

OPTION AGREEMENT
AND
ESCROW INSTRUCTIONS

This option agreement (“Agreement”) is dated as of December __, 2022 (the “Effective Date”), and is between We Care Society Inc, a California non-profit organization (the “Seller”), and the County of Contra Costa, a political subdivision of the State of California (the “Buyer”).

RECITALS

- A. Seller is the owner of the real property located at 2191 Kirker Pass Road, Concord, California, having Assessor’s Parcel Number 117-080-006-2, as more particularly described in Exhibit A (the “Property”). The Property is improved with two buildings, each building consisting of approximately 7,900 square feet and 1,833 square feet, a storage shed, a children playground, a parking lot and landscaping.
- B. Seller desires to grant an option to purchase the Property to Buyer and Buyer desires to accept the option from Seller on the terms and conditions set forth in this Agreement.
- C. If Buyer acquires the Property, it will do so using funds made available by the State Department of Health Care Services and the California Department of Social Services as part of the Behavioral Health Continuum Infrastructure Program (BHCIP) (the “State Funding”). The closing of the transaction contemplated by this Agreement is conditioned on the County’s receipt of the State Funding.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

- 1. Grant of Option. Seller hereby grants to Buyer the exclusive option to purchase the Property on the terms and conditions set forth in this Agreement (the “Option”).
- 2. Term of Option. The term of the Option begins on the Effective Date and ends at 11:59 p.m. on the date that is six months after the Effective Date (the “Option Term”). Buyer has the right to extend the Option Term in one-month increments no more than three times, provided Buyer (i) gives notice of its election to extend the term in writing to Seller, and (ii) pays \$100 as consideration for each extension of the Option Term. For purposes of exercising the extension, Buyer may notify Seller by emailing Seller at the email address for Seller set forth in Section 14. If Buyer fails to exercise its Option during the Option Term, the Option will automatically expire and all rights of Buyer arising out of the Option will immediately cease. During the Option Term, Seller may not enter into any agreement to sell, transfer or lease the Property.

3. Method of Exercising Option. Buyer may exercise the Option at any time after the Effective Date and prior to the expiration of the Option Term by giving written notice to Seller and Title Company (as defined below) (the "Option Exercise Date"). If Buyer exercises the Option, Seller and Buyer shall close this transaction in accordance with the terms of this Agreement on the date specified by Buyer in its written notice to Seller, which date will be no later than 90 days after the Option Exercise Date.
4. Option Price; Purchase Price.
 - a. The purchase price for the Option is \$1,000 (the "Option Price"). The Option Price will be applied to the Purchase Price at the Close of Escrow (as defined below). The Option Price is earned when paid and is nonrefundable consideration for the Option. The Option Price is to be paid within ten days after this Agreement is approved by the County Board of Supervisors.
 - b. The purchase price for the Property under the Option is \$2,900,000 (the "Purchase Price"). The Purchase Price is payable on the date close of escrow for the sale of the Property ("Close of Escrow") occurs.
5. Escrow. Buyer and Seller hereby establish an escrow for this transaction with Doma Title of California, Inc., Evelyn Bowens, 4160 Dublin Blvd., Suite 100, Dublin, California (Phone: 925-847-9570) ("Escrow Agent" and, when applicable, "Title Company"), its Escrow Number 54606-22-01547. Escrow Agent and Title Company are hereby employed by the parties to handle the escrow. This Agreement constitutes escrow instructions and a fully executed copy of this Agreement will be deposited with the Escrow Agent for this purpose. If the Escrow Agent requires the execution of its standard form printed escrow instructions, Buyer and Seller shall execute the same; however, such instructions may be construed only as applying to Escrow Agent's employment. If there is a conflict between the terms of this Agreement and the terms of the printed escrow instructions, the terms of this Agreement will control. In no event may the parties be required to execute any printed escrow instructions that purport to exculpate Escrow Agent from their own negligent conduct, willful misconduct, breach of written instructions or bad faith acts.
6. Closing Costs; Prorations; Appointments; Additional Documents. Upon the Close of Escrow, Seller shall pay all closing costs and escrow charges incurred in the transaction. Buyer shall pay all recording fees to record the Grant Deed (as defined below) and the premium charged for the title policy, if the policy is requested by Buyer. Seller is obligated, without cost to Buyer, to remove at or prior to the Close of Escrow, all judgment liens, federal or state income or sales tax liens, lis pendens affecting the Property, financing encumbrances, mortgages, deeds of trust, or other consensual monetary liens, mechanics' or materialmen's liens or encumbrances against the Property or imposed on the Property as a result of Seller's (or its employees, agents' contractors', subcontractors' or affiliates) actions or omissions, or improvements made to, or services rendered in connection with, the Property at the request of, or on behalf of Seller (collectively, "Encumbrances"). Seller shall also terminate any possessory agreements, licenses and operating agreements that affect the Property prior to Close of Escrow.

