

Recording requested by and  
When recorded mail to:

City of Watsonville  
Attn: City Clerk  
275 Main St., 4<sup>th</sup> Floor  
Watsonville, CA 95076

Space above reserved for use of County Recorder

This document is recorded for the benefit of the City of Watsonville and is exempt from recording fees pursuant to government Code Sections 6103 and 27383

**Affordable Housing Agreement  
“Hillcrest Estates”**

THIS AGREEMENT, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by and between Hillcrest Watsonville, LLC, a California limited liability company, whose principal offices are located at 4041 Soquel Dr, Ste. 403, Soquel, CA 95073 (“Developer”) and the City of Watsonville, a municipal corporation, and the City of Watsonville in its capacity as the successor to the housing rights and obligations of the former Redevelopment Agency of the City of Watsonville (collectively "City"); and

WHEREAS, Developer is the owner and developer of approximately 13 acres of real property located at 511 Ohlone Parkway (APN: 018-372-14 & APN 018-381-01) that is more particularly described in the attached Exhibit A (the "Property"); and

WHEREAS, Developer proposes to develop and construct 144 units and associated improvements, (the "Project"), on the above-described Property; and

WHEREAS, the Project is required to include twenty nine (29) affordable housing unit(s) (collectively, the “Affordable Units”) pursuant to the City's Affordable Housing Ordinance, Chapter 14-46 of the Watsonville Municipal Code (the "Affordable Housing Ordinance"), and

WHEREAS it is the intention of Developer and the City to set forth in greater detail and specificity within this separate document the terms and conditions for producing and selling affordable ownership housing within the Project, and

WHEREAS, it is the intention of Developer and the City that this Agreement run with the title to the Property and be binding on all parties that have or will acquire any right, title, or interest in said Property prior to the sale of the Affordable Units to individual home buyers.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual terms and covenants hereinafter set forth, the parties hereby agree that Developer shall produce and sell Affordable Units as described in this Agreement.

1 Definitions. Depending upon their context, certain words and phrases used in this Agreement shall have the same meaning as the definitions that are included in the

Affordable Housing Ordinance. Other words and phrases used in this Agreement shall have the meanings that are defined below:

- 1.1 "Above Moderate Income" means Above Moderate Income as defined in the Affordable Housing Ordinance.
- 1.2 "Affordable Housing Release Fee" means the fee established by the City for releasing Affordable Units from the Affordable Housing Ordinance and Affordable Housing Agreement. The Affordable Housing Release Fee was established by the Watsonville City Council with the adoption of Resolution No. 263-01 (CM) on November 15, 2001 and may be updated, revised or modified from time to time.
- 1.3 "Affordable Housing Ordinance" means Chapter 14-46 of the Watsonville Municipal Code as adopted by the Watsonville City Council by Ordinance No. 1107-01 on June 26, 2001.
- 1.4 "Affordable Unit(s)" means, depending upon the context, either one or more of the affordable ownership housing units, the development and sale of which are regulated by this Agreement.
- 1.5 "Agreement" means this Affordable Housing Agreement.
- 1.6 "Bilingual" means either 1) a person who can speak and read both English and Spanish languages, or 2) documents that are written in both English and Spanish, or both.
- 1.7 "Eligible Purchaser" means an Eligible Purchaser as defined in the Affordable Housing Ordinance.
- 1.8 "Excess Sales Proceeds" means ninety percent (90%) of the difference between the Maximum Allowable Sales Price and the Unrestricted Fair Market Value for an Affordable Unit that is allowed to be released from its Resale Agreement upon its sale.
- 1.9 "Maximum Allowable Sales Price" means the maximum price at which an Affordable Unit may be sold under the Affordable Housing Ordinance. The Maximum Allowable Sale Price established for each Affordable Unit is the absolute maximum price that the Developer or individual may charge for the unit or may receive as compensation for the unit. The Developer or individual owner may not charge or receive any additional amount or compensation for an Affordable Unit regardless of whether the additional amount is 1) for options, upgrades or additional improvements to the unit, 2) paid through escrow or outside of escrow, 3) paid prior to, after or as part of the purchase escrow or 4) paid in cash or in kind.
- 1.10 "Median Income" means Median Income as defined in the Affordable Housing Ordinance.

- 1.11 "Moderate Income" means Moderate Income as defined in the Affordable Housing Ordinance.
- 1.12 "Target Income Level(s)" means, depending upon the context, one or more of the three income levels (i.e., Median Income, Moderate Income and Above Moderate Income) to which the sale of Affordable Units must be targeted.
- 1.13 "Unrestricted Fair Market Value" means the amount that an Affordable Unit could sell for if its sales price and occupancy were not restricted under the Affordable Housing Ordinance. The City may, at its sole option, require that the Unrestricted Fair Market Value be established through an appraisal by an MAI or other qualified appraiser.
- 2 Compliance with Affordable Housing Agreement. Developer shall comply with this Affordable Housing Agreement, all of the applicable requirements and conditions of the Affordable Housing Ordinance and any special terms, conditions, requirements and/or waivers that were specifically applied to the Project as part of the City's approval of the Project.
- 3 Number, Location and Distribution of Affordable Units. The number, location and distribution of Affordable Units that shall be produced and sold are specified in Exhibit B of this Agreement
- 3.1 Design. The design of the inclusionary units shall be consistent and compatible with the design of the total project development in terms of appearance, materials and finished quality. The affordable units may have lesser amenities than the market rate, but these alternative finishes must be pre-approved by the Community Development Director.
- 4 Pricing of Affordable Units. Developer shall sell each Affordable Unit for no more than the Maximum Allowable Sales Price set for the unit by the City pursuant to Section 14-46.15(f)(2) of the Affordable Housing Ordinance. Developer shall notify City thirty (30) days prior to offering each Affordable Unit for sale to allow City adequate time to calculate and notify Developer of the Maximum Allowable Sales Price for the unit and the income limits for Eligible Purchasers. The method for calculating the Maximum Affordable Sales Price is described in Exhibit C of this Agreement.
- 5 Recordation and Release of Agreement. This Agreement shall be recorded against the title to the Property prior to the recordation of the Final Subdivision Map(s) for the Project. Upon the recordation of a Final Subdivision Map(s), the City shall release from this Agreement all parcels created by the Final Subdivision Map(s) that are not designated as Affordable Units.
- 6 Marketing and Sales of Affordable Units
- 6.1 General Provisions. Except where this Agreement provides otherwise, Developer shall follow the procedures and comply with the requirements of Section 14-46.15 of the Watsonville Municipal Code when marketing and selling the Affordable Units.

- 6.2 Local and Bilingual Marketing. To the extent allowed by applicable law, Developer shall make reasonable efforts to sell Affordable Units to buyers who live or work within the Watsonville City Limits. To the extent necessary to ensure compliance with State and Federal fair housing laws, Developer shall employ bilingual staff or a firm with bilingual staff to market the Affordable Units and shall prepare and use bilingual sales and marketing materials for the Affordable Units.
- 6.3 Participation in Affordable Housing Programs. Developer shall to the greatest extent reasonably possible participate in the available local, State and Federal affordable housing programs in order to ensure that the highest possible number of low to moderate income households, first time home buyers, Watsonville residents, farm workers and other local workers can purchase Affordable Units.
- 6.4 Verification of Buyer Eligibility. Prior to the close of escrow for the sale of each Affordable Unit, the Developer shall provide verification to the City that the buyer's income does not exceed the maximum allowed for the Target Income Level for that unit. Incomes shall be verified (or previous verifications shall be updated) no earlier than sixty (60) days prior to close of escrow.
- 6.5 Individual Regulatory, Security and Disclosure Documents. Prior to the sale of each Affordable Unit, Developer shall ensure that:
- 6.5.1 The buyer and the City sign a Buyer's Occupancy and Resale Agreement with Option to Purchase (hereinafter "Resale Agreement"), which is in the form that is attached as Exhibit D to this Agreement. The Resale Agreements shall be recorded against the title to each unit immediately following the liens for any loans that are obtained by the home buyer to finance the purchase of the unit.
- 6.5.2 The buyer signs a Deed of Trust, which is in the form that is attached as Exhibit E to this Agreement, to secure performance of the Buyer's obligations under the Resale Agreement and, should the buyer fail to comply with the terms of the Resale Agreement, payment of Excess Sales Proceeds. The Deed of Trust shall be recorded against the title to the unit following the liens for any loans that are obtained by the home buyer to finance the purchase of the unit.
- 6.5.3 The buyer signs a Disclosure concerning the Affordable Housing Ordinance, the Resale Agreement and the Deed of Trust, which is in a form that will be provided or approved by the City.
- 6.6 Inability to Sell Affordable Unit. Section 14-46.15 (g) of the Watsonville Municipal Code shall apply if Developer is unable to sell an Affordable Unit. Prior to the City releasing an Affordable Unit from the restrictions of the Affordable Housing Ordinance and this Affordable Housing Agreement, Developer shall pay the City's current Affordable Housing Release Fee.

7 Default

7.1 Failure of the Developer to cure any default in the Developer's obligations under the terms of this Agreement within ninety (90) days after the delivery of a notice of default from the City (or where the default is of the nature which cannot be cured within such ninety (90)-day period, the failure of the Developer to commence to cure such default within ninety (90)-day period or to proceed diligently to complete the cure of such a default within one hundred twenty (120) days) will constitute a default under the Development Agreement and a failure to satisfy the land use conditions of approval with respect to the Property and the requirements of the Affordable Housing Ordinance; and the City may exercise any and all remedies available to it with respect to the Developer's failure to satisfy the requirements of the Development Agreement and land use conditions of approval including but not limited to the withholding of building permits for the Market Units within the Subject Property.

7.2 Cross Default. If Developer and the City have entered into a Development Agreement as part of City's approval for this Project, a default under this Agreement shall also constitute a default under the Development Agreement and a default under the Development Agreement shall also constitute a default under this Agreement.

8 Other Provisions. The following terms and conditions shall also apply to this Agreement and the development and sale of the Affordable Units that are governed by this Agreement.

