



City of Ketchum

### CITY COUNCIL MEETING AGENDA MEMO

Meeting Date:	November 13, 2023	Staff Member/Dept:	Carissa Connelly/Housing
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Agenda Item: Recommendation to approve Letter of Credit to BCHA for Silvercreek Living

Recommended Motion:

“I move to approve executing the Letter of Credit for Silvercreek Living”

Reasons for Recommendation:

- Silvercreek Living is an ideal site for transitional housing, with common kitchens, laundry rooms, 32-38 rooms, and office space.
- The master lease approach provides BCHA with a low cost/low risk and flexible approach to immediately provide meaningful transition housing.
- The existing property manager is willing to assist with the transition for a six-month or longer period. The existing maintenance person is open to continuing work there going forward.
- Existing tenants could stay in place and be required to fill out BCHA’s application – enabling them to move towards better permanent housing options. Fire safety in the building are highly rated.
- Potential buyers need a form of security that BCHA is unable to provide in order to execute the Master Lease

Policy Analysis and Background (non-consent items only):

**Goal 3 of the Housing Action Plan: Expand + Improve Services to Create Housing Stability  
Action 2. Identify + negotiate master leasing opportunities**

#### INTRODUCTION TO THE CONCEPT

Best situated for transitional housing: Silvercreek Living has been available for purchase for over a year, and in the meantime BCHA’s service partners and BCHA placed formerly homeless individuals there. With the pending sale, there is risk of mass displacement of many workers. Silvercreek Living is also ideally suited for transitional housing – given two communal kitchens, laundry rooms, and common space. There are also shared computer rooms equipped with computers and printers, high-speed internet throughout, outdoor recreation and play areas, and office space. The project is adjacent to a bus stop and across the main street from Albertsons for grocery and pharmacy items.

The two closed-door community rooms and two office spaces could be used for additional rooms: Residents of those rooms would use the common showers and bathrooms.

Transition period: The current maintenance team is willing to stay on going forward and the current seller/property manager can help transition specific responsibilities. Inheriting the maintenance team is a huge benefit for the efficient running of the property given their familiarity with the physical building and tenants. If on-site volunteers are needed, the faith community is ready to organize volunteers.

Master lease or buy: The potential buyer is keen to work with BCHA on this, given its mission and the suitability of the site for transitional housing. They are proposing a five-year lease with an option to either buy at any time during the first five years, or at BCHA's discretion, renew the lease for another five years giving BCHA control for a minimum of 10 years. So, if the facility is successful, serves the community well, and integrates into BCHA's long term vision and goals, BCHA has the flexibility to either renew the lease and continue as a master tenant or it can elect to purchase the facility. Regardless and in the meantime, the master lease approach provides BCHA with a low cost/low risk and flexible approach to immediately provide meaningful transition housing.

Costs to BCHA: The potential buyer has been very transparent on expected costs, their investors expectations and profit requirements, and other considerations. BCHA's Treasurer and the Housing Director are reviewing the anticipated costs and expenses together. BCHA's treasurer is a loan originator in the banking industry and is working with Housing Director Carissa Connelly who, among other qualifications such as financing affordable housing for the state of Georgia has a master's in real estate.

Both are comfortable with a conservative, no loss approach that maintains existing sublease rent levels, assuming 5% vacancy and limited laundry income for the first six months while transitioning and then reassess rents and potential external subsidies. BCHA has the flexibility of keeping current rents or, ideally over time, switching to rent based on 30% of a household's income. In collaboration with Idaho Housing Finance Association's rental assistance program, a floor of \$800 per month of rent for the lowest income households is feasible.

The remaining unknowns that will be assessed before a recommendation is made to the BCHA Board of Commissioners are (1) detailed expenses, (2) inspection report, and (3) rent rolls and leases.

Part of a healthy housing ecosystem: A benefit of master leasing Silvercreek is having direct access to tenants – ensuring that they're screened and on BCHA's waitlist for permanent housing and for BCHA to provide referrals to other housing opportunities. BCHA could also directly place priority households from its emergency housing waitlist. Given countywide demand of a minimum of 4,700 community homes by 2022 and full occupancy at current rent rates, staff do not anticipate any difficulties filling the rooms.

**LETTER OF CREDIT**

BCHA does not have adequate credit to cover unexpected expenses, beyond the \$24,000 annual contingency and conservative cash flow. City staff, the buyers, and their legal counsel agreed on the following concept to reassure the buyers’ investors:

- The City provides a letter of credit (the “Letter of Credit”) on behalf of Blaine County Housing Authority (the “Authority”) for the benefit of Wood River LLC (the “Owner”) in the amount of \$500,000 from the General Fund.
- The lessor can make partial or multiple draws.
- The Letter of Credit can be transferred.
- The City has a 60 day notice of non-renewal period. In the event the City terminates Letter of Credit before the end of BCHA’s master lease term, BCHA has up to five days before the termination date to find an alternative letter of credit.
- The City only disburses funds to the Owner upon receipt of an Owner request satisfying the conditions for disbursement set forth in the Letter of Credit.

**NEXT STEPS**

The BCHA Board reviewed the draft Master Lease on Wednesday, November 8 and are prepared to review the expected cash flow at a Special Meeting in late November. Council approval of this letter of credit would provide buyers with the comfort needed to execute the master lease, if the purchase is successful.

**Sustainability Impact:**

Community housing houses members of the community locally, ensuring that residents are closer to their places of work, recreation, and other needs. This proximity helps to decrease transportation time and reduce vehicle-related emissions associated with commuting to and from work from outside of the community.

**Financial Impact:**

None OR Adequate funds exist in account:	Adequate funds in account
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**Attachments:**

1. Draft Master Lease
2. Letter of Credit

**MASTER LEASE AGREEMENT**

DATED \_\_\_\_\_, 2023

(the "Effective Date")

BY AND BETWEEN

**WOOD RIVER LLC**

AS "LESSOR"

AND

**BLAINE COUNTY HOUSE AUTHORITY**

AS "LESSEE"

LEASE AGREEMENT  
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EXHIBIT A – Legal Description of Land

EXHIBIT B - Housing Guidelines

EXHIBIT C – Premises

EXHIBIT D – Form of Assignment and Assumption of Existing Tenant Leases

EXHIBIT E - Form of Letter of Credit

## MASTER LEASE AGREEMENT

THIS MASTER LEASE ("Lease") dated for reference purposes as of the Effective Date, is made by and between **WOOD RIVER LLC**, a Washington limited liability company ("Lessor"), and **BLAINE COUNTY HOUSING AUTHORITY**, an independent public body created by Blaine County, Idaho ("Lessee").

### RECITALS

WHEREAS, Lessor is under contract to purchase the Property (defined below) contemplated in this Lease.

WHEREAS, Lessor expects that closing of the transaction ("Closing") on the Property will occur on or about December 15, 2023.

WHEREAS, Lessee is a housing authority wherein a key element of their mission is to strengthen and manage affordable workforce and transitional housing in Blaine County, Idaho.

WHEREAS, following Closing it is the intention of the parties that Lessee will be responsible for the overall management and control of the Property, which will include, without limitation, entering into and managing residential leases and assuming control of the day-to-day operations and maintenance of the Property, subject to the terms and conditions set forth in this Lease.

NOW, THEREFORE, in consideration of the foregoing and other consideration set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties, and the mutual promises contained herein, intending to be legally bound, agrees as follow.

### AGREEMENT

1. **BASIC TERMS.** The following basic terms apply to the Lease.

- (a) Land. The "Land" consists of the real property legally described in **Exhibit A** attached hereto.
- (b) Buildings. The "Buildings" consist of those improvements located on the Land, having an address of 31 East McKercher Blvd, Hailey, Idaho.
- (c) Premises. The "Premises" shall consist of the Buildings and Land as generally shown in **Exhibit C** attached hereto, which may also be referred to herein as the "Property".
- (d) Agreed Floor Area of Buildings. 23,144 square feet.
- (e) Lessee's Percentage. 100% of the Premises.
- (f) Lease Dates and Term. The term of this Lease shall be for five (5) years (the "Lease Term" or "Term"), commencing on the first day business day that follows Closing (the "Commencement Date"), and expiring at the end of the sixtieth (60<sup>th</sup>) month following the Commencement Date (the "Expiration Date"). The parties agree that if the Commencement Date does not occur by January 30, 2024 this Lease will automatically terminate and be of no further effect to either Lessee or Lessor.

- (g) Rent. The monthly Rent for the first twelve months of this Lease shall be Forty-One Thousand Two Hundred Fifty and 00/100 Dollars (\$41,250.00) (the “Monthly Rent”) to be paid by Lessee under this Lease as follows:

The Monthly Rent and all other charges due under the Lease (collectively “Rent”) shall be payable each month in advance on or before the first day of each month, beginning on the Commencement Date, without offset or deduction to the address in Section 1(k) below, or such other place designated by Lessor, including payment via automated clearing house (“ACH”). During the Term of the Lease and any extensions thereof, the Monthly Rent will be subject to an annual adjustment beginning on the first full month following the twelve (12) month anniversary of the Commencement Date, and on each subsequent twelve (12) month anniversary thereafter. The amount of the adjustment each year shall be three and one-half percent (3.5%). Rent for any partial months shall be prorated based on the number of days of such partial month.

