

I, Amy T. Harvey, Deputy Town Clerk of the Town of Chapel Hill, North Carolina, hereby certify that the attached is a true and correct copy of (2022-01-12/R-5) adopted by the Chapel Hill Town Council on January 12, 2022.

This the 13th day of January, 2022.

Amy T. Harvey

**Amy T. Harvey
Deputy Town Clerk**



A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE AN OPTION TO GROUND LEASE AGREEMENT WITH COMMUNITY HOUSING PARTNERS TO CONSTRUCT AND OPERATE AFFORDABLE HOUSING AT THE TRINITY COURT SITE. (2022-01-12/R-5)

WHEREAS, on [November 1, 2017](#), the Council authorized the Town Manager to issue a Request for Qualifications (RFQ) to identify a development partner to pursue redevelop opportunities of the Town's public housing; and

WHEREAS, on [September 5, 2018](#), the Council authorized the Town to submit an application to the U.S. Department of Housing and Urban Development for the Rental Assistance Demonstration (RAD) for the Trinity Court public housing neighborhood; and

WHEREAS, on [April 24, 2019](#), the Council authorized the Manager to execute documents to enter into an Exclusive Negotiating Agreement with a selected developer to explore options to stipulate responsibilities of the Town and the Developer concerning development of the site; and

WHEREAS, on May 20, 2020 the Town expressed support for the comprehensive redevelopment of Trinity Court; and

WHEREAS, on June 4, 2021 the Town executed a Memorandum of Understanding with Community Housing Partners to establish the terms and conditions for negotiating an agreement to redevelop Trinity Court; and

WHEREAS, on [December 1, 2021](#) the Council provided feedback on the concept plan for Trinity Court.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Town Manager to execute an option to ground lease agreement Community Housing Partners for the Trinity Court site, as described in the January 12, 2021 meeting materials.

This the 12th day of January 2022.

OPTION TO GROUND LEASE AGREEMENT

This Option to Ground Lease Agreement (“**Agreement**”), effective _____, 2021 (“**Effective Date**”), is made by and between the Town of Chapel Hill, North Carolina (“**Optionor**” or “**Town**”) and Community Housing Partners Corporation, a Virginia non-stock corporation recognized by the IRS as having 501(c)(3) status (“**Optionee**”), and each of Optionor and Optionee are referred to as a “**Party**” and together as the “**Parties**”).

RECITALS

A. Optionor owns an approximate 3.23 acre parcel of land commonly known as 751 Trinity Court, Chapel Hill, NC (Tax Parcel Number: 9788194511), located in the Town of Chapel Hill, Orange County, North Carolina (“**Land**”), as more particularly described on Exhibit A attached hereto and made a part hereof.

B. In April 2019, the Town Council authorized the Town Manager and staff to pursue redevelopment of the Trinity Court and Craig Gomains public housing neighborhoods in an effort to improve and increase the availability of affordable housing in the Town’s community. After a period of assessments, inspections, and analysis in an attempt to better understand the possibilities presented by the property located at Trinity Court, the housing team outlined what type of development team would work best for the Optionor. In October 2020, the Optionor issued a request for qualifications (RFQ Q21-57) to seek a public-private partnership to design, finance, and redevelop Town-owned properties that are seeking approval for the Housing and Urban Development (HUD) Rental Assistance Demonstration Program (RAD).

C. On October 27, 2020, Optionee submitted a proposal in response to RFQ Q21-57. On February 12, 2021, the Town Manager updated the Town Council via email on the recommendation by the Town staff to negotiate and execute a Memorandum of Understanding (the “**MOU**”) with the Optionee in anticipation of negotiating a definitive agreement with the Optionee for the project pertaining to the development of affordable housing on the Land.

D. Optionee desires to ground lease the Land and all improvements thereon (the “**Property**”), together with all easements, hereditaments and appurtenances pertaining to or affecting the Land, and, to the extent assignable, all consents, authorizations, development rights, allocations of development density or other similar rights, variances or waivers, licenses, permits and approvals from any governmental or quasi-governmental agency, department, board, commission, bureau or other entity or instrumentality with respect to or attributable to the Land and the improvements thereon (together with the Property, collectively, the “**Ground Leasehold Parcel**”) for redevelopment of the Property as a multifamily housing project (“**Planned Use**”). The current preliminary plan for developing the Ground Leasehold Parcel (“**Development**”) is shown on Exhibit B attached hereto.