8.1 Term of Agreement. This Agreement shall remain in force until six (6) months following the sale of the last Affordable Unit to an Eligible Purchaser.

8.2 Term of Affordability. Each Affordable Unit shall remain affordable for a minimum period of forty-five (45) years from the date of its sale by Developer to an Eligible Purchaser.

8.3 Watsonville Municipal Code. Unless the text of this Agreement specifies otherwise, any reference to a Section number is a reference to the Watsonville Municipal Code.

8.4 No Joint Venture or Partnership. Nothing contained in this Agreement or any document executed with this Agreement shall be construed as creating a joint venture or partnership between the City and Developer.

8.5 Reporting and Compliance Monitoring. Compliance with the requirements of this Agreement covering the initial sale of the Affordable Units shall be reported to the City by the Developer and certified by a third party such as a Certified Public Accountant approved by the City's Redevelopment and Housing Department Director. Developer shall provide the City with other reports as reasonably required by the City to verify compliance with this Agreement.

- 8.6 Appointment of Other Agencies. At its sole discretion, City may designate, appoint or contract with any other public agency, for-profit or non-profit organization to perform the City's obligations under this Agreement.
- 8.7 Burden to Run with Property. The covenants and conditions herein contained shall apply to and bind the heirs, executors, administrators, successors, transferees, and assignees of all the parties having or acquiring any right, title or interest in or to any part of the Property and shall run with and burden the Property until terminated or released in accordance with the provisions hereof. Prior to the issuance of building permits, the Developer shall expressly make the conditions and covenants contained in this Agreement a part of any deed or other instrument conveying any interest in the Property. Notwithstanding anything to the contrary set forth in this Agreement, individual purchasers of units pursuant to any approved public report in compliance with the California Subdivided Lands Act, and mortgage lenders holding deeds of trust on such individual units after sale to such purchasers, shall not be subject to the terms of this Agreement; and the terms of this Agreement shall be of no further force or effect with respect to such completed unit on the date of the recordation of a deed to the individual purchaser.
- 8.8 Hold Harmless. Developer will indemnify and hold harmless (without limit as to amount) City and its elected officials, officers, employees and agents in their official capacity (hereinafter collectively referred to as "Indemnities"), and any of them, from and against all loss, all risk of loss and all damage (including expense) sustained or incurred because of or by reason of any and all claims, demands, suits, actions, judgments and executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of or relating in any manner to the development of the Property or the sale of units on the Property, and shall protect and defend Indemnities, and any of them with respect thereto.
- 8.9 Insurance. Developer shall obtain, at its expense, comprehensive general liability insurance for the development of the Property naming Indemnities as additional named insured's with aggregate limits of not less than Two Million Dollars (\$2,000,000) for bodily injury and death and property damage, including coverage for contractual liability and products and completed operations purchased by Developer from an insurance company duly licensed to engage in the business of issuing such insurance in the State, with a current Best's Key Rating of not less than A-V, such insurance to be evidenced by an endorsement which so provides and delivered to the City Clerk prior to the issuance of any building permit for the development of the Property.
- 8.10 Recording of Agreement. The parties hereto shall cause this Agreement to be recorded against the Property in the official Records of the County of Santa Cruz.
- 8.11 Third Party Beneficiaries. This Agreement is made for the sole protection and benefit of City, and their permitted Successors. No other person shall have the right of action based on any provision of this Agreement.

- 8.12 **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California. Any dispute arising out of this Development Agreement shall be determined by the State Courts of the County of Santa Cruz.
- 8.13 **Partial Invalidity or Unenforceability.** If any provision of this Agreement shall be determined by a court to be invalid and/or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the State of California which became effective after the effective date of this Agreement, then the remaining provisions of this Agreement shall nevertheless remain in full force and effect.
- 8.14 **Notices and Correspondence.** Any notices and correspondence concerning this Agreement shall be sent to the parties at the following addresses:

City of Watsonville  
 275 Main St., 4<sup>th</sup> Floor  
 Watsonville, CA 95077  
 Attn: City Clerk

Hillcrest Watsonville, LLC  
 4041 Soquel Dr, Ste 403  
 Soquel, CA 95073  
 Attn: Lisa Li

Community Development Dept.  
 Attn: Affordable Housing Program  
 250 Main St.  
 Watsonville, CA 95076

In Witness Whereof, the parties have executed this Affordable Housing Agreement (Ownership Units) as of the day and year written above.

The City of Watsonville  
 a Municipal Corporation

Hillcrest Watsonville LLC  
 a California limited liability company

By: \_\_\_\_\_  
 Tamara Vides, City Manager Pro Tempore

By: \_\_\_\_\_  
 \_\_\_\_\_, President

Approved as to Form

By: \_\_\_\_\_  
 Samantha Zutler, City Attorney

**Exhibits**

- Exhibit A - Legal Description
- Exhibit B - Number, Location and Distribution of Affordable Units
- Exhibit C - Sample Sales Price Calculation
- Exhibit D - Form of Resale Agreement
- Exhibit E - Form of Deed of Trust

Exhibit A

**Legal Description**

The land referred to herein is described as follows:

ALL OF THAT REAL PROPERTY LOCATED IN THE CITY OF WATSONVILLE, SANTA CRUZ COUNTY, CALIFORNIA AS FOLLOWS:

PARCEL ONE

BEING A PART OF THE RANCHO BOLSA DEL PAJARO AND BEING ALSO A PART OF THE LANDS CONVEYED BY ADOLPH LAPORTE, ET UX., TO WATSONVILLE MEAT COMPANY BY DEED DATED JUNE 20, 1947 AND RECORDED JULY 2, 1947 IN VOLUME 587, PAGE 208, OFFICIAL RECORDS OF SANTA CRUZ COUNTY, AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS, TO WIT:

BEGINNING AT A 1" PIPE AT THE NORTHWESTERLY OR MOST NORTHERLY CORNER OF LANDS CONVEYED BY WATSONVILLE MEAT COMPANY TO A & K COMPANY BY DEED DATED MAY 8, 1956 AND RECORDED MAY 14, 1956 IN VOLUME 1074, PAGE 472, OFFICIAL RECORDS OF SANTA CRUZ COUNTY; THENCE FROM SAID POINT OF BEGINNING AND RUNNING NORTH 17° 17' EAST 565.22 FEET TO A PIPE ON THE NORTHERLY BOUNDARY OF SAID LANDS OF WATSONVILLE MEAT COMPANY; THENCE RUNNING ALONG THE NORTHERLY AND EASTERLY BOUNDARIES THEREOF, SOUTH 67° 48' EAST 2.75 FEET TO AN ANGLE; THENCE SOUTH 46° 18' EAST 51.48 FEET TO AN ANGLE; THENCE NORTH 79° 12' EAST 126.72 FEET TO AN ANGLE; THENCE NORTH 44° 12' EAST 73.92 FEET TO AN ANGLE; THENCE NORTH 69° 57' EAST 101.64 FEET TO AN ANGLE; THENCE SOUTH 82° 03' EAST 469.92 FEET TO AN ANGLE; THENCE SOUTH 30° 18' EAST 41.58 FEET TO AN ANGLE; THENCE SOUTH 2° 33' EAST 148.50 FEET TO AN ANGLE; THENCE SOUTH 9° 42' WEST 131.34 FEET TO AN ANGLE; THENCE SOUTH 24° 27' WEST 232.32 FEET TO AN ANGLE; THENCE SOUTH 35° 12' WEST 66.00 FEET TO AN ANGLE; THENCE SOUTH 29° 55' WEST 159.15 FEET TO A PIPE AT AN ANGLE IN THE EASTERLY BOUNDARY OF THE AFOREMENTIONED LANDS OF A & K COMPANY; THENCE RUNNING ALONG THE BOUNDARY OF SAID LANDS, NORTH 11° 04' EAST 87.14 FEET TO A PIPE AT AN ANGLE; THENCE NORTH 87° 48' WEST 366.54 FEET TO A PIPE AT AN ANGLE; THENCE NORTH 78° 23' WEST 262.76 FEET TO A PIPE AT AN ANGLE; THENCE NORTH 83° 17' WEST 130.85 FEET TO THE POINT OF BEGINNING. EXCEPTING A STRIP OF LAND, 15 FEET IN WIDTH, DESCRIBED BY ITS CENTERLINE AS: BEGINNING AT A STATION ON THE NORTHERLY BOUNDARY OF THE AFOREMENTIONED 6.14 ACRE TRACT CONVEYED BY WATSONVILLE MEAT COMPANY TO A & K COMPANY, FROM WHICH A ½" PIPE AT THE NORTHEASTERLY CORNER THEREOF BEARS SOUTH 87° 48' EAST 165.0 FEET DISTANT; THENCE FROM SAID POINT OF BEGINNING AND RUNNING NORTH 62° 58' EAST 127.7 FEET TO AN ANGLE; THENCE NORTH 51° 42' EAST 67.4 FEET TO AN ANGLE; THENCE NORTH 37° 29' EAST 54.6 FEET TO AN ANGLE; THENCE NORTH 32° 19' EAST 195.2 FEET TO AN ANGLE; THENCE NORTH 26° 02' EAST 85.4 FEET TO AN ANGLE; THENCE NORTH 16° 57" EAST 76.0 FEET TO AN ANGLE; THENCE NORTH 8° 08' EAST 74.4 FEET TO AN ANGLE; THENCE NORTH 1° 07' WEST 56.0 FEET TO AN ANGLE; THENCE NORTH 19° 12' WEST 79.8 FEET, MORE OR LESS, TO THE NORTHERLY BOUNDARY OF SAID LANDS OF THE WATSONVILLE MEAT COMPANY.

