

GROUND LEASE AGREEMENT

**By and Between
Orange Unified School District
And
FF Realty LLC
(Peralta Site)**

July 25, 2013

TABLE OF CONTENTS

- 1. Background and General
- 2. Term
- 3. Use of Premises
- 4. Payments to Lessor
- 5. Construction of Improvements
- 6. Condemnation
- 7. Intentionally Omitted
- 8. Indemnity
- 9. Insurance
- 10. Maintenance and Repair;
Damage and Construction
- 11. Assignment and Sublease
- 12. Encumbrances
- 13. Default
- 14. Accounting
- 15. Miscellaneous
- 16. Definition of Terms;
Interpretation

1. BACKGROUND AND GENERAL

- 1.1 Definitions
- 1.2 As-Is
- 1.3 Reaffirmation of Representations and Warranties

2. Term

- 2.1 Term
- 2.2 Ownership of Improvements During Term
- 2.3 Reversion of Improvements
- 2.4 Title to Certain Improvements Passes to Lessor; Lessee to Maintain

3. USE OF PREMISES

- 3.1 Specific Primary Use
- 3.2 Prohibited Uses
- 3.3 Compliance with Regulations
- 3.4 Reservations

3

4. PAYMENTS TO LESSOR

- 4.1 Net Lease
- 4.2 Rental Payments
- 4.3 Percentage Rent
- 4.4 Stabilization of Date
- 4.5 Payment and Late Fees
- 4.6 Proposed Transfers
- 4.7 Calculation and Payment

5. CONSTRUCTION OF IMPROVEMENTS

- 5.1 Development Work
- 5.2 Lessor Review
- 5.3 Alterations
- 5.4 Conditions Precedent to the Commencement of Construction
- 5.5 Work Schedule
- 5.6 Lessor Cooperation
- 5.7 Extension of Required Construction Completed Date
- 5.8 Manner of Construction
- 5.9 Use of Plans
- 5.10 Protection of Lessor
- 5.11 Liens; Indemnity
- 5.12 Capital Reserve Fund

4

6. CONDEMNATION

- 6.1 Definitions
- 6.2 Parties' Rights and Obligations to be Governed by Lease
- 6.3 Total Taking
- 6.4 Effect of Partial Taking
- 6.5 Effect of Partial Taking on Rent
- 6.6 Waiver of Code of Civil Procedure Section 1265.130
- 6.7 Payment of Award
- 6.8 Partial Taking Without Termination
- 6.9 Taking for Temporary Use
- 6.10 Total Taking and Partial Taking with Termination
- 6.11 Lessor as Condemning Authority

8*. INDEMNITY

- 8.1 Lessee Indemnity
- 8.2 Lessor Indemnity

*7 has been intentionally deleted

5

9. INSURANCE

- 9.1 Lessee's Insurance
- 9.2 Provisions Pertaining to Property Insurance
- 9.3 General Insurance Requirements
- 9.4 Additional Required Provisions
- 9.5 Failure to Procure Insurance
- 9.6 Adjustment to Amount of Liability Coverage
- 9.7 Notification of Incidents, Claims or Suits

10. MAINTENANCE AND REPAIR; DAMAGE AND CONSTRUCTION

- 10.1 Lessee's Maintenance and Repair Obligations
- 10.2 Deficiency Notices
- 10.3 Repair of Improvements; options to Terminate for Uninsured Casualty
- 10.4 Notice of Damage
- 10.5 Waiver of Civil Code Sections

6

11. ASSIGNMENT AND SUBLEASE

- 11.1 Subleases
- 11.2 Change of Ownership and Control
- 11.3 Transfer
- 11.4 Approval of Assignment Major Subleases and Changes of Ownership
- 11.5 Involuntary Transfers Prohibited
- 11.6 Terms Binding Upon Successors, Assigns and Sublessees

12. ENCUMBRANCES

- 12.1 Lessee's Right to Encumber
- 12.2 No Subordination
- 12.3 Encumbrance Holder
- 12.4 No Modification without Encumbrance Holder's Consent
- 12.5 Right of Encumbrance Holder to Realize on Security
- 12.6 Right of Encumbrance Holder to Cure Defaults
- 12.7 Assignment Without Consent on Foreclosure
- 12.8 New Lease to Encumbrance Holder
- 12.9 No Merger of Leasehold and Fee Estates
- 12.10 Encumbrance Holder as Assignee of Lease
- 12.11 Encumbrance Holder as Including Subsequent Security Holders
- 12.12 Two or more Encumbrance Holders
- 12.13 Additional Encumbrance Holder Assurances

