

ATTACHMENT D

**COMMERCIAL DDA TERM SHEET
73RD AVENUE AND FOOTHILL BOULEVARD (Parcel 1)
(Market Hall & Community Center at Liberation Park)**

January 23, 2024

This term sheet shall serve as the basis for the negotiation of a detailed final Disposition and Development Agreement (“*DDA*”), between the City of Oakland, a municipal corporation (the “*City*”), and Liberation Park Market Hall, a California nonprofit public benefit corporation, an affiliate of Black Cultural Zone Community Development Corporation (“*BCZ*”) in partnership with Community Art Stabilization Trust, a California nonprofit public benefit corporation (“*CAST*”), and/or their affiliated entities (the “*Developer*”). 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 Developer and City, pursuant to City Council authorization, have executed a mutually acceptable DDA for the proposed project. The final DDA may include terms that differ from, or are in addition to, the terms set forth in this term sheet.

1	OWNER	City of Oakland, a California municipal corporation located in Alameda County, California.
2	DEVELOPER	Liberation Park Market Hall, a California nonprofit public benefit corporation, an affiliate of Black Cultural Zone Community Development Corporation, a California nonprofit public benefit corporation (“ <i>BCZ</i> ”) in partnership with Community Art Stabilization Trust, a California nonprofit public benefit corporation (“ <i>CAST</i> ”), and/or a special purpose entity controlled by CAST and/or BCZ to facilitate New Market Tax Credit (“ <i>NMTC</i> ”) financing (subject to City approval as described in Section 19).
3	PROPERTY	The City owns approximately 1.22-acres (53,143 square-feet) of land, having the Assessor’s Parcel Number (APN): 039-3291-020 near the intersection 73rd Avenue and Foothill Boulevard, as more particularly described on <u>Exhibit A</u> attached hereto (the “ <i>Property</i> ”). A portion of the Property, approximately 0.49 acres (21,158 square feet) in size, is anticipated to be sold to the Developer, as more particularly described and depicted on <u>Exhibit B</u> attached hereto (“ <i>Parcel 1</i> ”). The City also intends to ground lease the approximately 0.73 acres remainder of the Property (“ <i>Parcel 2</i> ”) to BCZ in partnership with Eden Housing, Inc., a California nonprofit public

	<p>benefit corporation (“<i>Parcel 2 Developer</i>”), for the development of a 119-unit affordable housing project (“<i>Parcel 2 Development</i>”).</p> <p>NOTE: The Planning Bureau has approved a Tentative Parcel Map (“<i>TPM</i>”) to subdivide the Property into two legal parcels upon closing. Such TPM will create a new Parcel 1, as more particularly described and depicted on <u>Exhibit B</u> attached hereto. Developer agrees and acknowledges that the TPM shall not be recorded unless and until the City specifically directs its recordation at or prior to the recordation of the conveyance instrument for Parcel 1.</p> <p>The Property is subject to that certain License Agreement by and between the City and BCZ, dated as of May 20, 2020, as amended a second time on February 20, 2022, for the purpose of creating a community service outdoor market in the form of a pop-up village (“<i>Existing License</i>”). The Existing License expires on October 19, 2024, but the parties acknowledge that the licensed use may be extended by the City until commencement of construction on Parcel 2.</p> <p>The Property is also subject to various deed restrictions related to food sales, automotive sales, entertainment uses (including but not limited to gambling, adult book stores, bars), school uses (excepting child care activities), warehouse uses, industrial uses, tattoo and massage parlors, as more particularly described in the following documents recorded in the Official Records of Alameda County: (1) Grant Deed recorded as Instrument No. 2008331603, and (2) Covenant Not To Compete recorded as Instrument 99272514, and is also subject to an easement for common areas, signs, and utilities as described in Instrument No. 99233481 (collectively, the “Restrictive Covenants”). The City and Developer are using commercially reasonable efforts to amend the Restrictive Covenants prior to July 1, 2024 as they may relate to the proposed Project. Such amendment may include the recordation of a signage agreement as a condition of allowing certain food sales on the Property.</p> <p>The parties agree that Parcel 1 may also be subject to use restrictions associated with the New Markets Tax Credit Program (to be provided at NMTC Closing) and/or a use restriction related to the Performing Arts Acquisition Fund (PAAF), to be provided by the Developer for the City's review.</p>
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4	PROJECT DESCRIPTION	The “ Project ” is proposed to include one free-standing Market Hall & Cultural Center (MHCC) with an adjacent courtyard and out-door skating rink. The approximately 31,800 square-foot commercial building will contain three stories and house a market hall, cultural performance space, classrooms, career technical education, maker space, flexible space to accommodate pop-up vendor stalls, and co-working and office spaces for cultural entrepreneurs. The project will also include an outdoor rooftop terrace and gallery space, courtyard, community room space, services offices, and bike parking. As used herein, the Project is a sub-component of the “ Liberation Park Mixed-Use Development ” which includes the Project and the Affordable Housing Development and all Public Improvements (as defined herein) affecting the Property.
5	CONVEYANCE PRICE	<p>The conveyance price will be the fair market value of \$994,996 (“Conveyance Price”).</p> <p>The Conveyance Price for the Property shall be due and payable in cash submitted into escrow three (3) days before close of escrow (“Close of Escrow”), or on such other terms as may be negotiated. If necessary to make the project financially feasible, the City may consider providing acquisition financing structured to be compatible with the NMTC financing.</p>
6	OUTSIDE CLOSING DATE	The “ Outside Closing Date ” will be thirty (30) months after the Effective Date of the DDA. At Developer’s sole discretion, subject to there being no default, Developer may extend the DDA by up to one (1) additional year (“ First Extension ”), which shall be exercised no earlier than one hundred-twenty (120) days and no later than thirty (30) days prior to the then existing Outside Closing Date. At the City Administrator's sole discretion, which shall not be unreasonably denied, Developer may request to extend the DDA by up to one (1) additional year (“ Second Extension ”), no earlier than one hundred-twenty (120) days and no later than thirty (30) days prior to the then existing Outside Closing Date.
7	RIGHT OF ACCESS	Environmental investigations have been completed for the Project. If any additional work is needed, the Developer and its agents shall have the right to enter the Property prior to the Close of Escrow to conduct investigations and testing at Developer’s cost and pursuant to the DDA. Except as may be permitted pursuant to the Existing