PARCEL TWO

A RIGHT OF WAY, APPURTENANT TO PARCEL ONE, AS GRANTED BY WATSONVILLE MEAT COMPANY, A CORPORATION, TO RALPH V. TIDD, ET AL., BY DEED RECORDED JANUARY 21, 1957 IN VOLUME 1112, PAGE 500, OFFICIAL RECORDS OF SANTA CRUZ COUNTY, OVER THE 15 FOOT STRIP OF LAND EXCEPTED FROM PARCEL ONE ABOVE AND INCLUDING THE RIGHT TO GRADE ON AND OVER SAID 15 FOOT STRIP OF LAND AND TO REMOVE SOIL FROM AND TO DEPOSIT SOIL ON SAID 15 FOOT STRIP OF LAND IN CONNECTION WITH THE WORK OF LAYING



OUT AND IMPROVING THE PARCEL OF LAND ADJOINING BOTH SIDES OF SAID 15 FOOT STRIP OF LAND; PROVIDED, HOWEVER, THAT THE SEWER PIPE LINE INSTALLED IN SAID 15 FOOT STRIP NOT BE INJURED OR EXPOSED IN VIOLATION OF ANY ORDINANCE OR LAW.

PARCEL THREE

ALSO A RIGHT OF WAY, APPURTENANT TO PARCEL ONE, 30 FEET IN WIDTH, AS GRANTED BY WATSONVILLE MEAT COMPANY, A CORPORATION, TO RALPH V. TIDD, ET AL., BY DEED RECORDED JANUARY 21, 1957 IN VOLUME 1112, PAGE 500, OFFICIAL RECORDS OF SANTA CRUZ COUNTY, BEING DESCRIBED BY ITS EASTERLY AND SOUTHEASTERLY BOUNDARIES AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL ONE; AND THENCE SOUTH 17° 17' WEST 565.22 FEET TO A PIPE AT THE SOUTHWEST CORNER OF SAID PARCEL; THENCE SOUTH 21° 30' WEST 51.00 FEET TO A PIPE; THENCE SOUTH 19° 47' EAST 464.91 FEET TO A PIPE; THENCE RUNNING ALONG THE BOUNDARY OF M.F. FARMING COMPANY, SOUTH 66° 53' WEST 348.64 FEET TO A 6" X 6" POST SCRIBED "S"; THENCE SOUTH 16° 13' EAST 1089.79 FEET TO A STATION IN A DRAINAGE DITCH; THENCE SOUTH 22° 59' EAST 607.86 FEET TO A STATION ON THE NORTHWEST SIDE OF THE SOUTHERN PACIFIC RAILROAD; THENCE SOUTH 22° 59' EAST 600.68 FEET TO THE BEACH ROAD.

PARCEL FOUR

BEING A PART OF THE RANCHO BOLSA DEL PAJARO, SANTA CRUZ COUNTY, CALIFORNIA, AND BEING ALSO A PORTION OF THE LANDS CONVEYED BY CHRISTINE GRUL, A WIDOW, TO MANUEL SANTOS, ET UX., BY DEED RECORDED AUGUST 24, 1948 IN VOLUME 672, PAGE 495, OFFICIAL RECORDS OF SANTA CRUZ COUNTY.

BEGINNING AT A ¾ INCH PIPE SET AT THE SOUTHWESTERN CORNER OF SAID LAST NAMED LANDS FORMERLY OF ONE LA PORTE AND RUNNING THENCE ALONG THE BOUNDARY OF THE AFORESAID LANDS CONVEYED BY GRUL TO SANTOS, AS AFORESAID, NORTH 2° 26' EAST 242.92 FEET TO THE MIDDLE OF A 30.00 FOOT RIGHT OF WAY; THENCE ALONG THE CENTERLINE OF SAID RIGHT OF WAY, NORTH 80° 09' EAST 103.94 FEET; THENCE NORTH 44° 15' EAST 82.62 FEET; AND THENCE NORTH 20° 42' EAST 3.06 FEET; THENCE LEAVING SAID RIGHT OF WAY AND LEAVING SAID BOUNDARY OF AFORESAID LANDS CONVEYED BY GRUL TO SANTOS, AS AFORESAID, SOUTH 2° 26' WEST 344.31 FEET TO A ¾ INCH PIPE SET ON THE SOUTHERN BOUNDARY OF SAID LAST NAMED LANDS AND THENCE ALONG SAID LAST NAMED BOUNDARY, NORTH 82° 12' WEST 158.29 FEET TO THE POINT OF BEGINNING. EXCEPTING FROM THE LANDS HEREIN CONVEYED, A STRIP OF LAND 15 FEET IN WIDTH MEASURED AT RIGHT ANGLES, THE EASTERLY BOUNDARY OF WHICH SHALL BE THE EASTERLY BOUNDARY OF THE ABOVE DESCRIBED LANDS BEING THE SAME LAND DESCRIBED IN THE DEED FROM PENNIMAN TITLE COMPANY, INC., TO T.O. TOMASELLO AND A & K COMPANY, A PARTNERSHIP, RECORDED JANUARY 31, 1957 IN VOLUME 1114, PAGE 324, OFFICIAL RECORDS OF SANTA CRUZ COUNTY.

APN: 018-372-14 (PARCEL ONE)

APN: 018-372-14

Exhibit B

**Number, Location and Distribution of Affordable Units**

**Number of Affordable Units**

The Developer shall develop twenty-nine (29) Affordable Units and sell these units to a Median, Moderate and Above Moderate Income household.

**Distribution of Affordable Units**

The Affordable Units shall be distributed as follows among the Project’s product types, unit sizes (number of bedrooms), development phases and/or Target Income Levels:

| <b>DISTRIBUTION OF AFFORDABLE UNITS</b> |                  |   |                 |                       |                               |
|---|------------------|---|-----------------|-----------------------|-------------------------------|
|   |                  | <b>Number of Units by Income Category</b> |                 |                       |                               |
| <b># of Bedrooms</b>                    | <b>Plan type</b> | <b>Median</b>                             | <b>Moderate</b> | <b>Above Moderate</b> | <b>Total Affordable Units</b> |
|   |                  |   |                 |                       |                               |
| <b>3</b>                                | Townhouse        | 8   | 7               | 14                    | 29                            |
|   |                  |   |                 |                       |                               |
|   | <b>TOTAL</b>     | <b>8</b>                                  | <b>7</b>        | <b>14</b>             | <b>29</b>                     |

| <b>DISTRIBUTION OF AFFORDABLE UNITS BY PHASE</b> |                             |                         |                             |                              |                                   |
|--|-----------------------------|-------------------------|-----------------------------|------------------------------|-----------------------------------|
| <b>Plan type</b>                                 | <b>Phase 1</b>              | <b>Phase 2</b>          | <b>Phase 3</b>              | <b>Phase 4</b>               | <b>Phase 5</b>                    |
| SFD  |                             |                         |                             |                              |                                   |
| Townhouse  | Lots 18, 19, 22, 25, 26, 29 | Lots 32, 37, 45, 46, 49 | Lots 52, 53, 56, 59, 60, 92 | Lots 85, 88, 89, 95, 99, 102 | Lots 132, 135, 136, 139, 142, 143 |
| Duplex   |                             |                         |                             |                              |                                   |
| <b>TOTAL</b>                                     | <b>6</b>                    | <b>5</b>                | <b>6</b>                    | <b>6</b>                     | <b>6</b>                          |

Exhibit C

**Sample Sales Price Calculation for a Three-Bedroom Median Income Unit**

The Maximum Allowable Sales Price for Affordable Units shall be calculated using the procedures and formulas described below and in Section 14-46.15 (f) (2) of the Affordable Housing Ordinance. For Affordable Units that are restricted to occupancy by Median Income households, as defined in this Agreement, the current Watsonville Moderate Income Limits as established pursuant to the Affordable Housing Ordinance shall be used in these calculations. The prevailing interest rate used in these calculations shall be determined by the City at its sole discretion.

1. Determine the annual Watsonville Median Income Limit for a household size that is one person larger than the number of bedrooms in the affordable unit;
2. Multiply the income limit determined in the previous step by thirty percent (30%) to obtain an annual housing allowance of thirty percent (30%) of income;
3. Divide the annual housing allowance determined in the previous step by twelve (12) to determine the monthly housing allowance;
4. Using a standard amortization table or formula, calculate the loan amount that can be repaid over thirty (30) years with equal monthly payments equal to the monthly housing allowance using the prevailing interest rate for thirty (30) years, and assuming a fully amortized fixed rate mortgage; and
5. Divide the loan amount calculated in the previous step by .95 to determine the Maximum Allowable Sales Price assuming a five percent (5%) down payment.

The following calculations are for a three-bedroom unit that is affordable at the Median Income Level based on the Income Limits adopted by the City Council on August 25, 2020 and the Prevailing Interest Rate adopted by the City Council.

|        |  |           |
|--------|--|-----------|
| Step 1 | Median Income Limit for a 3 person household   | \$92,400  |
| Step 2 | 30% of the Income Limit determined in Step 1   | \$27,720  |
| Step 3 | One twelfth of the amount calculated in Step 2   | \$2,310   |
| Step 4 | Amount that can be financed with payment calculated in Step 3 with a 30 year fixed-rate loan at a 6.75% interest rate (the adopted rate) | \$339,034 |
| Step 5 | Loan amount in Step 4 divided by 95%   | \$356,878 |

The Maximum Allowable Sales Price Calculation for resales by individual home owners who purchased an affordable unit shall be the higher of 1) the above calculation or 2) the owner's original purchase price plus an amount equal to the original purchase price times fifty percent (50%) of the change in the House Price Index since the purchase date, as set forth in Section 14-46.15(h)(2)(ii) of the Affordable Housing Ordinance.

