

RESOLUTION NO. 3378

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AUTHORIZING THE LEASING OF CERTAIN REAL PROPERTY BY THE TOWN OF PAYSON, ARIZONA, TO DANCO COMMUNITIES INC.; AUTHORIZING AND DIRECTING THE MAYOR, TOWN MANAGER AND TOWN ATTORNEY TO PERFORM ALL ACTS NECESSARY TO EFFECTUATE THE LEASE .

WHEREAS, the Town desires to enter into a Ground Lease Option Agreement, attached hereto as **Exhibit A** with Danco Communities Inc., a California corporation, for the leasing of the Property for the development of an affordable apartment community as described in the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA:

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. That the Mayor, Town Manager and Town Attorney are hereby authorized to sign and directed to enter into the Ground Lease Option Agreement (**Exhibit A**) with Danco Communities Inc., a California corporation; and

Section 3. That the Mayor, Town Manager and Town Attorney are authorized to perform all acts necessary to effectuate the Ground Lease Option Agreement for the purposes described in this resolution on behalf of the Town.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this ___ day of _____, 2024, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Chris Higgins, Mayor

ATTEST:

APPROVED AS TO FORM:

Tracie Bailey, Town Clerk

Jon Paladini, Pierce Coleman PLLC
Town Attorney

CERTIFICATION OF RECORDING
OFFICER

STATE OF ARIZONA)
County of Gila) ss.

I, the undersigned Tracie Bailey, being the duly appointed, qualified Town Clerk of the Town of Payson, Gila County, Arizona, certify that the foregoing Resolution No. _____ is a true, correct and accurate copy of Resolution No. _____ passed and adopted at a Voting Meeting of the Council of the Town of Payson, Gila County, Arizona, held on the ___ day of _____ 2024, at which a quorum was present and, by a majority vote, ___ voted in favor of said resolution.

Given under my hand and sealed this ___ day of _____, 2024.

Seal

Town Clerk

Exhibit A

GROUND LEASE OPTION AGREEMENT

GROUND LEASE OPTION AGREEMENT

THIS GROUND LEASE OPTION AGREEMENT (this “**Agreement**”) is entered into as of the ___ day of March, 2024 (the “**Effective Date**”), by and between the TOWN OF PAYSON, an Arizona municipal corporation (“**Optionor**”), and DANCO COMMUNITIES, a California corporation (“**Optionee**”). Optionor and Optionee are sometimes referred to collectively herein as the “**Parties**.”

RECITALS

A. Optionor has entered into a Vacant Land/Lot Purchase Contract with Payson 30, LLC, as seller, dated _____, 2024 (the “**Purchase Agreement**”) pursuant to which the Optionor intends to acquire that certain real property consisting of the approximately 5-acre portion of land depicted on Exhibit B which is a portion of APN: 304-02-015 as legally described on Exhibit A located in the Town of Payson (“**Town**”), County of Gila (“**County**”), State of Arizona (the “**Property**”).

B. Optionor and Optionee desire to enter into this Agreement to provide for Optionor to grant to Optionee and for Optionee to obtain from Optionor an option to ground lease the Property for the development of an affordable apartment community thereon (the “**Project**”) upon the terms more particularly set forth in this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

AGREEMENT

1. Grant of Option.

(a) Option. Optionor hereby grants to Optionee the option (the “**Option**”) to lease the Property on the terms and conditions set forth in this Agreement.

(b) Lease Form. Prior to the exercise of the Option, Optionor and Optionee shall agree on the final form, terms and conditions of the ground lease for the Property (“**Lease**”), which Lease shall incorporate the basic terms set forth on Exhibit “A” attached hereto. If Optionor and Optionee cannot agree in writing on the form, terms and conditions of the Lease prior to the expiration of the Term (as hereinafter defined), this Agreement and the Option shall automatically terminate, without the need of any notice or documentation, and neither party shall have any further rights or obligations hereunder.

2. Term of Option.

(a) Term. The term of the Option shall be for a period commencing on the Effective Date and ending 5:00 p.m. MST on the date that is twenty-four (24) calendar months therefrom (the “**Term**”).

(b) Exercise of Option. At any time during the Term after agreement of the form, terms and conditions of the Lease and provided that the project's construction financing is prepared to close concurrently with the execution of the Lease, Optionee may exercise the Option by giving written notice to Optionor of its exercise of the Option (the "**Option Notice**"). Promptly after the exercise of the Option, Optionee and Optionor shall execute and deliver the Lease.

