



AGENDA REPORT

TO: JOHN A. FLORES
INTERIM CITY ADMINISTRATOR

FROM: Mark Sawicki

SUBJECT: DDA for 12th St Remainder Parcel
Supplemental Report

DATE: April 30, 2015

City Administrator
Approval

Date 4/30/15

COUNCIL DISTRICT: 2

RECOMMENDATION

Staff recommends that the City Council adopt the following legislation:

An Ordinance Authorizing: (1) The City Administrator, Without Returning To The City Council, To Negotiate And Execute A Disposition And Development Agreement and Related Documents Between The City of Oakland, And A Development Entity Comprised Of UrbanCore Development, LLC and UDR, Inc., (Or Its Related Entities Or Affiliates) For Sale Of The 12th Street Remainder Parcel Located At E12th Street And 2nd Avenue For No Less Than \$5.1 Million And Development As A Residential Mixed-Use Project, All Of The Foregoing Documents To Be In A Form And Content Substantially In Conformance With The Term Sheet Attached As Exhibit A; (2) Set-Aside Of No More Than \$500,000 From Land Sales Proceeds For Remediation of Property And; (3) Appropriation of \$200,000 From Land Sales Proceeds To Fund An Asset Portfolio Management Plan

REASON FOR THE SUPPLEMENTAL REPORT

This Supplemental Report summarizes the changes to the original staff report and Ordinance.

The following four changes were introduced at the Community & Economic Development (CED) Committee on April 14, 2015.

- A. A City requirement for the Developer to provide payment and performance bonds in an amount not less than 100 percent of the Project construction costs, pursuant to the Developer-executed construction contract, will apply *only if* these are a requirement of the Developer's lender.
- B. 25 percent of net land sale proceeds will be deposited in the Affordable Housing Trust Fund (1870). Given a sales price of \$5.1 million, with \$200,000 appropriated to fund an

Item: _____
City Council
May 5, 2015

Asset Portfolio Management Plan and \$500,000 set aside in escrow for hazardous materials remediation, then 25 percent of the remaining \$4.4 million will be an estimated \$1.1 million at the time of the close of escrow. At the conclusion of site remediation activities, another 25 percent of the amount remaining from the \$500,000 site remediation set aside allowance will be deposited in the Affordable Housing Trust Fund.

- C. 25 percent of net land sale proceeds will be appropriated to fund maintenance of Measure DD bond funded improvements. Given a sales price of \$5.1 million, with \$200,000 appropriated to fund an Asset Portfolio Management Plan and \$500,000 set aside in escrow for hazardous materials remediation, 25 percent of the remaining \$4.4 million will be an estimated \$1.1 million at the time of the close of escrow. At the conclusion of site remediation activities, another 25 percent of the amount remaining from the \$500,000 site remediation set aside allowance will be appropriated for maintenance of Lake Merritt's Measure DD bond funded improvements.
- D. Per the direction of CED Committee, additional community benefits have been negotiated since the April 14th CED meeting. The following list of community benefits totaling \$500,000 in monetary contributions from Developer will be included in the Development and Disposition Agreement (DDA):

Economic Equity /Jobs Benefits

1. Developer will complete a plan within 120 days of execution of the DDA to accomplish a 25% good-faith-effort goal for local hiring for new jobs created during construction, including hiring participants of the Cypress Mandela Training Center, Laney College Career Tech Training Programs, and Dewey High School and appropriate apprenticeship policies; and work with the West Oakland Jobs Center and identify re-entry/Ceasefire candidates for placements in construction-related jobs. This action will include preparing a MOU between the selected General Contractor and these organizations and providing at least \$100,000 in funding support for these programs to be determined.
2. Developer will complete a plan within 90 days of execution of the DDA to achieve a 25% combined goal for local-business (LBE) and small-local-business (SBE) procurement with the professional service fees and construction contracting during construction. Developer will assist the General Contractor with developing a multilingual outreach program to promote participation to meet the good faith effort combined goal for LBE and SBE of 25% of professional services and contracting.

Item: _____
City Council
May 5, 2015

3. Developer will consider using a Union General Contractor at the Developer's sole discretion.
4. Developer will fund at least \$25,000 for a study to create a Business Improvement District or Community Benefits District in the E. 18th St/Lower Park Blvd. commercial area.

