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OAKLAND

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APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

ORDINANCE NO. 13642 C.M.S.

**ADOPT AN ORDINANCE (A) AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE (1) A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT WITH, JOINTLY, SATELLITE AFFORDABLE HOUSING ASSOCIATES, INC., AND NATIVE AMERICAN HEALTH CENTER, A CALIFORNIA NON PROFIT, AND/ OR AFFILIATED ENTITIES (EACH, A "DEVELOPER") FOR THE DEVELOPMENT OF AN AFFORDABLE HOUSING PROJECT AND HEALTH CENTER ("PROJECT") ON CITY-OWNED PROPERTY LOCATED AT 3050 INTERNATIONAL BOULEVARD ("PROPERTY"); AND (2) A LEASE OF A PORTION OF THE PROPERTY TO EACH DEVELOPER TO OPERATE AND MANAGE THE PROJECT, FOR UP TO 99 YEARS, INCLUDING EXTENSIONS, FOR A ONE-TIME PAYMENT EQUAL TO \$2,400,000, TO BE PAID PRO-RATA BY EACH DEVELOPER; AND (B) ADOPTING REQUISITE FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, pursuant to the authority granted in Resolution No. 2010-0015 C.M.S adopted on February 16, 2010, the former City of Oakland Redevelopment Agency (the "RDA") purchased 3050 International Boulevard Assessor Parcel Number ("APN") 025-0719-007-01 in conjunction with the Derby Parcel APN 025-0720-002-01, for a total of \$3,250,000, from Melrose Holdings to promote future housing and economic development opportunities in the community; and

**WHEREAS**, in January 2012, all redevelopment agencies in the State of California were dissolved, and pursuant to a series of State laws referred to as the Dissolution Laws, the Oakland Redevelopment Successor Agency ("ORSA") became the successor agency to the former RDA, and, pursuant to the Dissolution Laws, a Long-Range Property Management Plan was approved by the California Department of Finance in May 2014 and the Property was transferred to the City of Oakland (the "City"); and

**WHEREAS**, the City, Native American Health Center ("NAHC"), and Satellite Affordable Housing Associates, Inc. ("SAHA"), jointly as "Developers" entered into an Exclusive Negotiating Agreement ("ENA") with the City on March 20, 2018, as authorized by Resolution No. 87018 C.M.S., for the purpose of studying the feasibility of the development of 75 affordable residential units with 1 unrestricted manager's unit, 28 parking spaces and 14,000 square feet of commercial space intended as a community health center and cultural space at 3050 International Boulevard APN 025-0719-007-01 (the "Project"); and

**WHEREAS**, City staff and Developers have negotiated the proposed terms of a Lease Disposition and Development Agreement (“LDDA”) and Leases, as reflected in the Term Sheet, attached hereto as **Exhibit A** (“Term Sheet”), which sets forth the terms and conditions pursuant to which the City will enter the LDDA and Leases for Property; and,

**WHEREAS**, the Leases will be for initial terms of 66 years, and shall include up to three (3) options to extend such initial term in increments of eleven (11) years each, for a total of thirty-three (33) additional years, subject to payment by Developers of a minimum fee of \$25,000 and additional requirements of Project lenders and investors; and

**WHEREAS**, the ground rent for the Leases shall be the greater of the final appraised value of the Property or \$2,400,000, to be paid 85%/15% by SAHA and NAHC, respectively; and

**WHEREAS**, the original \$3,250,000 million in Coliseum taxable bond funds used for the original purchase of the property are restricted by bond covenants for redevelopment activities within the Coliseum Redevelopment Project Area, so the rent received from the Property will be restricted to the Coliseum Project Area and, subject to Council action as recommended herein, shall be accepted and appropriated in Entity (1), Coliseum Bond Series 2006B-T Taxable Fund (5656), Land Rental: Misc. Account (44219), CIP Coliseum (94859), Coliseum Program (SC12), and a Project to be determined later for appropriation; and

**WHEREAS**, California Government Code Section 52201 (“State Law”) requires that before any real property formerly owned by the RDA is sold or leased for economic development purposes, the sale or lease must first be approved by the legislative body (i.e., the City Council) by resolution after public hearing; and

**WHEREAS**, prior to adoption of this Ordinance, a public hearing of the City Council will be held to hear public comments of the proposed LDDA and Leases of the Property; and

**WHEREAS**, notice of the time and place of the public hearing was given by publication in a newspaper of general circulation in Alameda County at least once a week for at least two successive weeks prior to the public hearing; and

**WHEREAS**, as required by State Law, the City made a report available to the public for inspection, no later than the first date of publication of the notice for the hearing, that contains: (i) a copy of the proposed lease of the Project site and (ii) a summary of (a) the cost of the agreement to the City, (b) the estimated highest and best use value of the Project site permitted under the City general plan or zoning, (c) the estimated value of the Project site determined at the use with the conditions, covenants, and developments required by the proposed lease, the present value of the one-time lease payment required to be made at the time of closing, and (d) an explanation, with supporting facts and materials, of why the lease of the Project site and development of the Project conforms to the goals and priorities of the City Council as it relates to economic activity, growth, and opportunities; and

**WHEREAS**, the Oakland City Planning Commission approved the development permit Case File No. PLN19116 for mixed-use development/affordable housing at 3050 International Boulevard on September 9, 2019, which approval is final and no longer subject to appeal; and

**WHEREAS**, pursuant to Class 32 exemption, Sections 15332 and 15183 of the California Environmental Quality Act (CEQA) Guidelines, no additional environmental review is necessary for this Project as it is deemed infill development within an urbanized area; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council hereby approves the proposed terms, as more fully set forth in **Exhibit A** attached hereto and incorporated herein, of an LDDA, and upon satisfaction of the conditions precedent, the conveyance of two 66-year Leases for Property, including up to three (3) options to extend in increments of eleven (11) years each, for a total of thirty-three (33) additional years, subject to payment of a minimum fee of \$25,000 each and additional requirements of Project lenders and investors.