- (h) Security Deposit. None.
- (i) Permitted Uses. Lessee shall use the Premises for the purposes of providing and managing housing via sublease agreements per Lessee’s *Community Housing Guidelines* published on Lessee’s website, as may be updated from time to time by Lessee (“Housing Guidelines”) and attached hereto as **Exhibit B**. At a minimum, all subtenants shall meet the qualifications to rent community housing as set forth in Section 2 of the Housing Guidelines. Specifically prohibited uses include permanent supportive housing and drug/alcohol rehabilitation clinics/shelters. Lessee’s use of the Premises shall, at all times, be in compliance with applicable legal requirements, including, without limitation, maximum legal residential occupancy limitations, and for no other purposes unless approved by Lessor, such approval to be in Lessor’s sole but reasonable discretion.
- (j) Brokers. None.
- (k) Lessor's Address.  
BearRock Investments LLC  
Attn: Doug Barrett and David Rothrock  
232 7<sup>th</sup> Avenue North, Suite 100  
Seattle, WA 98109  
Email: [Doug@mwaseattle.com](mailto:Doug@mwaseattle.com); [David@mwaseattle.com](mailto:David@mwaseattle.com)
- (l) Lessee's Address.  
Blaine County Housing Authority  
111 North 1<sup>st</sup> Avenue, Suite 2J  
Hailey, Idaho 83333  
[info@bcoha.org](mailto:info@bcoha.org)
- (m) Extension Option. Lessee may extend the Term as set forth in Section 3 below.
- (n) Letter of Credit Amount. \$500,000.00 (see Section 5)

## 2. PREMISES.

**2.1** Lease of Premises. Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor, upon the terms and conditions set forth in this Lease, the Premises in Section 1(c) hereof. Lessee represents and warrants that it agrees with the Agreed Floor Area of the Buildings as specified in Section 1(d).

**2.2** Acceptance of Premises. As of the Commencement Date, Lessee acknowledges that it has examined the Premises and accepts the Premises in their present condition, "as-is, where-is." Neither Lessor nor its agents have made any representations or warranties with respect to the Premises, except as expressly set forth herein, and Lessee expressly acknowledges that it has not entered into this Lease in reliance upon any representation, warranty, agreement or understanding, either oral or written, which is not specifically set forth herein.

**2.3** Lessor's Work. Lessee acknowledges that Lessor has not agreed to and is not obligated to make any improvements or alterations to the Premises except as specifically set forth herein.

**2.4** Existing Furniture, Fixtures, and Equipment. The parties acknowledge that as of the Effective Date the Premises consists of numerous items of furniture, fixtures, and equipment (collectively "Existing FF&E"). Lessee and any tenants subject to a Rental Agreement (defined below) may have use of the Existing FF&E during the Lease Term. Maintenance, repair, and replacement of the Existing FF&E shall be controlled by Section 9.2 herein.

**2.5** Existing Tenants. The parties acknowledge and agree that as of the Commencement Date the Premises are occupied by tenants under existing tenant lease agreements ("Existing Tenant Agreements"). Following Closing the Existing Tenant Agreements will be assigned to Lessee pursuant to an assignment and assumption agreement dated as of the Commencement Date, the form of which is attached hereto as **Exhibit D**.

### **3. TERM; EXCLUSIVE TERM EXTENSION NEGOTIATION PERIOD.**

**3.1** Term. The Lease Term shall be for the period stated in Section 1(f) hereof, and shall commence on the Commencement Date specified in Section 1(f). Neither Lessor nor any agent or employee of Lessor shall be liable for any damage or loss due to Lessor's inability or failure to deliver possession of the Premises to Lessee as provided herein.

**3.2** Exclusive Term Extension Negotiation Period. It is Lessor's desire to have Lessee as a long term tenant for the Premises. Accordingly, Lessee may provide notice (the "Extension Notice") of its desire to extend the Lease Term, such Extension Notice to be delivered to Lessor no later than thirty-six (36) full months following the Commencement Date (the "Extension Notice Deadline"). Following delivery of the Extension Notice Lessor agrees to negotiate exclusively with Lessee in good faith for thirty (30) days with respect to the rental amount, extension term, and any other material business or legal terms or condition for such requested extension. In the event that the parties agree on the foregoing extension terms during such thirty (30) day period, the parties will execute an amendment to this Lease memorializing such agreement.

### **4. RENT.**

**4.1** Monthly Rent. Lessee shall pay Lessor the Monthly Rent stated in Section 1(g) hereof and all other Rent due hereunder without demand, deduction or offset, payable in lawful money of the United States in advance on or before the day specified in Section 1(g) to Lessor at the offices of Lessor specified in Section 1(k), or to such other party or at such other place as Lessor may hereafter from time to time designate in writing. The obligations of Lessee to pay Rent to Lessor and the obligations of Lessor under this Lease are independent obligations. The term "Rent" shall mean the Monthly Rent and all other amounts owing by Lessee to Lessor under this Lease.

**4.2** Interest; Late Charges. Any Rent payable by Lessee to Lessor which shall not be paid upon the due date thereof shall bear interest at a rate equal to twelve percent (12%) per annum calculated



from the date of delinquency to the date of payment. If any such installment or other payment of Rent is not received within five (5) days from the due date, Lessee shall pay to Lessor a late charge equal to five percent (5%) of the amount so delinquent, which late charges shall be liquidated damages (and not a penalty) to compensate Lessor for the costs of handling such delinquency, the parties agreeing that actual damages would be inconvenient, uncertain, and difficult to ascertain. Such interest and late charges shall be deemed additional rent due upon demand, and Lessor shall have rights with respect to such non-payment as it has with respect to any other non-payment of Rent hereunder. Lessor shall provide an alternative way to receive Rent payments (such as direct deposit into Lessor's bank account) in case of Lessor's inability to certify (offer a signed receipt) timely payments.

**4.3. Discounted Rent.** For valuable consideration, which both parties acknowledge, during the first six (6) months of the Lease Term following the Commencement Date, and provided no Event of Default exists by Lessee, Monthly Rent will be reduced by fifty percent (50%).

## **5. LETTER OF CREDIT.**

Concurrent with the execution of this Lease, as security for the performance by Lessee of Lessee's obligations hereunder, Lessee shall cause to be delivered to Lessor an irrevocable standby letter of credit (the "Letter of Credit") in the amount set forth in the Basic Terms (the "Letter of Credit Amount"), naming Lessor as beneficiary. Due to joint exercise of powers and shared interest and authority to pursue the public purposes of this Agreement, the Letter of Credit shall initially be issued by the City of Ketchum, a municipal corporation of the State of Idaho (the "City"), and have an expiration date not earlier than one (1) year and be automatically renewable for additional one (1) year periods unless notice of non-renewal or non-appropriation is given by the City to Lessor and Lessee not later than sixty (60) days prior to the expiration thereof (a "Termination Notice"). The Letter of Credit shall provide that in the event of a Lessee default the Lessor may make partial and multiple draws thereunder, up to the Letter of Credit Amount. In addition, the Letter of Credit shall provide that, in the event of Lessor's assignment or other transfer of its interest in this Lease, the Letter of Credit shall be freely transferable by Lessor to such transferee, without charge and without recourse, to the assignee or transferee of such interest with confirmation of the same to Lessor and such assignee or transferee. The Letter of Credit shall provide for payment to Lessor upon the issuer's receipt of a written request from Lessor together with Lessor's certificate certifying that Lessor is entitled to draw upon the Letter of Credit, and shall be substantially in the form attached hereto as **Exhibit E**. In the event of a Lessee default, Lessor, or its then authorized representatives, shall have the right to draw down an amount up to the face amount of the Letter of Credit and hold the funds drawn in cash without obligation for interest thereon as the security for the performance of Lessee's obligations under this Lease. Lessor and Lessee acknowledge and agree that in no event or circumstance shall the Letter of Credit, any renewal or substitute therefor or any proceeds thereof be deemed to be or treated as a "security deposit" under any law applicable to security deposits in the commercial or residential lease context.

In the event of a Termination Notice as contemplated above, it is agreed and understood that Lessee shall be solely responsible for providing a replacement Letter of Credit ("Replacement Letter of Credit") with a qualified entity, as reasonably determined by Lessee and with reasonable consent by Lessor, on or before the date that is five (5) business days prior to the termination effective date set forth in the Termination Notice (the "Outside Replacement Letter of Credit Date"). It is agreed and understood that a failure of Lessee to provide a Replacement Letter of Credit by the Outside Replacement Letter of Credit Date shall constitute an incurable Lessee default under the Lease.

## **6. USES.**

The Premises are to be used only for the Permitted Uses specified in Section 1(i) hereof and for no other business or purpose.

