

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: June 23, 2022

TO: Honorable Members of the City Council

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No. 14-0425-S4
Assignment No. 22-06-0372

CRA/LA FUTURE DEVELOPMENT OPTION SITE BUNKER HILL PARCEL Y-1 ANGELS LANDING

SUMMARY

On December 13, 2017, the City Council approved various actions relative to the selection of Angels Landing Partners, LLC (ALP), as the preferred development team to purchase real property located at 361 South Hill Street (Property), for the purpose of developing the Angels Landing project (Project) (C.F. 14-0425-S4). Among those actions was an instruction to the Chief Legislative Analyst (CLA) to negotiate and execute an Exclusive Negotiation Agreement (ENA) with ALP and to report to Council with the proposed terms of the definitive agreements needed to effectuate the purchase and sale of the Property and to facilitate development of the Project. The City and ALP entered into that ENA on March 28, 2018, and began negotiations (Contract No. C-131103). The Project, as proposed, is to consist of a mixed-use, pedestrian and transit oriented development, encompassing approximately 1.2 million square feet of buildable area in two towers. The Project, as proposed, is to also include hotel, retail, restaurant, residential (for sale and for rent, including affordable units), parking, and recreational uses.

The Property is currently owned by CRA/LA, A Designated Local Authority and Successor Agency to the former redevelopment agency (CRA/LA). On January 8, 2015, the City entered into an Option Agreement with CRA/LA to provide the City with an opportunity to purchase the Property and develop it in a manner consistent with the Bunker Hill Redevelopment Plan, the Five-Year Implementation Plan, and the area's Community Plan. Under the terms of the Option Agreement, the City must provide notice to CRA/LA of its decision to exercise the Option by August 1, 2022. On May 19, 2022, the City, through the Office of the Mayor, requested that CRA/LA extend the term of the Option Agreement to December 31, 2022, to allow the City additional time to finalize the relative definitive agreements. The CRA/LA is expected to consider the City's request at its regular Governing Board meeting on July 7, 2022.

To effectuate the purchase and sale of the Property and to facilitate development of the Project, the City must enter into: 1) a Purchase and Sale Agreement (PSA) with CRA/LA for the City's acquisition of the Property; and 2) a Disposition and Development Agreement (DDA) with ALP for the subsequent sale of the Property and development of the Project. The proposed key terms and conditions of those agreements are presented in this report and in the form of a non-binding term sheet for the DDA, but they do not represent a comprehensive list of the terms to be included in those agreements. Council approval of these terms establishes the basis for City staff to further negotiate the final definitive agreements. The final definitive agreements will be presented to Council for further consideration at a later date.

RECOMMENDATIONS

That the City Council, subject to the approval of the Mayor:

1. Approve the proposed terms for a Purchase and Sale Agreement by and between the City of Los Angeles (City) and CRA/LA, A Designated Local Authority (CRA/LA), needed for the purchase of real property located at 361 South Hill Street (A.P.N. 5149-010-951 and, to the extent still owned by CRA/LA, A.P.N. 5149-010-952) (Property) in accordance with the terms of the Option Agreement by and between the City and CRA/LA, attached to the Council file, dated January 8, 2015 (C.F. 14-0425-S4; Contract No. C-125178);
2. Determine policy with regards to the Disposition and Development Agreement Key Terms and Conditions (DDA Term Sheet), attached hereto, on the following matters:
 - a. Repurchase Option (Section 18.c).
 - i. City position: the Repurchase Option term should reflect “the lesser of (i) the Purchase Price or (ii) the fair market value of the Property”
 - ii. Angels Landing Partners, LLC (ALP), position: the Repurchase Option term should reflect “the greater of (i) the Purchase Price or (ii) the fair market value of the Property.”
 - b. Transfers and Assignments (Section 23)
 - i. City position: The City shall maintain sole discretion in the approval or disapproval of any transfer not otherwise permitted by the DDA.
 - ii. ALP position: 1) the City’s approval of a non-permitted transfer shall not be unreasonably withheld, conditioned, or delayed; and 2) the list of permitted transfers shall be expanded to include the Developer's assignment of its rights and obligations under the DDA to: (a) an affiliate or other entity controlled by the Developer; (b) any entity in which the Developer retains an ownership interest and retains day-to-day responsibility for the management of the Site and development of the Project; and (c) transfers among the members of the Developer.
3. Approve, as may be amended by Council, the proposed term sheet for a Disposition and Development Agreement (DDA) by and between the City and Angels Landing Partners, LLC (ALP), for the subsequent sale of the Property to ALP and development of the Angels Landing project (Project) in accordance with the terms of the Exclusive Negotiation Agreement, attached to the Council file, dated March 28, 2018, (C.F. 14-0425-S4; Contract No. C-131103);
4. Authorize, as may be amended by Council, the Chief Legislative Analyst (CLA) to execute the attached Disposition and Development Agreement Key Terms and Conditions (DDA Term Sheet) by and between the City and ALP and approve R. Donahue Peebles, Jr., Manager of ALP, as the sole authorized signatory for ALP on the DDA Term Sheet and all future City agreements related to the Project;
5. Direct the CLA with the assistance of the City Attorney and other City departments as necessary to negotiate the final definitive documents necessary for the City to acquire the Property from CRA/LA and subsequently sell the Property to ALP in a form and manner consistent with the actions above; and

6. Instruct the City Administrative Officer (CAO) and the General Services Department (GSD), and request the City Attorney, to prepare the necessary reports, documents, and ordinances necessary to effectuate the sale of the City-owned Property to ALP, subject to the City's initial acquisition of the Property from CRA/LA.

