

OPTION TO GROUND LEASE AGREEMENT

This OPTION TO GROUND LEASE AGREEMENT (the “Agreement”), is made and is effective as of June 25, 2019 (“Effective Date”) by and between **THE COUNTY OF NEVADA**, a political subdivision of the State of California (“OPTIONOR”), and jointly the Regional Housing Authority and Pacific West Communities (“OPTIONEE”), collectively, the “Parties.”

RECITALS

This Agreement is entered into with reference to the following facts:

A. OPTIONOR is the owner of all that certain real property (hereinafter called the “Property”), constituting approximately 5 acres of vacant land located at 936 Old Tunnel Road, Grass Valley, California, 95945, commonly known as Assessor’s Parcel Number: 35-400-54-000, more specifically described in Exhibit “A” as parcel 54.

B. OPTIONOR intends to utilize the Property for the development of an affordable housing project for homeless persons and persons with psychiatric disabilities who are homeless, or at risk of homelessness, and their families to achieve permanent supportive housing and self-sufficiency by promoting the integration of affordable housing and appropriate supportive services (“Project”)

C. In September 2018, Nevada County Health and Human Services and the County Procurement Officer solicited proposals for a Development Sponsor to apply for competitive *No Place Like Home* (NPLH) funds to develop a NPLH housing project, resulting in the submittal of one proposal, Hospitality House. On October 24, 2018, a review panel selected Hospitality House, and on December 11, 2018, the Nevada County Board of Supervisors approved a contract with Hospitality House for completion of eligible NPLH development activities, and declared Hospitality House a Development Sponsor in furtherance of NPLH eligible development activities related to the Project.

D. On January 8, 2019, the Nevada County Board of Supervisors approved a Memorandum of Understanding (“MOU”) between the County of Nevada, Hospitality House, and the Regional Housing Authority, which memorialized the intent of the Parties to collaborate and work cooperatively on pre-development activities related to the construction of affordable housing, transitional housing, and a navigation center on the Property. Pursuant to the MOU, Regional Housing Authority was designated the Developer. On January 22, 2019, the Nevada County Board of Supervisors approved Amendment No. 1 to the MOU to clarify site control over the Property for purposes of applying for NPLH funding, and providing the exclusive right to negotiate with the Regional Housing Authority, as Developer, for the acquisition of the Property for purposes of constructing the NPLH Project.

E. Regional Housing Authority has contracted with Pacific West Communities (“PWC”) to be a co-Developer, operator, and manager of the Project.

F. OPTIONEE intends to develop the Property utilizing 9% Low Income Housing

Tax Credits and other funding sources, and OPTIONEE now desires to enter into an exclusive Option to Ground Lease Agreement (the "Option") in order to apply for said funding and perform pre-development activities related to the Project.

G. OPTIONOR is willing to grant OPTIONEE the exclusive right and Option for a long-term Ground Lease of up to 2.40 acres of the Property subject to the terms and conditions contained herein.

H. This Option is conditioned upon compliance with applicable statutory and regulatory requirements applicable to this Project, including but not limited to California Government Code section 25539.4.

NOW, THEREFORE, in consideration of the foregoing recitals which are specifically incorporated into the body of this Agreement, the promises, the mutual representations, warranties, covenants and agreements hereinafter contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Grant of Option to Ground Lease.** Upon the terms and conditions herein set forth, OPTIONOR grants OPTIONEE the exclusive Option to Ground Lease the Property:

(a) **Term of Option.** The term of this Option ("Option Term") shall commence upon the Effective Date and shall terminate on June 30, 2020, unless terminated sooner or extended as provided herein. The Option may, at the discretion and written consent of OPTIONOR, be extended for an additional period of up to 1 year from the initial Option termination date. So long as OPTIONEE is not in default under this Option or any other agreement with OPTIONOR, OPTIONEE may, upon satisfaction of the Conditions Precedent set forth below, exercise this Option at any time during the Term of this Option by giving OPTIONOR written notice of its intention to exercise the Option, together with two (2) copies of the Ground Lease Agreement signed by OPTIONEE.

(b) **Termination of Option.** This Option shall terminate if (i) OPTIONEE does not exercise the Option during the Option Term, and/or (ii) OPTIONEE fails to satisfy the terms and conditions contained herein, including the specific Conditions Precedent set forth below, prior to the expiration of the Option Term.