**SECTION 2.** The City Council hereby authorizes the City Administrator or designee to negotiate and execute the LDDA in a form consistent with **Exhibit A** and this Ordinance, with Developer for the Project.

**SECTION 3.** The City Council hereby authorizes the City Administrator or designee to negotiate the form of the Leases, in a form consistent with **Exhibit A** and this Ordinance, and to execute such Leases with Developer for the Project upon satisfaction of the conditions precedent set forth in the LDDA.

**SECTION 4.** The City Council hereby (a) finds and determines that the \$3,250,000 million bond funds used for the original purchase of the property are restricted by bond covenants for redevelopment activities with the Coliseum Redevelopment Project Area; (b) finds and determines that any payments for the Property will be restricted to the Coliseum Project Area; (c) hereby accepts and appropriates any funds received for the Property in Entity (1), Coliseum Bond Series 2006B-T Taxable Fund (5656), Land Rental: Misc. Account (44219), CIP Coliseum (94859), Coliseum Program (SC12), and a Project to be determined later for appropriation; and

**SECTION 5.** The City Council hereby finds and determines that the Lease Disposition and Development Agreement and corresponding long term Leases of the 3050 International Boulevard Property for the Project will assist in the creation of affordable housing and economic opportunity in the City by:

- creating 75 units of affordable housing and expanding new jobs, including approximately 330 construction jobs and 250 permanent jobs, which is at least one full-time equivalent permanent job for every \$9,600 in City investment; and
- increasing property tax revenue to all taxing entities by \$56,000 of total annual property tax when compared to the year prior to the City's acquisition of the Property; and
- Providing health care services and a cultural arts center to an underserved community.

**SECTION 6.** The City Council hereby further finds and determines that the consideration for the Leases of the Property is not less than its fair reuse value of and with the covenants and conditions and development costs authorized by the Leases, and that it is in the best interest of the City to lease the Property to the Developers at its fair reuse value given the need to redevelop the Property for the benefit of the community.

**SECTION 7** All agreements associated with the conveyance of the Property for the Project shall be reviewed and approved as to form and legality by the Office of the City Attorney prior to execution by the City, and shall be placed on file with the City Clerk.

**SECTION 8** The City Council hereby finds and determines, based upon its independent review and analysis, that (a) the actions herein authorized are subject to a Class 32 exemption as infill development within an urbanized area pursuant to CEQA Guidelines Sections 15332 and 15183 (b) there are no substantial changes proposed in the Project or the circumstances under which the Project is to be undertaken that would involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (c) there is no "new information of substantial importance," as defined in CEQA Guidelines Section 15162(a)(3).

**SECTION 9** The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

**SECTION 10** The City Council hereby authorizes the City Administrator or designees to (1) determine satisfaction of conditions precedent under the LDDA to the conveyance of the Leases, such determination to be conclusively evidenced by the execution and delivery by the City Administrator of the Leases and (2) take whatever action is necessary with respect to the Leases of the Property for the Project consistent with this Ordinance and its basic purposes.

**SECTION 11** This Ordinance shall be in full force and effect immediately upon final adoption, 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,

MAR 16 2021

**PASSED BY THE FOLLOWING VOTE:**

AYES – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT FORTUNATO

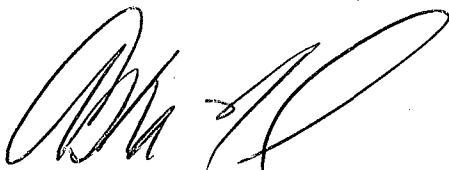
BAS - 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Recused - I Reid

ATTEST: 

ASHA REED

Acting City Clerk and Clerk of the Council of the City of Oakland, California

**Introduction Date**

**FEB 16 2021**

Date of Attestation: March 23, 2021

**ADOPT AN ORDINANCE (A) AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AND EXECUTE (1) A LEASE DISPOSITION AND DEVELOPMENT AGREEMENT WITH, JOINTLY, SATELLITE AFFORDABLE HOUSING ASSOCIATES, INC., AND NATIVE AMERICAN HEALTH CENTER, A CALIFORNIA NON PROFIT, AND/ OR AFFILIATED ENTITIES (EACH A, "DEVELOPER") FOR THE DEVELOPMENT OF AN AFFORDABLE HOUSING PROJECT AND HEALTH CENTER ("PROJECT") ON CITY-OWNED PROPERTY LOCATED AT 3050 INTERNATIONAL BOULEVARD ("PROPERTY"); AND (2) A LEASE OF A PORTION OF THE PROPERTY TO EACH DEVELOPER TO OPERATE AND MANAGE THE PROJECT, FOR UP TO 99 YEARS, INCLUDING EXTENSIONS, FOR A ONE-TIME PAYMENT EQUAL TO \$2,400,000, TO BE PAID PRO-RATA BY EACH DEVELOPER; AND (B) ADOPTING REQUISITE FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

#### **NOTICE AND DIGEST**

This Ordinance authorizes the lease disposition of the property at 3050 International Boulevard, between 31<sup>st</sup> Avenue, and Derby Avenue known as assessor's parcel number 025-0719-007-01 to Native American Health Center ("NAHC") and Satellite Affordable Housing Associates ("SAHA") for the development of 75 affordable residential units, 28 parking spaces, and approximately 14,000 square feet of non-profit/commercial space. This Ordinance authorizes the City Administrator or designee to sign the Lease Disposition and Development Agreement (LDDA) and long-term Leases with NAHC and SAHA and/or Affiliated Entities for this transaction, and makes associated findings with respect to the California Environmental Quality Act (CEQA) and other matters.