**Exhibit D**

**Form of Resale Agreement**

Complimentary Recording Requested  
Pursuant To Government Code  
Section 6103 and 27383

When Recorded Mail To:

City of Watsonville  
275 Main Street, 4<sup>th</sup> Floor  
Watsonville, CA 95076  
Attn: Affordable Housing Program

**BUYER'S OCCUPANCY AND RESALE AGREEMENT  
WITH OPTION TO PURCHASE**

**CITY OF WATSONVILLE INCLUSIONARY HOUSING PROGRAM**

|                          |                                |
|--------------------------|--------------------------------|
| Owner:                   | _____                          |
| Address of Home:         | _____                          |
| Development:             | «Subdivision» _____ APN: _____ |
| Income Category of Home: | _____                          |
| Number of Bedrooms:      | _____                          |
| Original Sales Price:    | _____                          |

This Buyer's Occupancy and Resale Agreement with Option to Purchase (the "Agreement") is entered into as on \_\_\_\_\_, 20\_\_, by and between the City of Watsonville, a Municipal Corporation, and the City of Watsonville in its capacity as Successor for Housing Functions of its dissolved Redevelopment Agency (the "City") and \_\_\_\_\_ (the "Owner").

**RECITALS**

A. Pursuant to the City of Watsonville's Affordable Housing Ordinance (Ordinance No. 1107-01), Chapter 14-46 of the Watsonville Municipal Code, a portion of all new housing constructed in the City of Watsonville is required to be affordable for median to above moderate income households.

B. «Developer\_Name» (the "Developer") entered into an Affordable Housing Agreement dated «AHO\_Agreement\_Date». Pursuant to the Affordable Housing Agreement, the Developer agreed to sell «M\_of\_units» homes to median, moderate, or above moderate income households at affordable prices (the "Affordable Units").

C. Owner intends to purchase the property located at in the City of Watsonville, and more particularly described in Exhibit A attached hereto and incorporated herein (the "Home"). The Home is one of the Affordable Units. The Home has been designated by the City and the Developer as an \_\_\_\_\_ unit.

D. Pursuant to the Affordable Housing Ordinance and the Affordable Housing Agreement, the Developer and the City are required to ensure the continued affordability of the Home as an Affordable Unit, and the City therefore requires the Owner to execute this Agreement as a condition of the Owner's purchase of the Home. The Owner has agreed to execute and comply with this Agreement in consideration of the Developer's agreement to sell the Home to the Owner at an affordable price, which is below the fair market value of the Home.

E. The purpose of this Agreement is to place resale controls on the Home and to require the payment of any excess proceeds of sale to the City. This Agreement also provides the City an option to purchase the Home at a restricted price, given in consideration of the economic benefits to the Owner resulting from purchase of the Home at a below market price under the City's Affordable Housing Program.

F. The Owner is receiving a first mortgage loan (the "First Mortgage Loan") from \_\_\_\_\_ (the "First Lender"). The First Mortgage Loan is secured by a deed of trust executed by the Owner in favor of First Lender and recorded in the County of Santa Cruz (the "First Mortgage Deed of Trust").

G. This Agreement shall be secured by a deed of trust on the Home (the "City Deed of Trust"). This Agreement and the City Deed of Trust shall be subordinate to the lien of the First Mortgage Deed of Trust.

NOW, THEREFORE, in consideration of the benefits received by the Owner and the City hereunder, the Owner and the City agree, as follows:

#### DEFINITIONS

The following terms are specially defined for this Agreement and their definitions can be found in the sections indicated below:

"Affordable Housing Ordinance" – Recital A

"Agreement" - First sentence of the Agreement on page 1

"Affordable Price" – Section 10B

"City" - First sentence of the Agreement on page 1

"City Deed of Trust" - Recital G

"City Option" - Section 12A

"City Option Price" – Section 12B

"Eligible Purchaser" - Section 11B

"Excess Sales Proceeds" - Section 14

"Unrestricted Fair Market Value" - Section 10B

"First City Response Notice" - Section 8

"First Lender" - Recital F

"First Mortgage Deed of Trust" - Recital F

"First Mortgage Loan" - Recital F

"Home" - Recital C and Section 2

"Housing Price Index" – Section 10A

"Indexed Value" – Section 10A

"Market Purchaser" - Section 14

"Marketing Period" - Section 11A

"Maximum Allowable Sales Price" - Section 10

"Owner" - First sentence of the Agreement on Page 1

"Owner's Notice of Failure to Locate Eligible Purchaser" - Section 11E

"Owner's Notice of Intent to Sell" - Section 7

"Second City Response Notice" - Section 11E

"Transfer" - Section 6

#### DESCRIPTION OF PROPERTY

This Agreement concerns the real property in the City of Watsonville, State of California with the street address set forth on page 1 of this Agreement, which is more fully described in Exhibit A attached hereto and incorporated in this Agreement by reference (the "Home").

### OWNER CERTIFICATIONS; OWNER OCCUPANCY REQUIREMENT

The Owner certifies that the financial and other information previously provided in order to qualify to purchase the Home is true and correct as of the date first written above. The Owner shall occupy the Home as the Owner's principal place of residence. The Owner shall be considered as occupying the Home if the Owner is living in the unit for at least ten (10) months out of each calendar year. The Owner shall provide an annual written certification to the City that the Owner is occupying the Home as his or her principal place of residence.

### LEASING OF HOME

The Owner shall not lease the Home to another party. Any lease in violation of this Agreement is prohibited, and shall be a default under this Agreement and the City Deed of Trust.

### MAINTENANCE AND INSURANCE REQUIREMENTS

The Owner shall maintain the Home, including landscaping, in good repair and in a neat, clean and orderly condition and will not commit waste or permit deterioration of the Home.

The Owner shall maintain a standard all risk property insurance policy equal to the replacement value of the Home (adjusted every five (5) years by appraisal, if requested by City), naming the City as an additional insured. Additional insurance requirements are set forth in Section 5 of the City Deed of Trust.

### RESTRICTIONS ON RESALE OF THE HOME

Any Transfer of the Home will be subject to the provisions of this Agreement including, without limitation, the City Option described in Section 12 below. "Transfer" means any sale, assignment or transfer, voluntary or involuntary, of any interest in the Home, including, but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, or an interest evidenced by a land contract by which possession of the Home is transferred and Owner retains title. Any Transfer without satisfaction of the provisions of this Agreement is prohibited. Transfers by devise or inheritance to an existing spouse or domestic partner, or a spouse, as part of a dissolution proceeding, or in connection with marriage shall not be considered a Transfer for the purposes of this Agreement.

### NOTICE OF INTENDED TRANSFER; PREPARATION OF HOME FOR SALE

In the event the Owner intends to Transfer or vacate the Home, the Owner shall promptly give the City written notice of such intent (the "Owner's Notice of Intent to Sell"). The Owner's Notice of Intent to Sell shall be sent to the City by certified mail, return receipt requested at the address provided in Section 31 of this Agreement. The Owner's Notice of Intent to Sell shall include the information necessary for the City to determine the Maximum Allowable Sales Price of the Home, including the following information:

the address of the Property;

the date of purchase of the Home by the Owner;

the purchase price of the Home paid by the Owner at the time of his/her purchase;

a copy of the HUD-1 Settlement Statement or equivalent document from the close of escrow on the Owner's purchase of the Home;

the date on which Owner intends to vacate Home;

the date Home will be placed on the market; and

the name and phone number of the person to contact to schedule inspection of the Home by the City.

Following delivery to the City of the Owner's Notice of Intent to Sell, the Owner shall prepare the Home for sale, as follows:

within thirty (30) days of delivery of the Owner's Notice of Intent to Sell, the Owner shall obtain and deliver to the City a current written report of inspection of the Home by a licensed structural pest control operator;

within the sooner of (a) sixty (60) days from the date of delivery of the Owner's Notice of Intent to Sell, or (b) prior to close of escrow on the Transfer, the Owner shall repair all damage noted in the pest report including damage caused by infestation or infection by wood-destroying pests;

within ten (10) business days of the date of the Owner's Notice of Intent to Sell, the Owner shall allow the City, or its designee, to inspect the Home to determine its physical condition;

if the Home is vacant, the Owner shall maintain utility connections until the close of escrow on the Transfer;

#### CITY RESPONSE TO OWNER'S NOTICE OF INTENT TO SELL

The City shall respond in writing (the "First City Response Notice") to the Owner's Notice of Intent to Sell within ten (10) business days of City receipt of a complete Owner's Notice of Intent to Sell that includes all information required under Section 7 above and access to inspect the Home as required under Section 7(B)(3) above. The First City Response Notice shall inform the Owner of the following information: (1) the maximum qualifying income for an Eligible Purchaser; (2) the certifications required of an Eligible Purchaser; and (3) the Maximum Allowable Sales Price the Owner may receive for the Home, calculated by the City pursuant to Section 11 below.



## OWNER ACKNOWLEDGMENT OF CITY RESPONSE NOTICE

No later than seven (7) days following the date of the First City Response Notice, the Owner shall acknowledge in writing to the City that he/she has received the City Response Notice and still intends to Transfer the Home.

## DETERMINATION OF MAXIMUM ALLOWABLE SALES PRICE FOR RESTRICTED SALE

If the Owner sells to an Eligible Purchaser, the maximum sales price (the "Maximum Allowable Sales Price") that the Owner shall receive from the Eligible Purchaser for purchase of the Home shall be the greater of the Indexed Value or the Affordable Price, but in no event greater than the Unrestricted Fair Market Value.

Indexed Value. The Indexed Value of the Home means the sales price of the Home at the time of purchase by the Owner, as set forth on page 1 of this Agreement, increased by fifty percent (50%) of the annual percentage of increased value in the Housing Price Index from the date of the original purchase of the Home by the Owner to the date of receipt by the City of the Owner's Notice of Intent to Transfer, and, where applicable, adjusted pursuant to subsection (2) below to reflect the cost of deferred maintenance. "Housing Price Index" shall mean the Santa Cruz-Watsonville Metropolitan Statistical Area Housing Price Index as published from time to time by the office of Federal Housing Enterprise Oversight or, if such index is no longer published, a comparable index designated by the City of Watsonville.

Affordable Price. The Affordable Price of the Home means the affordable price for a Median Income Home, Moderate Income Home, or Above Moderate Income Home (as applicable, pursuant to the designation of the Home on page 1 of this Agreement), pursuant to Section 14-46.15(f)(2) of the Affordable Housing Ordinance.

