

Prepared by and when
recorded return to:

Terry M. Lovell, Esq.
Bilzin Sumberg Baena Price & Axelrod LLP
1450 Brickell Avenue, Suite 2300
Miami, Florida 33131

EASEMENT AGREEMENT

This **EASEMENT AGREEMENT** (the “**Agreement**”) is made as of October ___, 2024, by and among **CITY OF OCALA**, a Florida municipal corporation, whose address is 110 SE Watula Avenue, Ocala, FL 34471 (“**Grantor**”), **MERCY VILLAGE, LLLP**, a Florida limited liability limited partnership, having an address at 1398 SW 1st Street, 12th Floor, Miami, Florida 33135 (“**Tenant**”), and **SAVING MERCY CORPORATION**, a Florida not for profit corporation, having an address at 3601 West Silver Springs Boulevard, Ocala, Florida 34475 (“**Landlord**”, and, collectively with Tenant, “**Grantee**”).

WITNESSETH:

WHEREAS, Grantor owns certain real property in Marion County, Florida (the “**Burdened Property**”); and

WHEREAS, Landlord holds fee simple title to certain real property adjacent to the Burdened Property (the “**Benefitted Property**”), a portion of which has been leased to Tenant; and

WHEREAS, Grantee desires to obtain from Grantor, and Grantor has, subject to the terms of this Agreement, agreed to grant to Grantee, (i) a non-exclusive utility easement, and (ii) a non-exclusive access easement, over the Burdened Property legally described on **Exhibit “A”** attached hereto and incorporated herein (the “**Easement Area**”).

NOW, THEREFORE, in consideration of all the covenants, terms, and conditions herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:

1. **General**. Grantor and Grantee hereby agree that the recitals included above are true and correct, and such recitals are hereby incorporated herein as if fully set forth below. Except as otherwise specifically indicated, all references to Sections refer to Sections of this Agreement, and all references to Exhibits refer to the Exhibits attached hereto, which are hereby made a part hereof, and incorporated herein by reference. The words “hereby,” “hereof,” “hereto,” “hereunder,” “hereinafter,” “herein,” and words of similar import refer to this Agreement as a whole and not to any particular Section hereof. The word “hereafter” shall mean after the date of this Agreement. The word “including” shall mean “including, without limitation.” Captions and headings used herein are for convenience only and shall not be used to construe the meaning of any part of this Agreement.

2. **Grant of Easement.** Upon and subject to the terms hereof, Grantor hereby grants and conveys to Grantee for the benefit of and as an appurtenance to the Benefitted Property, and for the use, benefit and enjoyment of all present and future owners of the Benefitted Property and such owners' respective users, tenants, subtenants, lenders, mortgagees, licenses, invitees and successors in title (such parties, collectively, "**Grantee Parties**"), (i) a non-exclusive easement on, over, across, through and under the surface of the Easement Area pursuant to the terms and conditions hereof, including the right to reasonable ingress and egress over the Easement Area, for the Grantee Parties to, at its sole cost and expense, install, construct, maintain, operate, modify, repair, and replace one or more underground water pipes, sewer pipes, natural gas pipes, fiber optic cables, electrical, telecommunications, and related underground and aboveground equipment, structures, fixtures, and other personal property (the "**Equipment**") thereunder for the purpose of transmitting natural gas, water, electricity, and communications signals to Benefitted Property, and (ii) a non-exclusive access easement on, over, and across the surface of the Easement Area pursuant to the terms and conditions hereof, for vehicular and pedestrian access, ingress and egress to and from the Benefitted Property. Notwithstanding the foregoing, and except as expressly required pursuant to this Agreement, Grantee shall have no obligation to maintain the surface of the Easement Area in any manner whatsoever, including maintaining the surface of the Easement Area in a safe and habitable condition.

3. **Private Easement Reservations of Rights.**

(a) The easements granted hereunder are appurtenant to the Benefitted Property and the Burdened Property and shall run with the land.

(b) The rights granted herein are private to Grantee and all Grantee Parties, and, except as otherwise provided herein, nothing herein creates any rights in any parties other than Grantee and all Grantee Parties, including any right for public use or benefit.

