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OFFICE OF THE CITY CLERK
OAKLAND

2019 NOV -8 PM 4: 28

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Alexa Jeffress
Interim Director, EWD

SUBJECT: 12th Street Remainder -- Third DDA
Amendment

DATE: November 12, 2019

City Administrator Approval

Date:

11/8/19

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance To Authorize A Third Amendment To The Disposition And Development Agreement Between The City Of Oakland And LakeHouse Commons, LLC And LakeHouse Commons Affordable Housing, LP, To Expand The Construction Mitigation, Add Additional Community Benefits And Amend Other Terms.

EXECUTIVE SUMMARY

The City of Oakland (City) and LakeHouse Commons, LLC (Market Rate Developer), successor in interest to UrbanCore Development, LLC, (UrbanCore) and Lakehouse Commons Affordable Housing LP (the Affordable Housing Developer), an affiliate of East Bay Asian Local Development Corporation (EBALDC), are parties to a Disposition and Development Agreement (DDA) dated as of February 15, 2017 (as assigned and amended, the DDA). Staff seeks City Council authorization for a Third Amendment to this DDA.

The Project approved under the DDA consists of 360 mixed-income residential units, including 108 units (30 percent of total project units) at below-market rent, 90 of which will be affordable to very-low income households earning 30 percent to 50 percent of area median income (AMI), and 18 of which will be affordable to moderate-income households earning 80 to 120 percent of AMI (the Project).

On November 5, 2019, the City Council approved a proposed Second Amendment to the DDA in a first reading of the legislation. However, Council requested additional community benefits and more engagement with the Oakland Unified School District (OUSD), especially the neighboring community, to agree on a robust construction mitigation plan as part of a Third Amendment to the DDA, along with other terms, as more particularly described in ***Exhibit A - Supplemental Term Sheet – Third Amendment to DDA.***

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The second reading required for the final passage of the proposed Second Amendment, which, among other deal points, extends the Outside Date in the Schedule of Performance by nine months, from November 15, 2019 to August 15, 2020, is scheduled for a special meeting of the City Council on November 14, 2019. Council approval of the proposed Second Amendment, and the 9-month extension is needed prior to November 15, 2019 for the Developers to demonstrate site control, a requirement for both UrbanCore's pending \$130 million loan application to the U.S. Department of Housing and Urban Development (HUD), and for EBALDC's Low-Income Housing Tax Credit application due on November 15, 2019.

As a result of the urgency to keep the proposed Second Amendment on a tight approval schedule, the additional changes to the DDA are being proposed for Council consideration for inclusion in the proposed Third Amendment that will be heard on the same day as the second reading of the Ordinance authorizing the Second Amendment.

BACKGROUND/LEGISLATIVE HISTORY

On November 5, 2019, the City Council approved a proposed Second Amendment to the DDA in a first reading of the legislation, which, if approved at a second reading of the Ordinance on November 14, 2019, will extend the Outside Date in the Schedule of Performance by nine months, from November 15, 2019 to August 15, 2020, in exchange for Developer payments of extension fees and an additional deposit, as well as a reappraisal of the Property if building permits are not submitted by February 28, 2020. In addition, the option that had been granted by the First Amendment for the City to finance half of the Market Rate Developer's \$4.7 million purchase price was removed so that the Developer would pay the price in full at Close of Escrow. Lastly, the DDA's Project Labor Agreement (PLA) requirement was replaced with a condition that the construction contracts between the Developers and the selected General Contractors (GCs) include the requirement that all subcontractors working on the Project be 100 percent union.

ANALYSIS AND POLICY ALTERNATIVES

This proposed Third Amendment will address the City and community desire for more affordable housing, more community benefits, more community engagement, especially as it relates to Developer efforts to mitigate construction impacts on neighboring schools, and additional environmental sustainability measures. In addition, one 6-month administrative extension option will be added to allow the City Administrator, in her sole and absolute discretion, to grant the Developers more time for development if the City determines there are further delays beyond the Developer's control, as it relates to project funding and planning approvals. The monthly extension fee and additional deposit of \$15,000/ month each that was negotiated as part of the Second Amendment would continue to apply to this 6-month extension.