E. As part of the financing for the Development, Optionee intends to apply to the North Carolina Housing Finance Agency (“**NCHFA**”) for an allocation of low-income housing tax credits. In connection with the process of applying for low-income housing tax credits, Optionee must demonstrate that it has “site control” over the Ground Leasehold Parcel.

F. Subject to the provisions of this Agreement, Optionor will lease the Ground Leasehold Parcel to Optionee under a long-term ground lease (the “**Ground Lease**”), including, among other things, the applicable terms and provisions of this Agreement, the form of which will be negotiated in good faith and reasonably approved by Optionor and Optionee.

G. In accordance with the Town Council’s authorization in April 2019 and consistent with the terms of RFQ Q21-57, Optionor and Optionee desire to enter into this Agreement to describe their mutual intention to enter into the Ground Lease and to design, finance and redevelop the Ground Leasehold Parcel.

Now, therefore, based on the foregoing recitals and the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **Option.** At any time beginning on the Effective Date and ending on the earlier to occur of (a) termination by Optionor or Optionee as provided in Section 11.2 or Section 11.3 of this Agreement; or (b) December 31, 2023 (“**Option Period**”), Optionee will have the right and option to lease the Ground Leasehold Parcel from Optionor pursuant to the Ground Lease (“**Lease Option**”).
 - 1.1. **Exercise.** Optionee may exercise the Lease Option granted herein at any time during the Option Period by notifying Optionor in writing, provided that all conditions to the exercise of such option have been satisfied or waived by the party for whose benefit the condition is imposed. Upon exercise of the Lease Option, Optionee shall be obligated to lease the Ground Leasehold Parcel from Optionor, and Optionor shall be obligated to lease the Ground Leasehold Parcel to Optionee, by execution of the Ground Lease, in accordance with the terms and conditions of this Agreement.
 - 1.2. **Closing.** Unless otherwise agreed by the Parties, the closing under this Agreement (“**Closing**”) will occur, and the Ground Lease will become effective, within ninety (90) days following Optionee’s delivery of the written notice to Optionor exercising the Lease Option (“**Closing Date**”). Closing will be accomplished through the escrowed delivery of all documents and funds required by this Agreement to Stewart Title Guaranty Company,⁸ 5935 Carnegie Boulevard, Suite 201, Charlotte, NC 28209 (the “**Title Company**”).
 - 1.3. **Items to be Delivered by Optionor at Closing.** At Closing, Optionor will execute, deliver and/or provide to the Title Company or the Optionee, or will cause to be executed, delivered and/or provided to Title Company or the Optionee, the following closing documents:

