CITY OF OAKLAND

AGENDA REPORT

TO:	Jestin D. Johnson City Administrator	**FROM:**	Ashleigh Kanat Director, Economic and Workforce Development Department
SUBJECT:	Authorization for First Amendment to LDDA with Liberation Park Residences	**DATE:**	May 1, 2025

City Administrator Approval Jestin Johnson (May 1, 2025 19:42 PDT) Date: May 1, 2025

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance Authorizing The City Administrator To Negotiate And Execute An Amendment To The Lease Disposition and Development Agreement With Liberation Park Residences, L.P., For A Portion Of City-Owned Property Located At 73rd Avenue And Foothill Boulevard (Parcel 2), To Revise The Ground Lease Terms Of Rent Payment By Replacing The Provision Of A 55-Year Capitalized Loan In The Amount Of $1,505,004 At A 3% Interest Rate With An Annual Ground Rent Payment Of $90,331 Capped At $1,505,004, To Be Paid To The City During The 99-Year Ground Lease Term.

EXECUTIVE SUMMARY

The proposed ordinance would authorize the City Administrator to execute a First Amendment to the Lease and Disposition and Development Agreement ("LDDA") with Liberation Park Residences, L.P. ("Developer") for a portion of property ("Property") owned by the City of Oakland ("City") located at 73rd Avenue and Foothill Boulevard ("Parcel 2"). The Developer will construct 119 units of new affordable housing on Parcel 2, in a project known as the Residences at Liberation Park ("Residential Project").

The LDDA amendment would revise the rent structure by replacing a previously approved $1,505,004 capitalized residual receipts loan (financed over 55 years at 3% interest) with an annual ground rent payment of $90,331 over the 99-year lease term, with total rent payments capped at Parcel 2's fair market value of $1,505,004. Although the structure is different, the fair market value achieved is the same.

The proposed amendment will improve the competitiveness of the Residential Project's application for bond allocation from the California Debt Limit Allocation Committee ("CDLAC"), a critical source of affordable housing financing that the Developer is pursuing.

This amendment is not anticipated to have a negative fiscal impact on the City, nor does it impact or modify any other terms or conditions of the LDDA or the ground lease, as previously approved by the City Council in 2024 (Ordinance No.13784 C.M.S.). The proposed rent structure improves the likelihood of repayment by partially replacing payment via residual receipts—which carry a high risk of deferred or non-payment—with a fixed annual payment obligation that offers greater fiscal certainty.

BACKGROUND / LEGISLATIVE HISTORY

Property Description

The Property at 7101 Foothill Boulevard (Assessor's Parcel Number 039-3291-020) is located within the Eastmont neighborhood on the northwest corner of 73rd Avenue and Foothill Boulevard. The triangular lot is approximately 1.22 acres in area and abuts the Eastmont Town Center. In 2023, the City Planning Bureau approved a Tentative Parcel Map to subdivide the Property into two legal parcels, Parcel 1, comprising approximately 0.49 acres (21,158 square feet), and Parcel 2, comprising approximately 0.73 acres (32,003 square feet).

Legislative History

On July 21, 2020, the City Council declared the Property as surplus land in accordance with the Surplus Land Act (Resolution No. 88233 C.M.S.).

Following a competitive solicitation process, the City, pursuant to Resolution No. 88873 C.M.S, entered into an Exclusive Negotiation Agreement (ENA) with a local development team, including the Black Cultural Zone Community Development Corporation ("BCZ"), the Community Arts Stabilization Trust ("CAST"), and Charmaine Curtis ("Curtis") (collectively, the "Liberation Park Developer Team"). In July 2023, pursuant to an administrative First Amendment to the ENA, Eden Housing ("Eden") replaced Curtis as a member of the Liberation Park Developer Team.

The Liberation Park Developer Team will build the Liberation Park Mixed-Use Development on the Property, which consists of two components to be developed separately on Parcel 1 and Parcel 2: a Residential Project would be constructed on Parcel 2, and a commercial project, known as Liberation Park Market Hall, on Parcel 1.

On February 20, 2024, the City Council approved Ordinance No. 13784 C.M.S., authorizing the terms of an LDDA and ground lease with the Developer.

On March 18, 2024, the City executed an LDDA with the Developer, pursuant to Ordinance No. 13784 C.M.S., which includes the terms of the ground lease, whereby Parcel 2 will be leased to the Developer for 99 years, with a capitalized rent of $1,505,004, financed by the City with a 55-year residual receipts loan bearing 3% annual interest.

The Residential Project was also awarded $28 million in City funds through the 2024–2025 Notice of Funding Availability ("NOFA") for New Construction Affordable Housing Projects issued by the Housing and Community Development Department ("HCD").

Residential Project Overview

The Residential Project will include 119 units of new deeply affordable housing for households earning between 20% and 60% of the Area Median Income ("AMI"), with up to 30 units set aside for individuals and families experiencing homelessness. The development includes a mix of studios, one-, two-, and three-bedroom units, as well as on-site resident services, property management offices, and shared open space.

