

EXHIBIT A

Description of Property

EXHIBIT C

Site Plan

[To be inserted]

EXHIBIT D

Materials, Amenities and Finishes

[To be inserted]

EXHIBIT E

CERTIFICATION OF CONTINUING COMPLIANCE

Project Name and Address: _____

Date: _____

Total Affordable Housing Units in Project:

Very Low Income Units (not to exceed 50% of Median Income): _____

Low Income Units (not to exceed 80% of Median Income): _____

Moderate Income Units (not to exceed 120% of Median Income): _____

The Developer, in accordance with the Affordable Housing Agreement dated _____, does hereby certify to the City of Alameda that during the preceding year, the units identified on the following pages were occupied in accordance with the Affordable Housing Agreement and does hereby further certify that the representations set forth herein are true and correct to the best of the undersigned's knowledge.

Signed: _____
Developer/ Agent

Date: _____

[See Attached]

ANNUAL COMPLIANCE REPORT

Project Name and Address: _____

Date: _____

Very Low Income Units (Not to Exceed 50% of Median Income)

Unit No./Address	Type	Tenant Name	Annual Household Income	Number in Household	Monthly Rent
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

(Attach additional sheets as required.)

Signed: _____
Developer / Agent

Date: _____

ANNUAL COMPLIANCE REPORT

Project Name and Address: _____

Date: _____

Moderate Income Units (Not to Exceed 120% of Median Income)

Unit No./Address	Type	Tenant Name	Annual Household Income	Number in Household	Monthly Rent
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

(Attach additional sheets as required.)

Signed: _____
Developer / Agent

Date: _____

EXHIBIT F

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Alameda
2263 Santa Clara Avenue, Rm 320
Alameda, CA 94501
Attention: City Manager

*Exempt from recording fees pursuant to
Cal. Gov't Code Section 27383*

Space Above This Line For Recorder's Use Only

**NOTICE OF AFFORDABILITY RESTRICTIONS
ON TRANSFER OF PROPERTY**

(Note: Above Title and text below must remain in 14-point type or larger)

Important notice to owners, purchasers, tenants, lenders, brokers, escrow and title companies, and other persons, regarding affordable housing restrictions on the real property described in this Notice: Restrictions have been recorded with respect to the property described below (referred to in this Notice as the "Property") which restrict the price and terms at which the Property may be sold or rented. These restrictions may limit the sales price or rents of the Property to an amount which is less than the fair market value of the Property. These restrictions also limit the income of persons and households who are permitted to purchase and rent the Property.

Title of Document Containing Affordable Housing Restrictions:

Affordable Housing Agreement (referred to in this Notice as the "Affordable Housing Restrictions").

Parties to Affordable Housing Restrictions:

City of Alameda ("City") and
_____ ("Owner").

The Affordable Housing Restrictions are recorded: *(check one)*

as Document No. _____, official records of _____ County, on _____; or

concurrently with this Notice, official records of _____ County.

Legal Description of Property:

See Exhibit A (Attached hereto)

Street Address of Property: _____, Unit
No. _____, _____, California.

Assessor's Parcel Number of Property: _____

Summary of Affordable Housing Restrictions (*check as applicable*):

The Affordable Housing Restrictions restrict the amount of rent which may be charged for the rental housing unit or units on the Property, as follows:
_____.

The Affordable Housing Restrictions restrict the sales price which may be charged for the sale of the ownership housing unit or units on the Property, as follows:
_____.

The Affordable Housing Restrictions restrict the income level of the tenant or buyer of the Property, as follows:
_____.

Term of Restrictions: permanent, commencing on the date of recordation of _____ and terminating only upon termination of the Affordable Housing Restrictions.

This Notice does not contain a full description of the details of all of the terms and conditions of the Affordable Housing Restrictions. You will need to obtain and read the Affordable Housing Restrictions to fully understand the restrictions and requirements which apply to the Property. In the event of any conflict between the terms of this Notice and the terms of the Affordable Housing Restrictions, the terms of the Affordable Housing Restrictions shall control.

This Notice is being recorded and shall be indexed against the City and the current Owner of the Property.

CITY OF ALAMEDA:

Dated: _____, 20__

By: _____
City Manager

OWNER:

Dated: _____, 20__

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 _____)

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(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity 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.

Name: _____
Notary Public

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 _____)

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(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity 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.

Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

[To Be Inserted]

Attachment C

Form of Affordable Housing Covenant

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Alameda
2263 Santa Clara Avenue, Rm 320
Alameda, California 94501
Attention: City Manager

Exempt from recording fees pursuant to
Cal. Gov't Code § 27383

(Space Above This Line for Recorder's Use Only)
[Exempt from recording fee per Gov. Code § 27383]

[CITY FORM]

AFFORDABLE HOUSING AGREEMENT

(For Sale Units Required Pursuant to City Inclusionary Housing Requirements
Set Forth in Section 30-16 of the City Municipal Code)

THIS AFFORDABLE HOUSING AGREEMENT ("Agreement") is entered into as of the _____ day of _____, 20__ ("Effective Date"), by and among the CITY OF ALAMEDA, a municipal corporation ("City") and Alameda Point Partners, LLC, a Delaware limited liability company ("Developer").

RECITALS

A. Developer is the owner of that certain real property located in the City of Alameda, County of Alameda, State of California, more particularly described in Exhibit A attached hereto ("Property") and wishes to construct residential units on the Property.

B. City Municipal Code Section 30-16, added by Ordinance No. 2965-NA adopted on June 15, 2004, sets forth certain inclusionary housing requirements for residential development in the City ("City Inclusionary Policy"), consistent with the intent of State law that local governments use the powers vested in them to make adequate provision for the housing needs of all economic segments of the community.

C. The Property is the site of approximately 800 units of residential development located in the City of Alameda ("Project") and is, therefore, subject to the City Inclusionary Policy. The Project is to be developed by Developer in accordance with City Council Ordinance No. _____ approving the Disposition and Development Agreement dated _____ (the "DDA"), as depicted on the approved site plans for the Project attached as Exhibit B.

D. The Developer has received a discretionary approval from the City to construct the Project which requires that the Developer reserve at least _____ units in the Project for sale

to [moderate-, low- and very low-income] households (each an "Affordable Unit," and collectively, the "Affordable Units") in accordance with the City Inclusionary Policy (the "Project Inclusionary Requirement").

E. The Housing Authority of the City of Alameda ("Authority") is responsible for administering the City's affordable housing programs, including implementing the City Inclusionary Policy pursuant to that certain Staffing Services Agreement between the City and Authority, dated July 1, 2000, as amended.

F. Pursuant to the City Inclusionary Policy and the conditions of approval for the Project, the Developer is required to enter into this Agreement on terms acceptable to the City. This Agreement shall be executed and recorded against the Property prior to the recordation of any parcel map or final map or issuance of any building permit for the Project. The purpose of this Agreement is to set forth the terms and conditions for producing and marketing the Affordable Units in greater specificity and to ensure that the Affordable Units are built as part of the Project. The Developer and City desire to set forth Developer's obligations to provide affordable housing in a recorded document.

NOW, THEREFORE, Developer and City agree as follows:

ARTICLE 1 DEFINITIONS

The following terms shall have the meanings set forth in this Article 1:

A. "Agreement" means this Affordable Housing Agreement between the Developer and City.

B. "Affordable Sales Price" means the maximum purchase price that will be affordable to the specified target income household that includes a reasonable down payment and results in a monthly housing payment that is affordable. A maximum purchase price shall be considered affordable only if the Owner-Occupied Monthly Housing payment is equal to or less than the "affordable housing cost" for such household as defined in Health and Safety Code Section 50052.5(b), or any successor statute thereto.

C. "Affordable Unit" means each of the ____ (___) affordable units that are to be sold to and occupied by Eligible Households only pursuant to Article 2.

D. "Applicable Law" means all laws, ordinances, statutes, codes, rules, regulations, orders and decrees, of the United States, the State of California, the County of Alameda, the City, and of any other political subdivision, agency or instrumentality exercising jurisdiction over Developer or the Property.

E. "Authority" is defined in Recital E.

F. "City" means the City of Alameda, a municipal corporation.

G. "City Inclusionary Policy" is defined in Recital B.

H. "Developer" means _____, a _____.

I. "Deed of Trust" means the deed of trust, in the form provided by the City or the Authority, executed by each buyer of an Affordable Unit, securing the buyer's performance under the Resale Restriction and the Note

J. "Effective Date" means the effective date of this Agreement, as first set forth above.

K. "Eligible Household" means a person or household (i) meeting the definition of "Moderate Income Household," "Low Income Household," or "Very Low Income Household," as applicable, under this Article 1; and (ii) meeting Developer's standard criteria for determining eligibility for occupancy, which may include an evaluation of the applicant's ability to pay the mortgage, employment status and credit history. These standard criteria may vary from time to time, but must be uniformly applied at all times.

L. "Inclusionary Ownership Guidelines" is defined in Section 2.1E.2.

M. "Low Income Household" means a household whose annual income does not exceed the qualifying limits set for "lower income households" in Section 50079.5 of the California Health and Safety Code, or any successor statute thereto.

N. "Market Rate Units" means units in the Project, the sale and occupancy of which are not regulated by this Agreement.

O. "Moderate Income Households" means a household whose annual income does not exceed the qualifying limits set for "persons and families of low or moderate income" in Section 50093 of the California Health and Safety Code, or any successor statute thereto.

P. "Note" means the promissory note, in the form provided by the City or the Authority, executed by each buyer of an Affordable Unit.

Q. "Notice of Affordability Restrictions" means the Notice of Affordability Restrictions on Transfer of Property attached here to as Exhibit ___.

R. "Owner-Occupied Monthly Housing Payment" means the sum equal to the principal, interest, property taxes, property maintenance and repairs, reasonable allowance for utilities (including garbage collection, sewer, water, electricity, gas, other heating, cooking and refrigeration fuel, but not including telephone or cable television service), homeowner's insurance and homeowner's association dues, and any other applicable elements of "housing cost" as defined in Section 6290 of Title 25 of the California Code of Regulations, paid on an annual basis divided by twelve (12).

S. "Phasing Schedule" is defined in Section 2.1.D. [If applicable]

T. "Property" is defined in Recital A.

U. "Project Inclusionary Requirement" is defined in Recital C.

- V. "Project" is defined in Recital C.
- W. "Project Units" means the Market Rate Units and the Affordable Units.
- X. "Resale Restriction" is defined in Section 2.1.E.4.
- Y. "Term" is defined in Section 4.3.

Z. "Very Low Income Household" means a household whose annual income does not exceed the qualifying limits set for "very low income households" in Section 50105 of the California Health and Safety Code, or any successor statute thereto.

ARTICLE 2 PROJECT INCLUSIONARY REQUIREMENT

2.1 Affordability Requirements and Restrictions.

A. Developer shall construct ___ () Affordable Units in the Project, which will be sold to and occupied by Eligible Households, as follows: ___ () or 9% of the Affordable Units shall be sold to and occupied by Moderate Income Households, ___ () or 10% of the Affordable Units shall be sold to and occupied by Low Income Households, and ___ () or 6% of the Affordable Units shall be sold to and occupied by Very Low Income Households.

B. The Annual Household Income shall be considered for purposes of calculating the applicable income of the Eligible Household. "Annual Household Income" means the combined "gross income" for a person or family living in a dwelling unit as calculated pursuant to Section 6914 of Title 25 of the California Code of Regulations.

C. The Affordable Units shall be consistent with the architectural character, size, floor plans and location shown for the housing type identified in the Phasing Plan. Affordable Units shall be comparable in exterior appearance and overall quality of construction to Market Rate Units in the Project.

D. Developer shall construct the Market Rate Units and Affordable Units according to the phasing schedule outlined in the Affordable Housing Implementation Plan, incorporated herein by this reference.

E. Developer shall make a written designation to City, at the time the final subdivision map for the Site is recorded, of the units that shall be the Affordable Units, which designation shall be consistent with the terms of this Agreement. The total number of Affordable Units being offered for sale in accordance with this Article 2 shall be as required by subsection 2.1.A. above. During the Term of this Agreement, the Affordable Units shall be subject to all of the requirements of this Agreement, including without limitation the following additional restrictions and requirements:

1. The Affordable Units shall only be sold to and be occupied by Eligible Households, as specified in subsection 2.1.A. Each Affordable Unit shall only be sold to and be

occupied by an Eligible Household at a price that does not exceed the Affordable Sales Price for such a household, subject to prior approval of the City as further described below.

2. Each Affordable Unit shall only be sold to an Eligible Household approved by City in accordance with this Agreement, the City Inclusionary Policy, and the City's "Inclusionary Housing Program Buyer Selection Guidelines," attached hereto as Exhibit D, as they may be amended from time to time (the "Inclusionary Ownership Guidelines"). At least thirty (30) calendar days prior to entering any agreement with a prospective buyer related to any proposed sale or other transfer of any Affordable Unit during the Term, Developer shall submit to the City: (a) a copy of the proposed written agreement of purchase and sale; (b) an application for City approval of the prospective purchaser/transferee in a form to be provided by the City, along with such supporting documentation as City may require to document the proposed purchaser's/transferee's status as an Eligible Household, including the prospective purchaser's/transferee's payroll stubs and most recent income tax return, and to otherwise determine compliance with the terms of this Agreement, including the requirement that the sale price for each Affordable Unit not exceed the Affordable Sales Price for the purchasing Eligible Household; and (c) the income certification to be provided to any lender making a loan on the Affordable Unit. Developer shall bear all costs and expenses associated with such certification and eligibility determination process. Within thirty (30) calendar days from receipt of the documentation, City shall render a decision of eligibility or noneligibility. Provided the prospective purchaser/transferee qualifies as an Eligible Household, the purchase price of the Affordable Unit meets the definition of Affordable Sales Price, and the sale or transfer complies with the City Inclusionary Policy and the Inclusionary Ownership Guidelines, the City shall within such thirty (30) calendar days issue a letter of approval confirming that the proposed transaction complies with the requirements of this Article 2. If the prospective purchaser/transferee does not qualify as an Eligible Household, the purchase price of the Affordable Unit does not meet the definition of Affordable Sales Price, or the sale or transfer does not comply with the City Inclusionary Policy or the Inclusionary Ownership Guidelines, the City shall so notify the Developer in writing, within such thirty (30) calendar days, stating the basis for its determination in reasonable detail and the Developer shall not sell the Affordable Unit to such non-Eligible Household.

3. THERE SHALL BE NO SALE OR OTHER TRANSFER OF AN AFFORDABLE UNIT WITHOUT ISSUANCE OF A LETTER OF APPROVAL BY CITY THAT THE PURCHASER/TRANSFEREE IS AN ELIGIBLE HOUSEHOLD, THE PURCHASE PRICE OF THE AFFORDABLE UNIT MEETS THE DEFINITION OF AFFORDABLE SALES PRICE FOR SUCH PURCHASER/TRANSFEREE AND THE CATEGORY OF SUCH AFFORDABLE UNIT, AND THE SALE OR TRANSFER COMPLIES WITH CITY'S INCLUSIONARY POLICY AND THE INCLUSIONARY OWNERSHIP GUIDELINES. ANY SALE OR OTHER TRANSFER OF THE AFFORDABLE UNIT IN VIOLATION OF THIS AGREEMENT SHALL BE VOID.

