



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 NOV -3 PM 5:09

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Mark Sawicki
Director, EWD

SUBJECT: 12th Street Remainder DDA Term
Sheet Amendment

DATE: October 17, 2016

City Administrator Approval

Date:

11/3/16

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance:

(1) Amending The Term Sheet For The Disposition And Development Agreement For The 12th Street Remainder Parcel Located At E12th Street And 2nd Avenue Previously Approved By Ordinance No. 13382 C.M.S. To Identify The Developer As Lakehouse Development Partners, LLC (Or Its Related Entities Or Affiliates) And Lakehouse Commons Affordable Housing, LP (Or Its Related Entities Or Affiliates); And

(2) Authorizing The City Administrator, Without Returning To The City Council, To Negotiate And Execute Such Disposition And Development Agreement And Related Documents Between The City Of Oakland And Such Developer Entities, All Of The Foregoing Documents To Be In A Form And Content Substantially In Conformance With The Amended Term Sheet Attached As Exhibit A.

EXECUTIVE SUMMARY

On July 19, 2016 the City Council adopted Ordinance No. 13382 C.M.S. approving the terms of a Disposition and Development Agreement (DDA) with UrbanCore and EBALDC (collectively "Developer") for the sale of City-owned land located at E12th Street and Second Ave ("Property" or "12th Street Remainder Parcel") to the Developer for the construction of a mixed-use residential project. The Project (named "LakeHouse Commons") consists of 361 residential units of which 108 (30 percent of the total) will be below market/rent-restricted. Lakehouse Commons will include two buildings ("LakeHouse North" and "LakeHouse South") sharing a common entrance, garage and other amenities.

The approved term sheet for the DDA requires that the Developer identify a financially strong entity to partner with. As such, the Developer proposes adding Behring Capital LLC ("Behring") and Zhong Rong International Trust Co., Ltd. (ZRT) as a Joint Venture Capital Partner to the development team. Behring/ZRT will be the "Lead Managing Member" for the market-rate development entity and together will be responsible for bringing in approximately 95 percent of the required equity capital for the market rate development. UrbanCore will not have a controlling interest in the developer of the market-rate building but will be a "Managing Member"

Item: _____
CED Committee
November 15, 2016

and retain day-to-day management responsibilities for the market-rate building (LakeHouse North).

For the affordable building (LakeHouse South), EBALDC will retain a controlling interest as the Controlling Member and General Manager through its affiliate entity "LakeHouse Commons Affordable Housing LP", in a structure typical of other Low Income Housing Tax Credit (LIHTC) projects.

Staff seeks authority to modify the previously approved Term Sheet to substitute in LakeHouse Development Partners LLC (a to-be-formed California limited liability company composed of UrbanCore, Behring and ZRT) for UrbanCore and LakeHouse Commons Affordable Housing, LP for EBALDC. All other terms and conditions of the DDA will remain the same.

Approval of this new market-rate development entity (LakeHouse Development Partners LLC) is time-sensitive because the funding required to advance the Project in the design development phase will come from Behring and ZRT as the Joint Venture Capital Partners.

Note that only the substitution of LakeHouse Development Partners LLC for UrbanCore requires additional Council approval because UrbanCore will no longer be the controlling member of the proposed new joint venture entity. However, the substitution of LakeHouse Commons Affordable Housing, LP for EBALDC is already authorized under Ordinance No. 13382 C.M.S. because LakeHouse Commons Affordable Housing, LP qualifies as an affiliate entity controlled by EBALDC.

BACKGROUND / LEGISLATIVE HISTORY

On July 14, 2015, the City issued a Notice of Offer and Intent to Convey the Property ("Notice"). The City evaluated five proposals and on March 15, 2016, the City Council authorized an Exclusive Negotiating Agreement (ENA) with UrbanCore and EBALDC. (Resolution No.86056 C.M.S.)

On July 19, 2016 the City Council adopted Ordinance No. 13382 C.M.S. approving the terms of a DDA with UrbanCore and EBALDC. Key DDA terms included:

1. Sale of the Property for no less than \$8.0 million.
2. A seller carryback loan from the City to EBALDC in the amount of \$3.3 million plus the cost of loan origination.
3. Development of the Property as a residential mixed-use project, with 30 percent of the total units as below-market/rent-restricted, consistent with the plans approved by the Planning Commission on June 6, 2016.
4. Development Schedule: Sale of Property by June 30, 2017. Within 8 months of DDA approval (March 2017), Developer may request a waiver of some of the City's standard pre-conveyance conditions, for City Administrator approval, if certain conditions are met (e.g. AHSC funding, Completion Guarantee, subdivision approvals, signed PLA and 65 percent construction drawings). If the City Administrator waives standard conditions to allow an early closing, construction would start within 24 months after transfer of Property or 30 days after issuance of building permits (whichever is earlier). If the City

Item: _____
CED Committee
November 15, 2016

Administrator does not waive the conditions, construction would start within 30 days following close of escrow. Construction is to be completed within 24 months after commencing construction.

5. Community Benefits:

- \$300,000 of the net \$4.7 million land payment will be appropriated by the City Administrator to fund a to-be-determined Community Benefits Program;
- a Project Labor Agreement (PLA) for the entire project;
- landscaping and ongoing maintenance of the 0.92 acre of City-owned open space adjacent to the Property;
- allowing shared access to the Project's common spaces and amenities to all residents of the Project; and
- forgoing condo conversion credits that the Project would normally be entitled to under the current Condo Conversion Ordinance.

