

AGREEMENT FOR THE TRANSFER OF REAL PROPERTY (the “Agreement”)

EFFECTIVE DATE: _____ (see Section 14(b) for provisions governing the Effective Date).

PARTIES

- THE CITY OF SEATTLE, a Washington municipal corporation (the “City” also referred to as “Seller”) acting by and through its Department of Finance and Administrative Services; and
- CENTRAL AREA SENIOR CENTER, a Washington nonprofit corporation (“CASC” also referred to as “Purchaser”).

RECITALS

- A. The City owns that certain real property having a street address of 500 30th Avenue South, Seattle, WA 98122, and legally described as follows:

Lots 1 through 4, inclusive, and Lots 11 through 14, inclusive, Block 21, Burke’s Second Addition to the City of Seattle, as recorded in volume 1 of Plats, page 248, Records of King County, Washington,

including all easements, privileges and improvements appurtenant to the land, which real property is referred to in this Agreement as the “Real Property.”

- B. In 1983, the City, as landlord, entered into that certain *Mutual and Offsetting Benefit Lease Agreement* (hereinafter, the “Lease”) with Senior Services and Centers, Inc. as tenant.
- C. CASC is a nonprofit that is volunteer-supported and provides services to support the emotional, social, and physical well-being of older adults and their families.
- D. CASC is the successor in interest to Senior Services and Center, Inc.’s interest under the Lease and CASC has been using and occupying the Real Property for the purpose of providing public benefits and senior center services.
- E. The most recent Lease expired on December 31, 1986, since which time CASC, with the City’s consent, has remained as a month-to-month tenant on the terms provided under the Lease.
- F. The City acquired the Real Property, in part, using funds provided through the 1972 social and health services bond issuance of the State of Washington (“Ref. 29 Bonds”).

- G. Under RCW 43.83.410, public bodies are authorized to transfer real property acquired or improved through Ref. 29 Bonds to nonprofit corporations organized to provide individuals with social and health services subject to certain promises and covenants.
- H. Pursuant to City of Seattle Resolution 31856 and that certain 2019 *Memorandum of Agreement Implementing Criteria for Initiating Transfer of Mutually Offsetting Facilities to Tenants*, by and amongst various City of Seattle departments and offices, an interdepartmental team within the City has determined that CASC – in all material respects – meets the transfer criteria established by the City for transferring property to tenants who have been operating properties under mutually and offsetting benefit lease agreements.
- I. The City and CASC mutually desire to enter into a binding agreement for the City’s transfer and conveyance of the Real Property to CASC.

NOW THEREFORE,

AGREEMENT

1. The **RECITALS** are made a part of this Agreement.
2. **TRANSFER OF THE PROPERTY.** Subject to the terms and conditions of this Agreement, the Seller shall transfer and convey to the Purchaser, and the Purchaser agrees to accept from the Seller, the Real Property together with any and all personal property owned by the Seller and located within or used in connection with the Real Property, including any and all furniture, furnishings, fixtures, appliances, heating, air conditioning and cooling units or systems, sign and boilers. Such personal property, together with the Real Property, is collectively referred to in this Agreement as the “**Property**”.
3. **CONSIDERATION.** In consideration for the Seller’s transfer and conveyance of the Property to the Purchaser, Purchaser shall promise and covenant, for and on behalf of itself and its successors and heirs, as follows:
 - a. Purchaser shall use the Property to continuously provide and operate social services to the public with a focus on meeting the social, physical and mental health and welfare needs of seniors. Additionally, if Purchaser develops the Property or creates additional improvements on the Property, the improvements and development shall be dedicated to providing social services, which may be combined with affordable housing.
 - b. Purchaser shall assume all environmental risk associated with the property and shall indemnify the City from all environmental liabilities arising from the Property. In the event ownership of the Property reverts to the City, Purchaser’s obligation shall not apply to the extent any environmental liability results from any release, contamination or occurrence that occurs after the date of reversion through no fault or action of Purchaser.

- c. Title shall automatically revert to the City if the Property is not used to provide social services qualifying under RCW 43.83.410.
- d. Purchaser shall not sell the Property except as authorized in the Deed.

Purchaser's covenants and promises shall be included in the Deed and shall run with the land and shall bind future owners of the Property.

4. "AS-IS"; SELLER DISCLOSURE STATEMENT; PURCHASER ACKNOWLEDGEMENT OF CERTAIN CONDITIONS; SELLER WORK PRIOR TO CLOSING.

- a. Purchaser is in possession of the Property, is familiar with the Property and understands its limitations and defects. Therefore, Purchaser agrees and acknowledges:
 - i. Seller is transferring and conveying the Property "**AS-IS**" on the date of Closing with all faults and Seller makes no representations or warranties regarding the Property or its suitability for Purchaser's intended use, and that Seller will convey the Property and Purchaser will accept the Property subject to any defects, including but not limited to easements, encroachments or claims for adverse possession, whether known or unknown, matters of public record, and off-record liens, if any.
 - ii. Neither Seller nor any agent, employee, officer, director, attorney, broker, contractor, representative or property manager of Seller has made, and Seller specifically disclaims, any warranties, representations or guaranties of any kind or character, express or implied, statutory, oral or written, past, present or future, with respect to the Property.
 - iii. Purchaser has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of Seller (except those provided for in this Agreement) or any of its respective agents, employees, officers, directors, attorneys, brokers, contractors, representatives or property managers and acknowledges that no such representations have been made.
- b. Seller will furnish a seller disclosure statement, as required pursuant to RCW CH. 64.06.
- c. Purchaser acknowledges receipt from Seller of a copy of the Phase I Environmental Site Assessment dated Dec. 27, 2019 prepared by SoundEarth Strategies, Inc.

5. REPRESENTATIONS AND WARRANTIES

a. **Seller's Representations and Warranties.** For purposes of the representations and warranties in subsections 5.a.iv and v, "Seller's Representative" is Karen Gruen. Seller represents and warrants to Purchaser as of the Effective Date, as follows:

- i. Seller is a municipal corporation duly organized and validly existing under the laws of the state of Washington.
- ii. Seller has the authority to enter into this Agreement and, as of Closing, to complete the transaction contemplated by this Agreement.
- iii. Entering into this Agreement does not conflict with any other contract or legal obligation of Seller.
- iv. To the best of Seller's Representative's knowledge, there are no actions, suits or other legal proceedings pending or threatened against Seller with respect to the Property.
- v. Seller's Representative has not received written notice that Seller is in default under any covenants, easements, deeds, regulations, laws, rules, ordinances, order or restrictions affecting or encumbering the Property.

b. **Purchaser's Representations and Warranties.** Purchaser hereby represents and warrants to Seller that as of the Effective Date:

- i. Purchaser is a duly organized and validly existing entity under the laws of the state of Washington.
- ii. Purchaser has obtained all necessary approvals to enter into this Agreement, and, as of Closing, to complete the transaction contemplated by this Agreement.
- iii. Entering into the Agreement does not conflict with any other contract or legal obligation of Purchaser.
- iv. Purchaser is in possession of the Property and Purchaser has not granted any other party, affiliate, subtenant, or licensee a right to use and possession of the Property in a manner that conflicts with the use under the Deed.
- v. Purchaser (a) has not filed a petition in bankruptcy, (b) is not the subject of a petition in bankruptcy, (c) does not have a trustee or receiver appointed with respect to Purchaser's assets, (d) has not assigned assets for the benefit of creditors, (e) has not received notice of default, trustee's sale, foreclosure or forfeiture.

6. ACCESS AND DUE DILIGENCE. As of the Effective Date, the Purchaser is in possession of the Property pursuant to the Lease and has had sufficient access to the Property and information regarding the Property to enable Purchaser to complete due diligence prior to entering into this Agreement without need of an additional due diligence period.

7. FORM OF DEED. At Closing, Seller shall convey the Property to Purchaser by quitclaim deed with covenants in the form attached as **Exhibit A** (the "**Deed**").

8. CONDITIONS TO SELLER'S AND PURCHASER'S PERFORMANCE

a. **Seller's Closing Conditions.** The obligation of the Seller to close the transaction contemplated by this Agreement is subject to the closing conditions in this Section 8.a. Seller may waive any of these conditions, in whole or in part.

- i. Purchaser shall have delivered to Seller all funds, documents and instruments required to be delivered by Purchaser hereunder.
- ii. Purchaser shall have performed in all material respects all covenants and obligations required by this Agreement to be performed by Purchaser on or prior to Closing.
- iii. The representations and warranties made by Purchaser in this Agreement (as set forth above in the subsection above with the caption "Purchaser's Representations and Warranties") are true and correct as of the Closing date.

b. **Purchaser's Closing Conditions.** Purchaser's obligation to close the transaction contemplated by this Agreement is subject to the following closing conditions, any of which Purchaser may waive in whole or in part:

- i. Ratification of this Agreement by the Purchaser's board of directors.
- ii. Seller shall have delivered to Purchaser all documents and instruments required to be delivered by Seller hereunder.
- iii. Seller shall have performed in all material respects all covenants and obligations required to be performed by Seller on or prior to Closing.
- iv. Seller's representations and warranties (as set forth above in the section with the caption "Seller's Representations and Warranties") are true and correct as of the Closing date.

9. CLOSING; CLOSING DELIVERABLES; CLOSING COSTS/PRORATIONS; OBLIGATION FOR LEASEHOLD EXCISE TAX

a. Closing.

- i. The anticipated Closing Date is a mutually agreed upon date following the effective date of a Seattle City Council ordinance authorizing the transfer of the Property; **provided that**, Seller may extend the Closing Date for a reasonable period of time.
- ii. The parties have determined not to use escrow for Closing and agree to cooperate to take steps necessary to complete Closing. Seller shall hold Purchaser's Closing deliverables in trust until Purchaser notifies Seller that Purchaser's Closing conditions are satisfied. Seller shall notify Purchaser when Purchaser's Closing conditions are satisfied ("Purchaser's Notice"). Promptly following Purchaser's Notice, the Seller shall record the Deed. Seller shall provide Purchaser with a copy of the recorded Deed. Seller shall invoice Purchaser for the closing costs and any other prorations due under Section 9.d and Purchaser shall pay within thirty (30) days.
- iii. "**Closing**" will be deemed to have been completed when the Deed is recorded by the King County Recorder's Office.

b. Seller's Closing Deliverables. On or before the Closing Date, Seller shall deposit with the Purchaser the following:

- i. Certification that Seller's representations and warranties are true and correct;
- ii. Real Estate Excise Tax Affidavit in form required by law; and
- iii. Seller's certification of Non-Foreign Status under Foreign Investment in Real Property Tax Act (26 U.S.C. 1445).
- iv. Any mutually agreed-upon assignment of services contracts.

c. Purchaser's Closing Deliverables. On or before the Closing Date, Purchaser shall deposit with Seller the following:

- i. Certification that Purchaser's representations and warranties are true and correct as of Closing;
- ii. Executed Real Estate Excise Tax Affidavit in form required by law; and
- iii. Executed Deed acceptance.

d. Closing Costs/Prorations.

- i. Purchaser and Seller shall share equally the costs associated with the transfer and conveyance of the Property, including but not limited to the recording fees and real estate excise tax (if any). Purchaser shall be responsible for the cost of a purchaser's policy of title insurance (whether it provides standard coverage or extended coverage) and any endorsements thereto.
 - ii. Real and personal property taxes, assessments and charges payable in the year of Closing will be pro-rated as of Closing Date. Purchaser acknowledges that pursuant to RCW 84.36.010 the Real Property is not currently subject to property tax because Seller is a public entity, and that the Real Property will become subject to taxation when Purchaser acquires it. Seller calls Purchaser's attention to the fact that the Real Property is subject to miscellaneous charges (e.g., a charge for surface water), despite the fact that Property is exempt from taxation pursuant to RCW 84.36.010(1). Such miscellaneous charges will be pro-rated at Closing and Seller shall pay all amounts due prior to Closing and Purchaser shall pay all amounts due after Closing.
- e. **Leasehold Excise Tax.** In the event the State of Washington makes any demand upon the Seller for payment of leasehold excise taxes resulting from the Purchaser's occupation of the Property (or possession of the Property by the Purchaser's predecessors-in-interest under the Lease) or withholds funds due to the Seller to enforce collection of leasehold excise taxes, the Purchaser shall, at its sole expense, defend and indemnify the Seller from all such demands, and if necessary repay Seller for all sums expended by the Seller, or withheld by the State from the Seller, in connection with such taxation; provided that this shall not prevent Purchaser from contesting such action, at Purchaser's sole cost. The obligations of this Section shall survive Closing.

10. ENVIRONMENTAL RELEASE AND LIABILITY. Seller's willingness to enter into this Agreement is conditioned, in part, on Purchaser's agreement to take the Property AS-IS and Purchaser's covenant to release and indemnify Seller from environmental liabilities arising from the Property as provided under the terms and conditions of the environmental covenant in the Deed.