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Affordable Housing

In response to the strong desire from the community and City for affordable housing at deeper levels of affordability, EBALDC has agreed in this Third Amendment to make best efforts to target up to 20 percent of the affordable units in the midrise building to homeless households. In addition, in response to the desire for more affordable housing, 100 percent of the net land sales proceeds (which excludes \$300,000 previously designated for community benefits) in the amount of \$4.4 million will be deposited into the City's Affordable Housing Trust Fund. This amount could potentially fund an equivalent of up to 44 additional affordable units off-site at a presumed City subsidy rate of \$100,000 per unit.

To help ensure long-term affordability of the 18 moderate-income units in the market-rate tower, this Third Amendment will give the City or a qualified affordable housing provider (such as a nonprofit affordable housing developer or a Community Land Trust) the right of first refusal to purchase the 18 moderate-income units upon any future condo sale in the market-rate tower. This level of City control and participation is in addition to the 55-year Regulatory Agreement that already applies and governs these units' affordability levels.

Lastly, in response to community concerns about building integration and access, the proposed Third Amendment will reaffirm the existing DDA requirement that residents of the market-rate tower and the affordable midrise building will have shared access to the common spaces and amenities of the Project. Signage will be required throughout both buildings to make clear that all common area facilities in the market-rate tower are made available to the residents of the affordable midrise building.

Community Benefits Payment Contribution

UrbanCore has agreed to double their community benefits payment from \$300,000 to \$600,000. This payment will be made at close of escrow and will be designated as a geographic set-aside for a community benefits fund for District 2. A separate resolution will be brought back to City Council at a later date for designation and distribution of these funds.

Construction Mitigation Plan and Community Engagement

Language will be added to the DDA to ensure a more robust community engagement process in the development of a construction mitigation plan agreement between the Developers and OUSD that is already required by the DDA. Staff will return with an informational report to Council by August 31, 2020, to provide an update on the progress of this plan and the community engagement process.

Environmentally-Sensitive Building

The Third Amendment will require environmental building measures that were standards in the Public Lands Policy (Resolution No. 87483 C.M.S.) to apply to this Project. The Project will be required to include; a net increase in trees; use of low-VOC paints; measures to increase indoor air quality and reduce exposure to air pollution; and, if feasible, other on-site renewable energy infrastructure such as solar panels.

For further details on the proposed terms, please see ***Exhibit A - Supplemental Term Sheet – Third Amendment to DDA.***

FISCAL IMPACT

The sale of the Property will yield \$4.7 million in land sales proceeds, \$4.4 million of which will now be directed into the Affordable Housing Trust Fund, as a result of this Third Amendment. Resolution No. 87455 C.M.S. authorizes the City Administrator to appropriate the remaining \$300,000 of the land sale proceeds to fund a community benefits fund for the benefit of District 2.

If the Developer exercises the 6-month administrative extension option, a monthly extension fee of \$15,000/ month that was negotiated as part of the Second Amendment will continue to apply. Funds collected from the Developer will be accepted, deposited, and appropriated into the Miscellaneous Capital Project Fund (5999), Central District Redevelopment Organization (85245), 12th St Parcel Project (1003826), Downtown Redevelopment Program (SC13).

An additional \$300,000 payment will be collected from the Developer at close of escrow to fund a community benefits program for the benefit of District 2. The allocation and designation of these funds will be brought back to Council for approval at a later date.

PUBLIC OUTREACH / INTEREST

Developers conducted public outreach for this Project as required by the Bureau of Planning and the Exclusive Negotiation Agreement (ENA).

The Project was approved by Planning Commission on June 15, 2016. The planning approvals lapsed on June 22, 2019. On September 18, 2019, the Planning Commission unanimously reinstated the planning approvals.

