

SUBLEASE AND AFFORDABLE HOUSING FACILITIES AGREEMENT

THIS SUBLEASE AND AFFORDABLE HOUSING FACILITIES AGREEMENT is made as of October ____, 2013 between the TOWN OF GREENBURGH, a municipal corporation of the State of New York, constituting a political subdivision thereof, having its office at 177 Hillside Avenue, Greenburgh, NY 10607 (the "Town"), the COUNTY OF WESTCHESTER (the "County"), a municipal corporation of the State of New York, constituting a political subdivision thereof, having its office at 148 Martine Avenue, White Plains, New York 10601 and GROUP MRH, LLC. ("MRH"), a Delaware limited liability company based in Greenwich, Connecticut, having its office at 17 Torry Road, Riverside CT 06878.

WITNESSETH:

WHEREAS, the County is the owner of certain lands located adjacent to the Westchester Community College campus in the Town of Greenburgh, more particularly described in Schedule A annexed hereto; and

WHEREAS, on or about April 24, 1990, the County entered into a Ground Lease Agreement with WestHELP, a not-for-profit corporation, to construct a housing facility for the provision of emergency homeless housing and transitional housing and services to homeless persons for a ten (10) year term which expired on September 17, 2001. ("the WestHELP Lease"). The aforesaid land, together with the housing facility, are hereinafter described herein as the "Premises"; and

WHEREAS, on or about April 26, 1990, the County entered into a Ground and Facilities Lease Agreement with the Town (the "Town's Master Lease"), pursuant to which it leased the Premises to the Town for a thirty (30) year term for the purpose of providing housing to low and moderate income persons and families, commencing upon the expiration of the WestHELP Lease; and

WHEREAS, the WestHELP Lease with the County expired on September 17, 2001 and the term of the Town's Master Lease was deemed to have commenced on September 18, 2001; and

WHEREAS, on or about on September 18, 2001, pursuant to a request from the County, and to assist the County in fulfilling its obligation to provide shelter, food and other services to homeless families in conjunction with the New York State Social Services Law and applicable regulations issued pursuant thereto, the Town agreed to modify the Master Lease to permit use of the Premises by WestHELP as an emergency homeless housing facility for an additional ten (10) year term and entered into a Sublease and Homeless Housing Facilities Agreement with WestHELP and the County; and

WHEREAS, the Town was only willing to forego occupancy under the Master Lease and to permit the County and WestHELP to continue to use the Premises for the provision of housing and services to homeless families pursuant to the Sublease and Homeless Housing Facilities Agreement if the Town was able to continue to use the Premises for low and moderate income persons and families, commencing upon the expiration of the WestHELP Lease; and

WHEREAS, the Sublease and Homeless Housing Facilities Agreement with WestHELP and the County expired on September 30, 2011; and

WHEREAS, the Town desires to enter into this Sublease Agreement with Group MRH, LLC for the remaining term of the Town's Lease with the County for the provision of affordable housing;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration receipt of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Sublease Grant, Premises and Term.

The Town hereby subleases to Group MRH, LLC, and Group MRH, LLC hereby takes and hires from the Town, upon and subject to the terms, conditions, covenants and provisions hereof, the Premises, comprising the land and housing facility hereinabove described, for a term commencing on the date this Sublease Agreement is executed and expiring on September 30, 2031, unless sooner terminated as herein provided.

The said Premises are subleased to Group MRH, LLC and Group MRH, LLC accepts same in its present physical condition, without any representation or warranty by the Town as to the condition thereof or as to the use or occupancy which may be made thereof under any existing or future law, rule, regulation or ordinance. The Town shall not be responsible for any latent defect in the Premises.

The Town makes no representations to Group MRH, LLC as to the condition of the Premises and also makes no warranties, express or implied, to Group MRH, LLC. The Town shall have no obligations whatsoever to maintain, repair or replace the land, buildings or infrastructure of the Premises during the term of this Sublease Agreement.

The County makes no representations to Group MRH, LLC as to the condition of the Premises and also makes no warranties, express or implied, to Group MRH, LLC. The County shall have no obligations whatsoever to maintain, repair or replace the land, buildings or infrastructure of the Premises during the term of this Sublease Agreement.

Group MRH, LLC is hereby granted access to the Premises by way of the current access road, which connects the Premises to Westchester Community College Entrance Road connecting to Knollwood Road. Group MRH, LLC shall have the responsibility of maintaining, repairing and cleaning any access roads to the Premises and all duties associated with weather conditions during the term of this Sublease Agreement.