**6.1** Generally. Lessee shall not use, occupy, or permit the use or occupancy of the Premises for any purpose which is illegal, patently dangerous or permit anything to be done which is prohibited by or which shall in any way conflict with any law, statute, ordinance, or governmental rule, regulation or covenants, conditions and restrictions affecting the Premises now or hereinafter in force. Lessee shall not commit or allow to be committed any waste upon the Premises, or any public or private nuisance or other act or thing which disturbs the quiet enjoyment of any others, including any tenants in the Buildings. Lessee shall comply with all laws relating to the Premises, and shall not permit any activities to occur on at the Premises that would unreasonably effect the safety, use, and cleanliness of the Premises and the preservation of good order therein. With respect to any tenant subleases executed by Lessee as sublandlord, Lessee will follow its standard screening requirements, and Lessee agrees it will follow its qualification process as laid out in the Housing Guidelines, as may be updated by Lessee. As stated in Section 1(i), Lessee is specifically prohibited from using any portion of the Premises as permanent supportive housing or drug/alcohol rehabilitation facility without the prior written consent of Landlord, although residents coming out of homelessness who otherwise qualify for housing under the Housing Guidelines may be residents in the Premises. Lessee acknowledges that neither Lessor nor any agent of Lessor has made any representation or warranty with respect to the Premises or the zoning of the same, or with respect to the suitability of the Premises for the conduct of Lessee's business, nor has Lessor agreed to undertake any modification, alteration or improvement to the Premises except as specifically set forth herein. Lessee, as its sole cost and expense, shall promptly comply with all laws, statutes, ordinances, and governmental rules, regulations, or requirements now in force or which may hereafter become in force, of federal, state, county, and municipal authorities or other similar body now or hereafter constituted, and with any occupancy certificate issued pursuant to any law by any public officer or officers, which impose any duty upon Lessor or Lessee insofar as any thereof relate to or affect the condition, use, alteration, or occupancy of the Premises associated with Lessee's use. Lessee shall further be responsible for the cost of any alterations or modifications to the Premises that are required due to Lessee's use of the Premises, subject to approval by Lessor as contemplated herein. Lessee is solely responsible for ensuring that the Premises comply with any and all governmental regulations applicable to Lessee's conduct of business on the Premises, and for any alterations or improvements that may be required by such regulations, now existing or hereafter adopted.

**6.2** No Obstructions. Lessee shall not obstruct areas outside of, on the sidewalks adjacent to the Premises with any item, and/or boxes, trash or other debris. If Lessee fails to comply with the preceding sentence, Lessor may at its option, remove and store or dispose of any such property or material without liability for loss thereof or damage thereto, such storage or disposal to be for the account of Lessee and at the expense of Lessee, which amounts shall be deemed additional rent hereunder.

**6.3** Garbage. Lessee will not place or maintain any garbage, trash, rubbish, or any other refuse in any area on the exterior of the Premises, except in secured bins and in designated areas.

**6.4** Smoking. Lessee acknowledges that smoking is not permitted within twenty-five (25) feet of any Building entrances, exits, windows or ventilation intakes. In addition, Lessee agrees to comply with any applicable laws, rules, or regulations related to smoking, which may be more restrictive than the preceding sentence, and also agrees to ensure that all residents occupying the Premises comply with all rules and regulations set forth in this Section 6.4.

**6.5** Lessor's Rules and Regulations. Lessee agrees to comply with any reasonable rules or regulations created by Lessor with respect to the Premises ("Rules"); provided that prior to implementing such Rules, Lessor shall send a draft of the proposed Rules to Lessee for Lessee's review and comment and the parties shall work together in good faith for a period not to exceed ten (10) business days to finalize such Rules. Notwithstanding the foregoing, Lessor shall be the final decision

maker on any Rules; provided that no Rules may unreasonably frustrate the purposes of the Lease or conflict with any express provision of this Lease, including, without limitation, the Permitted Uses.

## **7. OPERATING COSTS.**

Lessee acknowledges that in addition to Monthly Rent, Lessee is responsible for directly payment of all costs and expenses relating to the Premises ("Operating Costs"). Operating Costs includes, without limitation: insurance, utilities, taxes, and all other impositions, taxes, liens, charges or expenses of any nature whatsoever in connection with the operation and management of the Premises by Lessee. Lessee acknowledges that it will be solely responsible for the payment of Operating Costs as follows:

**7.1 Lessee's Personal Property Taxes.** Lessee shall pay prior to delinquency all personal property taxes with respect to all personal property of Lessee and shall provide promptly upon request of Lessor written proof of such payment.

**7.2 Property Taxes.** During the Lease Term, as may be extended, to the extent property or other Ad Valorem taxes are assessed and owing against the Landlord and Buildings, Lessee shall pay such taxes when due (or reimburse Lessor). The parties specifically acknowledge that Lessee is only responsible for property or other Ad Valorem taxes (if any) which are assessed during the Lease Term, as may be extended.

**7.3 Insurance.** Lessee shall pay, procure, and/or reimburse Lessor for the insurance policies required under Section 14.2.

**7.4 Property Management.** Lessee shall be responsible for the payment and management of any property manager hired or retained by Lessee to manage all or any portion of the Premises.

**7.5 Vendor Agreements.** Lessee is solely responsible for the hiring and management of all vendors or other contractors regarding performance of all services required to be performed at the Premises associated with Lessee's use including, without limitation, janitorial services, HVAC service, security services, pest control, snow and ice removal, roof and gutter maintenance, etc.

**7.6 Records.** Lessee shall keep accurate records showing in reasonable detail all Operating Expenses incurred and paid by Lessee. These records shall, upon at least thirty (30) days' request, be made available for inspection by Lessor.

## **8. SERVICES AND UTILITIES.**

Lessee shall be responsible for the costs of all services performed or rendered at the Premises as well as the cost of all utilities used in the Premises, including but not limited to electricity, gas, water, sewer, internet, and telephone. Lessor shall not be liable to Lessee for any loss, injury or damage to property caused by or resulting from any variation, interruption or failure of such services due to r Lessee's failure to make any repairs or perform any maintenance required of Lessee. No temporary interruption or failure of such service incident to the making of repairs, alterations or improvements, or due to accident or strike, or condition or events beyond Lessor's reasonable control shall be deemed an eviction of Lessee or relieve Lessee from any of Lessee's obligations hereunder.

## **9. REPAIRS AND MAINTENANCE.**

**9.1 Lessor's Obligations.** Except for damage caused by the negligence or intentional act or omission of Lessee or Lessee Parties, Lessor shall, at Lessor's expense, provide capital repairs to the roof, roof structure, foundations and exterior walls of the Buildings. Lessor shall also be responsible, at Lessor's expense, for replacement of the rooftop mounted heating and air conditioning equipment servicing the Premises. Lessee shall promptly notify Lessor of any damage to the Premises requiring capital repairs or replacement, which Lessor agrees will be repaired or replaced in a commercially reasonable period following such notice; provided that it is agreed and understood that Lessee will be required to reimburse Lessor as additional rent for any capital repairs or replacements that are caused by the negligence or willful misconduct of Lessee or any Lessee Parties. For the avoidance of doubt, the obligations set forth in this Section 9.1 are intended by the parties to be the sole obligations of Lessor with respect to its maintenance, repair, and replacement obligations for the Premises. Capital repairs shall be defined per generally acceptable accounting principles..

**9.2 Lessee's Obligations.** Subject to Lessor's obligations as described above, Lessee, at Lessee's expense, shall keep in good order, condition and repair the Premises. Lessee's responsibilities shall include, without limitation (i) the maintenance and/or repair of any heating and air conditioning equipment servicing the Premises; (ii) maintenance of roof and gutters, including periodic cleaning of same; (iii) the maintenance of the plumbing, mechanical, life safety, security systems, and electrical utilities servicing the Premises; (iv) the necessary repairs and replacements to the entry doors, window frames, hardware, glass, and interior walls of the Premises; (v) the janitorial services to the Premises, (vi) maintenance, repair, and replacement (at the same quality or better) of the Existing FF&E; (viii) the replacement of light bulbs, tubes and washroom and toilet supplies for the Premises; and (ix) all landscaping and snow removal services required to be performed at the Premises. Lessee is responsible for the maintenance, repair and/or replacement of the individual heating and air conditioning units known as "packaged terminal air conditioners" (PTAC) found in the individual residential units within the Premises. All damage or injury done to the Premises or any appurtenances thereto either by Lessee, or any Lessee Parties, or by any other persons who may be in the Premises with the consent of Lessee, including the cracking or breaking of glass of any windows and doors from inside the Premises, shall be paid for by Lessee. If Lessee fails to perform Lessee's obligations hereunder relating to the repair, maintenance or upkeep of the Premises as required herein, Lessor may, following reasonable notice to Lessee, at its option (but shall not be required to), enter upon the Premises upon reasonable prior written notice to Lessee and put the same in good order, condition, and repair or otherwise cure the default, and the cost of such action shall become due and payable as additional rent to Lessor at the time Lessee's next installment of Monthly Rent that becomes due. All of Lessee's obligations under this Section 9.2 shall be performed to a professional standard and, as applicable, by licensed and bonded contractors and/or professionals; provided that Lessee may engage the services of nonprofit entities and/or volunteers for work performed under this Section 9.2 if the work being performed meets the following requirements: (i) does not require a permit, (ii) is non-structural in nature, and (iii) does not require that the individual performing the work possess a specialized license or certification for such work. For the avoidance of doubt, except for the obligations of Lessor set forth in Section 9.1 above, Lessee is solely responsible for all maintenance, repairs, and replacement costs related to the Premises.

