

TERM SHEET
(Brooklyn Basin Affordable Housing Fund Implementation)

The proposed Third Amendment to the Brooklyn Basin Development Agreement (the “**Third DA Amendment**”) provides for the Developer or developers of a Parcel to pay an aggregate of Nine Million Dollars (\$9,000,000) in “**Affordable Housing Funds**” in conjunction with the construction of the 600 additional 2022 Residential Units approved by the Third DA Amendment.

1. Definitions. Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the draft Third DA Amendment.

2. Payment and Deposit of Affordable Housing Funds.

2.1 Payment by Developer(s). Four Million Dollars (\$4,000,000) of the Affordable Housing Funds (the “**Initial Funding**”) shall be paid in cash on the date that is eighteen (18) months following the Third Amendment Effective Date; and the balance of the Affordable Housing Funds shall be paid on a pro rata basis (\$8,333.33 per 2022 Residential Unit) concurrently with payment of the other City Development Fees paid upon issuance of the building permit for the construction of an applicable 2022 Residential Unit(s). If the Finished Parcel Developers do not actually construct all of the 2022 Residential Units, Developer shall pay the balance of the Affordable Housing Funds within fifteen (15) calendar days after the issuance of either (a) the first building permit issued for the last Development Parcel within the Project, or (b) the first building permit for the final phase, if the last Development Parcel is to be developed in phases.

2.2 Escrow Agreement. The Affordable Housing Funds will be deposited by either Developer, or the applicable developer of a Parcel, into an escrow account (“**Escrow**”) opened with Old Republic Title Company (“**Escrow Holder**”), which Escrow will be subject to the terms of an escrow agreement executed by the City of Oakland (the “**City**”), East Bay Asian Youth Center (“**EBAYC**”) and Asian Pacific Environmental Network (“**APEN**”), each a California nonprofit public benefit corporation, (jointly, the “**Community Coalition**”), and Escrow Holder (the “**Escrow Agreement**”).

3. Affordable Housing Funds Agreement. The Community Coalition and the Oakland Community Land Trust, a California nonprofit public benefit corporation (together with its affiliates, “**OakCLT**”), shall enter into an agreement for use of the Affordable Housing Funds (the “**Affordable Housing Agreement**”), which shall include, among other things, the following terms:

3.1 Use of the Affordable Housing Funds. The Affordable Housing Funds may only be used for the following purposes:

3.1.1 By OakCLT to acquire and preserve or rehabilitate affordable housing within the Chinatown, Eastlake and San Antonio neighborhoods as depicted on the map(s) attached hereto as Exhibit A (the “**Project Area**”); provided, however, (a) at least ninety percent (90%) of the Affordable Housing Funds must be expended to acquire and preserve or rehabilitate existing rental housing units in the Project Area, (b) the overhead costs and developer fees charged by OakCLT from Affordable Housing Funds for each project may not exceed ten percent (10%) of the Affordable Housing Funds used to acquire, preserve or rehabilitate the designated project, and (c) the acquisition and preservation or rehabilitation of mixed-use (residential and commercial uses) affordable housing projects shall be a permitted use of the Affordable Housing Funds, provided that the square footage of the commercial uses does not represent more than thirty-five percent (35%) of the aggregate of the

residential and commercial square footage of such project. For purposes herein, the term “preserve” shall have the meaning ascribed to it in Oakland Municipal Code Section 15.62.040(A).

3.1.2 To pay the escrow fees charged by Escrow Holder.

3.2 Timing.

3.2.1 Escrow Holder pursuant to the Escrow Agreement shall provide written notice to the Community Coalition, OakCLT, and the City when the Initial Funding has been deposited into Escrow (the “**Deposit Notice**”). The Initial Funding shall be expended by OakCLT for the purpose set forth in Section 3.1.1 prior to the date that is one (1) year after the date of the Deposit Notice, subject to the exception provided in Section 3.2.3 below.

(a) The Initial Funding can be expended by OakCLT all at once, or in increments. For example, if OakCLT expends Two Million Dollars (\$2,000,000) of the Initial Funding for acquisition of a project, it may expend the remaining Two Million Dollars (\$2,000,000) for the acquisition of a different project, so long as the expenditure of all of the Initial Funding is made within one (1) year.

(b) An exception is provided in Section 3.2.3 below regarding acquisition projects that require rehabilitation. For example, if OakCLT expends Three Million Dollars (\$3,000,000) to purchase a project, pursuant to Section 3.2.3 below, it will have an additional one (1) year from the date of acquisition to use the remaining One Million Dollars (\$1,000,000) for the rehabilitation of the acquired project.