ANALYSIS AND POLICY ALTERNATIVES

A. Development Team and Proposed Ownership Structure

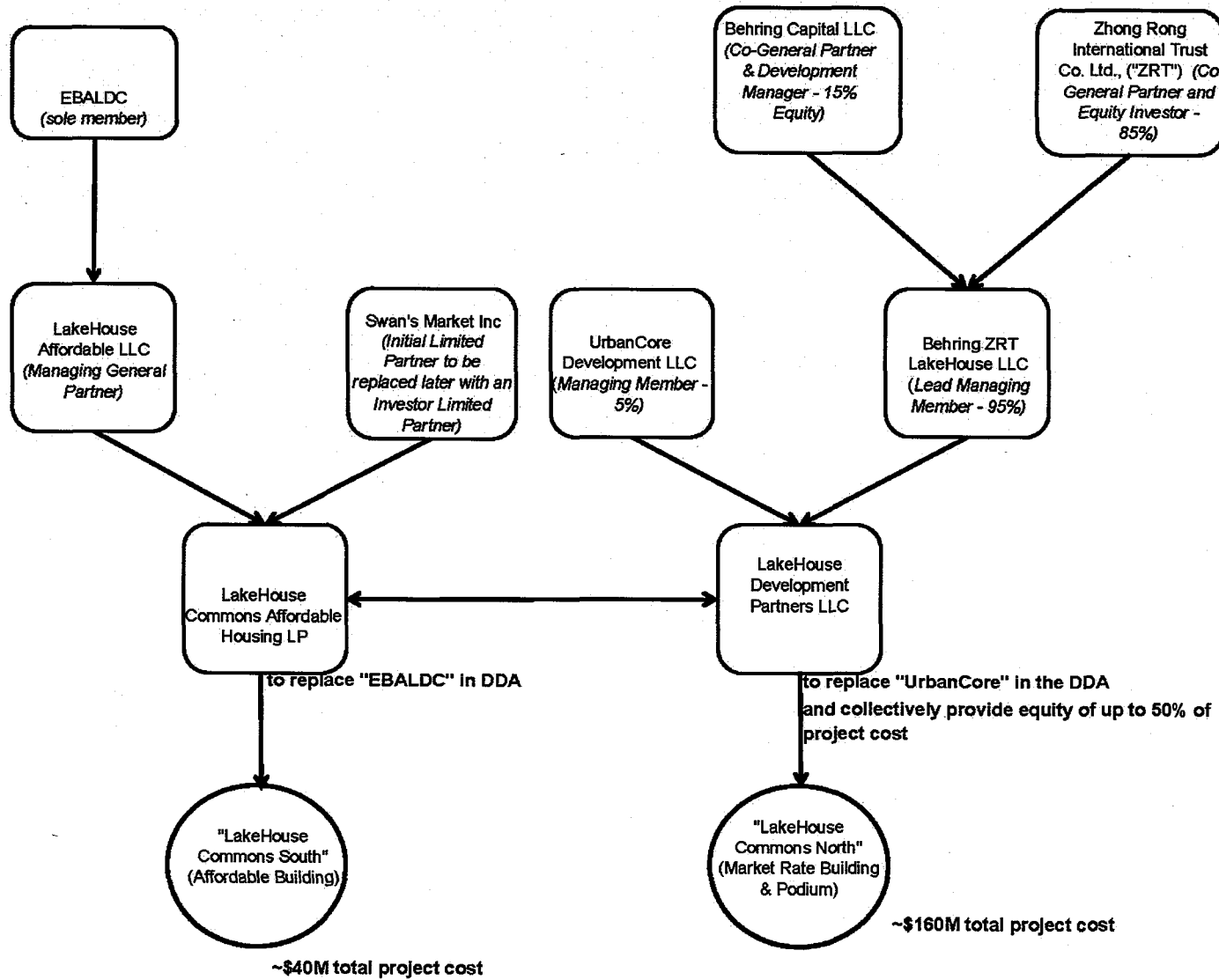
The City is currently in the process of negotiating the DDA with UrbanCore and EBALDC based on the approved Term Sheet which includes language and terms expecting UrbanCore and EBALDC to solicit partnerships and raise outside capital in order to fully capitalize their respective parts of the Project and start construction.

As of the writing of this report, EBALDC has been officially awarded \$15,584,150 in AHSC (Affordable Housing and Sustainable Communities) funding for LakeHouse South, currently estimated to cost approximately \$40 million to develop. An additional \$2,543,053 will go to fund transportation related amenities and sustainable transit infrastructure such as pedestrian scale lighting on E12th Street and pedestrian streetscape improvements on 10th Street between the projects site and Lake Merritt BART.

The market-rate development of LakeHouse North is currently estimated to cost \$160 million. At this time, UrbanCore is proposing to add Behring and ZRT to the development team responsible for LakeHouse North. Behring/ZRT currently estimate the pre-development costs may require about \$5 to \$7 million in capital and, assuming senior debt financing based on a 50 percent loan to cost ratio, the total equity required for the LakeHouse North may reach \$80 million. Subject to due diligence review and negotiation with UrbanCore, Behring/ZRT is proposing to bring in 95 percent of the estimated \$80 million in equity.

This to-be-formed Joint Venture is tentatively named LakeHouse Development Partners LLC and will be owned and managed by three partners: UrbanCore, Behring and ZRT. Behring and ZRT will form a California limited liability company tentatively named Behring ZRT Lakehouse LLC. The Exhibit below illustrates the organizational chart for LakeHouse Commons and the anticipated ownership structure and equity contributions from each partner.

LAKEHOUSE COMMONS ORGANIZATIONAL CHART



Since the Council has already approved a DDA with UrbanCore and EBALDC, the following development team descriptions are only for the two new members, Behring and ZRT, proposed to join UrbanCore in forming the new joint venture entity, LakeHouse Development Partners LLC.

Behring Capital LLC

Behring Capital LLC is the property development and investment vehicle of Colin Behring and is proposed to serve as the Co-General Partner and development manager of Behring ZRT LakeHouse LLC. Over the past 10 years, Colin Behring has developed, invested or constructed over 4 million square feet of real estate in Northern California and Shanghai, China. Behring's core development management team consisting of Elizabeth Premazzi, Steve McCartt and Colin Behring, bring over 50 years of real estate development, finance and design experience. The team together has worked in over 7 countries, speaks 6 languages and has development and design project experience across over 15,000,000 square feet of property.

The Behring real estate business was first started by Kenneth E. Behring, an entrepreneur and philanthropist, and has developed, built or managed over 15,000 residential units since 1956. Project types include master-planned residential country club communities (with over 16 golf courses), high-rise condominium, active adult senior living, and commercial shopping malls. Signature projects include the Blackhawk Country Club in Danville, CA and Canyon Lakes Country Club in San Ramon, CA.

Zhong Rong International Trust Co., Ltd. ("ZRT")

ZRT is a major financial institution and is proposed as a Co-General Partner and equity investor for LakeHouse North. ZRT was established in 1987 as Harbin International Trust Investment Col, Ltd., and was re-registered and re-named Zhong Rong International Trust Co. Ltd., in 2002. The company is headquartered in Beijing, China.

ZRT posted its last five years of audited annual reports on its website at www.zritc.com/HTML/aboutzr/gsnb/. As of the end of the 1st quarter of 2016, ZRT has over 1,947 employees. As of the end of 2015, ZRT has over \$96 billion under management, including over \$6 billion in real estate assets under management, and has participated at all levels of the capital stack including senior debt, mezzanine financing and equity investment.

ZRT's Primary Business Lines	Amount (\$ US) Billion	%
Financing of industrial and commercial enterprises	\$34.33	35.42%
Investment in financial institutions	\$33.28	34.31%
Securities Investments	\$9.90	10.21%
Basic Industries Financing	\$12.75	13.14%
Real Estate	\$6.11	6.30%
Other minor investments	\$0.60	0.62%
Total Assets Under Management (end of 2015)	\$96.97 B	100%

According to financial information submitted to staff by Behring, ZRT has the following financial metrics:

ZRT Financial Metric	Amount (\$ US)
ZRT Total Assets (2016 Q1)	\$2.66 Billion
ZRT 2015 Net Assets	\$1.68 Billion
ZRT 2015 "Monetary Capital"	\$1.05 Billion
ZRT 2015 "Business Income"	\$901 Million
ZRT 2015 "Operating Profit"	\$461 Million
ZRT 2015 Net Profit	\$356 Million

Subdivision of Parcel

UrbanCore and EBALDC are currently working to create and prepare for recording a subdivision map of the Property that creates a two-unit condominium, governed by Conditions, Covenants & Restrictions (CC&Rs).

This is a three-step process that involves: (1) A Tentative Parcel Map to be submitted and approved by the City of Oakland's Bureau of Planning; (2) A Final Parcel Map (subdivision map) to be submitted and approved by Oakland Public Works (an approved Final Parcel Map actually creates a two unit, single-lot subdivision); and (3) A Condominium Plan developed by the two owners to form the two-unit association. This Plan will show the three dimensional layouts of the units and becomes effective by declaration of the condominium owners.

When the subdivision map is completed (Step 2 above), the City will record the map and can deed one condo unit to UrbanCore (or LakeHouse Development Partners LLC, which includes UrbanCore as a member) and the second condo unit to EBALDC (or an affiliate entity to be controlled by EBALDC). Each condo unit owner will solely own a fee interest in the improvements wholly within the unit; in addition, that owner will hold an undivided common interest in the land beneath the two condo units and the improvements that are to be jointly managed and maintained. A "master association" will be established to govern the common interest business of the two owners under the terms of the CC&Rs.