Environmental / Open Space Benefits

5. Developer will use eco-friendly/water and energy conservation best practices, and achieve LEED ("Leadership in Energy & Environmental Design") Silver certification or the State Green Point Rating.
6. Developer will fund at least \$25,000 in support programs at Children's Fairyland.
7. Developer will fund at least \$150,000 towards the construction and/or maintenance of a skate board park on existing publicly owned property.
8. Developer will fund at least \$25,000 for community groups such as Urban Releaf and the Sierra Club Street Treed Team to plant trees east of Lake Merritt and San Antonio Park.
9. Developer will fund at least \$100,000 to the Eastlake Merchants Association or another designee for graffiti abatement and neighborhood beautification.

Social Equity/ Housing Benefits

10. Developer will fund at least \$75,000 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 monologists.
11. Developer will provide at least 20 hours of pro bono affordable housing development consulting to the City of Oakland, Oakland Unified School District and/or a non-profit affordable housing developer planning a project within Oakland.
12. Developer will provide adequate protections to minimize impacts for Dewey High School students during and after construction.

These above changes are reflected in the updated Ordinance and the DDA term sheet contained in *Exhibit A*.

Item: _____
City Council
May 5, 2015

ALTERNATIVE STAFF RECOMMENDATION

Although the CED Committee approved a motion for 25 percent of net land sales proceeds from this transaction be used to fund the maintenance of Lake Merritt Measure DD improvements, the motion also allowed for staff to propose an alternative solution to address this issue. The use of one-time funds from the sale of this property for ongoing maintenance purposes is not recommended per the City's fiscal policy.

Rather than allocating one-time funds from this property sale or incremental funding from interest earned on these one-time funds, the Administration has included \$400,000 of ongoing funds in the FY 2015-17 Proposed Budget for additional Lake Merritt parks maintenance beginning in FY 2016-17, after the plant establishment period ends (May 2016).

COST SUMMARY/IMPLICATIONS

The land sale proceeds totaling up to \$5.1 million will be deposited in the General Purpose Fund (1010), Real Estate Services Organization (85231), Sale of Land (48111), Non-Project (0000000), Real Estate Program (PS32).

An Environmental Remediation Allowance not to exceed \$500,000 of the land sale proceeds will be set aside in escrow. The exact amount will be negotiated based on findings of a Phase II report and released directly to Developer as the remediation work is completed. Any Allowance amount remaining after remediation work is complete will be deposited into the above named account.

\$200,000 of the land sale proceeds from this transaction will be appropriated to fund the development of an Asset Portfolio Management Plan for all City-owned real estate, to be managed by the Real Estate Services Division. The funds will be appropriated in the General Purpose Fund (1010), Real Estate Division (85231), Contract Contingency (54011), and Real Estate (PS32). The project number is to-be-established.

25% of Net Land Sale Proceeds will be deposited in the Affordable Housing Trust Fund (1870), Housing Development Org (89929), Sale of Land (48111), Housing Trust, Housing Dev Project (P435210), and Housing Development Program (SC14). This is consistent with the FY 2015-17 Proposed Budget.

25% of Net Land Sale Proceeds will be deposited and appropriated to fund maintenance of Measure DD Improvements: Lighting and Landscape Assessment District Fund (2310), Landscape Maintenance Org (30652), Contract Contingency Account (54011), Project TBD, and Grounds Program (NB07). This proposal is not consistent with the FY 2015-17 Proposed Budget. As described above in the alternative section, the budget includes \$400,000 ongoing funds for supplemental Lake Merritt maintenance beginning in FY 2016-17, after the establishment period ends.

Item: _____
City Council
May 5, 2015

The following table summarizes the allocation of funds from this transaction, as recommended by CED:

Purchase Price	\$5,100,000
Asset Management Plan for all City-owned Property	\$200,000
Environmental Remediation Allowance Set Aside	\$500,000
Net Land Sale Proceeds	\$4,400,000
25% of Net at time of closing to Affordable Housing Trust Fund	\$1,100,000
25% of Net at time of closing to Measure DD Maintenance Fund	\$1,100,000
After site remediation is complete, any amount remaining from the \$500,000 set-aside in escrow will be allocated per same Council approved percentages.	

