

## **GROUND LEASE OPTION AGREEMENT (San Quentin)**

This Ground Lease Option Agreement (“**Agreement**”) is entered into by and between (a) the STATE OF CALIFORNIA (“**State**”), acting by and through the DEPARTMENT OF GENERAL SERVICES (“**DGS**”), with the consent of the DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (“**HCD**”) and CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (“**CDCR**”), on the one part, and (b) Eden Housing, Inc., a California corporation (“**EHI**”), and Education Housing Partners, Inc., a California nonprofit public benefit corporation (“**EHP**”) and collectively with EHI, “**Optionee**”), on the other part. The STATE and Optionee may sometimes hereinafter be referred to as “**Party**” or collectively as the “**Parties**”. Capitalized terms used in this Agreement shall have the meanings ascribed to them by the section in which such term is first defined.

### **RECITALS**

**A.** STATE is the fee owner of that certain real property, together with all improvements located thereon, located at Marin County (“**County**”), State of California, with Assessor's Parcel Number(s): 018-152-12, more particularly described and depicted in **Exhibits A and B**, attached hereto and incorporated herein by this reference (the “**State Parcel**”).

**B.** Pursuant to that certain DGS Request for Proposal No. 3-20 issued in accordance with Executive Order N-06-19 (the “**RFP**”) with respect to the approximately eight and three tenth (8.3) acre portion of the State Parcel more particularly described and depicted in **Exhibit C**, attached hereto and incorporated by this reference (the “**Option Property**”), Optionee submitted a responsive bid proposal to the RFP (“**Optionee’s Bid Proposal**”) and Optionee was selected to develop, finance, and construct the affordable housing project proposed in Optionee’s Bid Proposal (the “**Optionee Project**”) at the Option Property.

**C.** Pursuant to the RFP and to facilitate the development of the Optionee Project, State and Optionee desire to enter into two (2) ninety-nine (99) year ground leases (each, a “**Ground Lease**” and collectively, the “**Ground Leases**”) for the development and construction of the Optionee Project consistent with Optionee’s Bid Proposal and the requirements and guidelines set forth in the RFP. The Optionee Project is intended to be developed as two (2) concurrent sub-projects, with EHI entering into one (1) Ground Lease (the “**EHI Ground Lease**”) for the portion of the Optionee Property depicted in **Exhibit D**, attached hereto and incorporated by this reference (the “**EHI Property**”), to develop one hundred fifteen (115) lower income units (the “**EHI Project**”) and EHP entering into the second Ground Lease (the “**EHP Ground Lease**”) for the portion of the Option Property depicted in **Exhibit D**, attached hereto and incorporated by this reference

(the “**EHP Property**”) to develop one hundred fifteen (115) to one hundred thirty five (135) moderate income units (the “**EHP Project**”).

**D.** In accordance with the terms and conditions herein, Optionee will finance, design, develop, construct, operate, and maintain the housing units comprising the Optionee Project on the Option Property.

**E.** This Agreement is not a lease, and grants Optionee no current real property interest in, right to use or otherwise occupy the Option Property.

**F.** The Ground Leases or any other real property interest agreement that binds State to grant a current interest in real property to Optionee shall not be entered into or otherwise executed, if at all, unless and until (i) Optionee properly exercises the option granted herein with respect to both of the Ground Leases, and (ii) all conditions and obligations contained herein have been fully satisfied and/or waived in writing by the Party benefitted thereby.

**G.** In order for Optionee to demonstrate site control over the Option Property for the purpose of submitting its financing applications and to provide the Parties an understanding of the development potential of the Option Property before entering into the Ground Leases, if at all, Optionee desires to obtain an option to ground lease the Option Property from State and State is willing to grant an option to Optionee to ground lease the Option Property pursuant to the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the above recitals, all of which are incorporated into this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

### **AGREEMENT**

1. **Effective Date.** The “**Effective Date**” of this Agreement shall be the date it is signed on behalf of the State by and through DGS.
2. **Option.** State hereby grants Optionee the option to ground lease the Option Property from State upon the terms and conditions set forth in this Agreement (the “**Option**”) during the Option Term (as defined in Section 4, below).
3. **Option Consideration.** No later than ten (10) business days after the Effective Date, Optionee shall pay State the sum of ONE HUNDRED AND NO/100THS DOLLARS (\$100.00) (“**Option Payment**”). The Option Payment shall not be refundable for any reason and shall not be credited to any payments under the Ground Lease.

4. Option Term. The “**Option Term**” shall commence upon the Effective Date and shall expire on the date that is three (3) years after the Effective Date (the “**Expiration Date**”); provided, however, if (a) there is a legal challenge to the certification of the Project CEQA document and (b) Optionee elects to defend such legal challenge, the Option Term shall automatically be tolled until the earlier to occur of (y) the date that is nine (9) months after the resolution of the legal challenge or (z) the date that is one (1) month after the lead agency approves/certifies any corrections or supplements to the Project CEQA document required in conjunction with the resolution of the legal challenge. Notwithstanding the foregoing to the contrary, at any time after Optionee’s payment of the Option Payment and in Optionee’s sole discretion, Optionee may terminate this Agreement by providing written notice to State of Optionee’s election to terminate this Agreement
5. Exercise of Option. Subject to the conditions set forth below in Section 6, the Option may only be exercised by Optionee’s execution and delivery of a written exercise of Option to State with respect to both of the Ground Leases during the Option Term. The Option may not be exercised until all the conditions set forth below in Section 6 are satisfied and/or waived in writing by the Party benefitted thereby. Optionee acknowledges that Optionee shall have no right to exercise the Option with respect to one Ground Lease and not the other Ground Lease.
6. Conditions. Optionee’s right to exercise of the Option is conditioned upon and subject to the satisfaction or the State’s written waiver (in the State’s sole and absolute discretion) of the following conditions:
  - a. Approval of Property by Optionee. Within thirty (30) days following the Effective Date, Optionee shall have notified the State in writing of its approval of the suitability of the Option Property for Optionee’s intended use and development of the Option Property. In accordance with the terms of that certain Right of Entry (the “**ROE**”) attached hereto and made a part hereof (See **Exhibit E**) by and between Optionee and DGS, Optionee has been given permission by the State to conduct due diligence inspections, investigations, tests and studies (including, without limitation, investigations with regard to zoning, building codes and other governmental regulations, architectural inspections, engineering tests, economic feasibility studies and soils, seismic and geologic reports, environmental testing and investigations to determine, among other things, if all needed entitlements can be procured in an acceptable form to develop and construct the Optionee Project as identified in Optionee’s Bid Proposal at the Option Property) with respect to the Option Property as Optionee may elect to make or maintain.

