

AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO
AUTHORIZING A 50-YEAR GROUND LEASE OF LANDS
UNDERLYING THE COMMON GROUND HOUSING SUBDIVISION

ORDINANCE NO. 015 -2014

1. Pitkin County (the "County") is the owner of a parcel of land identified by Parcel Number 273707312851, more specifically described on the Final Plat of the Common Ground Housing Subdivision recorded in the records of the Pitkin County Clerk and Recorder in Book 32 at Page 61 and on the Condominium Map of the Common Ground Housing Subdivision recorded in the records of the Pitkin County Clerk and Recorder in Book 35 at Page 31 ("County Parcel").
2. Common Ground Housing Association, Inc., ("Common Ground") is a Colorado nonprofit corporation formed as a citizen-initiative group to develop an affordable housing project on the County Parcel.
3. The County approved an affordable housing land use application submitted by Common Ground Housing Association, Inc., and in 1993, granted a 50-year land lease to Common Ground for the purpose of allowing them to acquire and construct improvements for a co-housing residential condominium complex.
4. Common Ground is currently a community of 21 units ranging from 1-3 bedrooms that are available for purchase under the County's affordable housing income guidelines in Categories 1, 2 and 3. The site is also home to a community center building known as the Common House, for which the County has a mutual agreement with Common Ground to insure public access in accordance with the terms of that agreement.
5. There are less than 30 years left to the original lease. As a consequence, it is now somewhat of an impracticality, if not a detriment, for potential Common Ground owners to obtain financing for conventional 30-year loans due to the land lease being shorter than the potential loan period. A real estate closing pending at the time of this ordinance may be adversely affected if a new long-term lease is not executed prior to the closing.
6. A new long-term lease may also place Common Ground in a better position for financing for potential capital improvement projects.
7. The County supports renewing the ground lease for a 50-year term for the purpose of allowing Common Ground to continue its affordable housing operations, to facilitate mortgages and to place the association in a better position for funding for future improvements, subject to the conditions set forth in Section 1.02 of the Ground Lease.
8. The terms of the Ground Lease are set forth and the Chair (or Chair's designee) shall be authorized to sign a Ground Lease in substantially the form approved by the County Attorney.

9. The BOCC finds that adoption of this ordinance is necessary for the immediate preservation of the public health, safety and welfare of the citizens of Pitkin County and therefore declares this ordinance and legislation to be effective immediately pursuant to Pitkin County Home Rule Charter Section 2.8.2.

NOW, THEREFORE, BE IT ORDAINED that the Board of County Commissioners of Pitkin County, Colorado approves a new 50-year Ground Lease of lands underlying the Common Ground Housing Subdivision and authorizes the Chair or Chair's designee to execute the Ground Lease in a form substantially approved by the County Attorney.

INTRODUCED AND ADOPTED ON JUNE 11, 2014 AND SET FOR CONFIRMATORY READING AND PUBLIC HEARING ON JUNE 25, 2014.

NOTICE OF PUBLIC HEARING AND TITLE AND SHORT SUMMARY OF THE ORDINANCE PUBLISHED IN THE ASPEN TIMES WEEKLY ON JUNE 12, 2014.

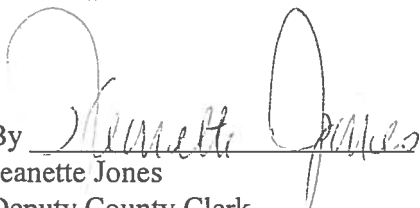
NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE ORDINANCE POSTED ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.aspenpitkin.com) ON JUNE 13, 2014.

CONFIRMED AT PUBLIC HEARING ON JUNE 25, 2014.


PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER CONFIRMATORY READING, IN THE ASPEN TIMES WEEKLY ON July 3, 2014.

THIS ORDINANCE IS EFFECTIVE ON JUNE 11, 2014

ATTEST:

By 
Jeanette Jones
Deputy County Clerk

BOARD OF COUNTY COMMISSIONERS

By: 
Robert A. Ittner, Jr., Chair

Date: 6/11/14

APPROVED AS TO FORM:


John Ely, County Attorney

MANAGER APPROVAL


Jon Peacock, County Manager

Exhibit

GROUND LEASE AGREEMENT FOR COMMON GROUND HOUSING ASSOCIATION, INC.

THIS GROUND LEASE AGREEMENT FOR COMMON GROUND HOUSING ASSOCIATION, INC. ("Ground Lease Agreement") is executed as of the 12th day of June, 2014, by and between the Board of County Commissioners of Pitkin County, Colorado, a Home Rule Charter County ("Lessor") and Common Ground Housing Association, Inc., a Colorado not for profit corporation ("Lessee").

WITNESSETH:

ARTICLE I

Grant of Demised Premises and Description of Condition Thereof

Section 1.01 Demise of Property. Lessor, for and in consideration of the rents hereinafter reserved and to be paid by Lessee and in further consideration of the satisfactory performance of the covenants and agreements hereinafter set forth to be kept and performed by Lessee, has granted, demised and leased and by these presents does GRANT, DEMISE AND LEASE unto the Lessee a parcel of land located in the County of Pitkin, State of Colorado, and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Demised Premises");

TOGETHER WITH:

- (a) All and singular appurtenances, rights, privileges and easements now or hereafter appertaining thereto including water rights appurtenant thereto;
- (b) All, structures, fence lines, landscaping and other improvements now or hereafter appertaining thereto.