4. EACH PURCHASER OF AN AFFORDABLE UNIT SHALL ENTER INTO AND RECORD AT THE CLOSE OF ESCROW AN AFFORDABILITY COVENANT, RESALE RESTRICTION AND OPTION TO PURCHASE ("RESALE RESTRICTION"), IN A FORM SUBSTANTIALLY SIMILAR TO EXHIBIT E, ATTACHED HERETO, THE NOTE AND THE DEED OF TRUST SUPPLIED BY AND APPROVED BY CITY, AND FOR THE

BENEFIT OF CITY. UPON RECORDATION OF THE RESALE RESTRICTION AND THE DEED OF TRUST: (A) THIS AGREEMENT SHALL HAVE NO FURTHER FORCE OR EFFECT AS AN ENCUMBRANCE AGAINST THE AFFORDABLE UNIT ENCUMBERED BY THE RESALE RESTRICTION AND DEED OF TRUST; AND (B) DEVELOPER SHALL HAVE NO FURTHER OBLIGATIONS OR LIABILITIES WITH RESPECT TO THE AFFORDABLE UNIT ENCUMBERED BY THE RESALE RESTRICTION AND THE DEED OF TRUST, INCLUDING WITHOUT LIMITATION ANY RESPONSIBILITY FOR COMPLIANCE BY THE BUYER OR ITS SUCCESSORS WITH THE TERMS AND CONDITIONS OF THE RESALE RESTRICTION SIGNED BY PURCHASER, PROVIDED THAT DEVELOPER HAS COMPLIED WITH THE TERMS OF THIS AGREEMENT.

2.2 Maintenance and Management. During the Term, the Property and the Project shall be maintained by a Homeowners' Association formed to manage, operate and maintain the Project. The maintenance obligations will include maintenance of the improvements and landscaping. Developer agrees to maintain the Affordable Units in a clean and orderly condition and in good condition and repair, including the maintenance of improvements and landscaping, and to keep the Affordable Units free from accumulation of debris and waste materials, until the close of escrow of the Affordable Units. Upon the sale and close of escrow on each Affordable Unit, the Eligible Household which purchased the Affordable Unit will be a member of the Homeowners' Association and will be responsible for the payment of Homeowners' Association assessments as provided in the Covenants, Conditions and Restrictions ("CC&R's") for the Project. Developer represents and warrants that such Homeowners' Association assessments will equal approximately \$_____ per Affordable Unit per year, subject to increases as provided for in the CC&R's.

2.3 Satisfaction of Affordable Housing Requirement. The City Inclusionary Policy shall be satisfied with respect to the Property if the Developer constructs or causes to be constructed and sold to eligible households the Affordable Units meeting the requirements of Article 2 above, in compliance with the schedule set forth in the DDA.

2.4 Immediately following the Effective Date, this Agreement and the Notice of Affordability Restrictions shall be recorded against the Property in the Official Records of Alameda County.

ARTICLE 3 MARKETING

3.1 Marketing and Sales Program and Marketing Reports.

A. On or before issuance of the building permit for the first home to be developed as part of the Project, Developer shall design and deliver to the Authority Executive Director a marketing and sales plan for the Affordable Units. Such plan shall conform to the terms of this Agreement, the City Inclusionary Policy, and the Inclusionary Ownership Guidelines, and shall be subject to the Authority Executive Director's review and approval, not to be unreasonably withheld or delayed.

B. To the extent permitted by law, the marketing and sales program for the Affordable Units referenced in subsection A above shall give preference in the sale of the Affordable Units according to a point system that allots one preference point to persons and households who meet each of the following criteria: (1) persons who live or work in the City of Alameda; (2) persons who are first-time buyers; and (3) households containing four or more individuals. For persons and households who match more than one of these criteria, preference points shall be aggregated.

3.2 Verification of Citizenship or Qualified Alien Status. At the time of sale of an Affordable Unit, Developer shall verify the citizenship or qualified alien status of all adult buyers as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law No. 104-193, 8 U.S.C. §1621). Developer shall verify the citizenship or qualified alien status by causing the applicants for purchase to complete and sign under penalty of perjury the HCD Benefit Status Form 1 (2/98) or such other form provided by HCD for this purpose. The signed forms shall be forwarded by Developer to City.

3.3 Restrictions on Sales of Affordable Units. Developer shall not sell the Affordable Units to any of the following: (a) any partner, officer, shareholder or employee of Developer or any Family Member (defined below) of any partner, officer, shareholder or employee of Developer; (b) any member of the Authority, or any member of any City board or commission; and (c) any City or Authority employee who exercises any function or responsibility in connection with the Property or who has, or whose Family Member (defined below) has, an economic interest in the Property pursuant to the provisions of the Political Reform Act, Government Code section 87100 *et seq.* "Family Member" shall mean the spouse or child of the individual at issue or the individual's or his or her spouse's parent, grandparent, brother, sister, aunt, uncle, niece or nephew.

3.4 Effect of Article 3. This Article 3 shall terminate and be of no further force and effect as to Developer upon the first to occur of: (a) the last day of the Term; or (b) with respect to each Affordable Unit, the closing of the sale by Developer of, and the transfer of title to, the Affordable Unit pursuant to Article 2 above.

ARTICLE 4 GENERAL PROVISIONS

4.1 Conditions of Approval. This Agreement is intended to give effect to the City Inclusionary Policy and Condition of Approval No. _____ imposed by the City pursuant to City Council Ordinance No. _____. In the event of any conflict between this Agreement and the City Inclusionary Policy, the City Inclusionary Policy in effect as of the date of this Agreement shall prevail.

4.2 Notices. Notices required to be given to Authority or Developer shall be given by hand delivery, recognized overnight courier (such as UPS, DHL or FedEx) or certified mail, return receipt requested, to the following addresses, or to such other address(es) as a party may designate from time to time by written notice to the other:

To the Developer:

Alameda Point Partners, LLC

Attention: _____

with a copy to:

Attention: _____

To the City:

City of Alameda
2263 Santa Clara Avenue
Alameda, California 94501
Attention: City Manager

with a copy to:

City of Alameda
Alameda City Hall, Rm 280
2263 Santa Clara Avenue
Alameda, CA 94501
Attn: City Attorney

To the Authority:

Housing Authority of the City of Alameda
701 Atlantic Avenue
Alameda, California 94501
Attention: Executive Director

with a copy to:

City of Alameda
Alameda City Hall, Rm 280
2263 Santa Clara Avenue
Alameda, CA 94501
Attn: City Attorney

Any party may change the address to which notices are to be sent by notifying the other parties of the new address, in the manner set forth above.

4.3 Duration. The covenants set forth herein on the Affordable Units shall be covenants running with the land and shall inure to the benefit of City and its successors and assigns, and shall be permanently enforceable by City and its successors and assigns, ("Term"); provided, however, in the event an Affordable Unit is sold during the Term, the new owner shall be responsible for the resale and refinance restrictions as set forth in a new Resale Restriction agreement executed in the form attached as Exhibit E that will reset the time limit for the affordability restrictions on the Affordable Unit. Developer and City shall confirm the commencement and expiration dates of the Term in a written, recordable instrument. The parties agree that for the Term, all future deeds for or transfers of interest in the Affordable Units shall show or reference the applicable restrictions of this Agreement. Upon recordation of the Resale Restriction as to each Affordable Unit, this Agreement shall have no further force or effect as an encumbrance against each Affordable Unit to which such Resale Restriction pertains, and Developer shall have no further obligations or liabilities with respect to the Affordable Unit, including without limitation, any responsibility for compliance by the buyer or its successors with the terms and conditions of the Resale Restriction, provided that Developer has complied with the terms of this Agreement.

4.4 No Discrimination. Developer covenants, by and for itself and any successors in interest, that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Owner, itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, subleases or vendees in the Property. This covenant shall run with the land in perpetuity.

4.5 Amendment. This Agreement may be amended only in writing by City and Developer.

4.6 No Impairment of Lien. 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 mortgage, deed of trust or other financing or security instrument; provided, however, that any successor of Developer to the Property shall be bound by such covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

4.7 Successors and Assigns.

A. Binding Effect; Covenants Run with Land. The covenants contained in this Agreement shall inure to the benefit of City and its successors and assigns and shall be binding upon Developer and any successor in interest. Upon the transfer by Developer of all or any portion of its interest in the Property, all references in this Agreement to Developer thereafter shall mean and refer to such successor in interest of Developer as may then be the owner of the Property or such portion thereof, or interest therein. In the event that Developer transfers the Property or any portion thereof or interest therein to more than one successor in interest, all successors in interest shall be collectively required to comply with the provisions of this

Agreement and shall be jointly and severally liable for any breach or failure to comply, unless each successor and City enter into an agreement outlining the specific obligations of each successor for compliance with this Agreement. The covenants in this Agreement shall run in favor of City and its successors and assigns for the entire period during which such covenants shall be in force and effect. City and its successors and assigns, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings, to enforce the curing of such breach.

B. Transfer by Developer of Property. Except as expressly permitted by this subsection B., Developer shall not sell, transfer, convey, assign or ground lease the Property or any part thereof or interest therein ("Transfer") during the period between the Effective Date and the closing date for the sale of the last Affordable Unit pursuant to Article 2 above without prior written approval of the City Manager, the Authority Executive Director, or their respective designee. The approval of the City Manager Authority Executive Director, or their designee shall not be unreasonably withheld or delayed. This restriction shall not apply to (i) any Transfer of Developer's interest in the Property to any trust, partnership, corporation, limited liability company or other entity that is managed and controlled by Developer, or (ii) any Transfer after the closing date for the last Affordable Units sold to an Eligible Household pursuant to Article 2 above. This restriction on Transfer shall not be deemed to limit or restrict the sale of the Market Rate Units, nor shall it be deemed to limit the making of dedications or granting of easements or permits to facilitate the development of the Property. This restriction on Transfer shall also not be deemed to prohibit, limit or restrict the assignment or granting of any security interests in the Property for the purpose of securing loans or funds to be used for financing the construction of the improvements on the Property, or the exercise by any lenders of their rights and remedies, including without limitation foreclosure, under the agreements and instruments evidencing or securing any such financing.

4.8 Distribution of Foreclosure Proceeds. Upon recording, this Agreement shall have priority over the liens of any and all mortgages or deeds of trust encumbering the Project, or any portion thereof, and Developer shall be required to furnish to City subordination agreements in a form substantially similar to the Subordination Agreement attached hereto as Exhibit F, subordinating the liens of any deeds of trust or mortgages existing as of such recording to this Agreement.

4.9 No Third Party Beneficiaries. Notwithstanding anything in this Agreement to the contrary, there are no third party beneficiaries of this Agreement.

4.10 Effect of Agreement. Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement shall have any force or effect on any buyer or buyer's right, title or interest in or to any unit other than the Affordable Units, except that the buyer of an Affordable Unit shall execute and be subject to the Resale Restriction. The foregoing exemption and release shall be self-executing and require no further instruments or assurances to be effective.

4.11 Default and Remedies.

A. Any failure by Developer to perform any term or provision of this Agreement shall constitute an "Event of Default" (1) if Developer does not cure such failure within

thirty (30) days following written notice of default from City, or (2) if such failure is not of a nature which cannot reasonably be cured within such thirty (30) day period, Developer does not within such thirty (30) day period commence substantial efforts to cure such failure or thereafter does not within a reasonable time prosecute to completion with diligence and continuity the curing of such failure.

B. Any notice of default given hereunder shall specify in detail the nature of the failure in performance alleged by City and the manner in which such failure of performance may be satisfactorily cured in accordance with the terms and conditions of this Agreement. During the time periods herein specified for cure of a failure to perform, Developer shall not be considered to be in default of this Agreement for any purposes.

C. Any failure or delay by City in asserting any of its rights or remedies as to any Event of Default shall not operate as a waiver of any Event of Default or of any such rights or remedies or deprive City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

D. In the event of an Event of Default under this Agreement, City shall have the right to exercise all of the rights and remedies, and to maintain any actions under this Agreement, the City Inclusionary Policy, at law, in equity, or other remedy proceedings.

E. Notwithstanding the foregoing, in the event that Developer fails to comply with the terms of this Agreement, City may suspend issuance of building permits for Market Rate Units, building inspections of Market Rate Units, or issuance of occupancy permits for Market Rate Units, or pursue any other remedy available to it.

4.12 California Law. The laws of the State of California, without regard to conflict of laws principles, shall govern the interpretation and enforcement of this Agreement.

4.13 Counterparts. This Agreement may be signed in multiple counterparts each of which shall be deemed to be an original.

4.14 Severability. Should any provision of this Agreement be found invalid or unenforceable by a court or other body of competent jurisdiction, said invalidity, unenforceability or ineffectiveness shall not affect the validity of the remaining provisions which shall remain in force and effect pursuant to the limitations and duration agreed to herein.

4.15 Entire Agreement. This Agreement constitutes the entire agreement between the parties and no modification hereof shall be binding unless reduced to writing and signed by the parties hereto. The exhibits attached to this Agreement are incorporated by reference.

4.16 Indemnification. Except for an award of attorney's fees to Developer under 4.18, Developer will indemnify and hold harmless (without limit as to amount) the Authority and City and their elected officials, officers, employees, and agents in their official capacity (hereinafter collectively referred to as "Indemnitees"), and any of them, from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of this Agreement, arising out of or relating in any manner to the Project, the Affordable Units, or Developer's performance or non-performance under this Agreement, including without limitation

the construction or sale of any unit in the Project, caused in whole or part by any negligent act or omission of the Developer, except where caused by the gross negligence or willful misconduct of the Authority and/or the City, and shall protect and defend Indemnitees, and any of them with respect thereto. The provisions of this Section 4.16 shall survive expiration or other termination of this Agreement or any release of part or all of the Property from the burdens of this Agreement, and the provisions of this Section 4.16 shall remain in full force and effect

4.17 Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The words "include" and "including" shall be construed as if followed by the words "without limitation." The parties acknowledge that each party and its respective counsel have reviewed and revised this Agreement and that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any document executed and delivered by either party in connection herewith. The captions in this Agreement are for convenience of reference only and shall not be used to interpret this Agreement. Reference to section numbers are to sections in this Agreement, unless expressly stated otherwise.

4.18 Attorney Fees. In the event that any party to this Agreement brings an action to interpret or enforce its rights under this Agreement, the prevailing party in such action shall be entitled to recover its costs and reasonable attorneys' fees as awarded by the court in such action.

4.19 Authorized Signatories. Each of the undersigned hereby warrants and represents that he/she is duly authorized to execute this Agreement on behalf of the entity for whom he/she signs.

4.20 No Joint Venture. Nothing contained in this Agreement or any document executed pursuant to this Agreement shall be construed as creating a joint venture or partnership between the City, the Authority and Developer. Nothing contained in this Agreement shall create or justify any claim against the Authority or City by any person that Developer may have employed or with whom Developer may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the Property or the construction of the Project.

[Signature page follows]

IN WITNESS WHEREOF, City and Developer have caused this Agreement to be executed on their behalf by their respective officers thereunto duly authorized.

RECOMMENDED FOR APPROVAL:

CITY:

CITY OF ALAMEDA, a municipal corporation

Executive Director, Housing Authority

[Signature must be notarized]

City Manager

APPROVED AS TO FORM:

City Attorney

DEVELOPER:

Alameda Point Partners, LLC, a Delaware limited liability company

By: _____
[Signature must be notarized]

Print Name: _____

Its: _____

By: _____
[Signature must be notarized]

Print Name: _____

Its: _____

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 _____)

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(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity 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.

Name: _____
Notary Public

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 _____)

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(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity 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.

Name: _____
Notary Public

EXHIBIT A

Legal Description of Property

EXHIBIT B

Site Plans for Project

EXHIBIT C

Phasing Schedule

EXHIBIT D

Inclusionary Housing Program Buyer Selection Guidelines

EXHIBIT E

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
)
)
)
City of Alameda)
2263 Santa Clara Avenue, Rm 320)
Alameda, California 94501)
Attention: City Manager)

This document is exempt from the payment of a recording fee pursuant to Government Code § 27383.

