

**GROUND LEASE TERM SHEET  
PORTION OF 12TH STREET REMAINDER**

December 13, 2022

This term sheet shall serve as the basis for the negotiation of a detailed, final form of Ground Lease (“**Ground Lease**”), to be entered into by and between the City of Oakland, a municipal corporation, and East 12th Street Housing, LP, a California limited partnership. City and Developer shall be referred to herein sometimes as the “**Parties**”, and each individually a “**Party**.” The terms hereof are not binding on the Parties until Tenant and City, pursuant to City Council authorization, have executed a mutually acceptable Ground Lease for the proposed project. The final Ground Lease may include terms that differ from, or are in addition to, the terms set forth in this term sheet.

<p><b>1.</b></p>	<p><b>Parties</b></p>	<p>A. <u>Landlord</u>: City of Oakland, a municipal corporation, the “<b>City</b>” or “<b>Landlord</b>”.</p> <p>B. <u>Tenant</u>: East 12th Street Housing, LP, a California limited partnership (“<b>Tenant</b>”), an affiliate of the East Bay Asian Local Development Corporation (“<b>EBALDC</b>”).</p>
<p><b>2.</b></p>	<p><b>Premises</b></p>	<p>The City owns approximately 0.925 acres of property bounded by East 12th Street on the east, Second Avenue and property owned by the Oakland Unified School District on the south, open space to the west, and Lake Merritt Boulevard to the north, as more particularly described on <u>Exhibit A</u> attached hereto (the “<b>Property</b>”). A portion of the Property comprised of approximately 0.45 acres, is to be ground leased by Tenant, which will create an air rights parcel as more particularly described and depicted on <u>Exhibit B</u> attached hereto (“<b>Parcel 1</b>”). The leasehold interest in Parcel 1 will constitute the “<b>Premises</b>”. The City may ground lease the balance of the Property with another affordable housing developer (“<b>Parcel 2 Developer</b>”), which will create another air rights parcel (“<b>Parcel 2</b>”).</p>
<p><b>3.</b></p>	<p><b>Improvements</b></p>	<p>The “<b>Project</b>” is a six-story mixed use building consisting of ninety-one (91) units of affordable housing currently comprised of forty-two (42) studios, twenty-nine (29) one-bedroom units, sixteen (16) two-bedroom units, and four (4) three-bedroom dwelling units for households with incomes between thirty percent (30%) and no more than eighty percent (80%) of County of Alameda Area Median Income (“<b>AMI</b>”) with an anticipated maximum of 500 square feet of ground floor retail area to be developed and constructed on the Premises in accordance with the Lease Disposition and Development Agreement (the “<b>LDDA</b>”). The Project may also include up to fifteen (15) parking spaces. The Project and any and all improvements thereafter located on</p>

		Parcel 1 at any time during the Term are collectively referred to as the “ <b>Improvements</b> ”.
4.	<b>Term</b>	<u>Term</u> . The Ground Lease shall have a term of ninety-nine (99) years (“ <b>Term</b> ”).
5.	<b>Project Funding Sources</b>	<p>To date, Tenant has received financial commitments from the below listed lenders and in the amounts set forth below:</p> <ul style="list-style-type: none"> <li>• <b>\$15,431,306</b> – Strategic Growth Council and California Housing and Community Development Department Affordable Housing and Sustainable Communities Program for Affordable Housing Development</li> <li>• <b>\$2,695,897</b> – Strategic Growth Council and California Housing and Community Development Department Affordable Housing and Sustainable Communities Program for Transportation and Infrastructure Improvements</li> <li>• <b>\$3,094,000</b> - California Housing and Community Development Department Infill Infrastructure Program</li> </ul> <p>In addition, to the project funding sources listed above, Tenant will obtain financing consistent with the Financial Plan required by the LDDA.</p>
6.	<b>Restrictions on Financing</b>	Tenant shall not place or suffer to be placed any lien or encumbrance on Landlord’s fee interest in connection with any permitted financing. Tenant agrees and acknowledges that Landlord will not subordinate its interest in the Premises nor its right to receive Rent to any mortgagee of Tenant.
7.	<b>Use</b>	Tenant shall use and operate the Premises in accordance with the LDDA for the construction and development of the Project, and the Ground Lease for the operation, marketing and leasing of the dwelling units of the Improvements as affordable rental housing for families and such other uses as are reasonably related to such use, and for limited commercial uses in the ancillary commercial space, as further detailed in the Ground Lease.
8.	<b>Rent</b>	<p>Parcel 1 has a fair market value (“<b>FMV</b>”) of \$4,000,000 and a related annual fair market rental value of \$195,000 pursuant to a current appraisal.</p> <p>The Premises will be leased to the Tenant by the Landlord (i) at a base rent for the Term in the amount of One Dollar (\$1.00) per year or portion thereof, to be paid for the Term on the commencement date in the amount of Ninety-Nine Dollars (\$99), and (ii) either (a) as annual rent payments of \$195,000 to be paid to the extent annual cash flow is available and with any amount</p>