In addition to the documents identified in Section 7 below, Buyer and Seller shall each deliver any other instruments that Escrow Agent or Title Company may reasonably require or that are otherwise required to proceed to Close of Escrow and consummate the sale of the Property to Buyer and the issuance of the title policy to Buyer, in accordance with the terms of this Agreement.

7. Seller Deposit into Escrow. On or before the Close of Escrow, Seller shall deliver into escrow with the Title Company the following documents:
 - a. A grant deed, in recordable form and properly executed by Seller, in substantial conformity with the form attached as Exhibit B (the “Grant Deed”) conveying to Buyer the Property in fee simple absolute, subject to any exceptions Buyer approves in writing (the “Approved Exceptions”).
 - b. Seller’s affidavit of nonforeign status as contemplated by Section 1445 of the Internal Revenue Code of 1986, as amended [26 USCA §1445] (“FIRPTA Affidavit”).
8. Close of Escrow. The Title Company shall do the following to effect the Close of Escrow:
 - a. Record the Grant Deed, marked for return to the Buyer care of Buyer’s Principal Real Property Agent, which will be deemed delivery to the Buyer.
 - b. Issue the title policy, if requested to do so by Buyer.
 - c. Prorate taxes, assessments, rents and other charges as provided by this Agreement.
 - d. Disburse to Seller the Purchase Price, less prorated amounts and charges to be paid by or on behalf of Seller under this Agreement.
 - e. Prepare and deliver to Buyer and to Seller one signed copy of the Title Company’s closing statement showing all receipts and disbursements of the escrow.

If the Title Company is unable to simultaneously perform all of the instructions set forth above, the Title Company shall notify Buyer and Seller and retain all funds and documents pending receipt of further instructions from Buyer.

9. Seller’s Representations and Warranties. Seller hereby represents and warrants to Buyer as follows:
 - a. Marketable Title. Seller is conveying to Buyer, marketable and insurable fee simple title to the Property, clear of restrictions, leases, liens and other encumbrances, subject only to the Approved Exceptions. No leases, rental agreements, licenses, or any other agreements allowing any third-party right to use the Property are or will be in force unless prior consent has been given by Buyer in writing. Commencing on the Effective Date, and continuing until the close of Escrow, Seller shall not permit any liens,

encumbrances, easements, or assessments to be placed on the Property other than the Approved Exceptions, nor shall Seller enter into any agreement that would affect the Property and that would be binding on Buyer after the Close of Escrow without the prior written consent of Buyer.

- b. Property History. Seller has disclosed to Buyer all information and records known to and maintained by Seller in connection with the history of the Property. All information Seller has delivered to Buyer is accurate and Seller has disclosed all known facts with respect to the Property's prior use and history.
 - c. Property Information. Seller has disclosed to Buyer all reports and studies conducted by and/or maintained by Seller or Seller's consultants, including, without limitation, the environmental report(s). Seller has provided Buyer with all reports in Seller's possession, with respect to the Property.
 - d. Condition of Property. Seller has disclosed to Buyer all information, records and studies maintained by Seller in connection with the Property concerning hazardous substances and that Seller is not concealing any knowledge of the presence of contamination or hazardous substances on, from or under the Property. Any information that Seller has delivered to Buyer either directly or through Seller's agents is accurate and Seller has disclosed all material facts with respect to the Property.
 - e. Other Matters Affecting Property. To the best of Seller's knowledge, there are not presently any actions, suits, or proceedings pending or, to the best of Seller's knowledge, threatened against or affecting the Property or the interest of Seller in the Property or its use that would affect Seller's ability to consummate the transaction contemplated by this Agreement. Further, there are not any outstanding and unpaid arbitration awards or judgments affecting title to any portion of the Property. To the best of Seller's knowledge there are not presently any pending or threatened condemnation, eminent domain or similar proceedings affecting the Property. Seller shall promptly notify Buyer of any of these matters arising in the future.
 - f. Seller's Authority. This Agreement and all other documents delivered prior to or at the Close of Escrow have been authorized, executed, and delivered by Seller; are binding obligations of the Seller; and are collectively sufficient to transfer all of Seller's rights to the Property.
10. Buyer's Representations and Warranties. Buyer warrants that the Board of Supervisors of Contra Costa County has authorized Buyer to enter into this Agreement and, upon execution, this Agreement is a binding obligation of Buyer.
11. Successors and Assigns. This Agreement binds and inures to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the parties.
12. Risk of Loss. The risk of loss or damage to the Property until the Close of Escrow is to be borne by Seller. If, prior to the Close of Escrow, the Property or any part of it is destroyed or