(c) Expiration. The Option shall expire at 5:00 p.m. MST on the last day of the Term. If the expiration date of the Term falls on a Saturday, Sunday or other day on which banks are not generally open in the State of Arizona, then the expiration date shall be extended to the next following business day.

(d) Completion and Timing of Lease. The lease of the Property shall be carried out through an escrow with an escrow company mutually agreed upon between the Parties ("**Escrow Holder**") concurrently with the closing of the Optionee's Project's construction financing ("**Closing**"), no later than thirty (30) days after Optionor's receipt of the Option Notice.

3. Option Consideration. The Option is granted in consideration of Optionee's payment to Optionor of the sum of Ten Dollars (\$10.00). Optionee shall pay such amount to Optionor upon the execution of this Agreement.

4. Optionor's Cooperation in Seeking Permits and Approvals. During the Term, Optionee may meet with all Town, County, and other governmental entities to discuss Optionee's proposed development of, and other matters relating to, the development of the Property and may obtain all project approvals that Optionee may deem necessary or advisable in connection therewith. Provided Optionor does not incur any liabilities or out-of-pocket costs except those authorized by Optionor and without binding the Property prior to the execution and delivery of the Lease in any way, Optionor agrees to cooperate with Optionee in any such matters and execute any and all documents or join in any applications that may be required to obtain all such project approvals in connection with the Property.

5. Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, (ii) one business day after being deposited with Federal Express or another reliable overnight courier service for next day delivery, (iii) upon electronic mail transmission (except that if the date of such transmission is not a business day, then such notice shall be deemed to be given on the first business day following such transmission), or (iv) two business days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

Optionee: Danco Communities
5251 Ericson Way
Arcata, CA 95521
Attention: Chris Dart
email: chris@danco-group.com

Optionor: Town of Payson
3030 North Beeline Highway
Payson, AZ 85541
Attention: _____
email: _____

Either party may change its address for the purposes of this paragraph by giving prior written notice of the change to the other party in the manner provided in this Section.

6. Assignment of Option. Prior to exercising the Option, Optionee shall assign its rights and obligations under this Agreement to a to-be-formed limited partnership whose administrative general partner is an affiliate of Optionee (the “**Partnership**”), without the consent of but with notice to the Optionor. The Partnership shall be the counterparty to the Lease. Except as provided in the preceding sentence, Optionee may not assign its rights or obligations under this Agreement without the prior written consent of Optionor.

7. Binding Effect. This Agreement and its terms and conditions shall be binding upon and inure to the benefit of the parties to this Agreement and their respective successors and permitted assigns.

8. Time. Time is of the essence of this Agreement.

9. Further Documents. Upon the reasonable request of the other party, each party will execute, acknowledge and deliver or cause to be executed, acknowledged and delivered, such further instruments and documents as may be reasonably necessary in order to carry out the intent and purpose of this Agreement, including escrow instructions.

10. Exhibits. All exhibits attached to this Agreement and referred to in this Agreement are incorporated into this Agreement by this reference as though they were fully set forth in this Agreement.

11. Real Estate Commission. No real estate commission is owed by either the Optionee or the Optionor, and each party hereby indemnifies, protects, defends (with legal counsel acceptable to the other party) and holds the other party free and harmless from and against any and all costs and liabilities, including, without limitation, reasonable attorneys’ fees, for causes of action or proceedings that may be instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of such party in connection with this transaction.

12. Captions. The captions of the sections/paragraphs of this Agreement are for convenience and reference only, and the words contained in the captions shall in no way be held to explain, modify, amplify or aid in the interpretations, constructions or meaning of the provisions of this Agreement.

13. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but any number of which, taken together, shall be deemed to constitute one and the same instrument. This Agreement may be validly executed and delivered by facsimile, electronic mail and/or portable document format (collectively, “**Electronic**

Copy”). Any signer who executes this document and transmits this document by Electronic Copy intends that the Electronic Copy of their signature is to be deemed an original signature for all purposes. Any such Electronic Copy printout and any complete photocopy of such Electronic Copy printout is deemed to be an original counterpart of this document.

14. Attorney’s Fees. In any action between Optionee and Optionor to enforce or interpret any of the terms of this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including, without limitation, reasonable attorneys’ fees and expert witness fees.

15. Entire Agreement. This Agreement contains the entire agreement between the parties respecting the matters set forth herein, and supersedes all prior agreements between the parties respecting such matters.

