



# RESOLUTION NO. 19-358

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

### **RESOLUTION AUTHORIZING AN “OPTION TO GROUND LEASE AGREEMENT” BY AND BETWEEN THE COUNTY OF NEVADA AND JOINTLY THE REGIONAL HOUSING AUTHORITY AND PACIFIC WEST COMMUNITIES, INC., PERTAINING TO COUNTY-OWNED PROPERTY LOCATED AT 936 OLD TUNNEL RD, GRASS VALLEY, CA, (APN NO 035-400-054), DESIGNATED AS THE LOCATION OF THE PROPOSED BRUNSWICK COMMONS AFFORDABLE HOUSING PROJECT**

WHEREAS, the Nevada County Board of Supervisors has established homelessness and affordable housing as a legislative priority A; and

WHEREAS, the County is the owner of a 5.0+ acre parcel of real property located at 936 Old Tunnel Rd., Grass Valley, CA 95945, APN No. 035-400-054 (“Property”); and

WHEREAS, the County intends to retain ownership of the Property with the intent to utilize a portion of it for the development of the proposed Brunswick Commons 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”); and

WHEREAS, on January 8, 2019, per Resolution 19-203, 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; and

WHEREAS, pursuant to the MOU, Regional Housing Authority was designated the Developer of the affordable housing project, and on January 22, 2019, per Resolution 19-044, 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 No Place Like Home (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 affordable housing project; and

WHEREAS, the Regional Housing Authority has contracted with Pacific West Communities (“PWC”) to be a co-Developer, operator, and manager of the Project and intends to develop the Property utilizing 9% Low Income Housing Tax Credits and other funding sources in addition to NPLH; and

WHEREAS, Regional Housing Authority and PWC desire to enter into an exclusive Option to Ground Lease Agreement with the County in order to apply for said funding and perform pre-development activities related to the Project; and

WHEREAS, the County is willing to grant the Regional Housing Authority and PWC the exclusive Option to enter into a long-term Ground Lease of up to 99 years for 2.32± acres of the Property in furtherance of the proposed construction and operation of the Brunswick Commons project, subject to the terms and conditions contained in the Attached Option to Ground Lease Agreement; and

WHEREAS, the term of the Option to Ground Lease expires on June 30, 2020, unless extended at the County's discretion for a period not to exceed one year.

NOW, THEREFORE, BE IT RESOLVED that the Nevada County Board of Supervisors approves the execution of the "OPTION TO GROUND LEASE AGREEMENT" in substantially the same form attached hereto, by and between the County of Nevada, and jointly the Regional Housing Authority and Pacific West Communities, Inc., pertaining to County-owned property located at 936 Old Tunnel Rd., Grass Valley, CA 95945, APN No. 035-400-054, designated for the construction and operation of the Brunswick Commons affordable housing project, and authorizes the Chair of the Board to sign said Agreement and all other related documents on behalf of Nevada County.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 25th day of June, 2019, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER  
Clerk of the Board of Supervisors

By: 



Richard Anderson, Chair

6/25/2019 cc: Housing\*  
AC\* (Hold)

6/28/2019 cc: Housing\*  
AC\* (Release)  
RHA  
PWC, Inc.

## 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 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 Best's 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 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:  
Regional Housing Authority



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

1455 Butte House Road  
Yuba City, CA 95991  
Attn: Gustavo Becerra, Executive Director  
Tel: (530) 671-0220 ext. 113  
Fax: (530) 674-8505

*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

Pacific West Communities, Inc.  
430 East State Street, Suite 100  
Eagle, ID 83616  
Attn: Caleb Roope, President/CEO  
Tel: (208) 461-0022  
Fax: (208) 461-3267

(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 attorneys 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 laws 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.