		<p>License (if extended), Developer shall give at least five (5) business days' advanced written notice to the City prior to entering the Property and shall take steps to minimize any disruption to the operations of any existing licensees of the Property, and subject to the rights of the Parcel 2 Developer. Developer and its agents shall have the right to access the Property for purposes of completing Developer's due diligence work, subject to providing City with indemnity, insurance and other terms set forth in the DDA or that certain Exclusive Negotiation Agreement by and between City and Developer dated effective as of February 10, 2022, as may be extended (the "ENA") (NOTE: if entering upon the Property prior to the execution of the DDA, a license or professional services agreement may be required if extensive testing is warranted).</p> <p>Notwithstanding the prior sentence, Developer shall not perform any invasive testing without the prior written consent of City, which shall not be unreasonably withheld, conditioned or delayed, and which City acknowledges may be required by Developer's lenders and/or investor(s).</p> <p>If the market use allowed by the Existing License is desired during the DDA term, the City may consider extending the Existing License.</p>
8	ENVIRONMENTAL INVESTIGATION	<p>If additional investigative work is needed, the Developer may, at its sole cost and expense, engage its own environmental consultant to make such environmental site assessments or investigations of the Property with respect to possible contamination by hazardous materials as the Developer deems necessary, including conducting any "Phase I" and/or "Phase II" investigations of the Property.</p> <p>Notwithstanding Section 7 above, Developer shall conduct any such environmental investigations as follows:</p> <ol style="list-style-type: none"> a) Developer provided advanced notice of any Phase I surveys or inspections of the Property. b) Developer engaged SCA Environmental to conduct and completed limited Phase II investigations based on an approved work plan submitted to City staff. c) Developer may not conduct any Phase II investigations unless the City's environmental specialist has reviewed and approved Developer's proposed work plan. d) Developer has and shall continue to promptly deliver to the City a copy of all reports and assessments provided by

		<p>the Developer’s consultants.</p> <p>e) Developer, its consultants and agents shall neither contact any agency having jurisdiction as to environmental matters over the Property concerning the environmental reports and assessments performed, nor provide such reports or assessments to such agency without the prior written consent of the City’s Environmental Protection and Compliance department. Violation of this provision shall constitute a material breach of the DDA.</p> <p>f) The Developer shall use its commercially reasonable efforts, at its sole cost and expense, to cause its environmental consultants to agree to provide an environmental reliance letter, on terms reasonably provided by the environmental consultant and approved by the City, that the City may rely on the contents of such reports and assessments through reliance letters.</p>
9	PRE-CONVEYANCE REQUIREMENTS	<p>Developer will be required to satisfy the City’s standard conditions of closing, as well as the following, as conditions precedent to the conveyance of the fee interest in Parcel 1 to the Developer through a grant deed (the “Grant Deed”), all of the following conditions must first be met by the date indicated for each condition in the schedule of performance (the “Schedule”), attached hereto as <u>Exhibit D</u>. The DDA may contain provisions to extend certain dates by its terms, or by mutual agreement by the Developer and the City Administrator; provided, however, that except for the Extension, only the City Council, in its sole and absolute discretion, may extend the Outside Closing Date and the Completion of Construction date on behalf of the City past the dates allowed under the DDA.</p>
	9.1 <u>Financial Plan</u>	<p>No later than the date set forth in the Schedule, the Developer shall have submitted to the City for its review and obtained the City’s approval of the following, which together will be referred to as the “Financial Plan”:</p> <ul style="list-style-type: none"> • A detailed cost breakdown of construction of the Project (the “Project Development Budget”) containing an itemized construction budget for the Project, showing all construction related and non-construction related costs, including