2. **Option Consideration.** As consideration for this Option, OPTIONEE shall deliver OPTIONOR the sum of One Dollar within five days of the Option Effective Date.

3. **Execution of Ground Lease.** If OPTIONEE exercises the Option to Ground Lease, then the Parties shall execute and deliver a Ground Lease that includes a Disposition and Development Agreement and Regulatory Agreement to ensure that the Property will be used and operated in accordance with the affordability and low-income housing provisions required by OPTIONOR during the term of the Ground Lease. Material Terms and Conditions for the Ground Lease are set forth in Exhibit B, which shall be augmented and/or modified as necessary

and appropriate to fully describe the terms and conditions of a typical ground lease for projects of a similar nature.

4. **Conditions Precedent to Ground Lease.**

The Conditions Precedent to the entering of a Ground Lease are mandatory. The failure or inability of OPTIONEE to comply with any or all of the following Conditions Precedent during the Option term shall, at OPTIONOR's sole election, preclude OPTIONEE from exercising this Option to Ground Lease:

(a) **PROJECT APPROVAL:** The Parties understand and agree that the Project and the Development and Disposition Agreement and Regulatory Agreement are subject to, and conditioned upon, approval by the Nevada County Board of Supervisors. In the event the Board of Supervisors does not approve said documents, this Option shall be deemed null and void.

(b) **PROJECT FUNDING:** OPTIONEE will prepare and submit applications for Project funding, including, but not limited to, HUD, California Tax Credit Allocation Committee, local governments, and private lenders, and obtain Project funding commitments in amounts deemed sufficient by OPTIONOR to complete development and construction of the Project.

(c) **PERMITTING/ENTITLEMENTS:** During the Option term, OPTIONEE will coordinate, apply for, pay for, and obtain all required land use approvals, permits, building permits, project approvals, impact fees, and California Environmental Quality Act (CEQA) reports, required to develop the Project, as well as any environmental impact reports and/or studies, appraisals, design services and any other reports or documents required for inclusion in the proposal and/or required by the Nevada County Community Development Agency, Information and General Services – Facilities Division, and/or City of Grass Valley. As owner of the Property, OPTIONOR's signature as landowner upon any application, which may be required to allow OPTIONEE to apply for Project Approvals, shall be strictly for the purposes of allowing OPTIONEE to submit such applications as may be required for OPTIONEE to obtain the necessary land use approvals, and shall in no event be deemed a waiver by OPTIONOR of OPTIONEE's obligations to obtain Project entitlements/permits, Government review and approval requirements set forth herein.

(d) **INSURANCE:** OPTIONEE will secure course of construction Liability and Builder's Risk Insurance acceptable to OPTIONOR. Additionally, OPTIONEE and any Contractors shall file with OPTIONOR a Certificate of Insurance with companies maintaining a Best's Rating of B+ or higher (B+, B++, A-, A, A+, or A++), or a Bests Financial Performance Rating (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be approved by the Risk Manager for the County of Nevada. The insurance policies and limits on coverage required herein shall apply with respect to all claims or suits arising or created under this Option relationship. OPTIONEE shall maintain the following Insurance Coverage:

(i) **Commercial General Liability Insurance:** Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage,

combined single limit coverage, in the minimum amount of 2 million dollars (\$2,000,000.). OPTIONOR shall be named as an additional insured under said policy, with respect to claims or suits arising or created under this Option relationships.

The policy shall contain a provision that said insurance shall be primary and non-contributory, that other insurance maintained by the County of Nevada shall be excess only and that neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance available to County. The Policy shall also contain a provision that said insurance shall provide for thirty (30) days written notice to OPTIONOR/County of Nevada of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days' notice for non-payment of premium).

(ii) Automobile Insurance: Commercial Automobile Liability insurance policy for each vehicle used including non-owned and hired automobiles. OPTIONEE shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

(A) Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount of 1 million dollars (\$1,000,000.).

(B) Said insurance shall be primary and non-contributory, that other insurance maintained by OPTIONOR/County of Nevada shall be excess only and that neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance available to County.

(C) Said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days' notice for non-payment of premium).

