

ATTACHMENT C

**RESIDENTIAL GROUND LEASE TERM SHEET
73RD AVENUE AND FOOTHILL BOULEVARD (Parcel 2)
(Liberation Park Residences)**

January 23, 2024

This term sheet shall serve as the basis for the negotiation of a detailed, final form of Ground Lease (“**Ground Lease**”), to be entered into by and between the City of Oakland, a municipal corporation, and Liberation Park Residences, LP, a California limited partnership, an affiliate of the Black Cultural Zone Community Development Corporation, a California nonprofit public benefit corporation (“**BCZ**”) in partnership with Eden Housing, Inc., a California nonprofit public benefit corporation. City and Developer shall be referred to herein sometimes as the “**Parties**”, and each individually a “**Party**.” The terms hereof are not binding on the Parties until Tenant and City, pursuant to City Council authorization, have executed a mutually acceptable Ground Lease for the proposed project. The final Ground Lease may include terms that differ from, or are in addition to, the terms set forth in this term sheet.

1.	Parties	A. <u>Lessor</u> : City of Oakland, a municipal corporation, the “ City ” or “ Lessor ”. B. <u>Tenant</u> : Liberation Park Residences, LP, a California limited partnership (“ Tenant ”), an affiliate of the Black Cultural Zone Community Development Corporation (“ BCZ ”), a California nonprofit public benefit corporation in partnership with Eden Housing, Inc., a California nonprofit public benefit corporation.
2.	Premises	The City owns approximately 1.22 acres of property located at the corner of 73 rd Avenue and Foothill Boulevard, as more particularly described on <u>Exhibit A</u> attached hereto (the “ Property ”). NOTE: The Tentative Parcel Map to be recorded prior to close of escrow will create a new legal description, and Exhibit A will be substituted with the new description accordingly. A portion of the Property comprised of approximately 0.73 acres, is to be ground leased by Tenant, as more particularly described and depicted on <u>Exhibit B</u> attached hereto (“ Parcel 2 ”). The leasehold interest in Parcel 2 will constitute the “ Premises ”. The City may ground lease or sell the balance of the Property (“ Parcel 1 ”) to an affiliated developer (“ Parcel 1 Developer ”), for a commercial project.

<p>3.</p>	<p>Improvements</p>	<p>The “Project” is a free-standing building for residential use. The residential building will be a six-story over basement building that houses a total of one-hundred nineteen rental (119) units. Of the total units, one-hundred eighteen (118) will be 100% affordable and one (1) unit will be an unrestricted managerial unit. The residential building will comprise ten (10) studios, forty-four (44) one-bedroom units, thirty-three (33) two-bedroom units, and thirty-two (32) three-bedroom units. Seven (7) of the units, including four (4) one-bedroom units, three (3) two-bedroom units, are designed as home occupation units for which artists will be given a preference. One (1) additional three-bedroom unit is designed to accommodate a licensable family child care operator and a family child care operator will be given a preference. The restricted units will be affordable to households earning between 30% to 60% percent of the Area Median Income (“AMI”) for Alameda County of and constructed on the Premises in accordance with the Lease Disposition and Development Agreement (the “LDDA”).</p> <p>The Project may also include up to thirty-six (36) parking spaces, which may be shared with the commercial development that will be built on Parcel 1. The Project and any and all improvements, including horizontal improvements, thereafter located on Parcel 2 at any time during the Term are collectively referred to as the “Improvements”.</p>
<p>4.</p>	<p>Term</p>	<p><u>Term</u>. The Ground Lease shall have a term of ninety-nine (99) years (“Term”).</p>
<p>5.</p>	<p>Project Funding Sources</p>	<p>Tenant will obtain financing consistent with the Financial Plan required by the LDDA. Tenant will comply with all requirements of the funding sources for the Project.</p>
<p>6.</p>	<p>Restrictions on Financing</p>	<p>Tenant shall not place or suffer to be placed any lien or encumbrance on Lessor’s fee interest in connection with any permitted financing; provided, however, that City consents to record a regulatory agreement or use restriction in a form approved by the City on its fee interest in the event the State specifically requires such recordation as a condition of accepting State funding and to the extent such financing is approved by the City for the Project. Tenant agrees and acknowledges that Lessor will not subordinate its interest in the Premises nor its right to receive Rent to any mortgage of Tenant.</p>

<p>7.</p>	<p>Use</p>	<p>Tenant shall use and operate the Premises in accordance with the LDDA and all permits, land use entitlements, subdivision map approvals, plan and other required governmental regulatory approvals allowing any subdivision of the Property and construction and development of the Project to completion (together, the “Governmental Approvals”) for the construction and development of the Project, and the Ground Lease, the Governmental Approvals, the Regulatory Agreement (defined in Section 12) and the approved Parcel 2 Management Contract (as described in the LDDA) for the operation, marketing and leasing of the dwelling units of the Improvements as affordable rental housing for families and such other uses as are reasonably related to such use, as further detailed in the Ground Lease.</p> <p>The Property is also subject to a various deed restrictions related to food sales, automotive sales, entertainment uses (including but not limited to gambling, adult book stores, bars), school uses (excepting child care activities), warehouse uses, industrial uses, tattoo and massage parlors, as more particularly described in the following documents recorded in the Official Records of Alameda County: (1) Grant Deed recorded as Instrument No. 2008331603, and (2) Covenant Not To Compote recorded as Instrument 99272514, and is also subject to an easement for common areas, signs, and utilities as described in Instrument No. 99233481 (collectively, the “Restrictive Covenants”). The City is using commercially reasonable efforts to amend the Restrictive Covenants as they may relate to the proposed Project. Such amendment may include the recordation of a signage agreement as a condition of allowing certain food sales on the Property.</p> <p>For the duration of the Term, Tenant shall comply with (1) the Restrictive Covenants recorded on the Property, as may be amended by mutual agreement by the City, Developer, and the beneficiary of such Restrictive Covenants, and (2) the terms of a signage agreement to the extent applicable to food sales on Parcel 2.</p>
<p>8.</p>	<p>Rent</p>	<p>Parcel 2 has a fair market value (“FMV”) of \$1,505,004 pursuant to a current appraisal.</p> <p>The Premises will be leased to the Tenant by the Lessor for a one time up front capitalized ground rent payment in the amount of the \$1,505,004, to be paid through a loan from the City to the Tenant (“Ground Rent Loan”), which loan shall have a term of 55 years</p>