Pursuant to Section 2.1.7.4 of the DDA, Developers are required to hold at least one community meeting regarding mitigation of the impact of Project construction on the neighboring community. Developers will also consult with OUSD to agree on a plan for the implementation

of mitigation measures that will address construction impacts on the District. A community meeting was held on the evening of October 2, 2019, at Dewey Academy. Since then, the Developers have continued to engage the site's neighboring community and respond to their concerns about future construction impacts.

COORDINATION

Staff coordinated with the Office of the City Attorney, the Council District 2 Office, and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed Project will transform vacant underutilized land into a high-density residential development that will provide much-needed housing units, a modest amount of neighborhood-serving retail, and further stimulus to the local economy. Development of the site will produce 729 construction jobs and a yet-to-be determined number of permanent jobs for staffing a café and property management. In addition to the land sale proceeds, the sale of the Property at \$8,000,000 will generate \$200,000 in City transfer taxes.

Environmental: The proposed Project is expected to maximize the potential use of the land with an environmentally-sensitive design, use of materials and operating standard. As a result of this Third Amendment, the Project will be required to include a net increase in trees, use of low-VOC paints, measures to increase indoor air quality and reduce exposure to air pollution; and if feasible other on-site renewable energy infrastructure, such as solar panels. The proposed high-density development near a regional transportation hub will likely encourage residents and café patrons to use BART and AC Transit and reduce automobile reliance, which will decrease the use of fossil fuels and resulting greenhouse gas emissions. The Market Rate Developer will fund the cost to design, construct and provide ongoing maintenance for the adjacent open space parcel owned by the City.

Social Equity: The Project will provide 30 percent of the units at an affordable rent to very low- and moderate-income households and comply with the City's local business and employment participation requirements for construction.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

On a separate and independent basis, the anticipated environmental effects of the Project have been adequately evaluated by the Lake Merritt Station Area Plan Final Environmental Impact Report (Final EIR) certified November 2014; the Project is consistent with a Community Plan, General Plan or Zoning under Section 15183 of the State CEQA Guidelines (Projects consistent

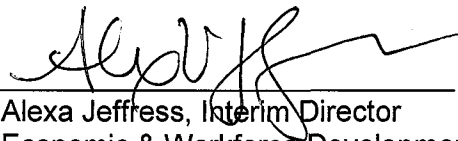
with a Community Plan, General Plan or Zoning); and the Project complies with Section 15183.3 of the State CEQA Guidelines (Streamlining for Infill Projects); further, the Project is Categorically Exempt under Section 15332 of the State CEQA Guidelines (In-Fill Development Projects).

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt An Ordinance To Authorize A Third Amendment To The Disposition And Development Agreement Between The City Of Oakland And LakeHouse Commons, LLC And LakeHouse Commons Affordable Housing, LP, To Expand The Construction Mitigation, Add Additional Community Benefits And Amend Other Terms.

For questions regarding this report, please contact Hui-Chang Li at (510) 238-6239.

Respectfully submitted,



Alexa Jeffress, Interim Director
Economic & Workforce Development Department

Reviewed by:
Jens Hillmer, Redevelopment Area Manager
Public/Private Development Division

Prepared by:
Hui-Chang Li, Urban Economic Analyst IV
Public/Private Development Division

Attachments (1):
Exhibit A - Supplemental Term Sheet – Third Amendment to DDA.