(iii) Workers' Compensation: OPTIONEE shall maintain said policy as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to OPTIONOR/County of Nevada. The Workers' Compensation insurer shall agree to waive all rights of subrogation against OPTIONOR/County of Nevada, its agents, officers, employees, and volunteers for losses arising from work and services performed by OPTIONEE pursuant to this Option.

Before commencing to utilize employees in providing Services under this Option, OPTIONEE warrants that it will comply with the provisions of the California Labor Code, requiring OPTIONEE to be insured for workers' compensation liability or to undertake a program of self-insurance therefor.

(e) PROJECT PLANS AND SPECIFICATIONS: OPTIONEE will oversee preparation of architect's and engineers' plans and specifications pertaining to the Project, and

ensure compatibility with adjacent developments and design and development standards of the OPTIONEE, lenders, investors, County of Nevada, and City of Grass Valley.

(f) **PRELIMINARY PLANS:** During the Option Term, OPTIONEE shall deliver to the County of Nevada and other governmental entities responsible for providing Project approvals (“approving entities”), two (2) sets of preliminary plans for the leasehold improvements. Such plans shall conform to applicable laws, regulations, permit requirements and building code requirements. In the event the approving entities reject the preliminary plans, in whole or in part, OPTIONEE shall amend and resubmit such plans and specifications to the satisfaction of the approving entities. Approval of the preliminary plans by OPTIONOR and the approving entities shall be obtained prior to OPTIONEE applying for Project Approvals.

(g) **GROUND LEASE USE:** OPTIONEE, their successors and assigns, covenant and agree that in the event it exercises this Option to Ground Lease, OPTIONEE shall use and operate the Property during the term of the Ground Lease solely and continuously as affordable housing for homeless persons and persons with psychiatric disabilities who are homeless, or at risk of homelessness, and their families to achieve permanent supportive housing and self-sufficiency. In order to ensure the Project is maintained and operated as required by OPTIONOR, OPTIONEE covenants that it shall operate and perform all management and operational functions, as more fully set forth in the Exhibit B Ground Lease Terms and Conditions. The Ground Lease will be conditioned on the Parties entering into both a Disposition and Development Agreement and a Regulatory Agreement, as more fully described in Exhibit B, which shall be recorded and run with the land during the term of the Ground Lease. OPTIONEE’s right to exercise this Option shall be contingent upon the Parties successfully negotiating the Disposition and Development and Regulatory Agreements prior to the expiration of the Option term.

As owner of the Property, OPTIONOR retains the absolute and sole discretion over the design, construction, Property use, and any modification to any future development on the Property as it may, in its sole discretion, deem necessary to conform to the purpose and intent of the Project.

(h) **AMENDMENTS TO PROPERTY DESCRIPTION:** If during the Option Term, OPTIONOR determines that the Property as described in Exhibit A requires modification, then OPTIONOR shall amend the Property description which shall become the new Exhibit A to the Ground Lease Agreement, provided that any such modification shall be subject to OPTIONEE’s prior review and approval.

5. **Time is of the Essence; Failure to Exercise Option.** Time is of the essence of this Option Agreement. If this Option is not exercised in compliance with the terms and conditions required herein during the Option period provided in Section 1.a (“Term of Option”) above, OPTIONEE shall have no interest whatsoever in the Property and this Option may not be revived by any subsequent payment or further action by OPTIONEE.

6. **Assignment of Option.** OPTIONEE shall not assign, transfer, mortgage, pledge, hypothecate, or encumber this Option Agreement or any interest therein without the prior written consent of OPTIONOR, which may be withheld by OPTIONOR for any reason.

7. **Due Diligence Period.** Subject to the terms and conditions of this Agreement, OPTIONEE shall have the right to conduct a due diligence investigation of the Property and of all matters which OPTIONEE deems relevant to this Option to Ground Lease.

8. **Right of Entry.** During the Option Term, OPTIONEE and its employees, agents, consultants, and contractors shall have the right, upon reasonable notice to OPTIONOR, to enter upon the Property for the purpose of conducting necessary inspections, surveys, testing and examination of the Property as required by OPTIONEE in exercise of OPTIONEE's reasonable judgement. OPTIONEE's inspection, testing and examination, survey and review of the Property shall be at OPTIONEE's sole expense. OPTIONEE shall obtain OPTIONOR's advance consent in writing of any proposed physical testing of the Property in furtherance of its obligations contained herein, which consent shall not be unreasonably withheld or delayed. OPTIONEE shall be responsible for obtaining any/all permits required for physical testing, and all work performed on the Property shall be in compliance with applicable laws and regulations. OPTIONEE shall repair, restore and return the PROPERTY to its original condition after such physical testing is completed, at OPTIONEE's expense.