7

13. DEFAULT

- 13.1 Events of Default
- 13.2 Effect of Notices
- 13.3 Limitation on Events of Default
- 13.4 Remedies
- 13.5 Terminate Lease
- 13.6 Damages
- 13.7 Remedy for Failure to Perform Development Work and Nonuse of Premises
- 13.8 Default by Lessor

14. ACCOUNTING

- 14.1 Maintenance of Records and Accounting Method
- 14.2 Availability of Records for Inspector's Audit
- 14.3 Cost of Audit
- 14.4 Accounting Year
- 14.5 Annual Financial Statements
- 14.6 Accounting Obligations of Sublessees
- 14.7 Inadequacy of Records

8

15. MISCELLANEOUS

- 15.1 Quiet Enjoyment
- 15.2 Time is of the Essence
- 15.3 Lessor Disclosure and Lessee's Waiver
- 15.4 Right of Offset
- 15.5 Holding Over
- 15.6 Waiver of Conditions or Covenants
- 15.7 Remedies Cumulative
- 15.8 Authorized Right of Entry
- 15.9 Place of Payment and Filing
- 15.10 Service of Written Notices or Processes
- 15.11 Interest
- 15.12 Captions
- 15.13 Attorney's Fees
- 15.14 Amendments
- 15.15 Time for Lessor Approvals
- 15.16 Time for Lessor Action
- 15.17 Estoppel Certificates; Nondisturbance Agreements
- 15.18 Nondisturbance
- 15.19 Indemnity Obligations

9

16. DEFINITION OF TERMS; INTERPRETATION

- 16.1 Meaning of Words Not Specifically Defined
- 16.2 Tense; Gender; Number; Person
- 16.3 Business Days
- 16.4 Parties Represented by Consultants, Counsel
- 16.5 Governing Law
- 16.6 Reasonableness Standard
- 16.7 Venue
- 16.8 Memorandum of Lease
- 16.9 Counterparts

10

2. Term

- Ninety-nine (99) years from Effective Date.
- All improvements and utilities revert to Lessor at the end of the term.

11

4.1 Net Lease

- Rent to be paid by Lessee under this Lease is intended to be absolutely net to Lessor.

12

4.1.2 Taxes and Assessments

- Lessee is responsible for payments of all taxes and assessments on any interest in the Lease, the Premises, and/or the Improvements.
- Lessee must indemnify Lessor against all possessory interest taxes.

13

4.2 Rental Payments (1 of 5)

THERE ARE FIVE FORMS OF RENT

1. First Year Annual Minimum Rent
2. Construction Period Annual Minimum Rent
3. Stabilized Annual Minimum Rent (as initially set)
4. Stabilized Annual Minimum Rent adjustment changes to Average Annual Rent
5. Percentage Rent (covered in Section 4.3)

14

4.2 Rental Payments (2 of 5)

FIRST YEAR ANNUAL MINIMUM RENT

- Starts when option is leased and lease starts
- Amount is \$250,000 per year at 340 Units
- Increased or reduced by \$700 per year for each unit based on final density
- Ends after one year

15

4.2 Rental Payments (3 of 5)

CONSTRUCTION PERIOD ANNUAL MINIMUM RENT

- Starts with second lease year
- Amount is \$500,000 per year at 340 Units
- Increased or reduced by \$1,500 per year for each unit based on final density
- Ends with commencement of Stabilized Annual Minimum Rent in year occupancies reaches 90% (but not later than 18 months after the first unit is occupied)

16

4.2 Rental Payments (4 of 5)

STABILIZED ANNUAL MINIMUM RENT

(adjustment changes to Average Annual Rent)

- Starts with stabilization year which is the year in which apartment occupancy reaches 90% (but not later than 18 months after the first unit is occupied)
- Set at \$900,000 per year for 340 units
- Increased or reduced by \$2,650 per unit less based on final density
- Minimum is \$600,000

17

4.2 Rental Payments (5 of 5)

STABILIZED ANNUAL MINIMUM RENT

(as initially set)

- Starts in 21st year after stabilization and repeats in 41st, 61st, and 81st year
- Resets Minimum Rent to 67% of average *total* rent for the prior three years.
- When Stabilized Annual Minimum Rent starts, it represents about 2/3 of the total rent
- As percentage rent grows, the minimum rent shrinks as proportion of total
- This reset gets it back to 2/3 of the total every 20 years
- Percentage rent calculations are adjusted of that the increased in minimum is not double counted

18

4.3 Percentage Rent (1 of 5)

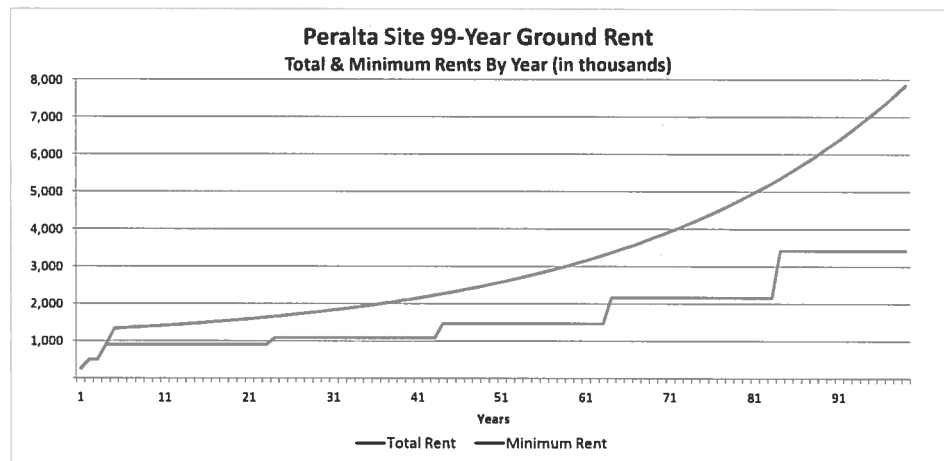
- Starts 12 months after the Stabilization Date
- Is added to minimum rent so that total rent is the SUM of minimum and percentage, NOT the higher the of the two
- Equals 5% of Gross Income which is, with only a few adjustments, all the income collected by Lessee from the apartment tenants
- Financial projections indicate that the total rent to the District, minimum and percentage rent combined, will start at about 15% of the Gross Income - *This is an unusually high percentage compared to other ground leases.*

19

4.3 Percentage Rent (2 of 5) Graph of Rent to District Over 99 Years

340 UNITS

**FOR DETAIL BY YEAR
SEE SEPARATE
PRINTED SCHEDULE
EXHIBIT 4.3 -340**

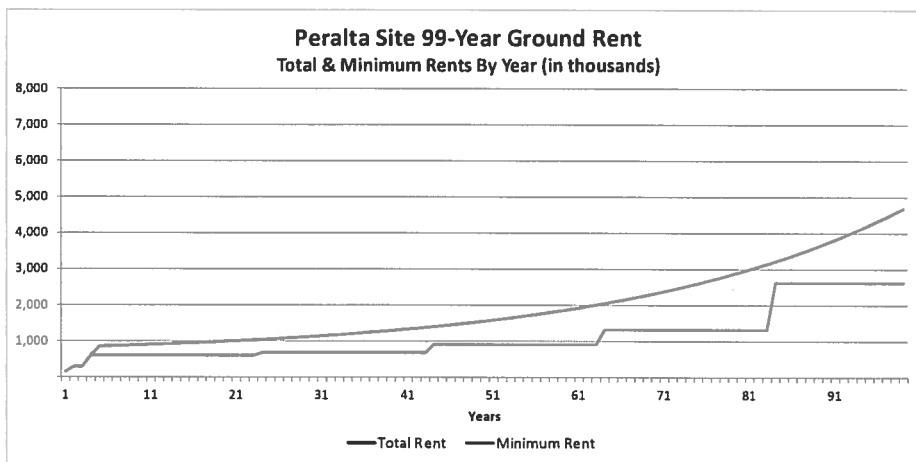


20

4.3 Percentage Rent (3 of 5) Graph of Rent to District Over 99 Years

200 UNITS

*FOR DETAIL BY YEAR
SEE SEPARATE
PRINTED SCHEDULE
EXHIBIT 4.3 - 200*



21

4.3 Percentage Rent (4 of 5) Estimated Total Rent for 340 Units

Peralta Site 99-Year Ground Rent - Summary of Whole Dollars and Present Value (millions)

340 Units	2.5% Inflation		3.0% Inflation		3.5% Inflation	
	Total Rent	Present Value	Total Rent	Present Value	Total Rent	Present Value
Pre-Stablization	1.3	1.1	1.3	1.1	1.3	1.1
Years 1-20	28.3	14.9	28.8	15.1	29.4	15.4
Years 21-40	35.5	7.1	38.3	7.6	41.6	8.2
Years 41-60	46.7	3.5	54.7	4.1	64.9	4.8
Years 61-80	65.0	1.8	84.3	2.3	111.3	3.1
Years 81-96	72.9	0.8	104.2	1.2	152.0	1.7
Total	249.7	29.2	311.6	31.4	400.4	34.2

22

4.3 Percentage Rent (5 of 5) Estimated Total Rent for 200 Units

Peralta Site 99-Year Ground Rent - Summary of Whole Dollars and Present Value (millions)