[CITY FORM – FOR-SALE UNITS]

**AFFORDABILITY, RESTRICTIONS ON RESALE
AND
OPTION TO PURCHASE AGREEMENT**

THIS AFFORDABILITY, RESTRICTIONS ON RESALE AND OPTION TO PURCHASE AGREEMENT ("Agreement") is made as of _____, 20___, ("Effective Date") by and between _____ ("Owner," as further defined below) and the City of Alameda ("City") with reference to the following facts:

RECITALS

A. Owner is acquiring fee title to that certain real property in the City of Alameda, County of Alameda, State of California, which is more particularly described in Exhibit A attached hereto, together with all improvements now or hereafter located thereon and all appurtenances thereto ("Property"), subject to the terms and conditions of that certain Affordable Housing Agreement entered into between the City of Alameda, a California charter city ("City") and Alameda Point Partners, LLC, a Delaware limited liability company ("Developer") dated _____ ("Developer Affordable Housing Agreement").

B. In furtherance of the goals of preserving, improving and increasing the supply of low- and moderate-income housing within the City, Section 30-16 of the City Municipal Code was added by Ordinance No. 2965-NA adopted on June 15, 2004, setting forth certain inclusionary housing requirements for residential development in the City ("City Inclusionary Policy"). City entered into the Developer Affordable Housing Agreement with Developer to set forth the Developer's obligations to provide affordable housing for *[insert as applicable: very low-income, low-income, moderate-income]* households in conformance with the City Inclusionary Policy.

C. The Developer Affordable Housing Agreement requires Developer to sell the Property to Owner at an Affordable Housing Cost, as defined below, subject to the covenants, conditions, restrictions and option to purchase set forth herein.

D. In order to ensure the Property remains permanently affordable to a *[insert as applicable: very low-income, low-income, moderate-income]* household, the Owner is required to execute the City Note and City Deed of Trust, as such terms are defined below.

E. The purpose of this Agreement is to establish the use, occupancy and resale restrictions in accordance with the City Inclusionary Policy, the Developer Affordable Housing Agreement and the Grant Deed (as defined below), and grant to the City certain remedies, including the right to purchase the Property, as covenants running with the land and equitable servitudes that benefit the City, and permitted successors and assigns and burden the Property, the Owner and all of its successors and assigns. The Property was purchased by Owner as a *[insert as applicable: very low-income, low-income, moderate-income]* household at a below fair market price in accordance with the goals and purposes of the City Inclusionary Policy and the Developer Affordable Housing Agreement.

F. The Housing Authority of the City of Alameda ("Authority") is responsible for administering the City's affordable housing programs, including implementing the City Inclusionary Policy pursuant to that certain Staffing Services Agreement between the City and Authority, dated July 1, 2000, as amended.

NOW, THEREFORE, in order to establish the use, occupancy and resale restrictions of the Property, in accordance with the City Inclusionary Policy, the Developer Affordable Housing Agreement, and Grant Deed and to reserve certain remedies (including the right to purchase the Property) as covenants running with the land and equitable servitudes that benefit City and that burden the Property, the Owner and all of its respective successors and assigns, Owner hereby agrees that the Property shall be held, sold and conveyed subject to the following covenants, conditions and restrictions, and option to purchase, all of which shall run with the Property and be binding on all parties having any rights, title or interest in the Property, its heirs, successors and assigns, and shall inure to the benefit of the City, and that entering into this Agreement is good and reasonable consideration for the ability to purchase the Property at a below fair market price as described herein.

ARTICLE 1 DEFINITIONS

As used in this Agreement, the terms set forth below shall have the following meanings (other defined terms in this Agreement not referenced below shall have the meanings where first used).

1.1 "Affordable Housing Cost" shall be as defined in Health and Safety Code Section 50052.5 or any successor thereto in effect at the time of purchase of the Property, for persons and families of *[insert as applicable: very low, low or moderate]* income whose gross income does not exceed ___% *[insert appropriate percentage for income category i.e., 50%, 80% or 120%]* of Area Median Income adjusted for family size appropriate for the Property. For

the purposes hereof, "family size appropriate for the Property" shall be two persons for a one-bedroom unit, three persons for a two-bedroom unit, four persons for a three-bedroom unit, and five persons for a four-bedroom unit. If the statute is no longer in effect and no successor statute is enacted, the City shall establish the Affordable Housing Cost for purposes of this Agreement.

1.2 "Appraisal" shall mean an appraisal setting forth the Market Value of the Property assuming no affordability requirements or other similar restrictions on income requirements, occupancy or resale of the Property, prepared by an appraiser approved by City and who is an MAI member of the American Institute of Real Estate Appraisers or a CREA membership designation from the National Association of Real Estate Appraisers (or, in the event such professional designations are modified or discontinued, the most nearly equivalent successor designations).

1.3 "Area Median Income" shall mean the median household income (adjusted for household size) of the Metropolitan Statistical Area in which Alameda County is located, as established in accordance with Section 50093 of the California Health and Safety Code.

1.4 "Assumption Agreement" shall mean the Disclosure, Acknowledgment and Assumption Agreement in the form attached as Exhibit G.

1.5 "Authority" is defined in Recital F.

1.6 "Capital Improvements" shall mean any capital improvements or upgrades made by Owner to the Property which significantly increases the value of the Property, and which are pre-approved in writing by City. City, prior to an Owner commencing work on the Capital Improvements, shall in its sole and absolute discretion determine (a) whether the improvements qualify as Capital Improvements; (b) the value of the Capital Improvements which value may be less than the actual cost of the Capital Improvements; and (c) the depreciation value or rate, if any, to be applied to such value. By way of example, upgrading an appliance shall not be a Capital Improvement, but upgrading all appliances, flooring, countertops and cabinetry in the kitchen could be approved by the City as a Capital Improvement under the particular circumstances presented.

1.7 "City" shall mean the City of Alameda.

1.8 "City Deed of Trust" shall mean the deed of trust executed by Owner in favor of City securing Owner's obligations under the City Note, substantially in the form of Exhibit F.

1.9 "City Note" shall mean a promissory note executed by Owner in favor of the City in the principal amount equal to the difference between the Market Value of the Property calculated at the time Owner acquired the Property and (a) the Initial Price, in the case of the first Owner, or (b) the Eligible Buyer Purchase Price, in the case of subsequent Owners, plus a contingent deferred amount equal to the City's Shared Appreciation, substantially in the form of Exhibit E.

1.10 "City Option Price" shall mean an amount equal to the Eligible Buyer Purchase Price less Repair Costs.

1.11 "City's Purchase Option" shall have the meaning given in Section 5.1.

1.12 "City Resale Costs" means any and all costs and fees incurred by City whether directly by City or City staff or indirectly under Authority or City contract with affordable housing program service providers, in connection with the processing and implementation of a Permitted Sale under Articles 4 or 5 or an Extraordinary Sale under Article 6, including, without limitation, real estate brokerage fees or commissions, recording fees, escrow charges, and costs and expenses of application screening and processing, employment, credit and income verification, property inspections and appraisals, and document preparation and processing.

1.13 "City's Shared Appreciation" shall have the meaning given in Section 6.3.

1.14 "CC&Rs" shall mean that certain Declaration of Covenants, Conditions, and Restrictions recorded on _____, as Document No. _____ in the Official Records of Alameda County, as amended from time to time. [*Delete if inapplicable*].

1.15 "Eligible Buyer" shall mean those persons and families meeting the income requirements described in Section 1.1.

1.16 "Eligible Buyer Purchase Price" shall mean the allowable purchase price to be paid by an Eligible Buyer of the Property as determined under Section 4.3.

1.17 "Event of Default" shall have the meaning given in Section 8.11.

1.18 "Extraordinary Sale" shall mean a Sale conducted under the provisions of Article 6.

1.19 "Extraordinary Sale Price" means the actual gross sales price for the Property under an Extraordinary Sale, pursuant to Section 6.2.

1.20 "Grant Deed" shall mean the grant deed executed by Developer conveying the Property to Owner for the initial Owner, or the grant deed executed by the initial Owner or subsequent Owners conveying the Property to subsequent Owners.

1.21 "Initial Financing" shall have the meaning given in Section 7.1(a).

1.22 "Initial Price" shall mean the initial purchase price of the Property paid by the Owner, in the case of the initial Owner, or the Eligible Buyer Purchase Price, in the case of a subsequent Owner.

1.23 "Market Value" shall mean the market value of the Property, assuming no affordability or resale restrictions, as determined by an Appraisal of the Property obtained from time to time. The cost of the Appraisal shall be paid by the Owner, and the Owner shall promptly provide the Appraisal to the City.

1.24 "Maximum Affordable Housing Costs" means the maximum affordable housing cost allowable for a [*insert as applicable: very low, low or moderate*] income household, as

determined under California Health and Safety Code Section 50052.5 calculated at the time of a Permitted Sale.

1.25 "Notice of Intent to Transfer" is described in Section 3.2 and Exhibit B.

1.26 "Notice of Intent to Sell" is described in Section 4.1 and Exhibit C.

1.27 "Notice of Extraordinary Sale" is described in Section 6.2 and Exhibit D.

1.28 "Owner" shall mean the purchaser of the Property as identified in the Preamble and Recital A, and includes all of Owner's successors and assigns, as permitted under this Agreement.

1.29 "Owner's Gross Proceeds" is equal to the Eligible Buyer Purchase Price paid for the Property.

1.30 "Owner's Net Proceeds" means the net amount available to Owner pursuant to Section 4.5(d) in case of a Permitted Sale, or Section 6.4(e) in the case of an Extraordinary Sale.

1.31 "Permitted Transfer" shall mean a Transfer described in Section 2.2.

1.32 "Permitted Sale" shall mean a Sale described in Section 2.3.

1.33 "Prohibited Transfer" shall mean any Transfer that is not a Permitted Transfer as described in Section 2.4.

1.34 "Prohibited Sale" shall mean any Sale that is not a Permitted Sale or Extraordinary Sale as described in Section 2.4.

1.35 "Property" shall have the meaning given in Recital A.

1.36 "Refinancing" shall have the meaning given in Section 7.1(b).

1.37 "Repair Costs" shall have the meaning given in Section 4.2.

1.38 "Sale," "Sell" or "Sold" shall mean a Transfer of the Property for monetary consideration.

1.39 "Senior Lien" shall have the meaning given in Section 7.1.

1.40 "Senior Lender" shall have the meaning given in Section 7.1.

1.41 "Term" shall have the meaning given in Section 8.17.

1.42 "Transfer" shall mean any voluntary or involuntary assignment or transfer of ownership of or any interest in the Property, including without limitation a fee simple interest, tenancy in common, joint tenancy, community property, tenancy by the entireties, life estate or other limited estate or use, rental or tenancy therein.

1.43 "Transferee" shall mean the person or persons to whom the Property, is Transferred or Sold.

1.44 "Unit Amenities" shall have the meaning given in Section 4.2.

ARTICLE 2 RESTRICTIONS

2.1 Owner Acknowledgments and Agreements. Owner hereby acknowledges and agrees that taking title to the Property shall constitute Owner's acknowledgment and agreement of the following:

A. THE PROPERTY IS BEING ACQUIRED BY OWNER AT A COST WHICH IS BELOW MARKET RATE FOR SUCH PROPERTY AND THAT SUCH PROPERTY IS SUBJECT TO THE RESALE RESTRICTIONS AND CITY'S PURCHASE OPTION CONTAINED IN THIS AGREEMENT GRANTING THE CITY AN IRREVOCABLE POWER OF ATTORNEY COUPLED WITH AN INTEREST TO ACT ON THE OWNER'S BEHALF TO EXECUTE, ACKNOWLEDGE AND DELIVER ANY AND ALL DOCUMENTS RELATING TO THE CITY'S PURCHASE OPTION. THERE SHALL BE NO SALE OR TRANSFER OF THE PROPERTY EXCEPT IN ACCORDANCE WITH THIS AGREEMENT. ANY SALE OR OTHER TRANSFER OF THE PROPERTY IN VIOLATION OF THIS AGREEMENT SHALL CONSTITUTE A DEFAULT AND SHALL BE VOIDABLE BY THE CITY.

B. OWNER SHALL OCCUPY THE PROPERTY AS ITS PRINCIPAL RESIDENCE FOR THE DURATION OF ITS OWNERSHIP. Upon request by the City, each Owner shall submit an affidavit to the City certifying under penalty of perjury that the Property is the Owner's principal residence, and provide City with a recent utility bill or other evidence of residency satisfactory to the City. If an Owner vacates the Property, or for any reason does not continue to occupy the Property as its principal residence, City may declare an Event of Default pursuant to Section 8.11 and exercise any or all of its rights and remedies hereunder, including without limitation the City's Purchase Option pursuant to Article 5.

C. The Owner shall not rent or lease the Property to another party. Any rental or lease of the Property in violation of this Agreement is prohibited, and shall be a default under this Agreement and the Deed of Trust. The Owner further agrees that, in the event the Owner rents or leases the Property to a third party in violation of this Section, any excess rents ("Excess Rental Proceeds") paid to the Owner by the lessee over the Affordable Rent shall be due and payable to the City immediately upon receipt thereof by the Owner. Such Excess Rental Proceeds shall be considered a recourse debt of the Owner to the City, as evidenced by the City Note, which the City may collect by legal action against Owner, including by foreclosure under the City Deed of Trust

D. Owner's right to resell the Property at Market Value is very limited, in certain instances, City will have the option to purchase the Property from Owner. In order to ensure the Property shall remain available at an Affordable Housing Cost over

the Term of this Agreement, Owner's right to resell the Property may not be as favorable as the rights of other property owners whose properties are not affected by this Agreement and are not encumbered by similar agreements.

E. The Property will not necessarily appreciate in value during the duration of Owner's ownership, and the Eligible Buyer Purchase Price may be less than the Initial Price that Owner originally paid for the Property and, thus, when the Owner sells the Property it may receive less than it originally paid for the Property.

2.2 Permitted Transfers. Subject to compliance with the procedures described in Article 3, including but not limited to providing required notices to the City, the following Transfers of the Property without monetary consideration are "Permitted Transfers":

(a) Transfer of title by gift, devise, or inheritance to an Owner's spouse or state registered domestic partner;

(b) Transfer of title by devise or inheritance to an Owner's natural or adopted children, provided such children qualify as Eligible Buyers;

(c) Transfer of title by an Owner's death to a surviving joint tenant, tenant by entirety, or a surviving spouse of community property;

(d) Transfer of title to a spouse or state registered domestic partner as part of divorce or dissolution proceedings; or

(e) Transfer of title or any interest in the Property to the spouse or state registered domestic partner in conjunction with marriage or establishment of a registered domestic partner relationship.

2.3 Permitted Sales. Subject to compliance with the procedures described in Article 4 and Article 5, including but not limited to providing required notices to the City, an Owner may Sell the Property to an Eligible Buyer ("Permitted Sale"). If the City or the Owner are unable to identify an Eligible Buyer as provided in Article 4, then City shall have the option to purchase the Property pursuant to the City's Purchase Option described in Article 5. If the City or the Owner are unable to identify an Eligible Buyer and the City has not exercised the City's Purchase Option, the Owner shall have the right to Sell the Property to a non-Eligible Buyer in accordance with the provisions of Article 6.

2.4 Prohibited Transfers; Prohibited Sales. Any Transfer other than a Permitted Transfer is a Prohibited Transfer. A Prohibited Transfer specifically includes any Transfer of a use, rental or leasehold interest in the Property. Any Sale of the Property other than a Permitted Sale, the City's Purchase Option, or an Extraordinary Sale is a Prohibited Sale. If an Owner attempts or makes a Prohibited Transfer or Prohibited Sale, then in addition to all other rights or remedies the City may have under this Agreement, the City shall have the right to exercise the City's Purchase Option described in Article 5, which may be exercised against the Transferee or the Owner under such Prohibited Transfer or Prohibited Sale.