Alternatively, staff recommends that the maintenance of Lake Merritt Measure DD bond funded improvements come from ongoing sources of funds as proposed in the FY 2015-17 budget.

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

Respectfully submitted,



Mark Sawicki
Director, Economic & Workforce Development
Department

Reviewed by:
Patrick Lane, Acting Manager
Project Implementation Division

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

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2015 APR 30 PM 3:09

Approved as to Form


Deputy City Attorney

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AUTHORIZING: (1) THE CITY ADMINISTRATOR, WITHOUT RETURNING TO THE CITY COUNCIL, TO NEGOTIATE AND EXECUTE A DISPOSITION AND DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS BETWEEN THE CITY OF OAKLAND, AND A DEVELOPMENT ENTITY COMPRISED OF URBANCORE DEVELOPMENT, LLC, AND UDR, INC., (OR ITS RELATED ENTITIES OR AFFILIATES) FOR SALE OF THE 12TH STREET REMAINDER PARCEL LOCATED AT E12TH STREET AND 2ND AVENUE FOR NO LESS THAN \$5.1 MILLION AND DEVELOPMENT AS A RESIDENTIAL MIXED-USE PROJECT, ALL OF THE FOREGOING DOCUMENTS TO BE IN A FORM AND CONTENT SUBSTANTIALLY IN CONFORMANCE WITH THE TERM SHEET ATTACHED AS EXHIBIT A; (2) SET-ASIDE OF NO MORE THAN \$500,000 FROM LAND SALES PROCEEDS FOR REMEDIATION OF PROPERTY, AND; (3) APPROPRIATION OF \$200,000 FROM LAND SALES PROCEEDS TO FUND AN ASSET PORTFOLIO MANAGEMENT PLAN

WHEREAS, the City owns approximately 0.925 acres of property bounded by East 12th Street to the east, Second Avenue and property owned by the Oakland Unified School District to the south, newly created open space to the west, and Lake Merritt Boulevard to the north (the "Property"), commonly known as the 12th Street Remainder Parcel; and

WHEREAS, the Property was previously public right-of-way for that portion of E. 12th Street situated between 1st and 2nd Avenue; and

WHEREAS, disposition of the Property is governed by Chapter 2.42 of the Oakland Municipal Code; and

WHEREAS, on December 21, 2012, the City issued a Request for Proposals ("RFP") to develop the Property; and

WHEREAS, of the two proposals received in response to the RFP, the City's review panel awarded the highest number of points to the proposal submitted by UrbanCore-Integral, LLC ("UCI"); and

WHEREAS, UCI was a partnership between UrbanCore Development, LLC ("UrbanCore") and The Integral Group, LLC; and

WHEREAS, the City Council authorized an Exclusive Negotiating Agreement in July 2013 ("ENA") between the City and UCI for the purposes of developing a project proposal for City review and approval, conducting California Environmental Quality Act ("CEQA") review and approval, and negotiating the terms and conditions of a Disposition and Development Agreement ("DDA") (Reso No. 84492 C.M.S.); and

WHEREAS, UrbanCore satisfied all the requirements of the ENA; and

WHEREAS, a December 2014 appraisal conducted by Yovino & Young concluded the as-is Fair Market Value of the land is \$5.1 million, considering the highest and best use of the Property to be a multi-unit residential project that conforms to the new zoning regulations under the Lake Merritt Station Area Plan; and

WHEREAS, UrbanCore is offering to pay \$5.1 million for the Property; and

WHEREAS, UrbanCore proposes to build a 24-story residential apartment tower with a three-level podium base, including approximately 298 residential units, approximately 2,000 square feet of ground level commercial space, approximately 209 parking spaces and associated amenities and improvements (the "Project") that conforms to the new zoning regulations under the Lake Merritt Station Area Plan; and

WHEREAS, UDR, Inc. is an S&P 400 Company and Real Estate Investment Trust ("REIT") with a demonstrated performance history of delivering dependable returns by successfully managing, buying, selling, developing and redeveloping attractive real estate properties in targeted U.S. markets; and

WHEREAS, UrbanCore proposes to form a new Limited Liability Company in a partnership with UDR, Inc to acquire and develop the Property; and

WHEREAS, since the Property is being sold for development for a particular use to promote the economic development, housing, environmental, and community development goals of the City, the Property is not "surplus" property of the City; and

