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FILED
YOLO SUPERIOR COURT

OCT 02 2019

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DEPUTY

6 Attorneys for Binning Ranch Holding Company, LLC
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8 **SUPERIOR COURT OF CALIFORNIA**

9 **COUNTY OF YOLO -- UNLIMITED JURISDICTION**

10 BINNING RANCH HOLDING)
COMPANY, LLC,)

Case No. CV19-2085

11 Plaintiff,)

COMPLAINT FOR DECLARATORY RELIEF

12 v.)

13 UNIVERSITY RETIREMENT)
COMMUNITY AT DAVIS, INC., a)
14 California nonprofit benefit corporation;)
and DOES 1-50, inclusive,)

15 Defendant.)
16

17 Plaintiff Binning Ranch Holding Company, LLC, alleges:

18 **PARTIES AND VENUE**

19 1. Plaintiff Binning Ranch Holding Company, LLC ("Binning Ranch") is, and at all
20 times herein mentioned was, a California limited liability company authorized to do business in
21 the State of California, with its principal place of business in Sacramento, California.

22 2. Defendant University Retirement Community at Davis, Inc. ("URC") is a
23 California nonprofit benefit corporation, authorized to do business in the State of California, with
24 its principal place of business in Davis, California.

25 3. The true names and capacities of defendants DOES 1 through 50, inclusive,
26 whether individual, corporate, associate, or otherwise, are unknown to Plaintiff at this time, who
27 therefore sues said defendants, and each of them, by fictitious names. Plaintiff is informed and
28 believes and on that basis alleges Defendant, together with Does 1 through 50, inclusive, were and

1 are the agents, employees, and/or joint venturers of each other and that all defendants participated
2 in each of the acts and omissions of the other defendants and did so with the knowledge and intent
3 and/or are in some way responsible for the events and happenings referred to herein and caused
4 the damages to Plaintiff as herein alleged; that all of the things alleged to have been done by those
5 defendants were done under the scope and capacity of and as agents, employees, representatives
6 and/or joint venturers for each of the other defendants and that all of the things alleged to have
7 been done were done with the knowledge, authority, consent, approval, agreement, adoption and/or
8 ratification of each of the other defendants. Plaintiff will seek leave of this Court to amend this
9 Complaint to state the true names and capacities of the fictitiously named defendants when they
10 have been ascertained.

11 4. Venue is proper in this Court as to URC pursuant to Code of Civil Procedure §
12 395(a) because URC is a party to a written agreement, the obligations of which are to be performed
13 in Yolo County. Additionally, paragraph 30 of the subject written agreement between the parties
14 expressly states “any action or proceeding in respect of any claim arising out of or relating to this
15 Agreement, whether in tort or contract or at law or equity, shall be filed in the state or federal court
16 of competent jurisdiction located geographically closest to the Property.” The Property that is the
17 subject of the agreement is located in Yolo County, and this Court is “closest to the Property”.

18 **FACTUAL BACKGROUND**

19 **A. The Parties Entered into An Option Agreement Granting URC An Option to**
20 **Purchase A Portion of the WDAAC.**

21 5. Binning Ranch is the fee owner of an approximately 74-acre parcel on the north
22 side of Covell Boulevard, just west of Sutter Davis, in Davis (the “Property”).

23 6. In 2016, a local developer, J. David Taormino (“Taormino”) sought to establish an
24 active senior living community to serve the aging Davis population: the West Davis Active Adult
25 Community (the “WDAAC”). The WDAAC is to include 325 for-sale units (primarily single-
26 family homes) and 150 affordable senior apartments, among many amenities. Eighty percent
27 (80%) of the WDAAC’s units will be restricted to persons aged fifty-five (55) and over. The other
28 planned WDAAC amenities include a public health and wellness center, pool, 2.6 miles of walking

1 paths, an agricultural buffer, and a restaurant with outside seating. (WDAAC was recently
2 rebranded as "Bretton Woods.")

3 7. Taormino selected the Property on which to build the WDAAC's senior apartment
4 homes due to their proximity to a variety of healthcare services, including Sutter Davis; Dignity
5 Health Medical Foundation - Woodland and Davis; the UC Davis medical offices; and the primary
6 Communicare Health Center. As an additional amenity for future residents, Taormino earmarked
7 a 3.3 acre parcel for a specialized senior care facility, such as URC.

8 8. URC advertises itself as a Life Plan Community (formerly Continuing Care
9 Retirement Community). It is located directly across Covell Boulevard from the Property. URC
10 houses several hundred residents, to whom it offers various levels of healthcare on site, and
11 includes residential living, assisted living, special care for those living with memory impairment,
12 skilled nursing care, as well as short-term care.

13 9. In light of URC's proximity to the Property, URC and Taormino considered the
14 potential for URC to open a companion location across the street at the WDAAC.

15 10. To that end, on June 2, 2017, Binning Ranch and URC entered into an Option
16 Agreement and Agreement of Purchase and Sale ("Option Agreement"). A true and correct copy
17 of the Option Contract is attached hereto, and incorporated herein, as **Exhibit A**.

18 11. The Option Agreement granted URC the exclusive option, on certain terms and
19 conditions, to purchase approximately 3.2 acres of the Property:

- 20 a. If URC were to elect to exercise the option, the Option Agreement set a purchase
21 price of \$16 per square foot of usable land. (Exhibit A, Section 5.1.)
- 22 b. In consideration of the option, URC agreed to make a First Option Payment of
23 \$10,000, and an Option Continuation Payment of \$150,000, to be paid upon the
24 successful completion of Binning Ranch's "Owner Property Entitlements."
25 (Exhibit A, Section 3.) The Option Agreement defined Owner Property
26 Entitlements" to include the occurrence of (i) the affirmative results of the Measure
27 R vote (discussed further in Section B, *infra*); (ii) the Davis Annexation; (iii)
28 approval of the Planned Development application; and (iv) the Parcel Split. (Exhibit

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A, Section 2.1.)

c. The option was to remain open until the earlier of either Binning Ranch’s successful completion of its “Owner Property Entitlements” or December 10, 2020. (Exhibit A, Section 2.)

d. Section 20 of the Option Agreement further provided that Binning Ranch would execute, acknowledge, and deliver a Memorandum (in the form of Exhibit C to the Option Agreement) to be recorded by URC, and amended by URC contingent upon completion of the final step of Binning Ranch’s Owner Property Entitlements. However, if URC failed to exercise the option or the Agreement terminated “for any reason,” URC agreed to execute, acknowledge, and deliver a quitclaim deed or other instrument, as specified by Binning Ranch, to terminate the Memorandum as an encumbrance against the Property. (Exhibit A, Section 20.)

e. In the event of URC’s breach of any term or provision thereof, the Option Agreement provided that Binning Ranch’s sole remedy would be to terminate the Option Agreement by giving written notice. (Exhibit A, Section 6.2.) Additionally, the Agreement entitled Binning Ranch to retain all payments made by URC upon URC’s breach. (Exhibit A, Section 6.2.)

12. Pursuant to Section 20 of the Option Agreement, Binning Ranch executed and delivered to URC a Memorandum of Option Agreement and Agreement of Purchase and Sale. URC caused it to be recorded against the Property. It remains as an encumbrance against the Property.

B. URC Agreed to Continuously, “Publically and Actively” Support Davis Voters’ Passage of WDAAC.

13. Under the terms of the Option Agreement, before URC could elect to exercise its option, Binning Ranch had to complete its Owner Property Entitlements, including “the affirmative results of the Measure R vote” allowing the Property to be utilized for the WDAAC. (Exhibit A, Section 2.1.)

14. The City of Davis requires voter approval for certain changes in land use within the

1 Davis City limits. (Davis Municipal Code, Article 41.01.) Specifically, Article 41.01 provides
2 the people of the City of Davis with the right to vote on any general plan land use map amendments
3 that would convert any agricultural, open space, or urban reserve lands to an urban or urban reserve
4 land use designation. (Davis Municipal Code, Article 41.01.010.)

5 15. Prior to November 2018, the Property was designated an Agriculture and Urban
6 Agriculture Transition Area.

7 16. To be developed into the WDAAC, the Property would have to be redesignated to
8 a Residential Medium Density, Residential High Density, Neighborhood Mixed Use, and Urban
9 Agriculture Transition Area. Practically, that meant the WDAAC project would have to go before
10 the Davis voters and pass with an affirmative vote.

11 17. For this reason, Binning Ranch asked URC to support the passage of WDAAC
12 among Davis voters in further consideration of granting the option to URC. Specifically, the last
13 sentence of Section 12.2 of the Option Agreement provided:

14 As an additional *material* consideration for Owner's Grant of the
15 Option to Optionee, commencing immediately after the Effective
16 Date and *continuing throughout* the Term, Optionee *shall*
publicly and actively support Owner's campaign relating to the
affirmative support of the Measure R Vote.

17 (Section 12.2, emphasis added.)

18 18. By the plain and express terms of Section 12.2, as material consideration for
19 Binning Ranch's offer to URC of an option to purchase a portion of the Property at a below-market
20 rate of \$16 per square foot, URC expressly promised to continuously, from and after June 2, 2017,
21 both "publically and actively" support a Measure R vote in Davis "throughout the term" of the
22 Option Agreement. (Exhibit A, Section 12.2.) The Option Agreement also made the Option
23 Continuation Payment of \$150,000 contingent upon the completion of the "Owner Property
24 Entitlements," which included a successful Measure R Vote. (Exhibit A, Section 2.)

25 **C. URC Did Not Continuously, "Publically and Actively" Support the WDAAC**
26 **Campaign.**

27 19. Binning Ranch and Taormino launched a labor-intensive, expensive and time-
28 consuming campaign in an effort to educate the Davis electorate as to the benefits of the project to

1 the community and its residents, both present and future, as well as to get WDAAC on the ballot
2 and passed by an affirmative vote.

3 20. While hundreds of families, individuals, and couples expressed interest in the
4 WDAAC by joining the waiting list, the project faced staunch political opposition, both from
5 identified and anonymous sources.

6 21. Finally, on June 12, 2018, the Davis City Council unanimously voted in favor of
7 placing Resolution 18-094, which sought approval of the Property redesignation, as Measure L on
8 the ballot in the Davis November Special Election.