ARTICLE 3 TRANSFER PROCEDURES

3.1 Transfer by Devise or Inheritance. If an Owner has made a Permitted Transfer (other than by gift) by devise, inheritance or rights of survival under Sections 2.2(a), (b) or (c), the trustee, executor or new owner shall notify City in writing of the change in ownership of the Property within 20 days of such event giving rise to such Permitted Transfer. Any such Transferee shall be bound by and subject to the provisions of this Agreement and the trustee, executor or new owner shall execute, acknowledge and deliver to the City, within such 20-day period, an Assumption Agreement in the form of Exhibit G, and the failure to do so shall constitute a default under Section 8.11; provided that such Transferee shall be bound by and subject to the provisions of this Agreement notwithstanding its failure to deliver such executed and recordable Assumption Agreement.

3.2 Other Permitted Transfers. If an Owner desires to Transfer the Property by gift under Section 2.2(a) or by a Permitted Transfer under Sections 2.2(d) or (e), Owner shall provide City with a Notice of Intent to Transfer, together with any other documentation City may reasonably request in order to ensure that the Transfer is a Permitted Transfer. Upon receipt of a Notice of Intent to Transfer, City shall have 45 days after receipt by the City of such Notice of Intent to Transfer and other documentation to deliver written notice to the Owner of its approval or disapproval of the Transfer as a Permitted Transfer. The Transfer shall be deemed a Permitted Transfer if City fails to disapprove the proposed Transfer within such 45 day period. The Owner shall complete the Permitted Transfer, including recordation of all applicable documents, within 60 days after receipt of approval of the Transfer. Any such Transferee shall be bound by and subject to the provisions of this Agreement as an Owner and shall execute, acknowledge and deliver to the City an Assumption Agreement in the form of Exhibit G, and the failure to do so shall constitute a default under Section 8.11; provided that such Transferee shall be bound by and subject to the provisions of this Agreement as an Owner notwithstanding its failure to deliver such executed and recordable Assumption Agreement.

3.3 Transfer of the Property without City's Approval. If the City determines that the proposed Transfer is a Prohibited Transfer, the Owner shall not Transfer the Property. Any Transfer of the Property without the City's approval shall be voidable and in such event, in addition to all other rights and remedies the City may have under this Agreement, the City shall have the right to exercise City's Purchase Option pursuant to Article 5, which may be exercised against the Transferee or the Owner under such Prohibited Transfer.

ARTICLE 4 SALE PROCEDURES

4.1 Notice of Permitted Sale. If an Owner desires to Sell the Property, the Owner shall provide City with a Notice of Intent to Sell. Within 60 days after receipt of the Notice of Intent to Sell, the City shall use its reasonable efforts to identify an Eligible Buyer, taking into consideration the requirements of the Developer Affordable Housing Agreement, the Grant Deed and this Agreement. If City identifies an Eligible Buyer, the Owner shall Sell the Property to the Eligible Buyer at the Eligible Buyer Purchase Price (as determined pursuant to Section 4.3 herein) within 30 days after identification of the Eligible Buyer. If the Sale to the Eligible Buyer

does not occur within said 30-day period, City may either extend the period of time for the Sale to occur or may, within 30 days thereafter, identify another Eligible Buyer, in which case all the provisions of this Section 4.1 shall be applicable to such Eligible Buyer, including the provisions of this sentence. If City is unable to identify an Eligible Buyer within the applicable time periods set forth above, then the Owner shall have the option to identify an Eligible Buyer, subject to City's written approval, which approval may take into consideration the requirements of the Developer Affordable Housing Agreement, the Grant Deed and this Agreement. If City (or the Owner) fails to identify an Eligible Buyer within the applicable time periods set forth above, City shall have 30 days from the expiration of the final applicable period to exercise City's Purchase Option under Article 5.

4.2 Inspection; Repair Costs. Upon receipt of a Notice of Intent to Sell, the City shall have the right to enter the Property at reasonable times with 24 hours advance notice to the Owner to inspect the dwelling unit on the Property to determine whether any damage or violations of applicable laws or ordinances exist. City shall conduct its inspection within 15 days after receipt of the Notice of Intent to Sell. In the event any damage or violations are discovered, City shall determine the cost of repair or correction of such condition ("Repair Costs"). By way of example, Repair Costs would include the cost of repairing or replacing such things as broken, damaged or worn appliances, fixtures (including lights, shelving, bathroom fixtures, cabinets, countertops, tubs and vanities) walls, ceilings and paint and exterior surfaces, window coverings and carpets (collectively "Unit Amenities") due to stains, extreme wear, damage or destruction. Within 30 days after the inspection, the City will prepare a written report describing the Repair Costs. The Owner shall have the option to either (i) repair or replace the items on such report at Owner's cost prior to closing (without extending the closing date), or (ii) at closing cause the escrow holder to pay the Repair Costs to City. If an Owner elects to repair or replace the items on such report, the City shall have the right to re-inspect the Property under the terms of this Section 4.2 after the repairs and/or replacements are complete. If the City determines that deficiencies still remain, the Owner shall cause the escrow agent at closing to pay the City from the Owner's Gross Proceeds the Repair Costs in such amounts as City determines are necessary to complete the remaining repairs and/or replacements. The City shall use any Repair Costs paid to it to make the necessary repairs and/or replacements.

4.3 Eligible Buyer Purchase Price. The Purchase Price to be paid by an Eligible Buyer for the Property shall be the total sum of (a) the Initial Price paid by Owner for the Property, plus (b) the product of the Initial Price multiplied by the percentage increase in the Affordable Housing Cost that has occurred since the Owner's purchase of the Property to the date when the Notice of Intent to Sell, plus (c) the depreciated value of any Capital Improvements approved by the City as described in Section 1.12. Notwithstanding anything to the contrary herein, in no event shall the Eligible Buyer Purchase Price exceed the Maximum Affordable Housing Cost allowable for a *[insert as applicable: very low, low or moderate]* income household. The Eligible Buyer Purchase Price shall be established by the City in accordance with this Section 4.3, within 20 days following City's receipt of a Notice of Intent to Sell delivered pursuant to Section 4.1.

4.4 Appraisal; City Resale Costs; City Documents. Upon receipt of a Notice of Intent to Sell, the City shall cause an Appraisal to be completed prior to close of escrow to determine the Market Value of the Property as of the date of such Notice. The cost of such Appraisal shall

be paid by the Owner at close of escrow. In addition, the Owner shall pay the City the City Resale Costs at close of escrow. The Owner may pay the cost of the Appraisal and the City Resale Costs from any sources, including, but not limited to, the Owner's Gross Proceeds, to the extent there are any available, as provided in Section 4.5 (b).

At close of escrow, the Eligible Buyer shall deliver or cause to be delivered into escrow:

(a) the City Note, fully executed by the Eligible Buyer in favor of the City in substantially the form of Exhibit E hereto. The City Note shall be in the principal amount equal to the difference between the then current Market Value of the Property, and the Eligible Buyer Purchase Price being paid for the Property (defined as the Differential Amount in the City Note);

(b) the City Deed of Trust securing the City Note fully executed by the Eligible Buyer in recordable form, in substantially the form of Exhibit F hereto;

(c) the Assumption Agreement, fully executed in recordable form by all appropriate parties, in substantially the form of Exhibit G hereto; and

(d) the required down payment and all documents required by the Eligible Buyer's Senior Lender.

4.5 Proceeds from Permitted Sale. Owner's Gross Proceeds from a Permitted Sale shall be distributed in the following priority to the extent funds from Owner's Gross Proceeds are available:

(a) first, to pay any amounts owed under the Owner's Senior Lien;

(b) second, to pay all customary closing costs that a seller would pay in Alameda County and a basic one-year home warranty as provided in Section 4.8, and, to the extent not already paid by the Owner to the City, the costs of the Appraisal and the City Resale Costs under Section 4.4; and

(c) third, to pay to the City all Repair Costs (if any, and to the extent not already paid) which are owed to the City under Section 4.2; and

(d) fourth, any remaining amounts shall be paid to the Owner as the Owner's Net Proceeds.

4.6 Personal Property. Any sums paid to an Owner by an Eligible Buyer for personal property shall not be part of the Eligible Buyer Purchase Price. No other consideration of any nature whatsoever shall be paid by an Eligible Buyer to the Owner unless first fully disclosed to and approved by City in writing.

4.7 Real Estate Broker Commission. If the City identifies the Eligible Buyer, no real estate broker's commission shall be paid to any real estate broker unless otherwise approved by the City. If the Eligible Buyer is identified by Owner, as between the Owner and the Eligible Buyer, the Owner shall have the sole and exclusive obligation to pay any real estate broker's commission regardless of whether the broker was engaged by the Owner or Eligible Buyer.

4.8 Closing. At closing, the Owner shall convey fee title to the Eligible Buyer by standard title company form Grant Deed. The Owner shall cause the title company to issue to the Eligible Buyer a CLTA standard coverage owner's form of title insurance policy in the amount of the Eligible Buyer Purchase Price insuring title to the Property is vested in the Eligible Buyer, subject to exclusions from coverage, exceptions for current taxes and assessments not yet due, this Agreement and all documents recorded pursuant to this Agreement and such other matters (other than encumbrances created or suffered by the Owner) which were exceptions to title on the date of this Agreement. The Owner shall pay for a basic one-year home warranty contract issued by a reputable and established company to the Eligible Buyer. The Eligible Buyer shall pay the costs of any longer or more extensive warranty. All other closing costs shall be paid by the Owner or the Eligible Buyer pursuant to the custom in Alameda County.

ARTICLE 5 CITY'S PURCHASE OPTION

5.1 Purchase Option. By taking title to the Property, each Owner irrevocably grants, to the City an option to purchase the Property (the "City's Purchase Option") at the City Option Price upon the occurrence of any of the following:

- (a) in the event the City or the Owner is unable to identify an Eligible Buyer pursuant to and within the times set forth in Section 4.1;
- (b) in the event of any Prohibited Transfer or Prohibited Sale by the Owner;
- (c) in the event that the Owner is in default of the occupancy requirement set forth in Section 2.1.B.;
- (d) upon occurrence of an Event of Default (as defined in Section 8.11);
- (e) in the event that escrow fails to close within the times set forth in Section 4.1 or Section 6.5; or
- (f) as reserved to City under Section 6.1 for the period of time from Owner's Notice of Extraordinary Sale pursuant to Section 6.2 hereof to the date of written acceptance by Owner of an offer to purchase the Property from a buyer;

provided, that in the case of (b), (c), (d) or (e), above, the City's Purchase Option shall be in addition to any other remedy provided in this Agreement for an Event of Default. By taking title to the Property, the Owner agrees that the City's facilitation of the Transfers contemplated hereby and its acts, commitments and expenditures in furtherance thereof constitute adequate consideration for the grant of the City's Purchase Option.

5.2 Exercise of Option.

(a) Permitted Sale. If the City's Purchase Option is available to the City pursuant to Subsection 5.1(a), then City may exercise the City's Purchase Option within the 30-day period described in Section 4.1 and in accordance with Section 5.4.

(b) Prohibited Transfer, Prohibited Sale, Failure to Occupy or Event of Default. If the City's Purchase Option is available to the City pursuant to Subsection 5.1(b), (c), or (d) above, then City may exercise its option in accordance with Section 5.4.

(c) Failure to Close Escrow. If the City's Purchase Option is available to the City pursuant to Section 5.1(e) or (f), then City shall exercise its option in accordance with Section 5.4.

5.3 Assignment of City's Purchase Option. After City has notified Owner of its intent to exercise the City's Purchase Option, City may, without the Owner's or Transferee's consent, assign the City's Purchase Option to an Eligible Buyer or to a governmental agency or non-profit organization that agrees to be subject to this Agreement; provided, however, that any such assignment shall not extend any time limits contained in this Agreement.

5.4 Procedure Upon Exercise of Option. The City shall exercise the City's Purchase Option by delivering written notice to the Owner (and to Transferee, if applicable). Closing of escrow shall occur within 110 days (plus any time delays caused by the Owner), or such additional time as reasonably determined by the City is necessary under the circumstances after the date of City's written notice exercising the City's Purchase Option.

5.5 Failure to Close. If after City exercises the City's Purchase Option pursuant to Section 5.1(a), the City fails to close escrow pursuant to Section 5.4, then the Owner may conduct an Extraordinary Sale under Article 6. If after City exercises the City's Purchase Option pursuant to Section 5.1(b), (c), (d), (e) or (f), the City fails to close escrow pursuant to Section 5.4, then the City shall be deemed to retain all remedies available under Section 8.11.

5.6 Power of Attorney. By taking title to the Property, each Owner grants to the City an irrevocable power of attorney coupled with an interest to act on the Owner's behalf to execute, acknowledge and deliver any and all documents relating to the City's Purchase Option.

ARTICLE 6 EXTRAORDINARY SALE

6.1 When Extraordinary Sale Permitted. If City or an Owner fails to identify an Eligible Buyer within the times set forth in Section 4.1 after City's receipt of a Notice of Intent to Sell, and:

(a) The City fails to exercise the City's Purchase Option within the times set forth in Sections 4.1 and 5.2(a), or

(b) The City fails to close escrow pursuant to Section 5.4 after exercising the City's Purchase Option pursuant to Section 4.1 and 5.2(a),

then the Owner shall have the right to make an Extraordinary Sale in accordance with the procedures set forth in this Article 6; provided, however that City shall retain the City's Purchase Option for the period of time from Owner's Notice of Extraordinary Sale pursuant to Section 6.2 hereof to the date of written acceptance by Owner of an offer to purchase the Property from a buyer. In no event shall an Owner have the right to make an Extraordinary Sale in the event of

any attempted or actual Prohibited Transfer or Prohibited Sale by the Owner or if there is any other Event of Default by the Owner under this Agreement.

6.2 Notice of Extraordinary Sale; Appraisal; City Resale Costs. Each Owner shall notify the City of the Owner's intent to make an Extraordinary Sale by delivering a Notice of Extraordinary Sale. The Notice of Extraordinary Sale shall contain a request that the City calculate the current Market Value of the Property based upon an Appraisal, the cost of which shall be paid by the Owner through escrow. The City shall provide the Owner with a copy of the Appraisal within 10 days after receipt by the City. The City shall use reasonable efforts to obtain the Appraisal within 60 days after receipt of the Notice of Extraordinary Sale. The Owner shall be required to Sell the Property at a price not less than the current Market Value, unless otherwise approved by the City in writing. All transfer documents relating to the Extraordinary Sale shall be submitted to the City for its review and approval as consistent with the terms of this Agreement. The actual gross sales price for the Property under any such sale is the "Extraordinary Sale Price." In addition, the Owner shall pay the City the City Resale Costs at close of escrow.

6.3 City's Shared Appreciation. In the event of an Extraordinary Sale, the Owner whose Property is the subject of the Extraordinary Sale shall pay to the City in addition to the principal amount of the City Note, a share of the appreciation (the "City's Shared Appreciation") in the value of the Property between the time the Property was acquired by the Owner and the Extraordinary Sale in accordance with California Civil Code Section 1917.006 and as provided for herein.

The appreciation in the value of the Property shall be determined based on the difference between the Appraisal prepared at the time the Property was acquired by the Owner, and the Extraordinary Sale Price. The distribution of any appreciation in value of the Property to City or Owner shall only be available after payment of all other sums set forth in Section 6.4 (a) through (e) and shall be shared by the Owner and the City in proportion to the amount of initial equity contributed by each party as follows:

(a) The City's initial equity contribution shall equal the principal amount of the City Note (which shall be equal to the difference between the Market Value of the Property at the time of acquisition by the Owner and the Initial Price, in the case of the original Owner, or the applicable Eligible Buyer Purchase Price, in the case of a subsequent Owner, and which is defined as the Differential Amount in the City Note).