# Exhibit A

## LDDA AND LEASE TERM SHEET 3050 INTERNATIONAL BOULEVARD (APN #: 025-0719-007-01)

March 2021

Note, this term sheet shall serve as the basis for the negotiation of a detailed, final Lease Disposition and Development Agreement (“**LDDA**”), and Long Term Leases (“**the Leases**”), between the City of Oakland, a municipal corporation (the “**City**”), and Satellite Affordable Housing Associates, a California nonprofit public benefit corporation, or an affiliated entity in which SAHA has a controlling interest (“**SAHA**”), and Native American Health Center, Inc., a California nonprofit public benefit corporation, or an affiliated entity of which NAHC has a controlling interest (“**NAHC**”), for development of affordable housing units and a health center on the City-owned parcel located at 3050 International Boulevard, currently designated as Assessor’s Parcel Number (APN) 025-0719-007-01 (“**the Project**”). Upon execution of the LDDA, that certain Exclusive Negotiating Agreement, by and between the City and SAHA and NAHC, dated as of March 20, 2019, as may be amended from time to time (the “**ENA**”), shall be deemed terminated and of no further force or effect, except for those provisions expressly stated to survive termination or expiration. The terms hereof are not binding on the parties until SAHA, NAHC and the City, pursuant to City Council authorization, have executed a mutually acceptable LDDA for the proposed project. **The Final LDDA and Leases may include terms that differ from, or are in addition to, the terms set forth in this term sheet.**

LDDA TERMS		
1	<b>OWNER</b>	City
2	<b>DEVELOPERS</b>	SAHA and NAHC (collectively referred to herein as the “ <b>Developers</b> ”) shall jointly have the rights and obligations to develop the Project.
3	<b>PROPERTY</b>	Approximately .75 acre parcel owned by City located at 3050 International Boulevard, currently designated as Assessor’s Parcel Number 025-0719-007-01 (the “ <b>Property</b> ”).
4	<b>PROJECT DEVELOPMENT PLAN</b>	Developers will subdivide the Property to create two parcels – one to be developed into affordable housing, identified as Parcel 1 (the “ <b>Residential Parcel</b> ”), on that certain Tentative Parcel Map dated September 2019, prepared by LUK & Associates (the “ <b>Parcel Map</b> ”), and one to be developed into a health center and cultural space, identified as Parcel 2 (the “ <b>Health Center Parcel</b> ”) on the Parcel Map.

## Exhibit A

		<p>The Property will be developed in two Phases ("<b>Phase 1 &amp; 2</b>"). Prior to Phase 1, the Developers shall jointly obtain entitlements, financing and permitting for the Project.</p> <p>Upon satisfaction of the pre-conveyance conditions, Phase 1 of development will begin with the execution of both Leases. The first Lease for the Residential Parcel, which shall exclude, initially, the air space and, later, the improved space constituting the future Health Center ("<b>the Residential Lease</b>"), between SAHA or an affiliated entity and the City shall include certain obligations to construct the Project up to the core and shell of the building ("<b>Core and Shell</b>").</p> <p>The second Lease for the Health Center Parcel ("<b>the Health Center Lease</b>") will also be executed at closing between NAHC or an affiliated entity and the City. Initially, the Health Center Lease shall be for air space rights only and, upon completion of the Core and Shell by SAHA, shall automatically extend to the improved space constituting the center. The Health Center Lease shall include the following qualifications: (a) that the Lessee's rights to possession shall be conditioned upon the construction of the Core and Shell of the Health Center Parcel by SAHA; (b) the City has no liability for SAHA failing to construct, delaying in constructing and/or deficiently constructing the Core and Shell; (c) the City will have a right to terminate the Health Center Lease, without cause and in the City's sole discretion, if SAHA does not deliver the Core and Shell within a specified time period.</p> <p>The obligations to complete the Core and Shell shall run through the LDDA and the LDDA shall include standard requirements for construction financing, contracting and bonding. Any cost sharing agreement and access rights between the two Developers for the construction of the Core and Shell shall be addressed in a separate agreement between the two parties. Following</p>
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## Exhibit A

		<p>recording of the Leases, Developers shall record certificates of compliance.</p> <p>During Phase 2 of development, SAHA and NAHC, each, will have responsibility for the internal buildout of their respective parcel. NAHC will be financially responsible for the buildout of the internal tenant improvements for the Health Center Parcel. SAHA will be responsible for the buildout of the internal improvements of the Residential Parcel. Each parcel will have its own construction contract, construction plans, and surety bonds. Each parcel will have its own financing plan and financing documents and there will be no cross-collateralization between the parcels.</p> <p>Upon completion of Phase 1 and 2, each parcel will be issued its own certificate of occupancy (or its equivalent) and each will be operated separately for financial and legal purposes. After execution and delivery of the Leases and completion of Core and Shell by SAHA, the City agrees that any remedies for a default with respect to the Residential Parcel may only be enforced against SAHA or its affiliate and the Residential Parcel, and that any remedies for a default with respect to the Health Center Parcel may only be enforced against NAHC or its affiliate and the Health Center Parcel.</p>
5	<b>PROJECT DESCRIPTION</b>	<p>The “<i>Project</i>” shall consist of the proposed development and construction, as approved in Permit #PLN19116, of a five (5) story, Type 5A over 1A construction, mixed-use building consisting of two (2) separately owned air rights parcels previously approved in Permit #PLN19262, described as follows:</p> <ul style="list-style-type: none"> <li>a) The Residential Parcel shall consist of not less than seventy-six (76) rental units of multifamily housing, consisting of one (1) unrestricted manager’s unit, twenty-eight (28) one-bedroom units, twenty-eight (28) two-bedroom units and nineteen (19) three-bedroom units affordable to very low and low-income families with incomes between twenty percent (20%) and eighty-</li> </ul>