The full project will be built as a "Common Interest Development": UrbanCore (or LakeHouse Development Partners LLC, which includes UrbanCore as a member) will develop, own, and manage the market-rate project (which will include at least 18 units affordable to moderate income households); EBALDC (or an affiliate entity) will develop, own and manage the affordable project (90 units affordable to lower income households plus one manager's unit).

B. Analysis

Verification of Availability of Capital and Experience

The JV Capital Partner selected by UrbanCore, Behring/ZRT, is nearly done with a 45-day due diligence review which will conclude on November 7th. Staff has met with key personnel from Behring and ZRT, including the Chief Executive Office of ZRT, Mr. Liu Hong Guang, who flew in from Beijing China. Since 2013, ZRT has partnered with Behring to execute Chinese outbound investment opportunities in the San Francisco Bay Area and is currently pursuing this opportunity to invest in LakeHouse Commons.

Item: _____
CED Committee
November 15, 2016

During the due diligence review, Behring and ZRT are reviewing the entitlement documents, market studies, financial and cost projections, and environmental reports prepared by UrbanCore, and evaluating those documents for feasibility to justify their investment. Behring/ZRT is also reviewing and evaluating the DDA requirements to the City, and the overall schedule for proceeding. This will all conclude with a decision by Behring/ZRT by November 7, 2016 on whether to proceed with the joint venture and investment in the project. If Behring and ZRT commit to move forward with UrbanCore on the Project, the Operating Agreement currently under negotiation amongst the parties will be finalized and made available for City review, prior to the November 29th Council meeting for approval of the new joint venture entity.

According to UrbanCore, it has invested approximately \$1.1 million to date on third-party predevelopment activities over the last four years. UrbanCore is not anticipating spending additional funds during the balance of the predevelopment period and is expecting the remaining predevelopment funding will come from Behring/ZRT.

Staff's preliminary review of Behring's submittals indicate Behring is an experienced and qualified developer who has the ability to raise funds and may have access to the cash needed to immediately fund predevelopment costs, as well as their anticipated equity contribution to the Project.

Staff engaged economic consultant Century Urban, LLC to assist in evaluating the financial resources of ZRT. The review of ZRT's 2014 and 2015 Financial Statements (translated in English) indicate ZRT has \$1.05 billion of accessible cash and even greater net assets, which is more than enough capital to meet ZRT's share (anticipated to be approximately 85 percent) of the development and construction costs for LakeHouse North, if ZRT chooses to make such a commitment. In addition, ZRT has shown an ability to raise capital for projects in China through ZRT's private wealth management division which includes over 1,100 institutional investors and 30,000 high net worth individuals.

After the conclusion of the due diligence period, and before staff's verbal report to the Community and Economic Development (CED) Committee on November 15th, UrbanCore and Behring/ZRT will submit financial documents that will allow staff to confirm the amount of cash that Behring/ZRT will actually commit to the Project. Behring/ZRT has opened an escrow account and made a good faith deposit to initiate the 45-day due diligence period. Staff expects more funds will be deposited if the Project passes due diligence.

FISCAL IMPACT

No new fiscal impact. Adoption of the proposed Ordinance will change the development entities for the 12th Street Remainder Parcel DDA but all other terms and conditions of the DDA will remain the same and so the fiscal impact to the City also remains the same as adopted under Ordinance No. 13382 C.M.S.

PUBLIC OUTREACH / INTEREST

No public outreach is required for the proposed action and no comments from the public have been received by staff as of the time of publication of this report.

COORDINATION

Project Implementation staff have coordinated on this agenda item with the City Administrator's Office, the Office of the City Attorney, and the Controller's Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: The Developer's proposed Project will transform vacant underutilized land into a high-density residential development that will provide much-needed housing units, a modest amount of neighborhood-serving retail, and further stimulus to the local economy. Development of the site will produce several hundred construction jobs and tens of permanent jobs. Staff estimates the project will generate to the City \$45 million from property tax and \$21 million from business license tax over 66 years, in addition to other tax benefits from parking tax and sales tax.

Environmental: The Developer's proposed Project is expected to maximize the potential use of the land while being environmentally-sensitive with its design, use of materials and operations. The proposed high-density development next to a regional transportation hub will likely encourage residents and retail customers to use BART and AC Transit and reduce automobile reliance, which will decrease the use of fossil fuels and resulting greenhouse gas emissions. UrbanCore will fund, as a community benefit, the cost to design, construct and provide ongoing maintenance for the adjacent open space parcel owned by the City.

Social Equity: The Developer will provide a minimum of 30 percent of the units at an affordable rent to low and moderate income households, comply with the City's local business and employment participation requirements, and enter into project labor agreements.

CEQA

A project-specific CEQA analysis was completed May 27, 2016 and concluded that the Project qualifies for two separate CEQA statutory exemptions and that the Lake Merritt Station Area Plan Environmental Impact Report adequately addressed the potential environmental effects of the Project. The Project and CEQA determination was considered at the Planning Commission meeting on June 15, 2016 and approved, and the City Council, in approving Ordinance No. 13382 C.M.S., adopted CEQA exemptions (15183 and 15183.3) and, relying on the previously certified 2014 Lake Merritt Station Area Plan EIR and an Addendum thereto, determined that no further environmental review is required for sale of the Property and development of the Project.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends that the City Council adopt an Ordinance:

- (1) amending the Term Sheet for the Disposition and Development Agreement for the 12th Street Remainder Parcel located at E12th Street and 2nd Avenue previously approved by Ordinance No. 13382 C.M.S. to identify the Developer as Lakehouse Development Partners, LLC (or its related entities or affiliates) and Lakehouse Commons Affordable Housing, LP (or its related entities or affiliates); and
- (2) authorizing the City Administrator, without returning to the City Council, to negotiate and execute such Disposition and Development Agreement and related documents between the City of Oakland and such developer entities, all of the foregoing documents to be in a form and content substantially in conformance with the amended Term Sheet attached as Exhibit A.

For questions regarding this report, please contact Patrick Lane, Project Implementation Division Manager, at (510) 238-7362.

Respectfully submitted,

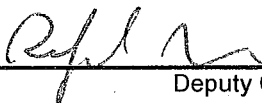


Mark Sawicki
Director, Economic & Workforce Development
Department

Reviewed by: Patrick Lane, Manager
Project Implementation Division

Prepared by:
Hui-Chang Li, Urban Economic Analyst IV
Project Implementation Division

2016 NOV -3 PM 5:09


Deputy City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

AN ORDINANCE: (1) AMENDING THE TERM SHEET FOR THE DISPOSITION AND DEVELOPMENT AGREEMENT FOR THE 12TH STREET REMAINDER PARCEL LOCATED AT E12TH STREET AND 2ND AVENUE PREVIOUSLY APPROVED BY ORDINANCE NO. 13382 C.M.S. TO IDENTIFY THE DEVELOPER AS LAKEHOUSE DEVELOPMENT PARTNERS, LLC (OR ITS RELATED ENTITIES OR AFFILIATES) AND LAKEHOUSE COMMONS AFFORDABLE HOUSING, LP (OR ITS RELATED ENTITIES OR AFFILIATES); AND (2) AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO THE CITY COUNCIL, TO NEGOTIATE AND EXECUTE SUCH DISPOSITION AND DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS BETWEEN THE CITY OF OAKLAND AND SUCH DEVELOPER ENTITIES, ALL OF THE FOREGOING DOCUMENTS TO BE IN A FORM AND CONTENT SUBSTANTIALLY IN CONFORMANCE WITH THE AMENDED TERM SHEET ATTACHED AS EXHIBIT A