9 22. In the months leading up to the election, Defendant was not continuously,
10 publically, *or* actively supporting Measure L in spite of Taormino and Plaintiff's agents' requests
11 that it carry through on its express contractual promise to support the measure.

12 23. However, time and time again, URC stalled, ignored, or outright denied those
13 requests despite its contractual obligation to support the WDAAC campaign and to help ensure a
14 successful Measure R vote.

15 24. For example, when asked how URC intended to support WDAAC at the various
16 appearances and hearings necessary to get WDAAC approved, URC initially expressed a
17 willingness to collaborate on a "communication strategy that both recommends and asks for
18 support of the project." However, URC never provided a communication strategy, nor did URC
19 attend or publicly support WDAAC at any public appearance or hearing.

20 25. At times, URC even affirmatively refused to lend support for the campaign. For
21 instance, on October 12, 2018, Taormino requested that the URC "Board submit a letter to the
22 Editor [of the Davis Enterprise] in support of Measure L." Thirteen (13) days later, and just two
23 (2) weeks before the election, URC's Executive Director relayed the URC Board's declination,
24 stating "I have spoken to my board members these past few days and they are not comfortable
25 putting their name on a letter with verbiage supporting Measure L." The Board did not submit a
26 letter to the Editor, nor did URC publically, actively, or otherwise, support the passage of Measure
27 L in the days just before the election. In short, in the thick of the election season, when Binning
28 Ranch needed URC's promised support the most, URC outright refused to provide it.

1 to pay all Option Payments to Plaintiff.

2 35. Plaintiff desires a judicial determination and declaration of Plaintiff's and Defendant's
3 respective rights and duties under Code of Civil Procedure section 1060, including, but not limited to,
4 that the Court find (1) Binning Ranch properly terminated the Option Agreement in light of URC's
5 failure to continuously, publically and actively support the Measure R vote and (2) URC must remove
6 the Memorandum of Option Agreement and Agreement of Purchase and Sale from the Property's
7 title pursuant to Section 20 of the Option Agreement.

8 36. This declaration is appropriate at this time so that the parties may determine their
9 rights and duties pertaining to the Option Agreement.

10 37. By the terms of paragraph 24 of the Option Agreement, the parties agreed that if
11 litigation were instituted, the prevailing party is entitled to recover its reasonable attorneys' fees and
12 costs from the non-prevailing party.

13 **PRAYER FOR RELIEF**

14 Plaintiff prays for relief as follows:

- 15 1. For a judicial declaration that the Option Agreement is terminated;
- 16 2. For a judicial declaration that URC must remove the Memorandum as an encumbrance on
17 the title;
- 18 3. For a judicial declaration that Plaintiff is entitled to receive the Option Payment deposited
19 with the Title Company herein;
- 20 4. For a preliminary and permanent injunction including requiring URC to remove or
21 otherwise withdraw the Memorandum of Option Agreement and Agreement of Purchase and
22 Sale from the Property's title; or alternatively, to prohibit URC from refusing to execute
23 documentation causing to be terminated the recorded Memorandum, and refusing to
24 instruct the subject Title Company to pay the Option Payment to Plaintiff;
- 25 5. For reasonable attorneys' fees pursuant to Section 24 of the Option Agreement;

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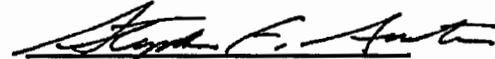
6. For costs of suit herein;

7. For other relief as this Court deems necessary and proper.

Dated: October 2, 2019

BOUTIN JONES INC.

By:



Stephen F. Boutin
Eric C. Miller
Elizabeth K. Key

Attorneys for BINNING RANCH HOLDING
COMPANY, LLC

Exhibit A

**OPTION AGREEMENT
AND
AGREEMENT OF PURCHASE AND SALE**

DATE: June 2, 2017 ("Effective Date")

FROM: Binning Ranch Holding Company, LLC
a California limited liability company ("Owner")

TO: University Retirement Community at Davis, Inc.,
a California nonprofit public benefit corporation ("Optionee")

RECITALS

A. Owner owns that certain real property consisting of approximately seventy-four (74) acres located at the northwest corner of West Covell Boulevard and Risling Court in unincorporated Yolo County, California, legally described in Exhibit A attached hereto, which is herein called, the "Overall Property."

B. Optionee desires to acquire an option (the "Option") to purchase that certain portion of the Overall Property containing approximately 3.2 acres of land together with all improvements situated on it and identified as Subdivision Block 9 on the attached Conceptual Master Plan for the West Davis Active Adult Community, and as further depicted on Exhibit B attached hereto (together with all other rights, hereditaments, and tenements appurtenant to the real property and improvements, the "Property") on the terms and conditions herein stated.

C. Optionee hereby acknowledges and agrees that presently the Overall Property is designated as agricultural property and that until after an affirmative vote of the residents of the City of Davis ("Measure R Vote") to change the use of the Property, and thereafter, the annexation of the Property into the boundaries of the City of Davis ("Davis Annexation"), no part of the Overall Property may be utilized for Optionee's proposed active retirement community ("Optionee's Proposed Use").

D. Owner has agreed to grant Optionee an exclusive option to purchase the Property, and the parties desire to evidence their agreement regarding the Option.

The parties therefore agree as follows:

AGREEMENT

1. Grant of Option

Owner, in consideration of the sum of \$10,000 to be paid to Title Company by Optionee in cash (the "First Option Payment") within two (2) days after the Effective Date, grants to Optionee the sole and exclusive option to purchase the Property (the "Option") in the manner

and for the price stated in this Option Agreement and Agreement of Purchase and Sale ("Agreement").

2. Option Term

2.1 Option Term. The term of the Option (the "Term") commences on the Effective Date and will continue until the occurrence of the earlier of (i) 30 days after Owner has provided Optionee with written notice that Owner has completed the "Owner Property Entitlements" (as hereinafter defined), and (ii) December 10, 2020. For purposes hereof, "Owner Property Entitlements" shall mean the occurrence of each of the following: (i) the affirmative results of the Measure R Vote allowing the Property to be utilized for Optionee's Proposed Use, (ii) the Davis Annexation, (iii) approval of the Planned Development application permitting the Property to be utilized for Optionee's Proposed Use ("PD Approval"), and (iv) the Parcel Split (as hereinafter defined) pursuant to which the approximate configuration of the Property shall be substantially as shown on Exhibit B and containing not less than 3.0 acres of Usable Land (as hereinafter defined). If the last day of the Term falls on a Saturday, a Sunday, or a holiday recognized by the federal government or the state of California, all of Optionee's rights during either such time period will extend through the next business day. Notwithstanding any contrary provision of this Agreement, in the event that the Measure R Vote occurs and does not achieve the requisite margin of approval, then the Term shall automatically expire, the First Option Payment shall be refunded to Optionee, this Agreement shall terminate and the parties shall have no further rights or obligations in relation to one another in connection with this Agreement or the Property.

2.2 Exercise of Option. The Option must be exercised, if at all, by written notice (the "Exercise Notice") given by Optionee to Owner at any time during the Term, stating that Optionee has elected to exercise the Option. The Option may be exercised only with respect to the entire Property, and nothing contained herein will be construed as permitting Optionee to purchase less than all of the Property under this Agreement. Upon exercise of the Option, Optionee will be obligated to purchase the Property from Owner, and Owner will be obligated to sell the Property to Optionee, for the price and in the manner herein set forth.

2.3 Failure to Exercise Option. If Optionee fails for any reason to exercise the Option in the manner and during the time periods set forth herein, Optionee will have no further claim against or interest in the Property or any of the Option Payments, unless Optionee is entitled to a refund of the Option Payments under another provision of this Agreement. In the event of the failure to exercise the Option, Optionee will provide Owner with any instruments that Owner reasonably deems necessary for the purpose of removing from the public record any cloud on title to the Property that is attributable to the grant or existence of the Option.

3. Option Payments

In initial payment for Owner's grant of the Option during the Term, Optionee will deliver to Title Company the cash sum of the \$10,000 First Option Payment as stated in Section 1. In order to continue the Term of the Option and to avoid the lapse of the Option prior to the expiration of the Term, on or before the date that is 30 days after the last to occur of (i) the

official tally of the Measure R Vote that results in the requisite margin of approval, (ii) the Davis Annexation, and (iii) the PD Approval, Optionee shall deliver to Title Company the sum of \$150,000 (the "Option Continuation Payment", and collectively with the First Option Payment, the "Option Payments"). Promptly after payment of each installment of the Option Payments by Optionee, each such Option Payment be non-refundable to Optionee in all circumstances not expressly set forth herein for the refund of such Option Payments to Optionee, and shall be applicable to the Purchase Price (as hereinafter defined) in the event of the occurrence of the Closing (as hereinafter defined). Upon the date that is five (5) days after the Parcel Split (as hereinafter defined), unless Optionee terminates this Agreement prior to such date, the Option Payments shall be released from Title Company to Owner without the need for further instruction by Optionee or Owner; provided, however, that if required by Title Company, Optionee shall execute such instructions required by Title Company to cause the immediate release the Option Payments to Owner. In the event that Optionee fails to timely make any payment of any of the Option Payments, Optionee shall be in breach of this Agreement and this Agreement shall automatically terminate.

4. Amount of Acreage

4.1 Amount of Usable Land. Owner believes that the Property will contain approximately 3.2 acres of land. In the event of any determination that the Property in fact contains less than 3.0 acres of Usable Land, Optionee may, as its sole remedy, elect to terminate this Agreement and receive a refund of all Option Payments previously paid by Optionee by giving notice of termination to Owner within 30 days of the discovery of the discrepancy. In no event will Owner have any right to cancel because of a discrepancy between actual and estimated acreage.

4.2 Definition of Usable Land. The phrase "Usable Land" shall mean the gross area of land constituting the Property rounded to the nearest square foot, minus the area (also rounded to the nearest square foot) of the Property that (1) lies within the right-of-way lines of any public roads, streets, alleys, railroads, or other public rights-of-way, (2) falls within the banks of any lakes, creeks, rivers, wetlands, or other water courses, or (3) lies within the boundaries of any area determined by the U.S. Department of Housing and Urban Development to be flood-prone or subject to flood hazards under the Federal Flood Protection Act of 1973, as amended. Nothing in this Section 4 shall be deemed to constitute a waiver by Optionee of the right to review and approve all easements, rights-of-way, and other matters encumbering the Property pursuant to Section 8.