		<p>from permanent loan conversion and a simple interest rate of three percent (3%) and payable from annual residual receipt payments.</p> <p>Tenant shall pay any such payments to the City from the Parcel 2 Project’s residual receipts on a pro-rata basis with other public lenders providing financial assistance, in accordance with the provisions of Section 8314 of the Uniform Multifamily Regulations (Cal. Code Regs. Title 25, Division 1 Chapter 7, Subchapter 19) (the “Multifamily Regulations”).</p>
<p>9.</p>	<p>Transfer / Assignment</p>	<p>A. <u>Prior to Completion of the Project:</u> All transfers shall require the consent of the City, in its sole and absolute 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 transferee shall assume performance of Tenant’s obligations under the Ground Lease, and (ii) subject to reimbursement for City’s staff costs related to the transfer.</p> <p>B. <u>After Completion of the Project:</u> 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 transferee shall assume performance of Tenant’s obligations under the Ground Lease, and (ii) subject to reimbursement for City’s staff costs related to the transfer.</p> <p>C. <u>Affiliate Transfers.</u> Notwithstanding the foregoing, the following shall be a permitted transfer; provided, however, that such transfer shall be (i) pursuant to an agreement in recordable form that has been approved by the City, wherein transferee shall assume performance of Tenant’s obligations under the Ground Lease, and (ii) subject to reimbursement for City’s staff costs related to the transfer:</p> <p>(1) the assignment to, and assumption of, the Ground Lease by a limited partnership of which the Developer (or another entity affiliated with and wholly controlled by both BCZ and EDEN) is the managing general partner; and</p>

		(2) the admission of an investor limited partner to such limited partnership, and the subsequent transfer of such limited partner's partnership interests for the purpose of syndicating the low-income housing tax credits allocated to the Project.
10.	Impositions; Possessory Interest Tax	Tenant shall pay any and all impositions, including, without limitation, possessory interest and property taxes assessed, levied or imposed on the Premises or any of the Improvements or personal property located on the Premises.
11.	Ownership of Improvements; Tax Benefits During Term	During the Term Tenant shall own the Improvements, subject to subject to Lessor's rights and remedies in the event of a Tenant default, and shall be entitled to all depreciation deductions and any tax credits with respect to the Improvements.
12.	Regulatory Agreement	<p>Following completion of the Project, the use and operation of Parcel 2 and the improvements developed thereon shall be restricted according to the terms of the Ground Lease, the LDDA, and a regulatory agreement, 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 received a certificate of occupancy ("Regulatory Agreement"). The Regulatory Agreement must be recorded against the leasehold interest on the Property and in a priority position senior to the deeds of trust securing any loans.</p> <p>The use and operation of Parcel 2 will also be subject to restrictive covenants recorded on the Property related to food and automotive sales, and certain entertainment, school, and warehouse uses. Such restrictive covenants are not expected to impact the Project.</p>
13.	Waiver of Relocation	As a material inducement for City to enter into the Ground Lease, Tenant expressly waives and releases any and all relocation benefits under any applicable law or regulation and releases City from any obligation to provide relocation benefits.
14.	Default	The Ground Lease will include City's standard remedies, including, without limitation, the right to terminate the transaction upon Tenant's default, subject to standard notice and cure provisions permitting cure rights for Tenant, other project lenders and Tenant's investor.
15.	Tenant Maintenance /	Tenant shall maintain the Premises and the Improvements in compliance with applicable law and in good condition and repair

	Standard of Premises	to the reasonable satisfaction of the City. The Tenant shall ensure that the Premises and the Improvements do not violate the City’s Blight Ordinance.
16.	Indemnification	The Ground Lease will require Tenant to indemnify, defend, and hold the Lessor and its Councilmembers, other elected and appointed officials, and employees, officers, commissioners, directors, and agents (collectively, the “ Indemnified Parties ”) harmless from and against any liability directly or indirectly arising from or relating to Tenant’s development, operation, and/or management of the Premises and the Improvements, including, without limitation, liability arising as a result of property damage, personal injury, or violation of state, federal, or local laws, except to the extent that any of the matters described above is solely caused by an Indemnified Party’s gross negligence or willful misconduct.
17.	Waiver of Consequential Damages	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.
18.	City Employment & Contracting Requirements	Tenant shall abide by all applicable City employment and contracting requirements, including, but not limited to, the following: the provisions of City’s Local and Small Local Business Enterprise Program; Local Employment Program; Required Prevailing Wages; Living Wage Ordinance; the City of Oakland’s First Source Employment Referral Program; Employment Nondiscrimination; and Reporting Requirements of the City of Oakland.

EXHIBIT A

Property Legal Description

The land referred to is situated in the County of Alameda, City of Oakland, State of California, and is described as follows:

Parcel One:

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

Parcel Two:

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

APN: 039-3291-020

Exhibit B

Legal Description and Plat of Parcel 2

**PROPOSED AFFORDABLE HOUSING PARCEL
OAKLAND, CALIFORNIA**

PROPOSED PARCEL MAP