- 1.3.1. The Ground Lease conveying to Optionee the leasehold interest to the Ground Leasehold Parcel, free and clear of any liens or encumbrances other than encumbrances permitted by Optionee and Optionor, in its as-is, where-is condition, and without representation or warranty, except as specifically provided in the Ground Lease. Notwithstanding anything in this Agreement to the contrary, Optionee or its assignee, as ground lessee under the Ground Lease (the "Ground Lessee"), shall have the unlimited and unrestricted right, at its own expense, to negotiate and obtain a loan or loans for the Development that will be secured by a mortgage on all or any part of the Ground Lessee's interest in the Ground Lease, and all or any part of the Ground Leasehold Parcel and the improvements constructed thereon. If required by the lender under any first leasehold mortgage encumbering the Ground Leasehold Parcel (a "First Leasehold Mortgage"), the Optionor, as the ground lessor under the Ground Lease (the "Ground Lessor"), agrees that the Ground Lease shall be subject and subordinate to the lien of any First Leasehold Mortgage. The foregoing provision will be included in the Ground Lease.
 - 1.3.2. Evidence reasonably satisfactory to the Title Company authorizing the consummation by Optionor of the transactions contemplated hereby and the execution and delivery of all documents and instruments in connection herewith;
 - 1.3.3. All such other documents and instruments customarily executed and delivered by a landlord of a ground leasehold similar to the leasehold interest in the Ground Leasehold Parcel conveyed by the Ground Lease in the State of North Carolina, consistent with the terms and provisions of this Agreement;
 - 1.3.4. The customary form of affidavit certifying to the Title Company, among other things: (i) the absence of claims which would give rise to mechanic's and materialmen's liens, (ii) that Optionor is the only party in possession of the Ground Leasehold Parcel (subject to residential leases as set forth in the affidavit), and (iii) that there are no pending suits or outstanding judgments against either Optionor or the Land; and
 - 1.3.5. A settlement statement setting forth in reasonable detail the financial transaction contemplated by this Agreement ("**Settlement Statement**").
- 1.4. Items to be Delivered by Optionee at Closing. At Closing, Optionee will execute, deliver and/or provide to the Title Company or the Optionor, or will cause to be executed, delivered and/or provided to Title Company or the Optionor, the following closing documents:
 - 1.4.1. The Ground Lease conveying to Optionee the leasehold interest to the Ground Leasehold Parcel, free and clear of any liens or encumbrances other than encumbrances permitted by Optionee and Optionor, in its as-is, where-is condition, and without representation or warranty, except as specifically provided in the Ground Lease;

- 1.4.2. Evidence reasonably satisfactory to the Title Company authorizing the consummation by Optionee of the transactions contemplated hereby and the execution and delivery of all documents and instruments in connection herewith; and
- 1.4.3. The Settlement Statement.
- 1.5. Funds. At Closing, Optionee will provide to the Title Company or cause to be provided to Title Company immediately available funds payable to the Title Company representing the Upfront Rent (as defined below).
- 1.6. Closing Costs and Prorations. Optionor shall pay its own attorneys' fees. Optionee shall pay any escrow charges of the Title Company related to Closing, all costs related to any loans obtained by Optionee, all costs of investigations, inspections, and a survey incurred or performed by or on behalf of Optionee, all costs for the title search and any updated, preparation of a title commitment, and all premiums for the title policy for the Ground Leasehold Parcel, and its own attorneys' fees. Real estate taxes and assessments on the Land will be prorated at closing in accordance with normal practices.
- 1.7. Title. In all events, Optionor shall be obligated to discharge at or before Closing the lien and effect of any deed of trust, mortgage or monetary lien then encumbering or affecting the Ground Leasehold Parcel, except as otherwise agreed by Optionor and Optionee. If Optionee objects to any matters disclosed by a title commitment and/or survey obtained by Optionee in connection with the Ground Leasehold Parcel, the Survey, then Optionee shall notify Optionor of the objections, together with a copy of the title commitment and survey ("**Objections**") on or before the date that is ninety (90) days after the Effective Date ("**Objections Date**"). In the event there are Objections, then Optionor shall have until fifteen (15) days after the date of notice of Optionee's Objections in which to elect whether or not it will cure the Objections. Except for releasing any existing deeds of trust and monetary liens, Optionor shall have the right, but not the obligation, to cure any Objections. If Optionor elects not to cure the Objections, then on or before five (5) days after such election, Optionee may, in its sole discretion, either (i) elect to waive any Objections, or (ii) terminate this Agreement, without any right by Optionor to object or delay such refund, in which event neither party shall thereafter have any further rights, obligations or liability hereunder except for those respective obligations of the parties which, by their terms, are intended to survive. If Optionee does not timely respond, Optionee shall be deemed to have elected to waive any Objections. In the event that Optionor elects to cure any Objections ("**Objections to Be Cured**"), then Optionor shall proceed to diligently exercise commercially reasonable efforts to correct the Objections to Be Cured at its sole cost and expense prior to the Closing Date.
- 1.8. Use of Ground Leasehold Parcel. The use of the Ground Leasehold Parcel shall be limited to the Planned Use and no other use without approval by Optionor.
2. **Rent.** An annual rent payment of \$1.00 shall be made on the first day of each year of the initial term of the Ground Lease.