WHEREAS, staff is recommending a set-aside of no more than \$500,000 from land sales proceeds for remediation of Property, pending findings of a Phase II environmental investigation to determine qualified remediation costs, if any; and

WHEREAS, Real Estate Services Division, under the direction of the City Administrator and in coordination with the Finance Department and the Public Works Department, has identified the need to develop an Asset Portfolio Management Plan for City-owned real estate, and is requesting that, unless previously funded from the sale proceeds of 3455 and 3461 Champion Street pursuant to Ordinance No. 13264 C.M.S., the Council appropriate \$200,000 from the sale proceeds of this Property transaction to fund such Plan; and

WHEREAS, a Disposition and Development Agreement (“DDA”) will set forth the terms and conditions under which the City will sell the Property to the development entity comprised of UrbanCore and UDR, Inc. (or its Related Entities or Affiliates; herein “Developer”) and by which the Developer will construct improvements to the Property; and

WHEREAS, the City Council adopted a Resolution in December 2014 to establish a general policy to lease rather than sell City property (Reso No. 85324 C.M.S.); and

WHEREAS, staff is recommending a sale of the Property instead of a ground lease in this case because a sale is necessary to promote the economic development and housing goals of the City for the reasons set forth in the Agenda Report for this item; and

WHEREAS, the City desires to continue funding affordable housing to further its planning goals and to comply with the regional Sustainable Communities Strategy and the Regional Housing Needs Allocation; and

WHEREAS, the City desires to dedicate funds for the maintenance of Lake Merritt Measure DD funded improvements; now therefore

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

SECTION 1. The City Council hereby finds, pursuant to Resolution No. 85324 C.M.S., that it is in the best interests of the City to sell rather than lease the Property for the reasons described in the Agenda Report for this item, and hereby authorizes the conveyance of the Property to the Developer pursuant to the terms of the documents described in Section 8 hereof for the price of \$5.1 million.

SECTION 2. The City Council hereby finds and determines, based on the appraisal conducted by Yovino & Young, that the Property is being conveyed at its fair market value, and that the City is not granting any economic development subsidy to the Project.

SECTION 3. The City Council authorizes the City Administrator to deposit land sales proceeds in the General Purpose Fund (1010), Real Estate Services Organization (85231), Sale of Land (48111), Non-Project (000000), Real Estate Program (PS32).

SECTION 4. The City Council authorizes the City Administrator to set-aside in escrow no more than \$500,000 from land sales proceeds for remediation of Property pursuant to the terms of the DDA and to be released directly to Developer as remediation work is completed; any amount remaining in escrow after remediation work is complete will be deposited in the General

Purpose Fund (1010), Real Estate Services Organization (85231), Sale of Land (48111), Non-Project (0000000), Real Estate Program (PS32).

SECTION 5. Unless previously funded from the sale proceeds of 3455 and 3461 Champion Street pursuant to Ordinance No. 13264 C.M.S., the City Council authorizes the City Administrator to appropriate \$200,000 from this transaction's land sales proceeds to the City's Real Estate Services Division (General Fund (1010), Real Estate Division (85231), Contract Contingency (54011), and Real Estate (PS32)) to fund the development of an Asset Portfolio Management Plan for all City-owned real estate.

SECTION 6. The City Council authorizes the City Administrator to deposit 25% from this transaction's net land sales proceeds to the Affordable Housing Trust Fund (1870), Housing Development Org (89929), Housing Trust, Housing Dev Project (P435210), and Housing Development Program (SC14).

SECTION 7. The City Council authorizes the City Administrator to deposit and appropriate 25% from this transaction's net land sales proceeds to the Landscape and Lighting Assessment District Fund (2310), Landscape Maintenance Org (30652), Project TBD, and Grounds Program (NB07) to fund the maintenance of Measure DD-funded improvements.