- b. Environmental Requirements. Optionee shall have obtained Final Approval of the Project Entitlements prior to the expiration of the Option Term. As used herein, the term “**Project Entitlements**” means the land use entitlements, permits and other required governmental regulatory approvals necessary for the development and construction of the Optionee Project, including, without limitation, (i) California Environmental Quality Act (set forth in Public Resources Code, Section 21000 et seq., “**CEQA**”) and (ii) any demolition, grading and building permits for the Optionee Project (collectively, the “**Construction Permits**”). As used herein, the term “**Final Approval**” means that the applicable government agency/official has taken its final action with respect to the subject Project Entitlement and all applicable administrative appeal or legal challenge periods have expired without the timely filing of an administrative appeal or legal challenge, or, in the event of the timely filing of an administrative appeal or legal challenge, such matters has been finally resolved in a manner that permits the development of the Optionee Project.

Optionee shall be responsible for obtaining all of the Project Entitlements. The Parties agree and acknowledge that the State retains full discretion to approve, disapprove or condition the final Project to be developed and constructed at the Option Property, including, but not limited to, requiring additional mitigation measures or alternatives necessary to avoid or substantially lessen the environmental impacts of the Optionee Project. Any approval of the Optionee Project is expressly conditioned on Optionee’s compliance with any applicable CEQA requirements.

- c. Construction Documents. Prior to the expiration of the Option term, Optionee shall have obtained the State’s approval that the Construction Documents for the Optionee Project comply with all applicable requirements of the California building code and local fire safety and access requirements (collectively, the “**Building Codes**”). The State agrees that separate sets of Construction Plans will be submitted for the EHI Project and the EHP Project.

Optionee shall develop a complete set of architectural, civil, structural, mechanical and electrical drawings and specifications sufficient to enable contractors to compile bids for and construct the Optionee Project (the “**Construction Documents**”). Optionee shall submit to the State three (3) complete copies of the “Building Permit Set” of the Construction Documents for the State’s review and comment. The State shall either

accept or return the submitted review sets with comments to Optionee. If the State provides comments to a review set, Optionee shall re-submit a revised review set with corrections completed within thirty (30) days from the date State returns the review sets to Optionee with comments. The State shall either accept or return the submitted revisions with comments to Optionee. This sequence shall continue until the review is approved by the State. The State shall not unreasonably withhold, condition or delay its disapproval of Construction Documents.

- d. Project Financing. Prior to the expiration of the Option Term, Optionee shall provide satisfactory evidence of Optionee's ability to finance the cost of the Optionee Project, which may be evidenced by (i) commitments from the Optionee's tax credit investors and/or the lenders providing development and construction financing for the Optionee Project or (ii) the applicable Joint Powers Authority shall have approved the issuance of the subject bonds providing development and construction financing for the Optionee Project subject to adopted financial parameters. The State agrees that separate financing plans will be submitted for the EHI Project and the EHP Project. The State shall not unreasonably withhold, condition or delay its approval of a proposed financing plan. If Optionee plans to hypothecate the leasehold interest contemplated by one or both of the Ground Leases as security for the subject financing, Optionee shall submit substantially final versions of all documents proposed in the financing transaction along with a request for States' consent to the proposed hypothecation in accordance with the terms of the applicable Ground Lease, which consent (1) shall not be withheld if the proposed hypothecation meets the requirements of permitted financing under the applicable provisions of the applicable agreed-upon form of Ground Lease and (2) otherwise shall not be unreasonably withheld.
- e. Affirmative Fair Housing Compliance. In all of Optionee's activities, Optionee shall comply with all applicable state and federal fair housing laws, including the Americans with Disabilities Act, the Fair Housing Amendments Act, the California Fair Employment and Housing Act, the Unruh Act, Government Code section 11135, Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. section 794), and applicable regulations issued under those statutes, including, but not limited to, 24 C.F.R. Part 8, 24 C.F.R. Part 100, 28 C.F.R. Part 35, and Cal Code Regs., title 2, division 4.1, chapter 5, subchapters 6 and 7.

Prior to the expiration of the Option Term, Optionee shall adopt a written non-discrimination policy. Optionee shall provide a copy of this policy to HCD for its review and approval prior to the earlier to occur of (y) two (2) months prior to the expiration of the Option Term or (z) execution of the Ground Lease. The policy shall state that no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with program funds made available to the site on the grounds of: (i) race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), veteran or military status, or all other personal characteristics protected from discrimination under federal or state fair housing laws, (ii) being perceived to have any of these characteristics, or (iii) being associated with a person who has, or is perceived to have, any of these characteristics.

Optionee shall develop and implement an affirmative fair housing marketing plan that is satisfactory to HCD. Optionee shall provide a copy of this plan to HCD for its review and approval prior to the earlier of (y) two (2) months prior to the expiration of the Option Term or (z) execution of the Ground Lease. Appropriate aspects of the plan shall be incorporated into the ongoing property management plan to ensure positive outreach and informational efforts to those who are least likely to know about and apply for housing.