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: 6/27/2019

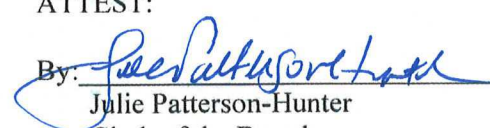
**OPTIONEE:**

REGIONAL HOUSING AUTHORITY

By:   
Gustavo Becerra, Executive Director

DATE: 6-27-19

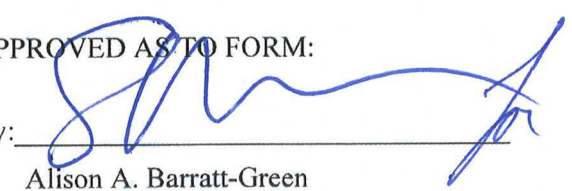
**ATTEST:**

By:   
Julie Patterson-Hunter  
Clerk of the Board

BY: \_\_\_\_\_  
Caleb Roope, President/CEO

DATE: \_\_\_\_\_

**APPROVED AS TO FORM:**

By:   
Alison A. Barratt-Green  
County Counsel

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: 6/27/2019

**OPTIONEE:**

REGIONAL HOUSING AUTHORITY

By: \_\_\_\_\_  
Gustavo Becerra, Executive Director

DATE: \_\_\_\_\_


**ATTEST:**

By:   
Julie Patterson-Hunter  
Clerk of the Board

PACIFIC WEST COMMUNITIES, INC.  
BY:   
Caleb Roope, President/CEO

DATE: 6/27/2019

**APPROVED AS TO FORM:**

By:   
Alison A. Barratt-Green  
County Counsel

## 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.

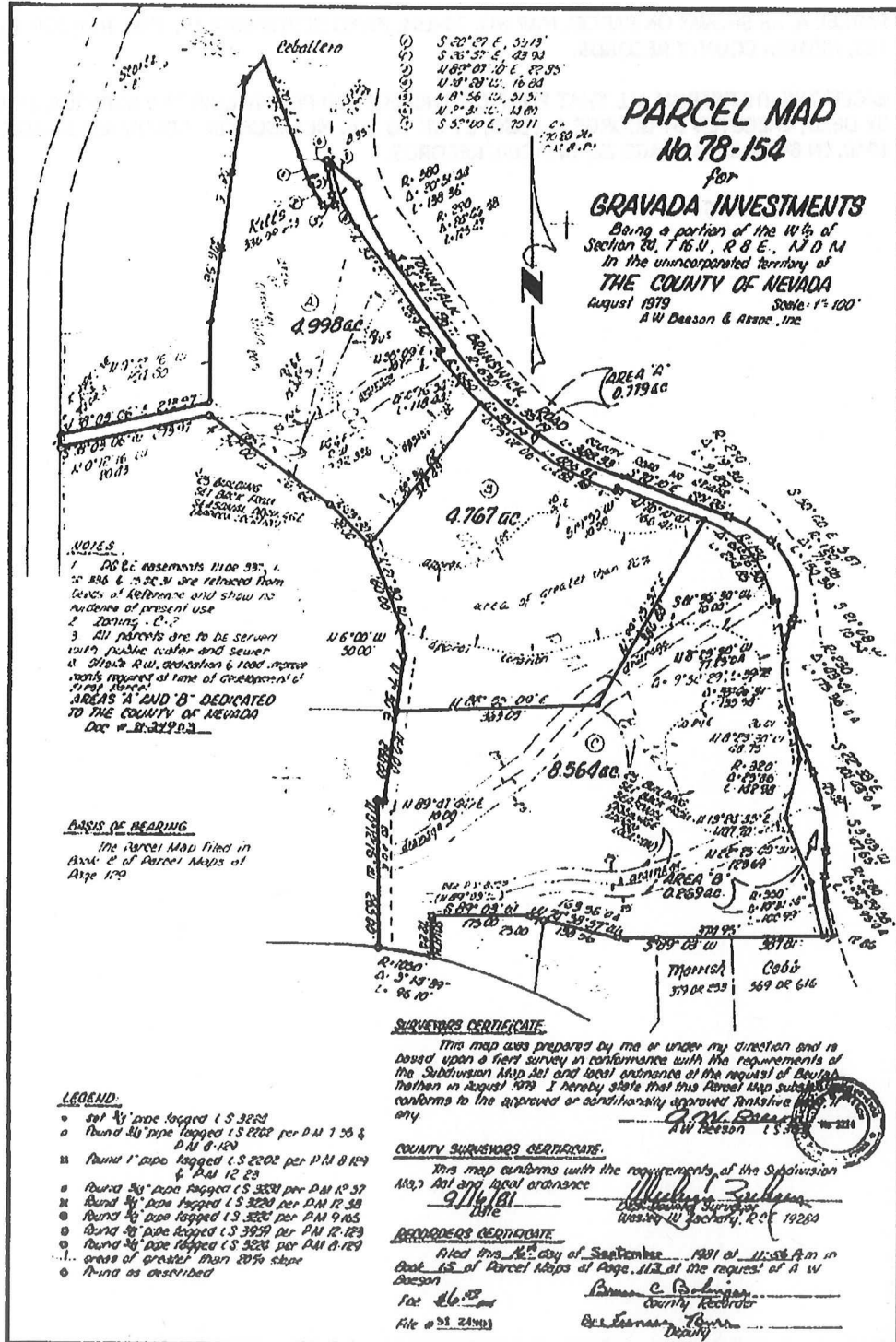
**Exhibit A**

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**(Attach OPTION TO GROUND LEASE AGREEMENT)**

Exhibit A  
Property Description

Order: Dec 12 Comment:  
Description: Nevada, CA Parcel Map - Book Page 15, 113 Page: 1 of 1



ER-1308



**LEGAL DESCRIPTION**

Real property in the City of Grass Valley, County of Nevada, State of California, described as follows:

PARCEL A, AS SHOWN ON PARCEL MAP NO. 78-154, FILED SEPTEMBER 16, 1981 IN BOOK 15, AT PAGE 113, NEVADA COUNTY RECORDS.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF 100 FEET BELOW THE SURFACE, AS CONVEYED BY DEED, EXECUTED BY GEORGE A. LEGG, ET UX TO D.E. MCLAUGHLIN, RECORDED JANUARY 11, 1940, IN BOOK 60, AT PAGE 22, OFFICIAL RECORDS.

APN: 035-400-54-000

**Exhibit B**  
**(Attach TCAC Lease Rider)**

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## Exhibit B-1

Free recording in accordance with  
California Government Code  
Section 27383

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

California Tax Credit Allocation Committee  
915 Capitol Mall, Rm 485  
Sacramento, CA 95814

### CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

#### LEASE RIDER AGREEMENT (TAX CREDITS) Ground Lease

TCAC NUMBER CA-  
PROJECT NAME

**THIS LEASE RIDER AGREEMENT** (the "Lease Rider Agreement") is dated this day of , , and is made and entered into for reference purposes only, by and among (the "Lessor"), (the "Lessee"), and the California Tax Credit Allocation Committee, a public agency of the State of California established under Section 50199.8 of the Health and Safety Code ("TCAC") in consideration of the following facts and circumstances:

A. Lessor is the fee simple owner of that certain real property described in Exhibit A attached hereto and incorporated herein (the "Property");

B. [OPTION A: PRIVATE LESSOR] Lessor and Lessee entered into the following ground lease of the Property: that certain ground lease dated and recorded in the official records of County, California (the "Official Records") as Instrument No. [and as amended by that certain First Lease Addendum dated and recorded as Instrument No. ] (the "Lease");

[OPTION B: PUBLIC AGENCY LESSOR]: Lessor and Lessee entered into the following ground lease of the Property: that certain ground lease, which is on file with the Lessor as a public record (the "Lease") and a memorandum of which was recorded in the official records of County, California, as Instrument No. (the "Memorandum of Lease") [and as amended by that certain First Lease Addendum dated and recorded as Instrument No. ] ("Memorandum of First Lease Amendment");

C. Pursuant to the Lease, Lessee has agreed to acquire a leasehold in the Property for a term described below in Paragraph 2.f. which is at least as long as the TCAC Regulatory Agreement and to [develop, acquire, refinance, construct, rehabilitate], own,

operate and manage a rental housing development on the Property consisting of not less than            residential rental units [and nonresidential space(s) approved by TCAC]. During the term of the Lease, Lessee is the owner of all of those certain buildings, improvements and fixtures now or hereafter erected on the Property described in the lease, and all appurtenances thereto now or hereafter affixed to, placed upon or used in connection with such real property and owned by Lessee or in which Lessee has an interest, together with all additions to, substitutions for, changes in and replacements of the whole or any part of said articles of property (collectively, the "Improvements"). Collectively, the Lessee's leasehold interest in the Property and its interest in the Improvements constructed pursuant to the Lease are hereinafter sometimes referred to as the Development (the "Development");

D. TCAC has authorized an allocation of federal [and state] low-income housing tax credits by a Reservation Letter dated            (the "Allocation") to Lessee to finance, in part, the Development, pursuant to the Low Income Housing Tax Credit Program ("Program"). The Allocation is subject to numerous terms and conditions, including without limitation, the execution and delivery of this Lease Rider Agreement and the TCAC Regulatory Agreement which sets forth certain use restrictions affecting the Development, which TCAC Regulatory Agreement is to be recorded in            County, as required by Section 42 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (collectively, "Section 42");

E. As a further condition of the Allocation and pursuant to the requirements of the Program, Lessee and TCAC [have entered] [will enter] into a Regulatory Agreement, including any amendments thereto (the "Regulatory Agreement"), securing performance related to the Allocation, and governing the use, occupancy, operation, management and ownership of the Development. Consistent with the provisions of Section 17 hereof, Lessor and Lessee have agreed to waive any such provisions of the Lease in conflict with or which would frustrate Lessee's compliance with the Regulatory Agreement in favor of the terms of the Regulatory Agreement;

F. In order to induce TCAC to make the Allocation, Lessor and Lessee have agreed to enter into and record this Lease Rider Agreement for the benefit of TCAC, its successors, and assigns; and

G. It is the intent of TCAC that, except in unique circumstances, it will exercise its rights and remedies under this Lease Rider Agreement only after written notice of any Lease defaults have been provided to Lessor, any Senior Lender, the Tax Credit Partner, and any other party known by TCAC to have either an ownership or other equitable interest in the Development. In addition, it is the intent of TCAC that the exercise of its rights and remedies under this Lease Rider Agreement generally shall be undertaken as part of a judicial action in a court of competent jurisdiction unless Lessor and any Senior Lenders otherwise agree.