(b) The Owner's initial equity contribution shall be equal to the amount of the down-payment paid by the Owner at the time Owner acquired the Property plus any escrow fees, transfer taxes, recording fees, brokerage commissions and similar costs of acquisition actually paid by the Owner for the acquisition of the Property, as substantiated by the Owner pursuant to Section 6.7 hereof.

[Example: If, (i) at the time an Owner acquired the Property, the Owner paid a down-payment equal to \$18,000 and, escrow fees, transfer taxes, recording fees, brokerage commissions and similar costs of acquisition actually paid by Owner equal to \$2,000, resulting in a total Owner equity amount of \$20,000, and (ii) the City Note for such transaction reflected a

principal amount of \$80,000, then (iii) after payment of all other sums set forth in Section 6.4 (a) through (d), the Owner would receive 20% of any remaining appreciation value, and the City would receive 80% of any remaining appreciation value at the time of an Extraordinary Sale.]

(c) The City's Shared Appreciation shall be included in the City Note as a contingent deferred amount payable to City in the event of an Extraordinary Sale.

(d) The amount of City's Shared Appreciation collected by City shall be used by City to assist in the provision of housing that is affordable to persons and families of low and moderate income in accordance with Civil Code Section 1917.006(a)(1).

6.4 Distribution of Proceeds. The Extraordinary Sale Price shall be distributed in the following priority to the extent funds are available:

(a) first, to pay any amounts owed under the selling Owner's Senior Lien;

(b) second, subject to the provisions of Section 6.7 below, to pay all customary closing costs and escrow fees that are the responsibility of the selling Owner, and, to the extent not already paid by Owner to City, the costs of the Appraisal and the City Resale Costs under Section 6.2;

(c) third, to pay to City all amounts owing under the City Note and City Deed of Trust, including the initial principal amount and any other amounts owed pursuant to the City Note, except the City's Shared Appreciation;

(d) fourth, subject to the provisions of Section 6.7 below, to pay the selling Owner the following:

- i. amount of down payment paid by the Owner at the time the Owner acquired the Property;
- ii. amount of installment payments of mortgage principal repaid on Owner's Senior Lien by Owner prior to the Extraordinary Sale;
- iii. amount of escrow fees, transfer taxes, recording fees, brokerage commissions and similar costs of acquisition actually paid by the Owner;
- iv. amount of money paid by the Owner for Capital Improvements to the Property; and
- v. amount equal to the "legal rate of interest" (as defined in the City Note) on cash payments by Owner as identified in (i) through (iv) above.

(e) fifth, to pay any remaining balance pro-rata on the basis of percentages determined in accordance with Sections 6.3 (a) and (b), to the City for the amounts owing under

the City Note for the City's Shared Appreciation and to the selling Owner, as the Owner's Net Proceeds.

6.5 Time Requirements for Extraordinary Sale. Each Owner shall complete an Extraordinary Sale within 120 days after receipt of the Appraisal under Section 6.2. If the Extraordinary Sale is not completed within such time, and the Owner is not bound by written contract with a buyer to Sell the Property, the City may either (i) designate an Eligible Buyer for the Property pursuant to Section 4.1, in which case the provisions of Article 4 shall apply in lieu of the provisions of this Article 6, or (ii) exercise the City's Purchase Option under Section 5.1, in which case the provisions of Article 5 shall apply in lieu of the provisions of this Article 6.

6.6 Effect of Extraordinary Sale. Upon the close of escrow for an Extraordinary Sale in compliance with the provisions of this Article 6, the purchaser at the Extraordinary Sale shall acquire title to the Property free and clear of the provisions of this Agreement, including the City's Purchase Option. Pursuant to Section 8.13 and in accordance with this Section 6.6, City agrees to execute, acknowledge and record a release or other documentation sufficient to release the Property sold at an Extraordinary Sale from the provisions of this Agreement, including the City's Purchase Option.

6.7 Owner's Burden to Substantiate Costs; Extraordinary Sale; Foreclosure. Prior to the close of escrow in the event of an Extraordinary Sale, selling the Owner shall submit evidence to the reasonable satisfaction of the City not less than 30 days prior to the first scheduled date for the close of escrow to allow the City to verify the evidence provided by the Owner of the Owner's initial equity as set forth in Section 6.3(b) and the Owner's costs as set forth in Section 6.4(b) and (d). To the extent such evidence is not submitted by Owner to the reasonable satisfaction of City at least 30 days prior to the first scheduled date for the close of escrow, such costs shall be deemed waived by the Owner and the Owner shall not be entitled to have such costs, as applicable, included as part of the Owner's initial equity under Section 6.3(b) or to receive payment of the sums set forth in Section 6.4(b) and (d). The City acknowledges that such evidence may include, by way of example and not limitation, the Owner's original closing statement, bank statements, copies of cancelled checks, and invoices from contractors, and shall be considered reasonable evidence of the Owner's initial equity as set forth in Section 6.3(b). In the event of a foreclosure sale, this Section 6.7 shall operate to require the same obligations of the Owner as in an Extraordinary Sale and all references to the "close of escrow" shall be replaced by "foreclosure sale."

ARTICLE 7 LENDER PROVISIONS

7.1 Senior Liens. Mortgages, deeds of trust, sales and leases-back or any other form of conveyance required for any reasonable method of financing (subject to Section 7.2, the "Senior Lien") are permitted, but only as follows:

(a) for the sole purpose of securing a purchase money loan of funds to be used by an Owner for financing the acquisition of the Property by the Owner ("Initial Financing"), provided such Initial Financing shall be obtained through a bank, savings and loan association, insurance

company, pension fund, publicly traded real estate investment trust, governmental agency, or charitable organization engaged in making residential real estate loans ("Senior Lender"); or

(b) for the sole purpose of refinancing an Owner's Initial Financing ("Refinancing"), provided such Refinancing shall be limited solely to the outstanding principal balance owed under the Owner's Initial Financing, and shall not include any additional amounts, such as fees or costs associated with such Refinancing or additional funds disbursed to the Owner and refinancing shall not include secondary financing such as subordinate deeds of trust or home equity loans; and provided the Owner has paid the City all administrative and document preparation costs and fees incurred by the City in connection with the processing of any documents required to effectuate such Refinancing.

7.2 Subordination. The City may, at its sole discretion, enter into a subordination agreement with a Senior Lender to subordinate the provisions of this Agreement and its lien under the City Note and City Deed of Trust to the Senior Lien. Any such subordination agreement shall require the Senior Lender to agree to the Default and Foreclosure provisions set forth in Section 7.3, below, and may contain any other provisions required by or acceptable to the City.

7.3 Default and Foreclosure.

(a) The City shall record a request for notice of default and any notice of sale under any deed of trust or mortgage with a power of sale encumbering the Property pursuant to California Civil Code Section 2924b. Whether or not a request for a notice of default is recorded, the Owner shall provide a true and correct copy of any notice of default to the City within three (3) business days of the Owner's receipt thereof.

(b) In the event of default and foreclosure, the City shall have the same right as the Owner to cure any defaults, reinstate the loan (not less than a specified number of times to be set forth in the subordination agreement between the City and the Senior Lender) or redeem the Property prior to foreclosure sale or the acceptance of a deed in lieu of foreclosure by the Senior Lender. Such redemption shall be subject to the same fees, charges and penalties that would otherwise be assessed against the Owner. Nothing herein shall be construed as creating any obligation on the part 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.

(c) If the trustee set forth in Senior Lender's deed of trust sells the Property at a foreclosure sale the proceeds shall be delivered in the following priority to the extent funds are available:

- (i) first, to pay all sums due and owing under the Senior Lien, including without limitation the principal amount, interest, fees and costs of sale;
- (ii) second, to pay to the City all amounts owing under the City Note and City Deed of Trust, including the initial principal amount and any other amounts owed pursuant to the City Note, except the City's Shared Appreciation;

(iii) third, subject to the provisions of Section 6.7, to pay the Owner the following:

1. amount of down payment paid by the Owner at the time the Owner acquired the Property;
2. amount of installment payments of mortgage principal repaid on the Owner's Senior Lien by Owner prior to the foreclosure sale;
3. amount of escrow fees, transfer taxes, recording fees, brokerage commissions and similar costs of acquisition actually paid by the Owner;
4. amount of money paid by the Owner for Capital Improvements to the Property; and
5. amount equal to the "legal rate of interest" (as defined in the City Note) on cash payments by Owner as identified in (1) through (4) above.

(iv) fourth, to pay any remaining balance pro-rata in the percentages determined in accordance with Sections 6.3 (a) and (b), to the City for the amounts owing under the City Note for the City's Shared Appreciation, and to the Owner or the person or persons legally entitled thereto, as required by law.

(d) By taking a loan from a Senior Lender, each the Owner represents that it has provided Senior Lender the necessary consent and authorization to provide the City, upon the City written request, with a report of the payment status of the Owner and all other financial information concerning the Owner to the City. Therefore, upon written request by the City, Senior Lender is hereby authorized by the Owner to furnish a report of the payment status of the Owner and all other financial information concerning the Owner to the City.

(e) Except as otherwise expressly provided in a City-approved subordination agreement, by making a loan to the Owner, Senior Lender grants to the City the option to purchase the Senior Lien from Senior Lender at any time after the filing of a notice of default under the Senior Lien but prior to consummation of the foreclosure or the giving of a deed-in-lieu of foreclosure. Pursuant to this subsection, the City may purchase the Senior Lien from the Senior Lender for an amount equal to the entire indebtedness secured by the Senior Lender's deed of trust. The City may exercise this option by giving the Senior Lender written notice of its intent to do so (A) with respect to a foreclosure, at any time prior to the filing of a notice of sale under the Senior Lien, and (B) with respect to a deed-in-lieu of foreclosure, within ten (10) days after receiving written notice from Senior Lender of its intent to accept a deed-in-lieu of foreclosure with respect to the Property. Upon receipt of such written notice from the City, the Senior Lender shall promptly give the City a written statement setting forth the amount of the total indebtedness secured by the Senior Lender deed of trust, which shall be the purchase price for the Senior Lien, and a copy of the policy of title insurance insuring the priority and validity of the Senior Lender deed of trust. Within ten (10) days after the City gives such written notice, City shall establish an escrow at such title company and concurrently therewith give Senior the

Lender written notice thereof, and the City shall deposit the purchase price in such escrow. Within fifteen (15) days after Senior Lender's receipt of notice of the opening of the escrow, the Senior Lender shall deposit in the escrow the promissory note evidencing the Senior Lien endorsed in favor of the City, the original of the Senior Lender deed of trust, an assignment of the Senior Lender deed of trust duly executed by the Senior Lender and in recordable form and all other documents, instruments, agreements, certificates and other items that evidence, secure or otherwise relate to the Senior Lien. The escrow holder shall be instructed to close the escrow within two (2) business days after receipt of all such items and upon such close of escrow to issue to City a CLTA Form No. 104.1 endorsement to the title policy, showing the City as the Senior Lender's assignee with respect to the Senior Lender deed of trust. The Senior Lender and the City shall execute and deliver escrow instructions and such other documents as may be necessary or appropriate in connection with such escrow and to implement the intent hereof. The City shall pay the escrow fees (irrespective of whether the escrow closes), recording fees and the premium for the CLTA Form No. 104.1 endorsement.

ARTICLE 8 MISCELLANEOUS

8.1 No Option Assignment Liability. In no event shall the City in any way become liable to the Owner or become obligated in any manner to any other party by reason of the assignment of the City's Purchase Option, nor shall City in any way be obligated or liable to any Owner for any failure of City to purchase the Property or to comply with the terms of the City's Purchase Option.

8.2 Distribution of Insurance and Condemnation Proceeds. If the Property is condemned or the improvements damaged or destroyed, all proceeds from insurance or condemnation shall be distributed in accordance with the CC&Rs or, if not covered by the CC&R's, to Owner or its successors or assigns, for purposes of restoring or replacing the Property, unless the Senior Lender deed of trust or, if not covered by the Senior Lender Deed of Trust, the City Deed of Trust provides otherwise, in which case the Senior Lender Deed of Trust or, if not covered by the Senior Lender Deed of Trust, the City Deed of Trust shall control.

8.3 Maintenance and Use. Each Owner shall maintain the Property, including all structures and landscaping [*Insert: "in a good and clean condition" or "in accordance with the CC&Rs", if applicable*]. Each Owner shall maintain the interior of the single-family dwelling unit on the Property in a clean condition and all appliances and fixtures in good working order. The Property shall be used and occupied by each Owner solely for residential purposes, and in addition to the residential purpose may also be used for any accessory uses that comply with the provisions of the City's Zoning Ordinance, as it may be amended from time to time, and the provisions of the Grant Deed, and the Developer Affordable Housing Agreement [*Insert if applicable: "and the CC&R's"*]. No Owner shall grant use of, rent or lease all or any part of the Property, but shall occupy the Property as its principal residence as provided in Article 2.

8.4 Default Remedies. In addition to any other rights or remedies set forth in this Agreement or allowed by law or equity, in the event of a default by an Owner of any of the Owner's obligations under this Agreement, City may apply to a court of competent jurisdiction for specific performance of this Agreement, for an injunction prohibiting a proposed Sale or

Transfer in violation of this Agreement or for enforcing the City's Purchase Option, or for any such other relief as may be appropriate (including, but not limited to, monetary damages).

8.5 Attorneys' Fees and Costs. If any action is brought to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

8.6 Controlling Agreement. The Owner covenants that it has not executed, and will not execute without the City's prior written approval, any other agreement with provisions contradictory to or in opposition to the provisions of this Agreement.

8.7 Severability. If any one or more of the provisions contained in this Agreement for any reason shall 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 provisions had never been contained herein.

8.8 Time of the Essence. Time is of the essence of this entire Agreement. Whenever the time for performance falls on a day which is not a business day, such time for performance shall be extended to the next business day.

8.9 Notices. All notices, demands, requests for approval and other communications provided for in this Agreement shall be in writing and shall be deemed received if sent to the addresses set forth below (a) on the date of delivery when personally delivered; (b) one business day after deposit with a reputable overnight courier or delivery service with all delivery charges paid; or (c) date of receipt by party if deposited in the United States first class mail, postage prepaid, registered or certified, return receipt requested. Any party may change its address by notice delivered in the manner specified above.

If to City: City of Alameda
 c/o Housing Authority of the City of Alameda
 701 Atlantic Avenue
 Alameda, CA 94501
 Attention: Executive Director

If to Owner: At the Property address of the Owner

8.10 Covenants Running with the Land. All provisions of this Agreement, including the benefits and burdens, are equitable servitudes, run with the land and are binding upon the heirs, successors, assigns and personal representatives of the Owner hereto and inure to the benefit of City and its permitted successors and assigns. The covenants benefit and bind the City, the Property, and all owners and successor owners thereto. Each and every contract, deed or other instrument covering, conveying or otherwise transferring the Property or any interest therein shall conclusively be held to have been executed, delivered and accepted subject to this Agreement regardless of whether the other party or parties have actual knowledge of this Agreement.

8.11 Default. If an Owner defaults in the performance or observance of any covenant, agreement or obligation of Owner set forth in this Agreement, and if such default remains

uncured for a period of 30 days after written notice has been given by the City (or if such cure reasonably takes longer than 30 days, if such cure has not been commenced within the 30-day period and thereafter diligently prosecuted to completion), or in the event an Owner has provided false information or documentation required in connection with the purchase or sale of the Property, then the City may declare an "Event of Default" has occurred, and City may exercise any or all of its rights or remedies under this Agreement, including without limitation any or all of the following:

(a) by any suit, action or proceeding at law or in equity, require the Owner to perform its obligations and covenants under this Agreement or enjoin any unlawful acts;

(b) by taking such other action at law or in equity as may appear necessary or desirable to enforce the Owner's obligations, covenants and agreements; or

(c) by exercising the City's Purchase Option pursuant to Article 5.