- f. Construction Assurances. Prior to the expiration of the Option Term, Optionee shall provide evidence that, when the Ground Leases are executed, Optionee will provide assurances of construction completion in accordance with the Ground Leases, or a letter of intent bond that is sufficient to assure State that a bond is forthcoming consistent with the Ground Leases.
  - g. Evidence of Insurance. Prior to the expiration of the Option Term, Optionee shall provide evidence of insurance coverage which will be available when the Ground Leases are fully executed, and which fully complies with the requirements of the Ground Leases.
7. Ground Lease of the Option Property. If all necessary conditions and obligations contained in this Agreement are satisfied and if Optionee elects to exercise the Option and ground lease the Option Property from the State, the State and Optionee shall

execute the Ground Leases substantially in the form agreed upon by the Parties during the Option Term. The Parties shall memorialize their agreement on the forms of the Ground Leases pursuant to an amendment to this Agreement.

8. Assignment. The qualifications and identity of Optionee are of particular concern to the State. It is because of those unique qualifications and identity that the STATE has entered into this Agreement with Optionee. Accordingly, Optionee shall not sell, assign, or otherwise transfer this Agreement or any right herein, without State's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Any purported assignment without the State's prior written consent shall render the purported assignment absolutely null and void and shall confer no rights whatsoever upon any purported assignee or transferee.
  - a. Any voluntary or involuntary transfer of fifty-percent (50%) or more of Optionee's or any permitted successor's or assign's voting common stock, or the transfer of fifty-percent (50%) or more of the partnership or membership interest, or the acquisition or transfer of fifty-percent (50%) or more of Optionee's ownership, or the transfer of substantially all of the assets of Optionee or any such successor or assign will be deemed an assignment requiring the prior written approval of State; however any transfers by partners or members of Optionee or shareholders of partners or members of Optionee to each other or for estate purposes or upon death will not be considered an assignment hereunder.
  - b. As a condition precedent to any assignment, Optionee shall provide the following to the State at least thirty (30) days prior to the proposed assignment:
    - (i) prior written notice of the proposed assignment; and
    - (ii) sufficient evidence regarding the proposed assignee's development qualifications and experience, and its financial commitments and resources, in sufficient detail to enable the State to evaluate the proposed assignee pursuant to the criteria set forth in this Section 8 and as reasonably determined by the State.

The State shall evaluate such proposed assignee on the basis of its development qualifications and experience and its financial commitments and resources and may reasonably disapprove any proposed assignee which State reasonably determines does not possess sufficient qualifications. At a minimum, such proposed assignee must be at least as qualified as Optionee.

Within thirty (30) days after the receipt of the Optionee's written notice requesting approval of an assignment pursuant to this Section 8, the State shall either approve

or disapprove such proposed assignment or shall respond in writing by stating what further information, if any, the State reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, the Optionee shall promptly furnish to the State such further information as may be reasonably requested.

8.1 No Approval Needed. Notwithstanding any other provision of this Agreement to the contrary, the State's approval of an assignment of this Agreement, or any part thereof, shall not be required in connection with any of the following:

- a. EHI may assign its interest under this Agreement to a limited partnership in which EHI or its wholly controlled affiliate, is the sole general partner, for the purposes of operating a low income housing tax credit limited partnership during the fifteen year tax credit for the compliance period pursuant to Internal Revenue Code §42(i)(1) (an "**EHI Permitted Assignment**").
- b. EHP may assign its interest under this Agreement to a Joint Powers Authority formed for the purpose of entering into the EHP Ground Lease and developing and operating the EHP Project (an "**EHP Permitted Assignment**").

In order for an EHI Permitted Assignment or EHP Permitted Assignment to be effective, the assigning Party must (i) provide the State with at least thirty (30) days' prior to such assignment and comply with the provisions of Section 8.2.

8.2 Form of Assignment and Assumption. If the State approves an assignment pursuant to this Section 8 or in conjunction with an EHI Permitted Assignment or EHP Permitted Assignment, the proposed assignee shall expressly assume all of the assigning Party obligations under this Agreement pursuant to a written agreement in form reasonably satisfactory to the State.

8.3 Release of Optionee. Except as provided hereinbelow, Optionee shall not be relieved of any obligation to be performed by Optionee under this Agreement occurring after any assignment of this Agreement. The consent by the State to any assignment shall not relieve the Optionee from the obligation to obtain State's express written consent to any other such assignment of this Agreement to the extent such express written consent is required therefor as provided in this Section 8. Consent to one assignment shall not be deemed to constitute consent to any subsequent assignment. Notwithstanding the foregoing to the contrary, (a) EHI shall not be liable for any Optionee default first arising under this Agreement after the effective date of an EHI Permitted Assignment and (b) EHP shall not be liable for any Optionee default first arising under this Agreement after the effective date of an EHP

Permitted Assignment.

9. Additional Agreements. The Parties acknowledge and agree that if Optionee exercises the Option, additional agreements may be needed in furtherance of the Ground Leases. If applicable, the Parties agree to promptly obtain all necessary approvals and execute and deliver such papers, documents and instruments and perform all acts reasonably necessary or proper to effectuate the Ground Lease.
10. Remedies. If any of the Parties fails to perform in a timely manner any obligation under this Agreement, the non-defaulting Party shall give written notice of default to the defaulting Party, specifying the nature of the default and the required action to cure the default. If a default remains uncured for thirty (30) days after receipt by the defaulting Party of such notice, (a) if the State is the non-defaulting Party, the State shall be entitled to the remedies for breach of contract that are available under applicable law, including, without limitation, the right to retain the Option Payment and terminate this Agreement upon written notice to Optionee and (b) if Optionee is the non-defaulting party, Optionee shall be entitled to the remedies for breach of contract that are available under applicable law, including, without limitation, specific performance.
11. Notices. All notices under this Agreement shall be in writing and sent by (a) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid with the United States Postal Service, (b) by a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with that courier, or (c) telecopy, email or similar means, if a copy of the notice is also sent by United States Postal Service, as follows:

If to  
OPTIONEE:                   Eden Housing, Inc.  
                                  22645 Grand Street  
                                  Hayward, CA. 94541  
                                  Attention: Andrea Osgood  
                                  aosgood@edenhousing.com