FISCAL IMPACT STATEMENT

There is no fiscal impact on the City General Fund associated with this action, inasmuch as City staff are being instructed to report the final, definitive documents necessary to effectuate the purchase and subsequent sale of real property to facilitate development of the Angels Landing project.

BACKGROUND

On January 8, 2015, the City and CRA/LA entered into an Option Agreement for Bunker Hill Parcel Y-1, the designation of this Property in the Option Agreement (C.F. 14-0425; Contract No. C-125178). The Option Agreement allows the City the right to market and the option to purchase the Property for the purpose of redeveloping it in a manner that is consistent with the goals and objectives set forth in the Bunker Hill Redevelopment Plan, the Five-Year Implementation Plan, and the Community Plan. The Option Agreement also provides the City with an opportunity to select a development that best serves the needs of the City and the affected taxing entities. The initial term of the Option Agreement was three years and included provisions to allow for extensions should they be necessary to facilitate a project.

In 2017, the City conducted and concluded a competitive selection process consisting of a Request for Qualifications and subsequent Request for Proposals to solicit development interest for the Property. On December 13, 2017, the City Council approved the selection of ALP as the preferred developer of the Property. ALP is a joint venture of The Peebles Corporation, MacFarlane Partners, and Claridge Properties. On March 28, 2018, the City and ALP entered into an ENA to begin the process of evaluating the Project and negotiating the terms of the definitive agreements needed to facilitate development of the Project (C.F. 14-1174-S4; Contract No. C-131103).

The Project, as described in ALP's response to the RFP, consists of a mixed-use, pedestrian and transit oriented development, encompassing approximately 1.2 million square feet of buildable area in two towers that would include hotel, retail, restaurant, residential (for sale and for rent, including a portion of affordable units), parking, and recreational uses. ALP's bid also included a \$50 million purchase price for the Property. This exceeded the fair market value (FMV) of \$45.6 million for the Property as determined by the City in 2017. The Option Agreement describes the process by which FMV and the purchase price were to be determined.

On January 28, 2020, ALP requested that the City pursue an amendment to the Option Agreement that, among other things, would establish a fixed purchase price of \$50 million and remove the FMV process described in the Option Agreement. Establishing a fixed purchase price was intended to improve ALP and the City's ability to assess the economic feasibility of the Project and not be subject to fluctuations in the real estate market that may adversely impact the Project. In mid-2021, the City and CRA/LA approved a First Amendment to the Option Agreement establishing a fixed purchase price of \$50 million (C.F. 14-0425-S4; Contract No. C-125178).

Project Entitlements

On June 6, 2018, ALP filed a Master Land Use Application with the City's Department of City Planning (DCP) to secure entitlements for the Project and comply with the California Environmental Quality Act (CEQA). At the initiation of this process, the Project contained the same mix of uses as provided in the RFP, with slight variations in unit and/or hotel room counts and square footages of commercial and open

spaces. The Project site was originally a part of the Bunker Hill Redevelopment Project Area. But prior to the expiration of the Bunker Hill Redevelopment Plan (Redevelopment Plan), the City adopted the Bunker Hill Specific Plan (Specific Plan) to retain most of the original development rights from the Redevelopment Plan. Both the Redevelopment Plan and Specific Plan allotted a nearly 13:1 floor area ratio (FAR) for the Project site. The Environmental Impact Report (EIR) that was prepared for the Redevelopment Plan also contemplated a 13:1 FAR. Thus, there was an initial possibility that development of the Project could be covered under an Addendum to the Redevelopment Plan EIR providing for a shorter CEQA review process of within 12 months.

The Notice of Preparation/Initial Study for the Project identified Potentially Significant Impacts related to the Project that were not identified in the Redevelopment Plan EIR, including reasonably foreseeable significant and unavoidable traffic impacts on the adjacent Hill Street segment of the Project. Pursuant to Section 15162 of the CEQA Guidelines, a supplemental or subsequent EIR is required if changes to the project analyzed in the original EIR require major revisions to that EIR due the involvement of new significant effects. Therefore, a new EIR was prepared for the Project which significantly extended the timeframe to complete the entitlement process.

Project Scope History

Since its initial proposal, the scope of the Project has evolved over time. Between mid-2018 and January 2021, ALP worked with DCP, Council District 14, and the Chief Legislative Analyst to finalize Project plans, confirm preferred uses, and identify unit counts and square footages. The City published the resulting Draft EIR in January 2021. The project described in the Draft EIR included the following components and reflected an evolution in scope from the RFP stage to the Draft EIR publication:

- Floor Area Ratio – approximately the same 1.2 million sf of floor area maximizing the 13:1 FAR
- Tower Height – modifications in the tower heights to accommodate the refined mix of uses
 - Tower A: 88 story / 959 ft 8 in (RFP) to 63 story / 854 ft (Approved Project)
 - Tower B: 24 story / 265 ft (RFP) to 42 story / 494 ft (Approved Project)
- Hotel Rooms – an increase from 481 to 515 hotel rooms
- Condominiums – a decrease in for-sale condominiums from 240 to 180 units
- Apartments – a decrease in rental apartments from 405 to 252 units
- Affordable Housing – the same percentage of onsite affordable units (5% of the on-site rental apartments) but a decrease in number of affordable units from 20 to 13 affordable units as a result of the reduction in the number of on-site rental apartments
- Off-Site Affordable Housing – a commitment to provide offsite affordable housing from 0 in the RFP stage to 65 units
- Educational Space – reprogrammed 43,185 sf of educational space originally contemplated in the RFP into commercial space based on a detailed study indicating that the educational space development was infeasible onsite
- Commercial Space – an increase in commercial space from 46,923 sf to 72,091 sf as a result of the elimination of the educational space described above
- Open Space – a slight increase in open space from 53,800 sf to 58,605 sf
- Parking – an increase in parking spaces from 455 to 750 spaces

The project stayed consistent from the publication of the Draft EIR through final entitlement approvals. On February 3, 2022, the City, through DCP, approved the Project's Vesting Tentative Tract Map and entitlements, and certified a Final EIR for the Project (ENV-2018-3273-EIR). The Project is now fully entitled and all statutory challenge periods have expired.

