

# PONTIAC CITY COUNCIL

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**President**  
**Randy Carter, District 4**  
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*It is this Council's mission "To serve the citizens of Pontiac by committing to help provide an enhanced quality of life for its residents, fostering the vision of a family-friendly community that is a great place to live, work and play."*

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47450 Woodward Pontiac, MI 48342 Phone: (248) 758-3200

Garland S. Doyle, M.P.A.  
Interim City Clerk

**SPECIAL MEETING**  
**256<sup>th</sup> Session of the 10<sup>th</sup> Council**  
**September 30, 2021 at 10:00 A.M.**  
**Bowens Center 52 Bagley Pontiac, MI 48341**

**Call to order**

**Roll Call**

**Public Hearing**

Option to sell 25 S. Sanford Street also known as Perdue School to Community Housing Network

**Resolution**

Resolution to approve option to sell 25 S. Sanford Street also known as Perdue School to Community Housing Network

**Adjournment**

## OPTION AGREEMENT

This Option Agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, between the City of Pontiac, whose address is 47450 Woodward Avenue, Pontiac, Michigan 48342 (hereinafter, "Optionor") and Community Housing Network, Inc., a Michigan nonprofit corporation, with offices located at 5505 Corporate Dr. Suite 300, Troy MI 48098 (hereinafter "Optionee").

### Recitals:

WHEREAS, Optionor is the owner of certain property located at 25 S Sanford St, Pontiac, Michigan 48342, being Property ID #14-28-455-001, more particularly described on the attached Exhibit A incorporated herein by reference (the "Property");

WHEREAS, Optionee desires to obtain an exclusive option to purchase the Property from Optionor and Optionor is prepared to grant to Optionee such option, all as hereinafter defined.

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

1. **Grant; Term of Option.** Optionor grants to Optionee the exclusive option to purchase the Property (the "Option") for the Purchase Price described below, subject to the terms and conditions hereof. This Option is effective from the date above set forth ("Effective Date") until 5:00 p.m. on the 31st day of March, 2023 (the "Term"). In the event Optionee does not timely and properly exercise the Option prior to the expiration of the Term, this Agreement shall automatically terminate without notice to Optionee and thereafter shall be of no force or effect. In addition, if Optionee exercises the Option timely and properly but fails to timely consummate the purchase of the Property in accordance with the terms of this Agreement through no fault of Optionor, Optionee's rights hereunder shall be of no further force and effect and if such failure constitutes a default by Optionee hereunder, Optionor may pursue those remedies available to Optionor as are provided herein, at law or in equity. Any exercise of the Option shall be strictly in accordance with the terms hereof.

2. **Initial Earnest Deposit/Option Payment.** Within five (5) business days of the Effective Date, the Optionee shall pay to the Optionor an initial deposit amount of Five Thousand and 00/100 Dollars (\$5,000.00) (the "Option Payment"). In the event the Option Payment is not received by the Optionor when specified, the Optionor may terminate this Agreement and the parties shall have no further obligations hereunder. The Option Payment will become non-refundable when Optionee

obtains a reservation of Section 42 tax credits from the Michigan State Housing Development Authority (MSHDA) or May 15, 2022, whichever occurs earliest.

3. **Second Earnest Deposit.** Within 5 days of the Optionee obtaining a reservation of Section 42 tax credits from MSHDA or May 15, 2022, whichever occurs earliest, the Optionee shall pay to the Optionor an additional Earnest Deposit amount of Ten Thousand and 00/100 Dollars (\$10,000.00) (the "Second Earnest Deposit"). Except as set forth in this Agreement the Second Earnest Deposit will become non-refundable upon the Optionor's receipt. In the event the Second Earnest Deposit is not received by the specified time, the Optionor may terminate this Agreement and the parties shall have no further obligations hereunder.

4. **Option Extension.** The Optionee shall have the right to extend the Term of this Option upon written notification to the Optionor for one (1) additional period of sixty (60) days. To extend, the Optionee shall notify the Optionor of this election in writing at least 10 days prior to the expiration of this Option.

5. **Method of Exercising Option.** To exercise this Option, the Optionee shall notify the Optionor in writing that it is exercising the Option and such notice shall be received by the Optionor on or before the expiration of the Term of this Option.

6. **Purchase Price.** The total purchase price ("Purchase Price") of the real property upon exercise of this Option Agreement shall be an amount equal to Six Hundred Thousand Dollars and Zero Cents (\$600,000).