5. Purchase Price

5.1 Purchase Price. Subject to the increases described below in this Section 5.1, the purchase price for the Property (the "Purchase Price") shall be the product of (i) \$16 multiplied by (ii) the number of square feet of Usable Land within the final configuration of the Property. In the event of Optionee's duly exercised extension of the Closing Window (as hereinafter defined) pursuant to the provisions of Section 9.1 below, commencing upon the date that is thirty (30) days after Optionee delivers the Exercise Notice (which must occur, if at all, during the

Term), the Purchase Price shall increase at the rate of four percent (4%) per annum calculated daily based on a 360-day year for the period between the date that is thirty (30) days after Optionee exercises the Option and the Closing Date (as hereinafter defined).

5.2 Payment of Purchase Price. The Purchase Price will be payable as follows:

5.3 Optionee will be given credit for the Option Payments actually paid by Optionee to Owner.

5.4 The entire balance of the Purchase Price will be paid in cash at closing.

6. Remedies

6.1 Optionee. If Owner breaches any term or provision of this Agreement, then Optionee, as its exclusive remedy and in lieu of any other relief, may either (1) terminate this Agreement and obtain the return of all Option Payments previously paid to Owner; or (2) tender performance of the obligations of Optionee and specifically enforce all obligations of Owner under this Agreement. Except as noted in Section 6.3 and any specific remedies reserved elsewhere in this Agreement, Optionee waives the right to pursue any remedy in law or equity against Owner other than the remedies specified above, including any action for damages, in the event of a default by Owner.

6.2 Owner. If Optionee breaches any term or provision of this Agreement, and regardless of whether the breach occurs before or after Optionee notifies Owner of the exercise of the Option, then Owner, as its exclusive remedy and in lieu of any other relief, will be entitled to terminate this Agreement by giving Optionee written notice of termination and to retain all Option Payments paid by Optionee. Owner acknowledges (1) the adequacy of this exclusive remedy and (2) that this limitation of remedies is an essential part of this Agreement from the perspective of Optionee. Except as noted in Section 6.3 and any specific remedies reserved elsewhere in this Agreement, Owner expressly waives the right to pursue any other right or remedy in law or equity other than the remedy specified above, including the right of specific performance and the right to sue for damages, in the event of a default by Optionee. IN FURTHERANCE OF THE FOREGOING, OWNER AND OPTIONEE AGREE THAT OWNER'S ECONOMIC DETRIMENT RESULTING FROM THE REMOVAL OF THE PROPERTY FROM THE REAL ESTATE MARKET AND ANY CARRYING AND OTHER COSTS INCURRED IN CONNECTION WITH OWNER'S PERFORMANCE OF ITS OBLIGATIONS OF THIS AGREEMENT ARE IMPRACTICABLE OR EXTREMELY DIFFICULT TO ASCERTAIN. OPTIONEE AND OWNER AGREE THAT THE AMOUNT OF THE OPTION PAYMENTS IS A REASONABLE ESTIMATE OF THE DAMAGES THAT WILL BE INCURRED BY OWNER IN THE EVENT THAT THIS AGREEMENT IS TERMINATED DUE TO A BREACH OR DEFAULT OF THIS AGREEMENT BY OPTIONEE. OPTIONEE AGREES THAT IN THE EVENT THAT THIS AGREEMENT IS TERMINATED DUE TO SUCH BREACH OR DEFAULT BY OPTIONEE OF OPTIONEE'S OBLIGATIONS IN THIS AGREEMENT, OWNER, AS ITS SOLE REMEDY, SHALL BE ENTITLED TO RETAIN THE OPTION PAYMENTS AS LIQUIDATED DAMAGES AND NOT AS A PENALTY. SUCH RIGHT TO RETAIN THE OPTION PAYMENTS BY OWNER

IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO OWNER PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE, AND SHALL NOT BE DEEMED TO CONSTITUTE A FORFEITURE OR PENALTY WITHIN THE MEANING OF SECTION 3275 OR SECTION 3369 OF THE CALIFORNIA CIVIL CODE, OR ANY SIMILAR PROVISION.

OWNER:



OPTIONEE:



6.3 Other Remedies. The limitations on remedies set forth in this section do not apply to any cause of action accruing after Closing or preclude either party from seeking or obtaining injunctive relief or from seeking recovery against the other under any contractual indemnity set forth herein, the recovery of attorney's fees or for causing physical damage or injury to persons or property.

7. Conditions Precedent to Closing

7.1 Optionee's Conditions to Closing. In addition to any other conditions contained in this Agreement expressly identified herein as conditions, set forth below are certain conditions precedent for the benefit of Optionee (the "Conditions"). The Conditions are intended solely for the benefit of Optionee and Optionee will have the right to waive, by written notice, any of the Conditions, at its sole discretion. If Optionee does not give Owner notice of termination before the applicable deadline, then Optionee will be deemed to have waived its right of termination with respect to the Condition in question. The Conditions specifically delineated in this section are the following:

7.1.1 On the Closing Date, the Title Company (defined below) will be ready, willing, and able to issue, and will issue to Optionee on recordation of the Owner's deed mentioned below, the title insurance policy required by Section 9.5.

7.1.2 On or before the Closing Date, Owner will have performed the covenants, conditions, agreements, and promises to be performed by it under this Agreement.

7.1.3 On or before the date upon which Optionee is required to deliver the Option Continuation Payment, Optionee will have conducted an environmental review and audit (the "Environmental Audit") of the Property, indicating to the satisfaction of Optionee that the Property does not contain, either on its surface or in its subsurface or underlying water table, any Hazardous Substances (defined below). The Environmental Audit may include a historical review of the use of the Property, review of all regulatory agency permits and compliance and enforcement files and records, and subject to Section 12.1 below, soil tests, the acquisition of core samples and water table samples by drilling conducted on the Property, and such other tests and studies as Optionee may deem appropriate. All tests and studies will be conducted by agents selected by Optionee and performed as Optionee directs, subject to the approval of Owner, which must not be unreasonably withheld, and the provisions of Section 12. Optionee will pay the cost of all tests and studies undertaken; provided that if Optionee elects to terminate this Agreement

by reason of the presence of Hazardous Substances in, on, or under the Property, then Owner will reimburse to Optionee an amount of up to \$10,000 for Optionee's actual costs incurred to third party consultants in connection with any Environmental Audit undertaken by Optionee, on demand.

For purposes of this subsection, the phrase "Hazardous Substances" shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material, including but not limited to:

(1) those substances, materials or wastes regulated now or in the future under and any federal, state or local laws, statutes, regulations, orders or rules;

(2) all of those substances included within the definitions of "asbestos," "hazardous substances," "hazardous materials," "hazardous waste," "hazardous chemical substance or mixture," "imminently hazardous chemical substance or mixture," "toxic substances," "hazardous air pollutant," "oil" "medical waste," "pesticides," "toxic air contaminant," "toxic pollutant" or "solid waste" in federal, state or local laws, statutes, regulations, orders or rules;

(3) any and all other similar terms set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq.; Federal Water Pollution Control Act, 33 U.S.C. § 1321; Federal Insecticide, Fungicide and Rodenticide Act; Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; Atomic Energy Act, 42 U.S.C. §§ 2011 et seq., the Nuclear Waste Policy Act, 42 U.S.C. §§ 10101 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.; the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq.; the California Health and Safety Code; the California Labor Code; or the California Code of Regulations

7.1.4 On or before the date that is 60 days after the approval of the Parcel Split, Optionee will have obtained a survey (the "Survey") from a surveyor designated by Optionee, indicating to Optionee's satisfaction that (1) there are no discrepancies in the boundaries of the Property, (2) there are no material encroachments on, or protrusions from, the Property, (3) the Property has acceptable access to a dedicated public right-of-way, (4) the Property contains at least 3.0 acres of Usable Land, and (5) the Property does not lie within any area designated as wetlands by any governmental agency or any area determined by the federal government or any governmental agency to be flood-prone or subject to a flood hazard. Optionee will pay all of the charges due for preparing the Survey.

7.1.5 The Property shall be capable of being separately conveyed from the Overall Property in compliance with the requirements of the California Subdivision Map Act. In no event shall Optionee have the right under any circumstances to waive the condition contained in this Section 7.1.5. Optionee agrees to fully cooperate with Owner (at no material cost to Optionee) to complete the subdivision of the Property from the Overall Property (by lot line adjustment, parcel map, subdivision map, or otherwise) (the "Parcel Split") and to execute such documents as are reasonably necessary to accomplish such Parcel Split.

7.2 Owner's Conditions to Closing. In addition to any other conditions contained in this Agreement expressly identified herein as conditions, set forth below are certain conditions precedent for the benefit of Owner (the "Owner Conditions"). The Owner Conditions are intended solely for the benefit of Owner and Owner will have the right to waive, by written notice, any of the Owner Conditions, at its sole discretion. The Owner Conditions specifically delineated in this section are the following:

7.2.1 On or before the Closing Date, Optionee will have performed the covenants, conditions, agreements, and promises to be performed by it under this Agreement.

7.2.2 All representations and warranties made by Optionee to Owner in this Agreement shall be true and correct in all material respects as of the Close of Escrow.

7.2.3 The Property shall be capable of being separately conveyed in compliance with the requirements of the California Subdivision Map Act. In no event shall Owner have the right under any circumstances to waive the condition contained in this Section 7.2.3.

7.3 Failure of Condition. In the event any of the conditions set forth in Sections 7.1 or 7.2 are not timely satisfied or waived or deemed waived by the benefited party, for a reason other than the default of Optionee or Owner, this Agreement shall terminate, so much of the Option Payments as have actually been delivered by Optionee shall be returned to Optionee, and, except as otherwise provided herein, the parties shall have no further rights or obligations hereunder.

8. Title

Within 15 days following the Effective Date, Owner will deliver to Optionee, at Owner's expense, a preliminary title report (the "Title Report") covering the Overall Property. The Title Report will be issued by the Title Company (defined in Section 9.1). The Title Report will be accompanied by legible copies of all plats and exceptions to title referenced in the Title Report (the "Exceptions"). Within 45 days of receiving the Title Report and the Exceptions, Optionee will give written notice (the "Initial Notice") to Owner of the Exceptions that are unacceptable to Optionee and that Owner is requested to remove of record at or before Closing (the "Unacceptable Exceptions"). If Optionee fails to give Owner the Initial Notice, then Optionee will be deemed to have approved the Title Report. Owner has 10 business days following receipt of the Initial Notice to give written notice (the "Reply Notice") to Optionee of those Unacceptable Exceptions that Owner concludes, in its sole discretion, that Owner cannot or will not remove at or before Closing. Owner will not have any obligation to institute litigation or spend any sum of money to cure or remove any Exceptions, but Owner will be obligated to remove, at or before Closing, any Exception created or suffered to be created by Owner that is security for payment of a sum of money (including mortgages, deeds of trust, tax liens, contractor's liens, and judgment liens) and any Exception created, or suffered to be created, by Owner after the Effective Date without Optionee's approval (Optionee shall not unreasonably withhold, condition or delay its approval with respect to any Exception that is necessary with respect to the Parcel Split). Owner agrees to remove all Unacceptable Exceptions not referenced in a duly given Reply Notice. If one or more of the Unacceptable Exceptions cannot be removed

(or if Owner elects not to remove any such Unacceptable Exception) at or before Closing and Owner so states in a duly given Reply Notice, then Optionee may exercise any of the following rights by giving written notice to Owner within 15 days of receiving the Reply Notice: (1) Optionee may terminate this Agreement, in which event the First Option Payment will be refunded to Optionee and neither party will have any further liability to the other except for those that expressly survive the termination of this Agreement, (2) Optionee may accept title to the Property subject to such Unacceptable Exceptions in which case Optionee's objections to such Unacceptable Exceptions shall be deemed to have been waived by Optionee, or (3) Optionee may attempt to cure the Unacceptable Exceptions or any of them without cost or liability to Owner (but Owner, at no cost to Owner, will be obligated to reasonably cooperate with the cure efforts and to join in the execution of any curative instruments that will operate to remove the Unacceptable Exceptions; provided, however, that unless agreed to by Owner in its sole discretion, no such cure shall be binding upon Owner or the Property until the Closing Date). The foregoing obligations of Owner to cure any Unacceptable Exceptions for which Owner has agreed to cure in Owner's Reply Notice will not be deemed waived by giving the Exercise Notice. Exceptions that are shown on the Title Report and to which Optionee does not object or to which Optionee agrees in writing to waive its objection or is deemed to have waived its objection, are referred herein to as the "Permitted Exceptions."

During the Term, Owner will not cause, permit, or suffer any matter to be recorded with respect to the Property that will survive the Closing Date, except (1) the Memorandum referenced in Section 20 and (2) any other matter that Optionee approves, in writing and at its sole discretion, before recordation; provided, however, notwithstanding the foregoing to the contrary, Optionee shall not unreasonably withhold, condition or delay its approval with respect to any Exception that is necessary with respect to the Parcel Split.

9. Closing

9.1 Time and Place. Closing of the sale and purchase of the Property (the "Closing" or "Close of Escrow") will occur on a date (the "Closing Date") selected by Optionee, but in all events the Closing will occur within thirty (30) days after the date that the Exercise Notice is given (such 30-day period being referred to herein as the "Closing Window"); provided, however, that the expiration of the Closing Window may be extended once by Optionee for a total period of up to not later than December 10, 2021, if and to the extent that either (i) the City has failed to grant the necessary approvals for Optionee to utilize the Property for Optionee's Proposed Use in spite of Optionee's good faith and commercially reasonable efforts to obtain such approvals, or (ii) prior to the then expiration of the Closing Window there has been a deterioration of the capital markets rendering Optionee unable to obtain financing on commercially reasonable terms for Optionee's acquisition and improvement of the Property. The escrow for the Closing will be established at the office of First American Title Company (the "Title Company"), at 425 2nd Street Davis CA 95616.

9.2 Closing Obligations. On the Closing Date, Owner and Optionee will deposit the following documents and funds in escrow, and the Title Company will close escrow in accordance with the instructions of Owner and Optionee.

9.2.1 Owner will deposit the following:

- (1) The conveyance documents described in Section 10, duly executed and acknowledged;
- (2) A duly executed affidavit certifying that Owner is not a foreign person, trust, partnership, or corporation in compliance with the requirements of IRC §1445(b);
- (3) To the extent copies thereof have not already been provided to Optionee by Owner, original counterparts or legible photocopies of all documents, feasibility studies, surveys, engineering reports, and other items of a similar nature in the possession of Owner that relate to the Property;
- (4) Such documents as Optionee or the Title Company may require to evidence the authority of Owner to consummate this transaction; and
- (5) Such other documents and funds, including (without limitation) escrow instructions, which are required of Owner to close the sale in accordance with this Agreement.

9.2.2 Optionee will deposit the following:

- (1) The cash payment specified in Section 5, minus any credits due Optionee under the terms of this Agreement, plus any funds required to be paid by Optionee pursuant to the terms of this Agreement;
- (2) Any documents that Owner or the Title Company may require to evidence the authority of Optionee to consummate the transaction contemplated; and
- (3) Any other documents and funds, including (without limitation) escrow instructions that are required of Optionee to close the sale and purchase of the Property in accordance with this Agreement.

9.3 Costs. Optionee and Owner each will pay one-half of the escrow fee of the Title Company with respect to the Closing. Owner shall pay the cost of the standard form ALTA Owner's Policy of Title Insurance. If Optionee elects to have Title Company issue its extended form ALTA Owner's Policy of Title Insurance, Optionee shall pay for the expense of such extended form ALTA premium increment (above the cost of the standard ALTA policy), any endorsement required by Optionee and any further endorsements to the Title Policy and any survey costs. Owner will pay all conveyance or excise taxes payable by reason of the purchase and sale of the Property. Optionee will pay the fee (exclusive of any conveyance or excise tax) for recording the conveyance documents referred to herein.

9.4 Prorations. All items of expense incurred by Owner with respect to the Property prior to the Closing Date will be paid by Owner at Closing, and all items of expense incurred by Owner with respect to the Property that are attributable to periods after the Closing shall be prorated between Owner and Optionee as of the Closing Date. All real property taxes and

assessments payable with respect to the tax year in which Closing occurs will be prorated between Owner and Optionee as of the Closing Date.

9.5 Title Insurance Policies. As soon as practicable after Closing, and in any event no later than thirty (30) days after the Closing Date, Owner will cause the Title Company to issue its standard form Owner's ALTA Title Insurance Policy, in the amount of the Purchase Price, insuring fee simple title to the Property is vested in Optionee, subject only to the Permitted Exceptions and the standard printed exceptions.

10. Conveyance

At the Closing, Owner will execute, acknowledge, and deliver to Optionee a Grant Deed conveying the Property to Optionee in the form typically used by Title Company in the county in which the Property is located, subject only to the Permitted Exceptions.

11. Possession

Optionee will be entitled to exclusive possession of the Property on and after the Closing Date.

12. Access to Property

12.1 Access. During the Term, Owner grants to Optionee (at Optionee's cost) and its agents at reasonable times during ordinary business hours and with at least 24 hours' prior telephonic or electronic notice to Owner, the right to enter on the Property at any reasonable times before the Closing Date for the purpose of conducting tests or studies that Optionee may deem necessary or appropriate in connection with its acquisition of the Property. Owner, at no cost to Owner, will cooperate with Optionee in making the tests and studies. Notwithstanding anything to the contrary in this Agreement, no soil tests or drilling will be undertaken without first obtaining Owner's approval with respect to the agents retained to perform the work and the location and purpose of the tests or drilling, which consent shall not be unreasonably withheld by Owner. Owner shall have the right to be present during any physical inspection(s) of the Property. Optionee will not interfere with or disturb the rights of any tenants of Owner in possession of any portion of the Property. Optionee will protect, defend, and hold Owner harmless from any loss, liability, or damage to persons or property arising out of or related to Optionee's activities on the Overall Property. Optionee will fully compensate Owner for any physical damage to the Overall Property or any lien, encumbrance, or charge on it attributable to Optionee's activities under this Section. Prior to any entry onto any part of the Overall Property by Optionee's agents, contractors, subcontractors or employees, Optionee shall deliver to Owner an endorsement to Optionee's commercial general liability insurance policy which evidences that Optionee is carrying a commercial general liability insurance policy with a financially responsible insurance company reasonably acceptable to Owner, covering (i) the activities of Optionee, and Optionee's agents, contractors, subcontractors and employees on or upon the Overall Property, and (ii) Optionee's indemnity obligations set forth in this Agreement. Such endorsement shall evidence that such insurance policy shall have a per occurrence limit of at

least \$1,000,000 and an aggregate limit of at least \$2,000,000, shall name Owner as an additional insured, shall be primary and non-contributing with any other insurance available to Owner and shall contain a full waiver of subrogation clause. If Optionee fails to exercise the Option, Optionee will deliver to Owner a legible copy of any reports, studies, and drawings owned by Optionee that relate to the Property.

12.2 Approvals. As a material inducement to Owner's agreement to enter into this Agreement, and as condition to Owner's obligations herein, Optionee shall, at Optionee's sole cost and expense, within 180 days after the Effective Date, deliver to Owner a reasonably detailed narrative description of Optionee's Proposed Use in order for Owner to begin the processing of the Owner Property Entitlements, which description shall at a minimum identify the types of uses proposed for the property (e.g. cottages, attached units, independent living, assisted living, memory care, etc.) and specify the proposed number of dwelling units and the number of stories of the buildings (if more than one). Optionee has the right to apply for and obtain any governmental approvals to use and develop the Property for Optionee's Proposed Use at Optionee's sole cost and expense; provided, however, that no such approvals shall be binding upon the Owner or the Property prior to the Closing Date without Owner's prior written consent, given or withheld in Owner's sole discretion. Owner, at no cost to Owner, will assist and cooperate with Optionee in obtaining any such approvals. Such cooperation includes (without limitation) signing all applications and other documents requested by Optionee that may be reasonably related to the approval of the use of the Property for Optionee's Proposed Use, to the extent that Owner approves the form and substance of all such documents which may be binding on Owner or the Property. All costs and expenses incurred with respect to such approvals will be paid for by Optionee. As additional material consideration for Owner's grant of the Option to Optionee, commencing immediately after the Effective Date and continuing throughout the Term, Optionee shall publicly and actively support Owner's campaign relating to the affirmative support of the Measure R Vote.

13. Covenants of Owner.

Owner acknowledges that the covenants of Owner contained in this Agreement, including the covenants contained in this Section 13 (the "Covenants"), are material inducements to Optionee to enter into this Agreement. The Covenants specifically delineated in this section are the following:

13.1 Property Entitlement Approvals. Owner, at Owner's sole cost and expense (unless otherwise expressly stated herein), shall use its good faith and commercially reasonable efforts to obtain the approval of the Owner Property Entitlements, and specifically with respect thereto, to cause the Measure R Vote to occur on or before July 1, 2019. In the event that the Measure R Vote does not result in the affirmative vote of the use of the Property in accordance with Optionee's Proposed Use on or before July 1, 2019, or Owner is otherwise unsuccessful in obtaining approval of the Owner Property Entitlements during the Term, then Owner shall not under any circumstances be deemed to have breached or otherwise be in default of this Agreement, but Optionee shall have the right within 10 days after any of the applicable unmet deadlines relating to any of the foregoing, terminate this Agreement by written notice to Owner in which case the Option Payments paid by Optionee shall be returned to Optionee.

13.2 Owner's Construction of Certain Frontage Improvements. On or before the date that is one year after Closing, Owner shall cause to be constructed, at Owner's sole cost and expense and in accordance with plans and specifications acceptable to the City of Davis, frontage improvements immediately adjacent to the Property along Risling Court and the adjacent street located to the west of the Property (collectively, "Owner Frontage Improvements"). The Owner Frontage Improvements shall include curbs, gutters and sidewalks adjacent to the Property along Risling Court and Covell Boulevard. Owner shall have no obligation to construct or otherwise pay for or bear responsibility for any improvements to the Property before or after the Closing, other than the Owner Frontage Improvements. The provisions of this Section 13.2 shall survive the Close of Escrow and the recordation of the Grant Deed conveying fee title to the Property to Optionee.

13.3 Information. Owner agrees to deliver to Optionee, within 20 days after the Effective Date, photocopies of all non-confidential and non-proprietary documents related to the use or ownership of the Property that Owner possesses, including (without limitation) all studies, reports, aerial photographs, and other documents of a like nature regarding the Property.

13.4 Maintenance. Before the Closing Date, Owner will maintain the Property as it currently maintains the Property, ordinary wear and tear and casualty excepted.

13.5 Ownership. During the Term, Owner: (i) will keep the Property free from all liens, encumbrances and restrictions on use that may be imposed on the Property after the Closing Date (including but not limited to covenants, conditions and restrictions or to a home owners association); (ii) will not sell, contract to sell, assign, subdivide, lease or otherwise transfer the Property or any part of it to the extent that any transfer will survive the Closing Date; or (iii) grant an option to any third party to acquire all or any portion of the Property.

14. Warranties and Representations of Owner. Owner acknowledges that the warranties and representations of Owner contained in this Agreement, including the warranties and representations contained in this Section (the "Warranties"), are material inducements to Optionee to enter into this Agreement. For the purpose of this Agreement, usage of "Owner's actual knowledge", "the knowledge of Owner", or words to such effect, shall mean the actual current knowledge of David Taormino, excluding constructive knowledge or duty of inquiry, existing as of the Effective Date (provided, however, that in no event shall David Taormino have any personal liability whatsoever with respect to this Agreement or the obligations of Owner hereunder). To the extent that Owner or Optionee becomes aware of any material conflict with or inaccuracy in the representations and warranties set forth herein after the Effective Date and prior to the Closing Date, the party having knowledge of such conflict or inaccuracy shall provide to the other party a written notice thereof, in which case Optionee, within 5 calendar days after the delivery of such notice, shall only have the right to either (i) terminate this Agreement as the failure of a condition, in which case the provisions of Section 7.3 shall apply, or (ii) proceed with the transaction described herein, thereby automatically waiving any rights that Optionee may have against Owner as a result of such conflicting and/or inaccurate representation or warranty. In the event Optionee becomes aware of any such conflict or inaccuracy prior to the Close of Escrow, and thereafter purchases the Property (whether or not

having disclosed the conflict or inaccuracy to the Owner), Optionee shall be deemed to have proceeded in accordance with Subsection (ii) above, and shall have waived all rights against Owner and shall have released Owner from any claims or damages in relation thereto.

14.1 Owner's Authority. Owner has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.

14.2 Actions. All requisite action (corporate, trust, partnership or otherwise) has been taken by Owner in connection with the entering into this Agreement, the instruments referenced herein, and the consummation of the transaction contemplated hereby. No consent of any partner, shareholder, officer, director, trustee, trustor, beneficiary, creditor, investor, judicial or administrative body, governmental authority or other party is required.

14.3 Enforceability. This Agreement and all documents required hereby to be executed by Owner are and shall be valid, legally binding obligations of and enforceable against Owner in accordance with their terms.

14.4 No Condemnation or Assessment Proceedings. As of the Effective Date, there is no pending or to the knowledge of Owner, threatened condemnation or similar proceeding or assessment affecting the Property, or any part of it and, to the knowledge of Owner, no such proceeding is contemplated by any governmental entity as of the Effective Date.

14.5 Litigation; Law. As of the Effective Date, there is no litigation, arbitration, or administrative hearing pending before any governmental authority that concerns or affects the Property or any portion of it and, to the knowledge of Owner, no such proceeding is threatened as of the Effective Date. To the knowledge of Owner, as of the Effective Date the Property complies with all laws, ordinances, and governmental approvals and decisions that relate to it.

14.6 Access and Site Conditions. Owner warrants and represents to Optionee that, to the knowledge of Owner, the Property has legal access to Covell Blvd, which is believed to be a dedicated public street. To the knowledge of Owner, there are no material encroachments onto the Property.

14.7 Status of Owner. Owner is not a foreign person, foreign partnership, foreign corporation, or foreign trust, as those terms are defined in IRC §1445.

14.8 Hazardous Substances. Owner represents as follows:

(1) To the knowledge of Owner, there are no Hazardous Substances in, on, or buried on or beneath the Property, and no Hazardous Substances have been emitted or released from the Property in violation of any applicable laws;

(2) Owner has not brought onto, stored on, buried on, used on, emitted or released from, or allowed to be brought onto, stored on, buried on, used on, or emitted or released from, the Property any Hazardous Substances in violation of any applicable environmental laws; and

(3) To the knowledge of Owner, no underground storage tanks are located on the Property, including (without limitation) any storage tanks that contain, or previously contained, any Hazardous Substances, and Owner agrees not to cause or permit any such tanks to be installed in the Property before Closing.

14.9 Breach of Agreements. Neither the execution of this Agreement, nor the execution, delivery, or recordation of any document or agreement referenced herein, nor the exercise of the Option and closing of the transaction contemplated herein, constitutes or will constitute a default under any other agreement or contract that relates to the Property or to which Owner is a party.

14.10 Authority. No consents, documents, or approvals that have not been obtained are necessary to the effectiveness of the grant of the Option by Owner.

14.11 Prohibited Persons and Transactions. Neither Owner nor any of its affiliates, nor any of their respective members, and none of their respective officers or directors is, nor prior to Closing or the earlier termination of this Agreement, will they become, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated Blocked Persons List) or under any U.S. statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism) or other governmental action and is not and prior to Closing or the earlier termination of this Agreement will not engage in any dealings or transactions with or be otherwise associated with such persons or entities.

14.12 Contracts and Leases. There are no lease agreements, maintenance contracts, service agreements, or other contracts of any nature that pertain to, cover, or affect the Property or any part of it.

15. Optionee's Representations and Warranties. In consideration of Owner entering into this Agreement, and as an inducement to Owner to sell the Property, Optionee makes the following representations and warranties, each of which is material and is being relied upon by Owner (and the continued truth and accuracy of which shall constitute a condition precedent to Owner's obligation hereunder):

15.1 Optionee's Authority. Optionee has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.

15.2 Actions. All requisite action (corporate, trust, partnership or otherwise) has been taken by Optionee in connection with the entering into this Agreement, the instruments referenced herein, and the consummation of the transaction contemplated hereby. No consent of any partner, shareholder, officer, director, trustee, trustor, beneficiary, creditor, investor, judicial or administrative body, governmental authority or other party is required.

15.3 Enforceability. This Agreement and all documents required hereby to be executed by Optionee are and shall be valid, legally binding obligations of and enforceable against Optionee in accordance with their terms.

15.4 Prohibited Persons and Transactions. Neither Optionee nor any of its affiliates, nor any of their respective members, and none of their respective officers or directors is, nor prior to Closing or the earlier termination of this Agreement, will they become, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of OFAC (including those named on OFAC's Specially Designated Blocked Persons List) or under any U.S. statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism) or other governmental action and is not and prior to Closing or the earlier termination of this Agreement will not engage in any dealings or transactions with or be otherwise associated with such persons or entities.

15.5 Conflicting Documents. Neither the execution and delivery of this Agreement and the documents and instruments referenced herein, nor the occurrence of the obligations set forth herein, nor the consummation of the transaction contemplated herein, nor compliance with the terms of this Agreement and the documents and instruments referenced herein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note, or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease or other agreement or instrument to which Optionee is a party.

16. "As-Is, Where-Is".

16.1 No Representations. Optionee acknowledges and agrees that other than as expressly set forth in this Agreement, Owner has not made, does not make, and specifically negates and disclaims any representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future, of, as to, concerning, or with respect to the Property, the information delivered to Optionee by Owner or the information obtained by Optionee through its own inquiries, including, without limitation, the following matters, all of which are matters to be investigated by Optionee:

16.1.1 the timing or outcome of the Measure R Vote, the Davis Annexation, or the Parcel Split;

16.1.2 the present or future value of the Property or any portion or part thereof, the income to be derived from the Property, or the timing or economics of any proposed or projected development of the Land, including, without limitation, the timing for commencement of construction, infrastructure costs, building fees, impact fees, development fees or costs, absorption projections, density limitations, construction costs, other costs and fees, or market competition from other builders and developers around the Property; or

16.1.3 the suitability of the Property for any and all activities and uses which Optionee may conduct thereon, including, without limitation, Optionee's Proposed Use, the

possibilities for future development of the Property for commercial, residential, or other urban uses, or the likelihood of obtaining necessary federal, state, and local approvals and entitlements for development.

16.2 No Reliance on Owner. Optionee acknowledges and agrees that other than as expressly set forth in this Agreement, having been given adequate opportunity to inspect the Property and review information and documentation affecting the Property, Optionee is relying solely on its own investigation of the Property, and not on any information provided or to be provided by Owner. In that regard, Optionee represents, warrants and covenants to Owner that:

16.2.1 Optionee is relying solely upon Optionee's own investigation of the Property and the development process and policies affecting the Property, and all matters described in Section 16.1 above, and except as otherwise expressly set forth herein, not upon any express or implied representations, guaranties, promises, statements, assurances or warranties of Owner or any of Owner's employees or agents, unless expressly provided in this Agreement;

16.2.2 Optionee is a sophisticated real estate developer with experience in the acquisition, investigation, and development of property similar to the Property, and if and when Optionee gives the Exercise Notice, Optionee will be familiar with the development process and policies in the City of Davis, County of Yolo and State of California; and

16.2.3 Optionee has been given adequate opportunity to conduct all investigations deemed necessary or appropriate by Optionee.

16.3 No Investigation of Information by Owner. Optionee further acknowledges and agrees that the information made available to Optionee or provided or to be provided by or on behalf of Owner with respect to the Property was obtained from a variety of sources, and that Owner has not made any independent investigation or verification of such information and except as expressly set forth herein, makes no representations as to the accuracy or completeness of such information.

17. "As-Is" Condition. EXCEPT AS MAY OTHERWISE BE EXPRESSLY STATED HEREIN, OWNER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO THE PROPERTY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS, WHERE IS" CONDITION AND BASIS WITH ALL FAULTS, AND OWNER HAS NO OBLIGATION TO MAKE REPAIRS, REPLACEMENTS, ALTERATIONS OR IMPROVEMENTS TO THE PROPERTY. EXCEPT AS MAY OTHERWISE BE EXPRESSLY STATED HEREIN, SUCH "AS-IS" CONDITION INCLUDES, WITHOUT LIMITATION, AS TO THE PRESENCE OR ABSENCE OF HAZARDOUS SUBSTANCES, TOXIC SUBSTANCES, WASTE MATERIALS OR OTHER SIMILARLY DESIGNATED SUBSTANCES OR MATERIALS (INCLUDING, WITHOUT LIMITATION, OIL AND OTHER PETROLEUM PRODUCTS), AT, ON, UNDER OR ADJACENT TO THE PROPERTY, DEFECTS IN THE DESIGN,

PREPARATION, CONSTRUCTION, COMPACTION AND CONDITION OF THE PROPERTY AND INFRASTRUCTURE SERVING OR TO SERVE THE PROPERTY IN THE FUTURE. OPTIONEE ASSUMES RISK OF DEFECTS IN THE PROPERTY, ADVERSE PHYSICAL CONDITIONS AFFECTING THE PROPERTY AND/OR ITS DEVELOPMENT, AND ADVERSE ENVIRONMENTAL CONDITIONS, WHICH OPTIONEE FAILED TO DISCOVER AS A RESULT OF ITS INVESTIGATIONS. OPTIONEE FURTHER ACKNOWLEDGES AND AGREES THAT SUCH "AS-IS" CONDITION EXTENDS TO LATENT AND PATENT DEFECTS AND CONDITIONS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, OPTIONEE WAIVES ANY AND ALL STATUTORY RIGHTS FOR THE BENEFIT OF OPTIONEE WITH RESPECT TO LATENT AND PATENT DEFECTS AND CONDITIONS AFFECTING THE PROPERTY.

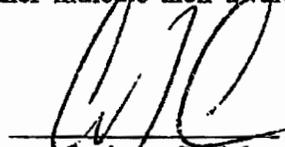
18. Waiver of Claims. Subject to the limitations set forth in this Agreement, Optionee, and anyone claiming by, through, or under Optionee, hereby waives its right to recover from and fully and irrevocably releases Owner, its affiliates, and its and their members, partners, managers, officers, directors, shareholders, agents, representatives, employees and all of their respective successors and assigns (collectively, the "Released Parties", and each a "Released Party") from any and all claims that Optionee may now have or hereafter acquire against any of the Released Parties for any claims, costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to (i) entry onto the Property and activities on the Property by Optionee or its representatives prior to the Closing and (ii) conditions on or affecting the Property, including, without limitation, environmental conditions, in each instance unless and to the extent caused by the gross negligence or intentional misconduct of any of the Released Parties. This release includes claims of which Optionee is presently unaware or which Optionee does not presently suspect to exist which, if known by Optionee, would materially affect Optionee's release of Owner. Optionee specifically waives the provisions of California Civil Code section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

In this connection, and to the extent permitted by law, Optionee hereby agrees, represents, and warrants that Optionee realizes and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses, liabilities and expenses which are presently unknown, unanticipated and unsuspected, and Optionee further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Optionee nevertheless hereby intends to release, discharge, and acquit the Released Parties from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses, liabilities and expenses which might in any way be included as a material portion of the consideration given to Owner by Optionee in exchange for Owner's performance under this Agreement.

Owner has given Optionee material concessions regarding this transaction in exchange for Optionee agreeing to the provisions of this paragraph. Owner and Optionee have each initialed

this paragraph to further indicate their awareness and acceptance of each and every provision hereof.


Optionee Initials


Owner Initials

Notwithstanding the foregoing, Optionee does not release Owner from claims by Optionee arising out of or related to Owner's obligations under this Agreement or breaches by Owner of the representations and warranties of Owner set forth in this Agreement.

19. Limitation of Optionee Claims. Notwithstanding anything to the contrary contained in this Agreement (but subject to the last sentence of this Section 19), as an express material consideration and condition for Owner to enter into this Agreement, Optionee hereby releases, acquits and discharges Owner from and against any and all consequential, incidental, indirect, special, collateral, exemplary or punitive damages arising out of, in connection with or related to Owner's violation, breach or default of this Agreement, including, but not limited to, any claim for loss of profit, loss of opportunity, loss of production or loss of use, regardless of whether the damages sought are based on contract, tort, statute or otherwise, and irrespective of whether sole, concurrent or other negligence, whether active or passive, or strict liability is involved or is asserted. Further, except as may be expressly provided otherwise in this Agreement (i) if Optionee proceeds with the Close of Escrow with actual knowledge of Owner's breach prior to the Close of Escrow, Optionee shall be deemed to have waived all rights and remedies with respect to such breach; and (ii) if Optionee does not first become aware of a claim for breach until after the Close of Escrow, Optionee shall have no right to bring an action for damages or any other claim with respect to such breach unless the total value of Optionee's claim (in the aggregate with the value of all other claims for breach by Owner of which Optionee does not become aware until after the Closing) exceeds \$10,000 (which amount shall constitute a jurisdictional threshold for the benefit of Owner), and if it is ultimately determined that the aggregate value of Optionee's claims does not exceed \$100,000, Owner shall have no liability to Optionee, and Optionee shall be deemed to be the prevailing party for purposes of Section 24 and shall be entitled to recovery pursuant thereto. Notwithstanding the foregoing provisions of this Section 19, the limitations on remedies and damages set forth in this Agreement shall not apply (i) to Owner's fraud; (ii) if Owner conveys the Property to any other person while this Agreement is in effect, or (iii) if Owner takes any action (or intentionally fails to take an action) the result of which is to prevent Owner from being able to convey the Property to Optionee pursuant hereto.

20. Recording

On the Effective Date, Owner will execute, acknowledge, and deliver to Optionee a Memorandum in the form attached as Exhibit C ("Memorandum") to be recorded in the Official Records of Yolo County, California. At any time after the completion of the Parcel Split, and within five (5) days after Owner's written request therefor, Optionee agrees to execute, acknowledge, and deliver to Owner an amendment to the Memorandum or such other instrument as may be requested by Owner, in a form acceptable for purposes of limiting the property described in the Memorandum to only the Property included as part of the Parcel Split. If

Optionee fails to exercise the Option before the Term expires or this Agreement otherwise terminates for any reason, on or before five (5) days after Owner's written request therefor, Optionee agrees to execute, acknowledge, and deliver to Owner a quitclaim deed or other instrument as may be requested by Owner, in a form acceptable for purposes of terminating the Memorandum as an encumbrance against the Property and the Overall Property, as applicable. Owner is hereby authorized to record or cause to be recorded those documents that Optionee is required to deliver to Owner pursuant to this Section 20, in the Official Records of Yolo County.

21. Waiver

Failure by Owner or Optionee to enforce any right under this Agreement will not be deemed to be a waiver of that right or of any other right.

22. Successors and Assigns

Subject to the limitations on Owner's right to convey the Property set forth elsewhere herein, the terms, covenants, and conditions herein contained are binding on and inure to the benefit of the heirs, successors, and assigns of Owner and Optionee. Optionee may not assign its interest in this Agreement and the Property to any person or entity, without the consent of Owner. No assignment or other transfer of this Agreement by Optionee shall release Optionee from its obligations under this Agreement.