		<p>reasonable contingencies, and the funding sources of payment for each item.</p> <ul style="list-style-type: none"> ● A 30-year cash flow projection for the Project. ● A copy of letters of commitment or letters of intent for construction financing and permanent financing from reputable institutional lenders, grant funding, equity contributions, and other financing from external sources (including proposed joint ventures and Partnerships (as defined below)) as necessary to finance development of the entire Project. ● A certified financial statement or other financial statement in such form reasonably satisfactory to the City, evidencing other sources of capital, sufficient to demonstrate that the Developer has adequate funds available and is committing such funds to cover the difference, if any, between the Developer's costs of development and construction and the amount available to Developer from external financing sources. ● Any other evidence reasonably requested by the City demonstrating the economic and financial feasibility of the Project.
	<p><u>9.2 Financing and Financing Documents</u></p>	<p><u>Financing.</u> The Developer shall be permitted to grant one or more security interests under the DDA in favor of a single lender or a group of public and private, institutional lenders solely in connection with financing of the Project.</p> <p>The Schedule shall allow time for Developer to use its best efforts to obtain competitive financing (including, without limitation, new market tax credit financing, philanthropic funds, HUD 108 financing, or other low-cost economic development financing, etc.), subject to Force Majeure, which shall in no event exceed in the aggregate twelve (12) months unless the DDA is extended by the City Council.</p> <p>“Force Majeure” shall mean delays or defaults that are due to war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires;</p>

		<p>casualties; acts of God; acts of the public enemy; pandemics (except COVID-19 and its variants, which is a known and foreseeable condition), governmental orders that require closure of the premises, or epidemics. If a delay is caused by COVID-19 or its variants, Developer shall provide written notice to the City of the specific delay and the specific cause, and the City and Developer shall meet and confer in good faith to mutually agree to an extension related to the particular delay on a case-by-case basis.</p> <p><u>Financing Documents.</u> Not later than the date set forth on the Schedule, Developer shall have submitted to the City for its review and obtained the City’s approval of a draft of the form of all documents to be used for financing construction of the Project pursuant to the approved Financial Plan (the “Financing Documents”). Prior to closing of the financing, the Developer shall submit to the City the final Financing Documents for the City’s review and approval. The full execution of the Financing Documents and the closing of all construction financing for the Project shall be a concurrent condition to conveyance of Parcel 1 to Developer.</p>
	<p>9.3 <u>Schematic Designs.</u></p>	<p>Developer has submitted to the City for its review and obtained the City’s approval, in its proprietary capacity, of the Schematic Design Plans for the Project except for designs of the Public Improvements (as defined in Section 9.5). The term “Schematic Design Plans” means schematic drawings, exterior elevations, site plans, floor plans and a garage layout, unit plans (including square footage), a landscaping plan, schematic plans for street and sidewalk improvements, and a sample materials board.</p>
	<p>9.4 <u>Design Development Plans.</u></p>	<p>By no later than the deadline set forth in the Schedule, Developer shall have submitted to the City for its review and obtained the City’s approval, in its proprietary capacity, of the Design Development Plans for construction of the Project. The term “Design Development Plans” means drawings, outline specifications and other documents based on the Schematic Design Plans that fix and describe the size and character of the Project as to architectural and basic structural systems, materials and other elements as appropriate.</p>
	<p>9.5 <u>Public Improvements.</u></p>	<p>The Liberation Park Mixed-Use Development (including the Project and the Parcel 2 Development) may include a number of Public</p>