7. **Title.** Within 30 days of the Effective Date, Optionee shall order a Title Commitment for an Owner's Policy of title insurance naming the Optionee as the proposed insured with coverage in the amount of the Purchase Price of \$600,000. Within thirty (30) calendar days of receipt of the Title Commitment, the Optionee shall notify the Optionor in writing of any restrictions, reservations, limitations, easements, liens, and other conditions of record (the "Title Defects"), disclosed in the Title Commitment that would unreasonably interfere with the Optionee's proposed use of the Property. Should the Optionee notify the Optionor of any such Title Defects, the Optionor shall have thirty (30) calendar days to cure or remove same. If such reasonable objections are not cured within such thirty (30) day period, the Optionee may, at the Optionee's option, terminate this Agreement, or alternatively set a date with the Optionor to extend the time period to cure the Title Defects. In the event such reasonable objections are not cured within such thirty (30) day period, or any extension thereof, and the Optionee elects not to waive its title objections, the Optionee may terminate this Agreement, the Option Payment and all Earnest Deposits shall be returned, and neither party shall have any further responsibility or liability hereunder the Agreement.

8. **Survey.** Within thirty (30) days of the Effective Date, Optionee may (but shall have no obligation to) order a Property survey ("Survey"). Optionee shall provide the results of any Survey to Optionor within three (3) days of receiving same. Optionee shall have thirty (30) days to notify Optionor in writing of any objections to the Survey that will, in its reasonable judgement, hinder its intended use of the Property. Optionee shall be deemed to have accepted the Property with respect to all matters within the Survey in the absence of a timely and proper objection. Optionor shall have thirty (30) days after receiving written notice of any objections to cure the objections, if it chooses to do so. If Optionor does not cure the objections, Optionee may either: (i) accept the

Property as set forth in the survey without reduction in purchase price, or (ii) terminate the Agreement, receive a refund of the Option Payment and all Earnest Deposits, and neither Optionor nor Optionee shall have any further obligations under this Agreement. If Optionee obtains a Survey, with the parties' mutual consent, the legal description contained in such Survey may be used for all documents related to this transaction.

9. **Right to Enter Property.** From and after the Effective Date, Optionor agrees that Optionee and its agents and representatives shall, subject to arranging all onsite visits with Optionor, be entitled to enter upon the Property for inspection, soil tests, examination, land-use planning and for any due diligence investigation relating to Optionee's proposed ownership of the Property. As to any such investigation, Optionee shall restore the Property to the same condition as existed prior to any such investigation (which obligation shall survive the termination hereof), and shall not: (i) perform any invasive tests without Optionor's prior consent or (ii) interfere with the possessory rights of Optionor. Optionee shall indemnify and hold harmless Optionor from and against, and to reimburse Optionor with respect to any and all claims, demands, causes of action, loss, damage, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) asserted against or incurred by Optionor by reason of or arising out of any such on-site investigation, it being acknowledged that all such obligations shall survive Closing or the termination of this Agreement. Upon request, Optionee shall provide evidence of liability insurance which shall supplement Optionee's indemnity obligation.

10. **Due Diligence Period.** The Optionee shall use the Term of Option to conduct such investigations as the Optionee deems necessary in order to determine whether the Property is suitable for the Optionee's intended use. Such due diligence may include, but shall not be limited to:

- (a) Investigating the availability of utility services, including but not limited to, gas, water, electricity, sanitary sewer, storm sewer and telephone service, with sufficient capacity to meet the Optionee's requirements for such utility services;
- (b) Investigating all applicable zoning ordinances, regulations, building codes and restrictions to determine whether such will permit use of the Property for the Optionee's intended use;
- (c) Making soil tests, borings and other environmental, engineering and architectural tests to ascertain that the Property is suitable for construction of the improvements contemplated by the Optionee;
- (d) Determining whether the City of Pontiac will approve a site plan and issue a building permit for the facility or project the Optionee desires to construct on the Property;
- (e) Determining whether the City of Pontiac will approve a Payment In Lieu of Taxes Ordinance for the project the Optionee desires to construct on the Property;
- (f) Receipt of a Commitment and/or Reservation of Section 42 tax credits from the Michigan State Housing Development Authority in an amount satisfactory to Optionee;

- (g) Receipt of a Commitment for a mortgage loan in an amount satisfactory to Optionee;
- (h) A current appraisal supporting the Purchase Price;
- (i) That the Optionee has obtained the approval of all parties for the transaction contemplated by this Agreement.

Upon the exercise of the Option, Optionee shall be deemed to have satisfied and waived the contingencies set forth in this Section 9.

11. **Property Maintenance.** Optionee agrees to perform lawn maintenance and snow removal on the Property and assume financial responsibility for compensating parties to complete this work, from the date the Agreement is fully executed through Closing. Optionor agrees that all property maintenance expenses incurred by the Optionee during the term of the agreement will be credited to the Optionee at Closing.