4. **Representations, Warranties, and Covenants.**

(a) Grantee covenants that prior to performing any construction, installation, modification, maintenance or repair of the Equipment or other improvements on the Easement Area, Grantee shall provide Grantor with prior written notice of such construction, installation, modification, maintenance or repair, provided, however that Grantee shall be only required to provide any such notice as is practicable under the circumstances in the event of an emergency occurring with respect to Grantee's Equipment in the Easement Area.

(b) Grantee covenants and agrees that Grantee shall, at its sole cost and expense, restore any areas disturbed by Grantee's activities within the Easement Area, to the condition in which it was immediately prior to such activities, including, but not limited to restoration of the roadway located within the Easement Area and, if applicable, payment of any reasonable costs, expenses, fees or charges imposed and incurred by Grantor in connection with Grantee's activities within the Easement Area, provided that Grantor shall notify Grantee of any such costs, fees or charges (of which Grantor has knowledge) when Grantor approves Grantee's request to conduct any activities within the Easement Area.

(c) Grantee covenants and agrees that it and its contractors' use of and activities on the Easement Area shall at all times comply with all applicable present and future laws, ordinances, permits, rules, and regulations enacted by any federal, state, county, or municipal governmental agency having jurisdiction or control over said use and activities (including reclamation and/or pollution, environmental or otherwise) occurring upon the Easement Area from Grantee's activities thereon.

(d) Grantee's use of the Easement Area shall not unreasonably interfere with Grantor's, or any other licensee's, tenant's, invitee's, or other occupant's access to or use or occupancy of the Easement Area or any other property of Grantor (provided, however, that the foregoing shall not materially and adversely limit any rights expressly granted to Grantee and the Grantee Parties in this Agreement).

(e) Grantor retains the right to inspect the Easement Area to ensure Grantee's compliance with its covenants hereunder, provided that Grantor shall exercise commercially reasonable efforts to notify Grantee of such inspection.

(f) Grantor shall not construct any buildings, structures or other improvements in the Easement Area that would materially adversely interfere with Grantee's or any Grantee Party's rights expressly set forth in this Agreement.

5. **Indemnification; Defense.** Grantee, for itself, its successors and assigns, agrees to and hereby does indemnify and hold harmless Grantor and its divisions, and each of their officers, directors, and employees (the "**Indemnified Parties**") from and against any and all claims, actions, losses, liabilities, obligations, costs, expenses, fines, fees, verdicts, judgments, or any other damages, of any nature whatsoever, whether arising from contract, tort, or otherwise, including reasonable attorney's fees, defense costs, investigation expenses, discovery costs, court costs, and all other expenses, incurred by such Indemnified Parties, and arising from or relating to Grantee's use of the Easement Area, including: (i) Grantee's performance or nonperformance of any term or condition of this Agreement; (ii) bodily injury, illness, disease, death, property damage, or loss of use, maintenance, cure, profit, or wages occurring on or caused by acts or omissions of Grantee on the Easement Area; and/or (iii) Grantee's violation of any ordinance, permit, order, law, regulation, statute, legislation, judgment, or decree, including Grantee's presence, occupancy or use of the Easement Area prior to the date hereof, and in any and all events, including any acts or omissions of Grantee's agents, employees, managers, visitors, contractors, subcontractors, lessees, sublessees, invitees, licensees, customers, concessionaires or assignees, whether or not occurring on the Easement Area and whether or not such acts or omissions cause or result in bodily injury, illness, disease, death, property damage, or loss of use, maintenance, cure, profit, or wages of employee(s) of Grantor or Grantee, in each case arising from or relating to Grantee's use of the Easement Area (all of the foregoing, the "**Indemnified Matters**"), excepting however any such matters to the extent they are the result of the acts or omissions of any of the Indemnified Parties. Grantee agrees to defend each of the Indemnified Parties, at Grantee's sole cost and expense, in any litigation, action, arbitration, mediation, or other legal or administrative proceeding against one or more of the Indemnified Parties arising from or relating to any of the Indemnified Matters. The terms of this Section shall survive the expiration or termination hereof.