3. **Tenant and Initial Term.** The Tenant under the Ground Lease will be Optionee or its assignee. The term of the Ground Lease shall be ninety-nine (99) years.
4. **Regulatory Approvals.** Optionee acknowledges and agrees that (a) this Agreement shall not be construed as a grant of development rights or land use entitlements from the Town, in its regulatory capacity as a municipal body, to develop the Property or any other project, and (b) the Town, in its regulatory capacity as a municipal body, shall have final approval over the site plan for the Property and any other development applications submitted for the Property.
5. Intentionally Deleted.
6. Intentionally Deleted.
1. **Timeline.** The Parties desire and intend to advance the due diligence and development process in a manner intended to submit a low-income housing tax credit preliminary application (the “**Tax Credit Application**”) prior to November, 2022. Consistent with that timeline, Optionor and Optionee shall work together in good faith to complete necessary development activities for submission of a Tax Credit Application. Notwithstanding the foregoing, the Parties acknowledge and agree that Optionee and/or its assignee shall also have the right to submit a Tax Credit Application in 2023 and Optionor and Optionee shall work together in good faith to complete such submission.
2. **Recording.** This Agreement will not be recorded, but the Ground Lease or a Memorandum of the Ground Lease, is expected to be recorded in the appropriate office of public records once the Lease Option is exercised and Closing occurs. All taxes and other costs of such recordation will be borne by Optionee.
3. **Optionee’s Conditions Precedent to Entering into Ground Lease.** Following Optionee’s exercise of the Lease Option, the obligation of Optionee or its Assignee to enter into the Ground Lease will be conditioned upon the following:
 - 3.1. Optionor’s title to the Ground Leasehold Parcel shall be good and marketable, and free and clear of all liens, charges, encumbrances, encroachments, easements, restrictions, leases, tenancies, occupancies or agreements or other matters unduly burdening the Development, except mutually agreed upon permitted exceptions, and the leasehold interest of Optionee under the Ground Lease shall be insurable by a recognized title insurance company.
 - 3.2. Optionor shall have materially complied with all covenants and provisions required by this Agreement to be complied with by Optionor before, on or as of the Closing Date;
 - 3.3. The representations and warranties of Optionor in this Agreement shall be true and correct in all material respects on and as of the Closing Date; and

- 3.4. All required governmental approvals for the Development have been obtained and any requirements for Optionee's financing sufficient to complete the Development as designed shall have been satisfied.
 - 3.5. Optionee and/or its assignee shall have received an allocation of low-income housing tax credits from the NCHFA for the Development in an amount acceptable to Optionee in its sole discretion.
 - 3.6. Optionee and/or its assignee shall have secured financing for the Development in an amount acceptable to Optionee in its sole discretion.
4. **Access to Books and Records; Tests and Surveys.** During the Option Period, and, if Optionee exercises its option, until the Closing Date, Optionee or its agents or affiliates, shall have the right to enter upon the Ground Leasehold Parcel for the purpose of making such inspections, investigations, surveys, market studies, feasibility studies, utility availability studies, environmental reports, zoning and land use studies, other engineering and environmental studies, title searches, and other tests, studies or analyses (including but not limited to soil boring, environmental or engineering tests) as it may deem necessary or desirable, at its sole cost and expense, and shall be given reasonable access to Optionor's books and records relevant to the Ground Lease Parcel, including but not limited to all existing environmental reports, engineering reports, maintenance records, title policies and surveys, site plans, and plans and specifications, related to the Ground Leasehold Parcel. Any such entry to the Ground Leasehold Parcel or access to books and records must be at reasonable times and upon reasonable advance notice to Optionor and shall be at the Optionee's sole risk and expense. Optionee shall exercise good faith efforts to minimize disruption of Optionor's activities on the Land. Optionee shall indemnify, defend, save and hold harmless Optionor from and against any claims, damages, losses, suits or other liabilities arising from investigations made pursuant to this Section; and prior to entry on the Land by Optionee or by any agent or contractor of Optionee to conduct inspections or testing of the Ground Leasehold Parcel, Optionor shall be provided reasonable evidence of Optionee's liability insurance in effect, naming Optionor as an additional insured, with a combined coverage limit of not less than \$2,000,000. Optionee shall adequately protect the Land and agrees to promptly repair and restore any damage to the Land resulting from Optionee's activities on the Land, all at Optionee's sole cost and expense. Optionee's obligations in this Section shall survive Closing and any termination of this Agreement.
5. **Termination.** This Agreement may be terminated in accordance with the following provisions, and in each case neither party shall thereafter have any further rights, obligations or liability hereunder, except as otherwise provided herein:
- 5.1. This Agreement will automatically terminate if Optionee does not exercise the Lease Option during the Option Period.
 - 5.2. Optionor may, at its election by providing written notice to Optionee, terminate this Agreement if Optionee or its affiliate (a) has not submitted a Tax Credit Application to NCHFA for the Development on or before November 1, 2023, or (b) has not received an