		<p>that cannot be made from annual cash flow accruing from year to year with simple interest at three percent (3%) (“<b>Accrued Rent Payment</b>”); or (b) annual debt service on a loan in the amount of the \$4,000,000 FMV from the City to the Tenant (“<b>Ground Rent Loan</b>”), which loan shall have a term of 55 years from permanent loan conversion and a simple interest rate of three percent (3%).</p> <p>If the rent is satisfied through the Ground Rent Loan or there is any Accrued Rent Payment, Tenant shall pay any such payments to the City from the Parcel 1 Project’s residual receipts (i) on a pro-rata basis with other public lenders providing financial assistance, in accordance with the provisions of Section 8314 of the Uniform Multifamily Regulations (Cal. Code Regs. Title 25, Division 1 Chapter 7, Subchapter 19) (the “<b>Multifamily Regulations</b>”), or (ii) with respect to the Accrued Rent Payment, s otherwise permitted in Section 8314 of the Multifamily Regulations.</p>
<p><b>9.</b></p>	<p><b>Transfer / Assignment</b></p>	<p>A. <u>Prior to Completion of the Project:</u>  All transfers shall require the consent of the City, in its sole and absolute discretion, which shall not be unreasonably withheld, conditioned or delayed. Approved transfers shall be (i) pursuant to an agreement in recordable form that has been approved by the City, wherein transferee shall assume performance of Tenant’s obligations under the Ground Lease, and (ii) subject to City’s transfer and processing fees.</p> <p>B. <u>After Completion of the Project:</u>  All transfers shall require the consent of the City, in its reasonable discretion, which shall not be unreasonably withheld, conditioned or delayed. Approved transfers shall be (i) pursuant to an agreement in recordable form that has been approved by the City, wherein transferee shall assume performance of Tenant’s obligations under the Ground Lease, and (ii) subject to City’s transfer and processing fees.</p> <p>C. <u>Affiliate Transfers.</u>  Notwithstanding the foregoing, the assignment to, and assumption of, the Ground Lease by a limited partnership of which the Developer (or another entity affiliated with and wholly controlled by EBALDC) is the managing general partner, shall be a permitted transfer; provided, however, that such transfer shall be (i) pursuant to an agreement in recordable form that has been approved by the City, wherein transferee shall assume performance of Tenant’s obligations under the Ground Lease, and (ii) subject to City’s transfer and processing fees.</p>