## Exhibit A

		<p>percent (80%) of Area Median Income, which shall be leased by the City to SAHA or an affiliate of SAHA; and</p> <p>b) The Health Center Parcel shall consist of approximately 14,000 square feet of commercial space on the ground floor intended for use as a health center and cultural space, which shall be leased by the City to NAHC or an affiliate of NAHC.</p>
6	<b>RIGHT OF ACCESS</b>	<p>The Developers have the responsibility, at their sole cost and expense, to conduct all due diligence, including environmental investigations. To allow Developers to conduct its due diligence, the City will grant Developers the right to enter the Property prior to the commencement of the term of the Leases to conduct investigation and testing, pursuant to right of access provisions that will be set forth in the LDDA; notwithstanding the foregoing, the Developers shall comply with Section 7 below in connection with any invasive environmental testing on the Property.</p>
7	<b>ENVIRONMENTAL INVESTIGATION</b>	<p>The Developers have the responsibility, at their sole cost and expense to engage their own environmental consultant to make environmental site assessments or investigations of the Property with respect to possible contamination by hazardous materials as the Developers deem necessary, including conducting any “Environmental Phase I” and/or “Environmental Phase II” investigations of the Property. Notwithstanding Section 6 above, Developer shall conduct any such environmental investigations as follows:</p> <ul style="list-style-type: none"> <li>a) Developers shall provide advance notice of any Phase I surveys or inspections of the Property.</li> <li>b) Developers may not conduct any Phase II investigations unless the City’s environmental specialist has reviewed and approved Developers’ proposed work plan.</li> <li>c) Developers shall promptly deliver to the City a copy of all reports and assessments provided by the Developer’s consultants and shall not provide</li> </ul>

## Exhibit A

		<p>to any governmental agency without the prior written consent of the City.</p> <p>d) The Developers shall, at its sole cost and expense, use its best efforts to cause its environmental consultants to agree that the City may rely on the contents of such reports and assessments through reliance letters.</p>
<p><b>8</b></p>	<p><b>LDDA TERM; SCHEDULE OF PERFORMANCE;</b></p>	<p>The term of this LDDA shall expire two years from the Effective Date of the LDDA with up to three (3) 1 year administrative extensions but no later than five (5) years from the date of execution ("<b><i>Term</i></b>").</p> <p>Developers shall satisfy all of the requirements set forth in the schedule of performance attached as Exhibit A ("<b><i>Schedule</i></b>") by not later than the dates specified. The City Administrator will have the authority to extend the dates of the Schedule; provided, however, that only the City Council, in its sole and absolute discretion, may extend the Outside Closing Date. Developers' failure to satisfy any of requirements within the Terms specified shall constitute a default under the LDDA.</p>
	<p>8.1 <u>Financial Plan.</u></p>	<p>No later than the date set forth in the Schedule, each of the Developers 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 "<b><i>Financial Plan:</i></b>"</p> <ul style="list-style-type: none"> <li>• A detailed cost breakdown of construction of the Project (the "<b><i>Project Development Budget</i></b>") containing an itemized construction budget for each phase of the Project (ie, Core and Shell, Residential Parcel, and Health Center Parcel), showing all construction related and non-construction related costs, including reasonable contingencies, and the funding sources of payment for each item.</li> <li>• A 30-year cash flow projection for the Residential Parcel.</li> <li>• A 20-year cash flow projection for the Health Center Parcel.</li> </ul>

## Exhibit A

		<ul style="list-style-type: none"> <li>• A copy of letters of commitment for construction financing and permanent financing from reputable institutional lenders, grant funding, equity contributions, tax credit allocations, and other financing from external sources (including proposed joint ventures and Partnerships) as necessary to finance development of the entire Project.</li> <li>• Certified financial statements or other financial statement in such form reasonably satisfactory to the City, evidencing other sources of capital, sufficient to demonstrate that the Developers have adequate funds available and is committing such funds to cover the difference, if any, between the Developers' costs of development and construction and the amount available to Developers from external financing sources.</li> <li>• Any other evidence reasonably requested by the City demonstrating the economic and financial feasibility of the Project.</li> </ul>
	<p><u>8.2 Financing and Financing Documents.</u></p>	<p><u>Financing.</u> Upon closing, the Developers shall be permitted to grant a security interest in their respective rights and beneficial interests under the LDDA and/or the Leases in favor of a single lender or a group of public and private, institutional lenders solely in connection with financing of each of the Residential Parcel and the Health Center Parcel. Any such financing shall be subordinate to the record priority of the City's Regulatory Agreement.</p> <p>The Schedule anticipates that SAHA will use its best efforts to obtain competitive or other affordable housing financing for from the Term of the Effective Date of the LDDA and for NAHC to procure either Tax Exempt Bond financing or New Markets Tax Credits.</p> <p><u>Financing Documents.</u> Not later than the date set forth on the Schedule, Developers shall have submitted to the City for its review, and obtained the City's approval of, a</p>

