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City of Seaside
Attn: City Clerk
440 Harcourt Avenue
Seaside, CA 93955

Space above reserved for use of county Recorder

**Affordable Housing Agreement
("Campus Town")**

THIS AGREEMENT, is made and entered into this ___ day of January, 2020 by and between KB Bakewell Seaside Venture II, LLC, a Delaware limited liability company ("Developer"), whose principal offices are located at 5000 Executive Parkway, Suite 125, San Ramon, California 94583, and the City of Seaside, a municipal corporation, and the City of Seaside in its capacity as the successor to the housing rights and obligations of the former Redevelopment Agency of the City of Seaside (collectively "City").

RECITALS

WHEREAS, Developer is purchasing, and will be the owner and developer of, approximately 85 acres of real property located in the area between Gigling Road and Lightfighter Drive/Colonel Durham Road (APNs: 031-151-054 (Parcel I), 031-151-056 (Parcel II), 031-151-055 (Parcel III), 031-151-032 (Parcel IV) 031-151-031 (Parcel V), 031-151-029 (Parcel VI), 031-151-039 (Parcel VII), 031-151-040 (Parcel VIII), 031-261-004 (Parcel IX), 031-261-003 (Parcel X)) that is described in the attached Exhibit A (the "Property"); and

WHEREAS, Developer proposes to develop and construct 1,485 units consisting of single-family dwellings and townhouses, condominium units, apartments and associated improvements, (the "Project"), on the above-described Property; and

WHEREAS, the Project is required to include twenty (20%) percent or 297 affordable housing unit(s) pursuant to the City's Affordable

Housing Ordinance, Chapter 17.32 of the Seaside Municipal Code (the "Affordable Housing Ordinance"); and

WHEREAS, the Developer proposes an alternative pursuant to Seaside Municipal Code ("SMC") 17.32.060 which will construct 225 affordable units (collectively, the "Affordable Units") to be built on-site and off-site and which provides an equivalent of 350 affordable housing units for purposes of 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, renting and/or selling the Affordable Units in satisfaction of the Affordable Housing Ordinance requirements applicable to 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, subject to the release provisions herein.

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

Section 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 Intentionally omitted.
- 1.2 "Affordable Housing Ordinance", unless specifically modified by this Agreement, means Chapter 17.32 of the Seaside Municipal Code in effect as of the date of this Agreement, a copy of which is attached hereto as Exhibit B.
- 1.3 "Affordable Ownership Cost" means the initial sales price that meets the provisions of California Health and Safety Code 50092.5.
- 1.4 "Affordable Unit(s)" means, depending upon the context, either one or more of the affordable ownership or rental housing units, the development, rental and/or 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 persons and families of low or moderate income as defined in California Health and Safety Code section 50093.
- 1.8 "Eligible Renter" means persons and families of low or moderate income as defined in California Health and Safety Code section 50093.
- 1.9 "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.
- 1.10 "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.
- 1.11 "Median Income" means Area Median Income as defined in the California Health and Safety Code Section 50093.
- 1.12 "Moderate Income" means the maximum income for Persons and Families of Low or Moderate Income as defined in the California Health and Safety Code Section 50093.
- 1.13 "Target Income Level(s)" means, depending upon the context, one or more of the three income levels (i.e., Median Income and Moderate Income) to which the sale of Affordable Units must be targeted.
- 1.14 "Unrestricted Fair Market Value" means the amount that a for-sale 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.

Section 2. Standards for Inclusionary Units.

- 2.1 Number, Location and Distribution of Affordable Units. The number, location and distribution and phasing of Affordable Units

are specified in Exhibit C of this Agreement, are subject to such revisions as may be reasonably approved by the City Manager and City Attorney, so long as the minimum number of Affordable Units does not fall below 297 units (or its corresponding equivalency offset consistent with SMC 17.32.020A.2.). The location of each Affordable Unit within each phase of the Project shall be set forth on the final subdivision map(s) or parcel map(s) filed in the Official Records of Monterey County, California in accordance with the California Subdivision Map Act.

2.2 Design. Inclusionary units shall be comparable in infrastructure (including sewer, water, and other utilities), construction quality and exterior design to the market-rate units. Inclusionary units may be smaller in aggregate size and have different interior finishes and features than market-rate units so long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. The number of bedrooms in for-sale inclusionary units shall be the same as those in the for-sale market-rate units, except that if the market-rate units provide more than four bedrooms, the inclusionary units need not provide more than four bedrooms. With respect to any building with both for-rent inclusionary units and for-rent market rate units, the number of bedrooms in the for-rent inclusionary units in a building shall be the same as those in the for-rent market rate units in that same building.

2.3 Timing of Construction. All required inclusionary units shall be constructed and occupied concurrently with or prior to the construction of the associated market-rate units or development as set forth in Exhibit C. Provided, however, that the last inclusionary unit in the project shall be constructed before or concurrent with the issuance of the certificate of occupancy for the final market-rate single family unit in the project.

2.4 Limits on Occupancy. Developer shall comply with Chapter 17.32.020A.2. In order to encourage the additional development of low and very-low units, Developer shall be entitled to the equivalents set forth in Section 17.32.020A.2.a. and b. of 1.5 units for each low income unit and 2 units for each additional very low unit. The Developer and the City agree that the Affordable Unit phasing plan set forth on Exhibit C substantially complies with Chapter 17.32.020A.2.

2.5 Duration of Affordability Restriction. Each inclusionary unit produced shall be legally restricted to occupancy by households of the income levels for which the unit was designated, for a minimum of 45 years for "for sale" units and 55 years for "rental" units.

3 Compliance Procedures

- 3.1 Inclusionary Housing Plan. Developer agrees to provide a more specific Inclusionary Housing Plan addressing the requirements of Chapter 17.32.050 B. However, the initial number, size and general location or phasing of very low, low- and moderate as shown on Exhibit C shall constitute the initial Inclusionary Housing Plan for purposes of approval. Minor modifications or refinements of the initial Inclusionary Housing Plan, which do not reduce the number of affordable units below 297, as adjusted for income equivalency or reduce the percentage of affordable units identified in Exhibit C below twenty percent taking into consideration any equivalency offsets, may be made prior to the approval of a Final Map and issuance of any building permit on the Project or Project phase with the reasonable approval of the City Manager and City Attorney.
- 3.2 Eligibility for Occupying Inclusionary Units. Developer shall comply with the requirements of Sections 17.32.070.A and 17.32.090.A, governing income eligibility of initial occupants, whether rental or ownership. Developer shall retain the services of an independent third-party, which is mutually agreeable to City, to verify income and other eligibility requirements for occupancy of rental and for-sale units. Upon concurrence of the City Manager and City Attorney, the foregoing third-party verifier may be waived if the assignee of Developer has appropriate qualifications to conduct such eligibility requirements.
- 3.3 Pricing of Affordable Units. Developer shall sell each Affordable "For Sale" Unit for a price that the eligible household will pay an affordable ownership cost as defined in California Health and Safety Code section 50052.5. Each Affordable "For Sale" unit shall be encumbered by a deed restriction in substantially the form of Exhibit E, limiting the transferability, occupancy and resale of such affordable unit in accordance with SMC Section 17.32.080, to be recorded concurrently with the sale of such unit to its initial occupants. Developer shall ensure that "For Rent" Units are provided at an Affordable Rent as that term is defined in California Health and Safety section 50053 and that "For Rent" units are restricted by either deed restrictions or a regulatory agreement for the benefit of the City, requiring ongoing compliance with the requirements of SMC 17.32.090, in substantially the form as Exhibit G.
- 3.4 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. At the closing of the sale of any parcel containing an Affordable "For Sale" Unit, the City shall release such parcel from this Agreement, subject to the concurrent recordation of the deed restriction upon such parcel

substantially in the form of Exhibit E hereto. At the closing of the sale of any parcel containing an Affordable "For Rent" Unit, the City shall release such parcel from this Agreement upon the issuance of construction financing for the Affordable "For-Rent" Units and subject to the concurrent recordation of a regulatory agreement upon such parcel substantially in the form of Exhibit G hereto.

4 Marketing and Sales of Affordable Units

- 4.1 General Provisions. Except where this Agreement provides otherwise, Developer shall follow the procedures and comply with the requirements of Section 17.32 and 17.33 of the Seaside Municipal Code when marketing, selling and renting the Affordable Units.
- 4.2 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 Seaside 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.
- 4.3 Verification of Buyer Eligibility. No earlier than Fifteen (15) days prior to close of escrow for the sale of each Affordable "For Sale" Unit, the Developer shall provide or cause to be provided verification to the City (or an update of any previous verification) that the buyer's income does not exceed the maximum allowed for the Target Income Level for that unit. No later than seven (7) days following receipt of Developer's submission of such income verification, the City shall provide written notice to Developer if the City disputes the income-qualification of the proposed buyer.
- 4.4 Individual Regulatory, Security and Disclosure Documents. Prior to the sale of each Affordable Unit, Developer shall ensure that:
- 4.4.1 The buyer signs a Buyer's Occupancy and Resale Agreement with Option to Purchase (hereinafter "Resale Agreement"), which is in the form that is attached as Exhibit E 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.
- 4.4.2 The buyer signs a Deed of Trust, which is in the form that is attached as Exhibit F to this Agreement, to secure performance of the buyer's obligations under the Resale Agreement including, 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.

4.4.3 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 reasonably approved by the City Manager and City Attorney.

5 Default. Failure of the Developer to cure any default in the Developer's obligations under the terms of this Agreement within Sixty (60) 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 One-Hundred Twenty (120)-day period or to proceed diligently to complete the cure of such a default within One-Hundred Eighty (180) 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.

5.1 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.

6 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.

6.1 Term of Agreement. This Agreement shall remain in force until the later of (i) six (6) months following the sale of the last Affordable "For Sale" Unit to an income-qualified initial buyer, or (ii) the date of recordation of a Rental Unit Affordable Housing Regulatory Agreement for the apartment building containing the last Affordable "For Rent" Unit.

6.2 Term of Affordability. Each Affordable "For Sale" Unit shall remain affordable for a minimum period of Forty-Five (45) years from the date of its sale by Developer to an income-qualified initial buyer. Each Affordable "For Rent" Unit shall remain affordable for a minimum period of Fifty-Five (55) years from the date of the first occupancy of a Rental Unit after the recordation of the Rental Unit Affordable Housing Regulatory Agreement for the apartment building containing such unit.

- 6.3 Seaside Municipal Code. Unless the text of this Agreement specifies otherwise, any reference to a Section number is a reference to the Seaside Municipal Code.
- 6.4 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.
- 6.5 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 on a form reasonably acceptable to the City Manager or his designee. Developer shall provide the City with other reports as reasonably required by the City to verify compliance with this Agreement.
- 6.6 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.
- 6.7 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 (with respect to Affordable "For Sale" Units) or the date of the recordation of Rental Unit Affordable Housing Regulatory Agreement for the apartment building containing such unit (with respect to Affordable "For Rent" Units).
- 6.8 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 "Indemnitees"), 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; provided, however, that Developer shall not be required to indemnify, defend or hold harmless any of the Indemnitees from claims, losses, damages, costs and expenses related to the negligence or willful misconduct of any of the Indemnitees.

- 6.9 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.
- 6.10 Recording of Agreement. The parties hereto shall cause this Agreement to be recorded against the Property in the official Records of the County of Monterey.
- 6.11 Mortgagees Protection. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any permitted deed of trust recorded on the Property provided, however, that any subsequent owner of the Property shall be bound by the covenants, conditions, restrictions, limitations and provisions of this Agreement, whether such owner's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.
- 6.12 Estoppel Certificate. Upon the request of the Developer, the City shall, through the City Manager, provide Developer and any potential lender or purchaser, with an estoppel certificate by which the City confirms that neither Developer nor the City is in default hereof (or setting forth such defaults) and confirming such other factual matters as Developer or such potential lender or purchaser may reasonably request and the addressees of such estoppel certificates shall be entitled to rely upon the information contained therein.

6.13 Third Party Beneficiaries. This Agreement is made for the sole protection and benefit of City, and its permitted Successors. No other person shall have the right of action based on any provision of this Agreement.

6.14 Warranties. Each party executing this Agreement warrants they have to legal right to bind their respective parties and encumber the land.

6.15 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Jurisdiction shall be the County of Monterey.

6.16 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.

6.17 Notices and Correspondence. Any notices and correspondence concerning this Agreement shall be sent to the parties at the following addresses:

City
Clerk
Community Development Department
440 Harcourt Ave
Seaside, CA 93955

Developer
Contact Name
CO
Address
City, State Zip

Electronic Copy to:
cityattorney@ci.seaside.ca.us

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

KB Bakewell Seaside Venture II, LLC,
a Delaware limited liability company

By: _____

Name

Its: _____

Title

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF MONTEREY

On _____ before me, _____ Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

City

Craig Malin, City Manager

Approved as to Form

City Attorney

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF MONTEREY

On _____ before me, _____ Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

Exhibits

Exhibit A - Legal Description

Exhibit B – Affordable Housing Ordinance

Exhibit C - Number, Location and Distribution of Affordable Units [KB Spreadsheet]

Exhibit D - Sample Sales Price Calculation

Exhibit E - Form of Resale Agreement

Exhibit F - Form of Deed of Trust

Exhibit G - Form of Rental Unit Affordable Housing Regulatory Agreement

EXHIBIT A LEGAL DESCRIPTION

PARCEL 1:

The portion of the former Fort Ord Military Reservation in Rancho Noche Buena, in the City of Seaside, County of Monterey, State of California described as follows:

A portion of Parcel 3 as per map recorded in Volume 21, Page 83 of Surveys in the Office of the County Recorder of said county, more particularly described as follows:

Beginning at the northwest corner of said Parcel 3 as per said map, designated and shown a point seventy-four (74) on page 4 of 9 thereon; thence along the northerly boundary of said Parcel 3 the following three (3) courses

- 1) North 88° 00' 00" East, 1,473.85 feet to the beginning of a curve, concave south, having a radius of 895.00 feet; thence
- 2) Easterly 224.55 feet along said curve, through a central angle of 14° 22' 30"; thence
- 3) South 77° 37' 30" East, 21.77 feet to the beginning of a curve, concave southwest, having a radius of 260.00 feet; thence leaving said boundary of said Parcel 3
- 4) Southeasterly 461.03 feet along said curve, through a central angle of 101° 35' 49"; thence
- 5) South 23° 58' 19" West, 195.81 feet to the beginning of a non-tangent curve, concave to the south, having a radius of 131.30 feet, and from which beginning a radial bears North 16° 47' 48"; thence
- 6) Westerly, 171.15 feet along said curve, through a central angle of 74° 40' 59" to the beginning of a reverse curve, concave northwest, having a radius of 120.00 feet; thence
- 7) Southwesterly, 123.06 feet along said curve, through a central angle of 58° 45' 31" to the beginning of a reverse curve, concave south, having a radius of 413.66 feet; thence
- 8) Westerly, 215.22 feet along said curve, through a central angle of 29° 48' 34"; thence
- 9) South 61° 03' 46" West, 142.81 feet; thence
- 10) North 02° 32' 34" East, 249.44 feet to the beginning of a curve, concave to the southwest, having a radius of 50.55 feet; thence
- 11) Northwesterly, 79.79 feet along said curve, through a central angle of 90° 26' 36"; thence
- 12) North 87° 54' 02" West, 1,363.25 feet to a point on the westerly boundary of said Parcel 3; thence along said westerly boundary the following three (3) courses
- 13) North 37° 50' 06" East, 151.61 feet to the beginning of a curve, concave to the west, having a radius of 357.00 feet; thence
- 14) Northerly, 271.09 feet along said curve, through a central angle of 43° 30' 36"; thence
- 15) North 05° 40' 29" West, 18.97 feet to the Point of Beginning. The bearing North 87° 33' 00" West as measured between monuments found along the westerly boundary of Parcel 3 as per Volume 21, Page 83 of Surveys, records of Monterey County, California, is the basis of bearings for this description.

Excepting therefrom mineral rights with right of surface entry in a manner that does not unreasonably interfere with Grantee's development and quiet enjoyment of the property as reserved in the "Quitclaim Deed..." executed by United States of America, recorded August 28, 2008, Instrument No. 2008057085,

Official Records, Monterey County.

PARCEL II:

That portion of the former Fort Ord Military Reservation in Rancho Noche Buena, in the City of Seaside, County of Monterey, State of California described as follows:

A portion of Parcel 3 as per map recorded in Volume 21, Page 83 of Surveys in the Office of the County Recorder of said county, more particularly described as follows:

Beginning at the most northeasterly corner of said Parcel 3 as per said map designated and shown as point seventy-seven (77) on page 4 of 9 thereon; thence along the easterly boundary of said Parcel 3

- 1) South 02° 10' 30" West, 158.83 feet; thence leaving said easterly boundary
- 2) North 87° 49' 30" West, 248.60 feet; thence
- 3) South 23° 58' 19" West, 334.69 feet; thence
- 4) North 66° 01' 41" West, 120.00 feet; thence
- 5) North 23° 58' 19" East, 195.81 feet to the beginning of a curve, concave to the southwest, having a radius of 260.00 feet; thence
- 6) Northwesterly 461.03 feet along said curve, through a central angle of 101° 35' 49"; thence
- 7) South 77° 37' 30" East, 616.70 feet to the Point of Beginning.

The bearing of North 87° 33' 00" West along the westerly boundary of Parcel 3 as per Volume 21, Page 83 of Surveys, records of Monterey County, California, is the basis of bearings for this description.

Excepting therefrom mineral rights with right of surface entry in a manner that does not unreasonably interfere with Grantee's development and quiet enjoyment of the property as reserved in the "Quitclaim Deed..." executed by United States of America, recorded August 28, 2008, Instrument No. 2008057085, Official Records, Monterey County.

PARCEL III:

That portion of the former Fort Ord Military Reservation in Rancho Noche Buena, in the City of Seaside, County of Monterey, State of California described as follows:

A portion of Parcel 3 as per map recorded in Volume 21, Page 83 of Surveys in the Office of the County Recorder of said county, more particularly described as follows:

Beginning at a point that bears South 02° 10' 30" West, 158.83 feet from the most northeasterly corner of said Parcel 3 as per said map, designated and shown as point seventy-seven (77) on page 4 of 9 thereon; thence along the easterly boundary of said Parcel 3,

- (1) South 02° 10' 30" West, 1,074.09 feet to a point designated and shown as point seventy-eight (78) on page 4 of 9 thereon; thence leaving said boundary of said Parcel 3
- (2) North 87° 48' 54" West, 147.32 feet; thence
- (3) North 01° 36' 08" East, 8.35 feet; thence
- (4) North 87° 47' 46" West, 438.71 feet to the beginning of a curve, concave northeast, having a radius of 60.00 feet; thence
- (5) northwesterly 117.04 feet along said curve, through a central angle of 111° 46' 04"; thence
- (6) North 23° 58' 19" East, 1,058.92 feet; thence

(7) South 87° 49' 30" East, 248.60 feet to the Point of Beginning.

The bearing of North 87° 33' 00" West along the westerly boundary of Parcel 3 as per Volume 21, Page 83 of Surveys, records of Monterey County, California, is the basis of bearings for this description.

Excepting therefrom mineral rights with right of surface entry in a manner that does not unreasonably interfere with Grantee's development and quiet enjoyment of the property as reserved in the "Quitclaim Deed..." executed by United States of America, recorded August 28, 2008, Instrument No. 2008057086, Official Records, Monterey County.

PARCEL IV:

All that certain real property situate in Rancho Noche Buena, Monterey City Lands, Tract No. 1, City of Seaside, County of Monterey, State of California, being a portion of Parcel 1, as said Parcel 1 is shown and so designated on map filed for record in Volume 19, "Surveys", at Page 1, Records of Monterey County, California, said portion being more particularly described as follows:

Beginning at the northerly terminus of the most westerly line of Parcel 1, as said Parcel 1 is shown and so designated on the map filed for record in Volume 23, "Surveys", at Page 96, Records of Monterey County, California; thence from said Point of Beginning,

(1) South 87° 46' 00" East, 334.96 feet; thence

(2) North 2° 08' 00" East, 159.92 feet; thence

(3) North 87° 46' 00" West, 334.84 feet; thence

(4) South 2° 10' 30" West, 159.92 feet, to the Point of Beginning.

Excepting therefrom all mineral rights with the right of surface entry in a manner that does not unreasonably interfere with the development and quiet enjoyment of the property, as reserved in the Quitclaim Deed executed by United States of America, and recorded April 21, 2004, Instrument No. 2004038303, Official Records.

PARCEL V:

All that certain real property situate in Rancho Noche Buena, Monterey City Lands No. 1, City of Seaside, County of Monterey, State of California, being Parcel 12, as said Parcel 12 is shown and so designated on the map filed for record in Volume 22, "Surveys", at Page 24, Records of Monterey County, California, said parcel being more particularly described as follows:

Beginning at the northwesterly corner of Parcel 12; thence

(1) South 87° 45' 04" East, 821.44 feet; thence

(2) South 2° 13' 00" West, 202.37 feet; thence

(3) North 87° 46' 00" West, 819.31 feet; thence

(4) North 2° 09' 00" East, 171.10 feet; thence, non-tangentially

(5) Northwesterly, along the arc of a curve to the left, concave to the southwest, the center of which bears North 87° 56' 56" West, 289.24 feet, through a central angle of 6° 15' 08", a distance of 31.56 feet, to the Point of Beginning.

Excepting therefrom all mineral rights with the right of surface entry in a manner that does not unreasonably interfere with the development and quiet enjoyment of the property, as reserved in the Quitclaim Deed executed by United States of America, and recorded April 21, 2004, Instrument No. 2004038303, Official Records.

PARCEL VI: :

All that certain real property situate in Rancho Noche Buena, Monterey City Lands Tract No. 1, City of

Seaside, County of Monterey, State of California described as follows:

A portion of Parcel 1, as said Parcel 1 is shown and so designated on the map filed for record in Volume 23 of "Surveys", at Page 96, Records of Monterey County, California, said portion being more particularly described as follows:

Beginning at the northerly terminus of the westerly most line of Parcel 1, as shown on said map; thence, from said Point of Beginning,

(1) South 87° 46' 00" East, 394.96 feet to a point on the westerly line of Parcel 2, as shown on said map; thence, along the westerly and southerly lines of said Parcel 2,

(2) South 02° 08' 23" West, 200.07 feet to a 1-1/4" iron pipe tagged "RCE 15310"; thence

(3) South 87° 46' 30" East, 464.58 feet to a 1-1/4" iron pipe tagged "RCE 15310"; thence

(4) South 02° 15' 21" West, 23.02 feet to a 1-1/4" iron pipe tagged "RCE 15310"; thence

(5) South 87° 46' 00" East, 473.29 feet to a 1-1/4" iron pipe tagged "RCE 15310"; thence, leaving said boundary of said Parcel 2,

(6) South 02° 14' 00" West, 263.17 feet to a point on the southerly boundary of said Parcel 1; thence along the southerly and westerly boundary of said Parcel 1,

(7) North 87° 49' 30" West, 187.15 feet to a 1-1/4" iron pipe tagged "RCE 15310"; thence

(8) South 02° 10' 12" West, 224.79 feet to a 1-1/4" iron pipe tagged "RCE 15310"; thence

(9) North 87° 49' 37" West, 1103.28 feet to a brass tag in walk stamped "RCE 15310"; thence

(10) North 02° 14' 12" East, 12.99 feet to a 1-1/4" iron pipe tagged "RCE 15310"; thence

(11) North 87° 49' 30" West, 42.25 feet; thence

(12) North 02° 10' 30" East, 699.39 feet to the Point of Beginning.

Excepting therefrom all mineral rights with the right of surface entry in a manner that does not unreasonably interfere with the development and quiet enjoyment of the property, as reserved in the Quitclaim Deed executed by United States of America, and recorded October 17, 2002, Instrument No. 2002097675, Official Records, and amended February 23, 2011, Instrument No. 2011010801, Official Records.

PARCEL VII:

All that certain real property situate in Rancho Noche Buena, Monterey City Lands Tract No. 1, City of Seaside, County of Monterey, State of California, being a portion of Parcel 4, as said Parcel 4 is shown and so designated on map filed for record in Volume 23, "Surveys", at Page 96, Records of Monterey County, California, said portion being more particularly described as follows:

Beginning at the northeasterly corner of Parcel 4, as shown on said map; thence from said Point of Beginning,

(1) South 2° 14' 00" West, 324.24 feet; thence

(2) North 87° 46' 00" West, 392.97 feet; thence

(3) South 15° 36' 00" West, 312.79 feet; thence

(4) North 87° 23' 00" West, 197.15 feet; thence

(5) South 60° 24' 00" West, 56.50 feet; thence

- (6) South 87° 12' 30" West, 117.57 feet; thence
- (7) North 02° 10' 21" East, 81.94 feet; thence
- (8) South 87° 49' 30" East, 184.43 feet; thence
- (9) North 10° 27' 00" West, 236.04 feet; thence
- (10) North 30° 43' 16" West, 36.81 feet; thence
- (11) North 87° 47' 21" West, 109.80 feet; thence
- (12) North 02° 14' 00" East, 205.98 feet; thence
- (13) South 87° 46' 00" East, 274.63 feet; thence
- (14) North 02° 14' 00" East, 118.10 feet; thence
- (15) South 87° 46' 00" East, 550.23 feet, to the Point of Beginning.

Excepting therefrom mineral rights with right of surface entry in a manner that does not unreasonably interfere with Grantee's development and quiet enjoyment of the property as reserved in the "QuitclaimDeed..." executed by United States of America, recorded April 21, 2004, Instrument No. 2004038303, Official Records, Monterey County.

PARCEL VIII:

All that certain real property situate in Rancho Noche Buena, Monterey City Lands Tract No. 1, City of Seaside, County of Monterey, State of California, being a portion of the "Seaside V" parcel, as said parcel is shown and so designated on the map filed for record in Volume 23, "Surveys", at Page 96, Records of Monterey, California, said portion being more particularly described as follows:

Beginning at the northeasterly corner of the "Seaside V" parcel; thence,

- (1) South 02° 12' 30" West, 60.00 feet; thence
- (2) North 87° 45' 49" West, 414.88 feet; thence
- (3) South 02° 14' 47" West, 155.03 feet; thence
- (4) South 87° 46' 07" East, 414.99 feet; thence
- (5) South 02° 12' 30" West, 653.19 feet; thence
- (6) North 87° 49' 30" West, 1025.78 feet; thence
- (7) North 02° 14' 01" East, 779.15 feet; thence, non-tangentially,
- (8) Northwesterly, along the arc of a curve to the left, concave to the southwest, the center of which bears North 87° 46' 17" West, 30.00 feet, through a central angle of 90° 00' 00", a distance of 47.12 feet; thence
- (9) North 87° 46' 17" West, 201.00 feet; thence
- (10) South 02° 14' 00" West, 809.37 feet; thence
- (11) North 87° 49' 19" West, 855.18 feet; thence
- (12) North 02° 10' 21" East, 142.85 feet; thence

- (13) North 87° 12' 30" East, 117.57 feet; thence
- (14) North 60° 24' 00" East, 56.50 feet; thence
- (15) South 87° 23' 00" East, 197.15 feet; thence
- (16) North 15° 36' 00" East, 312.79 feet; thence
- (17) South 87° 46' 00" East, 392.97 feet; thence
- (18) North 02° 14' 00" East, 324.24 feet; thence
- (19) North 87° 46' 00" West, 550.23 feet; thence
- (20) South 02° 14' 00" West, 118.10 feet; thence
- (21) North 87° 46' 00" West, 274.63 feet; thence
- (22) South 02° 14' 00" West, 205.98 feet; thence
- (23) South 87° 47' 21" East, 109.80 feet; thence
- (24) South 30° 43' 16" East, 36.81 feet; thence
- (25) South 10° 27' 00" East, 236.04 feet; thence
- (26) North 87° 49' 42" West, 851.79 feet; thence
- (27) North 02° 13' 56" East, 556.13 feet; thence, non-tangentially,
- (28) Northwesterly, along the arc of a curve to the left, concave to the southwest, the center of which bears North 87° 46' 24" West, 30.00 feet, through a central angle of 90° 00' 22", a distance of 47.13 feet to a point of cusp; thence; thence
- (29) North 87° 45' 57" West, 878.30 feet; thence, non-tangentially
- (30) Southwesterly, along the arc of a curve to the left, concave to the southeast, the center of which bears South 02° 11' 48" West, 30.00 feet; through a central angle of 90° 09' 38", a distance of 47.21 feet to a point of cusp; thence
- (31) South 02° 08' 23" West, 69.85 feet; thence
- (32) North 87° 46' 00" West, 60.00 feet; thence
- (33) North 02° 08' 00" East, 159.92 feet; thence
- (34) South 87° 46' 00" East, 874.31 feet; thence
- (35) North 02° 15' 00" East, 202.37 feet; thence
- (36) South 87° 46' 09" East, 256.86 feet; thence
- (37) South 02° 15' 00" West, 202.38 feet; thence
- (38) South 87° 45' 59" East, 1112.75 feet; thence
- (39) South 87° 46' 17" East, 1533.74 feet, to the Point of Beginning.

Excepting Therefrom a 0.41 acre parcel of land, more particularly known as "F5.2", as designated for

Economic Development Conveyance, more particularly described as follows: All that certain real property situate in Rancho Noche Buena, Monterey City Lands Tract No. 1, City of Seaside, County of Monterey, State of California, being Parcel 2, as said Parcel 2 is shown and so designated on the map filed for record in Volume 20, "Surveys", at Page 71, Records of Monterey County, California, said portion being more particularly described as follows:

Commencing at the northeasterly corner of the "Seaside V" parcel, as said parcel is shown and so designated on the map filed for record in Volume 23, "Surveys", at Page 96, Records of Monterey County, California;

thence, westerly along the northerly line of Colonel Durham Road as shown on said map, North 87° 46' 17" West, 1533.74 feet to a 1-1/4" iron pipe with plastic plug marked "RCE 15310"; thence, North 87° 45' 59" West, 1035.84 feet; thence, South 02° 40' 54" West, 60.00 feet to the True Point of Beginning; thence from said True Point of Beginning,

(1) South 02° 40' 54" West, 120.15 feet; thence

(2) North 87° 47' 08" West, 18.45 feet; thence

(3) North 87° 45' 13" West, 130.27 feet; thence

(4) North 02° 14' 30" East, 90.12 feet; thence, non-tangentially

(5) Northeasterly, along the arc of a curve to the right, concave to the southeast, the center of which bears South 87° 56' 13" East, 30.00 feet, through a central angle of 90°01'46", a distance of 47.14 feet to a point of cusp; thence

(6) South 87° 43' 34" East, 119.72 feet, to the True Point of Beginning.

Also Excepting Therefrom a 1.16 acre parcel of land, more particularly known as "L15.1", as designated for Economic Development Conveyance, more particularly described as follows:

All that certain real property situate in Rancho Noche Buena, Monterey City Lands Tract No. 1, City of Seaside, County of Monterey, State of California, being Parcel 1, as said Parcel 1 is shown and so designated on the map filed for record in Volume 21, "Surveys", at Page 96, Records of Monterey County, California, said portion being more particularly described as follows:

Commencing at the northeasterly corner of the "Seaside V" parcel, as said parcel is shown and so designated on the map filed for record in Volume 23, "Surveys", at Page 96, Records of Monterey County, California; thence westerly along the northerly line of Colonel Durham Road as shown on said map, North 87° 46' 17" West, 1533.74 feet to a 1-1/4" iron pipe with plastic plug marked "RCE 15310"; thence, North 87° 45' 59" West, 1035.38 feet; thence, South 02° 40' 54" West, 60.00 feet to the True Point of Beginning; thence from said True Point of Beginning,

(1) South 87° 46' 19" East, 180.23 feet; thence, non-tangentially

(2) Southeasterly, along the arc of a curve to the right, concave to the southwest, the center of which bears South 02° 13' 56" West, 30.00 feet, through a central angle of 90°00'42", a distance of 47.13 feet to a point of cusp; thence,

(3) South 02° 12' 56" West, 299.03 feet; thence

(4) North 87° 47' 27" West, 229.51 feet; thence

(5) North 02° 10' 34" East, 208.96 feet; thence

(6) South 87° 47' 08" East, 18.45 feet; thence

(7) North 02° 40' 54" East, 120.15 feet to the True Point of Beginning.

Also Excepting Therefrom a 1.16 acre parcel of land, more particularly known as "L36", as designated for

Economic Development Conveyance, more particularly described as follows:

All that certain real property situate in Rancho Noche Buena, Monterey City Lands Tract No. 1, City of Seaside, County of Monterey, State of California, being a portion of Parcel 4 (Exception), as said Parcel 4 is shown and so designated on the map filed for record in Volume 23, "Surveys", at Page 96, Records of Monterey County, California, said portion being more particularly described as follows:

Commencing at the northeasterly corner of the "Seaside V" parcel, as said parcel is shown and so designated on the map filed for record in Volume 23, "Surveys", at Page 96, Records of Monterey County, California; thence, westerly along the northerly line of Colonel Durham Road as shown on said map, North 87° 46' 17" West, 1533.74 feet to a 1-1/4" iron pipe with plastic plug marked "RCE 15310"; thence, North 87° 45' 59" West, 605.36 feet; thence South 02° 14' 32" West, 60.03 feet to a 3/4" iron pipe with plastic plug marked "RCE 15310", said point being the True Point of Beginning; thence, from said True Point of Beginning,

(1) South 02° 14' 01" West, 118.08 feet; thence,

(2) South 02° 14' 50" West, 205.76 feet; thence,

(3) North 87° 47' 14" West, 156.10 feet; thence,

(4) North 02° 12' 53" East, 293.91 feet; thence, non-tangentially,

(5) Northeasterly, along the arc of a curve to the right, concave to the southeast, the center of which bears South 87° 47' 14" East, 30.00 feet, through a central angle of 90° 03' 54", a distance of 47.16 feet to a point of cusp; thence

(6) South 87° 45' 22" East, 126.23 feet to the True Point of Beginning.

Also Excepting therefrom mineral rights with right of surface entry in a manner that does not unreasonably interfere with Grantee's development and quiet enjoyment of the property as reserved in the "Quitclaim Deed..." executed by United States of America, recorded December 15, 2004, Instrument No. 2004132661, and re-recorded February 8, 2005, Instrument No. 2005012847, Official Records, Monterey County.

PARCEL IX:

Certain real property situate in the City of Seaside, County of Monterey, State of California, being a portion of the Fort Ord Military Reservation, Parcel 1, as shown on that map filed September 7, 1994, in Volume 19 Surveys, Page 1, at records of Monterey County, California, being more particularly described as follows:

Beginning at a point on the north side of a sixty foot wide road shown as Colonel Durham Road on that map filed August 25, 2003, in Volume 26 Surveys at Page 102, from which the southeast corner of Parcel "1" as shown on that map filed September 27, 1996, in Volume 20 of Surveys at Page 71, records of Monterey County, California, bears South 2° 13' 43" East, 1290.75 feet; thence leaving said road,

(1) North 2° 13' 43" East, 87.03 feet; thence,

(2) South 87° 46' 17" East, 168.05 feet; thence

(3) South 2° 13' 43" West, 87.03 feet to a point on the north side of said road; thence,

(4) along the north line of said road, South 87° 46' 17" East, 168.05 feet to the point of beginning.

Excepting therefrom mineral rights with right of surface entry in a manner that does not unreasonably interfere with Grantee's development and quiet enjoyment of the property as reserved in the "Quitclaim Deed..." executed by United States of America, recorded December 15, 2004, Instrument No. 2004132661, and re-recorded February 8, 2005, Instrument No. 2005012847, Official Records, Monterey County.

PARCEL X:

Certain real property situate in the City of Seaside, County of Monterey, State of California, being a portion of the Fort Ord Military Reservation, Parcel 1, as shown on that map filed September 7, 1994, in Volume 19,

Surveys, at Page 1, records of Monterey County, California, being more particularly described as follows: Beginning at a point on the north side of a sixty foot wide road shown as Colonel Durham Road on that map filed August 25, 2003, in Volume 26 Surveys at Page 102, from which the southeast corner of Parcel "1" as shown on that map filed September 27, 1996, in Volume 20, of Surveys at Page 71, records of Monterey County, California, bears South 2° 13' 43" East, 672.77 feet; thence leaving said road,

(1) North 2° 13' 43" East, 87.03 feet; thence

(2) South 87° 46' 17" East, 168.03 feet; thence

(3) South 2° 13' 43" West, 87.03 feet to a point on the north side of said road; thence,

(4) along the north line of said road, South 87° 46' 17" East, 168.03 feet to the point of beginning.

Excepting therefrom mineral rights with right of surface entry in a manner that does not unreasonably interfere with Grantee's development and quiet enjoyment of the property as reserved in the "Quitclaim Deed..." executed by United States of America, recorded December 15, 2004, Instrument No. 2004132661, and re-recorded February 8, 2005, Instrument No. 2005012847, Official Records, Monterey County. APN: 031-151-054 (Parcel I), 031-151-056 (Parcel II), 031-151-055 (Parcel III), 031-151-032 (Parcel IV) 031-151-031 (Parcel V), 031-151-029 (Parcel VI), 031-151-039 (Parcel VII), 031-151-040 (Parcel VIII), 031-261-004 (Parcel IX), 031-261-003 (Parcel X)

Exhibit B
Affordable Housing Ordinance

[Attached]

Exhibit C

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

[KB Spreadsheet dated October 25, 2019 (or updated)]

EXHIBIT D

Sample Sales Price Calculation for a Two-Bedroom Median Income Unit

The Maximum Allowable Sales Price for Affordable “For Sale” Units shall be calculated using the procedures and formulas described below and in California Health and Safety Code Section 50052.5. Income limits for the target affordability level shall be as identified by the California Housing and Community Development Department for Monterey County as adjusted for affordability level and household size. The prevailing interest rate used in these calculations shall be determined by the City in its reasonable discretion, based on available interest rates from residential mortgage lenders active in Monterey County, for a fully amortizing fixed-rate 30-year mortgage loan.

1. Determine the annual Seaside 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 two-bedroom unit that is affordable at the Median Income Level based on the Income Limits adopted by the State Housing and Community Development for 2019 (which are revised annually), and the Prevailing Interest Rate adopted by the City Manager on [DATE].

Step 1	Median Income Limit for a 3 person household	\$66,700
Step 2	30% of the Income Limit determined in Step 1	\$20,010
Step 3	One twelfth of the amount calculated in Step 2	\$1667.50
Step 4	Amount that can be financed with payment calculated in Step 3 with a 30 year fixed-rate loan at a ____% interest rate (the adopted rate) [NOTE: 6.75% is not the correct interest rate as of the date of this mark-up. The rate is below 4% today]	\$
Step 5	Loan amount in Step 4 divided by 95%	\$

The Maximum Allowable Sales Price Calculation for resales by individual home owners who purchased an affordable unit shall be the above calculation using the income limits at the time of sale.

Sample Rental Price Calculation for a Two-Bedroom Median Income Unit

The Maximum Allowable Rental for Affordable Units shall be calculated using the procedures and formulas described below and in the California Health and Safety Code Chapter 50052.5 and 50053; provided, however, in the case of Affordable "For-Rent" Units that are financed with low-income housing tax credits under Section 42 of the Internal Revenue Code ("Tax Credits"), as administered pursuant to the regulations of the California Tax Credit Allocation Committee ("CTCAC"), then the Maximum Allowable Rental for such Affordable Units shall be calculated using the procedures and formulas described in the CTCAC regulations and documents in lieu of California Health and Safety Code Chapter 50052.5 and 50053, and the procedures and formulas set forth below shall be updated accordingly.

1. Determine the annual Seaside Income Limit for the target level of affordability for a household size that is one person larger than the number of bedrooms in the affordable unit;
6. 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;
7. Divide the annual housing allowance determined in the previous step by twelve (12) to determine the monthly housing allowance;

The following calculations are for a two-bedroom unit that is affordable at the **Median** Income Level based on the Income Limits adopted in 2019 by the State Housing and Community Department.

Step 1	Median Income Limit for a 3 person household	\$66,700
Step 2	30% of the Income Limit determined in Step 1	\$20,010
Step 3	One twelfth of the amount calculated in Step 2	\$1,667.5

**Exhibit E [Under
Review]**

**Form of Resale
Agreement**

Complimentary Recording Requested
Pursuant To Government Code
Section 6103 and 27383
When Recorded Mail To:
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955
Attn: Affordable Housing
Program

BUYER'S OCCUPANCY AND RESALE
AGREEMENT WITH OPTION TO
PURCHASE

CITY OF SEASIDE 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 Seaside, a Municipal Corporation, and the City of Seaside in its capacity as Successor for Housing Functions of its dissolved Redevelopment Agency (the "City") and----- (the "Owner").

RECITALS

A. Pursuant to Chapter 17.32 of the Seaside Municipal Code, a portion of all new housing constructed in the City of Seaside 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 «Number_of_units» homes to very low, low moderate, or moderate income households at affordable prices (the "Affordable Units").

C. Owner intends to purchase the property located at in the City of Seaside, 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 Monterey (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:

I. DEFINITIONS

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

- A. "Affordable Housing Requirement" - Recital A
- B. "Agreement" - First sentence of the Agreement on page 1
- C. "Affordable Price" - Section 10B
- D. "City" - First sentence of the Agreement on page 1
- E. "City Deed of Trust" - Recital G
- F. "City Option" - Section 12A
- G. "City Option Price" - Section 12B
- H. "Eligible Purchaser" - Section 11B
- I. "Excess Sales Proceeds" - Section 14
- J. "Unrestricted Fair Market Value" - Section 10C
- K. "First City Response Notice" - Section 8
- L. "First Lender" - Recital F
- M. "First Mortgage Deed of Trust" - Recital F
- N. "First Mortgage Loan" - Recital F
- O. "Home" - Recital C and Section 2
- P. "Housing Price Index" - Section 10A
- Q. "Indexed Value" - Section 10A
- R. "Market Purchaser" - Section 14
- S. "Marketing Period" - Section 11A
- T. "Maximum Allowable Sales Price" - Section 10
- U. "Owner" - First sentence of the Agreement on Page 1
- V. "Owner's Notice of Failure to Locate Eligible Purchaser" - Section 11E

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

X. "Second City Response Notice" - Section 11E

Y. "Transfer" - Section 6

2. DESCRIPTION OF PROPERTY

This Agreement concerns the real property in the City of Seaside, 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").

3. 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.

4. 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.

5. MAINTENANCE AND INSURANCE REQUIREMENTS

A. 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.

B. 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.

6. 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.

7. NOTICE OF INTENDED TRANSFER; PREPARATION OF HOME FOR SALE

A. 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:

- (1) the address of the Property;
- (2) the date of purchase of the Home by the Owner;
- (3) the purchase price of the Home paid by the Owner at the time of his/her purchase;
- (4) a copy of the HUD-1 Settlement Statement or equivalent document from the close of escrow on the Owner's purchase of the Home;
- (5) the date on which Owner intends to vacate Home;
- (6) the date Home will be placed on the market; and
- (7) the name and phone number of the person to contact to schedule inspection of the Home by the City.

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

- (1) 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;
- (2) within the sooner of (a) XXXX (##) 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;

(3) within XXX (##) 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;

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

8. 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 XXX (##) 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 XX (#)(#) 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 10 below.

9. 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.

10. 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.

A. 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 Seaside 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 Seaside.

B. Affordable Price. The Affordable Price of the Home means the affordable price for a Very Low Income Home, Low Income Home, or Moderate Income Home, (as applicable, pursuant to the designation of the Home on page 1 of this Agreement), pursuant to Section Section 50093 of the California Health and Safety Code.

C. 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.

D. 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.

11. 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:

A. Marketing Period. The Owner shall have two hundred forty-five (245) 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

in 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.

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

(2) 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.

(2) 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.

(3) 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.

C. 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 17.33.070 (B) 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 Monterey.

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

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

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

E. 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.

12. CITY PURCHASE OPTION

A. 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.

B. 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.

13. 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:

(1) The name and address of the purchaser;

(2) 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.

(3) 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.

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

(5) 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.

14. 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.

15. DEFAULTS

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

(2) 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;

(2) 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.

(3) The Owner makes a Transfer in violation of this Agreement;

(4) 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 Ninety (90) days after the date of written notice by the City to the Owner of such violation; or

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

(6) A lien is recorded against the Home other than the lien of a bona fide mortgage loan.

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

B. 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:

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

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

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

(4) Exercise the City Purchase Option Upon Default as described in Section

17 below.

16. 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 Monterey 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.

17. 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 Forty-five (45) 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 17.33.110. 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.

18. NONLIABILITY OF THE CITY

A. 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.

B. 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.

C. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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:

- (1) 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.

- (6) 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.
- (7) 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.
- (8) 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."

(1) 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.

(2) 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.

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

(3) 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.

(4) 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.

(5) 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 Monterey County, California.

(6) 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.

(7) 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 Seaside
440 Harcourt Avenue Seaside, CA 93955
Attn: City Clerk
City of Seaside
440 Harcourt Avenue Seaside, CA 93955
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.

(8) 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.

(9) 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): _____

—
Craig Malin, City Manager

Exhibit F [Under Review]

Form of Deed of Trust

Complimentary Recording
Requested Pursuant To
Government Code Sections 6103
And 27383

When Recorded Mail To:

City of Seaside
440 Harcourt Avenue
Seaside, CA 93955
Attn: Affordable Housing Program

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 _____, XXXX, California, and City of Seaside, a Municipal Corporation, and the City of Seaside in its capacity as Successor for Housing Functions of its dissolved Redevelopment Agency ("Trustee"), in favor of the City of Seaside and the City of Seaside 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 Seaside, Monterey County, State of California, described as

Refer to Exhibit "A"

and more commonly known as **Seaside, CA**

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:

1. 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.)
2. 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).
3. Resale Agreement. Owner will observe and perform all of the covenants and agreements of the Resale Agreement.
4. 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.
5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

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

13. 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 Seaside at 440 Harcourt Avenue, Seaside, California, 93955, 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.

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

15. 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.

16. 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.

17. 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.

18. Non-liability 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.

19. 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:

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

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

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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: _____
Craig Malin, City Manager

OWNER(S): _____

EXHIBIT G

FORM OF RENTAL UNIT AFFORDABLE HOUSING REGULATORY AGREEMENT

[ATTACHED]