12. **Conditions to the Optionee's Obligation to Close.** In addition to all other conditions set forth in this Agreement, the obligation of the Optionee to consummate the purchase/sale contemplated hereunder shall be contingent upon the following:

- (a) Optionor's representations and warranties contained herein shall be true and correct in all material respects as of the date of this Agreement and the Closing Date;
- (b) As of the Closing Date, Optionor shall have performed its obligations hereunder in all material respects and all deliveries to be made at Closing by Optionor shall have been tendered;
- (c) As of the Closing Date, there shall exist no pending action, suit or proceeding with respect to Optionor before or by any court or administrative agency which seeks to restrain or prohibit, or to obtain damages or a discovery order with respect to, this Agreement or the consummation of the transaction contemplated hereby.

13. **Assignment.** Optionee shall have the right to assign this Option Agreement to controlled entities to be formed by providing written notice to Optionor.

14. **Closing.** Prior to the Closing of the sale, it shall be the responsibility of the Optionee to (i) meet the applicable deadlines (ii) procure the necessary approvals and (iii) cause the appropriate closing documents to be prepared. The Closing of the sale shall occur by the payment of the Purchase Price by the Optionee, less any previously paid Option Payment and Earnest Deposits, and by the execution and delivery of a Warranty Deed by the Optionor. This sale shall be closed no later than September, 2023. Possession shall be delivered at the time of Closing, unless delivered prior to Closing by the mutual consent of both parties.

15. **Notices.** All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given when physically delivered or three (3) days after having been deposited in the United States Mail, addressed to the recipient as follows:

If to Optionor:

City of Pontiac  
47450 Woodward Ave  
Pontiac, MI 48342

If to Optionee:

Michelle Brinkmann  
Vice President of Real Estate  
Community Housing Network, Inc.  
5505 Corporate Dr, Suite 300  
Troy, MI 48098

16. **Successors and Assigns.** This Option agreement shall inure to the benefit of the parties' successors and assigns.

17. **Due Diligence Items.** As soon as reasonably possible following the Effective Date, the following items (collectively, the "Due Diligence Items") shall be obtained by and/or delivered to the Optionee:

- (a) Optionor shall deliver to Optionee a copy of any existing environmental reports of the Property, if any, in Optionor's possession.

Optionee acknowledges and agrees that except for such items which are in the public records, the Due Diligence Items are proprietary and confidential in nature and have been or will be made available to Optionee solely to assist Optionee in determining the feasibility of purchasing the Property. Optionee agrees not to disclose the Due Diligence Items or any of the provisions, terms or conditions thereof to any party outside of Optionee's organization except: (i) as to Optionee's accountants, attorneys, lenders, prospective lenders, investors and/or prospective investors (collectively, the "Permitted Outside Parties"), (ii) contractors obtained to provide new or updated reports regarding the Property, and (iii) as may be required by law. In permitting Optionee and the Permitted Outside Parties to review the Due Diligence Items to assist Optionee, Optionor has not waived any privilege or claim of confidentiality with respect thereto and no third party benefits of any kind, either expressed or implied, have been offered, intended or created by Optionor and any such claims are expressly rejected by Optionor and waived by Optionee.

Optionee shall return to Optionor all of the Due Diligence Items and any and all copies Optionee has made of the Due Diligence Items at such time as this Agreement is terminated. Optionee's obligations under this Section 16 shall survive the termination of this Agreement.

Optionee acknowledges that the Due Diligence Items may have been prepared by third parties other than Optionor. Optionee further acknowledges and agrees that except as specifically identified or otherwise set forth herein: (i) neither Optionor nor any of its officers, agents, employees or contractors have made any warranty or representation regarding the truth, accuracy or completeness of the Due Diligence Items or the sources thereof and Optionee has not relied on the truth or completeness of the Due Diligence Items and (ii) Optionor has not undertaken any independent investigation as to the truth, accuracy and completeness of the Due Diligence Items and is providing the Due Diligence Items or making the Due Diligence Items available to Optionee solely as an accommodation to Optionee.

18. **Permitted Exceptions.** Optionor shall convey the Property to Optionee subject to (i) easements, use restrictions, and rights of public utilities as evidenced by the Title Commitment and matters which would be disclosed by an accurate survey of the Property, (ii) covenants,

conditions, private easements and restrictions, (iii) real estate taxes and assessments for the then current year as are not due and payable as of the date of Closing, and (iv) encumbrances or exceptions to title shown on the Title Commitment and/or Survey to which Optionee does not object or which with Optionee's consent are waived and accepted or insured.

19. **Optionor's Obligations at the Closing.** At the Closing, Optionor shall:

- (a) execute and deliver to Optionee the Warranty Deed conveying the Property;
- (b) execute and deliver to Optionee a Non-Foreign Persons Affidavit in the form attached hereto as **Exhibit B**;
- (c) execute and deliver to Optionee such other documents or instruments as may be required under this Agreement, or as otherwise required in Optionee's reasonable opinion to effectuate the Closing.