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ATTACHMENT

EXHIBIT A

Supplemental Term Sheet – Third Amendment to DDA

12TH Street Remainder

Dated: November 8, 2019

Terms to be added to or amended in the DDA		
1	COMMUNITY BENEFITS PAYMENT	At the Close of Escrow, Market Rate Developer shall make a \$300,000 payment to the City of Oakland to fund a community benefits program for the benefit of District 2. The allocation and designation of these funds will be brought back to Council for approval at a later date
2	ADMINISTRATIVE EXTENSION OPTION	<p>One 6-month administrative extension option will be added to allow the City Administrator, in her sole and absolute discretion, to grant the Developers more time for development in case the City determines there are further delays beyond the Developer's control, as it relates to project funding and planning approvals.</p> <p>An extension fee of \$15,000 per month and an additional deposit of \$15,000 per month for each additional month will apply.</p>
3	AFFORDABLE HOUSING	<ol style="list-style-type: none">1. The Affordable Developer will make best efforts to target up to 20% of the Affordable Midrise Building to the homeless (making under 30% of Area Median Income).2. The original levels of affordability in the Affordable Midrise Building shall be maintained or deepened but the unit mix may be amended administratively to be consistent with Planning Approvals.3. 100% of the net land sales proceeds will be deposited into the Affordable Housing Trust Fund.4. The definition of "Affordable Housing Development" (Section 1.1.3) may be amended administratively to be consistent with Planning Approvals.5. The interest rate for the City's Purchase Note may be amended administratively to be at a higher interest

		rate (up to 3%), more favorable to the City, for tax purposes. (Section 3.1.3)
4	SHARED ACCESS TO BUILDING COMMON SPACES	<p><i>Attachment AA – LakeHouse Commons Allocation of NonResidential Spaces</i> to the DDA may be amended administratively to be consistent with Planning Approvals.</p> <p>Signage throughout both buildings will make clear that all common area amenities in the Market Rate Building are available to the residents of the Affordable Building.</p>
5	FIRST RIGHT OF REFUSAL ON ANY FUTURE SALE OF 18 MODERATE-INCOME INCOME UNITS IN MARKET RATE TOWER	Upon any future condo sale of the Market Rate Building, the City or a qualified affordable housing provider (such as a nonprofit affordable housing developer or a Community Land Trust) shall have first right of refusal to purchase the 18 BMR units in the Market Rate Building.
6	ENVIRONMENTAL CONDITIONS	<p>The following environmental conditions from the “Public Lands Policy” shall apply to the Project.</p> <ol style="list-style-type: none"> 1. Public Information: The City of Oakland shall share information with the public regarding past soil testing and remediation and the existing requirements for truck routes surrounding public land parcels to those living in the surrounding area as a part of the community engagement process; 2. Trees: Projects must incorporate and maintain trees on the site and adjacent street frontage (as specified by Oakland Municipal Code Chapter 17.124); there must be a net tree increase, so that trees that are cut must be replaced; there must be community engagement for the relocation or replanting of trees; 3. Renewable Energy: Project selection must consider on-site renewable energy infrastructure such as solar, wind, geothermal, or biomass with production capacity of at least 5% of the project's annual electrical and thermal energy cost; 4. Solar: Projects must maximize opportunities for solar panel installation, including, but not limited to, applying for AB 693 funds for solar panels on affordable housing or other grant or subsidy programs when available; 5. Low-VOC Paints: Projects must use low-VOC paints

		<p>6. Indoor Air Quality: Projects must install air filtration systems, as economically feasible specifically for affordable housing developments; Projects must incorporate measures to improve indoor air quality and reduce exposure to air pollution in new development projects, as required in Standard Conditions of Approval (SCA) 20 and 21</p>
7	<p>SITE MITIGATION PLAN FOR CONSTRUCTION IMPACTS</p>	<p>1. Section 2.1.7.4 of the DDA shall be amended to be substantially be in conformity with the additional conditions as described in <i>ATTACHMENT 1</i></p> <p>2. Staff shall return with an informational report to City Council on the Site Mitigation Plan by August 31, 2020, that includes:</p> <ul style="list-style-type: none"> a) Input after meeting with the school communities of Dewey Academy (located at 1111 2nd Avenue), Met West High School (located at 314 East 10th Street), La Escuelita TK-8 (located at 1050 2nd Avenue), and United Nation Childhood Development Center (located at 1025 4th Avenue), and b) A schedule of construction activities, air quality and diesel particulate matter impacts, dust control measures, sound mitigations, construction traffic and noise controls, and c) Reimbursement to the School District for reasonable costs associated with analyzing the impacts of construction on high needs schools, and other measures to safeguard school staff, students, and property.