8.12 Construction. The rule of strict construction does not apply to this Agreement. This Agreement shall be given a reasonable construction to create a valid and enforceable City's Purchase Option and to prevent any Prohibited Transfer or Prohibited Sale or any use of the Property in violation of this Agreement. Whenever the context and construction so requires, all words used in the singular shall be deemed to be used in the plural, all masculine shall include the feminine and neuter, and vice versa.

8.13 Termination of Agreement. This Agreement shall terminate as to the Property as a result of an Extraordinary Sale pursuant to Section 6.5. In addition, if the City has subordinated this Agreement pursuant to Section 7.2, this Agreement shall terminate as a result of foreclosure through a trustee's sale, a judicial foreclosure sale or deed in lieu of foreclosure. Upon termination of this Agreement, on request of the then record Owner of the Property, City shall execute, acknowledge and record a termination of this Agreement. To the extent permitted by law, any unfulfilled obligations of any Owner shall survive the termination of this Agreement but this Agreement shall no longer affect title to the Property.

8.14 Indemnification. Each Owner, at its sole cost and expense, agrees to indemnify, defend, and hold harmless the City and its respective officers, directors, employees and agents from and against all liabilities, losses, claims, actions, damages, judgments, costs and expenses (including, without limitation, reasonable attorney's fees) incurred by the City arising out of or relating to any action by the Owner. Each Owner agrees that if any claims, demands, suits or other legal proceedings are made or instituted by any person against City which arise out of any of the matters relating to this Agreement, the Owner shall cooperate fully with the City in the defense or other disposition.

8.15 Entire Agreement and Modifications. This Agreement, together with the exhibits attached hereto, represents the entire agreement between the parties with respect to the subject matter set forth herein and replaces and supersedes any and all prior or contemporaneous oral or written agreements, subject to Section 8.16. This Agreement may be modified only in a writing duly signed by the affected Owner or Owners and an authorized agent of City. The

modifications shall be effective when recorded in the Official Records of Alameda County, California.

8.16 Modification of Covenants. Each Owner hereby agrees as follows:

(a) To the extent any amendments to sections of the California Health & Safety Code referenced in this Agreement or any amendments to the City Inclusionary Policy retroactively impose requirements upon the ownership or operation of the Property more restrictive than those imposed by this Agreement, and if such requirements are applicable to the Property, this Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements.

(b) Each Owner and City shall execute, deliver and, if applicable, record any and all documents and instruments necessary to effectuate the intent of this Section 8.16, and each Owner hereby appoints the City as its true and lawful attorney-in-fact to execute, deliver and, if applicable, record on behalf of the Owner and City, as applicable, any such document or instrument (in such form as may be approved in writing by the City) if the Owner defaults in the performance of its obligations under this subsection (b).

8.17 Term. This Agreement shall become effective upon its execution and delivery and unless sooner terminated in accordance with Section 8.13, shall permanently remain in full force and effect from the date of recordation of this Agreement. T the non-discrimination covenant in Section 8.18 shall run with the land in perpetuity.

8.18 No Discrimination. Notwithstanding the following, Owner acknowledges under this Agreement that it is expressly prohibited from leasing the Property and is required to occupy the Property as its principal residence at all times:

Owner covenants, by and for itself and any successors in interest, that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Owner, itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, subleases or vendees in the Property. This covenant shall run with the land in perpetuity.

8.19 Compliance Monitoring. The Owner acknowledges and agrees that the City is obligated to monitor compliance with this Agreement on an annual basis. The Owner agrees to cooperate with City's annual monitoring requirements by supplying true, correct and complete annual owner information as required by Authority's Affordable Housing Ownership Program Qualified Household Annual Update Questionnaire.

8.20 Payment of City Fee for Administrative Costs of Processing Agreement. Owner acknowledges and agrees to pay City a portion of its administrative costs for preparing and processing this Agreement in the amount of Three Hundred Dollars (\$300), which amount may

be part of the closing costs and shall be paid to City at Owner's close of escrow for purchase of the Property.

8.21 Recordation of Agreement. Immediately following the Effective Date, this Agreement, and pursuant to Health and Safety Code Section 33334.3(f)(3), the Notice of Affordability Restrictions on Transfer of Property, in the form attached hereto as Exhibit H, shall be recorded against the Property in the Official Records of Alameda County.

8.22 Exhibits. The following exhibits are attached to this Agreement and incorporated herein by this reference:

- Exhibit A: Property Description
- Exhibit B: Notice of Intent to Transfer
- Exhibit C: Notice of Intent to Sell
- Exhibit D: Notice of Extraordinary Sale
- Exhibit E: City Note
- Exhibit F: City Deed of Trust
- Exhibit G: Disclosure, Acknowledgment and Assumption Agreement
- Exhibit H: Notice of Affordability Restrictions on Transfer of Property

IN WITNESS THEREOF, the parties have executed this Agreement as of the year and date first written above.

CITY:

CITY OF ALAMEDA, a public body
corporate and politic

OWNER(S):

[Signature must be notarized]

By: _____
City Manager
[Signature must be notarized]

[Signature must be notarized]

RECOMMENDED FOR APPROVAL:

Executive Director
Housing Authority of the City of Alameda

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
Property Description

EXHIBIT B

NOTICE OF INTENT TO TRANSFER

Date _____

To: City of Alameda
c/o Housing Authority of the
City of Alameda
701 Atlantic Avenue
Alameda, CA 94501
Attention: Executive Director

The undersigned _____, owner of that certain real property located in Alameda, California, commonly known as _____ [insert address] _____, (the "Property") hereby notifies you of its intent to Transfer in compliance with Section 3.2 of the Affordability, Restrictions on Resale and Option to Purchase Agreement (the "Agreement"). The reason or circumstances relating to such transfer are as follows: _____

_____. Any additional information regarding the proposed transferee will be provided to you immediately upon request. The undersigned acknowledges that all applicable time periods under the Agreement commence only upon City's receipt of this notice. The undersigned further acknowledges and agrees that any such transfer is subject to the provisions of the Agreement.

Owner

EXHIBIT C

NOTICE OF INTENT TO SELL

Date _____

To: City of Alameda
c/o Housing Authority of the
City of Alameda
701 Atlantic Avenue
Alameda, CA 94501
Attention: Executive Director

The undersigned _____, owner of that certain real property located in Alameda, California, commonly known as _____ [insert address] _____, (the "Property") hereby notifies you of its intent to Sell the Property in compliance with Section 4.1 of the Affordability, Restrictions on Resale and Option to Purchase Agreement (the "Agreement").

The undersigned acknowledges that all applicable time periods under the Agreement commence only upon City's receipt of this notice and that terms not defined in this Notice shall have the meaning given in the Agreement.

A. The following information is provided to the City pursuant to Section 4.1 of the Agreement:

1. Address of Property: _____
2. Date Owner purchased Property: _____
3. Purchase Price paid by Owner when Property was purchased: _____
4. Date Owner intends to vacate Property: _____
5. Date Property will be placed on market: _____
6. Name and phone number of person for Authority to contact to schedule inspection: _____ and _____
(name) (phone number)

B. The following documents are attached to this Notice:

1. Copy of HUD-1 Settlement Statement from Owner's purchase of the Property

2. If the Owner believes the Property is in good condition with no deferred maintenance and no deduction for repairs will be necessary, check box below:

Yes, I believe the Property is in good condition and that no deduction for repairs will be necessary pursuant to Section 4.3 of the Agreement. I hereby authorize the Authority or its designee to enter and inspect the Property to verify its condition.

3. If the Owner has made Eligible Capital Improvements and wants such improvements included in the calculation of the Eligible Buyer Purchase Price for the Property pursuant to Section 4.4, check the box below.

Yes, include my Eligible Capital Improvements in the price calculation. I am attaching a copy of the Authority letter approving these improvements and documentation of costs incurred.

C. I have not yet listed the Property for sale with a multiple listing service, or contacted a real estate broker or financial institution. I agree to prepare the Property for sale by:

1. obtaining a pest control report within thirty (30) days of the date of this Notice,
2. repairing all damage noted in the pest report within the sooner of: (i) sixty (60) days from the date of this Notice, or (ii) two (2) weeks prior to close of escrow or the transfer of the Property,
3. allowing the Authority or its designee to inspect the Property within thirty (30) days of this Notice,
4. if requested by the Authority following the Authority's inspection, I will obtain a home inspection report from a licensed home inspector,
5. maintaining utility connections until the Property is transferred, and
6. permitting a walk through by the Authority prior to close of escrow or the transfer.

This Owner's Notice of Intent to Transfer is certified by Owner to be true and correct and is signed on _____ [insert date] under penalty of perjury.

Owner

EXHIBIT D

NOTICE OF EXTRAORDINARY SALE

Date: _____

To: City of Alameda
c/o Housing Authority of the
City of Alameda
701 Atlantic Avenue
Alameda, CA 94501
Attention: Executive Director

The undersigned _____, ("Owner") is the owner of that certain real property located in Alameda, California, commonly known as _____ [insert address] _____, ("Property"). On _____, 20____, the Owner provided the City with written notice of its intent to sell the Property. The City has failed to identify an Eligible Buyer in accordance with Section 4.1 of the Affordability, Restrictions on Resale and Option to Purchase Agreement ("Agreement") and the City has failed to exercise the City's Purchase Option pursuant to Article 5, or failed to close escrow within the time set forth in Section 5.4 of the Agreement. Accordingly, the Owner hereby notifies City of its intent to make an Extraordinary Sale of the Property in accordance with Section 6.2 of the Agreement. The Owner hereby requests that City calculate the Market Value of the Property based on an Appraisal in accordance with Article 6 of the Agreement. The Owner hereby acknowledges that the City shall retain the City's Purchase Option until the time that the Owner has accepted in writing an offer to purchase the Property from a buyer, and that all applicable time periods for an Extraordinary Sale under the Agreement commence only upon the City's receipt of this Notice.

Owner

EXHIBIT E
FORM OF CITY NOTE
(Shared Appreciation Loan)

Differential Amount

Alameda, California

FOR VALUE RECEIVED, _____ ("Maker") promises to pay the CITY OF ALAMEDA, a California charter city ("City") the Differential Amount, as defined and calculated under Section 3 below and payable under Section 5 below, plus a contingent deferred amount equal to the City's Shared Appreciation as calculated and payable under Section 6, below, any additional amounts due and owing pursuant to Sections 8 and 10, below, any additional amounts due and owing pursuant to the Deed of Trust (as defined below), and any additional amounts due and owing as permitted by law.

1. PROPERTY. The "Property" is that certain real property commonly known as _____ [insert address] _____, Alameda, California, and more particularly described on Exhibit A, attached hereto and incorporated herein, which together with all improvements located thereon is referred to in this promissory note ("Note") as the "Property." The Property is part of a residential development known as " _____ [insert housing project name] _____ " ("Project").

2. AFFORDABILITY COVENANTS, RESALE RESTRICTIONS. The Property, along with certain other residential lots in the Project, is part of an affordable housing program designed to create, preserve, maintain and protect housing for persons of low and moderate income as described in and pursuant to an Affordable Housing Agreement between the City and _____ ("Developer") dated _____ ("Developer Affordable Housing Agreement"). Under the Developer Affordable Housing Agreement, the Developer was required to sell the Property to Maker at an Affordable Housing Cost, as defined below, subject to the covenants, conditions, restrictions and option to purchase set forth herein. Maker assumes title to the Property subject to that certain Affordability, Restrictions on Resale and Option to Purchase Agreement, between the Maker and City recorded on _____, 20____, as Document No. _____, in the Official Records of Alameda County, California ("Resale Restrictions"). Capitalized terms used herein and not defined in this Note shall have the meanings set forth in the Resale Restrictions.

3. BASIS OF PRINCIPAL AMOUNT OF NOTE. In the event that this Note is due and payable pursuant to Section 5 below, the Maker shall pay the City an amount equal to the difference between the fair market value of the Property, as established based on an Appraisal of the Property at the time the Property was acquired by the Maker, and the Initial Price (the "Differential Amount"). The Maker acknowledges and agrees that the Differential Amount represents the amount by which the purchase price of the Property has been reduced as a result of the City's covenants, conditions and restrictions placed on the Property as set forth in the Developer Affordable Housing Agreement, and which amount is reflected above as the Differential Amount of this Note.

4. DEED OF TRUST. Payment of this Note is secured by a deed of trust, assignment of rents, security agreement and fixture filing (the "Deed of Trust") from the Maker in favor of the City, which Deed of Trust is dated concurrently herewith and recorded against the Property.

5. REPAYMENT OF NOTE. There shall be no payments due under this Note, unless payments are otherwise due pursuant to provisions of Sections 5 (c) and (d) of this Note. All amounts due under this Note shall be assumed, repaid and/or cancelled, as follows:

a. In the event of a Permitted Transfer pursuant to Section 2.2 and Article 3 of the Resale Restrictions, the Transferee shall assume the rights and obligations of Maker under this Note and the Deed of Trust securing this Note.

b. In the event of a Permitted Sale to an Eligible Buyer pursuant to Section 2.3 and Article 4 of the Resale Restrictions, or upon acquisition of the Property by the City pursuant to the City's Purchase Option provided in Section 2.3 and Article 5 of the Resale Restrictions, then this Note, and all amounts due and owing to the City hereunder, shall be cancelled. In such event, the City shall execute and deliver for the benefit of Maker any documents necessary to effectuate such cancellation and release of the lien under this Note and the Deed of Trust.

c. In the event of an Extraordinary Sale to a non-Eligible Buyer pursuant to and in compliance with the requirements of Section 2.3 and Article 6 of the Resale Restrictions, Maker shall pay to the City, through escrow and from the proceeds of such sale, all amounts owing under this Note and Deed of Trust, including the initial Differential Amount of this Note and any other amounts owed pursuant to this Note, except for the contingent deferred amount of the City's Shared Appreciation which shall be paid to the City in accordance with Section 6 of this Note and Section 6.4 of the Resale Restrictions. Upon receipt of such payments, the City shall execute and deliver any documents necessary to effectuate such cancellation and release of the lien under this Note and the Deed of Trust.

d. In the event of a default by Maker under this Note or under the Deed of Trust, all amounts owing under this Note and Deed of Trust, including the initial Differential Amount and any other amounts owed pursuant to this Note, except for the contingent deferred amount of the City's Shared Appreciation, shall be due and payable in full, at City's option, without notice or demand. The City's Shared Appreciation shall be due and payable to the City in accordance with Section 6 of this Note and Section 6.4 of the Resale Restrictions. If Maker defaults in the performance or observance of any agreement or obligation of Maker set forth in this Note or the Deed of Trust, and if such default remains uncured for a period of 30 days after written notice has been given by the City (or if such cure reasonably takes longer than 30 days, if such cure has not been commenced within the 30-day period and thereafter diligently prosecuted to completion), then the City may declare an "Event of Default" has occurred, and City may exercise any or all of its rights or remedies under this Note and the Deed of Trust.

6. CITY'S SHARED APPRECIATION. In the event of an Extraordinary Sale pursuant to and in compliance with the requirements of Section 2.3 and Article 6 of the Resale Restrictions or in the event of a default by Maker under this Note or under the Deed of Trust, City shall receive, and Owner shall to pay to City in addition to the unpaid Differential Amount of this Note, a share of the appreciation ("City's Shared Appreciation") in the value of the Property between the time the Property was acquired by Maker and the Extraordinary Sale in accordance with California Civil Code Section 1917.006 and as provided for herein. The distribution of any appreciation in the value of the Property to City shall be determined based on the difference between the Appraisal prepared at the time the Property was acquired by Maker, and the Extraordinary Sale Price. The distribution of any appreciation in value shall be shared by Maker and the City in proportion to the amount of initial equity contributed by each party as follows.

- a. The City's initial equity contribution shall equal the Differential Amount of this Note, as calculated in accordance with Section 3 of this Note.
- b. Maker's initial equity contribution shall be equal to the aggregate amount of the following:
 - i. amount of the down payment paid by Maker at the time Maker acquired the Property; and
 - ii. escrow fees, transfer taxes, recording fees, brokerage commissions and similar costs of acquisition actually paid by Maker.

[Example of Maker's initial equity: If, (i) at the time Maker acquired the Property, the Maker paid a down payment equal to \$18,000 and, escrow fees, transfer taxes, recording fees, brokerage commissions and similar costs of acquisition actually paid by Maker equal \$2,000 resulting in a total Maker equity amount of \$20,000, and (ii) the Differential Amount of this Note were \$80,000, then (iii) the Owner would receive 20% of any remaining appreciation value available for distribution, and the City would receive 80% of any remaining appreciation value available for distribution at the time of an Extraordinary Sale.]

- c. The City's right to receive the City's Shared Appreciation shall be subject to the Maker's superior right to receive repayment of the following items as described in California Civil Code Section 1917.006(a)(3) and the requirements of Section 6(e) below:
 - i. amount of the down payment paid by Maker at the time Maker acquired the Property;
 - ii. amount of installment payments of mortgage principal repaid to a Senior Lender by Maker prior to the Extraordinary Sale;
 - iii. amounts of escrow fees, transfer taxes, recording fees, brokerage commissions and similar costs of acquisition actually paid by Maker;
 - iv. money paid by Maker for Capital Improvements to the Property; and
 - v. amount equal to the "legal rate of interest" (as defined herein in Section 6(d) below) on cash payments by Maker as identified in (i) through (iv) above.

d. Because there is no generally accepted definition of "legal rate of interest," as the term is used in Civil Code Section 1917.006(a)(3), Maker and City stipulate and agree that the "legal rate of interest" for purposes of this Note shall be calculated using the annual compound interest rate for the Long-Term Applicable Federal Rate (AFR) as defined in 26 U.S.C. Section 1274(d) and as is issued by the United States Internal Revenue Service monthly, as then in effect at the time this Note is executed. Based on the foregoing, the legal rate of interest for purposes of this Note is stipulated to be _____ percent (_____%) per annum, compounded annually.

e. Prior to payment to Maker of the amounts set forth in Section 6(c) of this Note, Maker shall submit evidence not less than 30 days prior to the first scheduled date for the close of escrow or foreclosure sale to allow the City to verify the evidence provided by Maker to the reasonable satisfaction of the City of the Maker's initial equity as set forth in Section 6(b) and Maker's actual payments as set forth in Section 6(c). To the extent such evidence is not timely submitted by Maker to the reasonable satisfaction of City, such costs shall be deemed waived by the Maker and Maker shall not be entitled to have such costs, as applicable, included as part of Maker's initial equity under Section 6(b) or to receive payment of the sums set forth in Section 6(c) herein. City acknowledges that such evidence may include, by way of example and not limitation, Owner's original closing statement, bank statements, copies of cancelled checks, and invoices from contractors.

7. PAYMENTS. Payments shall be made payable to the City of Alameda, 2263 Santa Clara Avenue, Alameda, California 94501, Attention: City Manager (*or Authority Executive Director*). The place of payment may be changed from time to time as City may from time to time designate in writing. Payments shall be made in lawful money of the United States of America.

8. COLLECTION. This Note is secured by a Deed of Trust recorded against the Property. Maker agrees to pay all collection and enforcement costs, expenses and attorneys' fees paid or incurred by the City or adjudged by a Court in any litigation or controversy connected with this Note, or security for it, including but not limited to actions for declaratory relief that the City is required to prosecute or defend and actions for relief based on rescission, or actions to cancel this Note that the City is required to defend.

9. SHARED APPRECIATION LOAN. This Note evidences a "Shared Appreciation Loan" as defined in California Civil Code Section 1917.006 and the parties therefore intend this Note to be exempt from any usury limitations. Notwithstanding anything to the contrary contained herein, to the extent the City's Shared Appreciation is deemed interest (other than as permitted under California Civil Code Section 1917.006) and therefore subject to limitation by usury law, that portion of interest in excess of applicable usury limitation shall be forgiven.

10. COSTS. Maker agrees to pay immediately upon demand all costs and expenses of City including reasonable attorneys' fees:

- a. If after default and the expiration of all notice and cure periods this Note is placed in the hands of an attorney or attorneys for collection,
- b. If after a default hereunder or under the Deed of Trust and after the expiration of all notice and cure periods City finds it necessary or desirable to secure the services or advice of one or more attorneys with regard to collection of this Note against Maker, any guarantor or any other party liable therefor or to the protection of its rights under this Note or the Deed of Trust, or
- c. If City seeks to have the Property abandoned by or reclaimed from any estate in bankruptcy, or attempts to have any stay or injunction prohibiting the enforcement or collection of this Note or prohibiting the enforcement of the Deed of Trust or any other agreement evidencing or securing this Note lifted by any bankruptcy or other court.

If City shall be made a party to or shall reasonably intervene in any action or proceeding, whether in court or before any governmental entity, affecting the Property or the title thereto or the interest of the City under the Deed of Trust, including, without limitation, any form of condemnation or eminent domain proceeding, City shall be reimbursed by Maker immediately upon demand for all costs, charges and reasonable attorneys' fees incurred by City in any such case, and the same shall be secured by the Deed of Trust as a further charge and lien upon the Property.

11. MISCELLANEOUS. This Note, the Deed of Trust, the Resale Restrictions, and any other documents executed by the parties relating thereto, embody the entire agreement between the City and Maker. The obligations of the Maker hereunder shall run with the land and be enforceable against Maker and the successors and assigns of Maker approved in writing by the City. Except in the event of a Permitted Transfer pursuant to Section 2.2 and Article 3 of the Resale Restrictions, Maker shall not assign or transfer any of its interest and obligations under this Note without the express prior written consent of City. The City, at its sole option, may negotiate transfer or assumption of this Note. This Note may not be modified or amended except by an instrument in writing executed by the parties sought to be bound thereby. This Note shall be governed by and construed in accordance with the laws of the State of California. If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

MAKER:

Address:

Address:

EXHIBIT F

FORM OF CITY DEED OF TRUST

The City Deed of Trust shall be a standard title company deed of trust with a rider in the form set forth below.

RIDER TO CITY DEED OF TRUST

This Rider to Deed of Trust is executed by _____
("Trustor") for the benefit of the CITY OF ALAMEDA ("Beneficiary").

1. This Deed of Trust also secures the obligations of the Trustor under that certain Affordability, Restrictions on Resale and Option to Purchase Agreement dated _____ and recorded on _____ as Document No. _____ in the Official Records of Alameda County, California ("Agreement"), against the property encumbered by this Deed of Trust. A default under the Agreement shall be considered a default under this Deed of Trust.

2. This Deed of Trust secures a Shared Appreciation Loan and Note.

Trustor

EXHIBIT G

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

City of Alameda
c/o Housing Authority of the
City of Alameda
701 Atlantic Avenue
Alameda, CA 94501
Attention: Executive Director

*Exempt from recording fees pursuant to
Cal.Gov't Code Section 27383*

**DISCLOSURE, ACKNOWLEDGMENT
AND
ASSUMPTION AGREEMENT**

THIS AGREEMENT is made by and among _____ ("Seller" or "Transferor"), _____ ("Buyer" or "Transferee") and the CITY OF ALAMEDA ("City").

WHEREAS, Seller is the current owner of the real property commonly known as insert street address, Alameda, California, more particularly described on Exhibit A, which together with all improvements located thereon is referred to in this Agreement as the "Property"; and

WHEREAS, Seller wishes to sell, transfer and convey the Property to the Buyer; and

WHEREAS, the Property is subject to affordability restrictions applicable to the Property as described in the Affordability, Restrictions on Resale and Option to Purchase Agreement, recorded on _____, 20__, as Document No. _____, in the Official Records of Alameda County, California (the "Resale Restrictions") which restricts the Property from being sold at its fair market value; and

WHEREAS, the Property is being sold to Buyer subject to a Shared Appreciation Loan that may result in the Buyer being obligated to pay a contingent deferred amount as discussed below in Section 2; and

WHEREAS, the Buyer is purchasing, or otherwise acquiring, the Property and will assume the obligations of an Owner under the Resale Restrictions; and

WHEREAS, capitalized terms used herein and not defined in this Agreement shall have the meanings set forth in the Resale Restrictions.

NOW THEREFORE, the parties hereto agree as follows:

1. THE BUYER HEREBY ACKNOWLEDGES AND AGREES TO THE FOLLOWING:

a. THAT THE PROPERTY IS SUBJECT TO THE RESALE RESTRICTIONS AND, BUYER AGREES AS AN OWNER TO BE BOUND BY ALL OF THE CONDITIONS AND COVENANTS CONTAINED IN THE RESALE RESTRICTIONS. THE PROPERTY IS PART OF AN AFFORDABLE HOUSING PROGRAM OPERATED BY THE CITY AND DESIGNED TO CREATE, PRESERVE, MAINTAIN AND PROTECT HOUSING AFFORDABLE TO PERSONS OF LOW AND MODERATE INCOME. BUYER ACKNOWLEDGES THAT IT HAS RECEIVED A COPY OF THE RESALE RESTRICTIONS AND UNDERSTANDS AND ACKNOWLEDGES THAT ITS RIGHT TO SELL THE PROPERTY AT FAIR MARKET VALUE IS VERY LIMITED, AND THAT, IN CERTAIN INSTANCES, THE CITY WILL HAVE THE OPTION TO PURCHASE THE PROPERTY FROM BUYER. THESE RESTRICTIONS WILL BE IN EFFECT UNTIL _____. IF BUYER SELLS THE PROPERTY IN VIOLATION OF THE RESALE RESTRICTIONS, THE CITY IS ENTITLED TO EXERCISE THE CITY'S PURCHASE OPTION UNDER THE RESALE RESTRICTIONS.

b. THAT BUYER SHALL OCCUPY THE PROPERTY AS ITS PRINCIPAL RESIDENCE FOR THE DURATION OF ITS OWNERSHIP.

c. THAT THE PROPERTY WILL NOT NECESSARILY APPRECIATE IN VALUE DURING THE DURATION OF ITS OWNERSHIP, AND THAT THE RESALE PRICE (THE ELIGIBLE BUYER PURCHASE PRICE AS DEFINED IN THE RESALE RESTRICTIONS) MAY BE LESS THAN WHAT BUYER ORIGINALLY PAID FOR THE PROPERTY AND THUS WHEN BUYER SELLS THE PROPERTY IT MAY RECEIVE LESS THAN IT PAID FOR THE PROPERTY.

2. City Note and City Deed of Trust.

a. If Buyer is an Eligible Buyer, as provided in Section 4.1 of the Resale Restrictions, the Buyer has concurrently with this Agreement executed a new City Note and a new City Deed of Trust in favor of the City, as provided in Section 4.4 of the Resale Restrictions. The City Note is in the initial principal amount equal to the difference between the market value of the Property and the Eligible Buyer Purchase Price being paid for the Property (defined as the Differential Amount in the City Note). The new City Note also provides for payment to the City of the City's Shared Appreciation in the event of an Extraordinary Sale under the Resale Restrictions; or

b. If Buyer is taking title through a Permitted Transfer, as provided in Section 2.2 and Article 3 of the Resale Restrictions, then Buyer hereby assumes the City Note and the City Deed of Trust as provided for under Section 5(a) of the City Note and Buyer agrees to be bound by and subject to the provisions of the Resale Restrictions, the City Note and the City Deed of Trust.

3. The City hereby consents to the transfer of the Property to the Buyer as an Eligible Buyer or to the Transferee under a Permitted Transfer within the meaning of the Resale Restrictions.

4. All questions with respect to the interpretation of this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of the State of California.

5. This Agreement shall inure to the benefit of, and shall be binding upon, the assigns, successors in interest, personal representatives, estates, heirs and legatees of each of the parties hereto.

6. Buyer hereby grants to City an irrevocable power of attorney coupled with an interest to act on Buyer's behalf to execute, acknowledge and deliver any and all documents relating to the City's Purchase Option under Article 5 of the Resale Restrictions.

7. This Agreement and the City's lien under the City Note and City Deed of Trust shall be subordinate to that certain deed of trust in favor of _____ recorded concurrently herewith, subject to the conditions set forth in Article 7 of the Resale Restrictions.

Executed on _____, 20__, at Alameda, California.

SELLER:

Dated: _____

Print name: _____

BUYER:

Dated: _____

Print name: _____

-AND-

CITY:

CITY OF ALAMEDA

Dated: _____

By: _____

Print name: _____

Its: City Manager

ATTEST:

By: _____

NOTARY ACKNOWLEDGMENTS

[TO BE INSERTED]

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

All that certain real property located in the City of Alameda, County of Alameda and more particularly described as Lot ____ as shown on that certain final subdivision map entitled " _____ " recorded on _____, 20__ as Document No. _____ in the Official Records of Alameda County.

EXHIBIT H

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Alameda
c/o Housing Authority of the
City of Alameda
701 Atlantic Avenue
Alameda, CA 94501
Attention: Executive Director

*Exempt from recording fees pursuant to
Cal.Gov't Code Section 27383*

Space Above This Line For Recorder's Use Only

**NOTICE OF AFFORDABILITY RESTRICTIONS
ON TRANSFER OF PROPERTY**

(Note: Above Title and text below must remain in 14-point type or larger)

Important notice to owners, purchasers, tenants, lenders, brokers, escrow and title companies, and other persons, regarding affordable housing restrictions on the real property described in this Notice: Restrictions have been recorded with respect to the property described below (referred to in this Notice as the "Property") that restrict the price and terms at which the Property may be sold or rented. These restrictions may limit the sales price or rents of the Property to an amount which is less than the fair market value of the Property. These restrictions also limit the income of persons and households who are permitted to purchase and rent the Property.

Title of Document Containing Affordable Housing Restrictions: Affordability, Restrictions on Resale and Option to Purchase Agreement (referred to in this Notice as the "Affordable Housing Restrictions").

Parties to Affordable Housing Restrictions:

City of Alameda ("City") and
_____ ("Owner").

The Affordable Housing Restrictions are recorded: (check one)

- as Document No. _____, official records of Alameda County, on _____; or
- concurrently with this Notice, as Document No. _____, official records of Alameda County.

Legal Description of Property:

See Exhibit A (Attached hereto)

Street Address of Property: _____, Unit No. _____,
_____, California.

Assessor's Parcel Number of Property: _____

Summary of Affordable Housing Restrictions (check as applicable):

- The Property is restricted for resale to a low- or moderate-income household at a purchase price affordable to a low- or moderate-income household, as applicable.
- The Owner must occupy the Property as the Owner's principal residence, unless approved in writing by the Authority or the City.
- The Owner must give notice to the Authority and the City before resale of the Property.
- The Owner has granted the City an option to purchase the Property upon resale or default.

- The Owner's rights to pledge the Property as security for a debt are limited.
- The Affordable Housing Restrictions restrict the amount of rent which may be charged for the rental housing unit or units on the Property, as follows:
_____.
- The Affordable Housing Restrictions restrict the sales price which may be charged for the sale of the ownership housing unit or units on the Property, as follows:
_____.
- The Affordable Housing Restrictions restrict the income level of the tenant or buyer of the Property, as follows:
_____.
- Term of Restrictions: _____ years, commencing on _____ and terminating on _____.