**NOW THEREFORE**, in consideration of the foregoing recitals and the mutual covenants hereinafter contained, TCAC, Lessee and Lessor hereby agree as follows:

1. Definitions and Lease Rider Term.

a. As used herein, "Leasehold" means all of Lessee's leasehold interest in the Property described in Exhibit A, in the Development, in the Improvements now or hereafter located on the Property, all options contained in the Lease or granted in connection with the Lease, all other rights of Lessee under the Lease, and all subleases entered into in connection with the Lease (the "Subleases").

b. For the purposes of this Lease Rider Agreement, if Lessor is a corporate or governmental entity, the obligation to assert facts related to the "Lessor's knowledge" shall include a duty [for the chief executive of the agency or corporation] to perform or otherwise be responsible for pursuit of reasonably diligent efforts to ascertain the existence or nonexistence of the facts asserted, contemporaneous to the assertion. This duty may be fulfilled by use of an estoppel agreement executed by the Lessee.

c. For the purposes of this Lease Rider Agreement, the holders of all mortgage liens set forth in the Report and any other lenders approved by TCAC and all successors and assigns thereof including the holders of any mortgage lien against the Improvements or Lessee's interest in the Leasehold are collectively referred to as "Senior Lenders."

d. Lease Rider Agreement Term. This Lease Rider Agreement becomes effective on the date the TCAC Regulatory Agreement is recorded and remains in effect for at least the term of the Regulatory Agreement. Upon the expiration or sooner termination of the TCAC Regulatory Agreement, this Lease Rider Agreement shall terminate and be of no further force or effect.

2. Representations and Warranties of Lessor and Lessee. Lessor and Lessee hereby represent and warrant to TCAC as of the date of this Lease Rider Agreement as follows:

a. Title. (1) By Lessor: Lessor warrants and represents to TCAC that, to the best of Lessor's knowledge, Lessor's fee interest in the Property is free and clear of all liens, encumbrances, covenants, easements, licenses, judgments, or other matters of record except those shown as affecting the fee interest of the Property in that certain Policy of Title Insurance Final Report or, if one has not been issued, Preliminary Report regarding the Property issued on \_\_\_\_\_ by \_\_\_\_\_, Order # \_\_\_\_\_, Policy No. \_\_\_\_\_ (the "Report"). Lessor has not required or permitted, and has no knowledge of any other matters of record to be recorded that are not contained in the Report.

(2) By Lessee: [If applicable, OPTION 1:] Lessee has entered into an agreement with \_\_\_\_\_ ("the \_\_\_\_\_ Agreement") dated \_\_\_\_\_ for a loan of \$ \_\_\_\_\_ to further assist the Development which will be secured by \_\_\_\_\_, all as more fully described under the \_\_\_\_\_ Agreement. The \_\_\_\_\_ Agreement provides for \_\_\_\_\_ to be provided with a security interest as to the Development. Lessee warrants and represents that it [has provided/will provide] TCAC with a copy of the \_\_\_\_\_ Agreement [which is subject to TCAC approval] [which



previously was approved by TCAC] [and TCAC acknowledges receipt of such Agreement] prior to execution of this Lease Rider Agreement.

[If applicable, OPTION 2]: Lessee has entered into one or more loan agreements ("the Agreement(s)") which will be secured as more fully described in the Agreement(s). Lessee warrants and represents that it [will provide/has provided] a true and correct copy of said Agreement(s) to TCAC as part of TCAC's placed in service review, for which the issuance of the IRS Form 8609 shall constitute approval.

b. Priority. Lessor warrants and represents to TCAC that [except as otherwise referenced in the Report,] the Lease is superior to any and all mortgage liens on the Property and nothing encumbers fee title of the Property which would interfere with Lessee's ability to construct and operate the Development on the Property.

c. Transfers by Lessor. Lessor warrants and represents to the best of Lessor's knowledge that it has not assigned, mortgaged, or otherwise hypothecated or transferred, or agreed to assign, mortgage or otherwise hypothecate or transfer, its interest in the Property in whole or in part, except as referenced in the Report and except as security for any loans or any other liens, conditions, covenants, or restrictions on the Property identified in the Report and approved in writing by TCAC.

d. Status of Lease. Lessor warrants and represents that:

(1) Lessor is the current Lessor under the Lease. To the best of Lessor's knowledge, the Lease is in full force, the Lease is not void, voidable or terminable as of the date hereof without an uncured default by Lessee except pursuant to Section 5 at the option of any party thereto or of any other person or entity claiming an interest in or to such Lease or the Development, and to the best of Lessor's knowledge, there has been no default thereunder on the part of Lessee nor has any event occurred which, with the giving of notice or the passage of time, or both, would be an event of default thereunder. Lessor has not given notice of any violation under the Lease to Lessee. Lessor has not been informed of and has not otherwise received notice from Lessee or from any other person or entity concerning any alleged default on the part of Lessor under the Lease. To the best of Lessor's knowledge, there exist no defenses or offsets to enforcement of the Lease by Lessee. [Optional, if applicable: Pursuant to the terms of the Lease, Lessor has waived its right to terminate the Lease during the Compliance Period (as defined in the Lease) for a non-monetary default by Lessee without the prior written consent and approval of the Tax Credit Partner and the Senior Lenders.]

(2) Any consent or approval of any third party (including any lender or government agency) that is required in order for Lessor to deliver this Lease Rider Agreement has been obtained.

(3) To the best of Lessor's knowledge, no alterations, improvements or additions now exist on the Property that have not been approved by the Lessor.

e. Other Agreements. All terms and conditions of the Lessee's tenancy under the Lease are set forth in the Lease and Lessor and Lessee each certify to the best of its knowledge that there have been no other agreements and no further or other supplements, amendments, modifications or extensions thereof except those submitted to and approved by TCAC.

f. Lease Term. The date of the commencement of the Lease term is \_\_\_\_\_ and will end on \_\_\_\_\_ unless terminated sooner pursuant to its terms and consistent with this Lease Rider Agreement. All conditions precedent to the effectiveness of the Lease or the exercise of any of Lessee's rights thereunder at the effective date of the Lease have been fully satisfied.

g. Development. To the best of Lessor's knowledge, the Improvements constructed, or to be constructed, by Lessee on the Property satisfy or are expected to satisfy all requirements affecting the design, use or characteristics of such Improvements imposed by Lessor under the Lease or otherwise, including a requirement by Lessor for Lessee to comply with any and all applicable provisions of federal, state and local laws, and all agreements with any public entities concerning the Development, as amended from time to time.

h. Insurance. All notices, certificates, binders, endorsements, copies of policies, and receipts required under the Lease have been delivered to and approved by Lessor.