SECTION 8. The City Council hereby authorizes the City Administrator or his/her designee, without returning to the City Council, to negotiate and execute: (1) a Disposition and Development Agreement and related documents with the Developer, for the sale and development of the Property, all of the foregoing documents to be in a form and content substantially in conformance with the Term Sheet attached as Exhibit A to this Ordinance; (2) grant deeds and any other agreements or documents as necessary to convey the Property to the Developer including, without limitation, the grant of any easement(s), covenants, or similar interests to Developer regarding City-owned open space adjacent to the Property for maintenance and other uses as negotiated by the City Administrator pursuant to the general provisions of Term Sheet Section 17; (3) such other additions, amendments or other modifications to any of the foregoing documents that the City Administrator, in consultation with the City Attorney's Office, determines are in the best interests of the City, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transactions contemplated by this Ordinance, to be conclusively evidenced by the execution and delivery by the City Administrator of any such amendments; and (4) such other documents as necessary or appropriate, in consultation with the City Attorney's Office, to facilitate the sale and development of the Property in order to consummate the transaction in accordance with this Ordinance, or to otherwise effectuate the purpose and intent of this Ordinance and its basic purpose.

SECTION 9. The City Administrator, without returning to the City Council, shall determine satisfaction of conditions precedent to the conveyance of the Property to the Developer.

SECTION 10. All agreements associated with the Property and the Project shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution by the City, and shall be

placed on file with the City Clerk.

SECTION 11. The City Council finds and determines that the anticipated environmental effects of the project have been evaluated by the Lake Merritt Station Area Plan Final Environmental Impact Report (Final EIR) (certified November 2014) and, as supported by substantial evidence in the record, no further environmental review is required for sale of the Property and the development of the Project. As separate and independent bases, the sale of Property and development of the Project are Categorically Exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15332 of the State CEQA Guidelines (in-fill exemption); Section 15183 of the State CEQA Guidelines (Projects consistent with a Community Plan, General Plan or Zoning); and, Section 15183.3 of the State CEQA Guidelines (Streamlining for Infill Projects).

SECTION 12. The City Administrator or his/her designee is hereby authorized to file a notice of determination with the Office of the Alameda County Recorder and the State Office of Planning and Research, and to take any other action necessary in furtherance of the Project, consistent with this Ordinance and its basic purposes.

SECTION 13. The record before this Council relating to this Ordinance includes, without limitation, the following:

- A. All staff reports, decision letters and other documentation and information produced by or on behalf of the City, including without limitation the Planning Commission Report and all notices relating to this Ordinance and the DDA;
- B. All oral and written evidence received by City staff and the City Council before and during the consideration of this Ordinance, including without limitation the Planning Commission consideration of general plan conformity; and
- C. All matters of common knowledge and all official enactments and acts of the City, such as (1) the General Plan; (2) the Oakland Municipal Code, without limitation, the Oakland real estate regulations; (3) the Oakland Planning Code; (4) other applicable City policies and regulations; and (5) all applicable state and federal laws, rules and regulations.

SECTION 14. The custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively (a) the Project Implementation Division, 250 Frank Ogawa Plaza, 5th Floor, Oakland, CA; (b) Planning and Building Department, 250 Frank Ogawa Plaza, 3rd Floor, Oakland, CA; and (c) the Office of the City Clerk, 1 Frank Ogawa Plaza, 1st Floor, Oakland, CA.

SECTION 15. The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

SECTION 16. 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 Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____ 2015

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

Revised April 30, 2015

DDA TERM SHEET “LAKEHOUSE RESIDENCES” 12TH ST REMAINDER PARCEL

Note- This term sheet shall serve as the basis for the negotiations of a detailed final disposition agreement 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	UrbanCore Development, LLC, a California limited liability company, or a to-be-formed limited liability company in which an entity directly or indirectly controlled by UDR, Inc., a Maryland corporation (“UDR”), and UrbanCore Development, LLC, a California limited liability company, are members (“Developer”)
2B	GUARANTY	<p>Developer to provide City a Guaranty as part of DDA. Developer must be financially strong entity, and identify a guarantor entity, with significant assets or capital commitments from its investors to complete the Project, as approved by City in its sole and absolute discretion.</p> <p>A “Form of Guaranty” will be included as an attachment to the disposition agreement and will need to be executed by the City-approved guarantor at close of escrow.</p>
3	PROPERTY	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 12 th 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.