200 Units	2.5% Inflation		3.0% Inflation		3.5% Inflation	
	Total Rent	Present Value	Total Rent	Present Value	Total Rent	Present Value
Pre-Stabilization	0.7	0.7	0.7	0.7	0.7	0.7
Years 1-20	18.0	9.5	18.4	9.7	18.7	9.8
Years 21-40	22.3	4.4	24.0	4.7	25.9	5.1
Years 41-60	28.9	2.2	33.6	2.5	39.6	2.9
Years 61-80	39.7	1.1	51.0	1.4	66.9	1.8
Years 81-96	44.0	0.5	62.4	0.7	90.6	1.0
Total	153.7	18.4	190.0	19.7	242.3	21.3

23

5.1 Development Work

- Design and quality standards: “at least commensurate with those of “Class-A” garden style apartments in the multi-family residential industry in the central area of Orange County, California.”
- Development work must be substantially complete within forty-eight (48) months of the Effective Date (“Required Completion Date”).

24

5.7 Extension of Required Construction Completion Date

- The construction completion date may be extended up to 2 additional years if work has been delayed by any “court, judicial, or other governmental action.”
- The construction completion date may be extended if Unreasonable Lessor Acts cause a delay (i.e. failure to sign authorization for Lessee to seek a permit required by City).

25

5.12 Capital Reserve Fund

- Lessee must establish and maintain a Capital Reserve Fund to be used for repairs and renovations of the Improvements.
- 11th Stabilized Lease Year through the 89th Stabilized Lease.
- 1.5% of Gross Receipts received during the preceding month.

26

8. Indemnity

- Lessee must indemnify Lessor for all claims arising out of the use and occupancy of the Premises and the Improvements, except if caused by Lessor's gross negligence or willful misconduct.
- Lessor indemnifies Lessee only for claims arising out of Lessor's gross negligence or willful misconduct.

27

11.2 Change of Ownership and Control and 1.1.31 Excluded Transfer

- Lessee cannot transfer ownership or control of Lessee's interest in the Lease without Lessor's consent. Includes:
 - Change of Ownership
 - Change of Control
 - Major Sublease
- Excluded Transfers do not require Lessor's consent.

28

11.4 Approval Of Assignment, Major Subleases, And Changes Of Ownership

- Lessor's consent to transfer of Lessee's ownership or control of Lease is based on Assignment Standards.

29

Exhibit B - Assignment Standards

- Liquid net worth (at least 6 times the total Annual Minimum Rent and Percentage Rent).
- Significant experience in the construction, operation and management of similar size and type of Improvements in California.
- Good character and reputation.
- Not result in a financing obligation that jeopardizes transferees ability to meet rental obligations.

30

12.1 Lessee's Right to Encumber

- Lessee has no right to incur any Encumbrance that constitutes in any way a lien or encumbrance on Lessor's fee interest in the Premises.
- Lessee may encumber its interest in the Lease with Lessor's consent.
- Cannot withhold consent if Approved Criteria.

31

12.2 No Subordination

- Lessor's rights in the Premises and this Lease, including, the right to receive Annual Minimum Rent and Percentage Rent, shall not be subordinated to the rights of any Encumbrance Holder.

32

12.5 Right of Encumbrance Holder to Realize on Security

- If there is a default, Encumbrance Holder has the right to:
 - Cure defaults
 - Transfer or assign through foreclosure or in lieu of foreclosure
 - Request new lease with same terms and condition
- The Encumbrance Holder (or any entity acquiring the leasehold estate) shall be liable to perform Lessee's obligations under this Lease.

33

13.1 Events of Default

- The following are deemed to be "Events of Default" hereunder:
 - Monetary Defaults
 - Default in Obligation to Perform Development Work.
 - Failure to Perform Other Obligations.
 - Nonuse of Premises.

34

13.4 Remedies and 13.5 Damages

- Remedies in the Event of Lessee Default (subject to Section 13.6):
 - Terminate Lease
 - Keep Lease in effect and bring suit from time to time for rent and other sums due, and for Lessee's breach of other obligations.
- Damages if Lease is Terminated:
 - Unpaid Rent;
 - Post-Termination; and
 - Other amounts necessary to compensate Lessor as a result of termination.

35

13.6 Remedy for Failure to Perform Development Work

- If Lessee breaches its obligation to perform Development Work, or after Stabilization occurs, Lessee abandons or discontinues use of Premises for one year, Lessor's sole and exclusive remedy shall Additional Minimum Rent (in addition to continuing to pay Annual Minimum Rent).

36

13.7 Default by Lessor

- 30 day cure period after the receipt of notice from Lessee specifying in detail Lessor's failure to perform (unless the nature of Lessor's obligation is such that more than thirty (30) days are required for its performance).
- Lessor's liability to Lessee for damages arising out of or in connection with Lessor's breach of any provision or provisions of this Lease shall not exceed the value of Lessor's equity interest in the Premises and its right to insurance proceeds.