Unrestricted Fair Market Value. In certain circumstances it may be necessary to determine the fair market value of the Home (the "Unrestricted Fair Market Value"). These circumstances include: (1) where the parties wish to determine if the Maximum Allowable Sales Price exceeds the Unrestricted Fair Market Value in order to determine the Maximum Allowable Sales Price pursuant to Section 10; (2) where the Owner is selling the Home to a Market Purchaser at an unrestricted price pursuant to Section 13; and (3) where the Owner wishes to refinance the First Mortgage Loan as described in Section 24 below. If it is necessary to determine the Unrestricted Fair Market Value of the Home, it shall be determined by a certified MAI or other qualified real estate appraiser approved in advance by the City. If possible, the appraisal shall be based upon the sales prices of comparable properties sold in the market area during the preceding three (3)-month period. Nothing in this section shall preclude the Owner and the City from establishing the Unrestricted Fair Market Value of the Home by mutual agreement in lieu of an appraisal pursuant to this section.

Holdback for Damage Repair Cost. If the City finds that the Owner, through neglect, abuse, or lack of adequate maintenance, has damaged the Home, the City may require

that repairs be made at the Owner's cost prior to sale or through the escrow for the sale of the Home.

### SALE OF HOME TO ELIGIBLE PURCHASER AT RESTRICTED PRICE

Following receipt of the First City Response Notice notifying the Owner of the Maximum Allowable Sales Price, the Owner may proceed to sell the Home in compliance with the following requirements:

Marketing Period. The Owner shall have two hundred forty-five (240) days from the date of the First City Response Notice (the "Marketing Period") to market the Home and find an Eligible Purchaser. During the Marketing Period, the Owner shall use bona fide good faith efforts to sell the Home to an Eligible Purchaser in compliance with this Section 11, including listing the Home on the Multiple Listing Service, keeping the Home in an orderly condition, making the Home available to show to agents and prospective buyers, and providing buyers with Eligible Purchaser requirements, including income qualifications and the City's form of disclosure statement summarizing the terms of the buyer's resale agreement. A proposed purchaser ("Proposed Purchaser"), who the Owner believes will qualify as an Eligible Purchaser, shall be referred to the City for an eligibility determination.

Eligible Purchaser. A Proposed Purchaser shall qualify as an "Eligible Purchaser" if he or she meets the following requirements, as determined by the City:

Intent to Owner Occupy. The Proposed Purchaser shall certify that he or she will occupy the Home as his or her principal place of residence throughout his or her ownership.

Agreement to Sign Buyer's Resale Agreement and to Cooperate with City. The Proposed Purchaser shall agree to sign a buyer's resale and occupancy agreement with option to purchase restricting future resale of the Home and shall agree to cooperate fully with the City in promptly providing all information requested by the City to assist the City in monitoring the Proposed Purchaser's compliance with the buyer's resale and occupancy agreement with option to purchase.

Income Eligibility. The combined maximum income for all household members of the Proposed Purchaser shall not exceed the income level designated by the City in the First City Response Notice.

Maximum Allowable Sales Price and Closing Costs. The purchase price for the sale of the Home by the Owner to the Eligible Purchaser shall not exceed the Maximum Allowable Sales Price calculated by the City pursuant to Section 14-46.15(h)(2) of the Affordable Housing Ordinance and Section 10 above, as set forth in the First City Response Notice. The Maximum Allowable Sales Price shall not include closing costs paid by the Eligible Purchaser. The closing costs paid by the Eligible Purchaser shall not exceed reasonable and customary buyers' closing costs in the County of Santa Cruz.

Disclosure and Submittals. The Owner and the Proposed Purchaser shall provide the following information and documents to the City:

The name, address and telephone number in writing of the Proposed Purchaser.

A signed financial statement of the Proposed Purchaser in a form acceptable to the City and any other supporting documentation requested by the City. The financial information shall be used by the City to determine the income eligibility of the Proposed Purchaser.

The proposed sales contract and all other related documents which shall set forth all the terms of the sale of the Home. Said documents shall include at least the following terms: (a) the sales price; and (b) the price to be paid by the Proposed Purchaser for the Owner's personal property, if any, for the services of the Owner, if any, and any credits, allowances or other consideration, if any.

A written certification, from the Owner and the Proposed Purchaser in a form acceptable to the City that the sale shall be closed in accordance with the terms of the sales contract and other documents submitted to and approved by the City. The certification shall also provide that the Proposed Purchaser or any other party has not paid and will not pay to the Owner, and the Owner has not received and will not receive from the Proposed Purchaser or any other party, money or other consideration, including personal property, in addition to what is set forth in the sales contract and documents submitted to the City. The written certification shall also include a provision that in the event a Transfer is made in violation of the terms of this Agreement or false or misleading statements are made in any documents or certification submitted to the City, the City shall have the right to foreclose on the Home or file an action at law or in equity as may be appropriate. In any event, any costs, liabilities or obligations incurred by the Owner and the Proposed Purchaser for the return of any moneys paid or received in violation of this Agreement or for any of the Owner's and/or the Proposed Purchaser's costs and legal expenses, shall be borne by the Owner and/or the Proposed Purchaser and they shall hold the City and its designee harmless and reimburse the City's and its designee's expenses, legal fees and costs for any action they reasonably take in good faith in enforcing the terms of this Agreement.

An executed buyer's resale and occupancy agreement and option to purchase and an executed deed of trust from the Proposed Purchaser in forms provided by the City. The recordation of the new deed of trust and buyer's resale and occupancy agreement and option to purchase shall be a condition of the City's approval of the proposed sale.

The name of the title company escrow holder for the sale of the Home, the escrow number, and name, address, and phone number of the escrow officer.

Upon the close of the proposed sale, certified copies of the recorded City deed of trust and buyer's resale agreement, a copy of the final sales contract, settlement statement, escrow instructions, and any other documents which the City may reasonably request.

Failure To Locate Eligible Purchaser: Notice to City. If, despite bona fide good faith marketing efforts, the Owner is unable to locate an Eligible Purchaser during the Marketing Period and any extensions to the Marketing Period granted by the City, the Owner shall provide written notice to the City of this fact (the "Owner's Notice of Failure to Locate Eligible Purchaser"). Within thirty (30) days of receipt of the Owner's Notice of Failure to Locate Eligible Purchaser, the City shall provide a second response notice to the Owner (the "Second City Response Notice") stating either (1) that the City will exercise the City Option to purchase the Home pursuant to Section 12 below, or (2) that the Owner may Transfer the Home to a person of the Owner's choosing (a "Market Purchaser") who is not an Eligible Purchaser, at an unrestricted price (supported by an MAI or other qualified appraisal), but shall pay all Excess Sales Proceeds to the City as set forth in Section 13 below.

### CITY PURCHASE OPTION

Exercise of Option. If the Owner fails to sell the Home to an Eligible Purchaser at or below the Maximum Allowable Sales Price, the City shall then have the option to purchase the Home (the "City Option") for the City Option Purchase Price, as defined below. The City Option may be exercised by the City in the Second City Response Notice (as described in Section 11E above), to be sent by the City to the Owner within thirty (30) days of receipt of the Owner's Notice of Failure to Locate Eligible Purchaser. If the Second City Response Notice states that the City will exercise the City Option, the City shall purchase the Home within seventy-five (75) days of the date of the Second City Response Notice. The City may, instead of purchasing the Home itself, assign its right to purchase the Home pursuant to the City Option to another public agency, a nonprofit corporation, or to an Eligible Purchaser. In the event of exercise of the City Option and purchase of the Home by the City or its designee, the Owner shall permit a final walk-through of the Home by the City in the final three (3) days prior to close of escrow on the Transfer.

City Option Price. If the City exercises the City Option, the purchase price to be paid by the City (the "City Option Purchase Price") shall be the highest of the following: (1) the outstanding principal balance of the First Mortgage Loan; (2) the total of the outstanding principal balance of the First Mortgage Loan and any purchase money second mortgage loan provided by a governmental body; or (3) the appraised value of the Home with the affordability covenants intact, as determined by an appraiser selected by the City and approved by the Owner, and who employs standard appraisal practices.

### UNRESTRICTED SALES

If the Second City Response Notice states that the City will not exercise the City Option and that the Owner may proceed to Transfer the Home to a person of the Owner's choosing (a "Market Purchaser") who is not an Eligible Purchaser, at an unrestricted price (supported by an MAI or other qualified appraisal), the Owner may proceed to do so, but the Owner shall pay all Excess Sales Proceeds to the City as set forth in Section 14 below. If the Owner Transfers the Home pursuant to this Section 13, the purchaser shall not be required to execute a buyer's resale and occupancy agreement with option to purchase, and the City shall reconvey the liens of this

Agreement and the City Deed of Trust from the Home, provided that the Owner pays the Excess Sales Proceeds to the City pursuant to Section 14 below. The Owner shall provide the City with the following documentation associated with such a Transfer:

The name and address of the purchaser;

The final sales contract and all other related documents, which shall set forth all the terms of the sale of the Home. Said documents shall include at least the following terms: (a) the sales price; and (b) the price to be paid by the Market Purchaser for the Owner's personal property, if any, for the services of the Owner, if any, and any credits, allowances or other consideration, if any.

A written certification, from the Owner and the Market Purchaser in a form acceptable to the City that the sale shall be closed in accordance with the terms of the sales contract and other documents submitted to and approved by the City. The certification shall also provide that the Market Purchaser or any other party has not paid and will not pay to the Owner, and the Owner has not received and will not receive from the Market Purchaser or any other party, money or other consideration, including personal property, in addition to what is set forth in the sales contract and documents submitted to the City. The written certification shall also include a provision that in the event a Transfer is made in violation of the terms of this Agreement or false or misleading statements are made in any documents or certification submitted to the City, the City shall have the right to foreclose on the Home or file an action at law or in equity as may be appropriate. In any event, any costs, liabilities or obligations incurred by the Owner and the Market Purchaser for the return of any moneys paid or received in violation of this Agreement or for any costs and legal expenses, shall be borne by the Owner and/or the Market Purchaser and they shall hold the City and its designee harmless and reimburse their expenses, legal fees and costs for any action they reasonably take in good faith in enforcing the terms of this Agreement.