## Exhibit A

		<p>draft of the form of all material documents to be used for financing construction of each phase of the Project, including the improvements on the respective parcels constituting the Project pursuant to the approved Financial Plans (the “<i>Financing Documents</i>”).</p>
	<p>8.3 <u>Schematic Designs.</u></p>	<p>Developers have obtained land use approval for Project (Permit #PLN19116). Notwithstanding, the Developers shall obtain , by the date set forth in the Schedule, the City’s approval (in its proprietary capacity) of the Developers’ Schematic Design Plans for the Project. The term “<i>Schematic Design Plans</i>” 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>8.4 <u>Design Development Plans.</u></p>	<p>By no later than the deadline set forth in the Schedule, Developers shall have submitted to the City for its review, and obtained the City’s approval of (in its proprietary capacity), the Design Development Plans for construction of each phase of the Project. The term “<i>Design Development Plans</i>” 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>8.5 <u>Public Improvements.</u></p>	<p>The Project will include a number of Public Improvements, as required by conditions of approval, and any such Public Improvements will be subject to review and approval by the City in its proprietary capacity and by the appropriate City departments as part of standard review and permitting processes.</p> <p>For purposes of this subparagraph, the term “<i>Public Improvements</i>” shall include, without limitation, such matters and public and private improvements as: (1) any permanent closure or rerouting of any existing public streets or sidewalks; (2) any traffic signals that may need to be replaced or installed; (3) any street lights that may need to be replaced or installed; (4) any relocation of</p>

## Exhibit A

		<p>existing utilities and easements to the extent required under planning and building approvals for the Project; and (5) 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>8.6 <u>Final Construction Plans.</u></p>	<p>By no later than the date set forth in the Schedule, Developers shall have submitted to the City for its review, and obtained the City's approval of, the Final Construction Plans for construction of the Project. The term "<b><i>Final Construction Plans</i></b>" means all construction documentation upon which a Developers and Developers' 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 approved by the City and the City shall not disapprove of the Final Construction Plans so long as they meet this condition.</p>
	<p>8.7 <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 residential construction development or applicable building use, as determined by the City. The Developers and their design consultants shall work with City staff to develop appropriate 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</p>

## Exhibit A

		<p>the Design Development Plans and Final Construction Plans for the Project.</p>
	<p>8.8 <u>Construction Contracts.</u></p>	<p>Not later than the date set forth on the Schedule, Developers shall have submitted to the City for its review, and obtained the City's approval of, a draft of the form guaranteed maximum price (GMP) contract or contracts for the construction of each Phase of the Project including, without limitation, the buildout of the improvements to be constructed upon each parcel that (i) meet the employment and contracting obligations contained herein and (ii) contains language that requires that no material changes to the Project will be made without prior consent of the City (the "<b>Construction Contracts</b>"). The contractor(s) for the Project and the commercial tenant improvements to be constructed in each phase of the Project shall be licensed and reputable general building contractor(s), and in no event shall the Developers contract with any party which has been debarred or suspended by HUD under 24 CFR Part 24.</p> <p>The Developers shall also submit, prior to or together with the final Construction Contracts, a detailed cost breakdown budget for Project construction and development and a construction schedule.</p> <p>No later than the date set forth on the Schedule, Developers shall have submitted the final Construction Contracts to allow the City to determine that the Construction Contracts (i) meets the employment and contracting obligations contained herein and (ii) contains language that requires that no material changes to the Project will be made without the prior written consent of the City.</p>
	<p>8.9 <u>Reciprocal Easement.</u></p>	<p>The long term operation of the Residential Parcel and Health Center Parcel shall require reciprocal access and other rights to each other. To effectuate such rights, the Developers acknowledge and agree that the City may record a Reciprocal Easement Agreement (the "<b>Reciprocal Easement</b>") against the Property.</p> <p>The final Reciprocal Easement Agreement for the Project shall be recorded at Closing.</p>
	<p>8.10 <u>Governmental Approvals.</u></p>	<p>To the extent not already obtained, Developers shall apply for and obtain all permits, land use entitlements,</p>

## Exhibit A

		<p>subdivision map approvals, site plan (including, without limitation, certificates of compliance), plan approvals and other required governmental regulatory approvals allowing any subdivision of the Property, if so proposed, and construction and development of the Project to completion (together, the “<b>Governmental Approvals</b>”), no later than the deadline set forth in the Schedule. To the extent not already performed, Developers shall also complete environmental review pursuant to CEQA and NEPA (to the extent applicable), and incorporation of any mitigation measures identified in the environmental review process and required to be included in the plans for Project development and operations. The Developers shall give the City ten (10) days’ prior notice of any hearings regarding matters described in the LDDA, or if the Developers shall receive less notice, a reasonable amount of advance notice to enable the City to elect to attend such hearings.</p> <p>Developers acknowledge and agree that receipt of all Governmental Approvals necessary to commence construction of the Project is a precondition to disposition of the Property to the Developers.</p>
	<p><u>8.11 Review and Approval of Developer Submissions.</u></p>	<p>If any Developer submission that is timely submitted, and in its entirety, is reasonably satisfactory to the City (in its proprietary capacity), then within twenty (20) City business days of receipt by the City’s project manager (the “<b>City Response Date</b>”), 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, except for any subsequent Material Change in the contents of the Developer submission.</p> <p>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. City shall provide written notice of its approval or disapproval of any Developer submission (each, a “<b>City Notice</b>”), 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</p>