3.2.2 Escrow Holder pursuant to the Escrow Agreement shall provide a Deposit Notice to the Community Coalition, OakCLT, and the City when a subsequent tranche of Affordable Housing Funds has been deposited into Escrow. Each subsequent tranche of Affordable Housing Funds shall be applied by OakCLT for the purpose set forth in Section 3.1.1 prior to the date that is eighteen (18) months after the date of the applicable Deposit Notice. The same flexibility described in Section 3.2.1(a) and (b) above shall be apply to each subsequent tranche of the Affordable Housing Funds.

3.2.3 If Affordable Housing Funds are used for the purchase of property, OakCLT shall have one (1) year from the date of acquisition to spend any remaining Affordable Housing Funds for rehabilitation of the acquired project. OakCLT shall provide written notice to the City and the Community Coalition of any funds set aside for use on rehabilitation of a project acquired with Affordable Housing Funds no later than thirty (30) days prior to the end of the Initial Funding one (1) year period, or each of the eighteen (18) month periods for future tranches, as applicable.

3.3 Extensions.

3.3.1 If OakCLT (a) has either entered into, or is involved in negotiating, a purchase and sale agreement to acquire a property and additional time is necessary to close the acquisition, or (b) has been unable to acquire a property suitable for the purposes set forth in the Affordable Housing Agreement, despite having diligently searched for such a property and additional time is necessary to acquire a property with the Affordable Housing Funds, OakCLT shall provide written notice to the City of the specific delay and the specific cause, and the City and OakCLT shall meet and confer in good faith to mutually agree to an extension related to the particular delay on a case-by-case basis. OakCLT shall diligently prosecute to completion the closing of such acquisition during

an extension given pursuant to this Section 3.3.1 within a reasonable time, but in no event more than six (6) month.

3.3.2 In addition, if after acquisition of a property a delay in the related rehabilitation work is caused by unforeseen circumstances beyond the control of OakCLT, and such circumstances are not addressed in the force majeure provisions, OakCLT shall provide written notice to the City of the specific delay and the specific cause, and the City and OakCLT shall meet and confer in good faith to mutually agree to an extension related to the particular delay on a case-by-case basis. OakCLT shall diligently prosecute to completion such rehabilitation work during an extension given pursuant to this Section 3.3.2 within a reasonable time, but in no event more than six (6) months.

3.3.3 Each of the deadlines set forth in Section 3.2, except the Final Extension Period (as defined below), shall be subject to extension as a result of force majeure events; the cumulative extent of such force majeure extensions shall be limited to one (1) year; provided, however, within thirty (30) days after the beginning of any such force majeure event, OakCLT shall have first notified the City in writing of the cause or causes of such delay and claimed an extension for the reasonably estimated period of the force majeure and the City agrees in writing to such extension, which agreement shall not be unreasonably, withheld or delayed.

3.3.4 If eighteen (18) months after the date of the Deposit Notice for the final tranche of Affordable Housing Funds, any Affordable Housing Funds remain in Escrow, the City shall provide written notice to the Coalition and OakCLT that OakCLT shall have an additional six (6) months to apply such funds for the purpose set forth in Section 3.1.1 (the “**Final Extension Period**”). If at the end of the Final Extension Period, there are any remaining Affordable Housing Funds in Escrow all such remaining Affordable Housing Funds shall disbursed to the City for deposit into the City’s Affordable Housing Trust Fund upon demand of the City to the Escrow Holder pursuant to the Escrow Agreement.

3.4 Reversion of Funds to City. If OakCLT does not meet any of the deadlines set forth in Section 3.2, as such deadlines may be extended pursuant to Section 3.3, or if OakCLT uses Affordable Housing Funds for purposes other than as set forth in Section 3.1 above, OakCLT shall no longer be entitled to receive Affordable Housing Funds and any funds in Escrow and all subsequent Affordable Housing Funds to be paid pursuant to the DA Third Amendment shall be disbursed/paid to the City for deposit into the City’s Affordable Housing Trust Fund upon request of the City to the Developer, or if in Escrow, upon request to the Escrow Holder pursuant to the Escrow Agreement, to be disbursed/paid to the City for deposit into the City’s Affordable Housing Trust Fund.

3.5 City Contracting Requirements. For any project funded in whole or in part by the Affordable Housing Funds, OakCLT shall:

3.5.1 abide by the provisions of the City’s (a) Local and Small Local Business Enterprise Program, (b) Living Wage Ordinance codified in Chapter 2.28 of the Oakland Municipal Code and its implementing regulations as a “City Financial Assistance Recipient” or “CFAR”, (c) Equal Benefits Ordinance codified in Chapter 2.32 of the Oakland Municipal Code, (d) Local Employment Program for construction employment, and (e) Apprenticeship Program for construction employment;

3.5.2 not discriminate against any employee or applicant for employment in connection with the subject project on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, marital status, AIDS or AIDS-related complex, or physical or mental disability, which requirement shall apply to the following activities: hiring; upgrading; demotion and transfers;

recruitment and recruitment advertising; layoff and termination; rates of pay and other forms of compensation; and selection for training, including apprenticeship; and

3.5.3 comply with all applicable State Labor Code requirements, including the provision requiring the payment of prevailing wages in connection with the construction of any project improvements and ensure that all workers performing construction work for the subject project that are employed by the recipient land trust or its contractors and subcontractors are compensated in an amount not less than the general prevailing rate of per diem wages as determined by the California Department of Industrial Relations under California Labor Code Section 1170 et seq.