WHEREAS, the City of Oakland (“City”) owns approximately 0.925 acres of vacant property identified as Assessor Parcel Number 19-27-14, commonly known as the 12th Street Remainder Parcel, bounded by East 12th Street on the east, Second Avenue and property owned by the Oakland Unified School District on the south, newly created open space to the west, and Lake Merritt Boulevard to the north (the “Property”); and

WHEREAS, the City Council adopted Ordinance 13382 approving the terms of a Disposition and Development Agreement (the “DDA”) with UrbanCore Development, LLC (“UrbanCore”) and East Bay Asian Local Development Corporation (“EBALDC”) for sale of the Property and the construction thereon of a mixed-use residential project (the “Project”) as further described in the term sheet attached to such Ordinance (the “Term Sheet”); and

WHEREAS, the Project is named “LakeHouse Commons” and will consist of 361 residential units in two buildings (named “LakeHouse North” and “LakeHouse South”) sharing a common entrance and garage, with 30% of the total units below-market/rent-restricted; and

WHEREAS, the Term Sheet requires that the Developer identify a financially strong entity to partner with; and

WHEREAS, Behring ZRT Lakehouse LLC is a California Limited Liability Company composed of Behring Capital LLC (“Behring”) and Zhong Rong International Trust Co, Ltd. (ZRT); and

WHEREAS, UrbanCore proposes to partner with Behring ZRT Lakehouse LLC as a joint venture capital partner and thus to form LakeHouse Development Partners LLC; and

WHEREAS, UrbanCore proposes to substitute in LakeHouse Development Partners, LLC as the entity responsible for the development and construction of LakeHouse North (i.e., the market-rate portion of the Project); and

WHEREAS, UrbanCore will be a “Managing Member” of LakeHouse Development Partners, LLC and retain day-to-day management responsibilities for LakeHouse North but Behring ZRT Lakehouse LLC will have the controlling interest in the developer entity; and

WHEREAS, staff’s review of Behring and ZRT qualifications indicate Behring is an experienced and qualified developer and ZRT is a major financial institution based in China and further that Behring and ZRT together have access to the cash needed to immediately fund predevelopment costs as well as the equity capital required for LakeHouse North; and

WHEREAS, EBALDC proposes to substitute in LakeHouse Commons Affordable Housing, LP as the developer of the affordable portion of the Project; and

WHEREAS, such substitution is already authorized under Ordinance 13382 and the Term Sheet because LakeHouse Commons Affordable Housing, LP qualifies as an affiliate entity controlled by EBALDC; and

WHEREAS, the City Council desires to modify the previously approved Term Sheet to substitute in LakeHouse Development Partners, LLC (or its related entities or affiliates) for UrbanCore and LakeHouse Commons Affordable Housing, LP (or its related entities or affiliates) for EBALDC and make certain other minor clarifying changes; and

WHEREAS, the City Council desires to grant the City Administrator authority to negotiate and enter into the DDA in a form and content substantially similar to the revised Term Sheet; now, therefore;

The Council of the City of Oakland does ordain as follows:

SECTION 1: The City Council hereby amends the Term Sheet to identify the Developer as LakeHouse Development Partners, LLC (or its related entities or affiliates) and LakeHouse Commons Affordable Housing, LP (or its related entities or affiliates) and make certain other minor clarifying changes, as shown in the amended Term Sheet attached as Exhibit A and incorporated herein by this reference (“Amended Term Sheet”).

SECTION 2: Any further changes in control of the Developer prior to completion of the Project shall require the prior approval of the City Council by resolution or ordinance.

SECTION 3: The City Council hereby authorizes the City Administrator or her designee to negotiate and enter into a DDA with such Developer in the form and content substantially similar to the approved Amended Term Sheet.

SECTION 4: The City Administrator is further authorized to negotiate and enter into agreements and take whatever action is necessary with respect to the execution of the DDA, consistent with this

Ordinance and its basic purposes.

SECTION 5: The Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of the Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and
PRESIDENT GIBSON McELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT A
TERM SHEET
(attached)

EXHIBIT A

**DDA TERM SHEET
12TH ST REMAINDER PARCEL**

updated October 27, 2016

Note- This nonbinding term sheet shall serve as the basis for the negotiations of a detailed final Disposition and Development Agreement (DDA) between City staff and the Developer. The terms hereof are not binding on the City unless and until the Developer and the City Administrator, pursuant to City Council authorization, have executed a mutually acceptable disposition agreement for the proposed project.

1	OWNER	City of Oakland
2A	DEVELOPER	<p><u>LakeHouse Development Partners, LLC, a California limited liability company (“LakeHouse Partners”) or a related entity controlled by LakeHouse Partners.</u></p> <p><u>LakeHouse Partners is composed of UrbanCore Development LLC, (“UrbanCore”), a California limited liability company, as a managing member and Behring ZRT LakeHouse LLC, a California limited liability company, as the lead managing member.</u></p> <p><u>LakeHouse Commons Affordable LP, a California limited partnership (the “Partnership”) or a related entity controlled by EBALDC.</u></p> <p><u>The general partner of the Partnership is LakeHouse Affordable LLC, a California limited liability company of which East Bay Asian Local Development Corporation (“EBALDC”), a California nonprofit public benefit corporation, is the sole member</u></p> <p><u>LakeHouse Partners and the Partnership are collectively the “Developer”.</u></p>

2B	COMPLETION GUARANTY	<p>Developer to provide City a Completion Guaranty as a condition to closing. Guarantor must be a financially strong entity with significant assets or capital sufficient to complete the Project, pursuant to criteria set forth in the DDA and acceptable to the City in its sole and absolute discretion. The Guarantor shall guarantee project completion, as determined by City. Developer will identify the Guarantor within 150 days after DDA approval.</p> <p>A “Form of Guaranty” will be included as an attachment to the DDA and will need to be executed by the City-approved guarantor at close of escrow.</p>
2C	OWNERSHIP STRUCTURE	<p><u>LakeHouse Partners</u> and <u>the Partnership</u> will create and prepare for recording a subdivision map of the Property that creates a two-unit condominium, governed by Conditions, Covenants & Restrictions (CC&Rs). The City will record the map and sell one condo unit to <u>LakeHouse Partners</u> or a related entity controlled by <u>LakeHouse Partners</u> (the “<u>LakeHouse Partners Condo</u>” and the second condo unit to the Partnership or a related entity controlled by EBALDC (the “<u>Partnership Condo</u>”). Each condo unit owner will solely own a fee interest in the improvements wholly within the unit; in addition, that owner will hold an undivided common interest in the land beneath the two condo units <u>and</u> the improvements that are to be jointly managed and maintained. A “master association” will be established to govern the common interest business of the two owners under the terms of the CC&Rs.</p> <p>The full project will be built as a “Common Interest Development”: <u>LakeHouse Partners</u> (or a related entity) will develop, own, and manage the market-rate project in the <u>LakeHouse Partners Condo</u> (which will include 18 units affordable to moderate income households); <u>the Partnership</u> (or a related entity) will develop, own and manage the 100% affordable project in the <u>Partnership Condo</u> (90 units affordable to lower income households).</p>