[SIGNATURES ON FOLLOWING PAGE]

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

“Optionee”

DANCO COMMUNITIES,
a California corporation

By: _____
Daniel Johnson
President

“Optionor”

CITY OF PAYSON, an Arizona municipal
corporation

By: _____
Name: _____
Title: _____

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF GILA, STATE OF ARIZONA AND IS DESCRIBED AS FOLLOWS:

Parcel D of Record of Survey / Minor Land Division Survey, recorded as Survey Map No. 5047, Records of Gila County, Arizona, being a portion of Northwest quarter of Section 3, Township 10 North, Range 10 East, Gila and Salt River Base and Meridian, Gila County, Arizona.

EXHIBIT "B"

PROPERTY DEPICTION

EXHIBIT “C”

TERMS OF GROUND LEASE

1. The term of the Lease will be for ninety-nine (99) years.
2. The Property shall be leased to the Partnership solely for the development and operation of an affordable apartment community for rental to low-income households (the “**Project**”).
3. The Partnership shall pay a capitalized upfront rent payment to the Optionor concurrently with the execution of the Lease in the amount of the appraised fair market value of the Property as determined by an appraisal to be performed by an independent appraiser selected by Optionee who is a member of the Master Appraiser Institute and who has experience appraising similar properties in the geographic area in which the Property is located.
4. The Project shall be owned by the Partnership until the expiration or sooner termination of the Lease. Upon the expiration or sooner termination of the Lease, the Project shall become the property of Optionor.
5. Optionor will not sell, mortgage, or otherwise encumber its fee interest in the Property, unless the documents evidencing and securing such sale, mortgage or encumbrance include subordination and non-disturbance language ensuring the protection of the leasehold interest created by the Lease, to the Partnership’s reasonable satisfaction. The Partnership shall be granted a right of first refusal to purchase the fee interest in the Property, should the Property ever be offered for sale.
6. The Lease shall be on a triple-net basis with the Partnership being responsible for all expenses of the Project and Property.
7. The Lease will permit the Partnership to encumber the leasehold estate and will contain customary mortgagee protection provisions acceptable to the Partnership’s construction and permanent lender and tax credit investor.
8. The Partnership will be responsible for constructing and maintaining the Project on the Property at its sole cost and expense.
9. The commencement date of the Lease shall mean and refer to the date of the Closing.
10. The Partnership shall bear all escrow fees. Each party shall bear its own costs in connection all title insurance premiums associated with any title insurance coverage, including the cost of any title endorsements, and all recording costs.
11. The Lease shall contain representations and warranties from Optionor and the Partnership to be agreed to by the Parties. Otherwise, the Property shall be acquired by the Partnership in its AS-IS, WHERE-IS condition.

Exhibit B

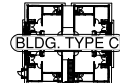
DEPICTION OF LEASED PREMISES



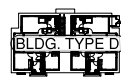
BUILDING A
 (8) BUILDING'S TOTAL
 (12) 2-BDRM UNITS & (6) 3-BDRM UNITS
 FOOTPRINT - 4,509 S.F.
 MAXIMUM HEIGHT - 42'-0" (3) STORY
 OCCUPANCY B/A-3
 FULLY SPRINKLERED PER NFPA 13
 CONSTRUCTION TYPE: VA



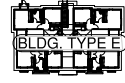
BUILDING B
 (3) BUILDING'S TOTAL
 (8) 2-BDRM UNITS & (4) 3-BDRM UNITS
 FOOTPRINT - 4,509 S.F.
 MAXIMUM HEIGHT - 30'-0" (2) STORY
 OCCUPANCY B/A-3
 FULLY SPRINKLERED PER NFPA 13
 CONSTRUCTION TYPE: VA



BUILDING C
 (2) BUILDING'S TOTAL
 (12) 1-BDRM UNITS
 FOOTPRINT - 3,487 S.F.
 MAXIMUM HEIGHT - 42'-0" (3) STORY
 OCCUPANCY B/A-3
 FULLY SPRINKLERED PER NFPA 13
 CONSTRUCTION TYPE: VA