In amplification of the Indemnification section below, OPTIONEE, its officers, officials, employees, agents or volunteers, shall indemnify and hold harmless OPTIONOR, its officers, officials, employees, agents or volunteers from any claims, damages, or injuries resulting from its entry onto the property, including those incurred by individuals under contract with OPTIONEE.

9. **Inspection.** OPTIONEE acknowledges that it has reviewed the Phase I and Phase II Studies on the Property. During the Option Term, OPTIONEE shall provide written approval to OPTIONOR that OPTIONEE has approved, in its sole and subjective discretion, all conditions of the Property.

Should OPTIONEE exercise this Option, OPTIONEE shall take the Property in its "as is" condition as of the effective date of the Ground Lease, and shall bear full responsibility for the condition of the Property during the Term of the Ground Lease. This shall exclude any Hazardous Substances, as defined in Section 10 below, which were identified or proven present prior to the issuance of the first building permit, which OPTIONOR, at its election, shall choose to either remedy, or which may serve as a basis for OPTIONOR to immediately terminate this Option Agreement.

10. **Hazardous Substances.** During the Option Term, OPTIONEE shall, at its sole cost, secure all necessary appraisals, reports, inspections, or tests, including an evaluation of any existing Hazardous substances on the Property. "Hazardous Substances" shall mean any substance which is (A) defined as a hazardous waste, pollutant or contaminant under any Environmental Law, (B) a petroleum hydrocarbon, including crude oil or any fraction thereof, (C) hazardous, toxic, corrosive, flammable, explosive, infectious, radioactive, carcinogenic or reproductive toxicant, (D) regulated pursuant to any Environmental Law, or (E) any pesticide regulated under state or federal law; and the term "Environmental Law" means each and every federal, state and local law, statute, ordinance, regulation, rule, judicial or administrative order or decree, permit, license, approval, authorization or similar requirement of each agency or other

governmental authority, pertaining to the protection of human health and safety or the environment.

During the Option Term, OPTIONEE shall provide OPTIONOR a minimum of two (2) days written notice of the identification of any the Hazardous Substances on the Property.

11. **Damage or Condemnation Prior To Exercise of Option.** OPTIONOR shall promptly notify OPTIONEE of any known casualty to the Property during the Option Term. If any such damage relates to or may result in the loss of any material portion of the Property, within two (2) business days after receipt of such notification OPTIONEE shall deliver written notice thereof to OPTIONOR of OPTIONEE's election to either (a) terminate this Option Agreement, or (b) continue to proceed under this Option Agreement. As used herein, the term "loss to a material portion of the Property" shall mean a loss involving a portion of the Property equal to or greater than fifteen percent (15%) based on value as mutually agreed upon by OPTIONOR and OPTIONEE.

12. **Indemnification.** Nothing herein shall be construed as a limitation of OPTIONEE's liability, and OPTIONEE, its officers, officials, employees, and agents shall indemnify, defend, and hold harmless OPTIONOR and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) which result from the negligent act, willful misconduct, or error or omission of OPTIONEE, except such loss or damage which was caused by the sole negligence or willful misconduct of OPTIONOR or its officers, officials, employees, agents or volunteers.

13. **Miscellaneous.**

(a) **Notices.** Any notice, demand, approval, consent, or other communication required or desired to be given under this Agreement shall be given in writing in the manner set forth below, addressed to the party to be served at the addresses set forth below, or at such other address for which that party may have given notice under the provisions of this Section. Any notice, demand, approval, consent, or other communication given by (a) mail shall be deemed to have been given on the second (2nd) business day immediately following the date it was deposited in the United States mail, first class and postage prepaid; (b) overnight common carrier courier service shall be deemed to be given on the business day immediately following the date it was deposited with such common carrier (or on the second (2nd) business day following the date of deposit if the day of deposit was not a business day); (c) delivery in person or by messenger shall be deemed to have been given upon delivery in person or by messenger; or (d) electronic facsimile shall be deemed to have been given on the date of transmission of the entire communication, provided that (i) such transmission occurs during 8:00 a.m. and 5 p.m., Pacific Time, on normal business days, (ii) the sending facsimile machine confirms successful transmission of the communication, and (iii) the receiving party receives delivery of a hard copy of the original transmitted document(s) not later than the third (3rd) business day following such transmission by one of the methods described in subsections (a), (b) or (c) above.