Request to Modify Ground Lease Rent Terms

In March 2025, the Developer formally submitted a request to City staff to revise the terms of the ground lease to remove the land acquisition cost associated with the City's leasehold interest in Parcel 2, citing its adverse impact on the project's application to CDLAC for bond allocation, an important source of financing for the project. More specifically, the existing rent obligation is structured as a capitalized residual receipts loan in the ground lease. Under CDLAC guidelines, this rent structure can be interpreted as part of a project's development costs ("Aggregate Basis"), which would require a higher amount of tax-exempt bond financing. In turn, this lowers the project's overall competitiveness for tax-exempt bond financing. Switching to an annual ground rent payment may avoid inflating the Residential Project's Aggregate Basis and, therefore, improve its competitiveness for the upcoming round of CDLAC bond allocations.

As a result of potential impacts to the project's financing timeline, the City Administrator will also authorize negotiated revisions to the Schedule of Performance (Exhibit C to the LDDA), as necessary, to accommodate the Residential Project's updated financing milestones.

ANALYSIS AND POLICY ALTERNATIVES

Proposed Annual Rent Structure

The proposed amendment would revise the terms of the ground lease by replacing the existing $1,505,004 capitalized rent—structured as a 55-year residual receipts loan at 3% interest—with an annual ground rent payment ("Annual Rent") totaling $90,331 per year. The appraised fair market rental value of $90,331 for Parcel 2 was derived by proportionally allocating the total appraised rental value of the Property ($150,000) based on Parcel 2's approximate share of the site's square footage (i.e., the square footage of Parcel 2 represents approximately 60% of the Project square footage).

This Annual Rent amount, subject to proposed rent payment terms, is described below:

- **Base Rent**: An annual payment of fifteen thousand dollars ($15,000) intended to offset the City's administrative and asset management costs associated with oversight of the ground lease. The Base Rent is payable annually and is not subject to deferral.

- **Residual Rent**: An annual amount of seventy-five thousand three hundred thirty-one dollars ($75,331), structured as a deferred rent component that accrues annually and is payable solely from project residual receipts. This Residual Rent is subordinate to all other lenders with residual receipt loans, consistent with the treatment of repayments of the previously authorized capitalized loan. While repayment of the Residual Rent is not expected during the 55-year affordable housing restriction period, this provision preserves the potential for additional rent payments to the City in the event the Residential Project generates positive cash flow.

- **Aggregate Rent Cap**: The total cumulative rent paid to the City over the term of the ground lease shall not exceed one million five hundred five thousand four dollars ($1,505,004).

Like the previously authorized Ground Rent Loan structure, the proposed Annual Rent structure reflects the fair reuse value of Parcel 2 in support of affordable housing development. The structure includes a deferred payment option for a portion of the rent and imposes a cap on total rent payments, thereby aligning with the project's financial feasibility goals.

Impact on Project Scoring for California Debt Limit Allocation Committee Funding

CDLAC uses a method to rank projects based on the cost-effectiveness of public investment in affordable housing. Projects with higher scores are more competitive for bond and Low-Income Housing Tax Credit allocations.

Based on the Developer's scoring from their submittal in Round 1 of CDLAC's 2025 funding cycle, the Residences at Liberation Park received a projected score of 97.978%. In the Bay Area's highly competitive funding environment, projects typically require a score of 110% or higher to be competitive.

According to the Developer, eliminating the $1.5 million capitalized rent is one of several proposed changes to the Project's Aggregate Basis designed to improve scoring. As shown in their updated preliminary development budget, the Project's total cost would be reduced from $136.9 million to $128.4 million through a combination of land cost removal and reductions to construction contingency, developer fee, and construction-related expenses. The associated bond request would also decrease from $69.9 million to $62.4 million.

Based on this updated budget, the Developer now projects a score of 110%, representing a 12-percentage point increase from the original 97.978%. This change would significantly enhance the project's competitiveness for the May 2025 CDLAC round.

As a result, the new rent structure proposed in this amendment also enhances the Project's ability to leverage previously awarded City NOFA funds and attract external sources of capital, ensuring the success of this critical affordable housing project that is designed to provide 118 units of affordable housing to households earning between 20% and 60% of the AMI, with plans to set aside up to 30 units specifically for homeless individuals and families.. For these reasons, the proposed amendment would advance the Citywide goal of housing, economic and cultural security.

<u>FISCAL IMPACT</u>

The proposed amendment is not anticipated to have a negative fiscal impact to the City. Over the long term, the City may realize comparable or potentially greater revenue under the revised structure, while removing a major cost barrier that could otherwise prevent the project from securing necessary bond and tax credit financing. While the revised rent structure eliminates the 3% interest earnings originally associated with the capitalized residual receipts loan, it improves the likelihood that the City will recover a portion of the Annual Rent of Parcel 2 over time.

Under the original LDDA entered into in 2024, the $1,505,004 capitalized rent was structured as a residual receipts loan that would be repaid only if the project generated sufficient surplus cash flow, and repayment was subordinate to senior lenders and other financing obligations. In practice, repayment of the capitalized loan would likely be deferred or uncollected for many years.