3. Cancellation, Transfer of Interest.

a. [Subject to matters of record referenced in the Report, the rights of Senior Lenders and the Tax Credit Partner and the matters of record on the Lessee's Leasehold interest and only to the extent necessary or appropriate pursuant to such matters of record,] Lessor and Lessee agree that so long as TCAC, its successor or assigns holds the Regulatory Agreement encumbering the Development, no termination of the Lease or efforts by Lessor to terminate the Lease except a termination consistent with Section 5, and no subordination, cancellation, surrender, amendment or modification of the Lease shall be effective without the prior written consent of TCAC, which consent shall be in TCAC's reasonable discretion and may be conditioned upon the satisfaction of such terms and conditions as TCAC may reasonably prescribe. TCAC shall have 30 days after its receipt of such a notice and any clarifications thereof requested by TCAC to consent to or deny any such variation from those obligations. Failure by TCAC to act within such a 30-day period shall constitute consent to such a variation. Any attempt by Lessor to take such action shall be void without TCAC's prior written consent or implied consent as provided for in this Section 3.a.

b. [Subject to matters of record referenced in the Report, the rights of Senior Lenders and the Tax Credit Partner, and the matters of record on the Lessee's Leasehold interest and only to the extent necessary or appropriate pursuant to such matters of record,] Lessor agrees that it shall not transfer, convey, sell, hypothecate, assign, encumber or permit any liens against its interest, or any portion thereof, in the Property or the Development unless Lessor requires, and any purchaser, assignee, or transferee agrees, that the purchaser, assignee, or transferee will expressly assume all obligations of Lessor under the Lease and this Lease Rider Agreement by a written instrument recordable in the Official Records. Any variation from those obligations shall require prior written approval of TCAC, which consent shall be in TCAC's reasonable discretion, and may be conditioned upon the satisfaction of such terms and conditions as TCAC may reasonably prescribe. If Lessor or Lessor's successor is seeking a variation from these obligations, Lessor or Lessor's successors and assigns shall provide TCAC with copies of all documents related to the transfer, conveyance, sale, hypothecation, assignment, encumbrance or lien at least 30 days prior to the effective date of that transaction and TCAC shall have 30 days after its receipt to reasonably consent or deny any such variation from those obligations. Failure by TCAC to act within such a 30-day period shall constitute consent to such a variation.

c. Foreclosure. Nothing contained in this Lease Rider Agreement shall prevent a Senior Lender from foreclosing on its security interest or accepting a conveyance in lieu of foreclosure.

d. No Merger. There shall be no merger of the Lease or any interest in the Lease, nor of the Leasehold interest, with the fee estate in the Property if the Lease or such interest therein, or such Leasehold interest may be directly or indirectly held by or for the account of any person who shall hold the fee estate in the Property, or any interest in such fee estate, nor shall there be such a merger by reason of the fact that all or any part of the Leasehold interest created thereby may be conveyed or mortgaged in a leasehold mortgage, deed of trust, or other security instrument to a leasehold mortgagee that shall hold the fee estate in the Property or any interest of the Lessor under the Lease.

4. Consent to Assignment, Payment of Rent.

a. [Subject to any matters of record as referenced in the Report, the rights of Senior Lenders, and the matters of record on the Lessee's Leasehold interest and only to the extent necessary or appropriate pursuant to such matters of record,] Lessor hereby consents to and approves the following to the extent such consents or approvals are required under the Lease:

(1) Lessee's encumbering the Lease, the Leasehold and the Development by the Regulatory Agreement; possession of the Leasehold and any Development thereon by TCAC or by a receiver under the Regulatory

Agreement; and sale of the Leasehold and the Development pursuant to a court order or other agreement enforcing the Regulatory Agreement;

(2) Assignments to TCAC or its designee of any subleases and any and all rents from such subleases; and

(3) Sale or assignment of all or any part of any interest in the Leasehold to any purchaser or transferee pursuant to a court order or other agreement enforcing the Regulatory Agreement (such purchaser or transferee, including TCAC, is collectively referred to as the "Transferee"), and to any subsequent transfers (all such assignments, transfers, and subsequent transfers referred to in this Lease Rider Agreement as the "Transfer").

b. Nothing in this Lease Rider Agreement, in the Regulatory Agreement or in the Lease shall impose on TCAC the obligations of Lessee under the Lease or require TCAC to assume the Lease unless TCAC takes possession or ownership of the Development pursuant to a court order or other agreement under the Regulatory Agreement, or becomes the lessee under the Lease or a New Lease (defined in Section 6, below).

5. Notice of Defaults; Termination Notice.

a. Notice and Cure. Lessor shall provide concurrently to TCAC a written copy of all notices and demands, including, without limitation, notices of default or breach which Lessor gives, delivers, or sends to Lessee under the Lease. No notice or demand under the Lease shall be effective as to TCAC unless and until a copy of such notice is provided to TCAC as provided herein. Any notice of default under the Lease or this Lease Rider Agreement shall describe the default(s) with reasonable detail. TCAC shall have the right, but not the obligation, to cure any breach or default within the time period given in the Lease; provided that, if such notice to TCAC is not given or is delayed for any reason, the period of time within which TCAC may cure any such breach or default shall commence upon receipt by TCAC of such notice. Lessor and Lessee authorize TCAC to enter the Property and Improvements after reasonable prior written notice or pursuant to a court order for the purpose of mitigating defaults or exercising its right to cure and any other powers given TCAC under the Regulatory Agreement, this Lease Rider Agreement or the Lease.

b. Termination Notice. After the expiration of the grace period given Lessee under the Lease to cure a default, Lessor shall not terminate the Lease on account of such default but shall give TCAC a written notice (the "Termination Notice") that Lessee has failed to cure the default within the grace period and that, on account thereof, Lessor intends to terminate the Lease, which notice shall set a termination date not earlier than ninety (90) days after TCAC's receipt of the Termination Notice, provided that Lessor agrees to extend such termination date for a reasonable period if TCAC reasonably requires additional

time to accommodate TCAC's taking possession of the Development where possession is necessary to cure Lessee's default, all of which is subject to any Senior Lender's security instruments. In the event the default results in the existence of an immediate or imminent serious health and safety threat to the residents or the public, Lessor may request TCAC to approve a shorter termination date which shall not be unreasonably denied. In addition, TCAC may waive its right to the 90-day period to cure under the Termination Notice after its receipt of the Termination Notice if TCAC determines that it will not take action to effect a cure for the default. No Termination Notice shall become effective to terminate the Lease if:

- (1) Except as provided in Section 5.c., within ninety (90) days after receipt of the Termination Notice, TCAC cures all defaults which can be cured by payment or expenditure of money or without possession of the Development; or provides reasonable assurance and undertakings for the cure of such default. To effect a cure of Lessee's default, TCAC may, subject to the rights of all Senior Lenders, make any repair or improvement, do any other act or thing required of Lessee under the Lease, or do any act or thing which may be necessary or proper to prevent termination of the Lease. TCAC and its agents and contractors, subject to the rights of all Senior Lenders, shall have full access to the Property and Improvements for purposes of accomplishing the curing of defaults under the Lease. Any of the foregoing done by TCAC shall be as effective to prevent a termination of the Lease as the same would have been if done by Lessee; or
- (2) TCAC commences and diligently pursues judicial and/or administrative proceedings commenced under the Regulatory Agreement to cure a default.
- (3) If TCAC has not cured a default upon the expiration of such Termination Notice pursuant to Subsection (1) above or fails to commence and diligently pursue a cure pursuant to Subsection (2) above, and subject to compliance with other provisions of this Section 5.b. and any limitations on termination in the Lease, Lessor may terminate the Lease and pursue such other remedies as are available under the terms of the Lease.

c. Defaults Not Susceptible to TCAC Cure. TCAC shall not be required to perform any act which is not susceptible to performance by TCAC, such as to cure a filing or condition of bankruptcy or insolvency or to cure or commence the cure of any default which is Lessee's failure to pay or comply with any lien, charge or encumbrance which is junior in priority to the Regulatory Agreement, or to pay any amount owed under an indemnity of Lessor by Lessee based on an event occurring prior to TCAC's possession of the Development. If any such act not susceptible to performance by TCAC constitutes a breach under the Lease, Lessor may resort to any and all of its remedies for such breach under the Lease.

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d. Reimbursement of Lessor's Payment of Arrears. Lessor agrees that if Lessor cures Lessee's failure to make any payment due under the Lease or any loan identified in Section 2.a., it shall seek reimbursement of amounts so paid solely from Lessee and TCAC shall have no obligation to pay such amounts to Lessor.

e. Waiver of Breach or Default. Subject to the rights of Senior Lenders, on transfer of the Leasehold interest pursuant to a court order or other agreement enforcing the Regulatory Agreement, all violations, defaults and breaches by Lessee under the Lease occurring prior to such transfer, including, without limitation, nonpayment of rent or other amounts payable under the Lease, shall be deemed personal obligations of Lessee, and TCAC or other Transferee shall be entitled to the New Lease as described in Section 6 below without incurring or assuming any liability or obligation of, or claim against, Lessee under the Lease. However, upon transfer of the Leasehold interest, TCAC or the Transferee, as applicable, shall be responsible for correcting all defaults in existence at the time of the transfer; Lessor may exercise its rights under Section 5.b. if TCAC or the Transferee fails to correct any such default within a reasonable time. Nothing in this section shall be deemed a waiver of any claim by Lessor, TCAC, or other Transferee against Lessee under the Lease.

f. Enforcement Not a Breach. Any action taken by TCAC to enforce its rights under this Lease Rider Agreement with respect to Lessee with respect to any of the documents governing the Allocation including, without limitation, any actions taken to collect any amounts due and owing to TCAC or any action to appoint a receiver for the Development or to otherwise ensure compliance with the Regulatory Agreement, shall not constitute or result in a breach or violation of the Lease.

g. Status Quo Ante. Any default by Lessee shall not prejudice TCAC if TCAC chooses to cure such default within the applicable grace period specified by this Lease Rider Agreement or the Lease, and Lessor acknowledges and agrees that upon TCAC's cure of any such default, the Lease shall be restored status quo ante.

6. New Lease.

a. Conditions. Section 5 hereof notwithstanding, [and subject to the rights of Senior Lenders as provided in their security instruments,] Lessor agrees to comply with the requirements of Section 6.b. if the following conditions specified in this Section 6.a. apply:

- (1) The Lessee's Lease or a Transferee's New Lease is terminated for any reason whatsoever and TCAC or a subsequent Transferee acquires possession or ownership of the Development as a result of TCAC enforcing its remedies authorized by the Regulatory Agreement; and

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(2) TCAC or other Transferee, whether or not such party has assumed the Lease, requests Lessor in writing pursuant to Section 6.b. to enter into a new lease (the "New Lease") of the Property within ninety (90) days after TCAC or the Transferee takes possession or ownership of the Development either as a result of a court order or other agreement under the Regulatory Agreement. The New Lease shall be at the rent of, and consistent with, the terms, provisions, covenants, options and agreements contained in the terminated Lease, [as amended,] or granted by the Lessor in connection with the Lease, all as modified or supplemented by this Lease Rider Agreement unless Lessor agrees to lower rent or less restrictive terms and conditions.

b. Obligations. If the conditions specified in Section 6.a. have been satisfied, [and subject to the provisions of matters of record as referenced in the Report and the rights of Senior Lenders in their security instruments,] Lessor shall:

(1) upon receipt of the request for New Lease described in Section 6.a.(2) above, enter into a New Lease of the Property with TCAC, its nominee, or its successor-in-interest or other Transferee, for the remainder of the term of the Lease, effective as of the date of the termination of the Leasehold or conveyance of the Development pursuant to a court order or other agreement under the Regulatory Agreement;

(2) convey to TCAC, its nominee or its successor-in-interest or other Transferee, all title and interest of the Lessee to the Improvements and Leasehold encumbered by the Regulatory Agreement, if any, which may become or have become vested in Lessor as a result of any termination of the Lease or conveyance by court order or other agreement under the Regulatory Agreement, so long as the New Lease contains provisions that require TCAC, its nominee, or its successor-in-interest or other Transferee to reconvey all title and interest conveyed by Lessor's grant deed in the Improvements at the termination of the term of the New Lease; and

(3) assign to TCAC, its nominee, or its successor-in-interest or other Transferee, all of Lessor's interest as landlord, if any, in all existing Subleases of all or any part of the Development and all attornments given by the sublessees under such Subleases, provided that TCAC, its nominee, or its successor-in-interest shall reconvey all such title and interest conveyed by Lessor in all existing Subleases in all or any part of the Development at the termination of the New Lease.

c. Priority. The Leasehold interest and any other interest (if any) in the Development granted to TCAC, its nominee or its successor-in-interest or other Transferee under this Section 6 shall be prior to any mortgage or other lien, charge or encumbrance on the Development created by Lessor or Lessee, except for the liens of Senior Lenders or as approved in writing by TCAC or as referenced in the Report.