If to OPTIONOR:

County of Nevada

If to OPTIONEE:

[ADD INFO]

[ADD INFO]
950 Maidu Avenue
Nevada City, CA 95959
Attn: Stephen T. Monaghan, CIO
Tel: (530) 265-1238
Fax: (530) 265-7112

with a copy to:

County Counsel
County of Nevada
950 Maidu Ave., Suite 240
Nevada City, CA 95959
Tel: (530) 265-1319
Fax: (530) 265-9840

(b) Brokers and Finders. Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction through any real estate broker or other person who can claim a right to a commission or finder's fee in connection with the Option contemplated herein. In the event that any broker or finder tenders a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes its claim shall be responsible for said commission or fee and shall indemnify and hold harmless the other party from and against all liabilities, losses, costs and expenses (including reasonable attorney's fees) arising in connection with such claim for a commission or finder's fee.

(c) Successors and Assigns. This Option shall be binding upon, and inure to the benefit of, the Parties and their respective successors, heirs, administrators and permitted assigns.

(d) Amendments. Except as otherwise provided herein, this Option may be amended or modified only by a written instrument executed by OPTIONOR and OPTIONEE.

(e) Governing Law; Venue. This Option has been negotiated and executed in Nevada County, California, and the substantive laws of the State of California, without reference to its conflict of law's provisions, will govern the validity, construction, and enforcement of this Option and venue for any action relating to the Property or this Option shall be in Nevada County, California.

(f) Merger of Prior Options. This Option and the Exhibit(s) hereto constitute the entire Agreement between the Parties and supersede any and all prior agreements and understandings between the parties relating to the subject matter hereof.

(g) No Third Party Beneficiaries. This Option creates rights and duties only between OPTIONOR and OPTIONEE, and no other party, or third party, is intended to have or be deemed to have any rights under this Option as an intended third party beneficiary, except as expressly set forth herein.

(h) Further Assurances. The Parties agree to cooperate with each other and execute any documents reasonably necessary to perform the intent and purpose of this Option.

(i) Time of the Essence; Dates. Time is of the essence of this Option. In the event that any date specified in this Agreement falls on Saturday, Sunday or holiday (as defined in Section 6700 of the California Government Code) (each a “Non-Business Day”), such date shall be deemed to be the succeeding business day. For purposes of this Option, a “business day” shall mean a day other than a Non-Business Day.

(j) Construction. Headings at the beginning of each section and subsections are solely for the convenience of the parties and are not a part of this Option. Whenever required by the context of this Option, the singular shall include the plural and the masculine shall include the feminine and vice versa. The Parties hereto agree that this Option is the product of joint draftsmanship and negotiation and that should any of the terms be determined by a court, or in any type of quasi-judicial or other proceeding, to be vague, ambiguous and/or unintelligible, that the same sentences, phrases, clauses or other wordage or language of any kind shall not be construed against the drafting party in accordance with California Civil Code Section 1654, and that each such party to this Option waives the effect of such statute.

(k) Severability. If any provision of this Option, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Option and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

(l) Addenda, Exhibits and Schedules. All addenda, exhibits and schedules referred to herein are, unless otherwise indicated, incorporated herein by this reference as though set forth herein in full.

(m) CEQA. OPTIONEE shall not engage in any construction or development activities on the Property, including the obtaining of developmental entitlements, until and unless the CEQA environmental review process, and other applicable public review and hearing processes, are complete. Future development of the Subject Property, if any, by the County will be based upon information produced from such environmental and other review processes. With respect to future development of the Property by OPTIONEE, the OPTIONOR retains the absolute and sole discretion to design, construct and modify any future development on the Property as it may, in its sole discretion, deem necessary to comply with CEQA, or to determine not to proceed with any development of the Subject Property.