20. **Closing Costs.** At the Closing, Optionee shall pay to Optionor the net Purchase Price. Optionor and Optionee shall be equally responsible for all title company costs to close, except that Optionor shall be solely responsible for all premiums and fees related to the Title Policy, including endorsement premiums or any charges for extended coverage endorsements and all transfer taxes due upon recording of the Deed, if any, and Optionee shall be solely responsible for recording fees and any escrow charges. Each party shall pay their own attorneys' fees.

21. **Prorations.** Real estate taxes, water and sewer rents and charges on the Property, including special assessments that are due and payable as of the Closing, shall be paid by Optionor. Real estate taxes and special assessments due in the year of Closing shall be prorated and adjusted as of the Closing with the Optionor responsible for sums due to the date of Closing and Optionee responsible for sums due on the date of Closing and thereafter. Optionee shall be responsible to pay any and all charges, taxes, special assessments or other payments due for the Property after the date of Closing.

22. **Possession.** Optionor shall deliver exclusive possession of the Property to Optionee at Closing.

23. **Default by Optionor.** In the event that Optionor should fail to consummate the purchase/sale contemplated by this Agreement for any reason following the exercise of the Option, except as permitted in this Agreement, except as is the result of Optionee's default, and/or except for the failure of any of the conditions to Optionor's obligations hereunder to be satisfied or waived, and such failure continues for five (5) business days following receipt of written notice from Optionee of such default, Optionor shall be in default. When Optionor is in default, Optionee may terminate this Agreement by giving prompt written notice thereof to Optionor and receive the Option Payment and Earnest Deposits back from Optionor, or may specifically enforce this Agreement.

24. **Default by Optionee.** In the event Optionee should fail to consummate the purchase/sale contemplated herein for any reason, except default by Optionor, Optionor may retain the Option Payment and any previously paid Earnest Deposits and terminate this Agreement by giving prompt written notice thereof to Optionee.





Acting in \_\_\_\_\_ County, \_\_\_\_\_  
My Commission Expires:

OPTIONEE;

COMMUNITY HOUSING NETWORK, INC.

By: *Michelle Brinkmann*

Michelle Brinkmann

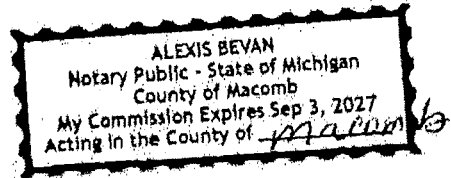
Its: Vice President of Real Estate

STATE OF MICHIGAN )  
 ) SS  
COUNTY OF OAKLAND )

The foregoing instrument was acknowledged before me this 15 day of June, 2021, by Michelle Brinkman, as the Vice President of Real Estate of Community Housing Network, Inc.

*Alexis Bevan*  
Notary Public

County, \_\_\_\_\_  
Acting in \_\_\_\_\_ County, \_\_\_\_\_  
My Commission Expires:



INSTRUMENT DRAFTED BY:  
Jeffrey S. Kragt, Esq.  
Law Offices of Jeffrey S. Kragt, PLLC  
410 W. University Dr., Ste. 200  
Rochester, MI 48307  
248-938-4960

WHEN RECORDED, RETURN TO:  
Jeffrey S. Kragt, Esq.  
Law Offices of Jeffrey S. Kragt, PLLC  
410 W. University Dr., Ste. 200  
Rochester, MI 48307  
248-938-4960

RECORDING FEE: \$

STATE TRANSFER TAX: N/A

**EXHIBIT A**

**PARCEL**

Tax Id Number(s): 14-28-455-001

Land Situated in the City of Pontiac in the County of Oakland in the State of MI

T3N, R10E, SEC 28 ARDMORE AN ADDITION LOT 67 TO 86 INCL & VAC ALLEY  
ADJ ALSO CITIZENS DEV. COS ADD, LOTS 197 TO 210 INCL & LOTS 222 TO 226  
INCL. & VAC POR OF ARDMORE ST LYING ADJACENT.

EXHIBIT B

NON-FOREIGN PERSONS AFFIDAVIT

Section 1445 of the Internal Revenue Code provides that a transferee (purchaser) of a United States real property interest must withhold tax if the transferor (seller) is a foreign person. This affidavit is to inform interested parties that withholding of tax is not required upon the disposition of a United States real property interest by City Of Pontiac ("Transferor"), the undersigned certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor's United States employer identification number is \_\_\_\_\_;
3. Transferor's office address is \_\_\_\_\_.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

By: \_\_\_\_\_

*Print Name:*

\_\_\_\_\_

Dated as of \_\_\_\_\_, 202\_\_