Group MRH, LLC is hereby sublicensed for the ingress and egress to the Premises within thirty (30) feet of either side of any roads, improvements, utilities and/or appurtenances servicing the Premises and in order to allow for the maintenance and repair of any roads, improvements, utilities and/or appurtenances.

SECTION 2. Rent.

The annual rent shall be Five Hundred Thousand Dollars (\$500,000) per year paid monthly for the balance of the Lease Term. The full first year rent shall be payable upon the execution of this Sublease Agreement. Also upon execution of this Sublease Agreement, Group MRH, LLC shall deposit One Million Dollars (\$1,000,000) with the Town Comptroller to be held in an interest bearing escrow account that is to be used solely as follows: up to Six Hundred Thousand Dollars (\$600,000) of the escrow deposit shall be returned to Group MRH, LLP upon the Town's receipt of invoices documenting such expenditures incurred by Group MRH, LLP for road, parking and security improvements as outlined in Section 5 of this Sublease Agreement. After these improvements have been made, the remainder of the amount in escrow shall be payable to the Town, which will credit Group MRH, LLP that amount as partial payment of the Year Two (2) rent. Group MRH shall receive a six (6) month free rent build-out period beginning at the execution of this Sublease Agreement. Year Two (2) rent will become due eighteen (18) months after the execution of this Sublease Agreement. Rent beginning in Year Two (2) shall be paid in equal monthly installments of \$41,666.67 on the first day of each and every month, pro-rated in Year Two (2) based on the credit stated above. In addition to any remedies herein provided for failure to make timely payment of rent, if the rent is not paid within thirty (30) days from its due date, the rent shall bear simple interest at the rate of nine (9%) percent from its due date until the date of payment. As used herein the term "Rent" shall be deemed to include the annual rents payable hereinabove. "Additional Rent," if any, payable by Group MRH, LLC to the Town and required under this Sublease Agreement pursuant to Section 3 below shall not be included in the rent payable pursuant to this section.

Upon approval of this Sublease Agreement by the Town and the County, Group MRH, LLC will have a ten (10) day due diligence period to inspect and test the property with respect to any environmental or other issue. If testing is performed on the property and written reports are generated, those written reports shall be transmitted to the Town no later than five (5) days after the ten (10) day due diligence period. If remediation of any type is required at the lease premises which could not be anticipated at the time of the bid process, Group MRH, LLC may petition the Town with a proposal to address the remediation, including offering to enter into a mutual agreement between Group MRH, LLC and the Town, however the Town shall have no obligation to enter into such agreement.

SECTION 3. Taxes and Assessments.

During the term of this Agreement, Group MRH, LLC, shall be responsible for paying, as Additional Rent, the increases of any taxes, assessments, water rents, sewer rents and charges, duties, impositions, approval, license and permit fees, public utility charges of any kind, together with any interest or penalties lawfully imposed by the late payment thereof, which would have been lawfully levied, charged, assessed, imposed upon or become due and payable out of, or for, or have become a lien on the Premises or any part thereof and the improvements and appurtenances thereto, which would have been due and payable in tax year 2013, in the event the premises were actually taxable in 2013, and which a for-profit corporation such as Group MRH, LLC is required to pay.

SECTION 4. Use.

Group MRH, LLC shall manage and operate the Premises solely for its intended use, Affordable Housing, as described in the Town's Master Lease, Section 15, dated April 26, 1990 for the purpose of providing affordable housing to persons with an emphasis on senior citizens fifty-five (55) years and older. The Premises currently consists of approximately six acres of land, an administration and classroom building and eight (8) residential buildings. Group MRH, LLC shall utilize the existing administration and residential buildings subject to remodeling and renovation as described below, and Group MRH, LLC shall not demolish the existing administrative or residential buildings pursuant to this Sublease Agreement.

Group MRH, LLC has entered into an agreement with the Housing Action Council, Inc., a New York not-for-profit organization, to market the residential units to households with incomes meeting the affordable housing income guidelines as determined by the U.S. Department of Housing and Urban Development.

Group MRH, LLC has entered into an agreement with Cornell Pace Inc., a New York corporation, to manage the lease premises with respect to the maintenance, operation and repair of the residential and administrative buildings and the grounds of the leased premises. Group MRH, LLC will be permitted to enter into different agreements to manage and/or market the leased premises subject to mutual agreement and consent of Group MRH, LLC and the Town Board which agreement and consent shall not be unreasonably be withheld.

SECTION 5. Improvements, Repairs and Maintenance.