## **10. ALTERATIONS.**

**10.1 Improvements by Lessee.** Lessee shall not make any alterations, additions or improvements (collectively, "Alterations") in or to the Premises without first obtaining the written consent of Lessor, not to be unreasonably withheld. Notwithstanding the foregoing, Lessor's consent shall not be required for any Alterations that (i) do not affect the structure, slab, or roof of the Buildings,

(ii) do not require a building permit, and (iii) the cost of which does not exceed \$10,000.00 ("Minor Alterations").

(a) Plans and Specifications. Lessee shall deliver to Lessor full and complete plans and specifications for any Alterations, including but not limited to the conversion or addition of residential rooms in the Premises or on the Property. Lessor does not and will not make any covenant or warranty, express or implied, that any such plans or specifications submitted by Lessee are accurate, complete or in any way suited for their intended purpose.

(b) Compliance with Laws; Liens. All Alterations shall be completed by Lessee at Lessee's sole cost and expense and shall be performed in accordance with all laws, ordinances, rules and regulations of any federal, state, county, municipal or other public authority. Lessee expressly covenants and agrees that Lessee will not allow any liens of mechanics, material men, laborers, architects, engineers, artisans, contractors, subcontractors, or any other lien of any kind whatsoever to be created against or imposed upon the Premises, and that in the event any such claims or liens of any kind whatsoever shall be asserted or filed by any persons, firms or corporations, Lessee shall pay off or make diligent effort to cause the same to be discharged of record within five (5) days of notification thereof. Even if Lessor consents to the making of any Alterations, such consent shall not constitute the granting of any authority to Lessee to allow any liens of mechanics, material men, laborers, architects, engineers, artisans, contractors, subcontractors, or any other person or entity whatsoever to be created against or imposed upon the Premises.

(c) Ownership of Improvements. Prior to the commencement of any Alteration requiring approval by Lessor, Lessor will advise Lessee whether such Alteration is required to be removed at the termination of the Lease.

(d) Contractor's Insurance. Lessee acknowledges and agrees that a material condition to the granting of approval of Lessor to any Alteration required under this Lease or desired by Lessee is that the contractors who perform such work shall maintain a commercial general liability insurance policy covering both bodily injury and property damage in the amount of Two Million Dollars (\$2,000,000.00). Lessor may require proof of such insurance coverage from each contractor at the time of submission of Lessee's request for Lessor's consent to commence work.

## **11. DAMAGE OR DESTRUCTION.**

If the Premises are damaged, destroyed, either wholly or in part, by fire or other casualty, Lessor shall forthwith repair the same, or cause the same to be repaired, materially to the extent the Premises were originally delivered to Lessee unless this Lease is terminated as permitted herein. Within thirty (30) days from the date of such damage, Lessor shall notify Lessee if the Premises is damaged in excess of fifteen percent (15%) of the Premises' pre-casualty value, as reasonably determined by Lessor (damage in excess of such amount being referred to as "Major Damage" and damage equal to or less than such amount being referred to as "Minor Damage"). If Major Damage occurs, Lessor may elect to terminate the Lease in whole or just with respect to the damaged portion of the Premises with a corresponding equitable adjustment in Monthly Rent. If Minor Damage occurs then Lessor shall repair such damage and rebuild that portion of the Premises damaged. In the event of Major Damage, if Lessor gives its written notice to Lessee electing to rebuild, or to cause the same to be rebuilt, or in the event of Minor Damage, this Lease shall remain in full force and effect provided Lessor completes the repairs within six (6) months, subject to extension for Force Majeure, except the Monthly Rent shall be abated during the period of repair in which Lessee's use of the Premises is interrupted. If the damage is due, in whole or in part, directly or indirectly to the fault or neglect of Lessee or any Lessee Parties, there shall be no or proportional abatement of Monthly Rent and Lessee shall be wholly or

proportionally responsible for all deductibles and increased insurance costs or premiums due to such damage, which obligation shall survive the Lease Term. If in the event of Major Damage Lessor elects by written notice to Lessee not to repair or rebuild, then this Lease shall automatically terminate as of the effective date of such notice. Notwithstanding any of the foregoing, Lessor's obligation to restore the Premises shall be limited to the extent of the insurance proceeds available to Lessor for such restoration (less any amounts claimed by the holder of any first mortgage or the beneficiary of any first deed of trust on the Premises), and Lessor shall have no obligation to restore the Premises if such damage or destruction occurs during the last year of the Lease Term.

## **12. CONDEMNATION.**

If all of the Premises, or such portions as may be required for the reasonable use of the Premises, are taken by eminent domain, or sold by Lessor under the threat of the exercise of said power (all of which is referred to in this Lease as "condemnation"), this Lease shall automatically terminate as of the date Lessee is required to vacate the Premises and all rentals shall be paid to that date. In case of a taking of a part of the Premises, or a portion not required for Lessee's reasonable use of the Premises, then this Lease shall continue in full force and effect and the rental shall be equitably reduced based on the proportion by which the Agreed Floor Area of the Premises is reduced, such rent reduction to be effective as of the date possession of such portion is delivered to the condemning authority. Lessor reserves all rights to damage to the Premises for any taking by condemnation, and Lessee hereby assigns to Lessor any right Lessee may have to such damages or award, and Lessee shall make no claim against Lessor for damages for termination of the leasehold interest or interference with Lessee's business. Lessee shall have the right, however, to claim and recover from the condemning authority compensation for any loss to which Lessee may be put for Lessee's moving expenses and loss of business, provided that such damages may be claimed only if they are awarded separately in the condemnation proceedings and not as part of the damages recoverable by Lessor.

## **13. HAZARDOUS WASTE.**

Lessee represents and warrants that no Hazardous Materials (as defined below) will be stored on or under the Premises except for reasonable amounts of materials as is generated by Lessee from its use of the Premises as defined in Section 1(i), and then only to the extent such storage is in compliance at all times and in all respects with Environmental Laws. Lessee further represents and warrants that Lessee's Alterations and equipment on the Premises shall not incorporate lead, asbestos, or PCBs. The terms, covenants, representations and warranties contained herein shall survive the termination or expiration of this Lease.

The term "Hazardous Materials" means hazardous or toxic substance, materials or wastes, including but not limited to any substance, material or waste which is (i) petroleum; (ii) asbestos; (iii) polychlorinated biphenyls (PCBs); (iv) designated as a "Hazardous Waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901, *et seq.*; (v) designated as a "Hazardous Substance" under the Clean Water Act, 33 U.S.C. § 1321, or listed pursuant to 33 U.S.C. § 1317; (vi) listed by the U.S. Department of Transportation at 49 C.F.R. 172.101 or by the U.S. Environmental Protection Agency under 40 C.F.R. Part 302; and (vii) any other substance, waste or material which is regulated as hazardous or dangerous by any federal, state, or local agency. The term "Environmental Laws" shall mean any and all of the foregoing laws referenced in (iv) through (viii) in this paragraph.

## **14. LESSEE RESPONSIBILITY.**

### **14.1**

Lessor, including its affiliates, contractors, partners, and employees (collectively "Lessor Parties") shall be liable for any loss or damage to person or property sustained by Lessee or any Lessee Parties, or other persons, which may be caused by the Premises, or any appurtenance thereto, being out of repair, or the bursting or leakage of any water, gas, sewer or steam pipe, or by theft, or by any act or neglect of any Lessee or occupant of the Premises, or of any other person, or by any other cause of whatsoever nature, unless directly caused by Lessor Parties. Lessee agrees to use and occupy the Premises at its own risk and hereby releases the Lessor Parties, including its agents and employees from all claims for any damage or injury to the fullest extent permitted by law. As used herein, "Lessee Parties" means Lessee, its officers, contractors, licensees, agents, servants, employees, guests, invitees, tenants or subtenants occupying the Premises.

#### **14.2 Insurance.**

(a) Lessee Insurance. Lessee shall, throughout the terms of this Lease and any Extension Term, at its own expense, keep and maintain in full force and effect a policy of commercial general liability insurance, as Lessee currently maintains through ICRMP. All policies shall be payable on an "occurrence" rather than a "claims made" basis; and

(b) Lessor Insurance. Lessor will keep and maintain commercially reasonable property insurance policies covering the FF&E and the Buildings, the cost of which will be reimbursed by Lessee on an annual basis. The phrase "commercially reasonable" as used in this Section 14.2(b) shall mean insurance policies (including, without limitation, type, scope, and deductible amounts) that are normally obtained by owners of similar type buildings in Blaine County, Idaho.

#### **15. ASSIGNMENT.**

Lessee shall not assign, transfer, mortgage or encumber this Lease in whole or in part, nor sublet the whole or any part of the Premises without first obtaining Lessor's written consent, which Lessor may withhold in its sole discretion. Lessor's consent to any transfer shall not be deemed consent to any subsequent transfers. Notwithstanding the foregoing Lessee may, without the prior consent of Lessor, enter into limited term rental (not to exceed one (1) year) agreements substantially in the form of Lessee's standard residential lease template ("Rental Agreement"), as part of its normal course of business; provided, however, during the last twelve (12) months of the Lease Term Lessee will not enter into any new tenant leases that extend beyond the term of this Lease. For purposes of clarification, it shall not be considered unreasonable for Lessor to reject any Rental Agreement in which the term of the lease extends (or may be extended by the tenant) beyond the Expiration Date or earlier termination of the Lease.