		<p>Improvements as required by conditions of approval (PLN 22196). By no later than the deadline set forth in the Schedule, Developer shall have submitted designs for all such Public Improvements on the Property in sufficient detail for the City to review and approve such Public Improvements in both its proprietary capacity and its regulatory capacity by the appropriate City departments as part of standard review and permitting processes. For purposes of this subparagraph, the term “Public Improvements” shall include, without limitation, such matters and improvements as: (1) any permanent closure or rerouting of or improvements to any existing public streets or sidewalks; (2) any street lights that may need to be replaced or installed; (3) any relocation of existing utilities and easements to the extent required under planning and building approvals for the Project; and (4) any act that may be required to be performed as a mitigation measure under any environmental document for the Project or as a condition to the issuance of any governmental permit for the Project and any other improvement currently anticipated to be required to develop the Project.</p>
	<p>9.6 <u>Final Construction Plans.</u></p>	<p>By no later than the date set forth on the Schedule, Developer shall have submitted to the City for its review and obtained the City’s approval in its regulatory capacity of the Final Construction Plans for construction of the Project. The term “Final Construction Plans” means all construction documentation upon which a Developer and Developer's general building contractor will rely on constructing the Project, and shall include, but not necessarily be limited to, final architectural drawings, landscaping plans and specifications, final elevations, building plans, final specifications, plans for street and sidewalk repairs or improvements, a detailed breakdown of the costs of construction for the Project. The Final Construction Plans shall be substantially consistent with the Schematic Design Plans and Design Development Plans, including any amendments or modifications thereto approved by the City.</p>
	<p>9.7 <u>Green Building Requirements.</u></p>	<p>The Design Development Plans and Final Construction Plans shall demonstrate how principles of environmental sustainability will be incorporated to meet the applicable requirements of the City’s Green Building Ordinance (Ordinance No. 13040 C.M.S.), as set forth in Chapter 18.02 of the Oakland Municipal Code (Sustainable Green Building Requirements for Private Development) for non-residential</p>

		<p>construction development or applicable building use, as determined by the City as required by Chapter 18.02, which currently is at the time design documents are submitted for entitlements and confirmed at permit issuance.</p> <p>The Developer and its design consultants shall work with City staff to develop appropriate and economically feasible sustainable building goals and strategies using the City’s Sustainable Building Guide and Project Management Tool. Principles of environmental sustainability, including substantial use of such green building techniques as energy-conserving design and appliances, water-conserving fixtures, design of surface parking areas with bio-retention, bio-swales, and storm water filtration features, low-maintenance landscaping, recycled-content building materials and low waste construction techniques, shall be incorporated into the Design Development Plans and Final Construction Plans for the Project.</p>
	<p><u>9.8 Construction Contract.</u></p>	<p>Developer shall enter into a contract or contracts for the construction of the Project with a licensed and reputable general building contractor (“General Contractor”) meeting the employment and contracting obligations contained herein (the “Construction Contract”). In no event shall a Developer contract with any party which has been debarred or suspended by HUD under 24 CFR Part 24. The Construction Contract shall provide for the Project to be constructed for a fixed and specified guaranteed maximum amount pursuant to the approved Final Construction Plans. In addition, the Construction Contract shall require the General Contractor to communicate with neighboring property owners/users (collectively, “Neighbors”), and to manage construction-related noise, emissions, dust and other construction matters that will impact the Neighbors during construction.</p> <p>No later than the date set forth on the Schedule, Developer shall have submitted to the City for its review and obtained the City’s approval in its proprietary capacity of a draft of the form Construction Contract. Not later than the date set forth for this action in the Schedule, the Developer shall have submitted a draft of the final Construction Contract for the Project to the City for its review and obtained the City’s approval in its proprietary capacity prior to execution to determine that the cost of the development of the Project</p>

		<p>has been clearly fixed and determined, that no material changes to the Project will be made without the prior written consent of the City to the extent required under the DDA, and that the City’s employment and contracting requirements as set forth in the DDA will be met, and that all of the terms and conditions required to be included in the construction contract by funding sources for the Project have been included. The Developer shall also submit, prior to or together with the final Construction Contract, a detailed cost breakdown budget for Project construction and development, and a construction schedule, and a construction cash flow (draw-down) projection to the City in its proprietary capacity for its review and approval.</p>
	<p><u>9.9 Performance and Payment Bonds</u></p>	<p>Prior to the close of Escrow, Developer shall cause the General Contractor to obtain a labor and materials payment bond in the amount not less than 100% of the cost of construction of the Project pursuant to the Construction Contract to be executed by Developer and consistent with the Financing Plan approved by the City. Developer shall cause General Contractor to obtain a performance bond in an amount not less than 100% of the cost of construction of the Project pursuant to the Construction Contract to be executed by Developer and consistent with the Financing Plan approved by the City.</p> <p>CAST and BCZ agree and acknowledge that, BCZ, in its capacity as co-Parcel 2 Developer, shall cause the Parcel 2 Developer to obtain (a) a labor and materials payment bond and (b) a performance bond, each in the amount not less than 100% of the cost of construction of the residential project on Parcel 2 pursuant to the construction contract to be executed by the Parcel 2 Developer, it being understood that nothing herein shall require the Developer to fund the bonds required for the residential project.</p> <p>The performance bond and labor and materials payment bonds shall be issued by a licensed surety, shall name the City as co-obligee or assignee, and shall be in a form reasonably satisfactory to the City.</p>
	<p><u>9.10 Governmental Approvals</u></p>	<p>To the extent not already obtained, Developer shall, not later than the date specified in the Schedule, apply for all permits, land use entitlements, subdivision map approvals, plan and other required governmental regulatory approvals allowing any subdivision of the</p>