award of low-income housing tax credits from NCHFA for the construction and/or rehabilitation of the Development in an amount deemed sufficient by Optionee, in its sole discretion (the "LIHTC Award") on or before November 1, 2024.

5.3. Optionee may, at its election by providing written notice to Optionor, terminate this Agreement as follows:

5.3.1. If Optionee determines that the Development is not feasible for any reason or if any investigations, inspections, studies or tests of the Property are unsatisfactory to Optionee,

5.3.2. If Optionee or its affiliate has not received the LIHTC Award on or before November 1, 2023, or

5.3.3. If any condition set forth in Section 9 has not been satisfied, performed or waived by Optionee on or as of the Closing Date.

5.4. The provisions of this Section shall survive the Closing.

6. **Exclusive Option.** Until such time as this Agreement is terminated, Optionor shall not market, sell, offer for sale, negotiate with respect to, or otherwise deal in, the sale, lease or other transfer of the Ground Leasehold Parcel or of any interest therein, or of any interest in the Optionor or any other entity holding a legal or beneficial interest in the Land, except for residential leases as agreed to by Optionor and Optionee.

7. **Cooperation and Dispute Resolution.** The Parties agree to cooperate with each other for the purposes of carrying out this Agreement, the Ground Lease and any subsequent agreements between the Parties, in a timely fashion. Optionee will work in good faith to resolve any unexpected issues or complications experienced during the Development in a timely and equitable manner resulting in mutual agreement. Unless otherwise agreed, the Parties will follow this dispute resolution process:

7.1. The terms of the dispute shall be submitted in writing to the other Party.

7.2. Representatives designated by each of the Parties will meet within five (5) business days of receipt of a written notice of a dispute and attempt to mediate a resolution.

7.3. If the Parties are unable to resolve the dispute on their own, a facilitated mediation will be held with each party responsible for its own costs and expenses and one-half of the cost of the mediator.

7.4. In the event any disputes cannot be resolved by agreement, either party shall have the right to place the matter before a court of competent jurisdiction.

8. **Default and Remedies.**

- 8.1. **Optionee Default.** In the event Optionee shall fail to perform any obligation of Optionee under this Agreement, and/or any of the representations of Optionee contained herein are not true, accurate or complete in any material respect, Optionor shall have, as its sole and exclusive remedy, the right to terminate this Agreement. Notwithstanding the foregoing, nothing in this Section 14.1 shall be deemed to limit Optionor's remedies for any other violation of Optionee's obligations hereunder, including without limitation Optionee's indemnification obligations set forth in this Agreement.
- 8.2. **Optionor Default.** In the event Optionor shall fail to perform any obligation of Optionor under this Agreement, and/or any of the representations of Optionor contained herein are not true, accurate or complete in any material respect, Optionee shall be entitled to either: (i) seek specific performance of the Optionor's obligation to convey the Ground Leasehold Parcel to Optionee by Ground Lease under this Agreement, (ii) terminate this Agreement, or (iii) institute any action available to Optionee at law or in equity to recover Optionee's actual out-of-pocket expenses incurred by Optionee as a result of such failure, breach or misrepresentation by Optionor, which expenses must be evidenced by invoices, receipts or other reasonable documentation and shall not exceed \$100,000.00.
- 8.3. **Notice and Cure.** Optionee shall take no action with respect to a Optionor default, and Optionor shall take no action with respect to a Optionee default, until the non-defaulting party has given written notice to the defaulting party and the defaulting party has failed to cure the default within fifteen (15) days after receipt of such notice in the case such default involves the defaulting party's failure to perform its Closing obligations on the Closing Date, or within thirty (30) days after receipt of such notice with respect to all other defaults.
9. **No individual Liability of Optionor Representatives.** No officer, agent or employee of the Optionor will be subject to any personal liability or accountability because of the execution of this Agreement or any other documents related to the transactions contemplated by this Agreement. These officers, agents or employees will be deemed to execute documents and carry out activities in their official capacities only, and not in their individual capacities. This Section does not operate to relieve any officer, agent, or employee from the performance of any official duty provided by law.
10. **No individual Liability of Optionee Representatives.** No officer, agent or employee of the Optionee will be subject to any personal liability or accountability because of the execution of this Agreement or any other documents related to the transactions contemplated by this Agreement. These officers, agents or employees will be deemed to execute documents and carry out activities in their official capacities only, and not in their individual capacities. This Section does not operate to relieve any officer, agent, or employee from the performance of any official duty provided by law.

