint development agreement (the JDA) with MBS for development of the Project on the East Development Site.

BACKGROUND

The 3.5-Acre Site was originally purchased as a station site for the Metro Red Line Eastside Extension. The 13 parcels comprising the site were purchased between 1996 and 1998. When the Eastside Extension project was re-scoped as an extension of the Metro Gold Line, the rail alignment was moved from Cesar E. Chavez Avenue to 1st Street and the 3.5-Acre Site was no longer needed for station development. Once construction of the Metro Gold Line Eastside Extension began, the 3.5-Acre Site was instead used to house the main construction offices for the Eastside Extension project and for construction-related parking and storage. This use continues today.

When Phase I of the Eastside Extension is placed into revenue operation in June 2009, activity at the 3.5-Acre Site will decrease, but a portion of the site will still be needed to support the construction offices and related parking through close out of the Eastside Extension Phase I construction contract, completion and close out of the parking facility at the Pomona/Atlantic station and completion of a project at Division 21, which will be handled by the same project team. Shortly after revenue operation, the construction offices and related parking will be consolidated on the West Development Site, freeing up the East Development Site for construction of the Project.

The Project will be constructed in a single phase pursuant to the JDA and a 68-year ground lease. The ground lease and Project construction will each commence once project entitlements are secured, project financing is in place and the other conditions set forth in the JDA are either met or waived. It is estimated that construction of the Project will take 18

months to two years to complete. Dedications for street widening and corner rounding purposes will likely be required to obtain project entitlements from the City. These dedications should be minor in scope and in line with what we have been experiencing at other development sites.

MBS's projected financing structure for the Project includes the approximately \$16 million in tax credit financing noted above, approximately \$6.5 million in Prop 1C TOD funds derived from the State's Housing and Community Development Department, approximately \$1.9 million in Housing Trust funds from the City of Los Angeles' Housing Department, and approximately \$1.7 million in private financing from JP Morgan Chase. All public financing has been applied for and MBS has received a commitment letter from JP Morgan Chase for the private financing.

At the commencement of the ground lease term, the ground lease will provide us with an initial capitalized rent payment equal to at least \$2,500,655. This amount is based on the \$35 per square foot unit value established for the full 3.5-Acre Site when the terms of the development for this site were approved by the Board on May 3, 2006, adjusted for inflation. This unit value is supported by Keyser Marston Associates, our financial advisor for the Project. An appraisal of the East Development Site will be performed as close to the anticipated execution of the ground lease as is prudent. If the appraisal determines a higher value for the East Development Site, the capitalized rent payment shall be increased to reflect such value. The initial capitalized rent payment will cover the first 57 years of the ground lease term. Such up front rent payments are typical for affordable housing ground leases.

In addition, to initial capitalized rent payment, the JDA and ground lease will provide us with the following income:

- Annual ground rent, commencing with the ground lease's 58th year, equal to the fair market ground rent for the East Development Site, subject to annual increases (but not decreases) based on increases in the Consumer Price Index.
- Percentage rent equal to 3% of the gross rent and other income received by MBS from all retail and other non-housing-related economic activity conducted on the East Development Site, commencing upon the earlier to occur of (a) the date occurring two (2) years after the commencement of the ground lease, and (b) the date that 80% of the Project's retail space is occupied.
- Annual holding rent during the term of the JDA equal to \$56,265, as such amount shall be increased (but not decreased) annually on March 1st of each year based on the increase in the Consumer Price Index occurring between March 1, 2009 and the date of each such annual increase.

In addition, MBS shall fund certain of our in-house and third party costs to support the design and construction of the Project as detailed on Attachment A.

MBS is currently conducting a geotechnical soils investigation and a Phase II environmental investigation of the East Development Site. It is anticipated that this investigation will indicate that the condition of the East Development Site's soil is adequate for purposes of the Project and that the East Development Site is free of actionable levels of contamination.

Initial investigation indicates that the parcels comprising the East Development Site were acquired by LACMTA using Federal, State and local funds and the Metro Gold Line Eastside Extension was constructed using similar funding sources. Therefore, the construction and operation of the Project, and the ground lease transaction and dedications and other development-related matters contemplated herein are subject to: (a) applicable Federal and State approval/concurrence, (b) LACMTA confirmation that no bond funding related requirements or restrictions imposed on us, the East Development Site or the Eastside Extension project are violated, and (d) applicable bond trustee and bond holder approval.

CEQA COMPLIANCE

The Project is exempt from CEQA pursuant to Section 21080(b)(9) of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines, because it is in compliance with all requirements for exemption as indicated on Attachment D.