Education Housing Partners, Inc.  
39 Forrest St., Suite 202  
Mill Valley, CA 94941  
Attention: Bruce Dorfman  
bd@thompsondorfman.com

If to  
STATE:                        Department of General Services  
                                  Real Estate Services Division  
                                  707 Third Street, 5<sup>th</sup> floor (MS 505)  
                                  West Sacramento, CA 95605

Attention: Jonathan Heim  
Jonathan.Heim@dgs.ca.gov

12. Time is of the Essence. Time is of the essence for this Agreement.
13. Exhibits Incorporated by Reference. The following Exhibits are attached to this Agreement and incorporated by this reference:
- Exhibit A**: Legal Description of State Parcel
  - Exhibit B**: Map Depiction of State Parcel
  - Exhibit C**: Legal Description and Map Depiction of Option Property
  - Exhibit D**: Depiction of EHI Property and EHP Property
  - Exhibit E**: Right of Entry
14. Applicable Law. The Parties acknowledge that this Agreement has been negotiated and entered into in the State of California. The Parties expressly agree that this Agreement shall in all respects be governed by the laws of the State of California.
15. Severability. Nothing contained herein shall be construed as requiring the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present statute, law, ordinance or regulation as to which the Parties have no legal right to contract, the latter shall prevail, but the affected provisions of this Agreement shall be limited only to the extent necessary to bring them within the requirements of such law.
16. Legislative Approval. Any obligation of the State created by or arising from this Agreement shall not impose a debt upon the State but shall be payable solely out of funds duly authorized and appropriated by the California State Legislature.
17. Successor/Assigns. The Option shall be binding on Optionee's and State's successors and assigns and heirs with respect to the Option Property and shall run as a covenant against the Option Property until the termination or expiration thereof.
18. Separate Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by electronic mail in "portable document format" ("pdf") form or by any other electronic means shall constitute effective execution and delivery of this Agreement and shall have the same effect as copies executed and delivered with original signatures.
19. Entire Agreement. This Agreement represents the full, complete, and entire agreement between the Parties with respect to the subject matter hereof. The Agreement will take full force and effect upon the Effective Date.



The Parties therefore execute this Agreement.

**OPTIONEE:**

**EHI:**


Eden Housing, Inc.,  
A California nonprofit public benefit corporation:

By:   
Andrea Osgood (May 24, 2022 15:08 PDT)  
Andrea Osgood, Vice President of Real  
Estate Development

Date: May 24, 2022

**EHP:**


Education Housing Partners, Inc.,  
a California nonprofit public benefit corporation:

By:   
Bruce Dorfman (May 24, 2022 15:26 PDT)  
Bruce Dorfman, Chief Executive Officer

Date: May 24, 2022

**STATE:**


STATE OF CALIFORNIA  
Department of General Services

By:   
jason kenney (May 24, 2022 17:41 PDT)  
Jason Kenney, Deputy Director  
Real Estate Service Division

Date: 05/24/2022

**CONSENT:**

STATE OF CALIFORNIA  
DEPARTMENT OF HOUSING AND  
COMMUNITY DEVELOPMENT

By:   
Megan Kirkeby, Deputy Director  
Division of Housing Policy Development

Date: 05/24/2022

STATE OF CALIFORNIA,  
CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND REHABILITATION

By:   
Dean L. Borg, Director  
Facility Planning, Construction and  
Management

Date: 5/24/22

## EXHIBIT A

### **“LEGAL DESCRIPTION OF STATE PARCEL”**

LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF SAN QUENTIN, IN THE COUNTY OF MARIN, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Parcel One:

Beginning at Station 37 of the Final and Official Survey of the Exterior Boundary of the Rancho Punta De Quentin, said Station 37 being a point South 29° 45' East 1.87 chains from the Southeast corner of the wall enclosing the State Prison on Point San Quentin, running; thence along the shore of the Bay of San Francisco following the line of said Official Survey of said Rancho, South 18° 15' West 5 chains, 90 links to Station 38 of said exterior boundary, thence South 38° 45' West 6 chains, 07 links to Station 39 of said exterior boundary, thence North 61° 13' West 8 chains, 50 links to Station 40 of said exterior boundary; thence North 36° 15' West 7 chains, 12 links, to Station 41 of said exterior boundary line of said Rancho; thence North 30° 15' East 10 chains, 30 links to Station 42 of said exterior boundary; thence North 57° 45' West 14 chains, 90 links to Station 43 of said boundary line; thence North 85° 45' West 15 chains to Station 44 of said boundary; thence South 8° 15' East 9 chains, 5 links to Station 45 of said exterior boundary; thence South 32° 30' West 5 chains, 40 links to Station 46 of said boundary line of said Rancho; thence North 26° 30' West 14 chains, 20 links to Station 47 of said boundary; thence leaving said boundary line and crossing and subdivision the Lands of the Rancho Punta De Quentin, North 4" East 28 chains to learning line oak tree two and a half feet in diameter marked "Prison Tract 2" said oak tree being on the ridge; thence along the ridge South 72° 50' East 2 chains, 76 links to Station Post P.T. 3; thence South 55° 45' East 2 chains, 60 links to Station Post P.T. 4; thence South 81° East 13 chains, 10 links to Station Live Oak Tree two and a half feet in diameter on the Westerly slope of the ridge on the Easterly side of the San Rafael and Point San Quentin Road, said oak being marked P.T. 5; thence South 53° 30' East 11 chains, 75 links to Station Post P.T. 6; thence South 31° East 3 chains, 80 links to Station Live Oak Tree two and one half feet in diameter marked P.T. 7 said last mentioned live oak tree being on the highest point on this part of the ridge; thence South 49° 15, East 5 chains, 93 links to Station Post P.T. 8 chains, 60 links to Station Post P.T. 9; thence North 87° East 13 chains, 45 links to Station Post P.T. 10; thence descending from the ridge South 7° East 8 chains, 95 links to Station Post P.T. 11, in stone mound on the shore of the Bay of San Francisco, thence South 70° West 1 chain, 20 links to Station 36 of the exterior boundary line of the Rancho Punta De Quentin; thence along said boundary line and along the shore of the Bay of San Francisco South 46° 30' West 18 chains to the place of beginning.