Proposed Project

The Project as described above and approved by DCP on February 3, 2022, consists of the following elements:

ANGELS LANDING	
DCP Approved Project – 2/3/2022	
Floor Area	1,269,150 sf
FAR Ratio	13:1
Hotel Guest Rooms	515
For-Sale Condominium Units	180
Rental Apartments	252
Percentage of Affordable Units	5% of Rental Apartments On-Site
Commercial (Retail/Restaurant)	72,091 sf
Open Space	58,605 sf
Parking	750

California State Senate Bill 1373

California State Senate Bill 1373 (Kamlager) (SB 1373) was introduced earlier this year which, if approved, would extend the time allowed for redevelopment agencies (in jurisdictions of over 2 million people) to dispose of their properties until December 31, 2024. Given the challenges created by the COVID-19 pandemic and other complicating factors associated with developing large-scale projects in urban, under-resourced areas, additional time is required to ensure that the publicly-owned property affected by this bill can be developed with community-serving and catalytic uses to meet the State's housing and economic development objectives. The additional time is critical to ensure that the remaining real property owned by former redevelopment agencies within complex urban areas can be developed to meet their highest and best use and provide community and public benefits. SB 1373 passed on the Senate floor 31-0 and is awaiting further consideration later this summer.

Certain terms of the definitive agreements contain references to SB 1373 and may be impacted by SB 1373 if it is approved. Those related terms are based on contingencies and may be pursued at a later time.

City – CRA/LA Purchase and Sale Agreement

A Purchase and Sale Agreement (PSA) will serve as the document to effectuate the purchase and sale of the Property from the CRA/LA to the City. The City will need to approve and execute the PSA first, prior to exercising the Option. Upon receiving notice of the City electing to exercise the Option, the CRA/LA will present the PSA to their Oversight Board, Governing Board, and the California State Department of Finance for approval. Once fully approved, CRA/LA will execute the PSA and proceed with transfer of the Property through a Grant Deed and in accordance with the terms identified in the PSA. If approved by the City and CRA/LA, this will be the sixth CRA/LA-owned Option site the City will have acquired through this process.

On April 5, 2022, the City received an initial draft of the PSA from CRA/LA for review and comment. The PSA, as received from the CRA/LA, contains the following key terms and conditions:

- **Purchase Price:** \$50,000,000
- **Deposit:** \$1,000,000
- **Closing Date:** No later than December 31, 2022
- **Indemnification:** City will indemnify the CRA/LA from and against any and all claims
- **Condition of the Property:** City will purchase the Property "as is"
- **Environmental Indemnification:** City will indemnify the CRA/LA from and against any and all claims

- **Reciprocal Easement Agreement:** City will be subject to a Construction, Operation, and Reciprocal Easement Agreement
- **Closing Costs:** City will pay all Closing Costs
- **Buyer's Default:** If the City fails to close escrow, the CRA/LA would be entitled to keep the Deposit
- **Seller's Default:** If the CRA/LA fails to close escrow, the City would be entitled to receive its Deposit and/or may pursue specific performance.

City – ALP Disposition and Development Agreement

A Disposition and Development Agreement (DDA) will serve as the document to effectuate the purchase and sale of the Property from the City to ALP and will lay out the parameters in which ALP will develop the Project. The DDA will also contain other related documents required by the City to assure certain elements of the Project are memorialized including a Grant Deed, Covenant Agreement, and Affordable Housing Covenants.

The City has negotiated a non-binding term sheet (Term Sheet) (Attachment A - DDA Key Terms and Conditions) to guide further negotiation of the DDA and the final definitive agreements. Note that the Term Sheet does not represent a comprehensive list of all the terms and conditions of the DDA. The following are some of the key terms and conditions contained in the Term Sheet:

- **Purchase Price:** \$50,000,000
- **Deposit:** \$1,000,000
- **Closing Costs:** ALP to pay all Closing Costs except the City portion of the Documentary Transfer Tax which will be split 50/50 between the City and ALP
- **Closing Date:** No later than December 29, 2022
- **Condition of the Property:** ALP to purchase the Property “as is”
- **Indemnification:** ALP will indemnify the City from and against any and all claims as more specifically set forth in the DDA
- **Environmental Indemnification:** ALP will indemnify the City from and against any and all claims as more specifically set forth in the DDA
- **Covenant Agreement:** The City's sale of the Property will be subject to Los Angeles Administrative Code Section 7.27.2 and will be made pursuant to the authority granted to the City's Economic and Workforce Development Department (EWDD) pursuant to Los Angeles Administrative Code Section 22.1008(c), which authorizes EWDD to convey an interest in real property for economic development purposes, subject to the terms thereof, including, without limitation, the recordation of one or more deed restrictions requiring the property to be used and maintained for the purposes for which the City interest is conveyed, which deed restrictions will be set forth in the Covenant Agreement for a period of ten (10) years.
- **Affordable Housing Covenant:** An Affordable Housing Covenant will be recorded for the inclusion of the on-site affordable housing units
- **Reciprocal Easement Agreement:** ALP will be subject to a Construction, Operation, and Reciprocal Easement Agreement
- **Default by the City:** ALP may seek any available legal remedies including specific performance
- **Default by ALP (prior to Closing):** City may terminate the DDA and retain the Deposit as liquidated damages
- **Default by ALP (post-Closing):** City may seek any available legal remedies including specific performance
- **Default by either City or ALP:** In no event shall either Party be entitled to an award for (a) punitive, incidental, special or exemplary or consequential damages, provided that the foregoing shall not restrict the City's right to seek compensatory damages, or (b) attorneys' fees in connection with the enforcement of any uncured default.