ATTACHMENT 1

Section 2.1.7.4 of the DDA (Consultation with Oakland Unified School District on Site Mitigation Plan for construction impacts) shall be amended to substantially include following:

- a) Developers are required to hold at least four (4) community meetings regarding mitigation of the impact of Project construction on the neighboring four (4) school communities. Community meetings shall be scheduled and advertised in collaboration with District leadership and offer an opportunity for input from and communication with the four (4) impacted school communities.
- b) “Neighboring community” shall be defined, at a minimum, as the students, families, staff, and the school communities of Dewey Academy (located at 1111 2nd Avenue), Met West High School (located at 314 East 10th Street), La Escuelita TK-8 (located at 1050 2nd Avenue), and United Nation Childhood Development Center (located at 1025 4th Avenue).
- c) Developers are required to consult with the District to agree on a written plan (“Site Mitigation Plan”) for the implementation of mitigation measures that will address construction impacts on the four (4) impacted District school sites. The Site Mitigation Plan will be an exhibit in the District Licensing Agreement, and shall be brought back to City Council upon execution by the Developer and the District no later than August 31, 2020.

As part of this process, the Developer has agreed to pay for third-party consultants, on behalf of the District, to evaluate the design and construction management processes and provide recommendations that will serve to inform the Site Mitigation Plan. The terms of the written Site Mitigation Plan shall serve as the overriding guide for consideration of, but not limited to, the following:

- i. Scheduling and timing of the most potentially intrusive or dangerous construction activities to correspond to school breaks and non-instructional days (e.g. when schools are not in session for winter break, spring break, winter break, etc.) as identified by the District calendar.
- ii. Limitations on high impact construction activities such as pile driving or tasks requiring significant usage of impact tools, to non-instructional hours.
- iii. Utilization of electric construction equipment, when operationally feasible, to minimize diesel particulate matter impacts on the four (4) impacted school sites.
- iv. Dust control measures for sensitive receptors within proximity of the Project. Placement of a sound barrier between the Project and Dewey Academy, if deemed necessary upon completion of the Noise Analysis to be conducted by a consultant approved by OUSD as included in the License Agreement between the Developers and OUSD.
- v. Construction traffic/noise controls, examples include but not limited to such, prohibiting construction traffic on 2nd Avenue and prohibiting construction

employee parking on 2nd Avenue. Meaningful consideration and analysis of whether closure to through traffic on 2nd Avenue is appropriate.

- vi. Reimbursement to the District for its reasonable costs and fees associated with analyzing the impact of the Project on District schools.
- vii. Such other measures and actions needed to safeguard District property, staff, and students.

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DRAFT

Deputy City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

AN ORDINANCE TO AUTHORIZE A THIRD AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND AND LAKEHOUSE COMMONS, LLC AND LAKEHOUSE COMMONS AFFORDABLE HOUSING, LP, TO EXPAND THE CONSTRUCTION MITIGATION, ADD ADDITIONAL COMMUNITY BENEFITS AND AMEND OTHER TERMS

WHEREAS, the City of Oakland ("City") owns approximately 0.92 acres of vacant property (Assessor Parcel Number 19-27-14), commonly known as the 12th Street Remainder Parcel, bounded by East 12th Street on the east, Second Avenue and property owned by the Oakland Unified School District on the south, newly created open space to the west, and Lake Merritt Boulevard to the north (the "Property"); and

WHEREAS, the City and LakeHouse Commons, LLC ("Market Rate Developer"), successor in interest to UrbanCore Development, LLC, and Lakehouse Commons Affordable Housing LP (the "Affordable Housing Developer"), an affiliate of East Bay Asian Local Development Corporation, are parties to a Disposition and Development Agreement dated as of February 15, 2017 (as assigned and amended, the "DDA"); and

WHEREAS, the Project described in the DDA is commonly known as "LakeHouse Commons" and will consist of affordable and market-rate residential units in two buildings sharing a common entrance and garage; and