<p>2D</p>	<p>SUBDIVISION INSTRUMENTS</p>	<p>City, in its proprietary (and not regulatory) capacity, and the Developer will cooperate in the preparation of a vesting tentative map, final map and condominium plan (“Subdivision Instruments”) at the Developer’s cost, which shall subdivide the Project into a condominium development consisting of two condominiums: the affordable housing element in <u>the Partnership Condo</u>, which consists of an approximately 8-9 story tower with 91 residential units; and the market-rate element in the <u>LakeHouse Partners Condo</u>, which consists of a 26-27 story tower with 270 residential units.</p> <p>See <u>Attachment A</u> which identifies developer, ownership and management of the various non-residential spaces.</p> <p>The parties’ approval of the Subdivision Instruments shall be a precondition to the City’s obligation to convey the Property and to the Developer’s obligation to purchase the Property.</p>
<p>3</p>	<p>PROPERTY</p>	<p>Approximately 0.92-acre of property located on the southeastern edge of the Lake Merritt district in the City of Oakland, Alameda County. The triangular parcel is generally bounded by Lake Merritt Boulevard to the north, East 12th Street to the east, 2nd Avenue and a vacant building formerly occupied by the Oakland Unified School District (OUSD) to the south, and a recently re-vegetated 0.91-acre City park/water treatment basin installed as part of the East 12th Street Reconstruction Project and Lake Merritt Channel to the west. Lake Merritt is located immediately to the north of the site across Lake Merritt Boulevard.</p>

4	<p>PROJECT DESCRIPTION</p>	<p><u>Short version</u></p> <p>The Project will consist of residential and commercial development per the following minimum unit and square footage amounts: approximately 361 residential units; 5,000 square feet of ground floor commercial space, including community space (referred to as “The Commons”). At least 90 of the units to be affordable to lower income households for a period of at least 55 years, and additional 18 units to be affordable to moderate income households for the same period. These affordable units will be subject to a Regulatory Agreement with an affordability term of 55 years and will remain rental when other residential units are sold as condominiums.</p> <p><u>Long version</u></p> <p>Approximately 361 residential units total in two distinct buildings sharing a common entrance and garage: 8-9 story mid-rise (i.e., the <u>Partnership Condo</u>) includes 90 units targeting households at or below 60% of AMI, plus one manager’s unit for a total of 91 units; and a 26-27 story tower (i.e., the <u>LakeHouse Partners Condo</u>) includes 270+ units, at least 18 of which will be rent-restricted for households at several income levels between 80% to 120% of AMI. These affordable units will be subject to Regulatory Agreements with an affordability term of 55 years and will remain rental when other units are sold as condominiums. There will be approximately 2,000 sq. ft. of ground floor retail, 3,000 sq. ft. of ground floor community space (referred to as “The Commons”), and courtyard open space at the podium terrace. In addition, the buildings will include meeting spaces, leasing offices, exercise rooms and outdoor terraces at the podium and roof levels that will be shared and accessible to all residents of the two buildings. The parking garage will consist of approximately 242-320 total spaces on four levels: two levels below grade, one level at grade, and one level above grade.</p> <p>See Item#29B for details on the affordability levels for the affordable units; and <u>Attachment A</u> for details on the location, ownership, management responsibility and resident access to the non-residential spaces.</p>
---	-----------------------------------	---

5	PURCHASE PRICE	\$8.0 million based on a Fair Market Value Appraisal Report (April 2016) considering the highest and best use of the property in as-is condition. <u>LakeHouse Partners</u> will pay the City \$4.7 million in cash at closing for the <u>LakeHouse Partners Condo</u> . The City Administrator will appropriate \$300K (of the \$4.7million in land sale proceeds) to fund a Community Benefits Program. The \$3.3 million purchase price for the <u>Partnership Condo</u> will be financed through a seller carryback loan from the City to <u>the Partnership</u> (or a related entity controlled by EBALDC). (See Attachment B for terms of the loan)
6	TERMS OF PAYMENT/ CLOSING	The \$4.7million payment (which includes the \$300,000 payment to fund the community benefits program) will be due to the City and payable in cash submitted into escrow 3 business days before close of escrow. Escrow to close in accordance with the schedule of performance contained herein. (Item #9)
7	GOOD FAITH DEPOSIT	Upon execution of the DDA, Developer will provide a \$50,000 good faith deposit. Subject to the next sentence, said good faith deposit shall be credited to the Purchase Price at closing. If the Developer fails to close the purchase under the DDA terms, unless extended in writing by the City, or for reasons beyond the Developer's control (excepting financial ability), or the Developer otherwise defaults on any obligation under the disposition agreement, the City may retain the Good Faith Deposit as liquidated damages.

8

**REPURCHASE
OPTION**

In addition to all other City remedies for Developer default, and subject to the notice and cure rights described below if (i) construction on the Project does not start within 30 days after close of escrow (or within 24 months after the close of escrow if the closing occurs prior to July of 2017 pursuant to Item # 9 below); or (ii) the Developer fails to diligently continue construction thereafter; or (iii) the Developer does not complete construction within the time period required under the DDA (subject in each case to extension for force majeure), then the City will have the option to repurchase the Property as described below (the "Option").

If the Option is exercised prior to the commencement of construction, the repurchase price will be equal to the Purchase Price. If the repurchase option is exercised after the commencement of construction, the City may at its option a) require the Developer at its sole cost to demolish any improvements on the Property and repurchase the Property for the Purchase Price, or b) repurchase the Property with any improvements constructed thereon by the Developer for the Purchase Price plus the fair market value of the improvements. The appraisal process to determine fair market value of the improvements will be set forth in the DDA. Prior to close of escrow, if force majeure individually or cumulatively exceeds 12 months, either party shall have the right to terminate the agreement. Developer shall deposit an executed reversionary grant deed into escrow prior to closing with instructions to deliver the reversionary grant deed to City if City exercises the Option. City's Option is assignable or transferable in its sole and absolute discretion.

There will be a 30 day notice and cure process for any such default, and the cure period will be extended if the default cannot reasonably be cured within such 30-day period and the Developer has commenced and is proceeding diligently with efforts to cure the default; subject, however, to a maximum cure date deadline to be negotiated by the parties.

The City will execute and record such instruments as Developer may reasonably request to terminate the Option, at such time as the Option is no longer exercisable in accordance with its terms.

9

SCHEDULE OF PERFORMANCE

1. Developer submits 2 years of audited financial statements for each principal and joint venture partner for City review and approval - 6 months after DDA approval and resubmit updates within 30 days prior to close of escrow
2. Developer submits updated and refined Project Proforma (Development Budget & Operating Cash Flow) for City review and approval - 6 months after DDA approval and resubmits updates within 30 days prior to close of escrow
3. Developer submits Financial Plan, including evidence of funds/equity commitments for land acquisition for City review and approval. - 6 months after DDA approval and resubmits updates within 30 days prior to close of escrow
4. Developer identifies the Guarantor and the controlling entity for City approval - 6 months after DDA approval
5. Developer submits Schematic Designs (35%), Design Development (65%), and Construction Designs (90%) - 5, 10, 18 months respectively, after DDA approval
6. Developer submits complete Applications for Building Permits – 18 months after DDA approval. [Added per CM Abel Guillen's final motion on 7/5/16 City Council meeting]: Developer will consult closely with the Oakland Unified School District and come to agreement in developing the construction mitigation plan. Also, Developer will host a community meeting.
7. Developer finalizes Project Financing: submit evidence of construction and permanent financing and copy of a construction contract; and other sources (which may include equity commitments from investors) - 21 months after DDA approval
8. Developer submits approved Building Permits – 23 months after City approval of DDA.
9. Conveyance/Close of Escrow – Within 30 days following satisfaction of all City conditions to closing but in no event later than 24 months following City approval of DDA. However, within 8 months of DDA approval, Developer may request a waiver of some standard conditions to allow a closing prior to July 1, 2017, to be approved by the City Administrator in his or her sole discretion. The following conditions cannot be waived by the City Administrator: (1) approval of the Subdivision Instruments (2) execution of Completion Guarantee (3) Affordable Housing and Sustainable Communities funding secured or other GAP funding sources necessary for the Affordable Building, (4) 65% Design Development Drawings, and (5) a signed Project Labor Agreement. In the event the City Administrator grants the requested waiver, the parties shall close escrow prior to July 1, 2017.
10. Commence Construction – Within 30 days after close of escrow, unless the Developer requests and the City Administrator grants the waivers described above, in which case the Developer shall commence construction within 24 months after close of escrow.
11. Complete Construction - Within 24 months after construction commencement. Developer may request a 6-month extension of this date, to be approved by the City Administrator, which approval shall not be unreasonably withheld if Developer has demonstrated good faith efforts to Commence and Complete Construction in accordance with the Schedule.
12. Developer may request a 1 month extension of items 3 and 4 above, to be approved by the City Administrator, which approval shall not be unreasonably withheld if Developer has demonstrated progress on items 2 and 5 above.

