

**RECORDING REQUESTED BY:**

County of San Mateo  
Department of Housing

**WHEN RECORDED, MAIL TO:**

County of San Mateo,  
Department of Housing  
264 Harbor Blvd., Bldg. A  
Belmont, CA 94002

**PONY DOH 209**  
**Attn: N. Kim**

*Exempt from Recording Fees pursuant to  
Section 27383 of the Government Code  
(This Space for Recorder's Use Only)*

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**AMENDED AND RESTATED REGULATORY AGREEMENT AND DECLARATION OF  
RESTRICTIVE COVENANTS**

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THIS AMENDED AND RESTATED REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS ("Amended & Restated Agreement") is made as of 9/10/2022 ("Effective Date") by and among the Estate of Gary Pete Marchi ("Owner") and the County of San Mateo, a political subdivision of the State of California ("County"), (each a "Party", and collectively, the "Parties").

**RECITALS**

- A. The real property located at 5677 Cloverdale Road, in Pescadero, further identified as APN 086-050-080 ("Property"), which is subject to this Amended & Restated Agreement, is located in the County of San Mateo, State of California, and is more fully described in Exhibit A, attached hereto and incorporated by reference; and
- B. As a condition of approval (County File Number SMN 82-14), Owner agreed to restrict the use of any housing unit constructed on the Property as long-term, affordable housing for low or moderate-income households, pursuant to an agreement with County entitled "Agreement to Restrict Property Pursuant to Local Coastal Program Policies 3.28 and 3.29," executed on July 29, 1985, and recorded as Document No. 85118748; and
- C. On August 15, 2006, the Parties entered into an "Amended Regulatory Agreement and Declaration of Restrictive Covenants" (the "Amended Agreement"), recorded as Document No. 2006-154076, to permit the sale or transfer of the Property to a person or family who does not qualify as low or moderate income provided that any housing unit constructed on the Property is occupied solely by a low or moderate-income household; and
- D. The Parties now wish to enter into this Amended & Restated Agreement to modify the Amended Agreement in the following ways: (1) to require that any

housing unit on the Property ("Affordable Unit") be occupied solely by an acutely low, extremely low, very low, or low-income household; and (2) to modify the sales restriction, allowing the sales price to exceed the otherwise-restricted price if and only if the eligible buyer is a qualified nonprofit organization, public agency, or governmental entity approved by the County consistent with Section I.1.3(B).

- E. As of the Effective Date of this Amended & Restated Agreement, the Amended Agreement will be terminated and have no further force or effect.
- F. As of the Effective Date of this Amended & Restated Agreement, there is only one Affordable Unit constructed on the Property.

NOW, THEREFORE, the Parties mutually agree as follows:

## **SECTION I RESTRICTIONS**

1. Owner Acknowledgments and Agreements. Owner hereby acknowledges and agrees to the following:

1.1 Maintenance of Long-Term Affordability. Owner agrees that the Affordable Unit shall be occupied only by an acutely low, extremely low, very low, or low-income household as defined in Section 1.2. This restriction shall apply permanently, from the Effective Date, in order for the Affordable Unit to remain continuously affordable. This restriction shall be binding on Owner and any and all successors in interest.

1.2 Affordability Requirements. The Affordable Unit shall remain affordable permanently from the Effective Date of this Amended & Restated Agreement.

- A) Income Limits: Occupancy of the Affordable Unit must be restricted and affordable to acutely low, extremely low, very low, or low-income households, meaning those households with incomes at or below the low-income category for the applicable household size listed in the State Income Limits specific to San Mateo County published annually by the California Department of Housing and Community Development ("HCD"), as determined by the County Department of Housing.
- B) After initial qualification and upon Owner's annual recertification of household income, a household renting and occupying the Affordable Unit may have its rent increased following any increases in household income.
- C) If any renting or occupying household's income has been determined to be above the maximum income allowed pursuant to HCD's established income limits for two consecutive annual recertifications of household income, Owner shall terminate the lease agreement with such household with a six month notice

to vacate.

1.3 Sale of the Property. The following provisions shall apply to sale of the Property.

- A) Sales Restrictions on Property. Except as provided in Section 1.3(B), below, if Owner wishes to sell the Property, the sales price must be less than or equal to 2.5 times the moderate income limit as established by HCD in the most recently published State income limits for San Mateo County corresponding to the applicable unit and household size, as determined by the County Department of Housing.

The Affordable Unit shall remain available to acutely low, extremely low, very low, or low-income persons and families throughout the life of the Affordable Unit, regardless of sale of the Property.