6. **Miscellaneous.**

(a) Entire Agreement; Binding Effect. This Agreement, including any terms and conditions incorporated herein or attached hereto, constitutes the entire agreement between the parties, and there are no representations, oral or written, that have not been incorporated herein. This Agreement shall be binding upon and inure to the benefit of the successors in title of the parties hereto. No representation, inducement, promise, understanding, condition, or warranty not set forth herein has been made or relied upon by either party.

(b) Amendment. This Agreement may be amended, renewed, extended, or canceled only by a written instrument executed on behalf of each of the parties hereto by an authorized representative of each party, and neither party shall, at any time or in any way, assert or contend that any amendment, extension or cancellation of this Agreement (or any part or parts, including this Section) has been made other than by a written instrument so executed.

(c) Multiple Owners. If, at any time, the Benefitted Property shall have more than one owner, then all rights, benefits and obligations shall be exercised and performed by Grantee. In furtherance and not in limitation of the foregoing, if either the Burdened Property or the Benefitted Property is subjected to a condominium form of ownership, with multiple condominium units located within such property, then the declaration of condominium for such condominium may provide (and, in the case of any residential condominium, must provide) that the owner's association established pursuant to the declaration of condominium shall be deemed "owner" of such property for purposes of this Agreement and that each unit owner within the Burdened Property or the Benefitted Property shall be deemed an beneficiary of this Agreement (as applicable) for the purposes hereof; and whether or not such declaration of condominium for a residential condominium so provides, such shall be the case for purposes of this Agreement.

(d) Notice. Any notice that may at any time be required to be given hereunder shall be deemed to have been properly given if personally hand delivered to the other party, or if sent by United States first class registered or certified mail, postage prepaid, or by facsimile transmission, addressed as follows:

If to Grantor: City of Ocala
110 SE Watula Avenue
Ocala, FL 34471
Attention: Tye Chighizola

With a copy to: William Sexton
City Attorney
110 SE Watula Ave
Ocala, Florida 34471

If to Tenant: Mercy Village, LLLP
c/o Carrfour Supportive Housing
1398 SW 1st Street, 12th Floor
Miami, FL 33135
Attention: Stephanie Berman

With a copy to: Bilzin Sumberg Baena Price &

Axelrod LLP
1450 Brickell Avenue, 23rd Floor
Miami, FL 33131
Attention: Terry M. Lovell, Esq.

With a copy to:

Hunt Capital Partners, LLC
15910 Ventura Blvd, Suite 1100
Encino, CA 91436

With a copy to:

Nixon Peabody, LLP
799 9th Street NW Suite 500,
Washington, DC 20001-5327
Attention: Matthew W. Mullen

If to Landlord:

Saving Mercy Corporation
3601 W. Silver Springs Blvd
Ocala, FL 345475
Attention: Heather Berry

With a copy to:

All notices shall be effective when received by the party to whom addressed. Either party may by such a notice to the other party designate a different addressee to whom or address to which any such notice shall be sent.

(e) Construction; Venue. This Agreement shall be governed by and construed in accordance with the laws of the state in which the Burdened Property is located, without giving effect to its conflicts of law provisions. Each party, for itself and its heirs, representatives, successors, and assigns, hereby irrevocably consents to the exclusive jurisdiction of the federal and state courts sitting in or for the county in which the Easement Area are located for the resolution of any conflicts arising hereunder, and each agrees that such courts are the proper and convenient venue and waive any right to object to such venue as being inconvenient or otherwise.

(f) Counterpart. This Agreement may be signed in one or more counterparts, and by e-mail transmission, all of which shall be treated as one and the same original agreement. Each party shall provide an executed copy to the other.

(g) Severability. If any provision of this Agreement is found to be invalid or otherwise unenforceable in any court of competent jurisdiction, the allegedly invalid or unenforceable provision shall be deemed valid and enforceable to the maximum extent permitted by law and shall be deemed to be amended to the minimum extent necessary to make it valid and enforceable in such jurisdiction, and the alleged invalidity and/or unenforceability in such jurisdiction shall not affect the validity or enforceability of any other provision hereof in such jurisdiction or the validity or enforceability of the allegedly invalid and/or unenforceable provision, or of any other provision hereof, in any other jurisdiction.