Group MRH, LLC shall at all times during the term of this Sublease Agreement, at its own cost and expense, keep and maintain or cause to be kept and maintained the land and buildings constituting the Premises in good order, repair and condition. Group MRH, LLC shall be responsible for all maintenance of the facility and for all repairs to the facility or to the grounds thereof, structural or otherwise. In addition to the improvements specified in Section 2, Group MRH, LLC agrees to make no less than \$2,000,000 in general renovations to the residential buildings. The Town shall not be required to furnish any services to the Premises or to make any improvements, repairs or alterations to the Premises during the term of this Sublease Agreement. Upon execution of this Sublease Lease, Group, MRH LLC will begin renovations and restructuring of the 108 apartments/rooms in the complex, including renovations to apartment kitchens, new floorings and bathroom tiles, renovations to the Administration building to accommodate spaces for sitting and office areas, installation of a Washer – Dryer Room with new machines, renovations to various rooms in the basement of the Administration building; and installation of cable TV wiring throughout the property, including common areas and outdoor spaces.

Group MRH, LLC shall, at Group MRH, LLC's sole expense, prepare plans and specifications for temporary remodeling and renovation of the existing administration and residential buildings. Such plans and specifications shall conform to the requirements of the New York State Building Code. Group MRH, LLC shall file such plans and specifications with the Town Building Department and diligently prosecute an application for issuance of any necessary Building Permits. In the County's discretion, Group MRH, LLC shall file such plans and specifications with the County Commissioners of Planning and Public Works and Transportation

for review and approval. Group MRH, LLC shall comply with all applicable laws, rules, regulations and ordinances in carrying out all such alterations, improvements and changes, unless otherwise exempted, and diligently prosecute obtaining all such necessary approvals.

The Town agrees that promptly after the execution of this Sublease Agreement, the Town will cause the existing Administration building to be cleaned, and all equipment, debris and furnishings in the buildings to be removed, as mutually agreed to by Group MRH, LLC and the Town, and will deliver possession of the existing premises to Group MRH, LLC in “as is” condition. Group MRH, LLC agrees to begin the temporary remodeling work on the existing buildings within thirty (30) days after all required approvals of the plans and specifications for such work, if any, including any governmental approvals and required permits, have been obtained, and will proceed with such work diligently in order to complete such work at the earliest practicable time.

Group MRH, LLC shall be responsible for obtaining any permits and approvals required in connection with the temporary remodeling, renovation, and construction described in this Sublease Agreement. The Town and County agree to reasonably cooperate with Group MRH, LLC’s efforts to obtain any required permits and approvals that are within their respective control.

Group MRH, LLC shall comply with all Town regulations as they pertain to required parking on the premises unless otherwise exempted by the Town or County.

In the event that Group MRH, LLC fails to perform any required repairs or maintenance to the Premises, and such failure continues for a period of thirty (30) days after notice from the Town, or if such maintenance or repairs cannot be completed within said period, Group MRH, LLC fails to commence such maintenance and repairs within such period and to continue same diligently until completed, or if any repairs, maintenance or installation is required by any governmental directive from a governmental entity other than the Town and same is not completed within the time required by such directive, the Town may enter the Premises to perform such maintenance or repair. In such event Group MRH, LLC shall reimburse the Town for the costs or expenses thereof, within thirty (30) days after receipt of an invoice therefor.

SECTION 6. Access to Premises.

Upon at least forty-eight (48) hours prior written and telephonic notice, and in accordance with the State Social Services Law and applicable regulations issued pursuant thereto, the Town and members of any duly authorized Advisory Board created accompanied by the Town may enter the Premises at reasonable hours to inspect the Premises and to observe the activities of Group MRH, LLC. In the case of an emergency, emergency personnel may enter the Premises immediately, after attempting telephonic notification if time permits.

SECTION 7. Requirements of Public Authorities.

During the term of this Sublease Agreement Group MRH, LLC., at its sole cost and expense, shall promptly observe and comply with all present and future laws, ordinances, requirements, orders, directives, rules and regulations affecting Group MRH, LLC's use and occupation of the Premises or appurtenances thereto or any part thereof issued by any governmental authority having jurisdiction, and Group MRH, LLC shall pay all costs, expenses, liabilities, losses, damages, fines,

penalties, claims and demands that may in any manner arise out of or be imposed because of the failure of the Group MRH, LLC to comply therewith.

SECTION 8. Assignment and Subletting.