- B) Modified Sales Restrictions for Sale to Qualified Non-Profit Organization, Public Agency, or Governmental Entity. The Property may be sold to a qualified non-profit organization, public agency, or governmental entity approved by the County ("Qualified Buyer") without regard to the restricted sales price set forth in Section 1.3(A), above, provided that Qualified Buyer agrees to rent or sell the Affordable Unit on the Property to an acutely low, extremely low, very low, or low-income household. In determining whether a non-profit organization is "qualified," the County may consider the organization's financial stability to maintain the affordable housing unit in the long-term, prior experience providing affordable housing, and other relevant factors. The County's approval of a Qualified Buyer shall not be unreasonably withheld.
- C) Notice Prior to Close of Escrow. Before the close of escrow when there is any change in ownership, Owner or successors in interest shall notify the County Planning and Building Department and the County Department of Housing of any such changes and shall provide such information as may be requested to verify compliance with the terms of this Amended & Restated Agreement. Close of escrow shall not be consummated until the Department of Housing has verified income status and provided approval of the purchaser.

1.4 Rent Restrictions. The monthly rent for the unit(s) shall not exceed the maximum affordable rent payment for the appropriate income level of the acutely low, extremely low, very low, or low-income household of relevant household size occupying the Affordable Unit, as determined by the County Department of Housing based on the State Income Limits for San Mateo County published annually by HCD, exclusive of tenant utility allowance.

1.5 Tenant Requirements. The Affordable Unit shall be continuously occupied by an acutely low, extremely low, very low, or low-income household as set forth in Section 1.2 above.

Owner shall accept as tenants, on the same basis as all other prospective tenants, acutely low, extremely low, very low, or low- income tenants who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937 or its successor and shall not apply selection criteria to Section 8 certificate holders that are more burdensome than the criteria applied to all other prospective tenants.

Each lease agreement pertaining to the Affordable Unit shall contain a provision establishing that Owner has relied on the income certification and supporting information supplied by the tenant in determining qualification for occupancy of the Affordable Unit, and that any material misstatement in such certification and any recertification (whether or not intentional) will be cause for immediate termination of said lease agreement.

Except for the affordable rent to be paid by an acutely low, extremely low, very low, or low-income tenant pursuant to the restrictions set forth in Section 1.4, Owner shall not collect any additional fees or payments from an acutely low, extremely low, very low, or low-income tenant to reside in the Affordable Unit except security deposits or other deposits or fees required of all similarly situated tenants.

1.5 Term. This Amended & Restated Agreement shall take effect on the Effective Date, and shall remain in full force and effect permanently, unless sooner terminated as a result of defaulting on the Amended & Restated Agreement.

## **SECTION 2 ENFORCEMENT**

2.1 Income Certification. Owner will obtain, complete, and maintain on file income certifications from each acutely low, extremely low, very low, or low-income household.

The initial income certification shall be obtained immediately prior to the initial occupancy of the Affordable Unit, with the Owner obtaining, completing and maintaining on file annual income recertifications thereafter.

Owner shall make a good faith effort to verify that the income provided by an applicant in an income certification or recertification is accurate.

2.2 Covenants Running with the Land. Pursuant to California Civil Code Section 1468, all provisions of this Amended & Restated 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 Owner, and inure to the benefit of County and its permitted successors and assigns. The covenants benefit and bind County, 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 Amended & Restated Agreement regardless of whether the other party or parties have actual knowledge of this Amended & Restated Agreement.

2.3 Enforcement. If Owner defaults in the performance or observance of any covenants, agreements, or obligations of Owner set forth in this Amended & Restated Agreement, and if such default remains uncured for a period of 30 calendar days after notice thereof shall have been given by the County, then the County shall declare an "Event of Default" to have occurred hereunder, and, at its option, may take any one or more of the following steps:

A) File action or proceeding in law or equity, requiring Owner to perform its obligations and covenants hereunder or enjoin any acts, which may be unlawful or in violation of the rights of the County hereunder.

B) Access and inspect, examine and make copies of all of the books and records of Owner pertaining to the Property or Affordable Unit.

C) Take any other action available in law or equity as may be necessary or desirable to enforce the covenants, agreements, and/or obligations of Owner hereunder.

2.4 Compliance Monitoring. County shall monitor Owner's compliance with the requirements of this Amended & Restated Agreement on an annual basis. Owner shall cooperate with County monitoring and provide required certifications and other documents or information required by County to determine compliance within ten (10) calendar days of receipt of a written request by County.