The following key terms and conditions are those that City staff and ALP have not reached agreement on and are being presented here for Council's consideration and determination.

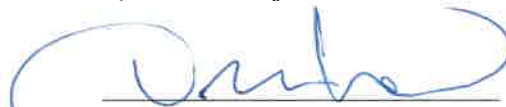
- **Repurchase Option:** In the event ALP fails to commence construction of the Project within 10 years following the City/ALP closing of escrow, the City shall have the right to repurchase the Property from ALP. City staff recommend that it be for an amount equal to "the lesser of (i) the Purchase Price or (ii) the fair market value of the Property as determined by appraisers selected by the City and the Developer." ALP's position is that it be "the greater of (i) the Purchase Price or (ii) the fair market value of the Property." Until the Project is actually built, the City will not have received any significant direct benefit from the sale of the Property to ALP and should not be subject to the possibility of having to pay a premium for the Property should the Repurchase Option be triggered. ALP disagrees with the City's position on this matter.
- **Transfers and Assignments:** On Assignment, City staff recommend that the City retain full discretion for the City Council for any transfer or assignment that is not pre-approved which ensures Council authority in what would be unusual circumstances. ALP would like the City to be "reasonable" in such determinations rather than retain full discretion in these cases. ALP would also like to expand permitted transfers to include (a) an affiliate or other entity controlled by the Developer, (b) any entity in which the Developer retains an ownership interest and retains day-to-day responsibility for the management of the Site and development of the Project, and (c) transfers among the members of the Developer. The proposed "pre-approved transfers" proposed by ALP not typical for the City and may result in the Project, as contemplated, actually not including ALP or its current members and may instead include other individuals/entities that the City would not have any control over whether the City does business with them.

ALP Partnership Agreement

At the time ALP was selected by the City in response to the RFP as the preferred developer of the Property, the partnership name of ALP (the joint venture between The Peebles Corporation, MacFarlane Partners, and Claridge Properties) had been recorded but a Partnership Agreement was not in place. As such and in recognition of their purported expertise, the ENA between the City and ALP included the signatures of all three partners (R. Donahue Peebles, Jr., Chairman and Chief Executive Officer, The Peebles Corporation; Victor B. MacFarlane, Chairman and Chief Executive Officer; MacFarlane Partners; and Ricardo Pagan, Chief Executive Officer, Claridge Properties). ALP now has a Partnership Agreement in place that identifies R. Donahue Peebles, Jr., as the Manager of ALP, and is authorized as the sole signatory for ALP. Victor MacFarlane/MacFarlane Partners remains an active member in the Project and Ricardo Pagan/Claridge Properties is now a minority owner and will have no further role in the development of the Project. Council action is needed to authorize R. Donahue Peebles, Jr. as the sole signatory for ALP on the DDA Term Sheet and all future City agreements related to the Project.

Hotel Development Incentive Agreement

As indicated in Section 26 of the DDA Term Sheet, ALP has requested a Hotel Development Incentive Agreement (HDIA) from the City that would provide financial support to the development of the hotel component of the Project. Analysis of this incentive request is currently underway and will conform with the City's Block Grant Investment Fund (BGIF) Policy, which is the framework by which all previous hotel incentive studies have been done. The results of the HDIA analysis will be presented to Council under separate cover at later date.



Oscar Ixco
Analyst

ANGELS LANDING
Disposition and Development Agreement
Key Terms and Conditions

This non-binding Term Sheet ("**Term Sheet**"), dated as of June __, 2022, for reference purposes, is entered into by the **CITY OF LOS ANGELES**, a municipal corporation (the "**City**"), and **ANGELS LANDING PARTNERS, LLC**, a Delaware limited liability company (the "**Developer**" and, collectively with the City, the "**Parties**"), to set forth their mutual understanding of the general terms and conditions that will be negotiated and set forth in a Disposition and Development Agreement ("**DDA**") between the Parties regarding (1) the acquisition by the Developer from the City of a parcel of land located at 361 S. Hill Street in the City (the "**Site**") and (2) the development of a mixed-use project on the Site (the "**Project**"). The terms and conditions in this Term Sheet do not include the totality of the terms and conditions to be agreed upon by the Parties, including with respect to those topics specifically covered by this Term Sheet, but rather represent certain fundamental provisions that shall be included in the DDA.

1. Project Summary. The Project consists of a mixed-use, transit-oriented development that includes approximately 1.2 million square feet of floor area in two towers designated as "Tower A" and "Tower B", which shall include hotel, commercial, retail, restaurant, residential (for sale and for rent, including affordable units), public plaza and parking uses. The Parties acknowledge that the description of the Project may be refined prior to the approval and execution of the DDA. The development of the Project is subject to, among other requirements and conditions: (a) the City's approval of all required discretionary entitlements and discretionary approvals for the Project (the "**Entitlements**"), (b) the City's approval of all required contracts and agreements for the Project (the "**Contracts**"), (c) the Developer's receipt of the necessary financing commitments, and (d) the City's prior acquisition of the Site from CRA/LA, a Designated Local Authority and Successor Agency to the former Community Redevelopment Agency of the City of Los Angeles ("**CRA/LA**") pursuant to the terms of that certain Option Agreement dated as of January 8, 2015, by and between the City and CRA/LA, as amended by a First Amendment to Option Agreement (the "**First Option Amendment**"), which established the purchase price for the Site under Council File No. 14-0425-S4 (as amended, amended and restated, supplemented, or otherwise modified from time to time, the "**Option Agreement**"). The Entitlements include, without limitation, (i) a project permit compliance review, (ii) a Director's determination for alternative design, (iii) a conditional use permit for live entertainment and dancing, and (iv) a vesting tentative tract map. The Contracts may include, and without limitation, (i) the DDA and (ii) a related Covenant Agreement (as defined in Section 18, below).