10.	<b>Impositions; Possessory Interest Tax</b>	Tenant shall pay any and all impositions, including, without limitation, possessory interest and property taxes assessed, levied or imposed on the Premises or any of the Improvements or personal property located on the Premises.
11.	<b>Ownership of Improvements; Tax Benefits During Term</b>	During the Term Tenant shall own the Improvements, subject to Landlord’s reversionary interest, and shall be entitled to all depreciation deductions and any tax credits with respect to the Improvements.
12.	<b>Default</b>	The Ground Lease will include City’s standard remedies, including, without limitation, the right to terminate the transaction upon Tenant’s default, subject to standard notice and cure provisions permitting cure rights for Tenant, other project lenders and Tenant’s investor.
13.	<b>Tenant Maintenance / Standard of Premises</b>	Tenant shall maintain the Premises and the Improvements in compliance with applicable law and in good condition and repair to the reasonable satisfaction of the City. The Tenant shall ensure that the Premises and the Improvements do not violate the City’s Blight Ordinance.
14.	<b>Indemnification</b>	The Ground Lease will require Tenant to indemnify, defend, and hold the Landlord and its Councilmembers, other elected and appointed officials, and employees, officers, commissioners, directors, and agents (collectively, the “ <b>Indemnified Parties</b> ”) harmless from and against any liability directly or indirectly arising from or relating to Tenant’s development, operation, and/or management of the Improvements, including, without limitation, liability arising as a result of property damage, personal injury, or violation of state, federal, or local laws, except to the extent that any of the matters described above is determined by a final non-appealable judgment of a court of competent jurisdiction to have arisen from an Indemnified Party’s gross negligence or willful misconduct of an Indemnified Party.
15.	<b>Waiver of Consequential Damages</b>	Neither Party shall be liable for and shall waive any claims against the other for any consequential damages incurred by the other Party and arising out of any defaults by the other Party.
16.	<b>City Employment &amp; Contracting Requirements</b>	Tenant shall abide by all applicable City employment and contracting requirements, including, but not limited to, the following: the provisions of City’s Local and Small Local Business Enterprise Program; Local Employment Program; Required Prevailing Wages; Living Wage Ordinance; the City of Oakland’s First Source Employment Referral Program; Employment Nondiscrimination; and Reporting Requirements of the City of Oakland.

**EXHIBIT A**

**Property Legal Description**

The land referred to is situated in the County of Alameda, City of Oakland, State of California, and is described as follows;

Parcel 1, as shown on Parcel Map 10111, filed December 3, 2013, in Book 324 of Parcel Maps, Pages 44 through 46, Alameda County Records.

APN: 019-0027-014

**Exhibit B**

**Legal Description and Plat of Parcel 1**

**PROPOSED AFFORDABLE HOUSING PARCEL  
OAKLAND, CALIFORNIA**

ALL THAT CERTAIN REAL PROPERTY LYING IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA AND STATE OF CALIFORNIA, BEING A PORTION OF PARCEL 1, AS SHOWN ON PARCEL MAP NO. 10111, AS FILED DECEMBER 3, 2013 IN BOOK 324 OF PARCEL MAPS, AT PAGES 44-46, ALAMEDA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF PARCEL 1, AS SHOWN OF SAID PARCEL MAP NO.10111;

THENCE SOUTH 49°11'01"WEST ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 1, A DISTANCE OF 73.07 FEET TO THE MOST SOUTHERLY CORNER OF SAID PARCEL 1;

THENCE NORTH 61°51'18"WEST ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 1, A DISTANCE OF 193.14 FEET;

THENCE NORTH 49°09'54" EAST A DISTANCE OF 142.35 FEET TO A POINT OF INTERSECTION WITH THE NORTHEASTERLY LINE OF SAID PARCEL 1;

THENCE SOUTH 40°40'06" EAST A DISTANCE OF 180.31 FEET TO THE POINT OF BEGINNING.

CONTAINING 19,419 SQUARE FEET, MORE OR LESS, OR 0.446 ACRE.