Under the new proposed Annual Rent structure, the City would instead receive a guaranteed annual Base Rent of $15,000 to support ongoing administrative and asset management costs. In addition, the City would retain the opportunity to collect Residual Rent of $75,331 per year, subject to the availability of project cash flow. The proposed Annual Rent structure remains consistent with the planned conveyance of Parcel 2 at its fair reuse value under the current Ground Rent Loan structure.

The Annual Rent payments for Parcel 2 will be accepted and deposited into City Entity (1), Central City East TA Bonds Series 2006A-T Fund (5643), CIP Central City East Organization (94899), Miscellaneous Land Rental Revenue Account (44219), 73rd and Foothill Development Land Sale Project (1003729), Central City East Program (SC18), the same Redevelopment Bond funds identified under the original LDDA ordinance.

PUBLIC OUTREACH / INTEREST

This proposed amendment to the LDDA pertains solely to the financial terms of the ground lease and does not alter the project's program, unit mix, affordability levels, design, or general implementation timeline, and will be discussed at public meetings of the City Council.

In addition, extensive public engagement has occurred throughout the broader project development process. During the ENA period, the Developer team conducted outreach to neighborhood associations and community stakeholders to inform the planning process. Additionally, the Liberation Park Residences project was presented to the public during regularly scheduled City Council meetings in both 2023 and 2024. These prior outreach efforts informed the project scope and reflected a broader community-informed development approach.

COORDINATION

The Economic and Workforce Development Department has coordinated this agenda item with the City Administrator's Office, the Office of the City Attorney, and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: Under the revised Ground Lease terms, the Residential Project will now contribute a guaranteed annual Base Rent of $15,000, with the potential for additional Residual Rent of

$75,331 per year from project cash flow. This structure creates a new revenue stream for the City, improving fiscal predictability and preserving long-term value from City-owned land. The Developer and Commercial Developer will continue to comply with the City's Local Business and Employment Programs, further supporting equitable economic development.

The Project is still expected to generate construction and ongoing property management jobs in Oakland. For the Residential Project, the Developer anticipates 2,730 person-weeks of work during construction, which translates to approximately 31 full-time employees equivalents over the life of the construction project. Once in operation, the Residential Project will support approximately 6 permanent on-site employees.

***Environmental**:* The Developers will continue to use good faith efforts to design and construct an environmentally sustainable project, meeting at a minimum the City's "Build It Green" commercial checklist. The Property is adjacent to AC Transit's Eastmont Transit Center and is well served by public transportation. As an infill development project in an urbanized area, the Project reduces pressure to build on undeveloped land and supports transit-oriented development, reducing greenhouse gas emissions by minimizing reliance on personal vehicles.

***Race & Equity**:* The City's Housing and Community Development Department's 2021–2023 Strategic Action Plan identified that Oakland's lowest-income households—especially Black renters—face the highest levels of rent burden and housing instability. Sixty percent of Black renter households are rent burdened, and nearly one-third are severely rent burdened. Furthermore, Black residents make up 68% of Oakland's unhoused population despite comprising just 23% of the overall population. The Residential Project will directly support the City's equity goals by providing 118 units of affordable housing to households earning between 20% and 60% of the AMI, with plans to set aside up to 30 units specifically for homeless individuals and families.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Project entitlements were processed subject to the streamlined, ministerial approval process for affordable housing developments under Government Code Section 65913.4, commonly referred to as an SB 35 project, and was, therefore, not subject to CEQA review. The negotiation and approval of leases for the development of the Project are also not subject to CEQA review pursuant to Government Code section 65913.4(k)(1) and Section 15268 (Ministerial Projects) of the State CEQA Guidelines.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt The Following Ordinance:

An Ordinance Authorizing The City Administrator To Negotiate And Execute An Amendment To The Ground Lease With Liberation Park Residences, L.P., For A Portion Of City-Owned Property Located At 73rd Avenue And Foothill Boulevard (Parcel 2), To Revise The Ground Lease Terms Of Rent Payment By Replacing The Provision Of A 55-Year Capitalized Loan In The Amount Of $1,505,004 At A 3% Interest Rate With An Annual

Ground Rent Payment Of $90,331 Capped At $1,505,004, To Be Paid To The City Over The Duration Of The 99-Year Ground Lease Term.

For questions regarding this report, please contact Brandon Wolinsky, Urban Economic Analyst IV, at 510-238-3250.

Respectfully submitted,

Ashleigh Kanat (May 1, 2025 11:41 PDT)

ASHLEIGH KANAT
Director, Economic & Workforce Development

Reviewed by:

Kelley Kahn, Assistant Director
Economic & Workforce Development

Jens Hillmer, Temporary Contract Service Employee
Public/Private Development
Economic & Workforce Development

Prepared by:

Brandon Wolinsky, Urban Economic Analyst IV
Public/Private Development
Economic & Workforce Development

Attachments (2):
Attachment A: Site Map
Attachment B: Revised Ground Lease Term Sheet