A copy of the MAI or other qualified appraisal for the Home.

Upon the close of the proposed sale, a copy of the final sales contract, settlement statement, escrow instructions, and any other documents that the City may reasonably request.

#### PAYMENT TO CITY OF EXCESS SALES PROCEEDS

If the Owner Transfers the Home at an unrestricted price pursuant to Section 13 above, or if the Owner makes a Transfer in violation of this Agreement, the Owner shall pay the Excess Sales Proceeds to the City. For purposes of this Agreement, "Excess Sales Proceeds" shall mean ninety percent (90%) of the amount by which the Unrestricted Fair Market Value for the Home exceeds the Maximum Allowable Sales Price for the Home (in the amount that was stated in the First City Response Notice). This amount shall be a debt of the Owner to the City, secured by the City Deed of Trust. The Owner acknowledges that the City shall have no obligation to cause reconveyance of this Agreement or of the City Deed of Trust until the Excess Sales Proceeds are paid to the City. The City shall utilize the Excess Sales Proceeds for City affordable housing

programs. The Owner and the City acknowledge that the formula for calculation of the amount of Excess Sales Proceeds due from the Owner to the City is intended to cause the Owner to receive the same net sales proceeds (following payment by Owner of a standard broker's commission) from sale of the Home at an unrestricted price to an Market Purchaser as the Owner would receive from sale of the Home to the City or to an Eligible Purchaser at the Maximum Allowable Sales Price.

### DEFAULTS

The following events shall constitute a Default by the Owner under this Agreement:

The City determines that the Owner has made a misrepresentation to obtain the benefits of purchase of the Home or in connection with its obligations under this Agreement;

The Owner fails to owner occupy the home, as required pursuant to Section 3 above, and such failure continues following written notice by the City and sixty (60) days opportunity to cure following the date of such notice.

The Owner makes a Transfer in violation of this Agreement;

The Owner otherwise fails to comply with the requirements of this Agreement and such violation is not corrected to the satisfaction of the City within ten (10) days after the date of written notice by the City to the Owner of such violation; or

A notice of default is issued under First Mortgage Loan or other financing secured by the Home.

A lien is recorded against the Home other than the lien of a bone fide mortgage loan.

Owner places a mortgage on the Home in violation of Section 24 below.

Upon a declaration of Default by the City under this Agreement, the City may exercise any remedies at law or in equity, including without limitation, any or all of the following:

Declare all Excess Sales Proceeds immediately due and payable without further demand and invoke the power of sale under the City Deed of Trust;

Apply to a court of competent jurisdiction for such relief at law or in equity as may be appropriate;

Declare a Default under the City Deed of Trust and pursue all City remedies under the City Deed of Trust; and

Exercise the City Purchase Option Upon Default as described in Section 17 below.

#### NOTICE OF DEFAULT AND FORECLOSURE

A request for notice of default and any notice of sale under any deed of trust or mortgage with power of sale encumbering the Home shall be recorded by the City in the Office of the Recorder of the County of Santa Cruz for the benefit of the City. The City may declare a Default under this Agreement upon receipt of any notice given to the City pursuant to Civil Code Section 2924b, and may exercise its rights as provided in Sections 15 and 17.

In the event of default and foreclosure, the City shall have the same right as the Owner to cure defaults and redeem the Home prior to the foreclosure sale. Nothing herein shall be construed as creating any obligation of the City to cure any such default, nor shall this right to cure and redeem operate to extend any time limitations in the default provisions of the underlying deed of trust or mortgage.

If the City failed to file the request for notice of default, the City's right to purchase the Home shall commence from the date a notice of default is given by the City to the Owner.

#### PURCHASE OPTION UPON DEFAULT

Notwithstanding, and in addition to, the remedies provided the City in Section 16, and the City Option provided to the City in Section 12, the Owner hereby grants to the City the option to purchase the Home following written notice by the City to the Owner of the declaration of a Default by the City under this Agreement. This option to purchase is given in consideration of the economic benefits received by the Owner resulting from ownership of the Home made possible by the City's Affordable Housing Program.

The City shall have thirty (30) days after a Default is declared to notify the Owner and the First Lender of its decision to exercise its option to purchase under this Section 17. Not later than ninety (90) days after the notice is given by the City to the Owner of the City's intent to exercise its option under this Section 17, the City shall purchase the Home for the City Option Price, payable in cash or by assuming existing debt and paying the balance in cash, calculated in the manner set forth in Section 12B.

#### NONLIABILITY OF THE CITY

No Obligation to Exercise Option. The City shall have no obligation to exercise any option granted it under this Agreement. In no event shall the City become in any way liable or obligated to the Owner or any successor-in-interest to the Owner by reason of its option to purchase under Sections 12 and 17 nor shall the City be in any way obligated or liable to the

Owner or any successor-in-interest to the Owner for any failure to exercise its option to purchase.

Non-liability for Negligence, Loss, or Damage. Owner acknowledges, understands and agrees that the relationship between Owner and the City is solely that of an owner and an administrator of a City affordable housing program, and that the City does not undertake or assume any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Home or any other matter. The City owes no duty of care to protect Owner against negligent, faulty, inadequate or defective building or construction or any condition of the Home and Owner agrees that neither Owner, or Owner's heirs, successors or assigns shall ever claim, have or assert any right or action against the City for any loss, damage or other matter arising out of or resulting from any condition of the Home and will hold the City harmless from any liability, loss or damage for these things.

Indemnity. Owner agrees to defend, indemnify, and hold the City harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys fees that the City may incur as a direct or indirect consequence of: (1) Owner's default, performance, or failure to perform any obligations as and when required by this Agreement or the Deed of Trust; or (2) the failure at any time of any of Owner's representations to the City to be true and correct.

#### RESTRICTIONS ON FORECLOSURE PROCEEDS

If a creditor acquires title to the Home through a deed in lieu of foreclosure, a trustee's deed upon sale, or otherwise, the Owner shall not be entitled to the proceeds of sale to the extent that such proceeds otherwise payable to the Owner when added to the proceeds paid or credited to the creditor exceed the Maximum Allowable Sales Price. The Owner shall instruct the holder of such excess proceeds to pay such proceeds to the City in consideration of the benefits received by the Owner through purchase of the Home under the City's Affordable Housing Ordinance.

#### RESTRICTION ON INSURANCE PROCEEDS

If the Home is damaged or destroyed and the Owner elects not to rebuild or repair the Home, the Owner shall pay the City the portion of any insurance proceeds received by the Owner for such destruction or damage that is in excess of the Maximum Allowable Sales Price calculated pursuant to Section 10 above.

#### TERM OF AGREEMENT

All the provisions of this Agreement, including the benefits and burdens, run with the Home and this Agreement shall bind, and the benefit hereof shall inure to, the Owner, his or her heirs, legal representatives, executors, successors in interest and assigns, and to the City and its successors, until the earlier of (i) forty-five (45) years from the date of purchase of the Home by Owner, or (ii) the date of Transfer of the Home to the City or another purchaser in compliance with this Agreement.



## SUPERIORITY OF AGREEMENT

The Owner covenants that he or she has not, and will not, execute any other agreement with provisions contradictory to or in opposition to the provisions hereof, and that, in any event, this Agreement is controlling as to the rights and obligations between and among the Owner, the City and their respective successors.

## SUBORDINATION

Notwithstanding any provision herein, this Agreement shall not diminish or affect the rights of the First Lender under the First Lender Deed of Trust or any subsequent First Lender deeds of trust hereafter recorded against the Home in compliance with Section 24 of this Agreement.

Notwithstanding any other provision hereof, the provisions of this Agreement and the City Deed of Trust shall be subordinate to the lien of the First Lender Deed of Trust and shall not impair the rights of the First Lender, or such lender's assignee or successor in interest, to exercise its remedies under the First Lender Deed of Trust in the event of default under the First Lender Deed of Trust by the Owner. Such remedies under the First Lender Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, this Agreement and the City Deed of Trust shall be forever terminated and shall have no further effect as to the Home or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquires title to the Home pursuant to a deed or assignment in lieu of foreclosure, this Agreement and the City Deed of Trust shall automatically terminate upon such acquisition of title, only if (i) the City has been given written notice of default under such First Lender Deed of Trust with a sixty (60)-day cure period and (ii) the City shall not have cured the default within such sixty (60)-day period or commenced to cure and given its firm commitment to complete the cure in form and substance acceptable to the First Lender, or (iii) the City shall not have exercised its option to purchase the Home pursuant to Section 17 above within such sixty (60)-day period and then proceeded diligently to cure the default within sixty (60) days of acquiring title to the Home.

## REFINANCE OF FIRST MORTGAGE LOAN; FURTHER ENCUMBRANCE OF HOME

A. The Owner must secure the City's approval in accordance with this Section 24 before the Owner refinances their existing First Mortgage Loan with a new First Mortgage Loan. If the Owner desires to refinance their existing First Mortgage Loan and record a new First Mortgage Deed of Trust, the Owner must first submit a written request to the City, which the City will promptly consider. The City will approve the Owner's refinancing request only if all of the following are true:

the new First Mortgage Loan principal balance will not exceed the greater of (a) the then-current principal balance of the existing First Mortgage Loan, or (b) ninety-five

percent (95%) of the Indexed Value of the Home, determined in accordance with Section 10A above;

(2) the Owner's total monthly debt service (inclusive of principal, interest, taxes and insurance) with respect to the new First Mortgage Loan will not exceed the Owner's current monthly debt service with respect to the existing First Mortgage Loan;

(3) the terms of the new First Mortgage Loan do not allow for negative amortization, the principal balance of the new First Mortgage Loan will be fully amortized over its term, and the new First Mortgage Loan repayment schedule will not include lump sum or "balloon" payments;

(4) the Owner's total monthly recurring debt payments (e.g., auto loans, credit cards, revolving and non-revolving credit), including the monthly debt service (inclusive of principal, interest, taxes and insurance) related to the new First Mortgage Loan, will not exceed fifty percent (50%) of the Owner's gross monthly income; and

(5) the Owner's total monthly obligations with respect to debt which is secured by the Home, including the monthly debt service (inclusive of principal, interest, taxes and insurance) related to the new First Mortgage Loan, will not exceed fifty percent (50%) of the Owner's gross monthly income.