WHEREAS, on November 14, 2019, the City Council adopted Ordinance No. _____ C.M.S. (the "Second Amendment Ordinance") to authorize a second amendment to the DDA (the "Second Amendment") to, among other things, further extend the Outside Date and related outstanding performance deadlines; and

WHEREAS, Market Rate Developer and the Affordable Housing Developer are now seeking amendments to the DDA as hereinafter set forth (collectively, the "Third Amendment"); and

WHEREAS, Section 12.22 of the DDA provides that an amendment to the DDA must be in writing, approved as to form and legality by the City Attorney of Oakland, and must be executed by the parties thereto; and

WHEREAS, the City Council desires to authorize the Third Amendment to the DDA by adoption of this Ordinance; and

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

SECTION 1. The City Council hereby authorizes the City Administrator to execute the Third Amendment to the DDA to: incorporate additional community benefits, environmental conditions, construction mitigation measures, redirect the land sales proceeds to the Affordable Housing Trust Fund, and amend other terms listed on Exhibit A attached hereto, together with Attachment 1 attached thereto (collectively, the "Term Sheet").

SECTION 2. The City Council authorizes the City Administrator or his/her designee to accept a \$300,000 payment from the Market Rate Developer to be appropriated for a community benefits program for the benefit of District 2 (to be established) as described in the Term Sheet (Item 1, Exhibit A).

SECTION 3. The City Council hereby authorizes the City Administrator to extend the Outside Date of the DDA up to 6 months ("Extension Option"), and all related outstanding performance deadlines in exchange for the continued payment of the Additional Deposit and the nonrefundable, non-applicable Extension Fee, each in the amount of \$15,000 per month, authorized by Second Amendment Ordinance during the period of such 6-month period (the "Outside Date Extension").

SECTION 4: The City Council authorizes the City Administrator to accept, deposit and appropriate Extension Fees paid during the Outside Date Extension in the amount of \$15,000 per month, into the Miscellaneous Capital Project Fund (5999), Central District Redevelopment Organization (85245), 12th St Parcel Project (1003826), Downtown Redevelopment Program (SC13).

SECTION 5: The City Council authorizes the City Administrator to accept, deposit and appropriate Additional Deposit made during the Outside Date Extension in the amount of \$15,000 per month (to be applied towards the purchase price or retained by City as liquidated damages in accordance with Section 3.1.4 of the DDA) into the Miscellaneous Capital Project Fund (5999), Central District Redevelopment Organization (85245), 12th St Parcel Project (1003826), Downtown Redevelopment Program (SC13).

SECTION 6: The City Council authorizes the City Administrator or his/her designee to deposit net land sales proceeds in the amount of \$4.4 million into the Affordable Housing Trust Fund (1870), Housing Development Organization (89929), for a project(s) to be determined for housing development activities.

SECTION 7: The City Council hereby finds and determines, on a separate and independent basis, that the anticipated environmental effects of the Project have been adequately evaluated by the Lake Merritt Station Area Plan Final Environmental Impact Report (Final EIR) (certified November 2014); the Project is consistent with a Community Plan, General Plan or Zoning under Section 15183 of the State CEQA Guidelines (Projects consistent with a Community Plan, General Plan or Zoning); and the Project complies with Section 15183.3 of the State CEQA Guidelines (Streamlining for Infill Projects); further, the Project is Categorically Exempt under Section 15332 of the State CEQA Guidelines (In-Fill Development Projects).

SECTION 8: The City Administrator or his or her designee is further authorized to negotiate and enter into other agreements and take whatever action is necessary consistent with this Ordinance and its basic purposes.