7. Successors to TCAC. Subject to Section 4 hereof, if the Leasehold is transferred pursuant to a court order or other agreement enforcing the Regulatory Agreement, Lessor shall recognize the Transferee as the tenant under the Lease, subject to the liens of Senior Lenders. Anything in the Lease notwithstanding, the rights and benefits of TCAC under this Lease Rider Agreement shall benefit and may be exercised by any Transferee. The holder of any mortgage or deed of trust which may be given to secure a portion of the purchase price in any sale by TCAC or its successor(s) after TCAC acquires the Leasehold interest or enters into a New Lease under this Lease Rider Agreement shall be entitled to rely on continuation of the same rights and benefits of TCAC under this Lease Rider Agreement.

8. Diligence of TCAC. So long as TCAC is prevented by any process or injunction issued by any court or by any statutory stay, or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Lessor or Lessee, from commencing or prosecuting its remedies under the Regulatory Agreement or other appropriate proceedings in the nature thereof, or undertaking or completing any of TCAC's rights or remedies under the Lease or this Lease Rider Agreement, TCAC shall not be deemed for that reason to have failed to commence such proceedings or to have failed to prosecute diligently such proceedings, provided, however, that TCAC shall use reasonable efforts to contest and appeal the issuance or continuance of any such process, stay or injunction.

9. Certificates.

(a) Certificate by Lessor. Within fifteen (15) calendar days after written request made by TCAC, Lessor shall execute and deliver to TCAC, or to any proposed purchaser, transferee, or encumbrancer of Lessee's Leasehold interest, a certificate declaring, to the best of Lessor's knowledge, (i) the existence and validity of the Lease, or New Lease as the case may be, and amendments thereto, if any, and that such Lease or New Lease remains in full force and effect; (ii) that all conditions under the Lease, or New Lease, have been satisfied, and that there are no defaults under the Lease or New Lease, or if there has been a default under the Lease or New Lease, a description of the nature of such default; (iii) any other information relating to the condition of the Property reasonably requested by TCAC; and iv) that Lessor understands the recipient will rely on the certificate and that the Lessor will describe in reasonable detail any exceptions to the foregoing statements.

(b) Certificate by Lessee. Within fifteen (15) calendar days after written request made by TCAC, Lessee shall execute and deliver to TCAC, or to any proposed purchaser, transferee, or encumbrancer of Lessee's Leasehold interest, a certificate declaring to the best of Lessee's knowledge (i) the existence and validity of the Lease, or New Lease as the case may be, and amendments thereto, if any, and that such Lease or New Lease remains in full force and effect; (ii) that all conditions under the Lease, or New Lease, have been satisfied, and that there are no defaults under the Lease or New Lease, or if there has been a default under the Lease or New Lease, a description of the nature of such default; (iii) any other information relating to the condition of the Property, Leasehold or the Development reasonably requested by

TCAC; and (iv) that Lessee understands the recipient will rely on the certificate and that the Lessee will describe in reasonable detail any exceptions to the foregoing statements.

10. Notices. Notices and other communications required by this Lease Rider Agreement shall be delivered by messenger to the addresses provided below or sent by U.S Postal Service certified mail, return receipt requested, postage prepaid, addressed as follows:

To TCAC: California Tax Credit Allocation Committee  
915 Capitol Mall, Room 485  
Sacramento, CA 95814  
Attn. Executive Director

To Lessor:

To Lessee:

These addresses may be changed by a written notice given by any party hereto to the other parties in the same manner provided in this Section. Notices shall be effective on receipt.

11. TCAC's Rights Against Lessee. Nothing in this Lease Rider Agreement shall limit or restrict TCAC's rights and remedies under the Regulatory Agreement, or any other agreement between TCAC and Lessee.

12. Successors and Assigns. This Lease Rider Agreement shall inure to the benefit of and bind the successors and assigns of TCAC, Lessor and Lessee.

13. Uninsured Hazard. Lessor agrees that neither TCAC nor any person acquiring the Development, or a portion of the Leasehold pursuant to a court order or other agreement enforcing the Regulatory Agreement, nor the lessee under a New Lease pursuant to Section 6 hereof, nor any successive owner of a portion of the Development after such transfer or New Lease shall have any obligation hereunder or under the Lease or New Lease to repair or reconstruct any damage or loss to the Development which occurred prior to such transfer or New Lease and which is due to a hazard not required to be covered by insurance under the Lease or New Lease. However, if the damage or loss is not corrected and constitutes a breach of the Lease or New Lease, Lessor may exercise its rights under Section 5.

14. Duty to Repair. Lessor agrees that if TCAC, its nominee, or its successor-in-interest succeeds to Lessee's Leasehold interest in the Property and if the Development shall have been or becomes materially damaged before or after the date of such acquisition, TCAC's, its nominee's, or its successor-in-interest's obligation, if any, to repair, replace or reconstruct the Development shall in any such event be limited to the greater of: i) the amount of the net insurance proceeds received by TCAC, its nominee, or its successor-in-interest by reason of that damage or ii) the amount TCAC, its nominee, or its successor-in-interest would be entitled to if in compliance with the minimum insurance requirements of Lessee under the Lease. However, if the damage or loss is not corrected and constitutes a breach of the Lease or New Lease, Lessor may exercise its rights under Section 5.

15. Options. Lessor and Lessee agree that TCAC or its successor-in-interest or other Transferee, after its acquisition of the Leasehold, may exercise any option to extend the term of the Lease or New Lease or to purchase any interest in the Property which is granted to Lessee under or in connection with the Lease or the New Lease.

16. Limitation on Liability. If TCAC agrees to be bound by the terms of the Lease, or in the event of any Transfer to a Transferee, then unless so ordered by a court or as agreed to by TCAC, any Transferee, and any secured creditors, neither TCAC nor Transferee shall have any obligation under the Lease or the New Lease with respect to any liabilities, obligations, losses, damages, fines, penalties, claims, demands, suits, actions, causes of actions, charges, judgments, costs, and expenses (including architects' and attorneys' fees and court costs) arising out of or resulting from acts, omissions, circumstances or events occurring before or existing at the time of such Transfer or TCAC's agreement to be bound by the Lease or the New Lease except for matters of record identified in the Report at the time of execution of this Lease Rider Agreement or any breach in existence at the time of acquisition of the Leasehold. Nothing in this Lease Rider Agreement or in the Lease or New Lease shall impose on TCAC any liability to perform the obligations of Lessee under the Lease or New Lease or require TCAC to assume the Lease or New Lease unless and until TCAC acquires the Development pursuant to a court order or other agreement enforcing the Regulatory Agreement. After acquiring the Development in such a manner, TCAC shall be liable to perform Lessee's obligations only until TCAC assigns or transfers the Leasehold. TCAC shall not, however, be required to cure Lessee's defaults occurring before TCAC's acquisition of the Development in such a manner except that TCAC or the Transferee must cure any defaults in existence at the time of transfer within a reasonable period of time.