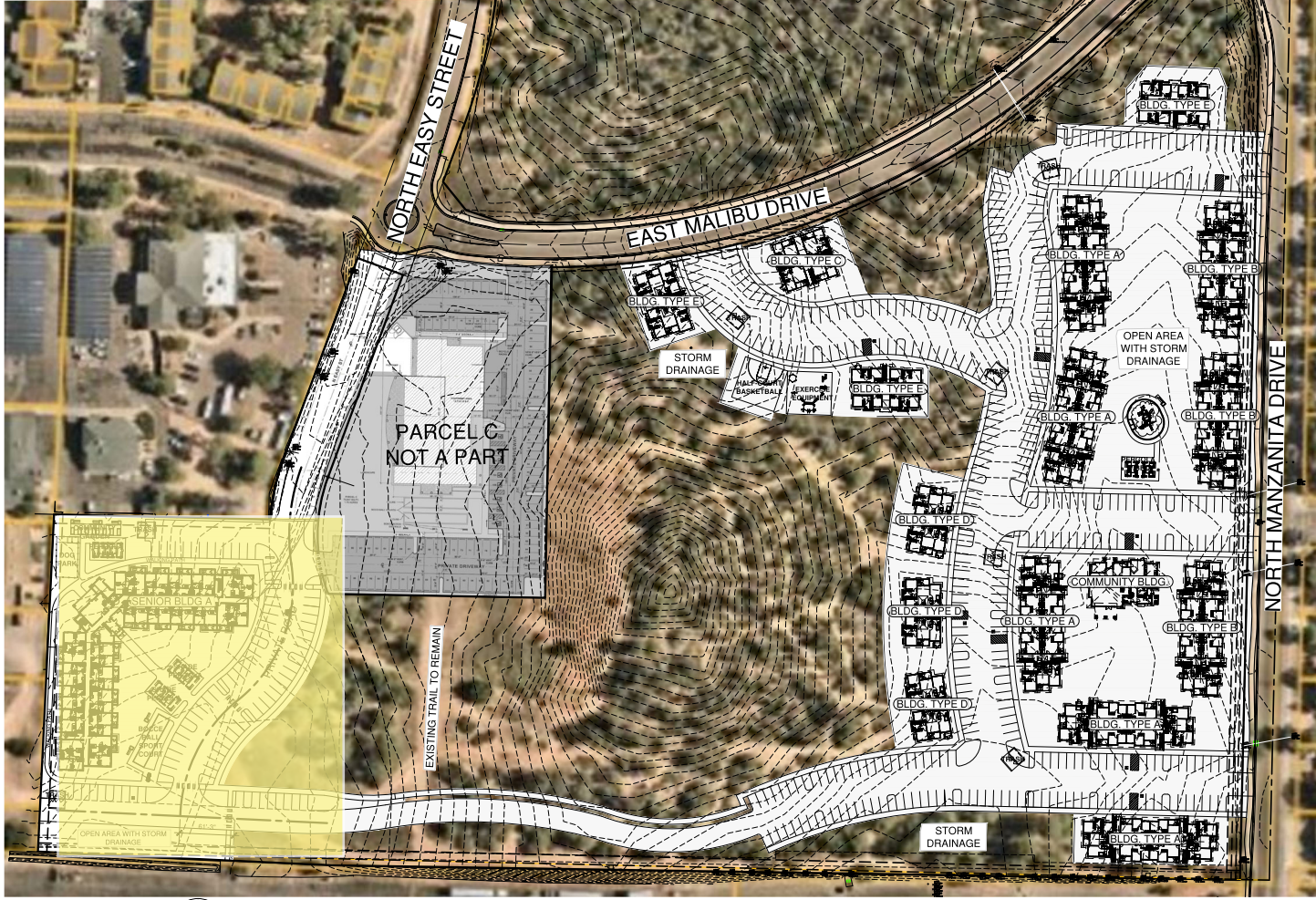
BUILDING D
 (3) BUILDING'S TOTAL
 (6) 3-BDRM UNITS
 FOOTPRINT - 2,983 S.F.
 MAXIMUM HEIGHT - 42'-0" (3) STORY
 OCCUPANCY B/A-3
 FULLY SPRINKLERED PER NFPA 13
 CONSTRUCTION TYPE: VA



BUILDING E
 (4) BLDG. TOTAL
 (6) 4-BEDROOM UNITS
 FOOTPRINT - 3,346 S.F.
 MAXIMUM HEIGHT - 42'-0" (3) STORY
 OCCUPANCY B/A-3
 FULLY SPRINKLERED PER NFPA 13
 CONSTRUCTION TYPE: VB



COMMUNITY BUILDING
 (1) BUILDING TOTAL
 FOOTPRINT - 3,488 S.F.
 MAXIMUM HEIGHT - 23'-0" (1) STORY
 OCCUPANCY B/A-3
 FULLY SPRINKLERED PER NFPA 13
 CONSTRUCTION TYPE: VB