POLICY IMPLICATIONS

The recommended actions are consistent with the goals of our Joint Development Policies and Procedures. The proposed Project will: (a) enhance and protect the transportation corridor and its environs, (b) enhance the land use and economic development goals of the surrounding community, (c) conform to local and regional development plans, and (d) generate value based on a fair market return on public investment.

OPTIONS

The Board could choose not to take the recommended actions, reject the current terms and conditions and elect to seek different development alternatives from other developers for the East Development Site and, perhaps, the entire 3.5-Acre Site. Staff is not recommending this option because:

1. It would delay development of the East Development Site and the 3.5-Acre Site;
2. It is not likely that a more appropriate development or a better development opportunity than that described in Attachment A would result for the East Development Site at this time;
3. Splitting the development of the 3.5-Acre Site into two separate, but compatible, development projects will not negatively impact development of the 3.5-Acre Site or our overall development opportunities, and is necessary to allow any development to proceed at this time, given our continued need to occupy a portion of the 3.5-Acre Site for Eastside Extension and other purposes.

FINANCIAL IMPACT

Funding for joint development activities is included in the FY09 Budget under project 610011, task 01.01, in cost center 2210. These General Fund revenues are eligible for bus and rail operating and capital expenses. Revenues from ground lease rent, JDA holding rent and deposits to cover our support of the Project will offset continued staff and consultant related costs. Our financial returns under the JDA and the ground lease are fair and reasonable and are detailed in Attachment A.

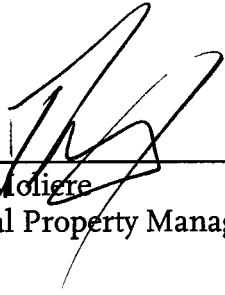
NEXT STEPS

Upon approval of the recommended actions, staff will complete and execute the JDA in substantial accordance with the terms and conditions set forth in Attachment A. The ground lease and related documents will be executed thereafter in substantial accordance with the terms and conditions set forth in the JDA and Attachment A. Upon execution of the JDA, MBS will complete the process of securing the appropriate entitlements from the City of Los Angeles necessary to construct the Project and will attempt to secure all financing necessary for construction of the Project.

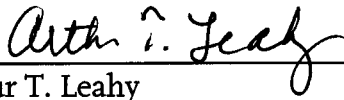
ATTACHMENTS

- A. Summary Terms and Conditions of the Joint Development Agreement and Ground Lease
- B. Plat of the West Development Site and the East Development Site
- C. Conceptual Site Plan and Elevations for the Project
- D. Qualifying Criteria for CEQA Exemption

Prepared by: Greg Angelo, Director of Real Property Management & Development



Roger S. Moliere
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Arthur T. Leahy
Chief Executive Officer

**Summary of Key Terms and Conditions
Relating to the Chavez + Fickett Joint Development Project**

GENERAL DESCRIPTION:

Developer: A development team led by McCormack Baron Salazar, Inc., or a development entity controlled and managed by McCormack Baron Salazar, Inc. and reasonably approved by LACMTA (individually and collectively, “MBS”).

Development Site: Two separate, rectangular properties, separated by an alley, as depicted on Attachment B (the “**East Development Site**”). The East Development Site totals approximately 68,058 square feet (1.56 acres) in area. The most easterly of the two properties measures 170 feet by 250 feet and has frontage on Cesar E. Chavez Avenue and Fickett Street. The most westerly of the two properties measures approximately 170 feet by 150 feet and has frontage on Matthews Street. All of the East Development Site is owned by the Los Angeles County Metropolitan Transportation Authority (“**LACMTA**”).

Subdivision of the Development Site: Subdivision of the East Development Site is not anticipated or required for purposes of the Project.

Proposed Project: The proposed development project (the “**Project**”) will be constructed by MBS at its sole cost and expense on the East Development Site. The Project will include approximately 72 affordable apartments, a property manager’s apartment, and approximately 3,250 square feet of retail space, subject to receipt of entitlements from the City of Los Angeles.

Plans and elevations detailing the conceptual plan for the Project (the “**Conceptual Plan**”) are included as Attachment C and are subject to modification and revision as set forth in this Attachment A.

No Phased Development: The proposed project will be constructed in a single phase.