2. Additional Site Description. The Site consists of two legal parcels that includes approximately 98,000 square feet (2.26 acres) of land, which is commonly referred to as "Bunker Hill Parcel Y-1" or "Y-1", are designated as APN 5149-010-951 and, to the extent still owned by CRA/LA, APN 5149-010-952, and is located within the Bunker Hill Specific Plan area. The agreed-upon legal description for the Site shall be included in the DDA.

3. Environmental Review. The Developer shall prepare and submit to the City appropriate plans, specifications, renderings, reports and other information for the Project, as

specified by the City, that are reasonably necessary for the City to perform the environmental review for the Project required by the California Environmental Quality Act ("CEQA"). The Developer agrees to secure, at its own expense, and in coordination with the City as Lead Agency, the necessary environmental approvals for the Project in accordance with applicable CEQA requirements. The City, using its independent judgment, has certified a Final Environmental Impact Report for the Project (ENV-2018-3273-EIR).

4. No Adverse Changes to Land Use and Zoning Laws. As a condition to the Developer's obligation to acquire the Site and perform its obligations under the DDA, the City, prior to the Developer's acquisition of the Site, shall not have initiated or approved any changes to the land use and zoning laws applicable to the development of the Site that would limit, prohibit, or otherwise adversely affect the Developer's ability to develop and operate the Project, including without limitation, any such change that would require any redesign of the Project.

5. Purchase and Sale of the Site.

a. Pursuant to the Option Agreement, the City can currently exercise its option to purchase the Site (the "**CRA Option**") subject to the terms and conditions set forth therein, including without limitation that (a) the purchase price for the City to acquire the Site from CRA/LA shall be Fifty Million Dollars (\$50,000,000), and (b) the City shall exercise the CRA Option to acquire the Site no later than August 1, 2022. The City agrees to request that CRA/LA, and the City and the Developer shall mutually cooperate and exercise good-faith efforts to cause CRA/LA to, amend the Option Agreement, prior to August 1, 2022, to extend the Third Extended Term from August 1, 2022 to December 1, 2022.

b. In addition, in the event that Senate Bill 1373 ("SB 1373") is enacted prior to the expiration of the CRA Option, the City agrees to request that CRA/LA, and the City and the Developer shall mutually cooperate and exercise good-faith efforts to cause CRA/LA to, further amend the Option Agreement to extend the Third Extended Term from December 1, 2022 to September 30, 2024.

c. The City shall exercise the CRA Option within five (5) business days following the Developer's written request (the "**Option Exercise Notice**"), so long as the City has approved the Contracts. In addition, in the event that the City/Developer Closing could occur after the CRA Closing Date (as that term is defined in Section 14 of the Option Agreement), the City agrees to request that CRA/LA, and the City and the Developer shall mutually cooperate and exercise good-faith efforts to cause CRA/LA to, either amend the Option Agreement or include appropriate language in the CRA/City Purchase Agreement (as defined below) to align the CRA Closing Date in the Option Agreement to match the date of the City/Developer Closing in all circumstances.

d. The City's ability to exercise the CRA Option is subject to the City's approval of the DDA. Upon the City exercising the CRA Option, the City will open escrows for the purchase of the Site from CRA/LA and the City's subsequent sale of the Site to the Developer. Upon CRA/LA's approval of the purchase and sale agreement pursuant to which CRA/LA will transfer ownership of the Site to the City (the "**CRA/City Purchase Agreement**"), CRA/LA will

effectuate the sale of the Site to the City. The City negotiate and finalize the terms of the CRA/City Purchase Agreement with CRA/LA prior to the City exercising the CRA Option in a timely manner and consistent with this Section.

e. The City's sale of the Site will be further subject to Los Angeles Administrative Code Section 7.27.2 and will be made pursuant to the authority granted to the City's Economic and Workforce Development Department (the "**EWDD**") pursuant to Los Angeles Administrative Code Section 22.1008(c), which authorizes EWDD to convey an interest in real property for economic development purposes, subject to the terms thereof, including, without limitation, the recordation of one or more deed restrictions requiring the property to be used and maintained for the purposes for which the City interest is conveyed, which deed restrictions will be set forth in the Covenant Agreement.

6. Purchase Price and Deposit. Consistent with the Option Agreement, the purchase price for the Site (the "**Purchase Price**") is Fifty Million Dollars (\$50,000,000). Within two (2) business days following CRA/LA's execution of the CRA/City Purchase Agreement, the Developer shall make a good-faith deposit (the "**Deposit**") into Escrow, in the form of cash or (solely to the extent permitted by the CRA/LA) a letter of credit, in form and in an amount equal to the amount of the deposit payable by the City to CRA/LA pursuant to the CRA/City Purchase Agreement (the "CRA Deposit"). In no event shall (a) the CRA Deposit exceed the amount of One Million Dollars (\$1,000,000) or (b) the purchase price for the Site in the CRA/City Purchase Agreement exceed the amount of Fifty Million Dollars (\$50,000,000) (the "CRA Purchase Price"). The City shall not be required to exercise the CRA Option if the CRA Deposit exceeds the amount of One Million Dollars (\$1,000,000) or if the CRA Purchase Price exceeds the amount of Fifty Million Dollars (\$50,000,000), unless the Developer agrees to such changes, in which case this sentence shall not excuse the City from exercising the CRA Option and the Deposit and/or Purchase Price, as applicable, shall be modified to match the increased CRA Deposit and/or CRA Purchase Price, as applicable.