If Lessee is an entity, then any dissolution, liquidation, merger, or consolidation of Lessee, or any change in ownership of a majority of the ownership interests of Lessee, whether directly or indirectly (including without limitation any change in control of a majority of the ownership interests in any of the entities controlling Lessee), shall constitute an assignment for purposes of this Section 15.

#### **16. EVENTS OF DEFAULT AND REMEDIES.**

**16.1 Events of Default.** Time is of the essence hereof. The occurrence of any one or more of the following events shall constitute an "Event of Default" by Lessee:

- (a) The vacating or abandonment of the Premises by Lessee;
- (b) Intentionally Omitted;

(c) The failure by Lessee to make any payment of Rent or any other payment required to be made by Lessee hereunder as and when due, and such failure shall continue for a period of five (5) days after written notice thereof by Lessor to Lessee; provided, however, that Lessor shall provide such notice no more than two (2) times during any calendar year, and any subsequent failure by Lessee to make any payment or Rent due hereunder as and when due shall constitute an automatic default;

(d) The failure by Lessee to observe or perform any of the covenants, agreements, terms or conditions of this Lease, other than described in subsections (a) through (c) above, where such failure shall continue or shall not be remedied within thirty (30) days after notice in writing thereof is given by Lessor to Lessee, specifying the matter claimed to be in default; provided, however, that if the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion; provided, further, however, that such period of time shall not be so extended if it results in reasonably imminent jeopardy to the interest of Lessor in the Premises or so as to subject Lessor to any liability, civil or criminal; and

(e) The failure of Lessee to comply with the provisions of Section 14 or 15 herein.

**16.2 Remedies.** Upon the occurrence of an Event of Default by Lessee, Lessor may, at any time thereafter, in its sole discretion, upon notice or demand and without limiting Lessor in the exercise of any other right or remedy which Lessor may have by reason of such Event of Default:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall thereafter have no further rights hereunder or in the Premises; provided, however, that upon such termination Lessor shall be entitled to recover from Lessee all damages incurred by Lessor by reason of Lessee's default, including but not limited to the cost of recovering possession of the Premises; expenses of reletting, including necessary renovation and alteration of the Premises; reasonable attorneys' fees; all accrued and unpaid rent (including, without limitation, all Monthly Rent and additional rent due from Lessee through the remainder of the Term), and other amounts due from Lessee with interest thereon at the rate set forth in Section 4.2 above; the worth at the time of the award by the court having jurisdiction thereof of the amount by which the unpaid rent and other charges called for herein for the balance of the term after the time of such award exceeds the amount of such loss for the same period that Lessee proves could be reasonably avoided; and that portion of any leasing commission paid by Lessor and applicable to the unexpired term of this Lease; or

(b) Maintain Lessee's right to possession, in which case the Lease shall continue in effect whether or not Lessee shall have abandoned the Premises, and Lessor shall be entitled to enforce all of Lessor's rights and remedies under this Lease, including, without limitation, the right to recover the Monthly Rent and any other charges due or to become due hereunder with interest at the rate provided for herein; or

(c) Pursue any other remedy or remedies now or hereafter available to Lessor under the laws or judicial decisions of the state in which the Premises are located; or

(d) Perform, on behalf of Lessee, any obligation of Lessee under this Lease that Lessee has failed to perform and of which Lessor has given Lessee notice as set forth above, the commercially reasonable cost of which performance shall be immediately paid by Lessee to Lessor as additional rent hereunder. All rights, options and remedies of Lessor contained in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Lessor shall have the right to



pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this Lease.

**17. ACCESS.**

Upon 48 hours' notice to Lessee (except in the case of an emergency, in which case only reasonable notice shall be required), Lessee shall permit Lessor and its agents to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same or for the purpose of repairing, altering or improving the Premises as contemplated in this Lease. Nothing contained in this Section 17 shall be deemed to impose any obligation upon Lessor not expressly stated elsewhere in this Lease. Lessor shall have the right to enter the Premises for the purpose of showing the Premises to prospective lessees within one hundred eighty (180) days prior to the expiration or sooner termination of the Lease Term.

**18. SIGNAGE.**

All signage shall be at Lessee's sole cost and expense and shall be approved in writing in advance by Lessor, which may require previous signage removed by Lessee to be re-installed at Lessee's expense. All signage shall comply with any applicable rules, regulations, law or ordinances of any governmental authority having jurisdiction over the Premises. Any such consent by Lessor shall be upon the understanding and condition that Lessee will remove the same at the expiration or sooner termination of this Lease and Lessee shall repair any damage to the Premises caused thereby.

**19. LIENS AND INSOLVENCY.**

Lessee shall keep the Premises free from any liens arising out of any work performed, materials ordered or obligations incurred by Lessee. If Lessee becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of Lessee, then Lessor may terminate Lessee's right of possession under this Lease at Lessor's option and in no event shall the Lease or any rights or privileges hereunder be an asset of Lessee under any bankruptcy, insolvency or reorganization proceedings.

**20. REMOVAL OF PROPERTY.**

**20.1 Surrender of Premises; Assignment of Tenant Leases.** Upon expiration or sooner termination of this Lease, whether by lapse of time or otherwise, Lessee shall promptly and peacefully surrender the Premises to Lessor in as good condition as when received by Lessee from Lessor or as thereafter improved, reasonable use and wear excepted. Subject to Section 10 above, all other property in the Premises and any Alterations performed at the Premises shall become the property of Lessor and shall remain upon and be surrendered with the Premises, Lessee hereby waiving all rights to any payment or compensation therefor. Unless Lessor approves so in writing, Lessee will, upon termination of this Lease, remove any Alterations and property placed or installed by Lessee or any Lessee Parties in the Premises as requested by Lessor, and will immediately repair any damage caused by or resulting from such removal to the condition of the Premises as of the Commencement Date, reasonable wear and tear excepted. Upon request by Lessor, Lessee shall provide a list of all active tenants, including the leases associated with each tenant and a detailed rent roll. On or prior to expiration or sooner termination of this Lease, Lessee shall assign each of the foregoing leases to Lessor.

**20.2 Failure to Remove Property.** If Lessee fails to remove any of its property of any nature whatsoever from the Premises at the termination of this Lease or when Lessor has the right of reentry, Lessor may at its option, remove and store such property, such storage to be for the account and at the expense of Lessee. If Lessee shall not pay the cost of storing any such property after it has been stored

for a period of thirty (30) days or more, Lessor may, at its option, sell, or permit to be sold, any or all of such property at public or private sale (and Lessor may become a purchaser at such sale), in such manner and at such times and place as Lessor in its sole discretion may deem proper without notice to Lessee, and shall apply the proceeds of such sale: first, to the cost and expense of such sale, including reasonable attorneys' fees actually incurred; second, to the payment of the costs or charges for storing any such property; third, to the payment of any other sums of money which may then be or thereafter become due to Lessor from Lessee under any of the terms hereof, and fourth, the balance, if any, to Lessee.

**21. NON-WAIVER.**

Waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or of any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of any monetary payment by Lessee hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, or condition of this Lease, other than the failure of Lessee to pay the particular monetary payment so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such monetary payment.

**22. HOLDOVER.**

If Lessee, with Lessor's written consent, remains in possession of the Premises after expiration or termination of the term, such possession by Lessee shall be deemed to be a month-to-month tenancy terminable as provided under law (or such lesser time as may be agreed upon by Lessor and Lessee in any amendment to this Lease), by either party. All provisions of this Lease, except those pertaining to Term and Rent, shall apply to the month-to-month tenancy. If Lessee fails to surrender possession of the Premises upon termination or expiration of this Lease and if Lessee does not obtain Lessor's written consent to Lessee's continued occupancy Lessee shall be considered a lessee at sufferance and (i) Monthly Rent during any holdover period will be in an amount equal to one hundred fifty percent (150%) of the Monthly Rent for the last full calendar month during the Term, and (ii) Lessee shall be liable to Lessor for all direct damages sustained by Lessor as a result thereof.

**23. NOTICES.**

All notices under this Lease shall be sent by electronic mail to the electronic mail addresses set forth in Section 1 hereof (or such other electronic mail address as may from time to time be designated by such party in writing), and to the holder of any first mortgage or deed of trust at such place as such holder shall specify to Lessee in writing. Notices sent by electronic mail shall be deemed delivered at 1:00 p.m. (Mountain Time) on the next business day following transmission.

**24. COSTS AND ATTORNEYS' FEES.**

In the event of any action or proceeding arising out of or in connection with this Lease, the substantially prevailing party shall be entitled to all costs, expenses and reasonable attorneys' fees, with or without suit and on appeal.

**25. LESSOR'S LIABILITY.**

Anything in this Lease to the contrary notwithstanding, covenants, undertakings and agreements herein made on the part of Lessor are made and intended not as personal covenants, undertakings and agreements or for the purpose of binding Lessor personally or the assets of Lessor

except Lessor's interest in the Premises, but are made and intended for the purpose of binding only Lessor's interest in the Premises. No personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against Lessor or its partners and their respective heirs, legal representatives, successors and assigns on account of this Lease or on account of any covenant, undertaking or agreement of Lessor contained in this Lease. In consideration of the benefits accruing hereunder, Lessee agrees that, in the event of any actual or alleged failure, breach or default of this Lease by Lessor, Lessor's liability under this Lease shall be limited to, and Lessee shall look only to Lessor's interest in the Premises and the rents and proceeds thereof.