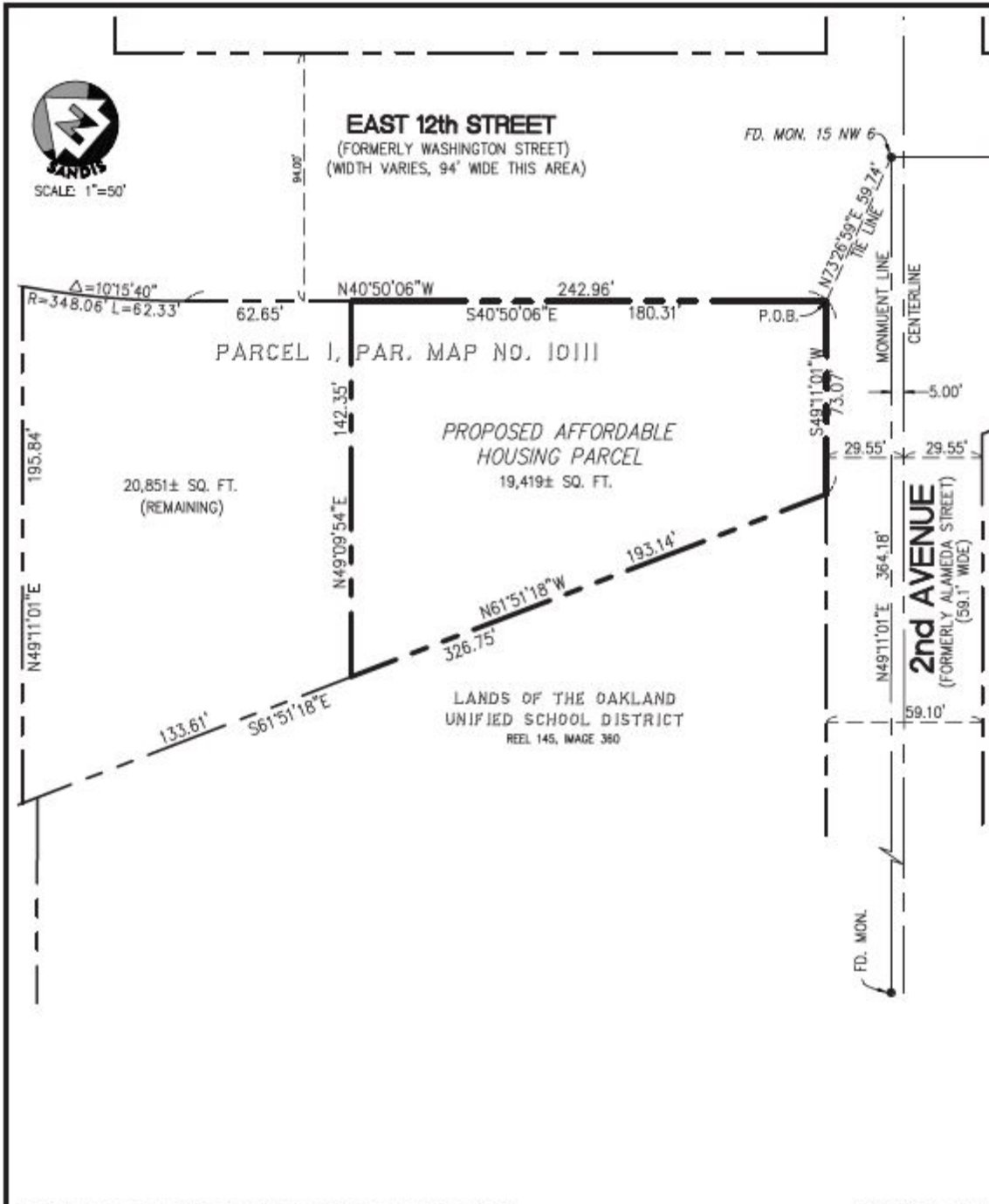
THE LAND DESCRIBED HEREON IS SHOWN ON THE ATTACHED PLAT, EXHIBIT "B", AND IS BY REFERENCE, MADE A PART THEREOF.

June 15, 2022

File: 616055 LD Affordable.doc



SCALE: 1"=50'



PLAT TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT "B"



build on.  
sandis.net

DATE: 6-15-22  
 SCALE: 1"=50'  
 DRAWN BY: DWB  
 APPROVED:  
 FILE NUMBER:  
 616055.A

PROPOSED AFFORDABLE  
 HOUSING PARCEL  
 OAKLAND CALIFORNIA

SHEET  
**1**  
 OF 1 SHEETS

616055-D-10-11190805LE-0002.DWG  
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