7. Escrow. The City, CRA/LA and the Developer shall open an escrow (the "**Escrow**") with a mutually acceptable escrow agent. The Escrow shall either be a dual or associated escrow with the City's purchase of the Site from CRA/LA. The escrow agent shall accomplish the recordation of the grant deed and all other recordable documents pursuant to the terms of the DDA and the CRA/City Purchase Agreement. The Developer shall be responsible for all closing costs with respect to its acquisition of the Site pursuant to the DDA, including escrow fees, appraisals, title insurance policies, and the documentary transfer tax, except that the City and the Developer shall each pay fifty percent (50%) of the portion of the overall documentary transfer tax in excess of the County of Los Angeles portion of the documentary transfer tax (which County of Los Angeles rate is currently \$1.10 per \$1,000).

8. Close of Escrow. The City shall convey the Site to the Developer at the closing of the Escrow (the "**City/Developer Closing**"), which shall occur within sixty (60) days after the later of (a) the Developer's delivery of the Option Exercise Notice or (b) date on which all of the conditions precedent to the City's and the Developer's obligations under the DDA, including without limitation the conditions precedent set forth in Sections 9 and 10, below, have been satisfied or waived by the relevant Party, but in any event no later than December 29, 2022 (the

"**City/Developer Closing Deadline**"). Notwithstanding the foregoing, in the event that SB 1373 is enacted prior to the City/Developer Closing, as described in the preceding sentence, the City agrees to request that CRA/LA, and the City and the Developer shall mutually cooperate and exercise good-faith efforts to cause CRA/LA to, amend the Option Agreement, draft the CRA/LA Purchase Agreement and/or amend the CRA/LA Purchase Agreement as required to modify the City/Developer Closing Deadline to occur within sixty (60) days after the later of (a) the Developer's delivery of the Option Exercise Notice or (b) date on which all of the conditions precedent to the City's and the Developer's obligations under the DDA, including without limitation the conditions precedent set forth in Sections 9 and 10, below, have been satisfied or waived by the relevant Party, but in any event no later than December 31, 2024.

9. Conditions Precedent for Benefit of City. The conditions precedent to the City's obligation to convey the Site to the Developer and perform its obligations under the DDA (the "**City Conditions**") include, without limitation, the following key conditions:

a. As more fully described in the ENA (as defined in Section 12, below) and as will be set forth in further detail in the DDA, the Developer shall have provided a "sources and uses" budget to the City that sets forth (i) the contemplated financing and equity funding for the acquisition of the Site and development of the Project and (ii) the acquisition and contemplated development costs, it being understood that such actual capital sources and development costs may differ from the information provided in such budget.

b. The Developer shall have delivered the Deposit into the Escrow.

c. The Developer shall have delivered the Purchase Price, minus the Deposit, and all closing costs (as described in Section 7, above) into the Escrow.

d. CRA/LA shall have approved the CRA/City Purchase Agreement.

e. The Developer shall have executed (and acknowledged, as applicable) and delivered to the City (through the Escrow) the DDA and the Covenant Agreement, as approved by the City.

10. Conditions Precedent for Benefit of Developer. The conditions precedent to the Developer's obligation to acquire the Site from the City and perform its obligations under the DDA (the "**Developer Conditions**") include, without limitation, the following key conditions:

a. The Developer shall have approved the physical condition of the Site and the condition of title with respect to the Site, and the title company selected by the Developer is prepared to issue an American Land Title Association (ALTA) owner's extended coverage policy of title insurance, subject only to those exceptions as the Developer has previously notified the City are acceptable to the Developer, and the title endorsements requested by the Developer.

b. The Developer shall have obtained all of the Entitlements.

c. The City shall have (i) timely exercised the CRA Option in accordance with Section 5.a, above, to acquire fee title to the Site and (ii) subject to the approved CRA/City Purchase Agreement, acquired fee title to the Site from CRA/LA.

d. The City shall have executed (and acknowledged, as applicable) and delivered to the Developer (through the Escrow) the DDA and the Covenant Agreement, as approved by the City.

11. Defaults and Remedies. A failure by either Party to perform any term or provision of the DDA to be performed by it, or a delay in such performance (including the City's failure to timely exercise the CRA Option (assuming all conditions for such exercise have otherwise been satisfied)), shall constitute a default under the DDA. The DDA shall specify the notice requirement and opportunity to cure with respect to any such default, as mutually agreed to by the Parties.

a. In the event of an uncured default by the City, the Developer may seek any available legal remedies at law or in equity, including, but not limited to, instituting legal action to seek specific performance of the DDA and/or cure, correct or remedy such default.

b. In the event of an uncured default by Developer prior to the City/Developer Closing, in addition to those remedies set forth in Section 11(a), above, the City may, in its sole discretion, terminate the DDA and retain the Deposit as liquidated damages.

c. In the event of an uncured default by the Developer following the City/Developer Closing, the City may seek any available legal remedies at law or in equity, including, but not limited to, instituting legal action to seek specific performance of the DDA and/or cure, correct or remedy such default.

d. Notwithstanding anything to the contrary in this Section 11, in no event shall either Party be entitled to an award for (a) punitive, incidental, special or exemplary or consequential damages, provided that the foregoing shall not restrict the City's right to seek compensatory damages, or (b) attorneys' fees in connection with the enforcement of any uncured default.

e. The Parties understand and acknowledge that all required activities to be performed by CRA/LA under the Option Agreement and the CRA/LA Purchase Agreement are beyond the direct control of the City and nothing contained herein shall be viewed as a guarantee on the part of the City that CRA/LA will perform such obligations. In the event that, following the City's exercise of the CRA Option, CRA/LA defaults in its obligations thereunder, including, but not limited to, any refusal or failure by CRA/LA to convey title to the Site to the City, the City shall provide public notice to the City Council of the default within five (5) business days following such default and the City's potential remedies against CRA/LA with respect to such default, provided that the City shall not be liable to the Developer with respect to such default. The City agrees to request that CRA/LA, and the City and the Developer shall mutually cooperate and exercise good-faith efforts to cause CRA/LA to, amend the Option Agreement and draft the CRA/LA Purchase Agreement to identify the Developer as a third-party beneficiary under the

Option Agreement and the CRA/LA Purchase Agreement that can enforce CRA/LA's obligations thereunder.