## **26. SUBORDINATION; ESTOPPEL CERTIFICATE.**

**26.1 Subordination.** Upon demand by Lessor or the holder of any mortgage or deed of trust now existing or that may hereafter be placed upon the Premises, Lessee will execute an agreement of subordination, nondisturbance and attornment in such reasonable form as is acceptable to Lessor and to such mortgage holder. In the absence of such agreement, Lessee agrees that this Lease shall be subordinate to any mortgage or deed of trust now existing or hereafter placed upon the Premises and to any and all advances to be made thereunder, and to interest thereon, and all renewals, replacements or extensions thereof. Lessee's failure to execute and return such agreement within thirty (30) calendar days after Lessor's delivery of such document to Lessee shall constitute an automatic Event of Default by Lessee under this Lease.

**26.2 Estoppel.** Lessee shall, from time to time upon written request of Lessor, execute, acknowledge and deliver to Lessor or its designee a written statement in such form as Lessor may request, stating the date this Lease was executed and the date it expires; the date Lessee entered into occupancy of the Premises, the amount of minimum monthly rental and the date to which such rental has been paid, and certifying that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way (or specifying the date of any agreement so affecting this Lease); that this Lease represents the entire agreement between the parties as to this leasing; that all conditions under this Lease to be performed by Lessor have been satisfied; that all required contributions by Lessor to Lessee on account of Lessee's improvements have been received; that on that date there are no existing defenses or offsets which Lessee has against the enforcement of this Lease by Lessor; that no rental has been paid in advance; that no security has been deposited with Lessor (or, if so, the amount thereof); and such other matters about the Lease as Lessor may reasonably request. It is intended that any such statement delivered pursuant to this Section 26.2 may be relied upon by a prospective purchaser of Lessor's interest or a mortgagee of Lessor's interest or assignee of any mortgage upon Lessor's interest in the Premises. If Lessee fails to respond within thirty (30) calendar days of receipt by Lessee of a written request by Lessor as herein provided, Lessee shall be deemed to have given such certificate as above provided without modification and shall be deemed to have admitted the accuracy of any information supplied by Lessor to a prospective purchaser or mortgagee, including, without limitation that the Lease is in full force and effect, there are no uncured defaults by Lessor, that any security deposit is as stated in the Lease, and that not more than one (1) months Monthly Rent has been paid in advance.

## **27. TRANSFER OF LESSOR'S INTEREST.**

This Lease shall be assignable by Lessor without the consent of Lessee in the event of any transfer or transfers of Lessor's interest in the Premises, and except in the case of a transfer for security purposes only the transferor shall be automatically relieved of any and all obligations and liabilities on the part of Lessor accruing from and after the date of such transfer and Lessee agrees to attorn to the transferee.

## **28. RIGHT OF FIRST OFFER; EXCLUSIVE PURCHASE NEGOTIATION PERIOD.**

28.1 Right of First Offer. If, during the Lease Term, Lessor determines to offer all or any portion of the Property to the market for sale, then Lessor will notify Lessee before taking the Property to the market. Lessee will have ninety (90) days after receipt of the foregoing notice to negotiate the purchase terms with Lessor (the “ROFO”). If Lessor and Lessee agree on the purchase terms during such ninety (90) day period the parties will execute a commercially standard purchase and sale agreement memorializing such terms within twenty (20) days thereafter. If the parties are unable to negotiate the purchase terms within ninety (90) days, or to execute a purchase and sale agreement within twenty (20) days following agreement on the purchase terms, then Lessee’s ROFO may be deemed null and void and Lessor may thereafter enter into negotiations with any third party to sell the Property.

28.2 Unsolicited Offers. If, during the Lease Term, Lessor receives an unsolicited offer to purchase all or any portion of the Property on terms acceptable to Lessor, then Lessor will notify Lessee before responding to such offer. Lessee shall have five (5) business days to notify Lessor if it would like to match such offer and, if so, Lessee shall have no more than ninety (90) calendar days to raise sufficient funding and close a transaction for all or any portion of the Property.

28.3 Exclusive Purchase Negotiation Period. Except as otherwise set forth herein, Lessee is hereby granted a one (1) time right, which may be exercised at any point during the Lease Term, to notify Lessor of its interest in purchasing the Property (the “Purchase Notice”). In the event Lessee provides a Purchase Notice Lessor agrees to the commencement of an exclusive negotiation period of ninety (90) days to reach agreement on the purchase terms, including, without limitation the purchase price. If Lessor and Lessee agree on purchase terms during such ninety (90) day period the parties will execute a commercially standard purchase and sale agreement memorializing such terms within twenty (20) days thereafter; provided that the purchase and sale agreement will include a period of not less than ninety (90) days from execution to closing to allow Lessee sufficient time to secure funding and required legislative approvals to purchase the Property. If the parties are unable to negotiate the purchase terms within ninety (90) days, or to execute a purchase and sale agreement within twenty (20) days following agreement on the purchase terms, then the exclusive negotiating period shall expire.

## **29. PARKING.**

Lessee (including any tenants who are parties to Rental Agreement) may park passenger vehicles in the areas depicted on **Exhibit C** at no additional cost or expense. Lessee agrees to assume responsibility for compliance by Lessee Parties with the parking provisions contained herein, and shall cooperate with Lessor in enforcement thereof. Lessor shall have no obligation to provide security or any other services to the parking areas and shall have no liability with respect to any vehicles parked in the parking areas.

## **30. GENERAL PROVISIONS.**

- (a) This Lease shall be construed and governed by the laws of the State of Idaho.
- (b) The title of sections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof. Where the context permits, references to the singular shall include the plural and vice versa, and references to a neutral gender shall include the feminine and masculine.
- (c) All of the covenants, agreements, terms and conditions contained in this Lease shall apply to and be binding upon Lessor and Lessee and their respective heirs, executors, administrators, successors and assigns.

(d) Lessee represents and warrants to Lessor that it has not engaged any broker, finder or other person who would be entitled to any commission or fee in respect to the negotiation, execution or delivery of this Lease except for that broker identified in Section 1(j) hereof.

(e) This Lease contains all covenants and agreements between Lessor and Lessee relating in any manner to the rental, use and occupancy of the Premises and other matters set forth in this Lease. No prior agreements or understanding pertaining to the same shall be valid or of any force or effect and the covenants and agreements of this Lease shall not be altered, modified, or added to except in writing signed by Lessor and Lessee. Any provision of this Lease which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

(f) If any term or provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, and/or the application of such term or provision to person or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced as written to the fullest extent permitted by law.

(g) This Lease has been submitted to the scrutiny of all parties hereto and their counsel if desired, and shall be given a fair and reasonable interpretation in accordance with the words hereof, without consideration or weight be given to its having been drafted by any party hereto or its counsel.

(h) If more than one person or entity constitutes Lessor or Lessee, the obligations imposed upon each such person or entity shall be joint and several.

(i) This Lease shall not be recorded or otherwise placed of record by Lessee. Upon request by Lessee, Lessee may record a memorandum of lease, in recordable form, prepared by Lessor, and evidencing the commencement date, rights of first offer to purchase, extension rights, and expiration of this Lease. Upon request by Lessor, at the expiration or sooner termination of this Lease, Lessee shall execute in recordable form and deliver to Lessor a termination of lease agreement covering the Premises.

(j) If either party is delayed in the performance of any covenant of this Lease because of any of the following causes (referred to elsewhere in this Lease as "Force Majeure"): action of the elements, war, riot, labor disputes, inability to procure or general shortage of labor or material in the normal channels of trade, delay in transportation, delay in inspections, or any other cause beyond the reasonable control of the party so obligated, whether similar or dissimilar to the foregoing, financial inability excepted, then, such performance shall be excused for the period of the delay; and the period for such performance shall be extended for a period equivalent to the period of such delay, except that the foregoing shall in no way affect Lessee's obligation to pay Rent or any other amount payable hereunder, or the length of the Lease Term.

(k) This Lease may be executed in original or electronic counterparts for the convenience of the parties, and such counterparts shall together constitute one Lease.

(l) If Lessee is a legal entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of such entity and that this Lease is binding upon such entity in accordance with its terms.

(m) The following exhibits are made a part of this Lease:

EXHIBIT A - Legal Description of Land  
EXHIBIT B – Housing Guidelines  
EXHIBIT C – Premises  
EXHIBIT D – Form of Assignment and Assumption of Existing Tenant  
Leases  
EXHIBIT E – Form of Letter of Credit

[END OF LEASE – SIGNATURES AND EXHIBITS FOLLOW]

IN WITNESS WHEREOF, this Lease has been executed as of the Effective Date.