LACMTA Support Costs: MBS acknowledges and agrees that LACMTA will incur certain costs related to (1) the design and construction of the

Project (including the oversight and monitoring of the same), (2) the protection of LACMTA and other transit operators' property, facilities and operations from Project impacts, (3) the avoidance and mitigation of such Project impacts, (4) oversight and support of geotechnical and hazardous substances investigations, (5) CEQA compliance and (6) the acquisition of Project entitlements (collectively, the "**Support Costs**"), which costs may include the cost of third-party services and LACMTA's in-house staff, but shall not include the cost of legal counsel, third-party financial advisors and joint development staff. MBS will provide funds to LACMTA in advance of when such Support Costs are anticipated to be incurred (the "**Advanced Funds**") or will reimburse LACMTA for such Support Costs as they are incurred. The Support Costs may be limited to a certain extent by a budget. Whether Support Costs are advanced or reimbursed and the extent to which such costs are limited by a budget will be negotiated by the parties.

The Ground Lease (defined below) will require LACMTA to promptly refund to MBS, upon completion of the Project, any Advanced Funds (if any) which are in excess of the incurred Support Costs, provided that LACMTA may withhold such reasonable amounts from such refund to cover invoices for Support Costs not yet received by LACMTA or to cover the cost to provide services and support related to "punch list" items.

Dedications:

MBS has indicated to LACMTA that the entitlements for the Project will likely require: (a) an approximate 3.75-foot-wide dedication for public street widening purposes along the Cesar E. Chavez frontage, and (b) a corner rounding dedication for public street widening purposes at the corner of Cesar E. Chavez Avenue and Fickett Street. LACMTA will make such dedications to the City to the extent required to receive City approval of the necessary entitlements for the Project. LACMTA will also make such other dedications and grants of LACMTA real property rights to the City or other public or quasi-public entities as are reasonably necessary to support the development, construction and operation of the Project.

**Federal, State and Local Funding
Source Approval:**

Initial investigation indicates that the parcels comprising the East Development Site were acquired by LACMTA using Federal, State and local funds and the Metro Gold Line Eastside Extension was constructed using similar funding

sources. Therefore, the construction and operation of the Project, and the ground lease transaction and dedications and other development-related matters contemplated herein are subject to: (a) applicable Federal and State approval/concurrence, (b) LACMTA confirmation that no bond funding related requirements or restrictions imposed on LACMTA, the East Development Site or the Eastside Extension project are violated, and (d) applicable bond trustee and bond holder approval.

CEQA Compliance:

The Project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 21080(b)(9) of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines, because it is in compliance with all requirements for exemption as indicated on Attachment D.

Development Entitlements and Other Legal Requirements:

MBS shall, at its sole cost and expense: (a) obtain all required entitlements for the Project, and (b) comply with all applicable City of Los Angeles zoning and planning requirements and other legal requirements related to the development, construction and operation of the Project.

As-Is Condition:

The East Development Site is being offered to MBS in its as-is condition, without any warranty by LACMTA.

Transfers, Assignment and Subletting:

Except as otherwise approved in writing by LACMTA in its sole and absolute discretion and subject to the Tax Credit Related Permitted Transfers indicated in the Ground Lease section below and other typical permitted transfers, MBS shall not transfer, assign or sublet (except for the typical subleasing of the apartments and retail space within the Project) its rights or obligations under the JDA or the Ground Lease, or any portion thereof (“**Transfer**”), until MBS has completed the construction of the Project pursuant to the Ground Lease. Thereafter, MBS may Transfer its rights and obligations under the Ground Lease, or any portion thereof, subject to satisfaction of reasonable transfer criteria (including criteria regarding the creditworthiness and experience of any proposed transferee) to be negotiated by LACMTA and MBS, and included in the JDA and Ground Lease.

JOINT DEVELOPMENT AGREEMENT:

JDA - Generally:

After staff and MBS reach agreement on the specific terms and conditions to be contained therein, LACMTA and MBS will enter into a joint development agreement (“**JDA**”) containing terms and conditions that are substantially consistent with those set forth in this Summary of Key Terms and Conditions, as the same may be modified by the LACMTA Board. The JDA will contain certain escrow instructions related to the transactions contemplated herein, as well as certain conditions specific to the Closing defined and described below (the “**Closing Conditions**”), which conditions must be satisfied or waived before LACMTA or MBS will effectuate such Closing. The Closing Conditions will require, among other things, that MBS (a) obtain all necessary entitlements for the construction and operation of the Project; (b) obtain construction financing sufficient to fund the construction of the Project; (c) receive LACMTA and City of Los Angeles approval of full, complete and final construction documents for the Project; (d) receive a “Ready to Issue” letter from the City of Los Angeles for all building permits necessary for the construction of the Project; and (e) provide LACMTA with the Financial Assurances (defined and described below).