17. Conflict With Lease. The provisions herein are intended to be supplementary to, and not in derogation of, the parties' rights and obligations contained in the Lease (including all of TCAC's rights under the Lease as a party with a recorded encumbrance). In the event of any conflict or inconsistency between the terms of the Lease and the terms of this Lease Rider Agreement, except for any term expressly excluded or modified by Section 21, the terms of this Lease Rider Agreement shall govern and control, and the Lease shall be deemed to be modified hereby. Notwithstanding the foregoing, nothing contained herein shall affect the rights of Senior

Lenders or the Tax Credit Partner, nor shall anything contained herein subordinate the lien of any Senior Lender to any rights of TCAC hereunder.

18. Regulatory Agreement Remedies. Nothing in this Lease Rider Agreement is intended to create enforcement rights under the Regulatory Agreement that do not otherwise exist in the Regulatory Agreement.

19. Enforcement. Notwithstanding anything to the contrary in the Lease and notwithstanding the fact that the Lease Rider Agreement is recorded against the Leasehold interest in the Property, Lessor hereby expressly agrees that during the term of the Regulatory Agreement, any violation of the Lease Rider Agreement, including but not limited to any termination, subordination, cancellation, surrender, amendment or modification of the Lease in violation of Section 3 of this Lease Rider Agreement, shall be deemed ineffective. Lessor further agrees, that during the term of the Regulatory Agreement, TCAC shall have standing to enforce and preserve TCAC's rights under the terms of this Lease Rider Agreement and the Regulatory Agreement.

20. Subordination. Notwithstanding anything to the contrary contained elsewhere herein, the parties hereto hereby agree that this Lease Rider Agreement (and all amendments, modifications and supplements hereto) is hereby irrevocably and unconditionally made subject and subordinate in all respects to (a) all existing and future deeds of trust and mortgages approved by TCAC now or hereafter encumbering all or any part of the Lessee's right, title and interest under the Lease (and to all amendments, modifications and supplements thereto), and (b) all rights granted to any holder of any such deed of trust or mortgage under any term or provision of the Lease. Each existing and future holder of any such deed of trust or mortgage (all of whom shall also constitute "Senior Lenders" for all purposes of this Lease Rider Agreement) is hereby made an express third-party beneficiary of the foregoing sentence. [Optional: TCAC hereby approves [insert references to existing or concurrently recorded deeds of trust and mortgages encumbering the leasehold].].

20. Additional Provisions. [Intentionally left blank] [Insert additional provision(s)]

21. Acknowledgment. Lessor and Lessee acknowledge that TCAC is relying on the foregoing representations, warranties, covenants and agreements of the undersigned in allocating the allocation of low income housing tax credits to Lessee, and warrants and affirms to and for the benefit of TCAC that each of their respective representations set forth herein is true, correct and complete as of this date.

**TCAC:**

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE, a public agency of the State of California

BY: \_\_\_\_\_

Mark Stivers

Executive Director

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**LESSOR:**

**LESSEE:**

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**EXHIBIT A**  
Legal Description



## CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

915 Capitol Mall, Suite 485  
Sacramento, CA 95814  
p (916) 654-6340  
f (916) 654-6033  
[www.treasurer.ca.gov/ctcac](http://www.treasurer.ca.gov/ctcac)

### MEMBERS

FIONA MA, CPA, CHAIR  
State Treasurer

BETTY YEE  
State Controller

KEELY MARTIN BOSLER  
Director of Finance

EXECUTIVE DIRECTOR  
Vincent P. Brown

DATE: March 6, 2019

TO: Low Income Housing Tax Credit Project Applicants and Owners

FROM: California Tax Credit Allocation Committee – Development Section

RE: TCAC Lease Rider Process

The California Tax Credit Allocation Committee (TCAC) requires a Lease Rider Agreement for all housing projects developed under leasehold interests (ownership of project building(s) with a land “ground” lease). This memo is to provide information about the process for the TCAC lease rider.

The TCAC lease rider template is available on the TCAC website. The TCAC lease rider can be executed at the time the ground lease is executed, or any time thereafter until immediately preceding the TCAC regulatory agreement recordation. Due to the unique nature of tribal lands, TCAC requires the TCAC lease rider to be attached to any ground lease at the time it is submitted to the Bureau of Indian Affairs (BIA). Forms 8609 will not be released until a TCAC lease rider is executed by all parties. The TCAC lease rider template is not a document subject to negotiated variations. Proposed changes, either substantive or clarifying, will not be accepted. Section 20 is reserved for addressing circumstances unique to a particular project and any additions to this section must be approved by TCAC. If you have questions or comments about template sections or specific language as you review or prepare, contact the TCAC staff below.

Please note:

- The TCAC lease rider must be recorded ahead of the TCAC regulatory agreement.
- The TCAC lease rider legal description is the fee simple interest.
- The TCAC regulatory agreement legal description is the leasehold interest.

In preparing and reviewing the TCAC lease rider and regulatory agreement, TCAC staff verifies the accuracy of the legal descriptions. Often there is a lack of understanding of the two legal descriptions on the part of project owner staff. Providing inaccurate legal descriptions results in delays in executing these agreements and considerable time spent in correspondence between TCAC staff and the project

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March 6, 2019

owner staff. TCAC staff encourages those preparing and reviewing the TCAC lease rider and regulatory agreement to consult with the development team member most knowledgeable about these legal descriptions.

Once the TCAC lease rider has been reviewed by all parties, TCAC will verify the final document. At that time the document may be circulated for signatures. TCAC will sign last to ensure consistency with the approved document. TCAC will send the documents (the TCAC lease rider and, if applicable, the TCAC regulatory agreement) with recording instructions to the county recorder's office unless the owner requests to process the recording. Owner recording must be approved by TCAC. The TCAC lease rider must be recorded ahead of the TCAC regulatory agreement.

For questions about the TCAC lease rider or the process please contact Marisol Parks or Richard Chinakwe.

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## **Exhibit C**

**(Attach parcel map, legal description, and Memorandum of Option to Ground Lease)**

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NK

Recording Requested By:

**NEVADA COUNTY**

When Recorded Mail to:

**COUNTY OF NEVADA  
HHS Housing Division  
950 Maidu Avenue  
Nevada City, CA 95959**

Nevada County Recorder

Gregory J. Diaz

Document#: 20190012784

Tuesday July 09 2019, at 02:42:15 PM

Paid: \$0.00

Recorded By:KP

SPACE ABOVE THIS LINE FOR RECORDERS USE

Pursuant to California Gov't. Code  
Section 27383: no fee recording

### **Memorandum of Option to Ground Lease**

This Memorandum of Option (this "Memorandum") is made this 25<sup>th</sup> day of June, 2019 by and between Nevada County, a political subdivision of the State of California ("Optionor"), and Regional Housing Authority and Pacific West Communities, Inc. (hereafter "Optionee").

1. Optionor hereby grants to Optionee and option to Ground Lease all of that certain real property located in the County of Nevada, State of California, more particularly described on Exhibit "A" attached hereto and incorporated herein (the "Property").

2. The specific terms and conditions of Optionee's option to Ground Lease the Property are set forth in that certain Option to Ground Lease Agreement dated June 25, 2019. All of the covenants, terms, conditions and restrictions of the said Option Agreement are incorporated herein by this reference.

3. The term of the Option expires on June 30, 2020.

4. This Memorandum is prepared for the purpose of recording and in no way modifies the express provisions of the Option to Ground Lease Agreement.

5. Optionor and Optionee intend that the covenants, terms, conditions, and restrictions described and referred to herein shall be both personal to Optionor and Optionee, and binding on their successors and assigns. Each successive owner of the premises or of any portion thereof, and each person having any interest there derived through an owner thereof, shall be bound by such covenants, terms, conditions, and restrictions.

IN WITNESS WHEREOF, this Memorandum has been executed this 25<sup>th</sup> day of  
June, 2019.

**OPTIONOR**

County of Nevada

By: MA  
Richard Anderson, Chair  
Nevada County Board of Supervisors

Date: 7/2/2019, 2019

Attest:

JULIE PATTERSON-HUNTER  
Clerk of the Board of Supervisors

By: Julie Patterson-Hunter



**OPTIONEE**

Regional Housing Authority

By: [Signature]

Date: July 5, 2019

Pacific West Communities

By: [Signature]

Date: JULY 2, 2019

STATE OF MAINE - COUNTY OF Penobscot

Subscribed and sworn (or affirmed) before me this

5 day of July, 2019

by Gustavo Becerra

Personally Known OR Produced Identification ✓

Type of Identification California License

Brittani L. Sudborough  
Notary Public

BRITTANI L. SUDBOROUGH  
Notary Public, Maine  
My Commission Expires January 17, 2025





A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Idaho


County of Ada

On July 2, 2019 before me, Peter Van Dorne, Notary Public, personally appeared Caleb Roope, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

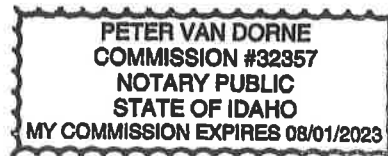
I certify under PENALTY OF PERJURY under the laws of the State of Idaho that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

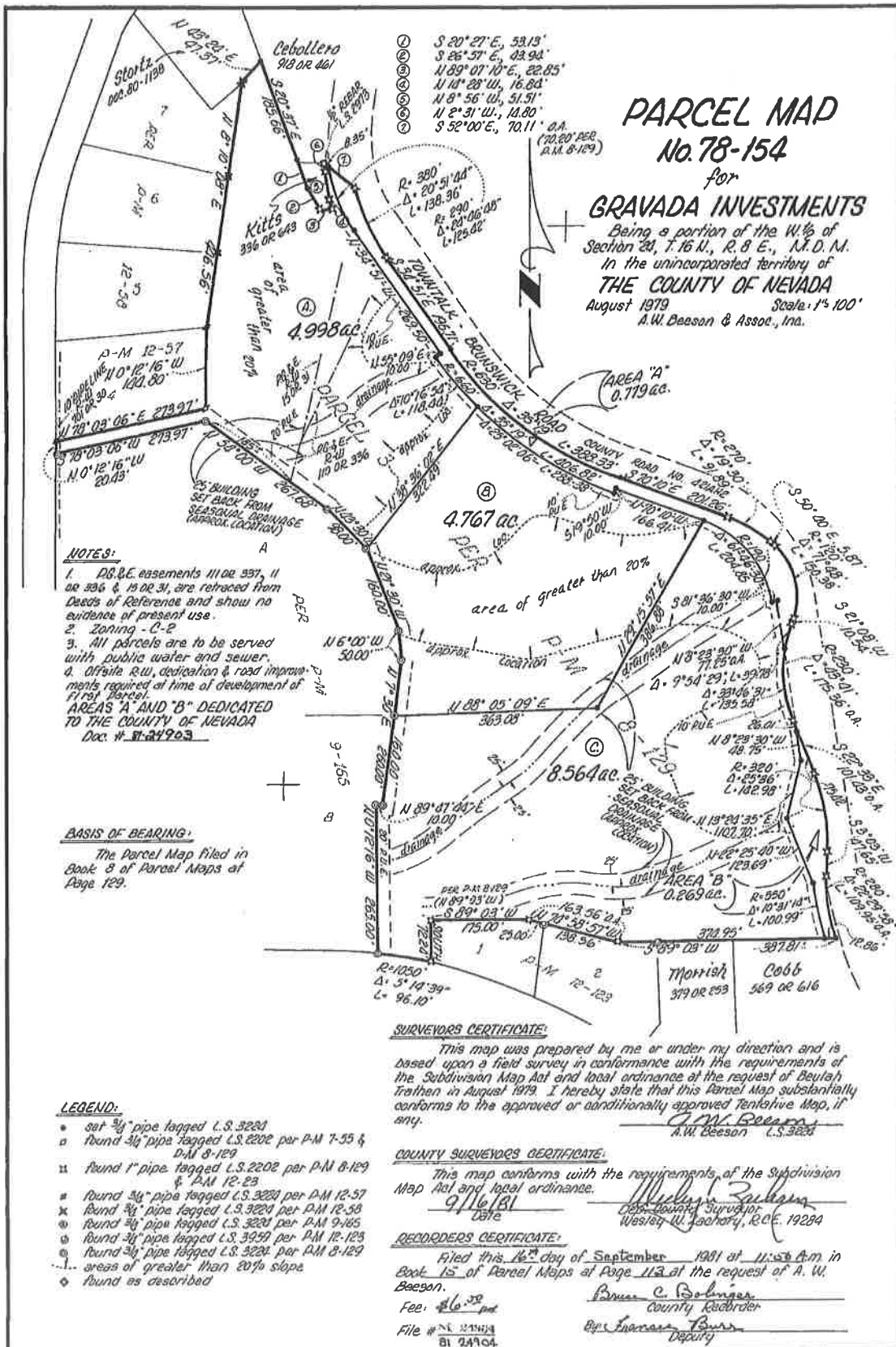
Signature



(Seal)



## EXHIBIT A



Order Number: 2903-5838457  
Page Number: 5

**LEGAL DESCRIPTION**

Real property in the City of Grass Valley, County of Nevada, State of California, described as follows:

PARCEL A, AS SHOWN ON PARCEL MAP NO. 78-154, FILED SEPTEMBER 16, 1981 IN BOOK 15, AT PAGE 113, NEVADA COUNTY RECORDS.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF 100 FEET BELOW THE SURFACE, AS CONVEYED BY DEED, EXECUTED BY GEORGE A. LEGG, ET UX TO D.E. MCLAUGHLIN, RECORDED JANUARY 11, 1940, IN BOOK 60, AT PAGE 22, OFFICIAL RECORDS.

APN: 035-400-54-000