This Notice does not contain a full description of the details of all of the terms and conditions of the Affordable Housing Restrictions. You will need to obtain and read the Affordable Housing Restrictions to fully understand the restrictions and requirements which apply to the Property. In the event of any conflict between the terms of this Notice and the terms of the Affordable Housing Restrictions, the terms of the Affordable Housing Restrictions shall control.

This Notice is being recorded and shall be indexed against the City and the current Owner of the Property.

CITY OF ALAMEDA:

Dated: _____, 20__

By: _____
City Manager

OWNER:

Dated: _____, 20__

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 _____)

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(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity 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.

Name: _____
Notary Public

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 _____)

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(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity 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.

Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

[To Be Inserted]

Attachment D

Memorandum of City Option

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

(Space Above This Line For Recorder's Use)

**MEMORANDUM OF
PURCHASE OPTION**

This Memorandum of Purchase Option (this "Memorandum") is entered into as of _____, 20__, by and between Alameda Point Partners LLC, a Delaware limited liability company (the "Developer"), and the City of Alameda, a California charter City (the "City"), with respect to certain rights provided under that certain Affordable Housing Implementation Plan (the "Housing Implementation Plan") dated as of _____, 2015, appended as Exhibit M of that certain Disposition, Development Agreement, dated as of _____, 2015, as may be amended (the "DDA").

This Memorandum confirms that pursuant to Section 3.2(c)(7) of the Affordable Housing Implementation Plan, the Developer has granted to the City an option to purchase the property owned by the Developer, located in the City of Alameda, County of Alameda, California, more particularly described in Exhibit A attached hereto (the "Property").

This Memorandum shall incorporate all of the terms and provisions stated in the Affordable Housing Implementation Plan as though fully set forth herein.

This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the provisions of the Affordable Housing Implementation Plan.

This Memorandum may be executed in any number of counterparts, all of which shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

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

CITY:

CITY OF ALAMEDA, a California charter city

By: _____

Elizabeth D. Warmerdam, Interim City Manager

Approved as to Form:

Farimah F. Brown
Senior Assistant City Attorney

Andrico Q. Penick
Assistant City Attorney

DEVELOPER:

ALAMEDA POINT PARTNERS, LLC,
a Delaware limited liability company

By: Alameda Point Properties, LLC,
a California limited liability company,
its managing member

By: NCCH 100 Alameda, L.P.,
a Delaware limited partnership,
its managing member

By: Maple Multi-Family Development,
L.L.C., a Texas limited liability
company,
its General Partner

By: _____

Name: _____

Title: _____

[SIGNATURES MUST BE NOTARIZED]

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 _____)

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(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity 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.

Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

**[NOTE: Legal Descriptions To Be Inserted At The Time Option Is Recorded Against
Parcels are conveyed pursuant to terms of DDA and Housing Implementation Plan.]**

Attachment E

Legal Description of Affordable Housing Site



ENGINEERS
SURVEYORS
PLANNERS

DESCRIPTION FOR:
ALAMEDA POINT SITE A
AFFORDABLE HOUSING PARCEL

All that real property situate in the City of Alameda, Alameda County, California, described as follows:

Commencing at a U.S.C & G.S. brass disk, labeled "MAIN-ATL", as said disk is shown on Record of Survey "RS No. 2565", recorded in Book 39 of Maps, at Page 88, Alameda County records, a U.S.C & G.S. brass disk, labeled "MAIN" bears North 00°31'07" East 1179.82 feet;

Thence North 84°38'27" West 734.21 feet to the **Point of Beginning**; Thence North 85°08'27" West 210.00 feet; Thence North 4°51'33" East 360.00 feet; Thence South 85°08'27" East 210.00 feet; Thence South 4°51'33" West 360.00 feet to the **Point of Beginning**.

Containing 75,600 square feet, 1.74 acres, more or less

This description is not to be used for any purpose that would violate the California Subdivision Map Act

This description has been prepared by me or under my supervision for BKF Engineers

By: 

Barry T. Williams P.L.S. No. 6711
License Expires: 06/30/2016

Dated: 6-2-15

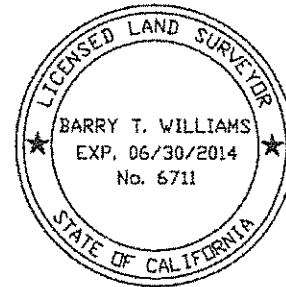


EXHIBIT N

DESCRIPTION OF PHASE 0 ACTIVITIES

EXHIBIT N PHASE 0 OUTLINE

Consistent with the Town Center and Waterfront Precise Plan, Phase 0 shall be implemented to quickly bring people to the waterfront and further establish Alameda Point as a fun and cultural experience demonstrating what it can become. The focus, which shall include significant engagement of the local business community, is to create events that support Alameda Point Partner's ("Developer") long term vision, create an immediate draw and be transitioned into a permanent part of Site A development.

The Developer will engage a consultant and/or event manager to coordinate with the City and execute the Phase 0 plan consistent with its development plan and the City's vision. Phase 0 features and events shall cater to a diverse audience. In addition to the ideas put forth by the City, other ideas may include:

- Develop the theme of a 'creative waterfront' with space, events and exhibits focusing on the 'artisan-maker-innovator' community that leverages the industrial vibe of the base and the existing makers already there. An East-Bay 'Dogpatch' expanding on the Bay Area's and East Bay's thriving entrepreneurship. Creative waterfront will include the development of distinct gathering places to serve as a stage for future phase zero events. Spaces will be designed to appeal to broad audiences including families, artists, and athletes.
 - Work with Martha Trela of UrbanBloc to explore creation of an eclectic shipping container village for local retailers and restaurants to use for events, some of which may later be incorporated into a permanent, central urban park.
- Produce one large-scale signature event to draw in new, regional audiences, for example, Alameda Point Open House.
- Host a Night Market or Antiques Fair After Party— instead of just the typical off-the-grid events, hold a once-a-month night market. Think First Fridays/Art Murmur in Oakland, or the Frenchmen Art Market in New Orleans but with an Alameda vibe and personality.
 - Commence a formal outreach to artisans, local restaurants and purveyors with the goal that this become a permanent event at Alameda Point.
- Host an outdoor movie series to compliment or expand on Alameda Parks & Recreation summer outdoor movie series at Alameda Point. Partner with Alameda businesses and food trucks for concessions.
- Introduce the 'Pan Am Plaza' concert series to be coordinated with the Crab Cove Concert series.
- Holiday events focused on kids and families including a Halloween pumpkin patch and Christmas tree sales with kid's attractions (e.g. Speer Family Farms). Events may feature a charitable element including a holiday toy drive to benefit the Alameda Collaborative and other children's charities.
- Leverage Community Involvement: engage existing community business members and event producers to be a part of and participate in the successful launch of The Town Center. Some events might include:
 - Rythmix Cultural Works in connection with the Night Market
 - Alameda Bicycle and Team Alameda – bike events including a safety classes and lessons, weeknight criterium's and host its family bike tours and BBQs.
 - Bladium – set up waterfront space and sports courts for local tournaments and events, including water events, while promoting the vision for the Regional Sports Complex.

- Alameda Community Sailing Center: provide lessons and rentals of small, non-motorized watercraft including junior sailing camps.
- Alameda Point Collaborative – staffing for special events or Ploughshares Nursery participation in the market
- Spirits Alley tenants – serve primarily Alameda crafted wine, beer, and spirits at phase zero events

IMPLEMENTATION SCHEDULE

- Engage Phase 0 marketing/event consultant by the date that Phase 0 Activities Plan is presented to City Council to develop a theme and brand, including a website and social media tools, engage with any participating community members, and publish a detailed implementation plan including schedule of first year events.
- During Year One the plan is to hold one signature event and at least one other event per month, as well as ongoing activities, such as the beach volleyball court.
- Develop necessary marketing collateral and launch the Phase 0 marketing campaigns as provided in the DDA
- Launch the year 1 program as provided in the DDA.

EXHIBIT O
GENERAL ASSIGNMENT
(Alameda Point Site A, Phase _____)

THIS GENERAL ASSIGNMENT (“Assignment”) is entered into the day of _____, 20__ (the “Effective Date”), by and between the CITY OF ALAMEDA, a California charter city (the “City”), and ALAMEDA POINT PARTNERS, LLC, a California limited liability company (“Developer”).

RECITALS

A. The City and Developer have entered into that certain Disposition and Development Agreement, dated _____, 2015, as amended, regarding the Property (the “DDA”). Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the DDA.

B. Pursuant to the DDA, the City is obligated, inter alia, to assign the following to the Developer and the Developer is obligated to accept the following from Assignor: (1) any and all permits, entitlements rights, intangibles or privileges appurtenant or otherwise related to Phase, including, without limitation, the EDC Agreement, and (2) the leases set forth in Schedule I attached hereto (collectively, the “Phase Intangible Property”).

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment and Acceptance. Effective as of the Effective Date, (a) the City hereby assigns the Phase Intangible Property to the Developer and (b) the Developer hereby accepts the foregoing assignment.

2. Notice. From and after the Effective Date, the notices to be delivered with respect to the Phase Intangible Property shall be delivered to:

Developer: Trammel Crow Residential
39 Forrest Street, Suite 201
Mill Valley, CA 94941
Telephone: 415-381-3001
Facsimile: 415-381-3003
Email: bd@thompsondorfman.com

With copies to: Alameda Point Partners, LLC
c/o SRM Ernst Development Partners
2220 Livingston Street Suite 208
Oakland, CA 94606
Telephone: 510-219-5376

Facsimile: 510-380-7056
Email: jernst@srmernst.com

With copies to: Madison Marquette
909 Montgomery Street Suite 200
San Francisco, CA 94133
Telephone: 415-277-6828
Facsimile: 415-217-5368
Email: pam.white@madisonmarquette.com

With copies to: Marc Stice
Stice & Block
2335 Broadway, Suite 201
Oakland, CA 94612
Telephone: 510-735-0032
Email: mstice@sticeblock.com

3. Attorneys' Fees. In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other party arising out of this Assignment, then in that event the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees.

4. Entire Agreement. All attachments are incorporated herein by this reference, are an integral part of this Assignment, and will be read and interpreted together as a single document. This Assignment and the applicable provisions of the DDA set forth the complete, exclusive and final statement of the agreement between the parties as to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, between the parties regarding such subject matter.

5. Counterparts. This Assignment may be executed in one or more counterparts by actual or email signature. All counterparts so executed shall constitute one contract, binding on all parties, even though all parties are not signatory to the same counterpart.

6. Miscellaneous. This Assignment shall be binding upon and inure to the benefit of the respective successors, assigns, personal representatives, heirs and legatees of the city and the Developer. If any party hereto brings any action or suit against the other party hereto by reason of any breach of any covenant, condition, agreement or provision on the part of the other party set forth in this Assignment, the prevailing party shall be entitled to recover from the other party all reasonable costs and expenses of the action or suit, including reasonable attorneys' fees, charges and costs, in addition to any other relief to which it may be entitled. This Assignment shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the Effective Date.

CITY:

CITY OF ALAMEDA,
a municipal corporation

By: _____
Elizabeth D. Warmerdam, Interim City Manager

Approved as to Form:

Farimah F. Brown
Senior Assistant City Attorney

Andrico Q. Penick
Assistant City Attorney

DEVELOPER:

ALAMEDA POINT PARTNERS, LLC,
a Delaware limited liability company

By: Alameda Point Properties, LLC,
a California limited liability company,
its managing member

By: NCCH 100 Alameda, L.P.,
a Delaware limited partnership,
its managing member

By: Maple Multi-Family Development, L.L.C.,
a Texas limited liability company,
its General Partner

By: _____

Name: _____

Title: _____

Schedule 1
Assigned Leases

1. Insert any applicable Lease Agreements.

EXHIBIT P
BILL OF SALE

This **BILL OF SALE** is entered into as of _____, 201____, by and between the CITY OF ALAMEDA, a California charter city (the "**City**"), and ALAMEDA POINT PARTNERS, LLC, a California limited liability company ("**Developer**").

A. DDA. The City and Developer have entered into that certain Disposition and Development Agreement, dated _____, 2015, as amended, regarding the property commonly referred to as Site A of Alameda Point (the "**DDA**"). Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the DDA. Pursuant to the DDA, the City is obligated to, inter alia, transfer the Phase _____ Personal Property (defined below) to the Developer.

B. Transfer. In consideration of the portion of the Land Payment allocated to Phase _____ and other provisions of this Bill of Sale, the City does hereby absolutely and unconditionally give, grant, bargain, sell, transfer, set over, assign, convey, release, confirm and deliver to the Developer the personal property listed in Exhibit 1 attached hereto (the "**Phase Personal Property**"). The Developer hereby accepts the Phase _____ Personal Property pursuant to the terms of this Bill of Sale.

C. City's Representation: As-Is Purchase; Waiver of Implied Warranties; Limitation of Liability.

1. The City hereby represents that the Phase _____ Personal Property is free and clear of all encumbrances.

2. The Developer acknowledges that the Developer has had the opportunity to inspect the Phase _____ Personal Property and, except as expressly set forth in Section 3.1, hereby agrees that the Developer is accepting the Phase _____ Personal Property in their "As-Is" condition.

3. Except as expressly set forth in Section 3.1, the Developer agrees that no other representations or warranties (express or implied) are made by the City, and any implied warranties of merchantability or fitness for a particular purpose are hereby disclaimed.

D. Attorneys' Fees. In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other party arising out of this Bill of Sale, then in that event the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees.

E. Entire Agreement. All attachments are incorporated herein by this reference, are an integral part of this Bill of Sale, and will be read and interpreted together as a single document. This Bill of Sale (including all attachments thereto) and the applicable provisions of

the DDA set forth the complete, exclusive and final statement of the agreement between the parties as to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, between the parties regarding such subject matter.

F. Counterparts. This Bill of Sale may be executed in one or more counterparts by actual or email signature. All counterparts so executed shall constitute one contract, binding on all parties, even though all parties are not signatory to the same counterpart.

G. Miscellaneous. This Bill of Sale shall be binding upon and inure to the benefit of the respective successors, assigns, personal representatives, heirs and legatees of the city and the Developer. If any party hereto brings any action or suit against the other party hereto by reason of any breach of any covenant, condition, agreement or provision on the part of the other party set forth in this Bill of Sale, the prevailing party shall be entitled to recover from the other party all reasonable costs and expenses of the action or suit, including reasonable attorneys' fees, charges and costs, in addition to any other relief to which it may be entitled. This Bill of Sale shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of California.

[Signatures on next page]

IN WITNESS WHEREOF, the parties have executed and delivered this Bill of Sale as of the day and year first above written.

CITY:

CITY OF ALAMEDA,
a municipal corporation

By: _____
Elizabeth D. Warmerdam, Interim City
Manager

Approved as to Form:

Farimah F. Brown
Senior Assistant City Attorney

Andrico Q. Penick
Assistant City Attorney

DEVELOPER:

ALAMEDA POINT PARTNERS, LLC,
a Delaware limited liability company

By: Alameda Point Properties, LLC,
a California limited liability company,
its managing member

By: NCCH 100 Alameda, L.P.,
a Delaware limited partnership,
its managing member

By: Maple Multi-Family Development,
L.L.C., a Texas limited liability
company,
its General Partner

By: _____

Name: _____

Title: _____

EXHIBIT "1" TO BILL OF SALE

Phase _____ Personal Property

EXHIBIT Q
PUBLIC IMPROVEMENT AGREEMENT