		<p>Property and construction and development of the Project to completion (together, the “Governmental Approvals”).</p> <p>Developer shall also complete required environmental review pursuant to CEQA and NEPA, if necessary, and incorporate any mitigation measures identified in the environmental review process and required to be included in the plans for Project development and operations. The Developer shall give the City ten (10) days’ prior notice of any hearings regarding matters described in the DDA, or if the Developer shall receive less notice a reasonable amount of advance notice to enable the City to elect to attend such hearings. The Project has been approved pursuant to Government Code Section 65913.4 (“SB 35”) and the Project, as approved, did not require review under the CEQA.</p> <p>Developer acknowledges and agrees that receipt of all Governmental Approvals (except for any related to tenant improvements to be completed after the first Certificate of Occupancy) necessary to commence construction of the Project is a precondition to disposition of Parcel 1 to the Developer.</p>
	<p>9.11 <u>Property Management Contract</u></p>	<p>Prior to close of Escrow, the Developer shall have submitted to the City for its review and have obtained the City’s approval in its proprietary capacity of the draft contract or contracts with the selected property management company for management of the Project once developed (the “Parcel 1 Management Contract”).</p>
	<p>9.12 <u>Market and Financial Feasibility Analysis</u></p>	<p>Prior to close of Escrow, the Developer shall have submitted to the City for its review and have obtained the City’s approval in its proprietary capacity a market and financial feasibility analysis for the proposed Project (the “Parcel 1 Market and Financial Feasibility Analysis”).</p>
	<p>9.13 <u>Review and approval of Developer Submissions</u></p>	<p>If any Developer submission that is <u>timely submitted</u>, and <u>in its entirety</u>, is reasonably satisfactory to the City in its proprietary capacity, then within ten (10) City business days of receipt by the City’s project manager (the “City Response Date”), the City shall, in its proprietary capacity, approve in writing that Developer submission, and no further filings by the Developer or approval by the City thereof shall be required for that Developer submission,</p>

		<p>except for any subsequent material change in the contents of the Developer submission. Notwithstanding the foregoing, the City may approve those portions of a Developer submission that are reasonably satisfactory and reject those portions that are not. The City may also approve all or a portion of a Developer submission subject to conditions requiring further submissions for City review and reasonable approval.</p> <p>City shall provide written notice of its approval or disapproval of any Developer submission (each, a “<i>City Notice</i>”) on or prior to the City Response Date, and in the event of disapproval or conditional approval shall include in any City Notice the specific basis and reasons for the City’s disapproval or conditional approval and changes that would make the Developer submission or applicable portion thereof acceptable to City (in each case, “<i>City Conditions</i>”).</p> <p>If City fails to deliver the City Notice, then Developer shall provide a second written request for a response to the applicable Developer submission, and the City shall have ten (10) City business days from receipt of the subsequent written request to provide the City Notice. Failure by City to meet the City Response Date or the additional ten (10) City business day period shall not constitute a default by City under this Agreement.</p>
	<p>9.14 <u>Environmental Remediation</u></p>	<p>To the extent required, the Developer shall, at its sole cost and expense, and as the responsible party, upon commencement of construction of the Project, perform the remediation necessary and required to address all environmental concerns relating to Parcel 1. Developer shall submit to the City and shall have obtained the written approval of the City’s Environmental Protection and Compliance department in accordance with Section 8 above, of the scope of its remediation prior to commencing the remediation work. The City shall have the right to inspect the remediation work upon reasonable notice of at least forty-eight (48) hours from commencement through completion.</p> <p>Developer shall indemnify, defend, and hold the Indemnified Parties (as defined below) harmless from and against any liability arising out of a violation of any Environmental Law by Developer, any Release directly caused by the activities of Developer, and any condition of</p>