(n) Entire Agreement. This Option and any/all attachments or exhibits hereto constitute the entire agreement between the Parties, and no representations have been made or relied upon except as set forth herein. This Option may be amended or modified only by written, fully executed agreement of the Parties.

(o) Memorandum of Option. No later than fifteen (15) days after the execution of this Option Agreement, the Parties shall record, in the official records of Nevada County, the “Memorandum of Option” attached hereto as Exhibit C.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

OPTIONOR:

COUNTY OF NEVADA, a political
subdivision of the State of California

By: Richard Anderson, Chair
Nevada County Board of Supervisors

DATE: _____

ATTEST:

By: _____
Julie Patterson-Hunter
Clerk of the Board

APPROVED AS TO FORM:

By: _____
Alison A. Barratt-Green
County Counsel

OPTIONEE:

By: _____

DATE: _____

BY: _____

DATE: _____

Exhibit B
Ground Lease Material Terms and Conditions

Upon the exercise of this Option by the OPTIONEE, the Parties hereto shall enter into the Ground Lease Agreement substantially in conformance with the terms and conditions set forth below and augmented as necessary and appropriate to fully describe the terms and conditions of a typical ground lease for projects of a similar nature. As used in this Exhibit, OPTIONOR shall be referred to as “Landlord,” and OPTIONEE shall be referred to as “Tenant,” collectively, the “Parties.”

1. Term of Ground Lease. The Ground Lease Agreement shall become effective immediately following full execution by the Parties and shall end no less than fifty-five (55) years from the date the Ground Lease is executed. It is understood and agreed by the Parties that the term of Ground Lease shall comply with any applicable minimum statutory and/or regulatory term requirements that may extend beyond the thirty-year term.

2. Rent. Base rent will be One Dollar and 00/100 (\$1.00) for each year of the Ground Lease term.

3. Taxes and Assessments. Tenant shall be responsible for the payment of any/all taxes, including any applicable Possessory Interest taxes, and assessments levied against the leasehold estate and premises during the term of the Ground Lease.

4. Utilities. Tenant shall be responsible for all utility costs associated with the leasehold estate and premises, including water, sewer, gas and/or propane, and trash services.

5. Property Development and Use. The Ground Lease Agreement will include both a (i) Disposition and Development Agreement, and a (ii) Regulatory Agreement setting forth the specific Property use and operation requirements. Both Agreements shall be recorded and run with the land and be enforceable against Tenant and its successors and assigns, if any, to ensure the continuous operation of the low-income housing project during the term of the Ground Lease in accordance with the terms and conditions contained therein; a breach of which shall be deemed material and allow for Landlord to immediately terminate the Ground Lease for cause. Tenant shall be solely responsible for all costs of development, construction, operation, and maintenance of the low-income housing project during the Ground Lease Term.

a. Disposition and Development Agreement – The Disposition and Development Agreement shall outline the terms, conditions, and requirements applicable to Tenant’s pre-development, development, construction activities and obligations pertaining to the Project. Tenant will coordinate, apply for, pay for, and obtain all required land use approvals, permits,

entitlements, impact fees, and California Environmental Quality Act (CEQA) reports, required to develop the Project, as well as any environmental impact reports and/or studies, appraisals, design services and any other reports or documents required for inclusion in the proposal and/or required by the County of Nevada and/or City of Grass Valley.

b. Regulatory Agreement – The Regulatory Agreement shall outline the terms and conditions relating to the Tenant’s operation and management of the low-income housing project, as required by Landlord, including but not limited to:

i. During the lease term, Tenant and its successors and assigns will, according to Landlord’s program requirements, operate and manage the Property, solely and continuously as affordable housing for homeless persons and persons with psychiatric disabilities who are homeless, or at risk of homelessness, and their families to achieve permanent supportive housing and self-sufficiency.

ii. During the lease term, Tenant and its successors and assigns will comply with all statutory and regulatory low-income/affordability and occupancy housing requirements applicable to the Landlord’s affordable housing project, including but not limited to occupancy requirements, income certification, allowable rents, nondiscriminatory tenant selection, and leasing provisions.

iii. Tenant shall provide mitigation for extraordinary services to Property by law enforcement.