Being the same property conveyed to the State of California by deed recorded in Book H of Deeds, Page 365, Marin County Records.



## EXHIBIT C

### LEGAL DESCRIPTION AND DEPICTION OF THE OPTION PROPERTY

#### Legal Description

A portion of that certain real property, situate in the County of Marin, State of California, being conveyed to the State of California by deed recorded in Book U of Deeds, Page 598, Marin County Records, being described as follows:

COMMENCING at a standard 2" brass disk monument in well, stamped "RCE 12094" at the centerline of Cove road and the northerly right of way line of Sir Francis Drake Boulevard as shown in that record map of Drake's Cove, filed in volume 2004 of Maps at Page 240, Marin County Records;

Thence, South 50°42'11" East 86.57' to the most southerly corner of Parcel D as shown on said map "Drake's Cove" and the POINT OF BEGINNING of the parcel described herein;

Thence, from said point of beginning North 5°48'26" East 767.44' to a point on the line of the westerly boundary of the parcel described herein, also being the city limits of Larkspur as shown on that amended record of survey, filed in book 13 of surveys at page 60, Marin County Records;

Thence South 49°01'02" East 303.83';

Thence South 50°52'45" East 379.40';

Thence South 16°20'34" West 290.60';

Thence South 39°07'14" West 255.91';

Thence North 68°33'41" East 245.19' to the easterly right of way line of East Sir Francis Drake Boulevard;

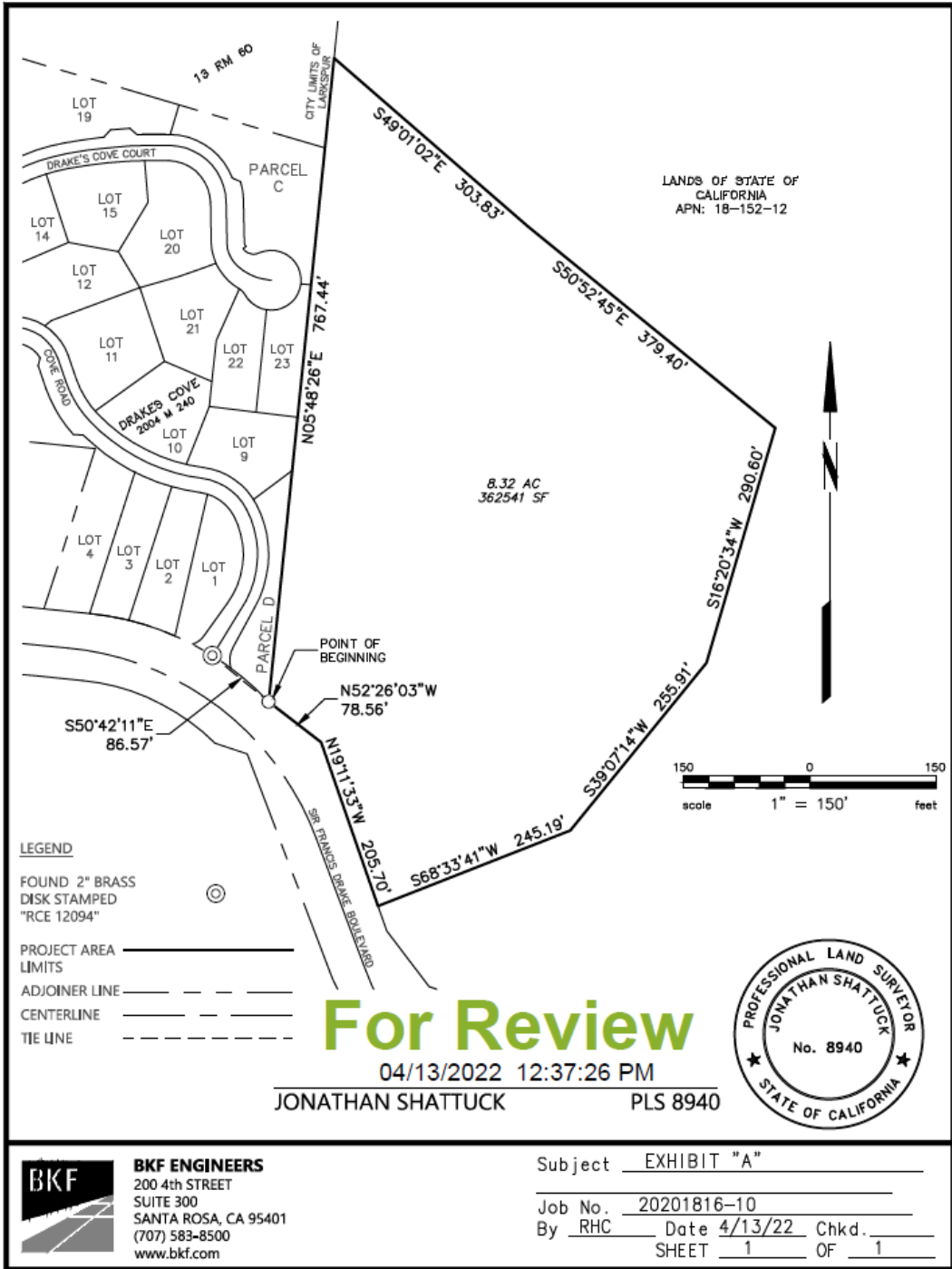
Thence along said easterly right of way line of Sir Francis Drake Boulevard North 19°11'33" West 205.70';

Thence North 52°26'03" West 78.56' to the point of beginning.

Containing 8.32 acres, more or less, being a portion of APN 018-152-012

BASIS OF BEARING: Is the bearing between two found iron pipes on the northerly line of Sir Francis Drake Boulevard, North 84°12'00" West, shown as set 3/4" iron pipes on map entitled "Parcel Map of the Lands of Remillard in the City of Larkspur" recorded in Book 7 of Parcel Maps at Page 123, Marin County Records.