4	PROJECT DESCRIPTION	A 21-story residential apartment tower over a 3-level podium base, including 298 market-rate residential units, 2,000 square feet of ground level market-rate commercial space, a minimum of 209 parking spaces, and associated amenities and improvements. The proposed building would not exceed an overall height of 275 feet, NOT including architectural and mechanical features that extend above the roofline.
5	PURCHASE PRICE	\$ 5,100,000, based on a Fair Market Value Final Appraisal Report published on January 22, 2015 considering the highest and best use of the property
6	TERMS OF PAYMENT/CLOSING	Purchase Price to be due and payable in cash submitted into escrow 1 business day before close of escrow. Escrow to close in accordance with the schedule of performance contained herein.
7	DEPOSIT	Within 5 business days after executing 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 exercise its option to retain the Good Faith Deposit as liquidated damages.
8	REPURCHASE OPTION	<p>In addition to all other City remedies for Developer default, if construction on the Project does not start within 30 days after close of escrow or does not diligently continue construction thereafter, or the Developer does not complete construction within the time period required under the DDA (subject in each case to extension for force majeure), the City will have the option to repurchase the Property for the original sale price (the "Option").</p> <p>City's Option is assignable or transferable in its sole and absolute discretion.</p> <p>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 an maximum cure date deadline to be negotiated by the parties.</p> <p>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.</p>

9

SCHEDULE OF PERFORMANCE

Schedule assumes (1) City Planning Commission approval of Planning Application, including CEQA determination, Conditional Use Permits, and other discretionary approvals on or about April 1, 2015, (2) no appeal of the Planning Commission's approval is filed with the City Council, and (3) DDA term sheet is approved by the City Council by May 5, 2015. If the Project is subject to any appeal or subsequent challenge, the time periods below shall be tolled during the pendency of the appeal/challenge, subject to a maximum tolling period to be negotiated between the parties.

DDA Schedule of Performance	# of months after City Council approval of DDA
1. Developer submits 2 years of audited financial statements for each principal and joint venture partner for City review and approval.	Resubmit updates prior to close of escrow
2. Developer submits updated and refined Project Proforma (Development Budget & Operating Cash Flow) for City review and approval.	Resubmit updates prior to close of escrow
3. Developer submits Financial Plan, especially evidence of funds/equity commitments for land acquisition for City review and approval..	Resubmit updates prior to close of escrow
4. Developer submits "Construction Pre-Application" and draft "Compliance Matrix" to Bureau of Building	6
5. Developer submits "Construction Permit Application" to Bureau of Building	12
6. Developer finalizes Project Financing: construction financing (if construction of the project will be financed with a construction loan), and other sources (which may include equity commitments from the investors in Developer) and submits for City review and approval.	15
7. Developer submits approved Construction Permits	17
8. Conveyance/Closing of Escrow, Execution of Completion Guarantee	18
9. Commence Construction (within 30 days after close of escrow)	19
10. Complete Construction (30 month max.)	48

10	OFF-SITE IMPROVEMENTS	<p>Developer to be responsible for the cost of off-site improvements proposed to the existing stormwater 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 pending approval by the Parks and Recreation Advisory Commission), 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>
11	TITLE INSURANCE	<p>Developer to secure title insurance policy, if desired, at its own cost and expense. 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.</p>
12	CLOSING COSTS	<p>Developer to pay all escrow fees and closing costs including, without limitation, city and any other county taxes.</p>
13	LIMITATIONS ON PROPERTY RIGHTS	<p>Without limiting Developer's title review contingencies, Developer accepts and acknowledges the Property is subject to deed restrictions and a recorded covenant to: 1) restrict use of property to a residential mixed-use project with ground floor commercial and associated building amenities, and 2) restrict property from generating "condo conversion rights".</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>
14	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 on the site due to recent construction activities of the City's Public Works Dept will be removed prior to conveyance to Developer</p>

15	ENVIRONMENTAL REMEDATION	<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>However, depending on the findings of a pending Phase II report, a not-to exceed-amount will be determined and set aside in escrow for the purposes of reimbursing Developer during the construction for qualified receipts related to environmental remediation costs. For example, if dirty soil needs to be removed, City will reimburse Developer for only the marginal difference between the cost to remove soil and the cost to remove dirty soil.</p>
16	INDEMNIFICATION	<p>Developer shall agree to 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 and project stages as part of the DDA.</p>
17	CITY MAINTENANCE	<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; and 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>