Note: Conveyance/Closing of Escrow required by or before June 30, 2017 and compliance with standard City conditions precedent to closing do apply.

10	TITLE INSURANCE	Developer to secure title insurance policy, if desired, at its own cost and expense from Old Republic Title Company. The issuance of a title insurance policy in favor of Developer insuring that Developer is the owner of the fee simple title to the Property, in form and substance acceptable to Developer, and subject only to exceptions that are acceptable to Developer, and containing such endorsements as Developer may require, shall be a condition precedent to Developer's obligations to close on the acquisition of the Property under the DDA.
11	CLOSING COSTS	Developer to pay all escrow fees and closing costs including, without limitation, city and any other county taxes.
12	LIMITATIONS ON PROPERTY RIGHTS	<p>Without limiting Developer's title review contingencies, Developer accepts and acknowledges the Property is subject to deed restrictions and recorded covenants to restrict use of property, as contained in the DDA.</p> <p>Developer to comply with provisions of: 1) the Central District Redevelopment Plan and nondiscrimination provisions of redevelopment law and 2) the Lake Merritt Station Area Plan</p>
13	CONDITION OF PROPERTY AT DELIVERY	<p>Developer agrees to accept the Property "as is" in its current condition without warranty express or implied by the City, including without limitation, with respect to the presence of hazardous materials known or unknown on or near the Property.</p> <p>The soil stored and all other materials on the site due to recent construction activities of the City's Public Works Dept will be removed prior to conveyance to Developer.</p>
14	ENVIRONMENTAL REMEDIATION	<p>Environmental Notice. The City hereby gives notice to the Developer that, to the best of its knowledge and relying on analysis performed by its environmental consultants, there are no Hazardous Materials present on or beneath the Property other than those set forth in those environmental site assessments (ESA) and reports as follows:</p> <ul style="list-style-type: none"> • <i>Phase I ESA, by Adanta, dated 9/1/14</i> • <i>Several soils & geotechnical reports by ESA developed for the E12th Street Reconstruction Project, dating from 2006 to 2009</i> <p>Developer ordered a Phase II site investigation report (prepared by Advantage Environmental Consultants, dated April 19, 2015). The City will not set aside any funds from land sale proceeds related to environmental remediation costs. If dirty soil needs to be removed, Developer will be responsible for paying for the marginal difference between the cost to remove soil and the cost to remove dirty soil.</p>

15	INDEMNIFICATION	Developer shall provide standard commercial hold harmless and defend provisions to the City of Oakland and its employees, officers, directors, shareholders, partners and agents. City and Developer to negotiate the various levels of indemnification as part of the DDA.
16	NO COMMISSION	The parties shall hold each other harmless and defend against any claims for commissions or brokerage..
17	SIGNAGE	Developer may not install or place signage on any existing City street outside the Property or in the public corridor. Developer may install and place signage on the remaining Property in compliance with City codes, or other applicable codes or regulations.
18	STANDARD OF PROPERTY	Developer to maintain the Property and Project in first-class condition and will ensure at no time does the Property violate the City Blight Ordinance.
19	FINAL CONSTRUCTION PLANS (including Public Art)	<p>The Developer and its design consultants must meet or exceed requirements of City's Green Building Ordinance as it pertains to this project.</p> <p>The Final Construction Plans shall include a plan and schedule to incorporate public art into the Project pursuant to Project's Condition of Approvals and Oakland Municipal Code Section 15.70.</p>
20	PAYMENT & PERFORMANCE BONDS	Developer to provide payment and performance bonds in an amount not less than 100% of the Project construction costs, pursuant to the Developer-executed construction contract, only if they are a requirement of the Developer's lender.
21	RIGHT OF ENTRY	Developer to have the right to enter onto the property prior to transfer to conduct any investigation, testing, appraisals and other studies, at Developer's cost, required as part of its due diligence, subject to providing the City with indemnity, insurance and other reasonable conditions to entry.
22	FINANCING	DDA will include an objective standard (experience, size, etc.) of what an "Approved Lender" is, subject to administrative approval. The DDA shall include customary mortgagee protections in favor of any Approved Lender.

23	STANDARD CONDITIONS	<p>DDA to include standard City conditions, including completion guaranty executed on or before the Closing Date; approval by City of financing plan, assignment and transfer, amendments to project and project approvals, copies of all required regulatory approvals, and insurance policies; and default, notice and cure, and termination provisions. Notwithstanding the foregoing, some of these standard conditions will not apply if waived by the City Administrator in his or her sole discretion to allow a closing prior to July 1, 2017, as further described in Item #9.</p>
24	PERMITTED TRANSFERS	<p>Prior to Project completion, Developer shall not have the right to assign or transfer all or any portion of its rights and obligations under the DDA, other than an Affiliate Transfer, without the prior written consent of the City, in the City's sole and absolute discretion.</p> <p>An Affiliate Transfer shall not require consent (but will require notice to and review by City) and shall mean a transfer to an entity or entities for which <u>LakeHouse Partners</u> and <u>the Partnership</u> maintain control as defined in the DDA.</p>
25	CITY EMPLOYMENT PROGRAMS	<p><u>The Partnership</u> to comply with City's Local Employment Program for Construction of the affordable portion of the Project, for which <u>the Partnership</u> is receiving the subsidy in the form of a \$3.3 million seller carryback loan on the terms described in Attachment B.</p> <p>For the tower building, <u>LakeHouse Partners</u> will meet a 25% combined goal for local-business (LBE) and small-local-business (SBE) participation</p>
26 A	OFF-SITE IMPROVEMENTS	<p>Developer to be responsible for the cost of off-site improvements proposed to the existing storm water retention basin/open space, owned by the City (0.91 acres), located adjacent to the site.</p> <p>Per the recommendations of Measure DD Coalition, CALM and City staff and as approved by the Parks and Recreation Advisory Commission (Feb 2015), these improvements will include the installation of natural landscaping and will function as a passive open green space consisting mostly of native plantings, groundcover, shrubs and trees.</p>