SITE PLAN
 SCALE: 1" = 60'-0"

APPLICANT
 DANCO GROUP
 CHRIS DART
 5251 ERICSON WAY
 ARCADIA, CALIFORNIA 95521
 (707) 822-0000

ARCHITECT
 DG GROUP ARCHITECTURE, PLLC
 DOUGLAS GIBSON
 430 E. STATE STREET, SUITE 100
 EAGLE, IDAHO 83616
 (208) 461-0022 X3024

ACCESSIBILITY

	# OF UNITS	PERCENTAGE
ACCESSIBLE UNITS (4% TOTAL)	3	5.00%
SENSORY IMPAIRED UNITS (2% TOTAL)	2	2.00%

PHASE I - SENIOR UNIT MIX SUMMARY

	NET SQ. FOOTAGES
(42) 1-BEDROOM UNITS	142 x 699 S.F. = 28,338 S.F.
(18) 2-BEDROOM UNITS	(18) x 832 S.F. = 14,976 S.F.
(60) UNITS TOTAL	43,314 S.F.
COMMUNITY BUILDING	X XXXX S.F.
TOTAL	43,314 S.F.

FIRE SPRINKLER
 AUTOMATIC FULLY SPRINKLERED SYSTEM WITH CENTRAL CALL STATION, OFF-SITE MONITORING AND FDCS

TOTAL SITE SIZE
 183,729 S.F. = (4.23) ACRES ±
 XX XX DWELLING UNITS/ACRE

PHASE I - SENIOR LOT
 XX XXX S.F. ± (XX XX ACRES) ±
 XX XX DWELLING UNITS/ACRE

SITE COVERAGE

	SQ. FT.	PERCENTAGE
BUILDING FOOTPRINTS	19,962 S.F.	13.08%
ON-SITE ASPHALT CONCRETE PAVING	XX,XXX S.F.	XXX.00%
SITE AMENITIES (PERGOLAS, TOT/LOTS, POOL)	X,XXX S.F.	XX.00%
CONCRETE WALKS & PADS	XX,XXX S.F.	X,XXX%
LANDSCAPE, OPEN SPACE	XX,XXX S.F.	XX,XXX%
TOTAL AREA	19,962 S.F.	100%

NOTE: * ALL NUMBERS PROVIDED ARE ESTIMATED FOR SITE COVERAGE

PARKING SUMMARY
PHASE I - SENIOR LOT

TOTAL MULTI-FAMILY REQUIRED BY CITY OF PAYSON TABLE 154-04 C:
 (42) 1-BDRM UNITS X 1 = 42 SPACES REQUIRED
 (18) 2-BDRM UNITS X 1.5 = 27 SPACES REQUIRED
 TOTAL SPACES REQUIRED: 69 SPACES

TOTAL PROVIDED: 74 (INCLUDING 6 ADA SPACES)

COVERED SPACES PROVIDED: NONE

BICYCLE PARKING (1TBD) SPACES PROVIDED

REVISIONS

NO.	DESCRIPTION
02/23/24	
02/23/24	
02/23/24	

PROJECT: DMC22-20



THIS DRAWING COVERS AREAS WITHIN THE CITY OF PAYSON, ARIZONA. THE CITY OF PAYSON IS AN INCORPORATED CITY AND IS NOT A PART OF THE STATE OF ARIZONA. THE CITY OF PAYSON IS NOT A PART OF THE COUNTY OF COCONINO, ARIZONA. THE DRAWING IS NOT TO BE USED FOR CONSTRUCTION UNLESS IT IS APPROVED BY THE ARCHITECT.

DG GROUP ARCHITECTURE PLLC
 430 E. STATE STREET, SUITE 100
 EAGLE, IDAHO 83616
 (208) 392-1268 FAX
 (208) 392-1268

ALBUQUERQUE, ARIZONA, CALIFORNIA, COLORADO, ILLINOIS, KANSAS, IOWA, KENTUCKY, LOUISIANA, MONTANA, NEVADA, NEW MEXICO, NORTH CAROLINA, OREGON, SOUTH DAKOTA, TEXAS, UTAH, WASHINGTON, WYOMING

PAYSON, AZ

PROJECT: **PAYSON APARTMENTS**
 E. MALIBU DR. & N. MANZANITA DR.

A1.1
 ARCHITECTURAL SITE PLAN

SCHEMATIC DESIGN / NOT FOR CONSTRUCTION