11. LEASE TERMINATION AND RELEASE. The parties acknowledge that upon Closing, the month-to-month lease estate shall merge with the fee. Effective as of Closing, each party shall forever release, disclaim and discharge any and all claims, actions, suits, remedies, obligations or liabilities against the other that arise under the Lease, including the subsequent month to month lease of the Property. This release shall not apply to any third party claims made against the City that arise from Purchaser's use and occupancy of the Property and Purchaser shall defend and indemnify the City from any third-party claims and liabilities

arising from Purchaser's use and occupancy of the Property, including any use and occupancy by Purchaser's employees, subtenants, assignees, contractors, licensees and invitees.

12. BROKERS

The Seller represents and warrants that, in the context of the transaction contemplated by this Agreement, it is not represented by a real estate broker. Similarly, Purchaser represents and warrants that in the context of the transaction contemplated by this Agreement, it is not represented by a real estate broker. If any person or entity makes a claim for a brokerage commission or finder's fee of any kind, then the party through whom or on whose behalf such services are claimed shall defend and indemnify the other party from any claims, costs or fees for unpaid broker's fees or commissions.

13. MISCELLANEOUS

- a. **Notices.** Any notice required or permitted to be delivered under this Agreement must be in writing and will be deemed given on the earlier of actual receipt or (i) when delivered, if delivered by hand during regular business hours, (ii) three (3) days after being sent by United States Postal Service, registered or certified mail, postage prepaid, return receipt requested and first class mail, postage prepaid, or (iii) the next business day if sent by a reputable national overnight express mail service that provides tracing and proof of receipt or refusal of items mailed. Notices to Seller and/or Purchaser shall be delivered as follows:

If to Seller: THE CITY OF SEATTLE
Department of Finance and Administrative Services
Attn: Karen Gruen
700 Fifth Avenue, Suite 5200
P.O. Box 94689
Seattle, WA 98124-4689
Telephone: 206-733-9238

Note: If delivering notice by hand pursuant to subsection (i) above, notice must be delivered to the City's street address; if sending notice by U.S. Mail pursuant to subsection (ii) above, notice must be sent to the City's P.O. Box; and if sending notice by overnight express mail service pursuant to subsection (iii) above, notice must be delivered to the City's street address.

With Copy sent via email to:
Rebecca Keith
Seattle City Attorney's Office
Rebecca.Keith@seattle.gov

If to Purchaser: CENTRAL AREA SENIOR CENTER
 Attention: Dian Ferguson
 Executive Director
 500 30th Avenue South
 Seattle, WA 98144
 Telephone: 206-726-4926

With Copy to:
Century Law Firm, PLLC
2135 112th Avenue NE
Bellevue, WA. 98004

- b. **Effective Date.** The “**Effective Date**” of this Agreement is the date the last party to execute this Agreement executes it, as represented by the date appearing below each party’s signature. Each party authorizes the endorsement of such date for administrative reference in the space provided in the Agreement’s heading.
- c. **Entire Agreement.** This Agreement, including exhibits, constitutes the entire agreement of the Seller and Purchaser with respect to the Property and supersedes all written or oral agreements or undertakings. This Agreement may be modified only pursuant to a writing signed by both parties.
- d. **Negotiated Agreement.** This Agreement has been negotiated by the parties and each party has had the opportunity to review it with legal counsel and to participate in the drafting. It shall be construed according to the fair intent of the language as a whole, and not for or against either party as the drafting party.
- e. **No Assignment.** Purchaser may not assign its interest in this Agreement to any other party, without the Seller’s prior written consent, which the Seller may withhold in its sole and absolute discretion.
- f. **No Third-Party Beneficiaries.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies on any person other than the parties to this Agreement, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third-party, nor shall any provision give any third-party any right of subrogation or action against any party to this Agreement.
- g. **Attorney Fees.** In the case of any legal action or dispute arising under this Agreement, each party will bear its own attorney fees and costs.
- h. **Further Acts.** Seller and Purchaser will each execute and deliver such additional documents and instruments and take such further actions as may be reasonably necessary to carry out the Agreement’s terms and conditions.
- i. **Time** is of the essence.

- j. **Subject to the Approval of the Seattle City Council.** Final decisions regarding the disposal of the City's real property require authorization by the Seattle City Council.
- k. **Governing Law; Jurisdiction and Venue.** This Agreement shall be governed by the laws of the State of Washington. Jurisdiction and venue shall be in the Superior Court for the State of Washington – King County.

SELLER:

THE CITY OF SEATTLE
Department of Finance and Administrative
Services

By: _____

Title: _____

Date: _____

PURCHASER:

CENTRAL AREA SENIOR CENTER, a
Washington nonprofit corporation

By: _____

Printed Name:

Title:

Date: _____