LESSOR:

**WOOD RIVER LLC,**  
a Washington limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

LESSEE:

**BLAINE COUNTY HOUSING AUTHORITY**  
an independent public body created by Blaine County,  
Idaho

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF LAND**

Northridge X Subdivision Lot 1 Block 1

Parcel No: RPH5000010010



## EXHIBIT B

### SECTION 2 OF BCHA COMMUNITY HOUSING GUIDELINES

#### Section 2. Qualifying to Rent or Purchase Community Housing

##### A. Basic Qualifications for the Rental or Purchase of Community Housing with an Income Category Deed Covenant

To qualify to rent or purchase an Income-restricted Community Home, the Applicant/Applicant Household must meet the criteria as stated below:

1. At least one non-dependent member of the Applicant Household must meet one of the following criteria:
  - (a) Be a Full-Time Employee working in Blaine County; or
  - (b) Be a Retired Person who was a Full-Time Employee in Blaine County immediately prior to his/her retirement and who currently lives in Blaine County as his/her Primary Residence and is 62 years of age or older; or
  - (c) Be a Disabled Person residing in Blaine County who was a Full-Time Employee in Blaine County immediately prior to his/her disability and who currently lives in Blaine County as his/her Primary Residence, and
  - (d) The Applicant/Applicant Household states his/her intent to occupy the Community Home as his/her Primary Residence.
2. No member of the Household may own developed residential real estate or a mobile home.
3. The total Gross Income of all members of the Household must not exceed the maximum Household Income specified, which is calculated using the chart in Section 1. The actual dollar amount changes annually and is listed as Income Limits published by BCHA on its website for the Income Category and Household Size; and
4. The Household Net Worth (the total net worth of all members of the Household) must not exceed the Allowable Net Worth specified for the Income Category.

## 1. General Application

- (a) All persons wishing to rent or purchase a Community Home must submit a completed General Application for Community Housing Form to BCHA (the current application can be found on BCHA's website). The application to rent is a single step process (General Application form only); the application to purchase is a two-step process (General Application and Purchase Requirements). A General Application may be certified by BCHA as complete only when the necessary steps have been completed.
- (b) The General Application Form is provided by BCHA.
- (c) Upon receipt of the completed General Application, BCHA may provide the Applicant with a Letter of Eligibility specifying the Income Category. The Letter of Eligibility is based only on information supplied by the Applicant and, as such, is unverified; verification is explained further in Section 2(C), below.

## C. Verifying Application Information

1. BCHA may request additional documentation such as proof of residency, income, assets, and employment. All information and documentation submitted must be held confidential by BCHA and must not be subject to Open Records Requests by the public. Such documentation is used to determine that an Applicant meets the criteria set forth in Section 2.A and/or to verify the information provided in the application under 2(B). All or some of the following may be requested:
  - (a) Federal income tax returns for the most recent year.
  - (b) A current income statement and a current financial statement, in a form acceptable to BCHA, verified by Applicant to be true and correct; or other financial documentation acceptable to BCHA. When current income is twenty percent (20%) more or less than income reported on tax returns, the Applicant's income may be averaged based upon current income and the previous year's tax returns to establish an Income Category for the purpose of purchasing a Community Home.
  - (c) Verification of employment in Blaine County.
  - (d) Copy of valid Driver's License or State Identification Card.
  - (e) If the Applicant receives court-ordered alimony, spousal support, and/or child support, a certified copy of the court order must be provided, including all exhibits, supplements, and modifications to the decree.
  - (f) Any other documentation that BCHA deems necessary to determine eligibility.
2. Upon receipt of the completed General Application and requested verification forms,

the Applicant's name and all information for individuals, households, and/or local employers may be retained in the Applicant Database. On an annual basis, as part of the annual purge process, the applicant must confirm or update the information to remain in the Applicant Database. All information may be re-verified at the time an applicant is selected to rent or purchase a Community Home. If information is not updated upon request, the applicant will be removed from the Applicant Database.

#### D. Process for Matching Applicants to Available Community Housing

In general, the matching process occurs as follows:

1. When a Community Home becomes available, the home size, type, Income Category, and location of that Home are checked against the Applicant Database. All Applicants matching the qualifications for a given Community Home are then grouped into the "Applicant Pool" for that Home.
2. Households are prioritized by date and time of application on the list for the Income Category for which they qualify.
3. While household size may not be a determining factor in prioritization for ownership or rental of housing, it should be noted that the purchase price or rental amount may be determined on basis of an assumed household size in accordance with the Area Median Income (AMI).
4. If an Applicant has previously qualified and the Applicant's Household composition subsequently changes (due to marriage, divorce, separation, an increase, or reduction in the number of dependents, etc.), the Applicant may still be eligible for purchase or rental of Community Housing, provided that the Household continues to qualify under the Income Category and other considerations. It is the Applicant's responsibility to continuously update Household information with BCHA prior to being placed into an Applicant Pool.
5. When an Applicant purchases a Community Home, the Applicant's application is extinguished and may not be used to qualify for another Community Home. If an owner of a Community Home wishes to purchase another Community Home, he or she must file a new application and begin the process again.
6. When an Applicant rents a Community Home, the Applicant's application is retained and is used as a basis for subsequent recertification and may be used to qualify for future purchase of a Community Home.

# EXHIBIT C

## PREMISES

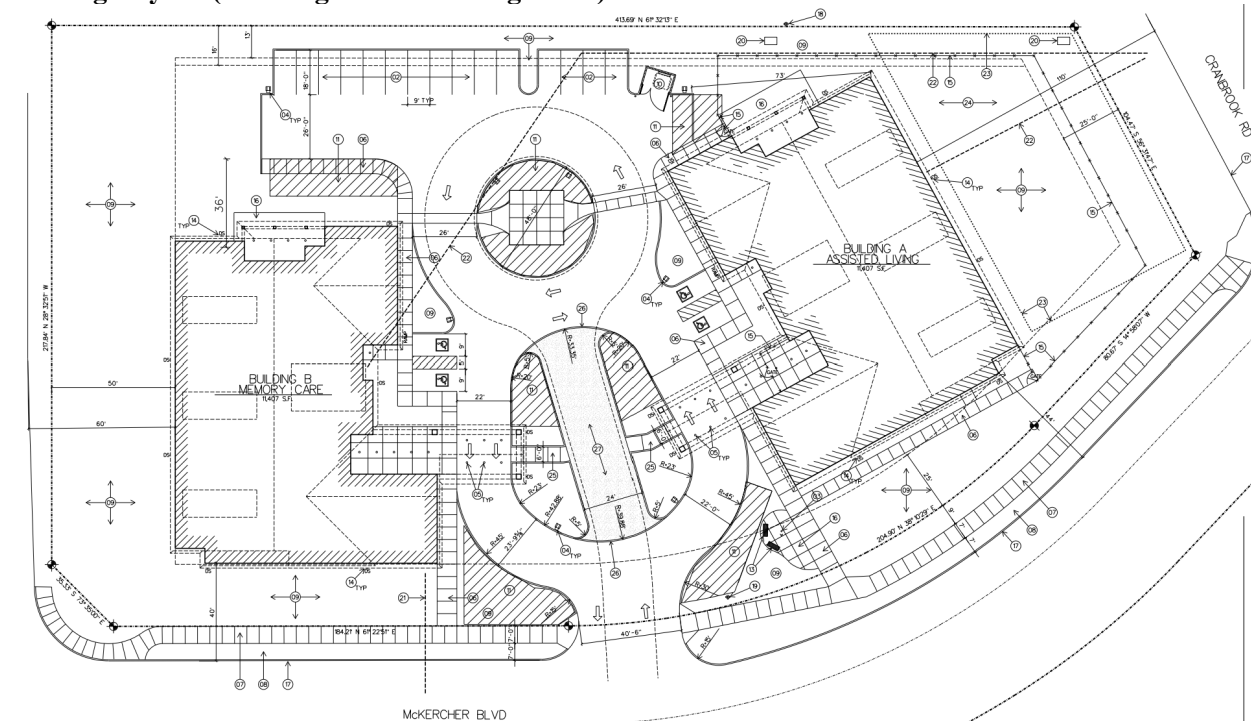
### Aerial View (Drawing) of Buildings and Land