B. The Owner will be responsible for demonstrating to the City's sole but reasonable satisfaction that the new First Mortgage Loan will satisfy all of the conditions described in paragraph A. (1) – (5) above and/or the City's current Affordable Housing Ordinance. The Owner will provide the City with the documents and other information needed to establish the matters set forth in paragraph A. (1) – (5) above and/or Affordable Housing Ordinance. If the City approves the Owner's request, the City will execute and deliver the instruments reasonably required by the new First Mortgage Lender to subordinate this Agreement and the City Deed of Trust to the lien of the new First Mortgage Deed of Trust.

C. Even if the proposed new First Mortgage Loan satisfies all of the conditions described in paragraph A. (1) – (5), above, the City may, in its sole and absolute discretion, disapprove any request to refinance the Owner's existing First Mortgage Loan if the term of the new First Mortgage Loan will be less than thirty (30) years.

D. The Owner covenants and agrees not to place any mortgage, lien or other encumbrance on the Home other than the original First Mortgage Deed of Trust, a deed of trust securing the Owner's obligations to the City, or a new First Mortgage Deed of Trust approved by the City in accordance with this Section 24. The Owner agrees that the requirements of this Section 24 are reasonably necessary to ensure the continued affordability of the Home to the Owner, to minimize the risk of loss of the Home and its affordability through default and foreclosure of mortgages, liens and other encumbrances, and to fulfill an important public purpose. The Owner acknowledges that any violation of this Section 24 will constitute a Default under this Agreement and the City may exercise all remedies available to the City under this Agreement, the City Deed of Trust, at law or in equity upon such a Default."

#### NONDISCRIMINATION

The Owner covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race,

color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, transfer, use, occupancy, tenure or enjoyment of the Home, nor shall the Owner or any person claiming under or through the Owner establish or permit any such practice or practices of discrimination or segregation with reference to the use, occupancy, or transfer of the Home. The foregoing covenant shall run with the land.

#### RIGHTS OF BENEFICIARIES UNDER DEEDS OF TRUSTS

This Agreement shall not diminish or affect the rights of the City under the City Deed of Trust.

Notwithstanding any other provision in this Agreement to the contrary, this Agreement shall not diminish or affect the rights of the California Housing Finance Agency ("CHFA"), United States Department of Housing and Urban Development ("HUD"), the Federal National Mortgage Association ("FNMA"), or the Veterans Administration ("VA") under the First Mortgage Deed of Trust or any subsequent First Lender deeds of trust hereafter recorded against the Home in compliance with Section 24 above.

Notwithstanding any other provisions in this Agreement to the contrary, all of the provisions of this Agreement shall terminate and have no further force and effect upon the occurrence of one of the following events:

Title is acquired by CHFA, HUD, FNMA, VA, the First Lender or another party upon foreclosure of a deed of trust to the First Lender or CHFA, or a deed of trust insured by HUD or guaranteed by VA.

Title is acquired by another party by a deed in lieu of foreclosure of the First Lender, CHFA, or FNMA deed of trust.

#### HUD FORBEARANCE RELIEF

Notwithstanding other provisions of this Agreement, the City Option on Default pursuant to Section 17 above shall not be exercised by the City when a deed of trust insured by HUD is secured by the Home, and: (i) the owner is undergoing consideration by HUD for assignment forbearance relief; or (ii) the owner is undergoing consideration for relief under HUD's Temporary Mortgage Assistance Payment (TMAP) program.

#### INVALID PROVISIONS

If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

CONTROLLING LAW

The terms of this Agreement shall be interpreted under the laws of the State of California. The venue for any legal action pertaining to this Agreement shall be Santa Cruz County, California.

NO WAIVER

No delay or omission in the exercise of any right or remedy of City upon any default by Owner shall impair such right or remedy or be construed as a waiver. The City's failure to insist in any one or more instance upon the strict observance of the terms of this Agreement shall not be considered a waiver of the City's right thereafter to enforce the provisions of the Agreement. The City shall not waive its rights to enforce any provision of this Agreement unless it does so in writing, signed by an authorized agent of the City.

NOTICES

All notices required herein shall be sent by certified mail, return receipt requested or express delivery service with a delivery receipt and shall be deemed to be effective as of the date received or the date delivery was refused as indicated on the return receipt as follows:

Owner: At the address of the Home.

City: City of Watsonville  
275 Main Street, 4<sup>th</sup> Floor  
Watsonville, CA 95076  
Attn: City Clerk

City of Watsonville  
250 Main St  
Watsonville, Ca 95076  
Attn: Affordable Housing Program

The parties may subsequently change addresses by providing written notice of the change in address to the other parties in accordance with this Section.

INTERPRETATION OF AGREEMENT

The terms of this Agreement shall be interpreted so as to avoid speculation on the Home and to insure to the extent possible that its sales price and mortgage payments remain affordable to persons and families of low- and/or moderate-income.

EXHIBITS

Any exhibits referred to in this Agreement are incorporated in this Agreement by such reference.

IN WITNESS WHEREOF, the City and Owner(s) have executed this Agreement on or as of the date first written above.

CITY: \_\_\_\_\_ OWNER(S): \_\_\_\_\_  
Tamara Vides, City Manager Pro Tempore

\_\_\_\_\_

**Exhibit A**

Legal Description

**Exhibit E**

**Form of Deed of Trust**

Complimentary Recording Requested  
Pursuant To Government Code  
Sections 6103 And 27383

When Recorded Mail To:

City of Watsonville  
275 Main St., 4<sup>th</sup> Floor  
Watsonville, CA 95076  
Attn: Affordable Housing Program

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DEED OF TRUST  
AND SECURITY AGREEMENT

THIS DEED OF TRUST AND SECURITY AGREEMENT ("Deed of Trust") made on \_\_\_\_\_, \_\_\_\_\_, among the Trustor, \_\_\_\_\_. ("Owner"), whose address is \_\_\_\_\_, **Watsonville, California**, and City of Watsonville, a Municipal Corporation, and the City of Watsonville in its capacity as Successor for Housing Functions of its dissolved Redevelopment Agency ("Trustee"), in favor of the City of Watsonville and the City of Watsonville in its capacity as Successor for Housing Functions of its dissolved Redevelopment Agency (the "City") as Beneficiary.

The Owner, in consideration of the promises herein recited and the trust herein created, irrevocably grants, transfers, conveys and assigns to Trustee, in trust, with power of sale, the property located in the City of Watsonville, Santa Cruz County, State of California, described as

Refer to Exhibit "A"

and more commonly known as \_\_\_\_\_, **Watsonville, California**, APN: \_\_\_\_\_ (the "Property").

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Deed of Trust; and

TOGETHER with all articles of personal property or fixtures now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Property which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to,

and all renewals or replacements thereof or articles in substitution therefore, whether or not the same are, or shall be attached to said building or buildings in any manner; and all of the foregoing, together with the Property, is herein referred to as the "Security";

To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever;

TO SECURE to the City the performance of the covenants and agreements of Owner contained in that certain Buyer's Occupancy and Resale Agreement with Option to Purchase executed by and between the Owner and the City of even date herewith (the "Resale Agreement") and to secure the payment of Excess Sales Proceeds (as defined in the Resale Agreement) that may become due by Owner to City.

TO SECURE the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Owner herein contained.

**OWNER AND CITY COVENANT AND AGREE AS FOLLOWS:**

Owner's Estate. That Owner is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Security, that other than this Deed of Trust, the Security is encumbered only by: (a) that deed of trust executed by Owner in connection with a loan made to Owner by \_\_\_\_\_ (the "First Lender"), securing a promissory note executed by Owner in favor of the First Lender ("First Lender Note"), to assist in the purchase of the Property and (b) the Resale Agreement. Owner agrees to warrant and defend generally the title to the Security against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring the City's interest in the Security. (As used in this Deed of Trust, the term "First Lender" shall include all successors and assigns of the First Lender.)

Payment of Excess Sales Proceeds. Owner will promptly pay to the City, when and if due pursuant to the Resale Agreement, the Excess Sales Proceeds (as defined in the Resale Agreement).

Resale Agreement. Owner will observe and perform all of the covenants and agreements of the Resale Agreement.

Charges; Liens. Owner will pay all taxes, assessments and other charges, fines and impositions attributable to the Security which may attain a priority over this Deed of Trust, by Owner making any payment, when due, directly to the payee thereof. Upon request by the City, Owner will promptly furnish to the City all notices of amounts due under this paragraph. In the event Owner makes payment directly, Owner will promptly discharge any lien which has priority over this Deed of Trust; provided, that Owner will not be required to discharge the lien of the Deed of Trust securing the First Lender Note (the "First Lender Deed of Trust") or any other lien described in this paragraph so long as Owner will agree in writing to the payment of the obligation secured by such lien in a manner acceptable to the City, or will, in good faith, contest



such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Security or any part thereof.

Hazard Insurance. Owner will keep the Security insured by a standard all risk property insurance policy equal to the replacement value of the Security (adjusted every five (5) years by appraisal, if requested by the City). If the Security is located in a flood plain, Owner shall also maintain flood insurance.

The insurance carrier providing this insurance shall be licensed to do business in the State of California and be chosen by Owner subject to approval by the City.