Group MRH, LLC shall not sell, convey, assign, transfer, sublease, or otherwise dispose of its interests, rights or obligations under this Sublease Agreement without the prior written consent of the Town. The Premises is encumbered as per the Town's Master Lease or otherwise if approved by the County.

SECTION 9. Covenant against Liens.

If any Mechanic's Lien or other lien, charge or order for the payment of money shall be filed against the Premises, Group MRH, LLC shall, at its sole cost and expense, cause the same to be discharged of record or bonded within fifteen (15) days after written notice from the Town to Group MRH, LLC of the filing thereof and Group MRH, LLC shall defend, indemnify and save the Town harmless from and against all costs, liabilities, suits, penalties, claims and demands, including reasonable attorneys' fees, resulting therefrom.

SECTION 10. Indemnity.

Group MRH, LLC shall indemnify and save the Town and County, and their officials, officers, agents, employees, and volunteers performing authorized tasks on behalf of the government entity, harmless from and against any and all liability, damages, penalties or judgments arising from death or injury to person or property sustained by anyone in or about the Premises however same may be caused, except to the extent that same is due to the negligence or willful act of the Town or County, or their officials, officers, agents, employees, and volunteers performing authorized tasks on behalf of the government entity. Group MRH, LLC shall at its own cost and expense defend any and all suits or actions which may be brought against the Town or County or in which the Town and/or County may be impleaded with others upon any of the above-mentioned matters or claims.

The Town shall indemnify and save Group MRH, LLC and the County harmless from and against any and all liability, damages, penalties or judgments arising from death or injury to person or property sustained by anyone in or about the Premises resulting from the negligence or willful act of the Town, its agents, servants, employees or contractors, except to the extent same is due to the action or failure to act of Group MRH, LLC, the County, or their agents, servants, employees or contractors. The Town shall at its own cost and expense defend any and all suits or actions which may be brought against Group MRH, LLC or in which Group MRH, LLC may be impleaded with others upon any such above mentioned matter or claim due to the negligence or willful act of the Town.

SECTION 11. Insurance.

Group MRH, LLC shall provide or cause to be provided, and keep in force or cause to be kept in force during the term of this Sublease Agreement, commercial general liability insurance of \$1,000,000 per occurrence and \$2,000,000 aggregate; and excess umbrella liability in the amount of \$3,000,000 naming the Town as an additional insured.

During the term of this Sublease Agreement, Group MRH, LLC shall keep all buildings and improvements on the Premises insured for the benefit of Group MRH, LLC and the Town as their interests may appear, against loss or damage by fire and customary extended coverage in a minimum amount equal to ninety (90%) percent of the replacement value thereof.

All policies of insurance required hereunder shall contain an endorsement that same may not be cancelled without thirty (30) days prior written notice to the Town.

SECTION 12. Condemnation.

In the event that the whole of the Premises, or so much thereof as will prevent the use of the remainder thereof for the purposes set forth in this Sublease Agreement, is taken by a competent authority vested with the power of eminent domain or condemnation, this Sublease Agreement may be terminated at the option of either. The County agrees that it will not seek to exercise its power of eminent domain or condemnation with respect to the Premises. In the event of such condemnation, the Town shall be entitled to receive any and all awards associated therewith.

SECTION 13. Destruction.

In the event that, at any time during the term of this Sublease Agreement, the facility on the Premises shall be destroyed or damaged in whole or in part by fire or other cause within the extended coverage of the fire insurance policies carried by Group MRH, LLC in accordance with this Sublease Agreement, Group MRH, LLC shall cause the same to be repaired, replaced or rebuilt within nine (9) months after receipt by Group MRH, LLC of such insurance proceeds.

SECTION 14. DEFAULT.

Upon the occurrence of a default, the Sublease provided for herein shall terminate forthwith, and Group MRH, LLC shall cause the Premises to be vacated and shall deliver vacant possession thereof to the Town. As security for compliance with its obligation to deliver such possession, Group MRH, LLC has executed and delivered to the Town a stipulation in summary proceedings submitting to the jurisdiction of the Justice Court of the Town of Greenburgh and agreeing to the entry of a Final Judgment of Eviction and the issuance of a Warrant. The said stipulation shall provide for a stay of execution of the Warrant for a period of thirty (30) days. The stipulation shall be held by the Town Attorney of the Town of Greenburgh in escrow and shall not be filed with the Court until the occurrence of an Event of Default. If vacant possession of the Premises has not been delivered to the Town within the thirty (30) day stay period provided in the stipulation, the Warrant may be executed by appropriate authorities. In addition, after the thirty (30) day stay period, and until vacant possession of the Premises is delivered to the Town, Group MRH, LLC shall pay the sum of ONE THOUSAND DOLLARS (\$1,000.00) per day for each unit occupied at the Premises.