**(Approximate)**



Plot Apr 13, 2022 at 12:37pm

**BKF ENGINEERS**  
 200 4th STREET  
 SUITE 300  
 SANTA ROSA, CA 95401  
 (707) 583-8500  
 www.bkf.com

Subject EXHIBIT "A"  
 Job No. 20201816-10  
 By RHC Date 4/13/22 Chkd. \_\_\_\_\_  
 SHEET 1 OF 1

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(Approximate)

**EXHIBIT D**  
**DEPICTION OF EHI PROPERTY AND EHP PROPERTY**



**EXHIBIT E**  
**RIGHT OF ENTRY**

**(Attached)**

## RIGHT OF ENTRY AGREEMENT

### SAN QUENTIN AFFORDABLE HOUSING PROJECT

THIS RIGHT OF ENTRY AGREEMENT (“**Agreement**”), dated as of July 5, 2021 (the “**Effective Date**”), is made by and between the STATE OF CALIFORNIA (“**STATE**”), acting by and through the Director of the DEPARTMENT OF GENERAL SERVICES (“**DGS**”), with the consent of the CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR), Education Housing Partners, Inc., a California nonprofit public benefit corporation (“**EHP**”), and Eden Housing, Inc., a California nonprofit public benefit corporation (“**EHI**” and together with EHP, “**DEVELOPER**”). The STATE, EHP and EHI may be individually referred to herein as “**Party**” or collectively as the “**Parties**”. Capitalized terms used in this Agreement shall have the meanings ascribed to them by the section in which such term is first defined.

#### RECITALS

**WHEREAS**, STATE is the fee owner of that certain real property, together with all improvements located thereon, commonly referred to as San Quentin State Prison (Prison) located in San Quentin, California.

**WHEREAS**, STATE has identified developable bare land at the Prison property within Assessor's Parcel Number(s) 018-152-12 (Part), which is more particularly described and depicted in Exhibit A (the “**Property**”), attached hereto and by this reference made a part hereof.

**WHEREAS**, pursuant to that certain DGS Request for Proposal No.3\_20 issued in accordance with the Executive Order N-06-19 (the “**RFP**”), DEVELOPER submitted a responsive bid proposal to the RFP (“**Developer’s Bid Proposal**”) and DEVELOPER was selected to develop and construct the affordable housing project proposed in Developer’s Bid Proposal at the Property pursuant to a long-term ground lease (the “**Project**”).

**WHEREAS**, DEVELOPER desires to develop and construct the Project as identified in Developer’s Bid Proposal at the Property.

**WHEREAS**, DEVELOPER has requested entry onto the Property to perform activities as described herein in connection with the Project.

**NOW, THEREFORE**, in consideration of the above recitals, all of which are expressly incorporated into this Agreement, it is mutually agreed between the STATE and DEVELOPER as follows:

## AGREEMENT

1. **Right of Entry.** Upon the terms and subject to the conditions set forth in this Agreement, STATE does hereby grant to DEVELOPER and DEVELOPER's authorized employees, contractors, consultants, representatives, and agents (collectively, "**Developer's Representatives**") the non-exclusive right to enter and exit upon the Property, at reasonable times during ordinary business hours, to perform the following permitted activities at the sole cost and expense of DEVELOPER (collectively, the "**Permitted Activities**"):

(a) to conduct non-destructive inspections, investigations, tests and studies (including, without limitation, investigations with regard to zoning, building codes and other governmental regulations, architectural inspections, engineering tests, economic feasibility studies and soils, seismic and geologic reports, environmental testing and investigations to determine, among other things, if all needed entitlements can be procured in an acceptable form to develop and construct the Project as identified in DEVELOPER'S Bid Proposal at the Property) with respect to the Property as DEVELOPER may elect to make or maintain. Nothing herein shall authorize any subsurface testing or drilling on the Property by DEVELOPER or DEVELOPER'S Representatives unless specifically approved in writing by STATE, which STATE may condition or deny in its sole and absolute discretion. As a condition to this Agreement, DEVELOPER shall provide STATE, at no cost and without warranty as to correctness, copies of all reports, inspections, investigations, tests, studies and evaluations that were generated by DEVELOPER and/or by DEVELOPER's Representatives in accordance with this Agreement with respect to the Property, including, but not limited to, all environmental reports, surveys, marketing reports, geotechnical reports, studies, maps and engineering studies, lot studies and improvement plans.

(b) STATE reserves the right to approve or reject all activities on the Property (including Permitted Activities) in part or in whole. If STATE requests that a part or all of any activity be changed, DEVELOPER shall comply immediately with STATE'S request.

(c) At least two (2) days prior to the DEVELOPER accessing the Property (the "Notice Period") to perform any of the Permitted Activities, DEVELOPER shall submit the following information via email to [Joshua.palmer@dgs.ca.gov](mailto:Joshua.palmer@dgs.ca.gov):

- Requested access date (can be multiple days)
- Requested access time (start and finish)
- Company name (include subcontractors if any)
- Names of all personnel requesting access
- Specific location of inspection (cite area as identified on an attached map exhibit)

- Detailed description of the anticipated inspection

**2. Term.** The term of this Agreement shall commence on the Effective Date and end on July 5, 2022, or such longer period if agreed to in writing by STATE and DEVELOPER.

**3. Early Termination.** Either Party may terminate this Agreement at any time by giving written notice to the other Party at least thirty (30) days prior to the date when such termination shall become effective.

**4. Compliance with Laws.** DEVELOPER shall conduct said Permitted Activities in compliance with all applicable federal, state, and municipal statutes and ordinances, and with all applicable regulations, orders, and directives of appropriate governmental agencies (collectively, the "**Laws and Regulations**"), as such Laws and Regulations exist at the time of the Permitted Activities.