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		<p>portion thereof acceptable to City (in each case, "<b>City Conditions</b>"). If City fails to deliver the City Notice, then Developers 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, and in such event, the subject Developer submission shall be automatically deemed disapproved.</p>
<b>9</b>	<b>CLOSING CONDITIONS</b>	<p>Prior to the close of Escrow, Developers shall perform and/or deliver to the City the following:</p>
	9.1. <u>Final Construction Contracts.</u>	<p>Developers shall enter into the Construction Contracts for Phase 1 &amp; 2, and submit an executed copy to the City as evidence.</p>
	9.2. <u>Final Financing Documents.</u>	<p>Developers 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 the Property to the Developers.</p>
	9.3 <u>Performance and Payment Bonds.</u>	<p>Developers shall obtain a payment bond (the "<b>Payment Bond</b>"), and a performance bond (the "<b>Performance Bond</b>" and together with the Payment Bond, the "<b>Payment and Performance Bonds</b>"), each in the amount not less than 100% of the cost of construction of the Project pursuant to the Construction Contracts to be executed by the Developers.</p> <p>The Payment and Performance Bonds shall be issued by a licensed surety, shall name the City as a co-obligee or assignee, and shall be in a form reasonably satisfactory to the City.</p>
	9.4 <u>Completion Guaranty.</u>	<p>SAHA and NAHC (collectively, the "<b>Guarantor(s)</b>") shall provide City a Completion Guaranty pursuant to the LDDA and as a condition to closing on the respective Leases, in a reasonable form to be agreed upon by the Guarantor(s) and City and attached to the LDDA as an exhibit (the "<b>Form of Guaranty</b>"). The Guarantors shall</p>



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		guarantee completion of the Project in accordance with the terms of the LDDA.
	9.5 <u>Regulatory Agreement.</u>	The use and operation of the Property and the improvements developed thereon shall be restricted according to the terms of the respective Leases and the City's form of regulatory agreement (the " <b>Regulatory Agreement</b> "). SAHA shall enter into the Regulatory Agreement for the Residential Parcel at the close of Escrow, which shall contain income and rent restrictions for tenants for a term of not less than fifty-five (55) years from the date that fifty percent (50%) of the units have been first occupied.
	9.6 <u>Developers' Satisfaction of Requirements; City's Approval of Submittals.</u>	Developers shall have satisfied all requirements set forth in Sections 8 and 9 above within the deadlines applicable to each such requirement, as provided in the Schedule.
	9.7 <u>Property Management Contract.</u>	If applicable, Developers shall submit to the City for its review and reasonable approval the draft contract or contracts for the selected property management of the Project once developed (the " <b>Property Management Contract</b> ").
<b>10</b>	<b>DISPOSITION OF THE PROPERTY</b>	Developers will be required to satisfy all of the City's standard conditions of closing, as well as the following conditions of this Section 10 prior to the dates set forth on the Schedule, as conditions precedent to City's obligation to convey the leasehold interest in the Property to Developers through the Leases, unless any such condition is waived in writing by the City Administrator or his or her designee.
	10.1 <u>Escrow.</u>	Developers shall open escrow (" <b>Escrow</b> ") accounts, with the branch of Old Republic Title Company located at 555 12 <sup>th</sup> Street, Oakland, California, or another title company selected by Developers and approved by City (the " <b>Title Company</b> "), for the Closing no later than six (6) months prior to the Outside Closing Date identified in the Schedule.
	10.2 <u>City's Outside Legal Fees.</u>	Developers shall have paid City's outside legal fees, if applicable, pursuant to Section 19 below.

## Exhibit A

	<p>10.3 <u>No Default.</u></p>	<p>Developers shall not be in default under any provision of the LDDA, and there shall exist no condition, event or act which upon the giving of notice or the passage of time, or both, would constitute a material breach or default under the LDDA.</p>
	<p>10.4 <u>Execution, Delivery and Recordation of Documents.</u></p>	<p>Developers (or as applicable, their respective affiliated partnerships) shall have executed, acknowledged as applicable, and delivered to Escrow all documents required in connection with the transactions contemplated hereby, including, without limitation, the Regulatory Agreement, the Leases, memoranda of the Leases, and all documents pertaining to financing provided by the City, including, without limitation, loan agreements, promissory notes, and leasehold deeds of trust evidencing and securing the City's financing for the Project.</p>
	<p>10.5. <u>Lenders' Title Policies.</u></p>	<p>The Title Company shall, upon Developers' payment of the premium therefor, be ready to issue ALTA Lender's Policies of Title Insurance for the benefit and protection of City ("<i>Lender's Title Policies</i>"), in the amount of any financing City will provide for the Project, insuring that the City deeds of trust and the Regulatory Agreement are recorded subject only to title exceptions and such other defects, liens, conditions, encumbrances, restrictions, easements and exceptions as City may approve, and containing such endorsements as City may reasonably require.</p>
	<p>10.6 <u>Evidence of Availability of Funds.</u></p>	<p>All sources of construction financing for the Project shall have closed or shall close concurrently with the closing for the lease of the Property, and Developers shall have provided evidence satisfactory to City that (i) all conditions to the release and expenditure of the initial draw of funds from each source described in the approved Financial Plans as a source of construction financing for the Project have been met and that such funds will be available, and (ii) all construction financing (including draws subsequent to the initial draw of funds) will be available upon the satisfaction of the conditions set forth in the applicable documents.</p>