County employees, agents or representatives may enter the Property for inspection following the provision of two (2) business days advance written notice to Owner.

Owner shall retain all records related to compliance with obligations under this Amended & Restated Agreement for a period of not less than five (5) years, and shall make such records available to County or its designee for inspection and copying upon five (5) business days advance written notice.

### **SECTION 3 MISCELLANEOUS**

3.1 Entire Agreement and Modifications. This Amended & Restated 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. This Amended & Restated Agreement may be modified only in a writing duly signed by the affected Owner or Owners and an authorized agent of County. The modifications shall be

effective when recorded in the Official Records of San Mateo County, California.

3.2 Recording and Filing. This Amended & Restated Agreement shall be recorded and filed in the real property records of the County of San Mateo, California. Owner shall pay all fees and charges incurred in connection with any such recording. A copy of this recording shall be submitted to the County Planning and Building Department and the County Department of Housing.

3.3. Maintenance and Use. Owner shall maintain and/or ensure the maintenance of the Affordable Unit, including all structures and landscaping, in good repair and in a neat, clean, and orderly condition and will not commit waste or permit deterioration of the Affordable Unit. Owner shall maintain the interior of the dwelling unit in a clean condition and all appliances and fixtures in good working order. The Affordable Unit shall be used and occupied by a household 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 applicable zoning ordinance. Owner shall not grant use of, rent, or lease all or any part of the Property, except as provided in Section 1.

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

3.5 Governing Law. This Amended & Restated Agreement shall be construed in accordance with and be governed by the laws of the State of California. The venue for any legal action pertaining to this Amended & Restated Agreement shall be San Mateo County, California.

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

3.7 Severability. If any one or more of the provisions contained in this Amended & Restated 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 Amended & Restated Agreement, and this Amended & Restated Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.

3.8 Time of the Essence. Time is of the essence of this entire Amended & Restated 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.

3.9. No Waiver. County shall have the right to waive any and all breaches of the terms of this Amended & Restated Agreement, but any such waiver shall not be deemed a waiver of any previous or subsequent breaches.

3.10 Notices. All notices, demands, requests for approval and other communications provided for in this Amended & Restated 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 County:

County of San Mateo  
Department of Housing  
264 Harbor Blvd., Bldg. A  
Belmont, CA 94002

and

County of San Mateo  
Planning and Building Department  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

If to Owner: [Fill out]

3.12 Project Representation. County and Owner hereby designate the following agents to act as project representatives in the matters dealing with the performance of work under this Amended & Restated Agreement:

COUNTY:

Director  
County of San Mateo  
Department of Housing  
264 Harbor Blvd., Bldg. A  
Belmont, CA 94002

and/or

Director  
County of San Mateo  
Planning and Building Department  
455 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

OWNER:

Name *Estate of Gary Pete Marchi*  
*Natalie Sare, Administrator*

Address 78 Pilarcitos Creek rd  
City, State Zip Half Moon Bay, CA. 94019

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

3.14 Hold Harmless. Owner shall indemnify and hold harmless County, its officers, agents, employees and servants from all claims, suits or actions of every name, kind and description, brought for, or on account of, injuries to or death of any person, including Owner, or damage to property of any kind whatsoever and to whomsoever belonging, including but not limited to, the concurrent active or passive negligence of County, officers, agents, or employees and servants, resulting from the performance of any work required by this Amended & Restated Agreement of Owner; provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Owner to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.



In witness of and in agreement with this Amended & Restated Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Owner

Natalia Sane, administratn of  
Gary Pete Marchi Estate  
Owner Signature

9/10/2022  
Date

Gary Pete Marchi Estate  
Natalia Sane administratn  
Owner Name (please print)

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COUNTY OF SAN MATEO

By:  
President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:  
Clerk of Said Board

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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.

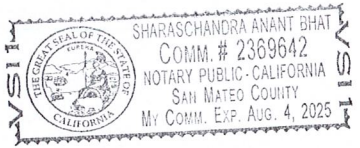
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF San Mateo )

On the 10<sup>th</sup> of September 2022, before me, Sharaschandra Anant Bhat, Notary Public, personally appeared Natalie Sare, 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: Sharaschandra Anant Bhat  
\_\_\_\_\_  
Notary Public



*[Handwritten signature of Sharaschandra Anant Bhat]*

**PROPERTY DESCRIPTION**

The land herein referred to is situated in the State of California, County of San Mateo, and is described as follows:

Parcel C, Volume 56, Parcel Maps, Page 49.