		<p>pollution, contamination or Hazardous Substance-related nuisance on, under or emanating from Parcel 1, which is directly caused or exacerbated by the activities of Developer. Developer shall have no obligation to indemnify, defend, and hold the Indemnified Parties harmless hereunder for any violation of Environmental Law, Release, or Hazardous Substances existing, occurring or first accruing prior to Developer’s acquisition of the Property unless caused by Developer or its agents, employees, or contractors.</p> <p>For purposes hereof, the following definitions shall apply:</p> <p style="padding-left: 40px;">(i) “Hazardous Substance” shall have the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Agreement, 42 U.S.C. 9601(14), and in addition shall include, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls (“PCBs”), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code Section 25316 and Section 25281(d), all chemicals listed pursuant to the California Health & Safety Code 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition shall not include substances which occur naturally on the Site or commercially reasonable amounts of hazardous materials used in the ordinary course of construction and operation of a mixed use or residential development.</p> <p style="padding-left: 40px;">(ii) “Environmental Law” shall include all federal, state and local laws, regulations and ordinances governing hazardous waste, wastewater discharges, drinking water, air emissions, and Hazardous Substance releases or reporting requirements.</p> <p style="padding-left: 40px;">(iii) “Release” shall mean any spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any Hazardous Substance.</p>
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	9.15 <u>Recordation of Limited Waiver of Restrictive Covenants</u>	City shall use best efforts to negotiate and execute an amendment to the Restrictive Covenants affecting the proposed Project by May 1, 2024. No later than July 1, 2024, City shall cause to be recorded an amendment to the Restrictive Covenants affecting the proposed Project, reasonably approved by the Developer. Developer shall use best efforts to cooperate with the City’s efforts, which may include executing and recording a limited signage agreement with McDonalds and/or Taco Bell prior to Close of Escrow.
	9.16 <u>Property Taxes</u>	From and after the Close of Escrow, Developer will be responsible for paying all outstanding real estate taxes for the Property, including any past due or delinquent real estate taxes.
	9.17 <u>Commencement of Parcel 2 Development</u>	Prior to the close of Escrow, the Parcel 2 Developer shall have commenced construction on the Parcel 2 Development.
10	CONSTRUCTION OF THE PROJECT	
	10.1 <u>Commencement of Construction</u>	The Developer shall commence construction work on the Project no later than the date set forth in the Schedule.
	10.2 <u>Construction Obligations</u>	Construction of the Project shall be substantially in accordance with the Final Construction Plans approved by the City in both its regulatory and proprietary capacity, without substantial deviation therefrom unless approved by the City in writing.
	10.3 <u>Disabled Access.</u>	The Developer shall develop the Project in compliance with all applicable federal, state, and local requirements for access for disabled persons, including, without limitation and as applicable, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. section 794).
	10.4 <u>Lead-based Paint.</u>	The Developer and its contractors and subcontractors shall not use lead-based paint in the construction of the Project or maintenance of Project units. The Developer shall insert this provision in all contracts and subcontracts for work performed on the Project which involves the application of paint.
	10.5 <u>Quality of Work.</u>	The Developer shall construct the Project in conformance with general industry standards and shall employ building materials of a quality suitable for the requirements of the Project. The Developer

		shall develop the Project in full conformance with applicable local, state, and federal statutes, regulations, and building and zoning codes.
11	COMPLETION GUARANTY	BCZ and CAST (together, the “ <i>Guarantors</i> ”), shall each provide City a Completion Guaranty pursuant to the DDA and as a condition to closing on the Grant Deed, in a reasonable form to be agreed upon by the Guarantors and City and attached to the DDA as an exhibit (the “ <i>Form of Guaranty</i> ”). The Guarantors shall jointly and severally guarantee completion of the Project in accordance with the terms of the DDA.
12	DEED RESTRICTIONS	<p>PAAF Use Restriction- The Project shall be subject to the PAAF Restriction in substantially the form attached.</p> <p>Following completion of the Project, the use and operation of Parcel 1 and the improvements developed thereon shall be restricted according to the terms of the Grant Deed and DDA, and a deed restriction that provides that in the event ten (10) or more residential units are ever built on Parcel 1, not less than 15 percent of the total number of residential units developed on Parcel 1 shall be sold or rented as affordable housing.</p> <p>The use and operation of Parcel 1 will be subject to the Restrictive Covenants, as amended under the Waiver of Restrictive Covenants, and any associated signage agreements reasonably acceptable to the Developer.</p>
13	WAIVER OF RELOCATION	As a material inducement for City to enter into the DDA, Tenant expressly waives and releases any and all relocation benefits under any applicable law or regulation and releases City from any obligation to provide relocation benefits. It being understood that the City is to provide the Developer the Property free and clear of tenants.
14	DEFAULT	Subject to the rights of NMTC lenders/investor rights, the DDA will include City’s standard remedies including, without limitation, the right to terminate the transaction upon Developer’s default, subject to standard notice and cure provisions permitting cure rights for Developer and the Project lenders and investor.

15	INDEMNIFICATION AND INSURANCE	The DDA will require Developer to indemnify, defend, and hold the City and its elected and appointed officials, employees, officers, commissioners, directors, partners and agents (“ <i>Indemnified Parties</i> ”) harmless from and against any liability directly or indirectly arising or resulting from Developer’s development, operation, and/or management of the Project, 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 solely caused by an Indemnified Party’s gross negligence or willful misconduct.
16	WAIVER OF LIQUIDATED AND CONSEQUENTIAL DAMAGES	Neither Party shall be liable for and shall waive any claims against the other for any liquidated and/or consequential damages incurred by the other Party and arising out of any defaults by the other Party.
17	DEVELOPER MAINTENANCE/ STANDARD OF PROPERTY	Following Project completion, Developer shall maintain Parcel 1 and the Project in compliance with applicable law and in good condition and repair to the reasonable satisfaction of the City.
18	PERMITTED TRANSFERS	Prior to Project completion, the 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 assignment to, and assumption of, the DDA by a special purpose entity (“SPE”) of which the Developer (or another entity affiliated with and controlled by BCZ and/or CAST) has a controlling interest in conformance with NMTC requirements, subject to City Administrator review and approval, which shall not be unreasonably withheld or denied. For purposes of clarity, the admittance of a co-general partner in a partnership or an additional member in an LLC, into the Developer shall not be deemed a transfer so long as a BCZ and/or CAST-controlled entity remains the general partner or member with the controlling general partner or membership interest of the Developer, subject to City Administrator review and approval, which shall not be unreasonably withheld or denied.
19	OFF-SITE IMPROVEMENTS	Jointly with Parcel 2 Developer, the Developer shall be responsible for the cost of any and all off-site improvements and any relocation of existing utilities and easements to the extent required under standard planning and building approvals for the Project. City agrees to make commercially reasonable efforts to assist Developer in

		applying for financing for off-site improvements, but this DDA does not create any obligation to fund the same. The parties acknowledge that the City may execute a Grant agreement for a portion of the off-site improvements, but that agreement is not incorporated into this DDA.
20	IMPACT FEES & PUBLIC ART	Subject to any exemptions, waivers, or deferrals granted by the City, the Developer shall pay any and all required permit and regulatory fees, including, but not limited to, the City’s Jobs/Housing Impact Fee, Transportation Impact Fee, Capital Improvements Impact Fee, and Affordable Housing Impact Fee as applicable pursuant to Oakland Municipal Code (“ <i>OMC</i> ”) Chapters 15.68, 15.72 and 15.74 unless Developer satisfies all off-site affordable housing exemption requirements identified in those chapters. Developer shall also satisfy the “Public Art for Private Development” requirement under City Ordinance OMC Chapter 15.78.
21	CITY EMPLOYMENT & CONTRACTING REQUIREMENTS	Developer 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 One:

Parcel A, Parcel Map 7755, filed July 19, 2002, Book 266 of Parcel Maps, Page 46 and 47, Alameda County Records.

Parcel Two:

Non-exclusive reciprocal easement appurtenant to Parcel One for the purposes of Parking, access, drainage, encroachments and utilities as contained in and upon the terms and conditions set forth in that certain “Amended and Restated Agreement for grant of Reciprocal Easements” recorded March 13, 2007 as Instrument No. 2007-103162 of Alameda County Official Records said purposes being more particularly stated therein in Section 2 thereof.

APN: 039-3291-020

Exhibit B

Legal Description and Plat of Parcel 1

PROPOSED MARKET HALL & CULTURAL CENTER PARCEL

OAKLAND, CALIFORNIA

Exhibit C
Form of PAAF Covenant

Recording Requested by:

Community Vision Capital & Consulting
870 Market Street, Suite 677
San Francisco, CA 94102
Attn: Director of Consulting

7101 Foothill Boulevard, Oakland, CA 94605 APN: [_____]

**COVENANTS, CONDITIONS, AND RESTRICTIONS
REGARDING BUILDING USE**

THESE COVENANTS, CONDITIONS, AND RESTRICTIONS REGARDING BUILDING USE are made and entered into as of _____, 202_, by and LIBERATION PARK MARKET HALL, a California nonprofit public benefit corporation (“Grantee”), for the benefit of COMMUNITY VISION CAPITAL & CONSULTING, a California nonprofit public benefit corporation (“CV” or “Grantor”), with respect to the following facts and circumstances:

A. Grantee is developing a free-standing Market Hall & Cultural Center (MHCC) with an adjacent courtyard and out-door skating rink. The approximately 31,800 square-foot commercial building will contain three stories and house a market hall, cultural performance space, classrooms, career technical education, maker space, flexible space to accommodate pop-up vendor stalls, and co-working and office spaces for cultural entrepreneurs. The project will also include an outdoor rooftop terrace and gallery space, courtyard, community room space, services offices. MHCC will include practice and performance of artistic and cultural forms of creative activity, expression, preservation and healing, reflective of the community it serves. Grantee has been in existence and active in the City of Oakland, Alameda County since 2022.

B. Grantee holds an interest in that certain specified real property, including any and all easements appurtenant thereto, and owns all improvements located thereon, situated at 7101 Foothill Boulevard, Oakland, California 94605 and more particularly described in the legal description attached hereto as Exhibit A (the “Property”).

C. Grantee has obtained from CV a grant in the amount of Five Hundred Fifty-Three Thousand and No/100 Dollars (\$553,000.00) (the “Grant Amount”) to support Grantee’s ownership of the Property.

D. Grantee’s receipt and use of the Grant Amount is subject to the terms and conditions of

that certain Grant Agreement, dated October 6, 2022, as such may be amended (the “Grant Agreement”), by and between Grantee and CV, a copy of which is attached hereto as Exhibit B, incorporated herein by this reference.

E. As a condition to all of its grants, CV requires that such grants are recoverable to ensure the grant funds are used to create permanent space for organizations who practice and perform artistic and cultural forms of creative activity, expression, preservation and healing, reflective of the community it serves. In consideration for the Grant Amount, Grantee has agreed that the use of the Property will be subject to certain restrictions on its use for the duration of the Compliance Period, which is expected to end [Insert date], as such date may be extended pursuant to the Grant Agreement.

NOW, THEREFORE, in consideration of the foregoing and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantee, on behalf of itself and all successor owners of the Property or any portion thereof, hereby covenants and agrees as follows:

1. The Property shall be subject to and used in compliance with the Building Use Restrictions as defined and contained in Section 3.1, Article 4, and Article 11 of the Grant Agreement.

2. Except as provided in Section 12.1 of the Grant Agreement, the covenants, conditions, and restrictions on the use of the Property described in Paragraph 1, above, shall not be altered or eliminated without the prior written consent of CV, which consent may be withheld in CV’s sole discretion.

3. To the extent permitted by law, the covenants, conditions, and restrictions contained in this instrument shall be covenants running with the land under Section 1468 of the Civil Code and shall be enforceable as equitable servitudes under the laws of the State of California and shall be binding upon all successor owners of the Property. Grantee and each subsequent owner of all or any part of the Property shall be liable for the performance of the covenants, conditions, and restrictions set forth herein only for such period of time as such party shall be the record owner of any portion of the Property and only with respect to that portion owned by such party.

4. This instrument shall be governed by and construed in accordance with the laws of the State of California.

[Signatures on Following Page]

IN WITNESS WHEREOF, Grantee and Grantor have executed these Covenants, Conditions, and Restrictions Regarding Building Use as of the day and year first above written.

Grantee:

LIBERATION PARK MARKET HALL,
a California nonprofit public benefit corporation

By: _____

Carolyn Johnson
Secretary of the Board

Grantor:

COMMUNITY VISION CAPITAL & CONSULTING,
a California nonprofit public benefit corporation

By: _____

Exhibit D
Schedule

Task	Scheduled Completion Date
Pre-conveyance Requirements	
1. Preliminary Financial Plan	(Complete)
2. Final Financial Plan	August 8, 2025
3. Financing Documents	January 20, 2026
4. Schematic Designs	May 10, 2023 (Complete)
5. CEQA and SB 35 Approval	January 27, 2023 (Complete)
6. Design Development Plans	September 12, 2024
7. Public Improvements Approval	January 9, 2026
8. Final Construction Plans	August 14, 2025
9. Construction Contract	March 18, 2026
10. Payment and Performance Bonds	March 20, 2026
11. Governmental Approvals	January 29, 2026
12. Market and Financial Feasibility Study	60 days after final terms of amendment to Restrictive Covenants
13. Parcel 1 Management Contract	January 6, 2026
14. Parcel 2: Payment and Performance Bond; Commencement of Construction	March 18, 2026; March 23, 2026
15. Final terms of amendment to Restrictive Covenants	July 1, 2024
16. Recordation of amendment to Restrictive Covenants	December 31, 2024
17. Outside Closing Date	March 26, 2026
Construction of the Project	
1. Commencement of Construction	April 13, 2026
2. Public Improvements	August 13, 2027
3. Completion of Construction	August 13, 2027
4. Environmental Remediation (if any)	August 13, 2027