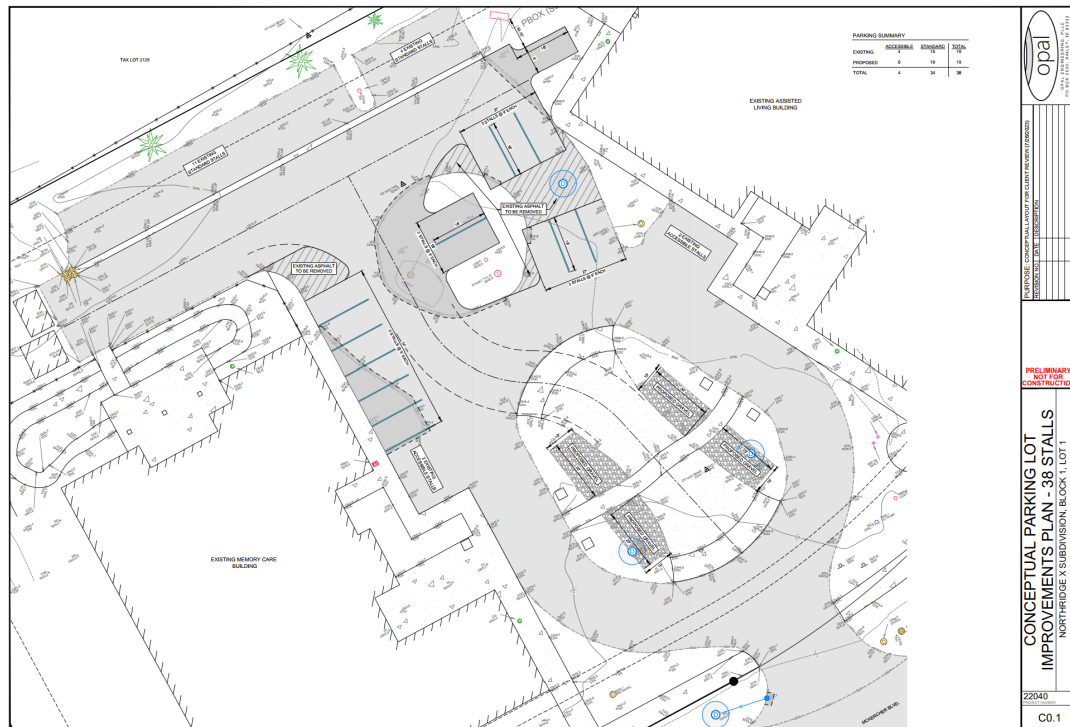




### Parking Layout (Showing Initial Parking Stalls)



### Parking Expansion (Showing Addition of 12 Additional Stalls)



**EXHIBIT D**

**FORM OF ASSIGNMENT AND ASSUMPTION OF EXISTING TENANT LEASES**

**ASSIGNMENT AND ASSUMPTION OF LEASES**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, WOOD RIVER LLC, a Washington limited liability company (“Assignor”), hereby assigns and delegates to BLAINE COUNTY HOUSING AUTHORITY, an independent public body created by Blaine County, Idaho (“Assignee”), all of the lessor’s rights, interest and obligations in all leases identified on **Exhibit A** attached hereto, which relate to the leasing of residential units located on real property located in Blaine County, Idaho, more particularly described as: Northridge X Subdivision Lot 1 Block 1. Concurrently herewith, Assignor assigns to Assignee the security deposits listed on **Exhibit A**.

This Assignment and Assumption of Leases has been made under the laws of the State of Idaho, and such laws will control its interpretation without regard to any choice of law principles. This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. This Assignment may be executed in counterparts, each of which shall constitute an original. Any party may sign and/or transmit this Assignment electronically (including, without limitation, via electronic mail or DocuSign, as applicable); the signature of any person or entity on any such electronically signed and/or electrically transmitted copy shall be deemed an original signature; and each such electronically signed and/or electronically transmitted copy shall have the same binding effect as a manually signed and manually transmitted original document.

Executed on \_\_\_\_\_, 2023.

**WOOD RIVER LLC,**  
a Washington limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

The undersigned Assignee hereby accepts the foregoing Assignment and Assumption of Leases and agrees to perform all obligations and liabilities first arising and accruing pursuant to such leases on or after the date hereof. Assignee further acknowledges assignment of the security deposits described above and agrees to hold such deposits in accordance with the terms of each of the enumerated leases.

Executed on: \_\_\_\_\_, 2023

**BLAINE COUNTY HOUSING AUTHORITY**  
an independent public body created by Blaine County,  
Idaho

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT A TO ASSIGNMENT OF LEASES**



**EXHIBIT E**  
**FORM OF LETTER OF CREDIT**

Form Letter of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT

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

ISSUER

CITY OF KETCHUM, a municipal corporation of the State of Idaho  
Attn: City Administrator  
PO Box 2315  
Ketchum, ID 83340

BENEFICIARY:

WOOD RIVER LLC  
232 7<sup>th</sup> Avenue North, Suite 100  
Seattle, WA 98109  
Attn: Doug Barrett and David Rothrock

APPLICANT:

BLAINE COUNTY HOUSING AUTHORITY  
111 North 1<sup>st</sup> Avenue, Suite 2J  
Hailey, Idaho 83333

AMOUNT: \$500,000.00 (FIVE HUNDRED THOUSAND AND 00/100 U.S.  
DOLLARS)

EXPIRATION DATE: ONE YEAR FROM ISSUANCE DATE

DEAR SIR/MADAM:

WE (THE "CITY") HEREBY ISSUE OUR IRREVOCABLE STANDBY LETTER OF CREDIT APPROVED BY RESOLUTION NUMBER \_\_\_\_\_ IN BENEFICIARY'S FAVOR FOR THE ACCOUNT OF THE ABOVE-REFERENCED APPLICANT, IN AN AGGREGATE AMOUNT NOT TO EXCEED \$500,000.00 USD.

THIS LETTER OF CREDIT IS AVAILABLE WITH US AT OUR ABOVE OFFICE BY PRESENTATION OF YOUR DRAFT DRAWN ON US AT SIGHT IN THE FORM OF EXHIBIT "A" ATTACHED HERETO ("FORM OF REQUEST") BEARING THE CLAUSE: "DRAWN UNDER CITY OF KETCHUM LETTER OF CREDIT UNDER RESOLUTION \_\_\_\_\_" AND ACCOMPANIED BY THE FOLLOWING:

1. THE ORIGINAL OF THIS LETTER OF CREDIT; AND
2. BENEFICIARY'S SIGNED CERTIFICATION PURPORTEDLY SIGNED BY AN AUTHORIZED OFFICER OR AGENT STATING: "A DEFAULT OR OTHER

CIRCUMSTANCE ALLOWING BENEFICIARY TO DRAW UPON THE LETTER OF CREDIT HAS OCCURRED UNDER THE TERMS OF THAT CERTAIN MASTER LEASE AGREEMENT DATED AS OF \_\_\_\_\_, AS SUCH MASTER LEASE AGREEMENT HAS BEEN OR MAY BE AMENDED FROM TIME TO TIME, FOR PREMISES LOCATED AT 31 EAST MCKERCHER BLVD, HAILEY, IDAHO.”

SPECIAL CONDITIONS:

PARTIAL DRAWS AND MULTIPLE PRESENTATIONS ARE ALLOWED.

THIS LETTER OF CREDIT SHALL BE AUTOMATICALLY EXTENDED FOR ADDITIONAL PERIODS OF ONE YEAR, WITHOUT AMENDMENT, FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE UNLESS AT LEAST 60 DAYS PRIOR TO THE THEN CURRENT EXPIRATION DATE WE SEND TO YOU A NOTICE BY REGISTERED OR CERTIFIED MAIL OR OVERNIGHT COURIER SERVICE AT THE ABOVE ADDRESS THAT THIS LETTER OF CREDIT WILL NOT BE EXTENDED BEYOND THE THEN CURRENT EXPIRATION DATE.

ALL DEMANDS FOR PAYMENT SHALL BE MADE BY PRESENTATION OF THE REQUIRED DOCUMENTS ON A BUSINESS DAY AT OUR OFFICE AT THE ADDRESS LISTED HEREIN FOR CITY.

THIS LETTER OF CREDIT IS TRANSFERABLE IN WHOLE BUT NOT IN PART ONE OR MORE TIMES, BUT IN EACH INSTANCE ONLY TO A SINGLE BENEFICIARY AS TRANSFEREE AND FOR THE THEN AVAILABLE AMOUNT, ASSUMING SUCH TRANSFER TO SUCH TRANSFEREE WOULD BE IN COMPLIANCE WITH THEN APPLICABLE LAW AND REGULATION, INCLUDING BUT NOT LIMITED TO THE REGULATIONS OF THE U.S. DEPARTMENT OF TREASURY AND U.S. DEPARTMENT OF COMMERCE.

WE HEREBY AGREE WITH YOU THAT ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION TO US OF THE DOCUMENT DESCRIBED IN PARAGRAPH 1 ABOVE ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT, WITHOUT INQUIRY AS TO THE ACCURACY THEREOF AND REGARDLESS OF WHETHER APPLICANT DISPUTES THE CONTENT OF ANY SUCH DOCUMENTS OR CERTIFICATIONS. THE WRITTEN STATEMENT SHALL BE ACCOMPANIED BY THIS LETTER OF CREDIT FOR SURRENDER; PROVIDED, HOWEVER, THAT IF LESS THAN THE BALANCE OF THE LETTER OF CREDIT IS DRAWN, THIS LETTER OF CREDIT NEED NOT BE SURRENDERED AND SHALL CONTINUE IN FULL FORCE AND EFFECT WITH RESPECT TO THE UNUSED BALANCE OF THIS LETTER OF CREDIT.

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
AUTHORIZED SIGNATURE

Exhibit A

FORM OF REQUEST

“The undersigned, an authorized representative of Beneficiary under Letter of Credit Resolution No. \_\_\_\_\_ (“Letter of Credit”), certifies that the amount drawn hereunder represents the amount due to Beneficiary pursuant to and in connection with that certain Master Lease dated \_\_\_\_\_ between Beneficiary and Blaine County Housing Authority (as such Master Lease may be amended). Beneficiary hereby demands the amount of \$ \_\_\_\_\_ under the Letter of Credit. Payment to be made to the following account (insert wire instructions).”