SECTION 9: This 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, _____, 2019

PASSED BY THE FOLLOWING VOTE:

AYES – BAS, GALLO, GIBSON McELHANEY, KALB, REID, TAYLOR, THAO and PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

AN ORDINANCE TO AUTHORIZE A THIRD AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND AND LAKEHOUSE COMMONS, LLC AND LAKEHOUSE COMMONS AFFORDABLE HOUSING, LP, TO EXPAND THE CONSTRUCTION MITIGATION, ADD ADDITIONAL COMMUNITY BENEFITS AND AMEND OTHER TERMS

NOTICE AND DIGEST

An Ordinance to authorize a Third Amendment to the Disposition and Development Agreement between the City Of Oakland and LakeHouse Commons, LLC and LakeHouse Commons Affordable Housing, LP to expand the construction mitigation, add additional community benefits and amend other terms, including (1) authorizing the City Administrator to extend the Outside Date up to six (6) months in exchange for the continued monthly payment of extension fees in the amount of \$15,000, (2) acceptance of a \$300,000 payment from the Market Rate Developer for a community benefits program for the benefit of District 2, and (3) redirecting net land sales proceeds of \$4.4 million to the Affordable Housing Trust Fund.

EXHIBIT A

Supplemental Term Sheet – Third Amendment to DDA

12TH Street Remainder

Dated: November 8, 2019

Terms to be added to or amended in the DDA		
1	COMMUNITY BENEFITS PAYMENT	At the Close of Escrow, Market Rate Developer shall make a \$300,000 payment to the City of Oakland to fund a community benefits program for the benefit of District 2. The allocation and designation of these funds will be brought back to Council for approval at a later date
2	ADMINSTRATIVE EXTENSION OPTION	<p>One 6-month administrative extension option will be added to allow the City Administrator, in her sole and absolute discretion, to grant the Developers more time for development in case the City determines there are further delays beyond the Developer’s control, as it relates to project funding and planning approvals.</p> <p>An extension fee of \$15,000 per month and an additional deposit of \$15,000 per month for each additional month will apply.</p>
3	AFFORDABLE HOUSING	<ol style="list-style-type: none">1. The Affordable Developer will make best efforts to target up to 20% of the Affordable Midrise Building to the homeless (making under 30% of Area Median Income).2. The original levels of affordability in the Affordable Midrise Building shall be maintained or deepened but the unit mix may be amended administratively to be consistent with Planning Approvals.3. 100% of the net land sales proceeds will be deposited into the Affordable Housing Trust Fund.4. The definition of “Affordable Housing Development” (Section 1.1.3) may be amended administratively to be consistent with Planning Approvals.5. The interest rate for the City’s Purchase Note may be amended administratively to be at a higher interest

		rate (up to 3%), more favorable to the City, for tax purposes. (Section 3.1.3)
4	SHARED ACCESS TO BUILDING COMMON SPACES	<p><i>Attachment AA – LakeHouse Commons Allocation of NonResidential Spaces</i> to the DDA may be amended administratively to be consistent with Planning Approvals.</p> <p>Signage throughout both buildings will make clear that all common area amenities in the Market Rate Building are available to the residents of the Affordable Building.</p>
5	FIRST RIGHT OF REFUSAL ON ANY FUTURE SALE OF 18 MODERATE-INCOME INCOME UNITS IN MARKET RATE TOWER	Upon any future condo sale of the Market Rate Building, the City or a qualified affordable housing provider (such as a nonprofit affordable housing developer or a Community Land Trust) shall have first right of refusal to purchase the 18 BMR units in the Market Rate Building.
6	ENVIRONMENTAL CONDITIONS	<p>The following environmental conditions from the “Public Lands Policy” shall apply to the Project.</p> <ol style="list-style-type: none"> 1. Public Information: The City of Oakland shall share information with the public regarding past soil testing and remediation and the existing requirements for truck routes surrounding public land parcels to those living in the surrounding area as a part of the community engagement process; 2. Trees: Projects must incorporate and maintain trees on the site and adjacent street frontage (as specified by Oakland Municipal Code Chapter 17.124); there must be a net tree increase, so that trees that are cut must be replaced; there must be community engagement for the relocation or replanting of trees; 3. Renewable Energy: Project selection must consider on-site renewable energy infrastructure such as solar, wind, geothermal, or biomass with production capacity of at least 5% of the project's annual electrical and thermal energy cost; 4. Solar: Projects must maximize opportunities for solar panel installation, including, but not limited to, applying for AB 693 funds for solar panels on affordable housing or other grant or subsidy programs when available; 5. Low-VOC Paints: Projects must use low-VOC paints