<p>26 B</p>	<p>CAPITAL IMPROVEMENT</p>	<p>The City’s Capital Improvement Impact Fee (a “CI Requirement”) and Transportation Impact Fee (a “TI Requirement”) apply to the Project.</p> <p>To the extent applicable under the CI Requirement, any amount to be paid by Developer under Item 26A related to the cost to buildout the adjacent open space owned by the City would be credited against the CI Requirement.</p>
<p>27</p>	<p>DEVELOPER MAINTENANCE</p>	<p>Upon Close of Escrow, Developer is responsible for all maintenance within the Property.</p> <p>City will convey one or more easements adjacent to the City open space for an area to-be defined (i.e. temporary construction easement, long term no-build easement, use easement, and maintenance easement, including the outdoor terrace area shown on the Developer’s site plan which encroaches into the City open space area) in consideration for Developer and/or subsequent owner providing on-going maintenance of the open space or the cost for ongoing maintenance of the open space in perpetuity. Developer must provide a guarantor with significant financial ability, as determined by City in its sole and absolute discretion, to guarantee payment/reimbursement to City of “perpetual” maintenance obligation.</p> <p>Open space maintenance standards to be negotiated and captured in easement itself which will be negotiated and agreed to between the Developer and the City.</p> <p>The groundcover will be low maintenance grasses and wildflowers requiring mowing once or twice a year. Temporary irrigation will be used for two or three years to establish the trees and shrubs. All plantings will adhere to Bay friendly practices and adhere to the State’s Water Efficient Landscape Ordinance.</p>
<p>28</p>	<p>PROHIBITION OF GENERATION OF CONDO CONVERSION RIGHTS</p>	<p>The DDA shall include an acknowledgement and agreement by Developer that the Project shall not generate, and the Developer shall not assert, condominium “conversion rights” under Chapter 16.36 of the Oakland Municipal Code. Nothing in the DDA shall limit the Developer’s right to create condominium units on the Project.</p>

<p>29 A</p>	<p>AFFORDABLE HOUSING – CITY IMPACT FEES</p>	<p>The City’s affordable housing impact fee (an “AH Requirement”) applies to the Project.</p> <p>Any payment by Developer of an affordable housing impact fee pursuant to an AH Requirement would be credited against any amount to be paid under Item 29B.</p> <p>If City’s adopted AH Requirement includes an option to provide affordable units onsite, the number of affordable units required by Item 29B shall be reduced by the number of units provided onsite at the same affordability level to meet the AH Requirement.</p>																												
<p>29 B</p>	<p>AFFORDABLE HOUSING</p>	<p>Developer to set aside at least 30% of the total project units (or 108 units of 361) to be affordable to low and moderate income households, subject to Regulatory Agreements with affordability terms of 55 years, as further described below. Such affordable units will remain rental if and when other units are sold as condominiums.</p> <p>55-year Regulatory Agreement for affordable units owned by <u>the Partnership</u>:</p> <table border="1" data-bbox="560 940 1349 1377"> <thead> <tr> <th></th> <th colspan="2">One of the following:</th> </tr> <tr> <th>Income Level</th> <th># of Units (with AHSC funds)</th> <th># of Units (without AHSC funds)</th> </tr> </thead> <tbody> <tr> <td>30% of AMI</td> <td>20</td> <td>0</td> </tr> <tr> <td>50% of AMI</td> <td>10</td> <td>9</td> </tr> <tr> <td>60% of AMI</td> <td>60</td> <td>81</td> </tr> <tr> <td>Total Affordable Units</td> <td>90</td> <td>90</td> </tr> </tbody> </table> <p>In the event the AHSC funds are not approved by December 31, 2016, then the mix of the 90 affordable units would be adjusted to 9 at 50% AMI and 81 units at 60% of AMI.</p> <p>55-year Regulatory Agreement for affordable units to be owned by <u>LakeHouse Partners</u>:</p> <table border="1" data-bbox="560 1667 1157 1934"> <thead> <tr> <th>Income Level</th> <th># of Units</th> </tr> </thead> <tbody> <tr> <td>80% of AMI</td> <td>6</td> </tr> <tr> <td>100% of AMI</td> <td>6</td> </tr> <tr> <td>120% of AMI</td> <td>6</td> </tr> <tr> <td>Total Affordable Units</td> <td>18</td> </tr> </tbody> </table>		One of the following:		Income Level	# of Units (with AHSC funds)	# of Units (without AHSC funds)	30% of AMI	20	0	50% of AMI	10	9	60% of AMI	60	81	Total Affordable Units	90	90	Income Level	# of Units	80% of AMI	6	100% of AMI	6	120% of AMI	6	Total Affordable Units	18
	One of the following:																													
Income Level	# of Units (with AHSC funds)	# of Units (without AHSC funds)																												
30% of AMI	20	0																												
50% of AMI	10	9																												
60% of AMI	60	81																												
Total Affordable Units	90	90																												
Income Level	# of Units																													
80% of AMI	6																													
100% of AMI	6																													
120% of AMI	6																													
Total Affordable Units	18																													

29 C	AFFORDABLE HOUSING LOAN	See Attachment B for the terms of the \$3.3 Million seller carryback loan to the Partnership
30	ADDITIONAL COMMUNITY BENEFITS	<ol style="list-style-type: none"> 1. Fully executed Project Labor Agreement for the entire project as a condition of conveyance 2. Shared access to all residents of both buildings to the Project's common spaces and amenities <p>See Attachment A for details on the developer, ownership, management responsibility and resident access to the non-residential spaces.</p> <ol style="list-style-type: none"> 3. At the time of transfer of property, \$300K of the land sale proceeds (which is <u>part of</u> the \$8 million purchase price), will be appropriated by the City Administrator to fund a Community Benefits Program. <p>See Attachment C for how community benefit funds will be distributed.</p>

ATTACHMENT A - LAKEHOUSE COMMONS - ALLOCATION OF NONRESIDENTIAL SPACES

Updated October 2016: "LakeHouse Development Partners LLC" is substituted in for UrbanCore.

	# bike/ car spaces	Sqft	Location in the Building	Developer (LakeHouse Partners or EBALDC)	Ownership (LakeHouse Partners or EBALDC)	Management	Access to all residents?
--	--------------------------	------	--------------------------	---	---	------------	--------------------------

Amenities

Bike Room - Level B2	151	3792	Below Grade	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	North Commons only
Bike Room - Level 1	30	469	At Grade	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	North Commons only
Bike Room - Level 2	59	1723	Above Grade	LakeHouse Partners	EBALDC	EBALDC	South Commons only
<i>Bike Room Total Space</i>	<i>240</i>	<i>5984</i>					

Café/Retail Space - Level 1		1476	At Grade	EBALDC	EBALDC	EBALDC	All
Central Commons - Level 1		2656	At Grade	EBALDC	EBALDC	EBALDC	All
Lobby - North Commons - Level 1		2055	At Grade	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	All
Lobby - South Commons- Level 1		1062	At Grade	EBALDC	EBALDC	EBALDC	All
Community Space - South Commons		1500	South Commons-2nd Level	EBALDC	EBALDC	EBALDC	South Commons Residents
Fitness Center - North Commons - Level 3 & 4		1926	North Commons-Podium	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	All
Roof Terrace Community Rooms - Level 26		2350	North Commons-Roof	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	All

Roof Deck

Roof Deck - North Commons - Level 26		6563	North Commons	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	All
Roof Deck - South Commons - Level 7		747	South Commons	EBALDC	EBALDC	EBALDC	All

ATTACHMENT A - LAKEHOUSE COMMONS - ALLOCATION OF NONRESIDENTIAL SPACES

Updated October 2016: "LakeHouse Development Partners LLC" is substituted in for UrbanCore.