18	NO COMMISSION	The parties shall hold each other harmless and defend against any claims for commissions or brokerage..
19	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.
20	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.
21	CITY PROGRAMS & COMMUNITY BENEFITS	<p><u>See Attachment 1 to this Exhibit A for the list of community benefits to be negotiated in good faith between the parties and to be completed during the DDA period</u></p> <p>If the Developer decides to pursue a project that requires less than full market price for the land or includes some other City subsidy – below market loan, tax credits, etc. then the following City benefits are required, including: labor peace agreement, prevailing wages, living wages, local and small local business, equal benefits, and apprenticeship/job training/first source hiring programs.</p> <p>Any other benefit which a City statute requires by its terms shall apply to the Project, and Developer is not exempt from any other benefit or requirement imposed by any governmental entity other than the City.</p>
22	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, <u>only if they are a requirement of the Developer’s lender</u>
23	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.
24	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.
25	STANDARD CONDITIONS	DDA to include standard City conditions, including without limitation, completion guaranty executed on or before the Closing Date, and approval by City of financing plan, assignment and transfer, amendments to project and project approvals, default, notice and cure, and termination provisions, executed completion guaranty from Developer, copies of all required regulatory approvals, and insurance policies.

ATTACHMENT 1

DDA Term Sheet Amendment
"Lakehouse Residence"
12th Street Remainder Parcel
April 29, 2015

The DDA Term Sheet is hereby amended to include the following text:

21. City Programs & Community Benefits

The following list of community benefits will be adhered to in good faith between the parties, will be implemented by UrbanCore Development on behalf of the Development entity, and will be completed during the DDA period:

- Developer will complete a plan within 120 days of execution of the DDA or before transfer of property, whichever occurs earlier, to accomplish a 25% good-faith-effort goal for local hiring for new jobs created during construction, including hiring participants of the Cypress Mandela Training Center, Laney College Career Tech Training Programs, and Dewey High School, and incorporating appropriate apprenticeship policies; and work with the West Oakland Jobs Center to identify re-entry/Ceasefire candidates for placement in construction-related jobs. This action requires preparing a MOU between the selected General Contractor and each of the three organizations and providing no less than \$100,000 in funding support at the time of transfer of the property. The 25% goal will be based on the total projected number of new jobs by the General Contractor and subcontractors during the project duration.
- Developer will complete a plan within 120 days of execution of the DDA to achieve a 25% combined goal for local-business (LBE) and small-business (SBE) procurement of professional services and construction contracting, based on dollars spent during the construction phase. Developer will assist the General Contractor with developing a multilingual outreach program to promote participation to meet the good faith effort combined goal for LBE and SBE of 25% of professional services and contracting, based on dollars spent during the construction phase.
- Developer will use eco-friendly/water and energy conservation best practices, and achieve LEED Silver certification or the State Green Point Rating.
- At the time of transfer of the property, developer will fund the Lake Merritt Business Association's designated fiscal agent with at least \$25,000 for a study to create a Business Improvement District or Community Benefits District in the E. 18th St/Lower Park Blvd. commercial area.
- Developer will consider using a Union General Contractor at the Developer's sole discretion.
- At the time of transfer of the property, developer will fund at least \$75,000 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).

- At the time of transfer of the property, developer will fund at least \$25,000 in support of programs at Children's Fairyland.
- At the time of transfer of the property, developer will fund at least \$150,000 into escrow towards the construction of a skate board park on existing publicly-owned property in Council District 2, such as at San Antonio Park. If the remaining funds necessary for the development of the skate board park are not available at the time of transfer, the developer's funds will remain in escrow until all the skate board park funding is available. Should the skate board park project not go forward during the DDA period, the \$150,000 will be distributed to organizations that already are recipients of these community benefits, as decided by the District 2 Councilmember.
- Developer will provide at least 20 hours of pro bono affordable housing development consulting to the City of Oakland, Oakland Unified School District or a non-profit affordable housing developer planning a project within Oakland during the period of the DDA.
- At the time of transfer of the property, developer will provide at least \$25,000 to the Sierra Club Tree Team (San Francisco Bay Chapter) for the purchase of trees to be planted east of Lake Merritt in Council District 2, including around San Antonio Park.
- At the time of transfer of the property, developer will provide \$100,000 to the East Lake Merchants Association's designated fiscal agent for graffiti abatement and neighborhood beautification.
- During construction developer will provide adequate protections against noise and dust to minimize impacts on Dewey High School students.