JDA Term/ Predevelopment Period:

The term of the JDA shall be two (2) years (the “**Predevelopment Period**”) commencing on the date that the JDA is mutually executed and delivered (the “**JDA Effective Date**”); provided that (a) such Predevelopment Period shall be extended automatically for force majeure or unavoidable delay (as defined below) and may be extended by LACMTA’s Chief Executive Officer (“**CEO**”), if the CEO determines that MBS is making commercially reasonable efforts to promptly satisfy the Closing Conditions. Notwithstanding anything to the contrary set forth herein, no extension of the initial two (2) year Predevelopment Period shall singularly or cumulatively extend the Predevelopment Period more than two (2) years.

JDA Closing:

The JDA will contemplate a single closing (the “**Closing**”), which will occur upon satisfaction or waiver by the appropriate party of all the Closing Conditions. At the Closing, LACMTA will ground lease the East Development Site to MBS, subject to the Retained Rights (defined below)

in exchange for the consideration to be paid in accordance with this Attachment A. Documents related to the Closing, including the Ground Lease and other development and real estate related documents and agreements will be executed by the parties as is necessary to properly effectuate the Closing.

**JDA Consideration/
Holding Rent:**

During the Predevelopment Period, MBS will pay annual holding rent (“**Holding Rent**”) to LACMTA under the JDA in an amount equal to \$56,265, as such amount shall be increased (but not decreased) annually on March 1st of each year based on the increase in the Consumer Price Index occurring between March 1, 2009 and the date of each such annual increase. Holding Rent shall be due and payable to LACMTA in advance on the earlier to occur of (a) the JDA Effective Date or (b) June 1, 2009, and will continue until the earlier to occur of (i) the Closing, (ii) expiration of the Predevelopment Period, as the same may be extended or (iii) termination of the JDA.

At the Closing, all unearned Holding Rent held by LACMTA will be applied to the Capitalized Rent due under the Ground Lease. If the JDA is terminated pursuant to its terms, all unearned Holding Rent held by LACMTA will be refunded to MBS.

Design Review:

The design of the Project shall be substantially consistent with the Project defined in the “Proposed Project” section of this Summary of Key Terms and Conditions, and shall be a logical evolution of the Conceptual Plan attached hereto as Attachment C, subject to (a) entitlement approvals by the City of Los Angeles, and (b) necessary accommodations to (i) protect LACMTA and other transit operators’ property, facilities and operations from Project impacts, (ii) avoid or mitigate such impacts and (iii) accommodate the Retained Rights. Plans and specifications for the Project shall be provided to LACMTA at the schematic design, design development and final construction document levels of design for LACMTA’s review and approval. All material changes to LACMTA-approved final construction documents shall be subject to further LACMTA approval.

Financial Assurances:

MBS shall provide, for the benefit of LACMTA, as a condition precedent to Closing, (a) a completion guarantee from a McCormack Baron Salazar entity that is acceptable to LACMTA and (b) payment and performance bonds

(collectively, the “**Financial Assurances**”) that, in each case (i) are acceptable to LACMTA in form and substance, and (b) demonstrate and guarantee MBS’s ability to complete the construction of the Project in the event of an MBS default.

GROUND LEASE:

Ground Leases – Generally:

At the Closing, Ground Lessee, as tenant, and LACMTA, as ground lessor, will enter into a ground lease that will provide for the construction and operation of the Project on the East Development Site (the “**Ground Lease**”). The Ground Lease will contain terms and conditions that are substantially consistent with those set forth in this Summary of Key Terms and Conditions, as the same may be modified by the LACMTA Board.

Unsubordinated Ground Leases:

LACMTA’s interests under the Ground Lease will be *unsubordinated* to any interest that MBS, Ground Lessee or its lenders will have in the East Development Site.

Ground Lease Tenant:

A McCormack Baron Salazar development entity controlled and managed by McCormack Baron Salazar, Inc. and reasonably approved by LACMTA (“**Ground Lessee**”). Such entity will likely be a limited partnership that includes (a) McCormack Baron Salazar as General Partner, (b) Polis Builders and JSM Construction, LLC, as special limited partners, and (c) a to be identified Low-Income Housing Tax Credit Limited Partner.

Ground Lease Term:

Sixty-eight (68) years.

Capitalized Rent (Year 1 through 57):

Upon execution of the Ground Lease, Ground Lessee shall pay LACMTA a capitalized rent payment for the first fifty-seven (57) years of the term of such Ground Lease in an amount equal to the greater of the following amounts:

- a. The fair market value of the East Development Site, as determined by an appraisal to be performed prior to the Closing, as such fair market value is increased (but not decreased) based on the increase in the Consumer Price Index over the period between the month containing the appraisal’s date of value and the month containing the Closing; and

- b. \$2,500,655 (the \$35 per square foot established as the 3.5-Acres Site's unit value in the April 20, 2006 Board report acted on by the LACMTA Board on May 3, 2006 plus the 4.98% increase in the Consumer Price Index between July, 2006 and March, 2009 multiplied by the East Development Site's 68,058 square foot area) as such value is increased (but not decreased) based on the increase in the Consumer Price Index between March, 2009 and the month containing the Closing.

**Annual Base Rent
(Year 58 through 68):**

Beginning with the 58th year of the Ground Lease and each year thereafter, Ground Lessee shall pay LACMTA annual rent in an amount equal to the "Fair Market Ground Rent" for the East Development Site, where the "Fair Market Ground Rent" shall be based on an appraisal of the East Development Site assuming that such site is vacant and usable only for those uses permitted under the Ground Lease, consistent with the improvements then constructed on the East Development Site, provided that such improvements have been designed, constructed and maintained in accordance with the Ground Lease. Such rent will be subject to annual increases (but not decreases) based on increases in the Consumer Price Index.

Percentage Rent:

Ground Lessee shall pay LACMTA, percentage rent in an amount equal to three percent (3%) of the gross rent and other income received by Ground Lessee from all retail and other non-residential economic activity conducted on the East Development Site. Such percentage rent shall be paid annually, in arrears, over the term of the Ground Lease, commencing upon the earlier to occur of (a) the date occurring two (2) years after the commencement of the Ground Lease, and (b) the date that 80% of the Project's retail space is occupied.

**Maintenance and
Operation:**

Ground Lessee shall maintain and operate all portions of the Project and the East Development Site at its sole cost and expense.

**Demolition
Reserve:**

At the end of the fifty eighth (58th) year of the Ground Lease term, Ground Lessee shall deliver a report prepared by a construction and demolition expert reasonably approved by LACMTA that details (a) how the Project will be demolished and removed from the East Development Site at the end of

the Ground Lease term, (b) the estimated cost of the demolition and removal work, and (c) a funding plan for such demolition and removal work. The report shall be subject to LACMTA's reasonable approval and the funding plan must provide for tangible, liquid security to be in place in an amount equal to the estimated cost of the demolition and removal work set forth in the LACMTA-approved plan prior to the date occurring five (5) years prior to the expiration of the Ground Lease term. Such security shall not be useable by Ground Lessee for any purpose other than demolition and removal of the Project and will only be useable upon LACMTA's written consent.

Demolition:

At the expiration of the Ground Lease, Ground Lessee shall, at the request of LACMTA: (a) demolish and remove all of the Project from the East Development Site; (b) demolish and remove a portion of the Project from the East Development Site, leaving certain improvements in place (provided that such a demolition is technologically feasible and the cost of the same is commercially reasonable); or (c) leave the entirety of the Project in place for LACMTA's use. All demolitions shall be at Ground Lessee's sole cost and expense.

Encumbrances:

Subject to LACMTA's reasonable approval, Ground Lessee may encumber its leasehold estate with mortgages, deeds of trust or other financing instruments. The Ground Lease will include mutually acceptable mortgagee protection provisions. In no event, however, shall LACMTA's fee title or any amounts payable to LACMTA under the JDA or the Ground Lease, or any portion thereof, be subordinated or subject to Ground Lessee's financing or other claims or liens.

**Tax Credit Related
Permitted Transfers:**

If the Ground Lessee is a limited partnership containing a Low-Income Housing Tax Credit Limited Partner, then:

- a. The Low-Income Housing Tax Credit Limited Partner's limited partnership interest in the Ground Lessee may be transferred at any time to a passive investor for tax-credit purposes, provided such transfer does not result in a change in the Ground Lessee's general partner or a change in control of the limited partnership comprising the Ground Lessee.

- b. The Low-Income Housing Limited Partner may remove the general partner of the Ground Lessee for cause, in accordance with the terms of the Ground Lessee's partnership agreement and replace such general partner with an entity approved by LACMTA, which approval shall not be unreasonably withheld, conditioned, or delayed; provided, however, that any such replacement general partner shall have at least five (5) years experience in the development, operation and management of mixed-use affordable housing developments of approximately the same size and character as the Project.

Retained Rights:

LACMTA shall retain from the Ground Lease and the East Development Site those rights necessary to provide for the operation of Metro bus service and other transit service in and around the East Development Site (as applicable) (the "**Retained Rights**").

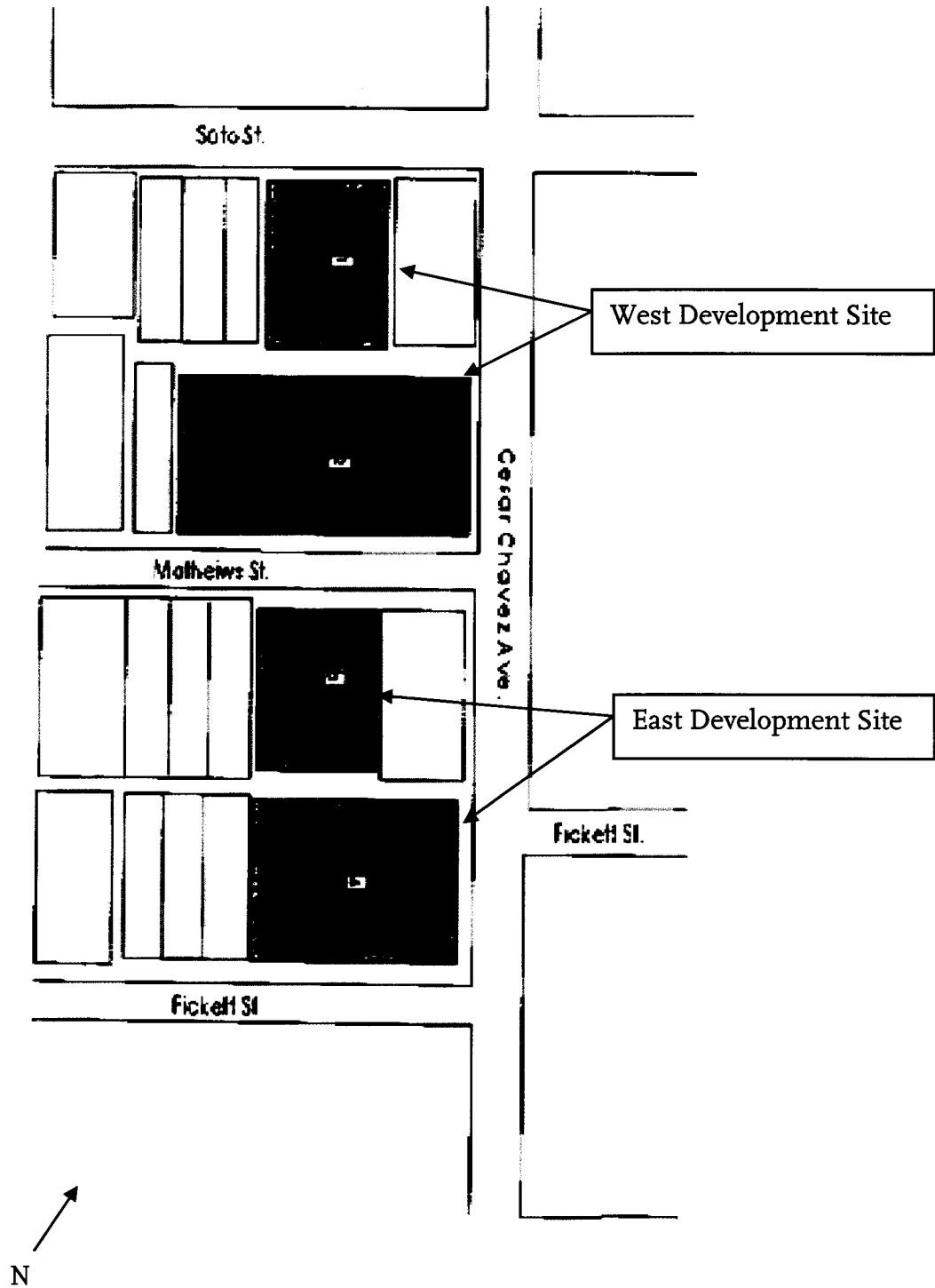
Supersedure:

This Summary of Key Terms and Conditions supersedes and replaces any and all summaries of key terms and conditions relating to the East Development Site or the Project dated prior to 5/28/09 and any and all term sheets dated that Ground Lease relating to the East Development Site or the Project dated prior to 5/28/09, including that Ground Lease Term Sheet dated April 1, 2009.