	# bike/ car spaces	Sqft	Location in the Building	Developer (LakeHouse Partners or EBALDC)	Ownership (LakeHouse Partners or EBALDC)	Management	Access to all residents?
--	--------------------------	------	--------------------------	---	---	------------	--------------------------

Circulation

Courtyards - Central - Podium Level (Level 3)		5324	Podium	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	All
Courtyards - North - Podium Level (Level 3)		3579	Podium	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	All
Courtyards - South - Podium Level (Level 3)		2228	Podium	EBALDC	EBALDC	EBALDC	All
Circulation - North Commons		49574	North Commons	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	Restricted Access
Circulation - South Commons		11915	South Commons	EBALDC	EBALDC	EBALDC	Restricted Access

Property Management Office

Administration - North Commons - Level 1		1423	North Commons	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	All
Administration - South Commons - Level 1		779	South Commons	EBALDC	EBALDC	EBALDC	All

Parking

Level B2	86-120	31519	Below Grade	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	North Commons Residents Only
Level B1	80-114	33943	Below Grade	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	North Commons Residents Only
Level 1	38-54	19888	At Grade	LakeHouse Partners	LakeHouse Partners/ EBALDC	LakeHouse Partners	Both North and South Residents
Level 2	38-54	16884	Above Grade	LakeHouse Partners	EBALDC	EBALDC	South Commons Residents Only

Total Spaces 242-342

Garage Total Space 102234

Service/Storage/Utility

Service - North Commons		8589	North Commons	LakeHouse Partners	LakeHouse Partners	LakeHouse Partners	n/a
Service - South Commons		1733	South Commons	EBALDC	EBALDC	EBALDC	n/a

ATTACHMENT B: Affordable Housing Loan Terms

Section 29.C Affordable Housing Loan Terms

- (1) Loan Amount is \$3.3 million plus the origination fee of 2.5% of \$3.3 million for a total of \$3,382,500.
- (2) Payment of standard origination fees (2.5%) will not be due upon closing; however, will be added to the loan amount.
- (3) Annual full payment of City of Oakland monitoring fees of \$100 per affordable unit, which can be included as an operating expense from each of the project budgets. (\$9,000 from the affordable portion of the project and \$1,800 from the market rate portion of the project).
- (4) 0% interest rate on the subordinate note
- (5) 55-year loan term
- (6) A Regulatory Agreement to be placed on 90 affordable units at the income levels required by the other subsidy sources (ie, CDLAC, TCAC, HCD) in the affordable portion of the project. A second and separate Regulatory Agreement will be placed on the 18 moderate income units in the market rate portion of the project.
- (7) The following standard definitions from City's standard loan documents will apply:

"Lender's Prorata Share" means the portion of Available Cash Flow to which Lender is entitled, which shall be split among all Project lenders with surplus cash flow loans based on relative loan amounts.

"Available Cash Flow" means fifty percent (50%) of the excess of annual Operating Revenues over annual Operating Expenses for the Property.

"Operating Expenses" shall mean, without limitation:

- a) all direct costs and expenses necessary to operate the residential portion of Property (commercial expenses are excluded), as approved by Lender;
- b) debt service on any loans secured by the Property, provided that such loans have been used to acquire the Property or develop or improve the Project (or to refinance loans used for Project acquisition, development or improvement), have been approved by Lender, and are secured by a deed of trust on the Property that is senior in priority to the Deed of Trust;
- c) reasonable payments, approved by Lender, to reserves for operating contingencies, replacement of capital items, and other reserve uses as approved by Lender;
- d) deferred developer fee, if any;
- e) annual partnership management and asset management fees in an annual amount not to exceed twenty-five thousand dollars (\$25,000) increased by 3% annually;
- f) repayment of any loans to the partnership from general partner or limited partner;
- g) CA HCD's monitoring costs per the Uniform Multifamily Regulations ("URM"); and
- h) reasonable and necessary programmatic costs for the common area, not to exceed an annual amount of fifteen thousand dollars (\$15,000) without City approval.

"Operating Revenues" shall mean all residential income derived from the Property (commercial income excluded), and shall include, without limitation:

- a) rents (including rent common space within the Property);
- b) rent subsidy payments received on behalf of tenants;
- c) interest on income other than interest on reserve accounts approved by Lender; and
- d) receipts from laundry, parking, vending, or other services in which a fee is charged.

Gross Revenue shall not include tenants' security deposits, loan proceeds, equity contributions from Investor, or similar advances.

- (8) The City acknowledges that EBALDC will apply for a loan from the State of California's Department of Housing and Community Development ("HCD") consisting of funds from the Affordable Housing and Sustainable Communities Program ("AHSC"), which will be subject to the UMR's. The above conditions of the City's loan will be subject to HCD's approval. The City agrees to subordinate to State and Federal funding sources but the City will not subordinate its Regulatory Agreement to other lenders' financing.

ATTACHMENT C: Community Benefits Program

At the time of transfer of property, \$300,000 of the land sale proceeds (which is part of the \$8 million purchase price), will be appropriated by the City Administrator to fund a Community Benefits Program

Staff will return to City Council with a Resolution for approval to distribute and allocate the funds, which may include the following:

- a) \$100,000 for a tenant-legal rights and education program(s) to help minimize the displacement of current tenants living within a three-mile radius of the project site, with a particular focus on outreach to monolingualists (residents whose primary language is not English).
- b) \$30,000 to the Lake Merritt Business Association's designated fiscal agent for a study to create a Business Improvement District or Community Benefits District in the E. 18th St/Lower Park Blvd. commercial area.
- c) \$100,000 to Oakland Parks and Recreation for the construction of a recreational facility on existing publicly-owned property in Council District 2, such as at San Antonio Park; or to organizations that already are recipients of this community benefits fund.
- d) \$50,000 to the East Lake Merchants Association's designated fiscal agent for graffiti abatement and neighborhood beautification.
- e) \$20,000 to the Sierra Club Tree Team (San Francisco Bay Chapter) for the purchase and maintenance of trees to be planted east of Lake Merritt in Council District 2, including around San Antonio Park.

NOTICE AND DIGEST

Adoption of the proposed ordinance will enable the City Administrator to negotiate and execute a Disposition and Development Agreement that will allow the City to sell City-owned property to Lakehouse Development Partners, LLC (of which UrbanCore Development, LLC and Behring ZRT Lakehouse LLC will be members, with Behring ZRT Lakehouse LLC having a controlling interest) and LakeHouse Commons Affordable Housing, LP (of which EBALDC will be the controlling member) for construction of a mixed-use residential project. All other terms and conditions of the DDA will remain the same as what was previously approved under Ordinance No. 13382 C.M.S.

ORDINANCE:

(1) AMENDING THE TERM SHEET FOR THE DISPOSITION AND DEVELOPMENT AGREEMENT FOR THE 12TH STREET REMAINDER PARCEL LOCATED AT E12TH STREET AND 2ND AVENUE PREVIOUSLY APPROVED BY ORDINANCE NO. 13382 C.M.S. TO IDENTIFY THE DEVELOPER AS LAKEHOUSE DEVELOPMENT PARTNERS, LLC (OR ITS RELATED ENTITIES OR AFFILIATES) AND LAKEHOUSE COMMONS AFFORDABLE HOUSING, LP (OR ITS RELATED ENTITIES OR AFFILIATES); AND

(2) AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO THE CITY COUNCIL, TO NEGOTIATE AND EXECUTE SUCH DISPOSITION AND DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS BETWEEN THE CITY OF OAKLAND AND SUCH DEVELOPER ENTITIES, ALL OF THE FOREGOING DOCUMENTS TO BE IN A FORM AND CONTENT SUBSTANTIALLY IN CONFORMANCE WITH THE AMENDED TERM SHEET ATTACHED AS EXHIBIT A