iv. During the lease term, Tenant will operate the low-income housing project and perform all management and operational functions as required by Landlord, including, but not limited to, verification of tenant eligibility, selection of tenants, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs to facilities, buildings, grounds, including appurtenances thereto, replacement of capital items, and providing adequate security in and around the facilities and property.

v. During the lease term, all terms and conditions of the Ground Lease shall be incorporated by reference into the Regulatory Agreement and apply in full to Tenant and any successors in interest or assigns.

vi. A Lease Rider shall be entered into as part of the Ground Lease between the Parties and the California Tax Credit Allocation Committee (TCAC) to include the respective rights and obligations of the Parties and TCAC in relation to the allocation of tax credits to the Project. A sample Lease Rider template is attached hereto as Attachment B.1.

6. Encumbrances. The Ground Lease will permit Tenant to encumber its leasehold interest in the Property for the purpose of securing any loans deemed necessary by Tenant for the development, construction, operation, management and maintenance of the low-income housing project located on the Property, as approved by Landlord. Such encumbrances shall be the sole

obligations and liabilities of Tenant and any successors in interest, and not the obligations or liabilities of Landlord.

7. Insurance. During the Term of the Ground Lease, Tenant shall, at its sole expense, maintain the following insurance policies and coverages:

a. Construction Liability: OPTIONEE will secure a course of construction Liability and Builder's Risk Insurance acceptable to OPTIONOR.

b. Commercial General Liability Insurance: Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount of 2 million dollars (\$2,000,000.). Landlord shall be named as an additional insured under said policy, with respect to claims or suits arising or created under this Option relationships.

The policy shall contain a provision that said insurance shall be primary and non-contributory, that other insurance maintained by the County of Nevada shall be excess only and that neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance available to County. The Policy shall also contain a provision that said insurance shall provide for thirty (30) days written notice to Landlord of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

c. Automobile Insurance: Commercial Automobile Liability insurance policy for each vehicle used including non-owned and hired automobiles. Tenant shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

(B) Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount of 1 million dollars (\$1,000,000.).

(C) Said insurance shall be primary and non-contributory, that other insurance maintained by Landlord shall be excess only and that neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance available to County.

(D) Said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

d. Workers' Compensation: Tenant shall maintain said policy as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to Landlord. The Workers' Compensation insurer shall agree to waive all rights of subrogation against Landlord, its agents, officers, employees, and volunteers for losses arising from work and services performed by Tenant pursuant to this Option.

Before commencing to utilize employees in providing Services under this Option, Tenant warrants that it will comply with the provisions of the California Labor Code, requiring Tenant to

be insured for workers' compensation liability or to undertake a program of self-insurance therefor.

e. Miscellaneous: Tenant and any Contractors shall file with Landlord a Certificate of Insurance with companies maintaining a Best's Rating of B+ or higher (B+, B++, A-, A, A+, or A++), or a Bests Financial Performance Rating of (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be approved by the Risk Manager for the County of Nevada. The insurance policies and limits on coverage required herein shall apply with respect to all claims or suits arising or created under the Ground Lease.

8. Indemnification: Tenant, its officers, officials, employees, agents, and successors in interest, shall indemnify, defend, and hold harmless Landlord and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) which result from the negligent act, willful misconduct, or error or omission of Tenant, except such loss or damage which was caused by the sole negligence or willful misconduct of Landlord or its officers, officials, employees, agents or volunteers. This provision shall survive termination of the Ground Lease.

9. Annual Reporting and Inspection: Tenant shall submit an annual report to Landlord in a form satisfactory to Landlord, together with a certification that the Project is in compliance with the Ground Lease Agreement, including tenant eligibility, tenancy rates, vacancy rates, income requirements, rents, maintenance and repairs. Upon reasonable request, Tenant shall permit representatives of Landlord to enter and inspect the premises and the Project during regular business hours to verify compliance with the Ground Lease Agreement.

10. Disposition of Improvements at End of Lease: At the end of the Ground Lease term, at Landlord's discretion, fee title to all the Improvements on the Property shall vest in Landlord without further action of any party, without any obligation by the County to pay any compensation therefor to Tenant and without the necessity of a deed from the Tenant to Landlord. Further, Tenant shall turn over the buildings, facilities and appurtenances thereto, and capital items, including title thereto, to Landlord in good condition and repair at the end of the lease term.