12. Non-Satisfaction of Developer Conditions. In the event that the City/Developer Closing does not occur for any reason whatsoever other than an uncured default by the Developer, including without limitation as a result of (a) the City's failure to timely exercise the CRA Option, (b) the City's failure to acquire fee title to the Site at the City/Developer Closing (assuming all conditions to such exercise have otherwise been satisfied or waived) or (c) the termination of the Option Agreement, and, as a result, the Escrow is canceled and the DDA is terminated, the City shall, within thirty (30) days thereafter, return any remaining balance of the deposit previously delivered by the Developer to the City pursuant to Section 1.4 of that certain Exclusive Negotiation Agreement dated as of March 28, 2018, by and between the City and the Developer (the "ENA").

13. Time Frames and Staffing for Processing and Review. In recognition of the importance and complexity of the Project, the City agrees to use reasonable efforts to expedite the review, processing, consideration and hearing of the requested Entitlements and Contracts (including any related administrative appeals), and other ministerial permits and approvals required for the Project, including the CEQA documentation prepared for the Project.

14. Project Opening. The estimated opening for the Project is to be specified in the DDA.

15. Commencement and Completion of Construction. The Developer estimates that construction of the Project will commence not later than the expiration of all of the Entitlements, subject to extension as a result of force majeure delay. The Developer estimates that construction of the Project will be substantially completed within six (6) years following the commencement of construction. These performance dates may be subject to revision from time to time as mutually agreed upon in writing between the Developer and the City.

16. Condition of Site. Except as otherwise expressly provided in the DDA, the Developer will purchase the Site in an "as is" condition without any warranty of any kind whatsoever from the City, including, but not limited to, with respect to potential or existing environmental risks and/or contamination and hazardous materials.

17. Development Costs. Except as otherwise may be provided as a result of the approval and implementation of other financial mechanisms, including the potential financial mechanisms discussed in Section 26, below, the Developer will be responsible for all development costs for the Project and the City will not provide any financial assistance or have responsibility for or any liability related to any costs associated with the development of the Project.

18. Covenant Provisions. As a condition of the City conveying the Site to the Developer, the Developer shall execute an agreement containing covenants affecting real property, to be recorded against the Site, that includes customary and appropriate restrictions for a development of this type and size within the City of Los Angeles, including without limitation, the following restrictions (the "**Covenant Agreement**"):

a. Following the completion of the Project, the Developer shall operate and maintain the Project, consistent with the uses described in Section 1 above, and/or uses subsequently proposed by the Developer and, if and to the extent required, approved by the City for the Site, for a period of at least ten (10) years, subject to force majeure delay as described in the DDA.

b. Prior to the commencement of construction of the Project, the Developer and its general contractor shall enter into a project labor agreement with the Los Angeles/Orange County Building and Construction Trades Council and member unions, pursuant to which (i) the general contractor and subcontractors will be required to pay the wages required under the several applicable master labor agreements and (ii) the parties will establish a goal that 30% of all construction labor hours worked on the Project shall be from area residents residing: first, within the boundaries of Council District 14; second, in those zip codes that comprise the City; and third, in those zip codes that comprise the County.

c. In the event that the Developer fails to commence construction of a material portion of the Project within ten (10) years following the City/Developer Closing (provided that such ten (10) year period shall be extended due to force majeure delay), the City shall have the right and option (the "**Repurchase Option**"), exercisable at the City's sole discretion, to purchase the Site for an amount equal to the lesser of (i) the Purchase Price or (ii) the fair market value of the Property at the time the City exercises the Repurchase Option, as determined by appraisers selected by the City and the Developer.

19. Compliance With Local, State, and Federal Laws. The Developer shall carry out the construction and operation of the Project, in conformity with all applicable laws, including, but not limited to, the following local, state and federal laws, if and to the extent applicable and as may be amended from time to time:

- a. Federal Davis-Bacon and/or California Prevailing Wage requirements during the course of construction, whichever is applicable;
- b. Title II of the Americans with Disabilities Act of 1990;
- c. Uniform Federal Accessibility Standard 24 C.F.R. Part 40;
- d. Section 504 of the Rehabilitation Act of 1973;
- e. California Building Code;
- f. Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended;
- g. California Government Code § 11135, et seq.; and
- h. Any other applicable local, state, and federal laws, including, but not limited to:
 - i. City's Standard Terms and Conditions, subject to the limitations in Section 22, below;
 - ii. City's Accessible Housing Program requirements; and
 - iii. California Government Code § 53083.

20. Hazardous Materials. To the City's actual knowledge without investigation, (a) there are currently no hazardous materials in, on or under the Site in violation of any

environmental requirements and (b) there is no pending governmental inquiry concerning a violation of any environmental requirement relating to the Site.