11. Representations and Warranties.

11.1. Optionor's Representations and Warranties regarding Optionor and the Ground Leasehold Parcel. Optionor represents and warrants to Optionee that:

- 11.1.1. Authority. Optionor has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Optionor at the Closing will be, authorized and properly executed and constitutes, or will constitute, as appropriate, the valid and binding obligation of Optionor enforceable in accordance with their terms.
- 11.1.2. Conflicts and Pending Action. There is no agreement to which Optionor is a party or to the best of Optionor's knowledge binding on Optionor which is in conflict with this Agreement.
- 11.1.3. Service Contracts and Equipment Leases. There are no service contracts or equipment leases related to the Ground Leasehold Parcel that will survive the Closing, except as otherwise agreed to by Optionor and Optionee.
- 11.1.4. Violations. Optionor has not received notice from any Governmental Authority of any violation by Optionor of any law, rule or regulation affecting the Ground Leasehold Parcel or its use including any environmental law or regulation, health and public safety law, nor has Optionor received notice from any Governmental Authority that the Ground Leasehold Parcel is in violation of any applicable land use law, building or zoning code or ordinance, except for any such matters which may have been previously cured by Optionor or which have been disclosed to and accepted by Optionee. Optionor makes no representation or warranty about the physical condition of the Ground Leasehold Parcel or of any buildings or improvements on the Ground Leasehold Parcel.
- 11.1.5. Tenant Leases. There are no tenant leases or tenancies of the Ground Leasehold Parcel that will survive the Closing, except as otherwise agreed to by Optionor and Optionee.
- 11.1.6. The Ground Leasehold Parcel is leased "AS-IS," "WHERE-IS." Except as specifically provided in this Agreement and in the Ground Lease, the Optionor disavows any oral statements or representations made by its agents, employees or third parties unless said statement or representation is specifically incorporated herein or in the Ground Lease.
- 11.1.7. Survival. Optionor's representations and warranties under this Section 17.1 shall survive until twelve (12) months after the Closing.

11.2. Optionee's Representations and Warranties. As a material inducement to Optionor to execute this Agreement and consummate this transaction, Optionee represents and warrants to Optionor that:

11.2.1. Organization and Authority. Optionee has been duly organized and validly exists as a nonstock corporation in good standing in the Commonwealth of Virginia and is authorized to do business in the State of North Carolina. Optionee has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Optionee at the Closing will be, authorized and properly executed and constitutes, or will constitute, as appropriate, the valid and binding obligation of Optionee, enforceable in accordance with their terms.

11.2.2. Conflicts and Pending Action. There is no agreement to which Optionee is a party or to Optionee's knowledge binding on Optionee which is in conflict with this Agreement. There is no action or proceeding pending or, to Optionee's knowledge, threatened against Optionee which challenges or impairs Optionee's ability to execute or perform its obligations under this Agreement.

11.2.3. Bankruptcy. There is no action in bankruptcy, which is defined as any decree or order by a court having jurisdiction under federal bankruptcy laws, voluntary or involuntary, and is continuing for a period of 90 consecutive days and not vacated or discharged, which shall cause this Agreement to be in doubt as to its effectiveness.