		<p>6. Indoor Air Quality: Projects must install air filtration systems, as economically feasible specifically for affordable housing developments; Projects must incorporate measures to improve indoor air quality and reduce exposure to air pollution in new development projects, as required in Standard Conditions of Approval (SCA) 20 and 21</p>
7	<p>SITE MITIGATION PLAN FOR CONSTRUCTION IMPACTS</p>	<ol style="list-style-type: none"> 1. Section 2.1.7.4 of the DDA shall be amended to be substantially be in conformity with the additional conditions as described in <i>ATTACHMENT 1</i> 2. Staff shall return with an informational report to City Council on the Site Mitigation Plan by August 31, 2020, that includes: <ol style="list-style-type: none"> a) Input after meeting with the school communities of Dewey Academy (located at 1111 2nd Avenue), Met West High School (located at 314 East 10th Street), La Escuelita TK-8 (located at 1050 2nd Avenue), and United Nation Childhood Development Center (located at 1025 4th Avenue), and b) A schedule of construction activities, air quality and diesel particulate matter impacts, dust control measures, sound mitigations, construction traffic and noise controls, and c) Reimbursement to the School District for reasonable costs associated with analyzing the impacts of construction on high needs schools, and other measures to safeguard school staff, students, and property.

ATTACHMENT 1

Section 2.1.7.4 of the DDA (Consultation with Oakland Unified School District on Site Mitigation Plan for construction impacts) shall be amended to substantially include following:

- a) Developers are required to hold at least four (4) community meetings regarding mitigation of the impact of Project construction on the neighboring four (4) school communities. Community meetings shall be scheduled and advertised in collaboration with District leadership and offer an opportunity for input from and communication with the four (4) impacted school communities.
- b) "Neighboring community" shall be defined, at a minimum, as the students, families, staff, and the school communities of Dewey Academy (located at 1111 2nd Avenue), Met West High School (located at 314 East 10th Street), La Escuelita TK-8 (located at 1050 2nd Avenue), and United Nation Childhood Development Center (located at 1025 4th Avenue).
- c) Developers are required to consult with the District to agree on a written plan ("Site Mitigation Plan") for the implementation of mitigation measures that will address construction impacts on the four (4) impacted District school sites. The Site Mitigation Plan will be an exhibit in the District Licensing Agreement, and shall be brought back to City Council upon execution by the Developer and the District no later than August 31, 2020.

As part of this process, the Developer has agreed to pay for third-party consultants, on behalf of the District, to evaluate the design and construction management processes and provide recommendations that will serve to inform the Site Mitigation Plan. The terms of the written Site Mitigation Plan shall serve as the overriding guide for consideration of, but not limited to, the following:

- i. Scheduling and timing of the most potentially intrusive or dangerous construction activities to correspond to school breaks and non-instructional days (e.g. when schools are not in session for winter break, spring break, winter break, etc.) as identified by the District calendar.
- ii. Limitations on high impact construction activities such as pile driving or tasks requiring significant usage of impact tools, to non-instructional hours.
- iii. Utilization of electric construction equipment, when operationally feasible, to minimize diesel particulate matter impacts on the four (4) impacted school sites.
- iv. Dust control measures for sensitive receptors within proximity of the Project. Placement of a sound barrier between the Project and Dewey Academy, if deemed necessary upon completion of the Noise Analysis to be conducted by a consultant approved by OUSD as included in the License Agreement between the Developers and OUSD.
- v. Construction traffic/noise controls, examples include but not limited to such, prohibiting construction traffic on 2nd Avenue and prohibiting construction

employee parking on 2nd Avenue. Meaningful consideration and analysis of whether closure to through traffic on 2nd Avenue is appropriate.

- vi. Reimbursement to the District for its reasonable costs and fees associated with analyzing the impact of the Project on District schools.
- vii. Such other measures and actions needed to safeguard District property, staff, and students.