(h) Third Parties. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties hereto and their respective legal representatives, tenants, subtenants, mortgagees, successors and assigns, nor is anything to this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.

(i) Survival. The following provisions hereof shall survive the expiration or earlier termination hereof: **(i)** all provisions hereof that specifically state that they shall survive the expiration or earlier termination hereof, and **(ii)** all provisions that, by their nature, should be reasonably anticipated by the parties to survive the expiration or earlier termination hereof.

(j) Not a Public Dedication. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Burdened Property or the Benefitted Property to the general public or for any public use or purpose whatsoever, it being the intention and understanding of the parties hereto that this Agreement shall be strictly limited to and for the purposes herein expressed for the exercise and use on private property solely for the benefit of Grantee and Grantor, as applicable, and as provided herein. The foregoing shall not prohibit Grantee from dedicating all or any portion of the Benefitted Property to the general public or for any public use or purpose whatever, provided that any such dedication shall be made subject to and in accordance with the terms and conditions of this Agreement.

(k) Damages. IN NO EVENT SHALL GRANTOR AND GRANTEE BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR OTHER INDIRECT DAMAGES, HOWEVER CAUSED, INCLUDING BUSINESS INTERRUPTION OR LOST PROFITS.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first mentioned above.

Witnesses:

GRANTOR:

Signature

City of Ocala, a Florida municipal corporation

Printed Name

Address

By: _____

Signature

Name: Barry Mansfield
Title: City Council President

Printed Name

Address

STATE OF FLORIDA)
) SS:
COUNTY OF MARION)

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization, this ____ day of _____, 2024, by _____, who is the _____ of City of Ocala, a Florida municipal corporation, and is () personally known to me or () produced a as identification.

My Commission Expires:

Sign Name: _____

Print Name: _____

NOTARY PUBLIC

Serial No. (none, if blank): _____

[NOTARIAL SEAL]

WITNESSES:

Signature

Printed Name

Address

Signature

Printed Name

Address

TENANT:

MERCY VILLAGE, LLLP,
a Florida limited liability limited partnership

By: C4 Mercy, LLC, a Florida limited liability
company, its general partner

By: Carrfour Supportive Housing, Inc., a
Florida not for profit corporation, its manager

By: _____
Name: Stephanie Berman
Title: President

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization, this ____ day of _____, 2024, by Stephanie Berman, who is the President of Carrfour Supportive Housing, Inc., a Florida not-for-profit corporation, the manager of C4 Mercy, LLC, a Florida limited liability company, the general partner of Mercy Village, LLLP, a Florida limited liability limited partnership, and is () personally known to me or () produced a as identification.

My Commission Expires:

Sign Name: _____

Print Name: _____

NOTARY PUBLIC

Serial No. (none, if blank): _____

[NOTARIAL SEAL]

WITNESSES:

Signature

Printed Name

Address

Signature

Printed Name

Address

LANDLORD:

By: Saving Mercy Corporation, a Florida not-for-profit corporation

By: _____
Penny Beehler, Executive Director

STATE OF FLORIDA)
) SS:
COUNTY OF MARION)

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization, this ____ day of _____, 2024, by Penny Beehler, who is the Executive Director of Saving Mercy Corporation, a Florida not-for-profit corporation, and is () personally known to me or () produced a as identification.

My Commission Expires:

Sign Name: _____

Print Name: _____

NOTARY PUBLIC

Serial No. (none, if blank): _____

[NOTARIAL SEAL]

EXHIBIT A

EASEMENT AREA

The south 360 feet of the following described property:

The West 60.00 feet of the West half of the Southeast Quarter of the Northwest Quarter of Section 14, Township 15 South, Range 21 East Marion County, Florida, Except the East 10.00 feet of the South 200.00 feet Lying North of State Road 40.