21. Environmental Indemnity. The Developer shall indemnify, defend, reimburse and hold harmless the City from and against any and all environmental claims and/or damages, as more specifically set forth in the DDA, arising from or relating to (a) the presence or release of hazardous materials in, on or under the Site, but only to the extent that such release occurs during the period in which the Developer owns the applicable portion of the Site and (b) any violation by the Developer of any environmental requirements pertaining to the Site and the activities thereon, provided that the foregoing indemnification obligation shall not apply to (i) any costs or expenses not reasonably incurred by the City and (ii) any environmental damages resulting from the gross negligence or willful misconduct of the City.

22. City's Standard Contract Provisions. The terms of the DDA shall be subject to the City's then-applicable Standard Terms for City Contracts (the "**Standard Contract Provisions**"), provided that, notwithstanding anything to the contrary in the DDA, (a) the Developer shall not be required to comply with any provision of the Standard Contract Provisions that does not specifically relate to the subject matter of the DDA, including without limitation any such provisions relating to providing services on behalf of the City, and (b) in the event of any conflict between the terms of the DDA (excluding the Standard Contract Provisions) and a non-statutory provision of the Standard Contract Provisions, the terms of the DDA (excluding the Standard Contract Provisions) shall prevail.

23. Transfers and Assignments. Except as otherwise provided in the DDA, the Developer shall not transfer or assign its interest in the DDA without the prior written approval of the City. Permitted transfers that do not require prior approval by the City shall be specifically set forth in the DDA and shall include, without limitation, subject to satisfaction of the technical requirements in the DDA, Developer's assignment of its rights and obligations under the DDA to an affiliate or other entity controlled by the Developer or any entity in which the Developer retains an ownership interest and retains day-to-day responsibility for the management of the Site and development of the Project. All permitted transfers specifically set forth in the DDA shall require the Developer to provide written notice to the City of any such assignment, accompanied by a written assignment and assumption agreement, in a form reasonably acceptable to City, pursuant to which the Developer shall assign its rights and obligations to such affiliate or other entity, and such affiliate or other entity shall expressly assume the rights and obligations of Developer. Any Transfer not otherwise permitted as set forth in the DDA would constitute a material change to the DDA and shall be considered by the City for approval or disapproval in its sole discretion.

24. Community Benefits. The community benefits associated with the Project shall be set forth in the DDA, and, if applicable, other binding agreements with the City that are associated with the Project (the "**Community Benefits**"). The Community Benefits shall include the totality of benefits provided to the City by the Developer in connection with the Project, and may thereafter be allocated among the aforementioned documents as mutually agreed to by the Parties. The Community Benefits allocated to the DDA shall be finalized in the form of a Community Benefit Plan prior to the approval and execution of the DDA and will be attached as an exhibit to the DDA.

25. Reciprocal Easement Agreement. The Developer will be subject in part to the terms of that certain Construction, Operation and Reciprocal Easement Agreement dated as of August 26, 1983, by and between Bunker Hill Associates and The Community Redevelopment Agency of the City of Los Angeles, California (as amended, the "**REA**"), relating to the development, operation and maintenance of the original California Plaza project, including any future amendments thereto. The City is informed that the Developer and the parties to the REA intend to negotiate the terms of an amendment to the REA that sets forth, among other things, which terms of the REA will apply, and the extent to which they will apply, to the Project.

26. HDIA, CFD/EIFD and/or Other Financing Mechanism. The Developer has requested that the City enter into a hotel development incentive agreement with the Developer, pursuant to which the City, if approved, will provide financial assistance for the Project with respect to the contemplated hotel use (the "**HDIA**"). The Parties continue to discuss in good faith the terms of the HDIA and the City has retained an economic consultant to assist in this process. However, the City provides no assurances at this time regarding the extent of the financial assistance that may be included in the HDIA or that an HDIA shall be approved or executed with the Developer at all. In addition, the Developer may request that the City establish a financial mechanism to finance the construction, operation or maintenance of Project facilities and infrastructure, which may include, without limitation, the establishment of a Mello-Roos Community Facilities District or an Enhanced Infrastructure Financing District. For the avoidance of doubt, the City may consider any such request in its sole and absolute discretion and nothing herein shall obligate the City to grant such request. Developer shall provide a deposit in a reasonable amount set by the City to cover any and all costs associated with the City's evaluation of such request.

27. Nonbinding Term Sheet. The Parties acknowledge and agree that this Term Sheet is merely an expression of the Parties' current intent regarding certain key conceptual terms to be negotiated and further acknowledge and agree that the terms set forth in this Term Sheet are not binding on the Parties and no contract will exist based on this Term Sheet or any verbal communications between the Parties or their representatives. No contract between the Parties shall arise unless and until the DDA, covering all terms and conditions of the contemplated transaction, is executed by the Parties. The Parties acknowledge that the ENA remains in full force and effect. The Parties also acknowledge that certain of the terms in the CRA/City Purchase Agreement will need to be consistent with corresponding or related provisions in the DDA, such that (a) the requirements of CRA/LA under the CRA/City Purchase Agreement may inform drafting of the DDA and (b) the requirements in this Term Sheet and the DDA may inform the drafting of the CRA/City Purchase Agreement. The Developer acknowledges and agrees that the DDA must be approved by the City, as set forth in the Los Angeles City Charter and/or Los Angeles Administrative Code. Neither Party may reasonably rely on any promise inconsistent with this Section 27.

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IN WITNESS WHEREOF, the Parties have executed this Term Sheet as of the date first above written.

"City":

CITY OF LOS ANGELES,
a municipal corporation

By _____
Sharon M. Tso,
Chief Legislative Analyst

"Developer":

ANGELS LANDING PARTNERS, LLC,
a Delaware Limited Liability Company

By: TPC Angels Landing DTLA, LLC,
a Delaware limited liability company,
its administrative member

By _____
R. Donahue Peebles, Jr.,
Manager