**5. Restoration.** DEVELOPER shall promptly return any portions of the Property damaged or altered by DEVELOPER and/or Developer's Representatives to substantially the same condition which existed prior to conducting any inspections, investigations, tests and studies permitted in Section 1(a) above or elsewhere in this Agreement. In the event DEVELOPER fails to promptly restore Property in accordance with the preceding sentence, STATE may, in its sole and absolute discretion, restore the Property and all costs and expenses shall be paid immediately by DEVELOPER upon demand by STATE.

**6. Mechanic's Lien / Stop Notices – Removal of Liens.** Although STATE believes that California law prohibits any mechanics' lien from attaching to the Property, nevertheless, DEVELOPER shall not cause or permit any liens to attach or to be placed upon or encumber the Property or permit the filing of a stop notice against the STATE, arising from project equipment, project materials, or resulting out of any work performed by DEVELOPER or on behalf of DEVELOPER. If any such lien attaches, or stop notice is filed, DEVELOPER agrees to cause the lien and/or stop notice to be removed within ten (10) Business Days of notification thereof by the posting of a stop notice release bond or lien release bond, payment of the lien and/or stop notice lien or otherwise. If DEVELOPER fails to remove the lien within this time period, the STATE may undertake to cause such lien and/or stop notice to be removed and charge to DEVELOPER any costs and expenses incurred in connection with the removal of said lien. DEVELOPER agrees to hold harmless, defend and indemnify the STATE against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing any such lien and/or stop notice.

**7. Indemnity.** Other than a violation or breach of the terms of this Agreement by STATE, DEVELOPER waives all claims against STATE, its agencies, departments, boards, commissions, officers, agents, and employees (collectively "**Indemnitees**"), for loss or damage caused by, arising out of, or in any way connected with DEVELOPER's exercise of this Agreement. DEVELOPER shall protect, indemnify, and hold Indemnitees

harmless and defend Indemnitees, with counsel selected by Indemnitees, from and against any suits, actions, judgments, legal or administrative proceedings, arbitrations, claims, demands, causes of action, damages, liabilities, interest, reasonable attorneys' fees, fines, penalties, losses, costs and expenses of whatsoever kind or nature, arising out of, in connection with or incidental to any injury to or the death of any person, or damage to any property arising out of, caused by, or resulting from (in whole or in part) the action or inaction of DEVELOPER and/or Developer's Representatives in connection with DEVELOPER's exercise of this Agreement. DEVELOPER's duty to defend the Indemnitees is separate from, independent of and free-standing of DEVELOPER's duty to indemnify the Indemnitees and applies whether the issue of either Parties' negligence, breach of contract or other fault or obligations has in any way been determined. The indemnity set forth in this section shall survive the termination of this Agreement until such time as action against the Indemnitees on account of any matter covered by this indemnity is barred by the applicable statute of limitations.

DEVELOPER shall cause such indemnification in favor of the Indemnitees to be inserted in each contract and/or agreement for the provision of services to DEVELOPER on the Property or entry onto the Property by DEVELOPER 'S contractors, subcontractors, consultants, representatives, and agents. DEVELOPER'S failure to comply with this indemnification provision shall be considered a material breach of this Agreement.

**8. Waiver.** DEVELOPER understands that the Property is located within proximity to an active, operational, outdoor firing range and State prison property commonly referred to as "San Quentin State Prison" (Prison). DEVELOPER knowingly and freely hereby assumes the inherent risks involved in the exercise of the rights herein even if arising from the negligence of CDCR or other agencies using the firing range, potential state inmate escape from the Prison or other safety risks originating from the Prison. Developer understands that there is a risk of injury or death due to DEVELOPERS presence within the proximity of the prison facility and firing range. DEVELOPER shall make deliberate and effective efforts to avoid activities within the Prison's proximity and agrees to comply with CDCR's instructions relative to public safety from safety risks emanating from the Prison.

DEVELOPER hereby releases and holds CDCR as well as its officers, directors, representatives, agents and/or employees, contractors, subcontractors or volunteers harmless WITH RESPECT TO ANY AND ALL INJURY, COSTS, LIABILITY, DISABILITY, DEATH and/or loss or damage to person or property incurred by DEVELOPER in connection with its presence at the Property or proximity to the Prison by unknowingly or accidentally entering the Prison operation's sphere of influence, including unsafe proximity to the firing range, to the fullest extent permitted by law.

**9. Notices.** All notices or other communications required or permitted hereunder shall be in writing, and sent by overnight courier, registered mail, telecopy or similar means, certified mail or postage prepaid mail to the addresses set forth below. All such notices shall be deemed received on the date of delivery receipt or rejection to the

address of the person to receive such notice if received Monday through Friday during business hours, so long as such day is not a State or Federal holiday or Saturday or Sunday then such notice shall be effective on the following business day.

To DEVELOPER:  
Eden Housing, Inc.  
22645 Grand Street  
Hayward, CA. 94541  
Attention: Andrea Osgood

Education Housing Partners, Inc  
39 Forrest St.  
Mill Valley, CA. 94941  
Attention: Bruce Dorfman

To STATE:           **Department of General Services**  
Real Estate Services Division  
707 3rd Street, 5<sup>th</sup> Floor  
West Sacramento, CA 95605  
Attention: Josh Palmer

10. Insurance. Prior to any entry onto the Property and/or commencement of the Permitted Activities under the terms of this Agreement, DEVELOPER and Developer's Representatives shall each, at their own expense, provide to STATE evidence of insurance as follows:

(a) Commercial General Liability. DEVELOPER and Developer's Representatives shall maintain commercial general liability on an occurrence form with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage liability naming the State of California, its officers, agents and employees as additional insured. The certificate of insurance and endorsements shall be delivered to the **Department of General Services, 707 3rd Street, MS 501, West Sacramento, CA 95605.** Said certificate of insurance and endorsements shall be issued by an insurance company with a rating of not less than A-X in Best's Insurance Guide. STATE reserves the right to review and reasonably adjust insurance requirements as necessary during the term of this Agreement.