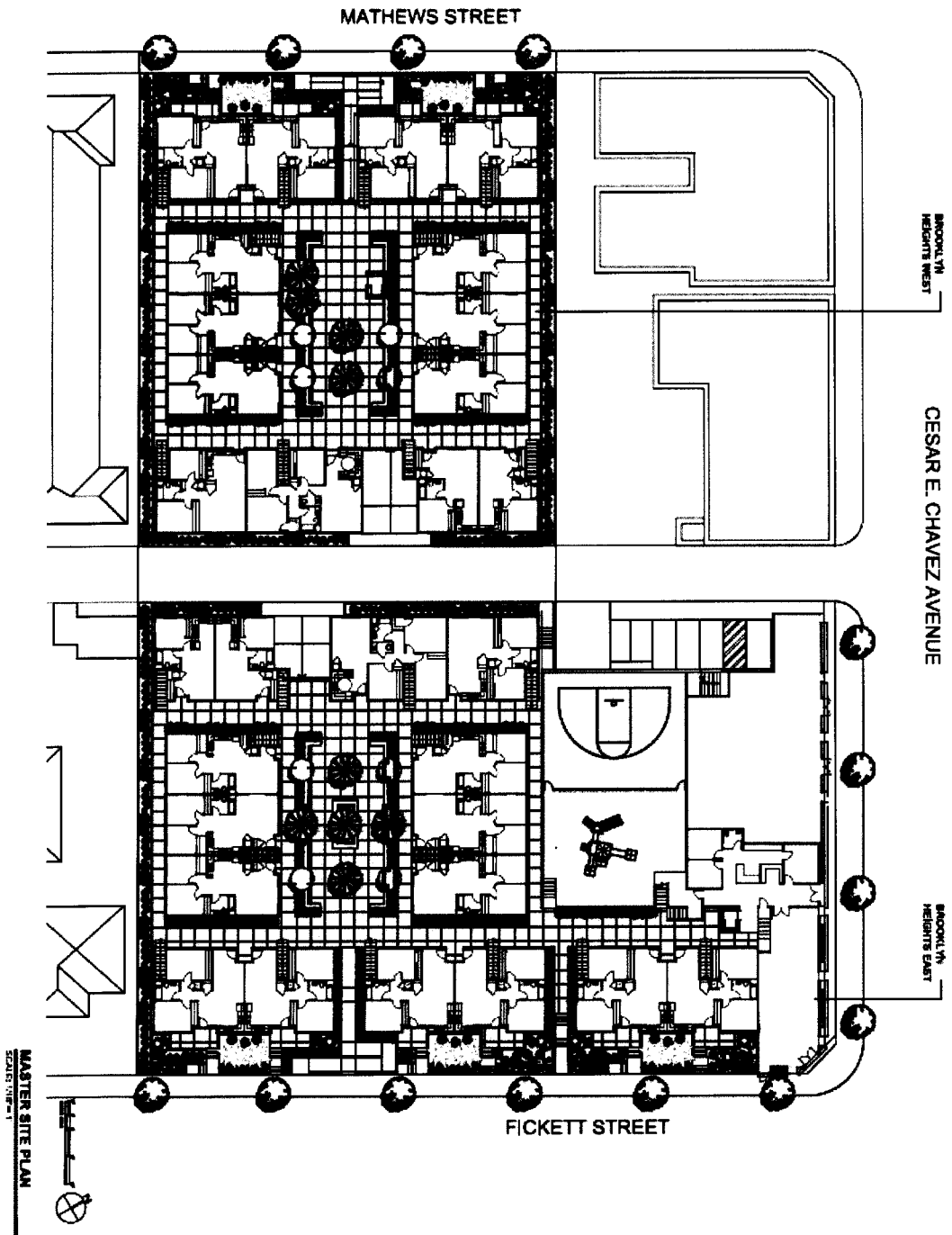
Other:

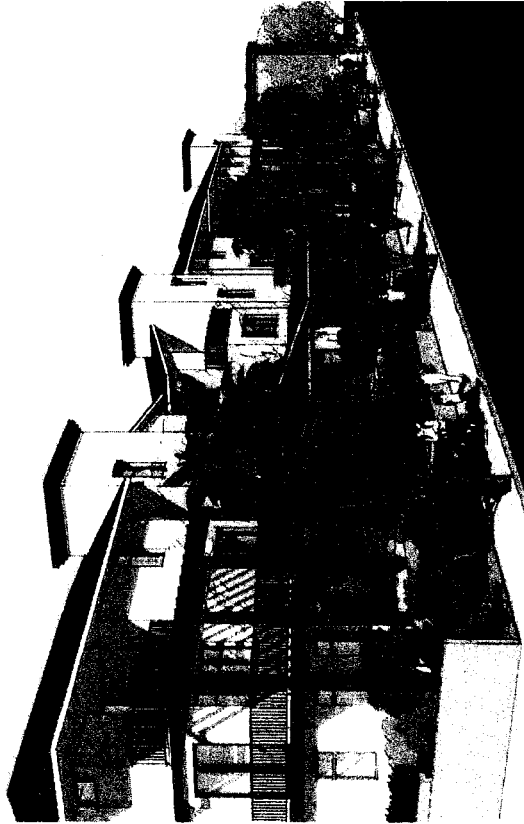
Other customary provisions contained in recent LACMTA ground leases (including provisions relating to (a) Ground Lessee's assumption of risk related to the Development's proximity to rail and other transit operations, (b) insurance, and (c) indemnity) will be included in the Ground Lease.

Plat of the West Development Site and the East Development Site



Conceptual Site Plan and Elevations for the Project





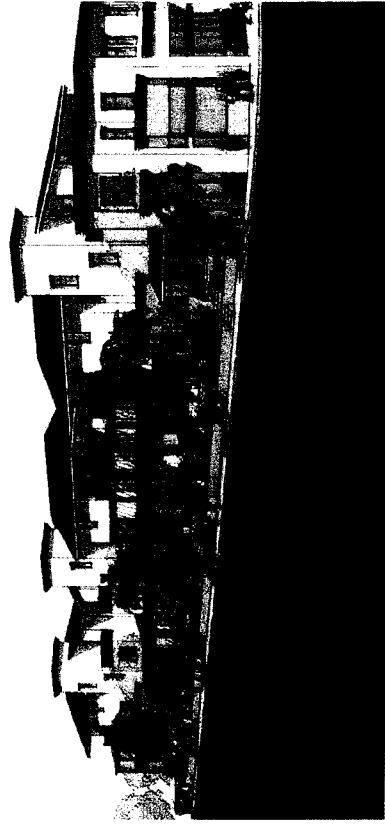
FICKETT STREET LOOKING NORTH TOWARDS CESAR E. CHAVEZ AVE



CESAR E. CHAVEZ AVENUE ELEVATION



FICKETT STREET ELEVATION



CORNER OF CESAR E. CHAVEZ AVE & FICKETT STREET



DETAIL OF RESIDENTIAL UNITS ALONG FICKETT STREET

Qualifying Criteria for CEQA Exemption

McCormack Baron Salazar, Inc. desires to proceed with the development of approximately 72 affordable apartments, a property manager's apartment and approximately 3,250 square feet of retail space and related parking (the "Project") on approximately 1.56 acres of Los Angeles County Metropolitan Transportation Authority ("LACMTA") owned property located southwest of Cesar E. Chavez Avenue between Mathews Street and Fickett Street in Boyle Heights (the "Development Site"). Staff has determined that the Project qualifies for an exemption from the California Environmental Quality Act ("CEQA") pursuant to Section 21080(b)(9) of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines. Staff has also determined that the Project is not included in any of the exceptions to the forgoing exemption under Section 15300.2 (Exceptions) of the CEQA Guidelines.

Staff's determinations are based on a review of a completed CEQA checklist prepared by a licensed environmental consultant, as well as a review of LACMTA documents and documents submitted by McCormack Baron Salazar, all of which indicate that the following conditions for the exemption have been met:

Section 15332 (In-Fill Development Projects)

- (a) The Project is consistent with the City of Los Angeles General Plan designation for the Development Site and all applicable general plan policies, as well as with the applicable zoning designation and regulations applicable to the Development Site.
- (b) The Project is within city limits and the Development Site is less than five acres and is surrounded by urban uses.
- (c) The Development Site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the Project will not result in any significant effects relating to traffic, noise, air quality or water quality.
- (e) The Development Site can be adequately served by all required utilities and public services.

Section 15300.2 (Exceptions)

- (a) The Project is not an activity that has a reasonable possibility of having a significant effect on the environment due to unusual circumstances.
- (b) The Project is not a project that might result in damage to scenic resources, including but not limited to trees, historic buildings, rock outcroppings or similar resources, within a highway officially designated as a state scenic highway.

- (c) The Project is not a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- (d) The Project is not a project which might cause a substantial adverse change in the significance of a historical resource.