11.2.4. Survival. Optionee's representations and warranties under this Section 17.2 shall survive until twelve (12) months after the Closing.

12. **Notices.** Any and all notices, elections, demands or communications permitted or required to be made under this Agreement will be in writing, and shall be deemed to be given when (a) hand delivered, or (b) one (1) business day after pickup by United Parcel Service (Overnight) or FedEx, or another similar overnight express service, or (c) received by electronic mail (provided that an original is delivered under one of the two methods set forth in subsections (a) or (b), above on the next business day), in any case addressed to the parties at their respective addresses set forth below:

If to Optionor:

Attn: _____
Phone: _____
Email: _____

With a copy to:

Phone: _____
Email: _____

If to Optionee:

Community Housing Partners Corporation
4915 Radford Avenue, Suite 300
Richmond, Virginia 25230
Attn: Samantha Brown
Phone: 804-614-2682
Email: sbrown@chpc2.org

With a copy to:

Lauren D. Nowlin, Esq.
Williams Mullen
200 S. 10th Street, Suite 1600
Richmond, VA 23219
Phone: 804-420-6585
Email: lnowlin@williamsmullen.com

or in each case to such other address as either party may from time to time designate by giving notice in writing pursuant to this Section 18 to the other party. Telephone numbers are for informational purposes only. Notices shall be deemed effective if given by counsel, acting in the capacity as counsel, to any party hereto, acting on behalf of such party. Effective notice will be deemed given only as provided above, except as otherwise expressly provided in this Agreement.

13. **Choice of Law.** This Agreement will be governed by, enforced, and construed in accordance with the internal laws of the State of North Carolina.
14. **Assignment.** Optionee shall not assign its interest in this Agreement without the prior written consent of Optionor. This Agreement shall be binding on the successors and assigns of the Parties. Notwithstanding the foregoing, subject to the prior written consent of Optionor not to be unreasonably withheld, conditioned or delayed, Optionee may assign all of its rights and obligations in this Agreement to an affiliate of Optionee; provided, any such assignment shall not relieve Optionee of its obligations under this Agreement. Optionor and Optionee acknowledge and agree that Optionee intends to assign its rights, title and interest in this Agreement to a sole purpose entity that is an affiliate of CHP, which is formed for the sole purpose of executing a low-income housing tax credit transaction.
15. **Commissions.** Optionee and Optionor represent that no broker or agent is entitled to a commission in connection with this Agreement or the Ground Lease. Optionee and Optionor each agree to hold the other harmless against any other claim made for brokerage commissions or finders' fees resulting from the indemnifying party's actions in this transaction, which agreement shall survive Closing and termination of this Agreement.
16. **Amendment.** This Agreement may be amended only by written agreement of the parties.
17. **Counterparts.** This Agreement may be executed in multiple original counterparts, each of which will constitute an original document binding upon the party or Parties signing the same. It will not be necessary that all Parties sign all counterparts and this Agreement will be binding if each party will have executed at least one counterpart. PDF, TIF, facsimile, or other electronic signatures will be deemed originals for all purposes.
18. **Severability.** If any provision of this Agreement or its application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the full extent permitted by law.
19. **Business Days.** If any date herein set forth for the performance of any obligations by Optionor or Optionee for the delivery of any instrument or notice as herein provided should fall on a Saturday, Sunday or Legal Holiday (hereinafter defined), the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or Legal Holiday. As used herein, the term "Legal Holiday" shall mean any local or federal holiday on which post offices are closed in Orange County, North Carolina.

(Signature Page Follows)

The Parties have executed this Option to Ground Lease Agreement as of the Effective Date.

OPTIONOR:

Town of Chapel Hill

By: _____

Name: _____

Title: _____

OPTIONEE:

Community Housing Partners Corporation

By: _____

Name: _____

Title: _____

Exhibit A

Legal Description of Land

[See attached]

DRAFT

Exhibit B

Preliminary Concept Plan for Ground Leasehold Parcel

[See attached]

DRAFT