23. Notices

All notices required or permitted to be given will be in writing and will be deemed given and received (i) on personal service, (ii) two business days after deposit in the United States Mail, certified or registered mail, postage prepaid, return receipt requested, (iii) one (1) business day after pickup by Federal Express, UPS overnight, or similar overnight express service, (iv) on the date when received by the facsimile machine of the receiving party if sent by facsimile if received prior to 5:00 p.m. (Pacific Time) or (v) on the date when delivered by electronic mail if received prior to 5:00 p.m. (Pacific Time), in any case, addressed as follows:

To Owner: Binning Ranch Holding Company, LLC
 Post Office Box 293870
 Sacramento, CA 95829
 Attention: K. Scott Stiewig
 Facsimile No.: (916) 672-0113
 E-Mail Address: scott@rfam.me

With a copy to:

Real Estate Law Group LLP
700 University Avenue, Suite 100
Sacramento, CA 95825
Attention: Andrew Sackheim
Facsimile No.: (916) 484-2600
Email: asackheim@relglaw.com

To Optionee:

University Retirement Community at Davis, Inc.
1515 Shasta Drive
Davis, CA 95616
Attention: Executive Director
Facsimile No.: (530) 747-7007
Email: acastillo@retirement.org

With a copy to:

Pacific Retirement Services, Inc.
1 W. Main Street, Suite 303
Medford, OR 97501
Attention: General Counsel
Facsimile No.: (530) 747-7007
Email: mneal@retirement.org

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manner set forth above will be effective when received by the party for whom it is intended.

24. Attorney Fees

If litigation is instituted with respect to this Agreement (including any litigation undertaken in the context of bankruptcy proceedings), the prevailing party will be entitled to recover from the losing party, in addition to all other sums and allowable costs, its reasonable attorney fees, both in preparation for and at trial and any appeal or review, the amount to be set by the court before which the matter is heard.

25. Real Estate Commission

Each party agrees to pay any commission or finder's fees that may be due on account of this transaction to any broker or finder employed by it and to indemnify the other party against any claims for commissions or fees asserted by any broker claiming by, through, or under the indemnifying party.

26. Risk of Loss

Owner bears the risk of all loss or damage to the Property from all causes, through the Closing Date. If, before the Closing Date, and regardless of whether the Exercise Notice has yet been given or is subsequently given, all or a material part of the Property is damaged by fire or by any other cause of any nature or if all or any portion of the Property is taken by condemnation, or if any condemnation is threatened, Owner must give Optionee written notice of

such event. In such event, Optionee may terminate this Agreement by giving written notice to Owner within 15 business days after receipt by Optionee of written notice from Owner of such casualty or condemnation, and Owner will return to Optionee the Option Payments previously paid. If Optionee does not elect to terminate this Agreement, then this Agreement will continue in force and, if Optionee exercises the Option and the Property is conveyed to Optionee, then all interest of Owner in and to any insurance proceeds or condemnation awards that may be payable to Owner on account of the casualty or condemnation will be assigned to Optionee at Closing.

27. Integration, Modification, or Amendments

This Agreement contains the entire agreement of the parties with respect to the Property and supersedes all prior written and oral negotiations and agreements with respect to the Property. Any modifications, changes, additions, or deletions to this Agreement must be approved by Owner and Optionee, in writing.

28. Representation

Owner and Optionee have each been represented by separate legal counsel of their choice throughout all negotiations preceding the execution of this Agreement and are executing this Agreement with the consent and on the advice of such counsel or, alternatively, that they had the opportunity to be represented by independent legal counsel in connection with these matters and made an informed decision not to have such representation. Owner and Optionee further acknowledge that they or their respective counsel had adequate opportunity to make whatever investigation or inquiry deemed necessary or desirable in connection with the subject matter of this Agreement before execution hereof and the delivery and acceptance of the consideration described herein.

29. Counterparts; Pronouns

This Agreement may be executed in one or more counterparts, all of which will be considered one and the same Agreement and will be effective when one or more counterparts have been signed and delivered by Owner and Optionee. With respect to any pronouns used, each gender used includes the other gender and the singular and the plural, as the context may require.

30. Governing Law; Interpretation

This Agreement is governed by the laws of California. Any action or proceeding in respect of any claim arising out of or related to this Agreement, whether in tort or contract or at law or in equity, shall be filed in the state or federal court of competent jurisdiction located geographically closest to the Property. If a court of competent jurisdiction holds any portion of this Agreement to be void or unenforceable as written, Owner and Optionee intend that (1) that portion of this Agreement be enforced to the extent permitted by law and (2) the balance of this Agreement remain in full force and effect.

31. Time Is of the Essence

Time is of the essence of this Agreement.

32. Authority to Execute

Each person executing this Agreement on behalf of Owner and Optionee, respectively, warrants his or her authority to do so.

33. Facsimile and Electronic Signatures.

In order to expedite the transaction contemplated herein, telecopied and email (pdf) signatures may be used in place of original signatures on this Agreement. Owner and Optionee intend to be bound by the signatures on the telecopied or emailed document, are aware that the other party will rely on the telecopied or emailed signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the use of a facsimile or electronic (pdf) signature.

34. Tax-Deferred Exchange

The parties shall have the right to structure this transaction as part of a forward or reverse exchange (or identify the Property as a replacement property) for other real property of a like-kind to be designated by the requesting party (including, if necessary, the use of an intermediary) with the result that the exchange shall conform to the requirements of Section 1031 of the Internal Revenue Code of 1986, as amended (the "IRC"). Each party agrees to reasonably cooperate with the other party to complete the exchange if requested (including the assignment of this Agreement to a Qualified Intermediary as that term is defined in the IRC), provided that: (a) any additional costs incurred by non-requesting party solely as a result of structuring the transaction as an exchange shall be borne by the requesting party; (b) such exchange shall not result in any delay in closing the transaction; and (c) neither party shall be required to take title to any property other than the Property. This Agreement is not subject to or conditioned upon either party's ability to consummate an exchange. The responsibility of either party for reviewing exchange documents proposed by the other party shall be limited to determining whether the terms and conditions of such exchange documents are such that they are in compliance with the foregoing provisions. The party seeking to effect an exchange shall be responsible for making all determinations as to the legal sufficiency or other consideration, including but not limited to tax considerations, relating to such exchange documents. In cooperating in any exchange transaction arranged by the other party, neither Purchaser nor Owner shall in any event be responsible for, or in any way warrant, the tax consequences of the exchange transaction

35. Confidentiality

Owner and Optionee and their agents, accountants, lawyers, and consultants will treat this Agreement and all information obtained or exchanged in connection with it as confidential and will not disclose the terms of this Agreement or any information relating to it to any person other

than the consultants and the entities engaged to assist in the consummation of this Agreement, such as the Title Company. If the Option is not exercised, then Optionee must return to Owner all documents and information delivered to Optionee by Owner. Nothing contained herein operates to prevent or limit the right of Owner or Optionee to disclose the terms of this Agreement or any other information relating to it in conjunction with any litigation, land use proceeding, or other proceeding instituted with respect to this Agreement or the Property.

36. Consents

The parties agree to act in good faith and with fair dealing with one another in the execution, performance, and implementation of the terms and provisions of this Agreement. Whenever the consent, approval, or other action of a party is required under any provision of this Agreement, the consent, approval, or other action will not be unreasonably withheld, delayed, or conditioned by a party unless the provision in question expressly authorizes the party to withhold or deny consent or approval or decline to take action in accordance with a different standard, in which case the consent or approval or the decision to not take action may be withheld, delayed, or conditioned in accordance with the different standard. (Any provision indicating that consent is not to be unreasonably withheld is to be interpreted to mean that consent will not be unreasonably withheld, delayed, or conditioned.)

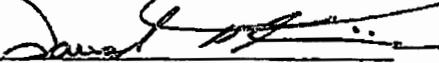
37. Optionee Post-Closing Covenant

In recognition of the fact that the Property is prominently located at the main point of access to the Overall Property, Optionee agrees at Optionee's sole cost and expense, to keep the Property at all times prior to the commencement of construction, mowed, free of debris and other unsightly conditions and otherwise generally in an aesthetically pleasing condition. Prior to Optionee's submission of any formal request for any architectural or site plan approvals, Optionee will submit to Owner a completed submittal in such form as may be required by the governmental entity to whom such submittal is proposed to be delivered ("Architectural Submission") for Owner's approval. Approval by Owner of any Architectural Submissions shall not be unreasonably withheld, delayed or conditioned. Within ten (10) days after delivery to Owner of Optionee's request for approval of any Architectural Submission, Owner shall provide Optionee with Owner's written approval or disapproval of such Architectural Submission; provided, however, that any Owner's notice of disapproval shall contain a detailed explanation of the reasons for Owner's disapproval as well as proposing modifications to the Architectural Submission which would be approved by Owner. If Owner fails to respond to Optionee's request for approval of any Architectural Submission within such ten (10) day period, then Owner shall be deemed to have approved the Architectural Submission for which consent was so requested. The Architectural Submission, as approved (or deemed approved) by Owner, shall be herein referred to as the "Approved Architectural Submission". Optionee shall cause the improvements upon the Property to be designed and constructed substantially in accordance with any Approved Architectural Submission. This Section 37 shall survive the Close of Escrow and the recordation of the Grant Deed conveying fee title to the Property to Optionee.

Executed on the day and year first above written.

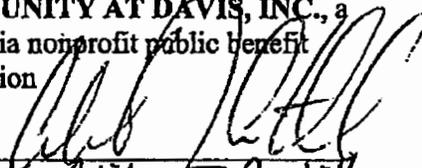
OWNER:

**BINNING RANCH HOLDING
COMPANY, LLC,**
a California limited liability company

By: 
Name: JAVAD RAHIMIAN
Title: MANAGER MEMBER

OPTIONEE:

**UNIVERSITY RETIREMENT
COMMUNITY AT DAVIS, INC.,** a
California nonprofit public benefit
corporation

By: 
Name: Alikia J. Castillo
Title: Executive Director

PARTY IN INTEREST:

J. DAVID TAORMINO, for the benefit of
West Davis Active Adult Community

By: 
Printed Name: J. DAVID TAORMINO

Attachments:

Exhibit A: Overall Property Legal Description

Exhibit B: Conceptual Master Plan for West Davis Active Adult Community

Exhibit C: Form of Memorandum

EXHIBIT A

OVERALL PROPERTY LEGAL DESCRIPTION

**Real property in the unincorporated area of the County of Yolo, State of California,
described as follows:**

**THE WEST 75 ACRES OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP
8 NORTH, RANGE 2 EAST, M.D.B. & M.**

APN: 036-060-005-000

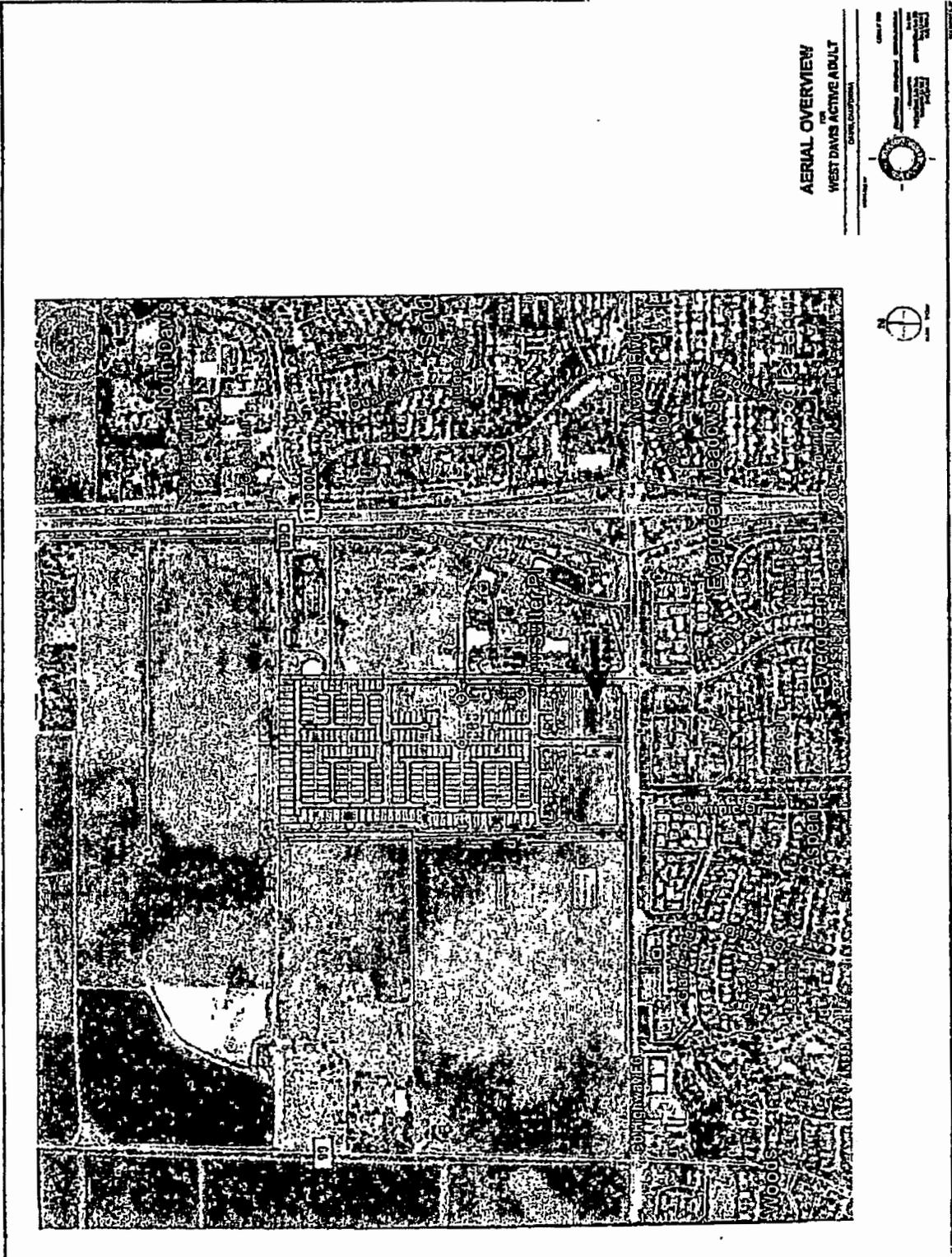


EXHIBIT C

Form of Memorandum

After recording return to:

University Retirement Community at Davis, Inc.
1515 Shasta Drive
Davis, CA 95616
Attention: Executive Director

**MEMORANDUM OF OPTION AGREEMENT
AND AGREEMENT OF PURCHASE AND SALE**

Binning Ranch Holding Company, LLC, a California limited liability company ("Owner"), and University Retirement Community at Davis, Inc., a California nonprofit public benefit corporation ("Optionee"), have entered into an Option Agreement and Agreement of Purchase and Sale dated June 2, 2017 (the "Option Agreement"), wherein Owner has granted to Optionee the sole and exclusive option to purchase the property described in Exhibit A. The term of the Option Agreement will expire on December 10, 2020 and this Memorandum will automatically terminate and be without any further force or effect unless an Amendment to this Memorandum is duly executed by Owner and Optionee and recorded in the Official Records of Yolo County.

At any time after the completion of the "Parcel Split" contemplated by the Option Agreement, subdividing the property that is the subject of the Option Agreement from the balance of the overall property owned by Owner, and within five (5) days after Owner's written request therefor, Optionee agrees to execute, acknowledge, and deliver to Owner a recordable amendment to this Memorandum or such other instrument as may be requested by Owner, in a form acceptable for purposes of limiting the property being encumbered by this Memorandum to only that property for which Optionee possesses the right to purchase (as opposed to the entirety of the property originally described in Exhibit A attached hereto).

This Memorandum is being executed and recorded in the Official Records of Yolo County, California, to give notice of the provisions of the Option Agreement and will not be deemed or construed to define, limit, or modify the Option Agreement in any manner.

Executed as of _____, 2017.

**OWNER: BINNING RANCH
HOLDING COMPANY, LLC**

**OPTIONEE: UNIVERSITY
RETIREMENT COMMUNITY AT
DAVIS INC.**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

PARTY IN INTEREST: J. DAVID TAORMINO,
for the benefit of West Davis Active Adult Community

By: _____
Printed Name: _____

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 CALIFORNIA)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2017, by _____, as _____ of Binning Ranch Holding Company, LLC, a California limited liability company, on behalf of said limited liability company.

/s/

Notary Public for California
My commission expires: _____

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 CALIFORNIA)
) ss.
County of _____)

This instrument was acknowledged before me on _____, 2017, by _____, as Executive Director of University Retirement Community at Davis, Inc., a California nonprofit public benefit corporation, on behalf of said corporation.

/s/

Notary Public for California
My commission expires: _____

Exhibit B

March 29, 2019

Termination Notice

Optionee University Retirement Community at Davis, Inc., entered into an Option Agreement and Agreement of Purchase and Sale ("Agreement"), effective June 2, 2017, with owner Binning Ranch Holding Company, LLC.

Paragraph 6.2 of that Agreement provides, in part, "If Optionee breaches any term or provision of this Agreement, then, Owner...will be entitled to terminate this Agreement by giving Optionee written notice of termination and to retain all Option Payments paid by Optionee."

Paragraph 12.2 of the Agreement stated, "As additional *material* consideration for Owner's grant of the Option to Optionee, commencing *immediately* upon the Effective Date and *continuing* throughout the Term, Optionee *shall publicly and actively* support Owner's campaign relating to the affirmative support of the Measure R Vote." (Emphasis added.)

Since the Effective Date of June 2, 2017, Optionee has failed to continuously, publicly *and* actively support the Owner's campaign relating to "affirmative support" of the Measure R vote which became Measure L on Davis' November 6, 2018 ballot.

Therefore, pursuant to paragraph 6.2 of the Agreement, and for the reasons previously stated and stated below, Owner hereby gives written notice to Optionee terminating this Agreement, and advising Optionee that Owner has the contractual right to retain "all Option Payments paid by Optionee," as provided in that paragraph. This notice is given in accordance with paragraph 23 of the Agreement.

Owner made demand upon Optionee from and after April, 2018, that Optionee comply with its contractual obligations under paragraph 12.2, stated above. Not only did the Optionee fail to continuously, publicly, and actively support the Measure L campaign, but at times it refused to publicly and actively support the Measure L campaign. Our side has detailed its position; and its bases for terminating this Agreement in personal meetings, in communications, and most recently in an email sent to Steven Rinkle on January 11, 2019. Among other things, you are aware that on October 12, 2018, David Taormino requested of your representative, Alika Castillo, that the URC "Board submit a Letter to the Editor [of the Davis Enterprise] in support of Measure L". Mr. Castillo responded the same day, stating that he would speak with "our Board Chair about your request and get back to you." One week later, on October 19, with the election rapidly approaching, Mr. Taormino left a message for Mr. Castillo. Mr. Castillo then inquired of Mr. Taormino what Mr. Taormino wanted the letter to say. On the following Monday, October 22, Melanie Mathews on behalf of Mr. Taormino emailed Mr. Castillo and provided him with a draft letter supporting Measure L. Ms. Mathews invited Mr. Castillo to add in details and make edits as he saw fit. She also asked Mr. Castillo to give her a call "ASAP to discuss." Mr. Castillo instead replied to Ms. Mathews stating that he would share the language "with my Board Chair as we are right now considering what they would be comfortable

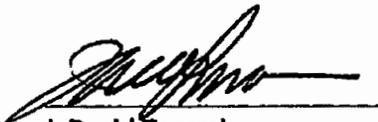
expressing [in connection with Measure L]." Ms. Mathews on behalf of the Owner followed up that day, stating she was available the next day to meet with Mr. Castillo in an effort to procure a letter from the Optionee supporting Measure L. On October 24, the election was less than two weeks away. In spite of this, the Optionee's representative, Mr. Castillo, emailed Ms. Mathews stating, "I'm going to need a few days to allow my board [Optionee] members to consider this."

On October 25, only 12 days before the election, and after some Davis voters had already voted, Mr. Castillo finally emailed Ms. Mathews, stating in part, "I have spoken to my board members these past few days and they are not comfortable putting their name on a letter with verbiage supporting Measure L" (emphasis added). The Optionee's Board, acting on Optionee's behalf, was not willing to provide any language or any public statement supporting Measure L, continuing a pattern of not continuously actively and publicly supporting Measure L, thus not complying with a "material consideration".

In the period subsequent to the November 6 election, Optionee refused to detail how it had continuously, actively, and publicly supported the Measure L campaign. Further, since January 11, 2019, a period of over 10 weeks, Optionee has been afforded the opportunity to explain its positions, and justify its actions and inaction in connection with section 12.2. And yet, by the stated deadline of noon, March 26, we had received no response, and the email subsequently received did not comport with the spirit and direction of the January 9 discussions or with the legal and factual realities.

Binning Ranch Holding Company, LLC

By: OT's agent



J. David Taormino