3.6 Annual Report; Audit. OakCLT shall provide the City and the Community Coalition with an annual, written report on the use of the Affordable Housing Funds, which report shall include an accounting of the Affordable Housing Funds expended or committed to date. The City and the Community Coalition shall have the right to conduct an annual audit of OakCLT's use of the Affordable Housing Funds, which audit shall be conducted at the requesting party's expense.

3.7 Refinance or Sale. For projects with Affordable Housing Funds that have been used, if there is a cash-out refinance or a sale of the property by OakCLT and if there are still subsequent Affordable Housing Funds to be paid pursuant to the DA Third Amendment and the Escrow is still open, then the amount of the Affordable Housing Funds used for such project that was refinanced or sold must be returned to Escrow by OakCLT for use with the next tranche of Affordable Housing Funds in accordance with the Affordable Housing Agreement, including the timing requirements for such tranche of funds.

3.8 Third-Party Beneficiary. The City shall be a named third-party beneficiary in the Affordable Housing Agreement of the obligations to comply with the programs set forth in Section 3.3 above, as well as the covenants in the Affordable Housing Agreement pertaining to the annual report and audit set forth in Section 3.5 above and the return of Affordable Housing Funds to Escrow in the event of a refinance or sale set forth in Section 3.6 above.

3.9 No City or Developer Liability. Neither the Developer, nor the City, shall be liable for OakCLT's default under the Affordable Housing Agreement or affordability restriction.

3.10 Amendment. The Affordable Housing Agreement may not be modified or amended without the City's prior written consent.

4. Review of Affordable Housing Agreement; Confirmation of Use. The release of the Initial Funding from escrow to OakCLT shall be conditioned on the City's confirmation that all of the terms provided in this Term Sheet (Brooklyn Basin Affordable Housing Funds) have been incorporated into the Affordable Housing Agreement. In addition, prior to release of the Initial Funding, or each subsequent tranche of Affordable Housing Funds, from escrow to OakCLT, the Community Coalition and OakCLT shall certify to the City and the City shall have the right to confirm that the use of the Affordable Housing Funds complies with the purposes set forth in Section 3.1 above and the contracting requirements set forth in Section 3.5 above.

5. Conflict. As parties to the Affordable Housing Agreement, (a) neither EBAYC, nor APEN shall have a conflict of interest with OakCLT, that is, no member of EBAYC's or APEN's respective board of directors, employees or consultants is a director, employee, paid consultant or agent of OakCLT, and (b) no Affordable Housing Funds may be used to acquire and preserve or rehabilitate

any projects that would provide financial benefits to either EBAYC or APEN, or its or their respective board of directors, employees, consultant or agents.

6. Affordability Restrictions. All projects and properties funded by Affordable Housing Funds shall be subject to recorded affordability restrictions or restrictive covenants restricting income occupancy, rents, or sales and resales of residential units \for at least fifty-five (55) years.

6.1 Upon request of OakCLT, the City may, in its sole discretion, elect to be a party to such restrictions (a recorded regulatory agreement for rental projects, or a recorded affordability agreement for ownership projects) for projects funded from Affordable Housing Funds. The City's election to enter into such restrictions shall be conditioned on the following: (a) OakCLT requests the City's review of the project; (b) OakCLT provides all of the information necessary for the City to evaluate the project; and (c) the project complies with the City's underwriting criteria for the City's Acquisition and Conversion to Affordable Housing ("ACA~~H~~") program as determined by the City in its sole discretion. If the conditions are satisfied, the City will determine the proper agreement based on the proposed project and the City will monitor compliance with the agreement for the term of the agreement. The City may charge the project a reasonable monitoring fee.

6.2 If OakCLT does not obtain a regulatory agreement for rental projects, or affordability agreement for ownership projects, from the City in accordance with Section 6.1 above, OakCLT shall record a restrictive affordability covenant on property acquired or rehabilitated with the Affordable Housing Funds to maintain the applicable affordability level for fifty-five (55) years to be enforceable by OakCLT or its successors or assigns.

Exhibit A

Map(s) of the Project Area

[Attached]