All insurance policies and renewals thereof will be in a form acceptable to the City and will include a standard mortgagee clause with standard lender's endorsement in favor of the holder of the First Lender Note and the City as their interests may appear and in a form acceptable to the City. The City shall have the right to hold, or cause its designated agent to hold, the policies and renewals thereof, and Owner shall promptly furnish to the City, or its designated agent, the original insurance policies or certificates of insurance, all renewal notices and all receipts of paid premiums. In the event of loss, Owner will give prompt notice to the insurance carrier and the City or its designated agent. The City, or its designated agent, may make proof of loss if not made promptly by Owner. The City shall receive thirty (30) days advance notice of cancellation of any insurance policies required under this section.

Unless the City and Owner otherwise agree in writing, insurance proceeds, subject to the rights of the First Lender, will be applied to restoration or repair of the Security damaged, provided such restoration or repair is economically feasible and the security of this Deed of Trust is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Deed of Trust would be impaired, the insurance proceeds will be used to repay any amounts due under the Resale Agreement, with the excess, if any, paid to Owner. If the Security is abandoned by Owner, or if Owner fails to respond to the City, or its designated agent, within thirty (30) days from the date notice is mailed by either of them to Owner that the insurance carrier offers to settle a claim for insurance benefits, the City, or its designated agent, is authorized to collect and apply the insurance proceeds at the City's option either to restoration or repair of the Security or to pay amounts due under the Resale Agreement.

If the Security is acquired by the City, all right, title and interest of Owner in and to any insurance policy and in and to the proceeds thereof resulting from damage to the Security prior to the sale or acquisition will pass to the City to the extent of the sums secured by this Deed of Trust immediate prior to such sale or acquisition, subject to the rights of the First Lender.

Preservation and Maintenance of Security. Owner will keep the Security in good repair and in a neat, clean, and orderly condition and will not commit waste or permit impairment or deterioration of the Security. If there arises a condition in contravention of this Section 5, and if the Owner has not cured such condition within thirty (30) days after receiving a City notice of such a condition, then in addition to any other rights available to the City, the City shall have the right (but not the obligation) to perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Security to recover its cost of curing.

Protection of the City's Security. If Owner fails to perform the covenants and agreements contained in this Deed of Trust or if any action or proceeding is commenced which materially affects the City's interest in the Security, including, but not limited to, default under the First Lender Deed of Trust, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then the City, at the City's option, upon notice to Owner, may make such appearances, disburse such sums and take such action as it determines necessary to protect the City's interest, including but not limited to, disbursement of reasonable attorney's fees and entry upon the Security to make repairs.

Any amounts disbursed by the City pursuant to this paragraph, with interest thereon, will become an indebtedness of Owner secured by this Deed of Trust. Unless Owner and City agree to other terms of payment, such amount will be payable upon notice from the City to Owner requesting payment thereof, and will bear interest from the date of disbursement at the lesser of (i) ten percent (10%); or (ii) the highest rate permissible under applicable law. Nothing contained in this paragraph will require the City to incur any expense or take any action hereunder.

Inspection. The City may make or cause to be made reasonable entries upon and inspections of the Security; provided that the City will give Owner reasonable notice of inspection.

Forbearance by the City Not a Waiver. Any forbearance by the City in exercising any right or remedy will not be a waiver of the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by the City will not be a waiver of the City's right to require payment of any amounts secured by this Deed of Trust.

Remedies Cumulative. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or any other document, or afforded by law or equity, and may be exercised concurrently, independently or successively.

Successors and Assigns Bound. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of the City and Owner subject to the provisions of this Deed of Trust.

Joint and Several Liability. All covenants and agreements of Owner shall be joint and several.

Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Owner provided for in this Deed of Trust will be given by certified mail, addressed to Owner at the address shown in the first paragraph of this Deed of Trust or such other address as Owner may designate by notice to the City as provided herein, and (b) any notice to the City will be given by express delivery, return receipt requested, to the City of Watsonville at P. O. Box 50000, Watsonville, California, 95007-5000, Attention: City Manager, or to such other address as the City may designate by notice to Owner as provided above. Notice shall be effective as of the date received by City as shown on the return receipt.

Governing Law. This Deed of Trust shall be governed by the laws of the State of California.

Severability. In the event that any provision or clause of this Deed of Trust or the Resale Agreement conflicts with applicable law, such conflict will not affect other provisions of this Deed of Trust or the Resale Agreement which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust and the Resale Agreement are declared to be severable.

Captions. The captions and headings in this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

Nondiscrimination. The Owner covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Owner or any person claiming under or through the Owner establish or permit any such practice or practices of discrimination or segregation with reference to the use, occupancy, or transfer of the Home. The foregoing covenant shall run with the land.

Nonliability for Negligence, Loss, or Damage. Owner acknowledges, understands and agrees that the relationship between Owner and City is solely that of an owner and an administrator of a City density bonus program, and that City neither undertakes nor assumes any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Security or any other matter. City owes no duty of care to protect Owner against negligent, faulty, inadequate or defective building or construction or any condition of the Security and Owner agrees that neither Owner, or Owner's heirs, successors or assigns shall ever claim, have or assert any right or action against City for any loss, damage or other matter arising out of or resulting from any condition of the Security and will hold City harmless from any liability, loss or damage for these things.

Indemnity. Owner agrees to defend, indemnify, and hold City and Agency harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys fees that City and Agency may incur as a direct or indirect consequence of:

Owner's failure to perform any obligations as and when required by the Resale Agreement and this Deed of Trust; or

the failure at any time of any of Owner's representations or warranties to be true and correct.

Acceleration; Remedies. Upon Owner's breach of any covenant or agreement of Owner in this Deed of Trust, including, but not limited to, the covenants to pay, when due, any sums secured by this Deed of Trust, the City, prior to acceleration, will mail by express delivery, return receipt requested notice to Owner specifying; (1) the breach; (2) the action required to

cure such breach; (3) a date, not less than thirty (30) days from the date the notice is received by Owner as shown on the return receipt, by which such breach is to be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Security. The notice will also inform Owner of Owner's right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of default or any other defense of Owner to acceleration and sale. If the breach is not cured on or before the date specified in the notice, the City, at the City's option, may: (a) declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by California law. (b) either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Security and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value or marketability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security thereof. The entering upon and taking possession of the Security shall not cure or waive any breach hereunder or invalidate any act done in response to such breach and, notwithstanding the continuance in possession of the Security, the City shall be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any uncured breach, including the right to exercise the power of sale; (c) commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof; (d) deliver to Trustee a written declaration of default and demand for sale, pursuant to the provisions for notice of sale found at California Civil Code Sections 2924, et seq., as amended from time to time; or (e) exercise all other rights and remedies provided herein, in the instruments by which the Owner acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing all or any portion of the obligations secured hereby, or provided by law.

The City shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, reasonable attorney's fees.

Owner's Right to Reinstate. Notwithstanding the City's acceleration of the sums secured by this Deed of Trust, Owner will have the right to have any proceedings begun by the City to enforce this Deed of Trust discontinued at any time prior to five (5) days before sale of the Security pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of a judgment enforcing this Deed of Trust if: (a) Owner pays City all sums which would be then due under this Deed of Trust and no acceleration under this Deed of Trust or the Resale Agreement has occurred; (b) Owner cures all breaches of any other covenants or agreements of Owner contained in the Resale Agreement or this Deed of Trust; (c) Owner pays all reasonable expenses incurred by City and Trustee in enforcing the covenants and agreements of Owner contained in the Resale Agreement or this Deed of Trust, and in enforcing the City's and Trustee's remedies, including, but not limited to, reasonable attorney's fees; and (d) Owner takes such action as City may reasonably require to assure that the lien of this Deed of Trust, City's interest in the Security and Owner's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Owner, this Deed of Trust and the obligations secured hereby will remain in full force and effect as if no acceleration had occurred.

Due on Transfer of the Property. Upon a Transfer (as defined in the Resale Agreement) of the Property or any interest in it, the City shall require immediate payment in full of all sums secured by this Deed of Trust.

Reconveyance. Upon payment of all sums secured by this Deed of Trust, the City will request Trustee to reconvey the Security and will surrender this Deed of Trust and the Resale Agreement to Trustee. Trustee will reconvey the Security without warranty and without charge to the person or persons legally entitled thereto. Such person or persons will pay all costs of recordation, if any.

Substitute Trustee. The City, at the City's option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. The successor trustee will succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

Superiority of First Lender Documents. Notwithstanding any provision herein, this Deed of Trust shall not diminish or affect the rights of the First Lender under the First Lender Deed of Trust or any subsequent First Lender deeds of trust hereafter recorded against the Security in compliance with the requirements of Section 24 of the Resale Agreement. City agrees to promptly upon request execute and deliver any documents reasonably requested to subordinate this Deed of Trust to any subsequent First Lender Deed of Trust permitted by Section 24 of the Resale Agreement.

Notwithstanding any other provision hereof, the provisions of this Deed of Trust shall be subordinate to the lien of the First Lender Deed of Trust and shall not impair the rights of the First Lender, or such lender's assignee or successor in interest, to exercise its remedies under the First Lender Deed of Trust in the event of default under the First Lender Deed of Trust by the Owner. Such remedies under the First Lender Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, this Deed of Trust shall be forever terminated and shall have no further effect as to the Property or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquired title to the Property pursuant to a deed or assignment in lieu of foreclosure, this Deed of Trust shall automatically terminate upon such acquisition of title by First Lender, provided that (i) the City has been given written notice of default under such First Lender Deed of Trust with a sixty (60)-day cure period and (ii) the City shall not have cured or commenced to cure the default within such sixty (60)-day period or commenced to cure and given its firm commitment to complete the cure in form and substance acceptable to the First Lender; or (iii) the City shall not have exercised its option to purchase the Property pursuant to Section 17 of the Resale Agreement and then proceeded diligently to cure the default within such sixty (60)-day period.

Request for Notice. Owner requests that copies of the notice of default and notice of sale be sent to Owner at the address set forth in Section 13 above.

IN WITNESS WHEREOF, the City and Owner have executed this Deed Of Trust as of the date first written above.

CITY: \_\_\_\_\_ OWNER(S): \_\_\_\_\_  
Tamara Vides, City Manager Pro Tempore