(b) Workers' Compensation and Employers' Liability. DEVELOPER and Developer's Representatives shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Permitted Activities, including special coverage extensions where applicable, with employer's liability limits of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00). The policy shall contain a waiver of subrogation in favor of the State of California.

(c) Automobile Liability. DEVELOPER and Developer's Representatives shall maintain motor vehicle liability with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. The same additional insured designation and endorsement required for general liability is to be provided for this coverage.

(d) General Requirements. DEVELOPER shall ensure that the following general requirements are met:

(i) Insurance companies must be acceptable to Department of General Services, Office of Risk and Insurance Management.

(ii) The certificates of insurance shall provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to STATE.

(iii) All required insurance shall be in effect at all times during the term of this Agreement, all extensions thereof, holdover periods or any other occupancy of the Property by DEVELOPER and/or Developer's Representatives.

(iv) If insurance expires during the term of the Agreement, a new certificate must be received by STATE within thirty (30) days of the expiration date of the existing policy. This new insurance must still meet the terms of this Agreement.

(v) DEVELOPER shall notify the STATE within five business days of DEVELOPER's receipt of any notice of cancellation or non-renewal of any insurance required by this Agreement.

(vi) DEVELOPER is responsible for any deductible or self-insured retention contained within the insurance program.

(vii) In the event DEVELOPER fails to keep in effect at all times the required insurance coverages, the STATE may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

(viii) Any insurance required to be carried shall be primary, and not excess, to any other insurance carried by STATE.

(ix) If DEVELOPER is self-insured in whole or in part as to any of the above described types and levels of coverage, DEVELOPER shall provide STATE with written acknowledgment of this fact at the time of the execution of this Agreement. STATE may require financial information to justify DEVELOPER's self-insured status. If, at any time after the execution of this Agreement, DEVELOPER abandons its self-insured status, DEVELOPER shall immediately notify STATE of this fact and shall comply with all of the terms and conditions of this Insurance clause pertaining to policies of insurance in regard to those types and levels of insurance.

(x) It is agreed that STATE shall not be liable for the payment of any premiums or assessments on the required insurance coverage.

**11. Sublet and Assignment of Agreement.** DEVELOPER shall not sublet, assign or allow any other use of the Property other than the Permitted Activities, or as

otherwise set forth in the Agreement.

**12. Rights of Parties.** This Agreement shall not be interpreted as creating any easement or any covenant or condition running with the land or any further right with respect to any related real property other than as specifically provided herein. The rights of DEVELOPER and its successors and assigns hereunder will be subordinate and subject to the rights of the holder of any mortgage, deed of trust, or other encumbrance against the Property now or hereafter granted or created by STATE against the Property.

**13. Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of California.

**14. Amendments.** This Agreement may be amended, changed, or modified only by written agreement executed by DEVELOPER and STATE. No waiver or any provision of this Agreement will be valid unless in writing signed by the party charged therewith.

**15. Severability.** If any provision of this Agreement is determined to be illegal or unenforceable, this determination shall not affect any other provision of this Agreement, and all other provisions shall remain in full force and effect.

**16. Separate Counterparts and Photocopies.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by electronic mail in “portable document format” (“pdf”) form or by any other electronic means shall constitute effective execution and delivery of this document and shall have the same effect as copies executed and delivered with original signatures.

**17. Entire Agreement** - This Agreement represents the full, complete, and entire agreement between the Parties with respect to the subject matter hereof. The Agreement shall not be in full force and effect except upon approval and signature on behalf of the Director of the Department of General Services.

**[Remainder of Page Intentionally Left Blank]**

**Signature Page Follows**

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

STATE OF CALIFORNIA  
DIRECTOR OF DEPARTMENT OF GENERAL  
SERVICES

By: \_\_\_\_\_  
Jason Kenney, Deputy Director  
Real Estate Services Division

**EHI:**  
Eden Housing, Inc.,  
a California nonprofit public benefit corporation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Andrea Osgood  
Vice President of Real Estate

**EHP:**  
Education Housing Partners, Inc.,  
a California nonprofit public benefit corporation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Bruce Dorfman  
Chief Executive Officer

**CONSENT:**

STATE OF CALIFORNIA  
California Department of Corrections and Rehabilitation

By: \_\_\_\_\_  
Dean L. Borg, Director  
Facility Planning, Construction and Management

# EXHIBIT A



Red arrow indicates approved access gate. Red dashed line establishes the upper most portion of the 'bowl' within which access is permitted.



Red line establishes the limit of allowed access. Access to the surrounding ridge is not permitted.

**No other area of the CDCR San Quentin property is to be accessed without prior written permission.**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

STATE OF CALIFORNIA  
DIRECTOR OF DEPARTMENT OF GENERAL  
SERVICES

By: *Jason Kenney*  
Jason Kenney (Sep 8, 2021 12:09 PDT)  
Jason Kenney, Deputy Director  
Real Estate Services Division

**EHI:**  
Eden Housing, Inc.,  
a California nonprofit public benefit corporation

By: Andrea Osgood Digitally signed by Andrea Osgood  
Date: 2021.09.08 09:36:02 -0700' Date: 09/08/2021  
Andrea Osgood  
Vice President of Real Estate

**EHP:**  
Education Housing Partners, Inc.,  
a California nonprofit public benefit corporation

By: Bruce Dorfman Digitally signed by Bruce Dorfman  
Date: 2021.09.07 18:39:41 -0700' Date: 09/06/2021  
Bruce Dorfman  
Chief Executive Officer

**CONSENT:**

STATE OF CALIFORNIA  
California Department of Corrections and Rehabilitation

By: *Dean L. Borg*  
Dean L. Borg, Director  
Facility Planning, Construction and Management









# SQ Ground Lease Option Agreement-Affordable Housing final 052422

Final Audit Report

2022-05-24

Created:	2022-05-24
By:	Teddy Newmyer (Teddy.Newmyer@edenhousing.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAhFqIjiW45kQU28zW2IOID7BptthGpshy

## "SQ Ground Lease Option Agreement-Affordable Housing final 052422" History

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