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<b>11</b>	<b>INDEMNIFICATION AND INSURANCE</b>	<p>The Leases will require that each Developer indemnify, defend, and hold the City and its elected and appointed officials, employees, officers, commissioners, directors, partners and agents (collectively, the “<i>Indemnified Parties</i>”), harmless from and against liability to the extent arising as a result of that Developer’s development, operation, and/or management of their respective 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 determined by a final non-appealable judgment of a court of competent jurisdiction to have arisen from the sole active negligence or willful misconduct of an Indemnified Party.</p> <p>Developers shall obtain and maintain insurance required under Schedule Q, attached as Exhibit B and incorporated herein.</p>
<b>12</b>	<b>CITY EMPLOYMENT &amp; CONTRACTING REQUIREMENTS</b>	<p>Tenants shall abide by all applicable City employment and contracting requirements, including, but not be 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 (“<i>First Source</i>”); Employment Nondiscrimination; and Reporting Requirements to the City of Oakland.</p>
<b>13</b>	<b>LEGAL REIMBURSEMENT</b>	<p>If applicable, Developers and Tenants shall deliver to City a payment equal to the lesser of (i) Fifty Thousand Dollars (\$50,000) or (ii) the amount necessary to reimburse City for reasonable attorneys’ fees incurred by City in negotiating and drafting the LDDA, the Leases and all exhibits thereto; provided, that reasonable documentation supporting the amount of attorneys’ fees incurred by City is provided to Developers. Such payment shall be made at construction loan closing. The payment made shall be immediately non-refundable to Developers and Tenants.</p>

## Exhibit A

LEASE TERMS		
<b>1</b>	<b>PARTIES</b>	<p>A. <u>Landlord</u>: City of Oakland, as the “<i>City</i>” or “<i>Landlord</i>.”</p> <p>B. <u>Tenants</u>: A partnership of which SAHA <u>or an affiliated entity in which SAHA has a controlling interest is the managing general partner</u> (the “<i>Residential Partnership</i>”) will be the tenant under the Lease for the Residential Parcel (as defined below); and NAHC or <u>or an affiliated entity of which NAHC has a controlling interest</u> will be the tenant under the Lease for the Health Center Parcel.</p>
<b>2</b>	<b>TERM</b>	The Leases shall have a term of sixty-six (66) years with three (3) eleven (11) -year extension options for a maximum term of ninety-nine (99) years. Each extension option shall incur a fee of not less than \$25,000 per extension.
<b>3</b>	<b>RESTRICTIONS ON FINANCING</b>	Tenants shall not place or suffer to be placed any lien or encumbrance on Landlord’s fee interest in connection with any permitted financing, but this prohibition shall exclude any lease rider required by the CA Tax Credit Allocation Committee (TCAC) or State of CA Housing and Community Development (HCD). Tenants agree and acknowledge that Landlord will not subordinate its interest in the Premises or the City Regulatory Agreement nor its right to receive Rent to any mortgagee of the respective Tenants.
<b>4</b>	<b>USE</b>	<p>The Residential Partnership shall use and operate the Residential Parcel in accordance with the LDDA during the development and construction of the Improvements, and the Lease prepared for the Residential Parcel during the operation, marketing for lease and leasing of the dwelling units of the Residential Parcel as affordable rental housing for families and such other uses as are reasonably and related to such use.</p> <p>The Health Center or the Health Center Entity shall use and operate the Health Center Parcel in accordance with the LDDA during the development and construction of the Improvements, and the Lease prepared for the Health Center Parcel during the operation of the Health Center Parcel.</p>

## Exhibit A

<p style="text-align: center;"><b>5</b></p>	<p style="text-align: center;"><b>RENT</b></p>	<p>Rent shall be structured as a lump sum payment for the Premises in an amount equal to the greater of (a) Two Million Four Hundred Thousand Dollars (\$2,400,000), or (b) the fair market value of the Property, as determined by a recent (no later than six months prior to the execution of the Leases) appraisal of the fee simple interest of the Property, considering the restricted use of the Premises (the "<b>Rent</b>").</p> <p>Tenants shall pay the rent upon execution of the Leases as follows: 1) the Residential Partnership shall pay 85% of the Rent for the Residential Parcel, and 2) the Health Center or the Health Center Entity shall pay 15% of the Rent for the Health Center Parcel.</p>
<p style="text-align: center;"><b>6</b></p>	<p style="text-align: center;"><b>TRANSFER OR ASSIGNMENT OF LEASES</b></p>	<p><b>A. Prior to Completion of the Improvements.</b> Prior to Project completion, the Developers shall not have the right to assign or transfer all or any portion of its rights and obligations under the LDDA, other than an assignment to, and assumption of, the LDDA by (i) limited partnerships ("<b>Partnership</b>"), of which each of the Developers (or their respective controlled affiliates) are the managing general partners, respectively, or (ii) a single purpose entity that will qualify as a "Qualified Active Low Income Community Business" created by NAHC to facilitate New Markets Tax Credits financing.</p> <p><b>B. After Project Completion.</b> All transfers shall require the consent of the City, in its reasonable discretion, which shall not be unreasonably withheld, conditioned or delayed. Approved transfers shall be (i) pursuant to an agreement, in recordable form that has been approved by the City, wherein the transferee shall assume the performance of the respective Tenant's obligations under the subject Lease to be assumed, and (ii) subject to the City's transfer and processing fees.</p>
<p style="text-align: center;"><b>7</b></p>	<p style="text-align: center;"><b>IMPOSITIONS; POSSESSORY INTEREST TAX</b></p>	<p>Tenants shall each pay any and all impositions, including, without limitation, possessory interest and property taxes assessed, levied or imposed on the respective parcels constituting the Premises or any of the Improvements or personal property located on the Premises.</p>