materially damaged or if condemnation proceedings are commenced against the Property, Buyer has the right, exercisable by giving written notice to Seller within ten business days after receiving Seller's written notice of the damage, destruction or condemnation proceedings, to terminate this Agreement, in which case neither party will have any further rights or obligations under this Agreement. If Buyer elects to accept the Property in its then condition, all proceeds of insurance or condemnation awards payable to Seller by reason of such damage, destruction or condemnation are to be paid to Buyer. In the event of non-material damage to the Property, which damage Seller is unwilling to repair or replace, Buyer will have the right, exercisable by giving written notice within ten business days after receiving Seller's written notice of the damage, to either (i) terminate this Agreement, or (ii) accept the Property in its then condition and proceed with the purchase, in which case Buyer will be entitled to a reasonable reduction of the Purchase Price to the extent of the cost of repairing or replacing the damage. For purposes of any repairs or replacements under this Section, the closing may be extended, at Buyer's election, for a reasonable time to allow for such repairs or replacements to be made.

13. Right of Entry. From and after the Effective Date of this Agreement and at all times until this Agreement is terminated or title vests in Buyer, Buyer and its designated persons have the right at all reasonable times to enter on the Property for the purposes of Buyer, including but not limited to conducting soil and environmental tests, and other examinations and investigations of the Property. Buyer will defend, indemnify and hold Seller harmless against any damages, loss or liability or costs arising from Buyer's or Buyer's designated persons' entry onto the Property, including but not limited to attorney's fees and costs.
14. Notices. All notices (including requests, demands, approvals or other communications) under this Agreement are to be in writing and delivered in person, by overnight carrier, or by first class U.S. Mail. A notice extending the Option Term may be sent to Seller via email. The addresses for delivery of all notices given under this Agreement are as follows:

Buyer: Principal Real Property Agent
Contra Costa County
40 Muir Road, 2nd Floor
Martinez, CA 94553

Seller: We Care Society Inc.
2191 Kirker Pass Rd.
Concord, CA 94521
Email: pcaldwell@wecarechildren.org

or to such other addresses as Buyer or Seller may respectively designate by written notice to the other. Delivery will be deemed effective: on the same day if delivery is made in person; on the next day after the date of mailing if delivery is made by overnight carrier; or on the fifth day following the date of mailing, if delivery is made by First Class U.S. Mail. A notice sent via email extending the Option Term will be deemed effective on the same day it is sent.

15. Amendments. Except as otherwise provided in this Agreement, this Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.
16. Governing Law. This Agreement is governed by the laws of the State of California.
17. Merger of Prior Agreements. This Agreement, including the exhibits to it, constitutes the entire agreement between the parties with respect to the purchase and sale of the Property and supersedes all prior agreements and understandings between the parties relating to the subject matter of this Agreement.
18. No Joint Venture or Third-Party Beneficiaries. The relationship of Seller and Buyer is solely that of optionor and optionee. Nothing in this Agreement is intended to create a joint venture, partnership, tenancy-in-common, or joint tenancy relationship between Seller and Buyer nor to grant Buyer any interest in the Property. Nothing expressed or implied in this Agreement gives to any person, other than the parties to this Agreement and their permitted successors and assigns, any legal or equitable rights, remedy or claim hereunder.
19. Time of the Essence. Time is of the essence in the performance of this Agreement.
20. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange by facsimile or electronic mail counterparts of the signature pages, which counterparts are binding.

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21. Memorandum of Option. The parties shall record in the official records of Contra Costa County a memorandum of this Agreement or other encumbrance evidencing the Option. If Buyer does not exercise the Option, upon the expiration of the Option, Buyer shall execute a Memorandum of Option Termination or quitclaim deed discharging any recording made pursuant to this section.

The parties are signing this Agreement as of the date set forth in the introductory paragraph.

CONTRA COSTA COUNTY

WE CARE SOCIETY INC.

By _____
Karen Mitchoff
Chair, Board of Supervisors

By _____
Pete Caldwell
Title

RECOMMENDED FOR APPROVAL:

By _____
Jessica Dillingham
Principal Real Property Agent

APPROVED AS TO FORM:
MARY ANN McNETT MASON,
COUNTY COUNSEL

By _____
Kathleen M. Andrus
Deputy County Counsel

ACCEPTANCE BY ESCROW AGENT:

Doma Title of California acknowledges that it has received a fully executed copy of the foregoing Option Agreement and Escrow Instructions and, subject to the provisions of the Option Agreement and Escrow Instructions, agrees to act as Escrow Agent thereunder and to be bound by and perform the terms thereof as the terms apply to Escrow Agent.

DOMA TITLE OF CALIFORNIA

By: _____

Title: _____

Date: _____, 2022

DRAFT

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Real Property in the City of Concord, County of Contra Costa, State of California, described as follows:

Parcel One:

Portion of rancho monte del diablo and a portion of north 1/2 of section 2, township 1 north, range 1 west, mount diablo base and meridian, described as follows:

Beginning at the most easterly corner of lot 93, as shown on the R. N. Burgess Company's map no. 1 Ayers Ranch subdivision, Contra Costa County, California, being a Portion of Rancho Monte del Diablo", filed July 2, 1912, in book 7 of maps, page 170, in the Office of the County Recorder of Contra Costa County; thence north 10° 13' 30" west (said bearings used for the purpose of this description) along the easterly line of said lot 93, being along the west line of the 1.98 acre parcel of land described in the deed from a. T. Ayers to J. L. Bromley, dated April 15, 1882, recorded May 26, 1882, in book 41 of deeds, page 380, 348.20 feet to the south line of the 128.16 acre parcel of land described in the deed from Salvio Pacheco to John L. Bromley, dated September 8, 1858, recorded September 23, 1858, in book 7 of deeds, page 17; thence south 80° 10' west along said south line, being along the north line of lots 93, 92 and 94 of the Ayers Ranch subdivision, 985.31 feet to the easterly line of that certain 4961.16 acre parcel of land described in that certain condemnation proceeding, filed July 22, 1944, in the District court of the united states, in and for the northern district of California, southern division, entitled, "United States of America, plaintiff, vs. 5430 acres of land, more or less, situated in the county of contra costa, state of California, w. J. Von Heckeren, et al, defendants", numbered therein 23529-c; thence north 42° 36' 18" east along said easterly line, 1299.24 feet; thence leaving the last named line, south 10° 13' 30" east, 1106.02 feet to a point on the northeasterly extension of the southeasterly line of the 40 foot in width road, now known as Kirker Pass Road, as said road is shown on the hereinabove mentioned Ayers Ranch subdivision (7 m 170); thence south 45° 38' 30" west, along said northeasterly extension, 60.41 feet to the point of Beginning.

Excepting therefrom that portion thereof lying within the county road known as Kirker Pass Road.

Also, excepting therefrom:

All that portion of land conveyed to City of Concord, a municipal corporation by that certain Grant Deed dated July 31, 1990, and recorded April 15, 1996, as instrument no. 96-67780, Contra Costa County official records.

Parcel Two:

An easement appurtenant to parcel one above, as created in that certain instrument recorded April 15, 1970, in book 6107, page 397, Contra Costa County records for the installation, maintenance and use of a water pipe line in, on, over and across the Following described real property:

A strip of land 5 feet in width measured at right angles, along the easterly boundary line of the parcel of land described as parcel one in the deed to Concord Radio Broadcasters, Inc., a California corporation recorded May 3, 1967, in book 5360 at page 369 of official records of Contra Costa County. Said easterly boundary line is further described as having a bearing of south 42° 19' 16" east and a distance of 172.85 feet in said deed (5360 or 369).

Parcel Three:

An easement appurtenant to parcel one above, as created in that certain instrument recorded April 15, 1970, in book 6107, page 399, Contra Costa County records for the installation, maintenance and use of a water well in, on and over lands described as follows:

A parcel of land 10 feet square lying in the most northeasterly corner of the parcel of land described in the deed to Richard W. And Wanda D. Frank recorded June 9, 1966, in book 5137 at page 320 of official records of Contra Costa County. Said 10 foot square parcel is further described as follows:

Beginning at the northeasterly corner of said frank parcel (5137 o.r. 320); thence southeasterly along the northeasterly boundary line of said frank parcel (5137 o.r. 320) south 43° 19' 16" east 10.0 feet; thence leaving said northeasterly line south 58° 53' 09" west 10.0 feet; thence north 43° 19' 16" west 10.0 feet to a point on the northwesterly boundary line of said frank parcel (5137 o.r. 320); thence along said northwesterly line north 58° 53' 09" east 10.0 feet to the point of beginning.

APN: 117-080-006-2

EXHIBIT B
FORM OF GRANT DEED

DRAFT