Section 1.02 Conditions of Demise. The foregoing demise is made subject to the following:

- (a) All covenants, restrictions and regulations, zoning ordinances and regulations, and any amendments thereto, now or in the future, in force and effect affecting the Demised Premises or any portion thereof;
- (b) Building restrictions and regulations, zoning ordinances and regulations, and any amendments thereto, now in force and effect affecting the Demised Premises or any portion thereof;
- (c) All licenses, easements and rights-of-way, if any, acquired by any public service and public utility corporation or agency to maintain and operate lines, wires, cables, poles, pipes, valves and distribution boxes, in, over and upon the Demised Premises;
- (d) All matters that may affect title which and are of record in the office of the Pitkin

County Clerk and Recorder or which are visible from a physical inspection of the property including but not limited to:

(1) An Agreement with Lessor to continue to allow public access to the Common House, setting forth the guidelines, requirements and procedures thereto, recorded in the records of the Pitkin County Clerk and Recorder at Reception No. 373555;

(2) An easement for a perpetual public Fishing Easement together with a five-foot wide pedestrian easement for the sole purpose of accessing said Fishing Easement, the location, terms and conditions of which are set forth in a Grant of a Fisherman's Easement recorded in the records of the Pitkin County Clerk and Recorder at Reception No. 361217;

(3) Any surviving terms and conditions of the Easement Agreement between Lessor, Lessee and Oden Enterprises, its successors or assigns, recorded in the records of the Pitkin County Clerk and Recorder at Reception No. 361216;

(4) The terms and conditions set forth in the Lot Line Adjustment Agreement recorded in the records of the Pitkin County Clerk and Recorder at Reception No. 361219;

(5) The terms and conditions set forth in the Subdivision Improvement Agreement for the Common Ground Co-Housing Condominiums recorded in the records of the Pitkin County Clerk and Recorder at Reception No. 361218;

(6) All matters set forth on the condominium plat for the Common Ground Housing Subdivision recorded in the records of the Pitkin County Clerk and Recorder in Plat Book 35 at Page 31;

(7) The terms and conditions set forth in the Condominium Declaration for the Common Ground Housing Condominiums and the First Amendment thereto, recorded in the records of the Pitkin County Clerk and Recorder at Reception Nos. 373255 and 373556 respectively.

Section 1.03 "As-Is" Condition. The Lessee agrees to accept the Demised Premises "as is". Lessee further acknowledges that Lessor has not made any representation as to such physical condition or any other matter or thing affecting or relating to the aforesaid Demised Premises, except as may herein be expressly set forth.

Section 1.04 Lessor's Representations. Lessor covenants and represents to Lessee that:

(a) Lessor has good fee simple title to Demised Premises;

(b) Lessor has done nothing, and has no knowledge of anything, which would adversely affect Lessor's ability to lease the Demised Premises to Lessee or Lessee's ability to use the Demised Premises in the manner contemplated under this Ground Lease Agreement;

Section 1.05 Quiet Enjoyment. Lessor further covenants and represents that Lessee has full right to the peaceful and quiet enjoyment of the Demised Premises during the term of this Ground Lease Agreement, absent default by Lessee under the terms thereof, and Lessor will do nothing to disturb Lessee's continued peaceful and quiet enjoyment of the Demised Premises.

ARTICLE II **Leasehold Improvements**

Section 2.01 Purpose of Lease. This Ground Lease Agreement is entered into for the purpose of allowing Lessee to continue its affordable housing operations, to facilitate mortgages and to place the association in a better position for funding for future improvements on the Demised Premises, subject to the conditions set forth in Section 1.02 above.

Section 2.02 License, Easement or Right-of-Way Grants. If maintenance or reconstruction of the Affordable Housing Complex or any portion thereof, or any other improvements on or in connection with the Demised Premises requires the further grant of a license, easement or right-of-way on the Demised Premises to a public service or public utility corporation, or any architect, engineer or construction contractor, Lessor hereby agrees to grant said license, easement, or right-of-way upon receipt of a written request from the Lessee. Such request shall contain the precise legal description of said license, easement or right-of-way.

2.03 Maintenance of Demised Premises and Improvements. Lessee shall maintain the Demised Premises and all appurtenant improvements at its sole cost and expense in such a manner as to insure the health and safety of Common Ground tenants and the general public as well as any natural occurring features upon the Demised Premises, including but not limited to trees, shrubs, flowers and lawn areas. Further, Lessee shall be required to maintain the Demised Premises and appurtenant improvements in a condition that preserves the value of the Demised Premises and all appurtenant improvements.

ARTICLE III **Term**

Section 3.01 The term of this Lease shall be for the period of fifty (50) years, commencing on June 12, 2014 (said fifty (50) year period, as the same may be extended or renewed, is hereafter called the "Lease Term") unless this Lease shall sooner end and terminate as hereinafter provided. Upon the expiration of the Lease Term or at any other time during the Lease Term, Lessor shall have the right, at its sole discretion, to extend the term of this lease upon request of Lessee.

Section 3.02 At the expiration of this Lease, all improvements located upon the Demised Premises shall revert to the ownership of Lessor.

ARTICLE IV

Rent

Section 4.01 As annual rent for the Demised Premises, Lessee agrees to pay or provide for maintenance of all existing buildings, as of the date of execution of this Lease Agreement, located on the Property and the sum of one dollar (\$1.00) per annum.

ARTICLE V

Place of Payment

Section 5.01 Payments to be made at a location specified by Lessor.

ARTICLE VI

Use of Demised Premises

Section 6.01 Use. It is anticipated that the Demised Premises will continue to be used in furtherance of the tax-exempt purpose of the Lessee and the best interests and goals of the Lessor that it promote the public health and welfare by allowing the Demised Premises to be used to provide employee housing to the residents of Pitkin County.

Section 6.02 Additional Users. In the event that the Demised Premises are permitted to be used by any user other than the Lessee, except as provided for in this Lease Agreement, Lessee shall not use or occupy nor permit or suffer the Demised Premises or buildings, structures, and improvements hereafter constructed or installed thereon to be used or occupied for any unlawful or illegal business, use or purpose, nor in any such manner to constitute a nuisance of any kind, nor for any purpose or in any way in violation of any certificate of occupancy or the equivalent thereof, if any, or of any present or future covenants, governmental laws, ordinances, requirements, orders, directions, rules or regulations.

ARTICLE VII

Taxes and Utility Charges

Section 7.01 Lessee shall pay all taxes and assessments, if any, and all utility charges levied or imposed on the improvements and on the real property described in Exhibit A. In the event that the Demised Premises and improvements thereon are leased by the Lessee or any successor thereto to another lessee pursuant to the Lease Agreement or otherwise, then the Lessee agrees that Lessee shall remain obligated and required to pay -- or cause to be paid -- all such taxes, assessments, and utility charges.

ARTICLE VIII

Insurance

Section 8.01 Lessee shall, at its sole expense, carry and maintain in full force and effect throughout the lease term policies of comprehensive liability insurance with limits of not less than

\$1,000,000.00 per incident of claim, plus fire and hazard insurance covering improvements on the property in an amount mutually agreed upon by Lessee and Lessor but in no event in a sum less than the replacement cost of the improvements existing at any time on the Demised Premises, such insurance policy written by one or more responsible insurance company licensed to do business in Colorado, and shall list Lessor as an additional insured. Evidence of such insurance shall be provided to Lessor on an annual basis upon the renewal of each policy.

ARTICLE IX
Indemnification of Lessor

Section 9.01 Lessee agrees to and shall indemnify and hold Lessor harmless from and against any and all claims, liabilities, judgments, damages and other expenses, including reasonable attorneys fees, which may be imposed upon or incurred by or asserted against Lessor for any losses or damages to the Demised Premises or any injuries or damages or death to persons, occasioned in whole or in part or resulting from acts or omissions by Lessee, for any cause or reason whatsoever arising out of or during any use, occupancy, conduct or possession of the Demised Premises by Lessee.

ARTICLE X
Compliance with Laws, Regulations and Covenants

Section 10.0 **Lessee's Duty to Comply with Laws and Regulations.** During the term hereof, Lessee, at its own cost and expense, shall promptly observe and comply with all present and future covenants, laws, ordinances, requirements, orders, directions, rules and regulations of the federal, state, county and municipal governments and of all other authorities having or claiming jurisdiction over the Demised Premises or appurtenances or any part thereof, and of all their respective departments, bureaus and officials, and of all insurance companies writing policies covering the Demised Premises or any part thereof, whether the same are in force at the commencement of the Demised Term or may in the future be passed, required, ordered, enacted or directed.

Section 10.02 **Lessee's Right to Contest Laws and Regulations.** After notice to Lessor, Lessee may, by appropriate proceedings conducted promptly at Lessee's own expense, in Lessee's name, contest in good faith the validity or enforcement of any such law, ordinance, requirement, direction, rule, regulation or order and may defer compliance therewith during the pendency of such contest so long as (a) such deferment shall not constitute an offense on the part of the Lessor, (b) Lessee shall diligently prosecute such contest to a final determination by a court, department or governmental authority or body having jurisdiction, and (c) Lessee shall furnish Lessor with such security, by bond or otherwise, as Lessor may request in connection with such contest.

ARTICLE XI
Assignment and Subletting; Leasehold Mortgages

Section 11.01 **Assignment and Subletting.** The Lessee shall not have the right to assign

or transfer this Ground Lease Agreement or to sublease all or any part of the Demised Premises, without Lessor's prior written consent, which shall not be unreasonably withheld.

Section 11.02 Mortgages.

- (a) Right to Mortgage Leasehold Interest. Notwithstanding any provision of this Lease to the contrary, Lessee shall have the right to mortgage or otherwise encumber all or any portion of its interest in this Lease, the Demised Premises and the leasehold estate created by this Lease. In the event Lessee mortgages or otherwise encumbers such interest, Lessee shall give Lessor notice of the same and the name and address of each mortgagee, trustee or other beneficiary (collectively, the "Beneficiary").
- (b) No Right to Further Encumber Leasehold Interest. Lessee, or any sublessee or assignee thereof, shall not have the right to mortgage or otherwise encumber any portion of the Demised Premises or leasehold estate in addition to a first mortgage for purchase of individual unit or financing of the Common House, without prior written consent of the Lessor.
- (c) Notice to Mortgagee of Default. Thereafter, while the mortgage or other encumbrance is in force, Lessor shall simultaneously give each Beneficiary a duplicate copy of any and all notices of default or other notices which Lessor may give or serve upon Lessee pursuant to the terms of this Lease, and any such notice shall not be effective as against any Beneficiary until the duplicate copy is given to such Beneficiary. A different address may be designated by any Beneficiary by notice delivered to Lessor from time to time. Any such Beneficiary may, at its option, at any time before the rights of Lessee shall have been terminated as provided for in this Lease, pay any of the rents or other sums of money herein stipulated to be paid by Lessee or do any other act or thing required of Lessee by the terms of this Lease; and all payments so made and all things so done or performed by any such Beneficiary shall be as effective to prevent a forfeiture of the rights of Lessee hereunder as the same would have been if done and performed by Lessee instead of by any such Beneficiary. Any such mortgage, deed of trust or other encumbrance so given by Lessee may, if Lessee so desires, be so conditioned as to provide that, as between any such Beneficiary thereunder and Lessee, the Beneficiary, on making good and performing any such default or defaults on the party of Lessee, shall be thereby subrogated to any and all of the rights of the person or persons to whom any payment is made by the Beneficiary, and all of the rights of Lessee hereunder.
- (d) Beneficiary as Assignees. No such Beneficiary shall be or become liable to Lessor as an assignee of this Lease until such time, if any, as the Beneficiary shall by foreclosure or other appropriate proceedings in the nature thereof, or as the result of any other action or remedy provided for by such mortgage, deed of trust or other encumbrance, or by proper conveyance from Lessee, either acquire the rights and interests of Lessee under the terms of this Lease or actually take possession of the Demised Premises, and such liability of such Beneficiary shall terminate upon such Beneficiary's assigning such rights and interests to another party or relinquishing such possession, as the case may be, provided that such termination of liability as to such Beneficiary shall not extinguish any default hereunder or any such liability as to any other person or persons.

(e) Involuntary Termination of Lease. Upon termination of this Lease prior to the end of the stated term by reason of Lessee's default, Lessor shall give notice thereby to the Beneficiary of the first lien leasehold interest Beneficiary and the holder of the then first lien Beneficiary upon Lessee's leasehold estate shall have the option, upon notice to Lessor deposited in the mails not later than 90 days after notice from Lessor of such termination, to elect to receive, in its own name or in the name of its nominee or designee, from Lessor a new lease of the Demised Premises for the unexpired balance of the term of this Lease, or any renewal and extension hereof, on the same terms and conditions as in this Lease set forth, which new lease shall be effective as of the date of termination of this Lease and Lessor agrees promptly to execute such lease provided;

(i) such Beneficiary shall simultaneously with the giving of such notice cure any money default of Lessee; and

(ii) such Beneficiary immediately commences to remedy, and thereafter diligently pursues the remedy of, any non-money default of Lessee, excluding those which by their very nature are incapable of cure by any other person or corporation.

Such Beneficiary, or its nominee or designee, shall thereafter observe and perform all covenants and conditions in such lease contained on the part of Lessee to be observed and performed. Any such new lease shall, to the fullest extent possible under applicable law, have priority equal to his Lease without limiting the generality of the foregoing, any mortgage, deed of trust or other encumbrance on the fee estate shall be subject to such new lease. If such holder of a first lien mortgage, deed of trust or other encumbrance upon Lessee's leasehold estate or first nominee or designee shall become Lessee under such new lease and shall subsequently assign such new lease then such Beneficiary shall thereupon be relieved of liability under such new lease for all obligations not theretofore accrued, provided that the assignee expressly assumes all liabilities and obligations of lessee under such new lease thereafter accruing, and Lessee or such Beneficiary furnishes Lessor a copy of such assignment and assumption. The termination of this Lease shall not terminate the right of the first lien Beneficiary to a new lease under this Section.

(f) In the event Lessor determines that it desires to sell the Demised Premises, and notwithstanding any provision of this Lease to the contrary, the option to purchase the Demised Premises shall be personal to the Lessee, and such right shall not accrue to any successor, transferee or assignee of this Lease, including but not limited to any Beneficiary or a successor thereto.

ARTICLE XII

Default

Section 12.01 Events of Default. Any one or more of the following events shall constitute Events of Default hereunder.

(a) If Lessee shall totally desert or completely abandon the Demised Premises and such desertion or abandonment shall continue for a period of ninety (90) days after notice by

Lessor; or

(b) If Lessee shall default in making payment to Lessor of any rent or additional rent, as defined in Article IV, as and when the same shall become due and payable, and such default in payment shall continue for a period of ninety (90) days after notice by Lessor to Lessee;

(c) If Lessee shall default in complying with any other agreement, term, covenant or condition of this Lease and such default in compliance shall continue for a period of ninety (90) days after notice by Lessor to Lessee, and Lessee shall not have commenced, in good faith, within said ninety (90) day period, to remedy such default and diligently and continuously proceeded therewith.

Section 12.02 Remedies of Default. Upon the occurrence of any such Event of Default, and provided the same is still continuing, the Lessor, in addition to any other rights and remedies to which it may otherwise be entitled, may, but shall not be obligated to, terminate this Lease and the term hereby created in the manner set forth, whereupon Lessor shall be entitled to repossess the Demised Premises. In the event of such repossession, Lessor, at its option, shall have the right to (a) require Lessee to demolish and remove the improvements and to restore and revegetate the Demised Premises, or (b) purchase the leasehold improvements from Lessee at their fair market value.

ARTICLE XIII **Notices**

Section 13.01 All notices required under the terms of this Lease Agreement shall be given in writing, by mailing such notices by certified mail, return receipt requested, to the address of the parties as shown below, or to such other address as may be designated from time to time in the same manner. If not sooner received, any notice given by mail shall be deemed received three days after the date of delivery as shown on the return receipt of said certified mail.

LESSOR: Board of County Commissioners of Pitkin County
530 East Main Street, 3rd Floor
Aspen CO 81611
Attn: Pitkin County Manager

WITH A COPY TO: Pitkin County Attorney's Office
530 E. Main Street, Suite 302
Aspen, CO 81611

LESSEE: Common Ground Housing Association, Inc.
Attn: Shelly Franklin Board of Directors President
207 Independence Place
Aspen, CO 81611

ARTICLE XIV
Controlling Law

Section 14.01 This Lease shall be governed by and construed in accordance with the local laws of the State of Colorado.

ARTICLE XV
Capital Improvements

Section 15.01 Both parties to the lease affirm that the Board of County Commissioners of Pitkin County has no requirement, liability or obligation to assist, pay or participate in any capital improvement, repair or maintenance of any of the improvements located on the demised property.

ARTICLE XVI
Captions

Section 16.01 The captions and headings in this Lease are inserted only as a matter of convenience and for reference, and they in no way define, limit or describe the scope of this Lease or the intent of any provision thereof.

ARTICLE XVII
Entire Agreement

Section 17.01 This Lease contains the entire agreement between the Lessor and the Lessee for lease of the improved real property described in Exhibit A. This Lease cannot be orally changed or terminated; it can be changed or terminated only by an instrument in writing executed by both parties.

ARTICLE XVIII
Successors and Assigns

Section 18.01 All of the terms, covenants and conditions herein contained shall inure to the benefit of and be binding upon the Lessor, its successors and assigns, and the Lessee, its successors and assigns, and any others who at any time shall be the owners of the land described in Exhibit A hereto or of the leasehold estate hereby created or of the improvements to the Demised Premises.

IN WITNESS WHEREOF, the Lessor and Lessee caused this Lease to be executed in counterparts as of the day and year first above written.

ARTICLE XIX
Attorneys Fees

Section 19.01 In the event either Lessor or Lessee determines that it is necessary to institute legal action in order to enforce their respective rights under this Lease, the substantially prevailing party in any such action shall be entitled to a recovery of all of its costs and expenses in maintaining such action, including reasonable attorney's fees.

**LESSOR: Board of County Commissioners
of Pitkin County, Colorado**

By: *Robert A. Ittner, Jr.*
Robert A. Ittner, Jr., Chair

**LESSEE: Common Ground Housing Association,
Inc., a Colorado not for profit corporation**

By: *M. Orland*
Title: *SECRETARY to the HOA BOARD*

STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

The foregoing was subscribed and sworn to before me this 11th day of June 2014, by Robert A. Ittner, Jr., as Chair of the Board of County Commissioners of Pitkin County, Colorado.



Witness my hand and official seal.
My commission expires: My Commission Expires
 August 4, 2015

Jane W. Acbery
Notary Public

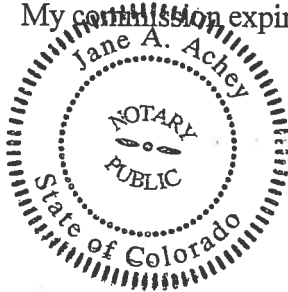
STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

The foregoing was subscribed and sworn to before me this 12th day of June 2014,
by Mick Ireland as Secretary, of Common Ground Housing
Association, Inc.

Witness my hand and official seal.

My ~~commission~~ expires:

My Commission Expires
August 4, 2015



Jane A. Achey
Notary Public

**GROUND LEASE AGREEMENT
FOR COMMON GROUND HOUSING ASSOCIATION, INC.**

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Section 2.01 Purpose of Lease. This Ground Lease Agreement is entered into for the purpose of allowing Lessee to continue its affordable housing operations, to facilitate mortgages and to place the association in a better position for funding for future improvements on the Demised Premises, subject to the conditions set forth in Section 1.02 above.

Section 2.02 License, Easement or Right-of-Way Grants. If maintenance or re-construction of the Affordable Housing Complex or any portion thereof, or any other improvements on or in connection with the Demised Premises requires the further grant of a license, easement or right-of-way on the Demised Premises to a public service or public utility corporation, or any architect, engineer or construction contractor, Lessor hereby agrees to grant said license, easement, or right-of-way upon receipt of a written request from the Lessee. Such request shall contain the precise legal description of said license, easement or right-of-way.

2.03 Maintenance of Demised Premises and Improvements. Lessee shall maintain the Demised Premises and all appurtenant improvements at its sole cost and expense in such a manner as to insure the health and safety of Common Ground tenants and the general public as well as any natural occurring features upon the Demised Premises, including but not limited to trees, shrubs, flowers and lawn areas. Further, Lessee shall be required to maintain the Demised Premises and appurtenant improvements in a condition that preserves the value of the Demised Premises and all appurtenant improvements.

ARTICLE III **Term**

Section 3.01 The term of this Lease shall be for the period of fifty (50) years, commencing on June 12, 2014 (said fifty (50) year period, as the same may be extended or renewed, is hereafter called the "Lease Term") unless this Lease shall sooner end and terminate as hereinafter provided. Upon the expiration of the Lease Term or at any other time during the Lease Term, Lessor shall have the right, at its sole discretion, to extend the term of this lease upon request of Lessee.

Section 3.02 At the expiration of this Lease, all improvements located upon the Demised Premises shall revert to the ownership of Lessor.

ARTICLE IV

Rent

Section 4.01 As annual rent for the Demised Premises, Lessee agrees to pay or provide for maintenance of all existing buildings, as of the date of execution of this Lease Agreement, located on the Property and the sum of one dollar (\$1.00) per annum.

ARTICLE V

Place of Payment

Section 5.01 Payments to be made at a location specified by Lessor.

ARTICLE VI

Use of Demised Premises

Section 6.01 Use. It is anticipated that the Demised Premises will continue to be used in furtherance of the tax-exempt purpose of the Lessee and the best interests and goals of the Lessor that it promote the public health and welfare by allowing the Demised Premises to be used to provide employee housing to the residents of Pitkin County.

Section 6.02 Additional Users. In the event that the Demised Premises are permitted to be used by any user other than the Lessee, except as provided for in this Lease Agreement, Lessee shall not use or occupy nor permit or suffer the Demised Premises or buildings, structures, and improvements hereafter constructed or installed thereon to be used or occupied for any unlawful or illegal business, use or purpose, nor in any such manner to constitute a nuisance of any kind, nor for any purpose or in any way in violation of any certificate of occupancy or the equivalent thereof, if any, or of any present or future covenants, governmental laws, ordinances, requirements, orders, directions, rules or regulations.

ARTICLE VII

Taxes and Utility Charges

Section 7.01 Lessee shall pay all taxes and assessments, if any, and all utility charges levied or imposed on the improvements and on the real property described in Exhibit A. In the event that the Demised Premises and improvements thereon are leased by the Lessee or any successor thereto to another lessee pursuant to the Lease Agreement or otherwise, then the Lessee agrees that Lessee shall remain obligated and required to pay -- or cause to be paid -- all such taxes, assessments, and utility charges.

ARTICLE VIII

Insurance

Section 8.01 Lessee shall, at its sole expense, carry and maintain in full force and effect throughout the lease term policies of comprehensive liability insurance with limits of not less than

\$1,000,000.00 per incident of claim, plus fire and hazard insurance covering improvements on the property in an amount mutually agreed upon by Lessee and Lessor but in no event in a sum less than the replacement cost of the improvements existing at any time on the Demised Premises, such insurance policy written by one or more responsible insurance company licensed to do business in Colorado, and shall list Lessor as an additional insured. Evidence of such insurance shall be provided to Lessor on an annual basis upon the renewal of each policy.

ARTICLE IX
Indemnification of Lessor

Section 9.01 Lessee agrees to and shall indemnify and hold Lessor harmless from and against any and all claims, liabilities, judgments, damages and other expenses, including reasonable attorneys fees, which may be imposed upon or incurred by or asserted against Lessor for any losses or damages to the Demised Premises or any injuries or damages or death to persons, occasioned in whole or in part or resulting from acts or omissions by Lessee, for any cause or reason whatsoever arising out of or during any use, occupancy, conduct or possession of the Demised Premises by Lessee.

ARTICLE X
Compliance with Laws, Regulations and Covenants

Section 10.0 **Lessee's Duty to Comply with Laws and Regulations.** During the term hereof, Lessee, at its own cost and expense, shall promptly observe and comply with all present and future covenants, laws, ordinances, requirements, orders, directions, rules and regulations of the federal, state, county and municipal governments and of all other authorities having or claiming jurisdiction over the Demised Premises or appurtenances or any part thereof, and of all their respective departments, bureaus and officials, and of all insurance companies writing policies covering the Demised Premises or any part thereof, whether the same are in force at the commencement of the Demised Term or may in the future be passed, required, ordered, enacted or directed.

Section 10.02 **Lessee's Right to Contest Laws and Regulations.** After notice to Lessor, Lessee may, by appropriate proceedings conducted promptly at Lessee's own expense, in Lessee's name, contest in good faith the validity or enforcement of any such law, ordinance, requirement, direction, rule, regulation or order and may defer compliance therewith during the pendency of such contest so long as (a) such deferment shall not constitute an offense on the part of the Lessor, (b) Lessee shall diligently prosecute such contest to a final determination by a court, department or governmental authority or body having jurisdiction, and (c) Lessee shall furnish Lessor with such security, by bond or otherwise, as Lessor may request in connection with such contest.

ARTICLE XI
Assignment and Subletting; Leasehold Mortgages

Section 11.01 **Assignment and Subletting.** The Lessee shall not have the right to assign

or transfer this Ground Lease Agreement or to sublease all or any part of the Demised Premises, without Lessor's prior written consent, which shall not be unreasonably withheld.

Section 11.02 Mortgages.

- (a) Right to Mortgage Leasehold Interest. Notwithstanding any provision of this Lease to the contrary, Lessee shall have the right to mortgage or otherwise encumber all or any portion of its interest in this Lease, the Demised Premises and the leasehold estate created by this Lease. In the event Lessee mortgages or otherwise encumbers such interest, Lessee shall give Lessor notice of the same and the name and address of each mortgagee, trustee or other beneficiary (collectively, the "Beneficiary").
- (b) No Right to Further Encumber Leasehold Interest. Lessee, or any sublessee or assignee thereof, shall not have the right to mortgage or otherwise encumber any portion of the Demised Premises or leasehold estate in addition to a first mortgage for purchase of individual unit or financing of the Common House, without prior written consent of the Lessor.
- (c) Notice to Mortgagee of Default. Thereafter, while the mortgage or other encumbrance is in force, Lessor shall simultaneously give each Beneficiary a duplicate copy of any and all notices of default or other notices which Lessor may give or serve upon Lessee pursuant to the terms of this Lease, and any such notice shall not be effective as against any Beneficiary until the duplicate copy is given to such Beneficiary. A different address may be designated by any Beneficiary by notice delivered to Lessor from time to time. Any such Beneficiary may, at its option, at any time before the rights of Lessee shall have been terminated as provided for in this Lease, pay any of the rents or other sums of money herein stipulated to be paid by Lessee or do any other act or thing required of Lessee by the terms of this Lease; and all payments so made and all things so done or performed by any such Beneficiary shall be as effective to prevent a forfeiture of the rights of Lessee hereunder as the same would have been if done and performed by Lessee instead of by any such Beneficiary. Any such mortgage, deed of trust or other encumbrance so given by Lessee may, if Lessee so desires, be so conditioned as to provide that, as between any such Beneficiary thereunder and Lessee, the Beneficiary, on making good and performing any such default or defaults on the party of Lessee, shall be thereby subrogated to any and all of the rights of the person or persons to whom any payment is made by the Beneficiary, and all of the rights of Lessee hereunder.
- (d) Beneficiary as Assignees. No such Beneficiary shall be or become liable to Lessor as an assignee of this Lease until such time, if any, as the Beneficiary shall by foreclosure or other appropriate proceedings in the nature thereof, or as the result of any other action or remedy provided for by such mortgage, deed of trust or other encumbrance, or by proper conveyance from Lessee, either acquire the rights and interests of Lessee under the terms of this Lease or actually take possession of the Demised Premises, and such liability of such Beneficiary shall terminate upon such Beneficiary's assigning such rights and interests to another party or relinquishing such possession, as the case may be, provided that such termination of liability as to such Beneficiary shall not extinguish any default hereunder or any such liability as to any other person or persons.

(e) Involuntary Termination of Lease. Upon termination of this Lease prior to the end of the stated term by reason of Lessee's default, Lessor shall give notice thereby to the Beneficiary of the first lien leasehold interest Beneficiary and the holder of the then first lien Beneficiary upon Lessee's leasehold estate shall have the option, upon notice to Lessor deposited in the mails not later than 90 days after notice from Lessor of such termination, to elect to receive, in its own name or in the name of its nominee or designee, from Lessor a new lease of the Demised Premises for the unexpired balance of the term of this Lease, or any renewal and extension hereof, on the same terms and conditions as in this Lease set forth, which new lease shall be effective as of the date of termination of this Lease and Lessor agrees promptly to execute such lease provided;

(i) such Beneficiary shall simultaneously with the giving of such notice cure any money default of Lessee; and

(ii) such Beneficiary immediately commences to remedy, and thereafter diligently pursues the remedy of, any non-money default of Lessee, excluding those which by their very nature are incapable of cure by any other person or corporation.

Such Beneficiary, or its nominee or designee, shall thereafter observe and perform all covenants and conditions in such lease contained on the part of Lessee to be observed and performed. Any such new lease shall, to the fullest extent possible under applicable law, have priority equal to his Lease without limiting the generality of the foregoing, any mortgage, deed of trust or other encumbrance on the fee estate shall be subject to such new lease. If such holder of a first lien mortgage, deed of trust or other encumbrance upon Lessee's leasehold estate or first nominee or designee shall become Lessee under such new lease and shall subsequently assign such new lease then such Beneficiary shall thereupon be relieved of liability under such new lease for all obligations not theretofore accrued, provided that the assignee expressly assumes all liabilities and obligations of lessee under such new lease thereafter accruing, and Lessee or such Beneficiary furnishes Lessor a copy of such assignment and assumption. The termination of this Lease shall not terminate the right of the first lien Beneficiary to a new lease under this Section.

(f) In the event Lessor determines that it desires to sell the Demised Premises, and notwithstanding any provision of this Lease to the contrary, the option to purchase the Demised Premises shall be personal to the Lessee, and such right shall not accrue to any successor, transferee or assignee of this Lease, including but not limited to any Beneficiary or a successor thereto.

ARTICLE XII

Default

Section 12.01 Events of Default. Any one or more of the following events shall constitute Events of Default hereunder.

(a) If Lessee shall totally desert or completely abandon the Demised Premises and such desertion or abandonment shall continue for a period of ninety (90) days after notice by

Lessor; or

(b) If Lessee shall default in making payment to Lessor of any rent or additional rent, as defined in Article IV, as and when the same shall become due and payable, and such default in payment shall continue for a period of ninety (90) days after notice by Lessor to Lessee;

(c) If Lessee shall default in complying with any other agreement, term, covenant or condition of this Lease and such default in compliance shall continue for a period of ninety (90) days after notice by Lessor to Lessee, and Lessee shall not have commenced, in good faith, within said ninety (90) day period, to remedy such default and diligently and continuously proceeded therewith.

Section 12.02 Remedies of Default. Upon the occurrence of any such Event of Default, and provided the same is still continuing, the Lessor, in addition to any other rights and remedies to which it may otherwise be entitled, may, but shall not be obligated to, terminate this Lease and the term hereby created in the manner set forth, whereupon Lessor shall be entitled to repossess the Demised Premises. In the event of such repossession, Lessor, at its option, shall have the right to (a) require Lessee to demolish and remove the improvements and to restore and revegetate the Demised Premises, or (b) purchase the leasehold improvements from Lessee at their fair market value.

ARTICLE XIII

Notices

Section 13.01 All notices required under the terms of this Lease Agreement shall be given in writing, by mailing such notices by certified mail, return receipt requested, to the address of the parties as shown below, or to such other address as may be designated from time to time in the same manner. If not sooner received, any notice given by mail shall be deemed received three days after the date of delivery as shown on the return receipt of said certified mail.

LESSOR: Board of County Commissioners of Pitkin County
530 East Main Street, 3rd Floor
Aspen CO 81611
Attn: Pitkin County Manager

WITH A COPY TO: Pitkin County Attorney's Office
530 E. Main Street, Suite 302
Aspen, CO 81611

LESSEE: Common Ground Housing Association, Inc.
Attn: Shelly Franklin Board of Directors President
207 Independence Place
Aspen, CO 81611

ARTICLE XIV
Controlling Law

Section 14.01 This Lease shall be governed by and construed in accordance with the local laws of the State of Colorado.

ARTICLE XV
Capital Improvements

Section 15.01 Both parties to the lease affirm that the Board of County Commissioners of Pitkin County has no requirement, liability or obligation to assist, pay or participate in any capital improvement, repair or maintenance of any of the improvements located on the demised property.

ARTICLE XVI
Captions

Section 16.01 The captions and headings in this Lease are inserted only as a matter of convenience and for reference, and they in no way define, limit or describe the scope of this Lease or the intent of any provision thereof.

ARTICLE XVII
Entire Agreement

Section 17.01 This Lease contains the entire agreement between the Lessor and the Lessee for lease of the improved real property described in Exhibit A. This Lease cannot be orally changed or terminated; it can be changed or terminated only by an instrument in writing executed by both parties.

ARTICLE XVIII
Successors and Assigns

Section 18.01 All of the terms, covenants and conditions herein contained shall inure to the benefit of and be binding upon the Lessor, its successors and assigns, and the Lessee, its successors and assigns, and any others who at any time shall be the owners of the land described in Exhibit A hereto or of the leasehold estate hereby created or of the improvements to the Demised Premises.

IN WITNESS WHEREOF, the Lessor and Lessee caused this Lease to be executed in counterparts as of the day and year first above written.

The foregoing was subscribed and sworn to before me this 12th day of June 2014,
by Mick Ireland as Secretary, of Common Ground Housing
Association, Inc.

Witness my hand and official seal.

My ~~commission~~ expires:

My Commission Expires
August 4, 2015



Jane A. Achey
Notary Public