## Exhibit A

<b>8</b>	<b>OWNERSHIP OF IMPROVEMENTS; TAX BENEFITS DURING TERM</b>	During the Term, for federal income tax purposes, the Tenants shall be the “tax owners” of their respective interests in the Improvements and shall be entitled to all depreciation deductions and any tax credits with respect to their respective interest in the Improvements.
<b>9</b>	<b>WAIVER OF CONSEQUENTIAL DAMAGES</b>	Neither party shall be liable for and shall waive any claims against the other for any consequential damages incurred by the other Party and arising out of any defaults by the other Party.
<b>10</b>	<b>CONSTRUCTION OF THE PROJECT</b>	During the construction of Phase 1 and 2 of the Project, Developers shall perform and/or deliver to the City the following:
	10.1 <u>Commencement of Construction.</u>	The Developers shall commence construction work on the Project no later than the date set forth in the respective Schedules.
	10.2 <u>Construction Obligations.</u>	Construction of the Project shall be in accordance with the Final Construction Plans approved by the City and Governmental Approvals, without substantial deviation therefrom unless approved by the City in writing.
	10.3 <u>Disabled Access.</u>	The Developers 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 Developers and their respective contractors and subcontractors shall not use lead-based paint in the construction of the Project or maintenance of Residential Parcel or the Health Center Parcel. The Developers 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 Developers 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 Developers shall develop the Project in full conformance with applicable local, state, and federal statutes, regulations, and building and zoning codes.

## Exhibit A

	10.6 <u>Developer Fee.</u>	The amount and disbursement of the developer fee and other fees to any party for the Project shall conform to all applicable City and lender requirements, consistent with the Financial Plan approved by the City at closing.
11	<b>DEFAULT</b>	The Leases will include City's standard remedies including, without limitation, the right to terminate the transaction upon Developers' and Tenants' default, subject to standard notice and cure provisions permitting cure rights for Developers and Tenants and the Project lenders and investors.
12	<b>INDEMNIFICATION AND INSURANCE</b>	<p>The Leases will require that each Developer indemnify, defend, and hold the City and its elected and appointed officials, employees, officers, commissioners, directors, partners and agents (collectively, the "<i>Indemnified Parties</i>"), harmless from and against liability to the extent arising as a result of that Developer's development, operation, and/or management of their respective 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 determined by a final non-appealable judgment of a court of competent jurisdiction to have arisen from the sole active negligence or willful misconduct of an Indemnified Party.</p> <p>Developers shall obtain and maintain insurance required under Schedule Q, attached as Exhibit B and incorporated herein.</p>
13	<b>MAINTENANCE/ STANDARD OF PROPERTY</b>	Following Project completion, Tenants shall maintain the Property and the Project, at Tenants sole cost, in compliance with applicable law and in good condition and repair to the reasonable satisfaction of the City. The Tenants shall ensure that neither the Residential Parcel nor the Health Center Parcel violate the City's Blight Ordinance.

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14	<b>OFF-SITE IMPROVEMENTS</b>	Developers 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 Planning and Building Approvals for the Project.
15	<b>TRANSPORTATION IMPACT FEE AND CAPITAL IMPROVEMENT IMPACT FEE</b>	All permit and regulatory fees, including, but not limited to, the City's Transportation Impact Fee ("TIF"), Capital Improvement Impact Fee which applies to the Project pursuant to City Ordinance OMC Chapter 15.74, Transportation Impact Fees.
16	<b>CITY EMPLOYMENT &amp; CONTRACTING REQUIREMENTS</b>	Tenants shall abide by all applicable City employment and contracting requirements, including, but not be 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 (" <i>First Source</i> "); Employment Nondiscrimination; and Reporting Requirements to the City of Oakland.



**Exhibit A**

<b>LDDA Section Reference</b>	<b>Item</b>	<b>Deadline for Completion</b>
8.1	Developers to provide Preliminary Financial Plan, including <ul style="list-style-type: none"> <li>- Project Development Budget</li> <li>- 30-year Cash Flow Projection</li> <li>- Commitment Letters</li> <li>- Financial Statement</li> </ul>	September 2019 – Completed
8.2	Developers to provide Draft Financing Documents to City for review and approval.	February 2020 – Completed
8.3	Schematic Design Plans	September 2019 – Completed
8.2	Developers to provide financing commitments to City for review and approval.	September 2022
8.4	Developers to provide Design Development Plans to City for review and approval.	May 2022
8.5	Developers to provide plans for Project Improvements to City for review and approval.	July 2022
8.6	Developers to provide Final Construction Plans to City for review and approval.	November 2022
8.8	Developers to provide draft form of Construction Contracts to City for review and approval.	November 2022
8.8	Developers to provide Construction Cost Breakdown, Construction Schedule, and Draw Schedule to City for review and approval.	November 2022
9.2	Developers to provide final Construction Contracts to City for review and approval.	January 2023

9.2	Developers to obtain all Governmental Approvals required for the Project. Developer shall provide copies of all Final Financing Documents.	February 2023
10	<b>Outside Closing Date/</b> Execute the Leases	March 2023 (2 years from Effective Date of the LDDA), with up to three (3) 1-year administrative extensions , but no later than 5 years from Effective Date (March 2026)
<b>Lease Section Reference</b>	<b>Item</b>	<b>Deadline for Completion</b>
10	Commence Construction of Phase 1 Core and Shell	April 2023
10	Complete Construction of Phase 1 Core and Shell	March 2025
10	Commence Construction of Phase 2 Interior and Tenant Improvements	April 2025
10	Complete Construction of Phase 2 Interior and Tenant Improvements	March 2026
2	City issues Certificate of Completion under LDDA terms	April 2026