Examples of events of default under this Sublease Agreement include but are not limited to the following:

- a. The County Board of Legislators fails to enact legislation in the form approved by the Town embodying the provisions of this Sublease Agreement by December 31, 2013; or

b. Any of the agreements of the County set forth in the Sublease shall be determined to be invalid or unenforceable; or

c. Group MRH, LLC materially violates any of its agreements contained in this Sublease Agreement and such violation continues for a period of thirty (30) days after notice given to Group MRH, LLC by the Town; or

d. The Town materially violates any of its agreements contained in this Sublease Agreement and such violation continues for a period of thirty (30) days after notice given to the Town by Group MRH, LLC or the County; or

e. The County materially violates any of its agreements contained in this Sublease Agreement and such violation continues for a period of thirty (30) days after notice given to the County by Group MRH, LLC or the Town; or

f. Group MRH, LLC fails to make any payment required pursuant to the terms of this Sublease Agreement hereof when such payment is due, and such failure continues for a period of thirty (30) days after notice given to Group MRH, LLC by the Town; or

g. Group MRH, LLC fails to pay the rent herein provided when due, and such failure continues for a period of thirty (30) days after notice is given to Group MRH, LLC by the Town; or

h. Group MRH, LLC fails to maintain agreements satisfactory to the Town to market and manage the property pursuant to the terms of this Sublease Agreement.

i. Group MRH, LLC fails to maintain for the full term of this Sublease Agreement insurance on the Premises with coverage no less than required by this Sublease Agreement.

SECTION 15. Further Restrictions Upon Disposition.

Upon the termination of this Sublease Agreement, the Premises shall continue to be leased to the Town in accordance with the Town's Master Lease for any remaining term thereof, for no additional consideration.

SECTION 16. No Waiver of Rights.

The Town's failure to enforce or insist that the County comply with any provision in this Agreement is not a waiver of the Town's rights. The rights and remedies of the Town are separate and cumulative.

SECTION 17. Choice of Law.

This Agreement shall be deemed to be executed in the County of Westchester and shall be governed by and construed in accordance with the laws of the State of New York. The parties agree that the forum for any action under this Agreement shall be in any court with jurisdiction that is located in the County of Westchester, State of New York.

SECTION 18. Notices.

All notices given pursuant to this Sublease Agreement shall be in writing. The Parties hereby designate the business addresses hereinabove specified as the places where all notices, directions or communications from one such party to the other shall be delivered, or to which they shall be mailed. All notices to the County shall be mailed or delivered to the address of the County with a copy to the attention of Commissioner Jay T. Pisco, P.E., Department of Public Works and Transportation. Actual delivery of any such written notice, direction or communication to a party to the aforesaid place, or delivery by certified mail shall be conclusive and deemed to be sufficient service thereof upon such party as of the date such notice, direction or communication is received by the party. Such address may be changed at any time by an instrument in writing executed and acknowledged by the party making such change and delivered to the other parties in the manner specified above. Nothing in this Section shall be deemed to serve as a waiver of any requirements for the service of notice or process in the institution of an action or proceeding as provided by law.

SECTION 19. Severability.

If any term, covenant, condition or provision of the Agreement shall at any time or to any extent be invalid or unenforceable, the remainder of the Agreement shall not be affected thereby and each term, covenant, condition and provision of the Agreement shall be valid and be enforceable to the fullest extent permitted by law.

SECTION 20. Modification.

Any modification to this Agreement must be in writing and signed by the Town, the County and Group MRH, LLC and be approved by the Town Board of the Town of Greenburgh and the Westchester County Board of Legislators.

SECTION 21. Successors and Assigns.

All of the terms, covenants, warranties and conditions contained herein shall be for and shall inure to the benefit of and shall bind the Parties and their respective successors and assigns, to the extent such successors and assigns are permitted.

SECTION 22. Counterparts.

This Agreement may be simultaneously executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

SECTION 23. Section Headings.

Section headings are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Agreement and in no way affect this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

[SEAL]

COUNTY OF WESTCHESTER

Attest:

By:

[SEAL]

TOWN OF GREENBURGH

Attest:

By:

[SEAL]

Group MRH, LLC.

Attest:

By:

Approved as to form and
manner of execution

COUNTY ATTORNEY

By:

TOWN ATTORNEY

By: