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AFFORDABLE HOUSING AGREEMENT

THIS AFFORDABLE HOUSING AGREEMENT ("**Agreement**") is made as of December __, 2012 (the "**Effective Date**"), by and between the COUNTY OF SAN MATEO (the "**COUNTY**") and FULLER STREET PARTNERS, LLC, a CALIFORNIA limited liability company ("**OWNER**"), with respect to certain real property totaling approximately eighteen thousand twenty-six square feet and consisting of property located at 490 Winslow Street (the "**Winslow Remnant**") and property located at 390 Fuller Street (the "**Fuller Street Property**") in the City of Redwood City, County of San Mateo, California, as more fully described in Exhibit "A" attached hereto and incorporated herein by this reference (the Winslow Remnant and the Fuller Street Property are, collectively, the "**Property**").

WHEREAS, OWNER purchased the Property at a trustee's foreclosure sale on or about April 12, 2012; and

WHEREAS, the Property was previously owned by Tuscan Towers, LLC ("**Tuscan Towers**"), which purchased the Winslow Remnant from the COUNTY pursuant to that certain Offer to Purchase Real Property and Purchase and Sale Agreement dated November 8, 2005 (the "**Purchase and Sale Agreement**") and which planned to construct residential condominium units on the Property. Pursuant to the Purchase and Sale Agreement, Tuscan Towers had agreed with COUNTY to, *inter alia*, construct on the Property no fewer than two affordable housing units that would not otherwise be constructed, which affordable units would accommodate at least six (6) persons; and

WHEREAS, the City of Redwood City (the "**City**") following public hearings and pursuant to its December __, 2012 Notice of Official Action, has previously approved (1) OWNER's tentative Parcel Map effecting the merger of the three parcels comprising the Fuller Street Property and the single parcel comprising the Winslow Remnant into the single 18,026 square foot parcel defined herein as the Property, and (2) issuance of a Downtown Planned Community Permit pursuant to the provisions of Article 52 of the Zoning Ordinance of the City (collectively, the "**Project Approvals**") for the construction of a residential apartment project comprised of 66 units, in one structure consisting of up to five (5) residential floors over a two level concrete podium with a partially recessed below-ground parking garage on the Property (the "**Project**"); and

WHEREAS, OWNER intends to operate the Project as a rental apartment project for the foreseeable future but also desires and intends to file a tentative subdivision map for condominium purposes in order to be prepared to sell the residential units in the future as condominium units; and

WHEREAS, OWNER has agreed with COUNTY to include in the Project four (4) below-market-rate housing units, comprised of two (2) studio units and two (2)

one-bedroom units (collectively, the “**Affordable Units**” and each an “**Affordable Unit**”), affordable to persons and families of low income, which Affordable Units will accommodate a total of at least six persons; and

WHEREAS, pursuant to the Purchase and Sale Agreement dated November 15, 2005 between the COUNTY and OWNER’s predecessor in interest, the COUNTY owns a right of reversion, which is reflected in a recorded document and presently entitles the COUNTY to recover title to the Winslow Remnant (the “**Right of Reversion**”), and the COUNTY desires to defer exercising the Right of Reversion to allow OWNER to complete the Project and provide the Affordable Units, after which the the Right of Reversion shall be extinguished; and

WHEREAS, OWNER has expended and invested, and will continue to expend and invest, substantial amounts of time and money on mapping the Project for condominium purposes, including the preparation and submittal of tentative and final subdivision maps, and the preparation of governing documents for the condominium regime, including but not limited to a condominium plan, a declaration of covenants, conditions and restrictions, and bylaws for a homeowners association, all in conformance with the applicable requirements of the California Business & Professions Code, the Civil Code, and Government Code, and in substantial reliance on the City’s approval of the Project as a condominium project and issuance of the Project Approvals, and the COUNTY’S approval of this Agreement, thereby allowing OWNER to sell the units individually and, as a result, OWNER may elect to either rent the Affordable Units or sell the Affordable Units on the Property; and

WHEREAS, until such time as OWNER makes the Project’s units available for sale as condominium units, it is the intent of the COUNTY to exclude the Project from any future conditions, prohibition or moratorium on the sale of rental housing units as condominiums, subject only to the restrictions and limitations on such sales as set forth in this Agreement; and

WHEREAS, during such time as the Project is operated as a rental apartment complex, OWNER shall reserve the Affordable Units to be made available at affordable rent to “lower income households,” as that term is defined in Section 50079.5 of the Health and Safety Code, for a period of fifty-five (55) years, or until such time as the Project’s housing units are sold as condominium units; and

WHEREAS, upon OWNER’s election to sell the Project’s units individually as condominium units, OWNER shall ensure that (1) the sale price of any of the Affordable Units shall be affordable to “persons and families of low income,” as that term is defined by California Health and Safety Code section 50093, for a period of forty-five (45) years, and (2) each tenant shall be given the opportunity to purchase the unit such tenant is then occupying on the terms and conditions set forth herein.

NOW, THEREFORE, to ensure achievement of the public purpose of providing the Affordable Units, OWNER and the COUNTY agree as follows:

Article I

Recitals; Capitalized Terms and Definitions

Section 1.01. Recitals.

The recitals set forth above are true and correct and incorporated herein by this reference.

Section 1.02. Capitalized Terms and Definitions.

All capitalized terms not otherwise defined herein shall have the same meaning ascribed to them by the Downtown Precise Plan, unless the context clearly indicates a different meaning. For purposes of this Agreement, the following terms shall have the meaning set forth below:

Affordable Housing Cost - shall have the meaning set forth in Section 4.04 below.

Affordable Rent - shall have the meaning set forth in Section 3.01 below.

Eligible First Loan - shall mean a fully amortized fixed rate first mortgage loan with a term of up to thirty (30) years available from an institutional lender, including without limitation, commercial banks, savings banks, credit unions or similar lenders, which loan does not include any of the following: (i) a prepayment penalty, (ii) loan points in excess of two (2) points total, or (iii) additional processing, application and other loan-related fees (exclusive of customary San Mateo County escrow and title charges). The loan shall be in an amount subject to the approval of the COUNTY, which approval shall not be unreasonably withheld. An Eligible First Loan shall not exceed eighty percent (80%) of the sales price for an Affordable Unit. An Eligible First Loan shall not allow adjustable rates or balloon payments.

Eligible Second Loan - shall mean a second mortgage available from a public source such as a First Time Homebuyer Program, generally comprised of federal, state or local funds (CalHFA, etc.). An Eligible Second Loan shall not exceed twenty percent (20%) of the sales price for an Affordable Unit. An Eligible Second Loan will typically be "silent", meaning payments will be deferred for at least five (5) years. The deferred status of an Eligible Second Loan is considered by Lenders in underwriting to help a Qualified Buyer qualify for an Eligible First Loan.

Gross Income - shall have the meaning set forth in Section 4.02 below.

Maximum Affordable Unit Sales Price – shall have the meaning set forth in Section 4.04 below.

Owner-Occupied Affordability Covenants - shall mean the affordability covenants which control the use of the Project during the period in which the Project's housing units are sold as condominium units and the Affordable Units may be purchased by Qualified Buyers.

Owner-Occupied Affordability Covenants Term - shall have the meaning set forth in Section 4.03 below.

Principal Residence - shall mean an Affordable Unit occupied by a Qualified Buyer as his or her primary residence, that is not leased or rented to others for any period of time.

Qualified Buyers - shall have the meaning set forth in Section 4.02 below.

Qualified Lessees - shall have the meaning set forth in Section 3.01 below

Rental Affordability Covenants - shall mean the affordability covenants which apply to the Project during the period in which the Project's housing units are made available as rental units and the Affordable Units are rented by Qualified Lessees.

Rental Affordability Covenants Term - shall have the meaning set forth in Section 3.02 below.

Resale Restriction Agreement - shall have the meaning set forth in Section 4.01 below.

Article II

Number and Location of Affordable Units

Section 2.01. Number of Affordable Units and Bedrooms.

OWNER shall construct, or cause to be constructed, four (4) Affordable Units, comprised of two (2) studio units and two (2) one-bedroom units.

Section 2.02. Location of Affordable Units.

The Affordable Units shall be of the same type and quality of units constructed on the Property generally, in locations to be determined by OWNER in its sole discretion but dispersed throughout the Project, and the respective locations of the Affordable Units may be changed by OWNER from time to time without the approval of the COUNTY.

Section 2.03. Quality, Size and Amenities of Affordable Units.

The Affordable Units shall be comparable in quality, size and amenities (at the same cost as otherwise available for other tenants) to those units which will be available to tenants of the units not designated as Affordable Units ("**Market Rate Units**"), subject to variations in interior finishes [which shall be reviewed and approved by the COUNTY prior to the issuance of any Certificates of Occupancy]. Tenants in the Affordable Units shall have equal access and enjoyment to all common facilities of the Project.

Section 2.04. Monitoring Fee.

During the applicable Rental Affordability Covenants Term only, for each Affordable Unit provided under this Agreement, OWNER shall, within thirty (30) days of the anniversary of issuance of the initial Certificate of Occupancy, pay an annual monitoring fee. The amount of the monitoring fee for the first year shall be one hundred dollars (\$100) per Affordable Unit per year. The amount of the per unit annual monitoring fee may be adjusted from time to time by the Director of the COUNTY Department of Housing ("**Director**") to cover only the COUNTY's actual costs to monitor the Affordable Units. In no event shall the monitoring fee be adjusted more often than once in a twelve

month period. In no event shall the monitoring fee exceed the product of the initial monitoring fee multiplied by the ratio of the then-current Consumer Price Index (“**CPI**”) for the Standard Metropolitan Statistical Area (“**SMSA**”) that includes the County of San Mateo and the CPI for the same SMSA at time of issuance of the Certificate of Occupancy. OWNER shall be given sixty (60) days prior notice of any fee increase.

Article III

Rental Affordability Covenants

Section 3.01. Rental Affordability Covenants.

During the Rental Affordability Covenants Term, OWNER covenants and agrees that the Affordable Units shall be maintained in accordance with this Article as follows (the “**Rental Affordability Covenants**”): The Affordable Units shall be made available to “persons and families of low income” as that term is defined by California Health and Safety Code section 50079.5 and 50093, whose incomes do not exceed eighty percent (80%) of HUD’s Area Median Income for San Mateo County (“**AMI**”), as adjusted from time to time (“**Qualified Lessees**”). For “persons and families of low income,” the Affordable Units shall be made available at “affordable rent” as defined in California Health and Safety Code section 50053(b)(3).

Annually, on the anniversary date of occupancy of an Affordable Unit by a Qualified Lessee, OWNER shall re-certify the qualifications of the Qualified Lessee in accordance with the requirements of this Article. If, upon recertification, OWNER determines that the Qualified Lessee’s Gross Income has risen above the then-in-effect allowable income, OWNER shall either terminate the tenancy of the formerly qualified lessee and make the Affordable Unit available and affordable to a new Qualified Lessee, or raise the rent of such tenant to the current rent for a comparable Market Rate Unit; provided, however, that in no event shall the number of Affordable Units fall below four (4). On the termination of the tenancy of an Affordable Unit, the Affordable Unit shall continue to be deemed an Affordable Unit until reoccupied by a new Qualified Lessee.

Section 3.02. Term of Rental Affordability Covenants.

OWNER hereby agrees that the Rental Affordability Covenants as described in Section 3.01 above shall be effective as of the date of recordation of this Agreement, and shall remain in effect until the fifty-fifth (55th) anniversary of said date, unless otherwise terminated as provided in Section 4.01, below (the “**Rental Affordability Covenants Term**”).

Section 3.03. Compliance with Rental Affordability Covenants.

In order to ensure compliance with this Article, each of the following shall occur during the Rental Affordability Covenants Term:

(a) OWNER and its successors shall ensure that each person applying to occupy an Affordable Unit on the Property executes under penalty of perjury an income verification and information form (“**Income Verification and Information Form**”), in a form reasonably acceptable to the COUNTY, certifying the applicant’s income. Affordable Units shall be leased only to Qualified Lessees.

(b) OWNER and its successors shall obtain a copy of the federal income tax return for each person applying to occupy an Affordable Unit for the taxable year immediately preceding such applicant's initial occupancy in the Project or, if an applicant declares under penalty of perjury that he or she did not file or did not retain a copy of such tax return, or other evidence of income for such year, satisfactory to the COUNTY in its sole discretion, such as wage statements or employer records.

(c) Annually, OWNER and its successors shall provide to the COUNTY a current, executed Income Verification and Information Form for each person occupying an Affordable Unit, along with a summary for the applicable year signed by OWNER or its successor, certifying compliance with the provisions of this Agreement under penalty of perjury.

(d) To certify the compliance of OWNER or its successor with these provisions, the COUNTY shall have a right to inspect the books and records pertaining to such matters of the then owner(s) or operator(s) of the Property.

Section 3.04. Affordability Compliance Report.

Bi-annually on June 30th and December 31st of every year of the Rental Affordability Covenants Term, OWNER shall submit a Report to the COUNTY containing, at a minimum, the following items and information:

- i) A site map showing the unit numbers and locations of all units and all Affordable Units;
- ii) Total number of Affordable Units that are occupied;
- iii) Total number of Affordable Units that are vacant;
- iv) A certified rent roll for Affordable Units containing the unit numbers, the lease commencement and expiration dates, the numbers of bedrooms and bathrooms within the rented Affordable units, the rental rate for each rented Affordable unit, and indicating which units are rented as Affordable Units;
- v) For each Affordable Unit, the unit size, household size, household income, income limits for a Qualifying Lessee, Maximum Affordable Rents for a Qualifying Lessee, utility allowance, and total monthly rent.
- vi) Evidence that the income for each tenant of an Affordable Unit does not exceed the maximum income for a Qualifying Lessee.

Section 3.05.

Exclusive Remedy of County For Non-Compliance.

In the event an Affordable Unit is intentionally or negligently rented by OWNER or its successor to a person other than a Qualified Lessee during the Rental Affordability Covenants Term, OWNER or its successor shall (1) pay over to COUNTY all rent collected from such non-Qualified Lessee and (2) take immediate steps to evict such non-Qualified Lessee. The COUNTY agrees such paying over of rent by OWNER or its successor shall be its exclusive remedy for such non-compliance.

Article IV

Owner-Occupied Affordability Covenants

Section 4.01.

Transition to Owner-Occupied Units; Notice to Tenants and Right of First Refusal.

The COUNTY agrees that other than as specifically set forth herein, the Project, which has been or will be mapped for condominium purposes, shall not be subject to, and shall be specifically excluded from, any existing or future conditions, prohibition or moratorium by the COUNTY on the sale of existing rental housing as condominiums.

Any tenant who lawfully resides in a rental unit within the Project shall be given at least ninety (90) days written notice of OWNER'S intention to sell the rental unit to the general public and of such tenant's right of first refusal to purchase his or her rental unit upon the same terms and conditions that the unit will be initially offered to the general public or terms and conditions more favorable to the tenant, all pursuant to and in accordance with the provisions of Government Code section 66459 and Redwood City Municipal Code section 30.137.C.2.a through c. Such notice shall be given personally, where possible, and in writing (by certified mail).

Upon the initial sale of an Affordable Unit as an owner-occupied unit, the Rental Affordability Covenants Term applicable to that Affordable Unit shall expire and the Owner-Occupied Affordability Covenants Term shall commence for that Affordable Unit. Prior to the sale of each Affordable Unit to a Qualified Buyer, OWNER shall ensure that each Qualified Buyer has entered into a Resale Restriction Agreement and Option to Purchase with the COUNTY in substantially the same form, as determined by the COUNTY, as Exhibit "B" attached hereto and incorporated herein by this reference (the "**Resale Restriction Agreement**").

Section 4.02.

Owner-Occupied Affordability Covenants.

During the Owner-Occupied Affordability Covenants Term, OWNER and its heirs, executors, administrators, successors, transferees, and assignees, covenant that the Affordable Units shall be maintained as follows (the "**Owner-Occupied Affordability Covenants**"): The Affordable Units shall be sold to, owned, occupied and maintained affordable to persons and families of low income, earning not more than eighty percent (80%) of HUD's Area Median Income for San Mateo County ("**AMI**"), as adjusted from time to time ("**Qualified Buyers**"). Qualified Buyers' income shall be calculated on the basis of their "**Gross Income**", as defined under Title 25, Section 6914, of the California Code of Regulations, as amended from time to time.

In order to ensure compliance with this Agreement in connection with the sale and transfer of each Affordable Unit, OWNER and its successors shall obtain a copy of each

prospective purchaser's federal income tax return for the taxable year immediately preceding the proposed purchase of an Affordable Unit and current income information such as wage statements or, if the prospective purchaser certifies and declares under penalty of perjury that he or she did not file a federal tax return, other evidence of Gross Income for such year, acceptable to the COUNTY in its sole discretion, and current income information such as wage statements, to substantiate that the prospective purchaser meets the eligibility requirements for Qualified Buyers. In the event the COUNTY is unable to make a determination that a prospective buyer is a Qualified Buyer based upon the information provided, the prospective purchaser shall be determined not to meet the requirements for Qualified Buyers and shall be disqualified from purchase.

Section 4.03. Term of Owner-Occupied Affordability Covenants.

OWNER hereby agrees that the Owner-Occupied Affordability Covenants for each Affordable Unit as described in Section 4.02 above and as further described in the Resale Restriction Agreement, shall be effective as of the expiration of the Rental Affordability Restrictions Term for such Affordable Unit, and shall remain in effect until the forty-fifth (45th) anniversary of said date (the "**Owner-Occupied Affordability Covenants Term**").

Section 4.04. Determining Maximum Affordable Unit Sales Price.

In order to ensure compliance with this Article in connection with the sale and transfer of the Affordable Units, the Affordable Units may not be sold to Qualified Buyers for a purchase price which results in an annual "Affordable Housing Cost" (as defined below) of more than thirty-five percent (35%) of the actual Gross Income of the Qualified Buyer's household (the "**Maximum Affordable Unit Sales Price**").

"**Affordable Housing Cost**" shall include all of the following associated with an Affordable Unit and shall be calculated on either a monthly or annual basis:

1. Principal and interest payments on an Eligible First Loan ("**PI**"); and
2. Any loan insurance fees associated therewith, including without limitation, private mortgage insurance ("**PMI**") or mortgage insurance premiums ("**MIP**"); and
3. Any applicable principal and interest payments on an Eligible Second Loan ("**SPI**"); and
4. Property taxes ("**Taxes**"), calculated as 1.25% of the Affordable Unit purchase price per year; and
5. Any applicable Mello-Roos or other special assessments; and
6. A reasonable monthly utilities allowance ("**Utilities Allowance**"), based upon the periodic Allowance Adjustments (as provided below); and
7. A reasonable monthly maintenance and repair allowance ("**Maintenance Allowance**") based upon the periodic Allowance Adjustments (as provided below).

Allowance Adjustments. To provide an adequate level of service as required under California Code of Regulations, Title 25, section 6920, the Utilities Allowance and Maintenance Allowance shall be established periodically upon the sale of each Affordable Unit (the “**Allowance Adjustments**”). At the time of a proposed sale, the monthly Utilities Allowance shall be that set forth by the Housing Authority of the County of San Mateo’s then-published applicable annual housing allowances for owner furnished utilities and other services (the “**County Standard**”) for a residence with the particular type of amenities included in the Affordable Unit as developed upon the Property (e.g. air conditioning, gas or electric stove, among others, all as identified under the County Standard). At the time of a proposed sale, the monthly Maintenance Allowance shall be recalculated as the product of twenty-five percent (25%) of the then-applicable Utilities Allowance. By way of illustration, if the Utilities Allowance at the time of a proposed sale was One Hundred Ninety-Five Dollars (\$195), the Maintenance Allowance would be Forty-Eight Dollars and Seventy-Five Cents (\$48.75), calculated as One Hundred Ninety-Five Dollars (\$195) multiplied by twenty-five percent (25%).

Section 4.05. Determining Maximum Affordable Unit Resale Price.

The maximum Affordable Unit resale price (the “**Maximum Affordable Unit Resale Price**”) shall be as defined and determined in the Resale Restriction Agreement.

Section 4.06. First Right of Refusal.

The COUNTY shall have a continuing “right of first refusal” to purchase the Affordable Units upon the proposed resale by Qualified Buyers as set forth in the Resale Restriction Agreement.

Section 4.07. Refinance Restriction; Prohibition on Home Equity Lines of Credit; Home Equity Loan Restrictions.

Any refinance of the loans used to purchase the Affordable Units, home equity loans and/or home equity lines of credit must conform to the terms and conditions of the Resale Restriction Agreement.

Section 4.08. Prohibited Transfers of Affordable Units.

Any sale or transfer of an Affordable Unit in violation of the terms and conditions of this Agreement is expressly strictly prohibited, shall be null and void, and shall constitute a default of OWNER under this Agreement, entitling the COUNTY to exercise all remedies available at law or in equity, including without limitation, seeking injunctive relief to prevent or enjoin the prohibited transfer and/or damages as provided in this Agreement.

Section 4.09. Occupancy Standards.

During the Owner-Occupied Affordability Restrictions Term, each Affordable Unit shall be occupied as the Principal Residence of Qualified Buyer and for no other purpose. A Qualified Buyer shall not enter into agreements for the rental or lease of the Affordable Units or otherwise allow for the rental or lease of the same. The maximum occupancy of the Affordable Units shall not exceed the maximum occupancy allowed pursuant to the general requirements of the United States Department of Housing and Urban Development, which as of the date of this Agreement, is two (2) persons per bedroom, plus one (1) person.

Section 4.10

Release of Property From Agreement.

This Agreement shall initially be recorded against the entire Property. Except as otherwise provided in this Section, the covenants and conditions contained in this Agreement shall apply to and bind, during their respective periods of fee ownership, OWNER and its heirs, executors, administrators, successors, transferees, and assignees having or acquiring any right, title or interest in or to any part of the Affordable Units within the Property and shall run with and burden such portions of the Property until terminated in accordance with this Section 4.10. Until portions of the Property are released from the burdens of this Agreement pursuant to this Section 4.10, the owners of fee title to the Property shall expressly make the conditions and covenants contained in this Agreement a part of any deed or other instrument conveying any interest in such Property. As and when the Project units are made available for sale and sold as condominium units, (i) concurrently with the sale of each unit which is not an Affordable Unit, this Agreement will be terminated as to such unit and the lien of this Agreement shall be reconveyed as to such unit, and (ii) concurrently with the sale of each Affordable Unit to a Qualified Buyer in compliance with this Agreement, this Agreement shall be terminated as to such Affordable Unit and the Resale Restriction Agreement required by Section 4.01 of this Agreement shall be recorded against such Affordable Unit.

Article V

COUNTY's Right of Reversion

Section 5.01. Acknowledgement of the COUNTY's Reversionary Interest; Deferral and Extinguishment.

The parties acknowledge that the COUNTY owns the Right of Reversion, which, subject to the provisions of Section 5.02, can be exercised to recover title to the Winslow Remnant. Notwithstanding any other provision of this Agreement to the contrary, from and after the Effective Date until the issuance of Certificates of Occupancy for the Affordable Units or earlier termination of this Agreement pursuant to its terms, the County agrees it will defer exercising the Right of Reversion to allow OWNER to complete the Project and provide the Affordable Units, after which the the Right of Reversion shall be extinguished. Upon issuance of Certificates of Occupancy for the Affordable Units, the terms of the agreement that created the Right of Reversion shall be deemed to be satisfied and the Right of Reversion will be deemed extinguished, and the COUNTY shall cooperate as reasonably necessary, at OWNER's expense, to remove the Right of Reversion as a cloud or lien on OWNER's title to all or any portion of the Property and the Project.

Section 5.02. The COUNTY's Right to Demand the Cash Alternative

If OWNER does not (1) commence construction of the Project within two (2) years of the date of this Agreement (the "Grace Period"), or (2) fails to provide the Affordable Units as set forth in this Agreement, then by giving written notice to OWNER, the COUNTY's sole and exclusive remedies for either breach is to (1) require OWNER to pay to it within thirty (30) days of such notice a fee in the amount of seven hundred and ten thousand dollars Dollars (\$710,000) (the "**Cash Alternative**") and (2) require OWNER to fulfill its obligations to provide the Affordable Units as set forth in this Agreement. The Grace Period shall be tolled during the pendency of any legal or administrative action that enjoins OWNER from commencing construction of the Project.

Notwithstanding any other provision of this Agreement to the contrary, if the COUNTY receives the Cash Alternative, the COUNTY shall not be permitted to exercise its Right of Reversion as a remedy for OWNER's failure to timely commence construction or provide the Affordable Units. The Cash Alternative shall increase annually on the anniversary date of the Effective Date by an amount equal to the increase in the Consumer Price Index, All Urban Consumers, San Francisco-Oakland-San Jose, All Items, 1982-1984=100, between the month that the Index was last published prior to the Effective Date and the month that the Index was last published prior to such anniversary date. The amount so calculated shall be due and payable within thirty (30) days of said written notice, and shall become a lien against the Property and the Project. In the event OWNER fails to timely comply with this provision, OWNER shall pay all of the COUNTY's costs to enforce this provision, including, without limitation, attorney's fees.

Notwithstanding COUNTY's receipt of the Cash Alternative, OWNER shall remain obligated, pursuant to the terms of this Agreement, to construct and make available the Affordable Units.

Article VI

General Provisions

Section 6.01. Maintenance of Property.

During such time as the Affordability Covenants set forth in this Agreement are in effect, all improvements developed upon the Property, including without limitation, the Affordable Units, hardscaping and landscaping, shall at all times be maintained in a neat and orderly condition, good order and repair, consistent with good ownership practices, and in accordance with all applicable Federal, State and local laws.

Section 6.02. Events of Default; Enforcement.

Subject to the provisions of Article V hereof, in the event of a default in the performance or observance of any covenant, agreement or obligation as set forth in this Agreement and, if such default remains uncured for a period of thirty (30) days after notice thereof shall have been given by the COUNTY, or such longer period as may be approved by the COUNTY in writing in its sole discretion, then the COUNTY may declare that an Event of Default has occurred hereunder and, in addition to other default remedies provided under this Agreement, may exercise any one or more of the following, at its option:

- (a) By mandamus or other suit, action or proceeding at law or in equity, require OWNER or its successors in interest to perform its obligations and covenants hereunder, or enjoin any acts or things which may be unlawful or in violation of the rights of the COUNTY hereunder;
- (b) Take whatever other action at law or in equity may appear necessary or desirable to enforce the obligations, covenants and agreements hereunder.

No delay by the COUNTY in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right against or recover for the continuation or repetition

of such breach or violation or any similar breach or violation thereof at any later time or times.

Section 6.03. Attorneys' Fees.

In any legal proceeding to enforce the terms of or restrain a violation of this Agreement, the prevailing party or parties to this Agreement shall be entitled to recover their reasonable attorneys' fees from the non-prevailing party or parties hereto.

Section 6.04. Amendments.

This Agreement may only be amended in writing by an instrument signed by the authorized representative of the COUNTY or its successor in interest and the then record owner or owners of the Property.

Section 6.05. Severability.

If any provision of this Agreement shall be held invalid, inoperative or unenforceable as applied in any particular case, in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any Constitution or Statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provisions in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or sections contained in this Agreement shall not affect the remaining portions of this Agreement.

Section 6.06. Headings.

The section headings are not part of this Agreement and will not affect the interpretation of any provisions hereof.

Section 6.07. Time of the Essence.

In each provision of this Agreement which states a specific amount of time within which the requirements thereof are to be satisfied or are to persist, time shall be deemed to be of the essence.

Section 6.08. Notices.

Any notice required to be given hereunder shall be given by personal delivery or by registered or certified mail at the addresses specified below or at such other addresses as may be specified in writing by the parties hereto:

To OWNER: FULLER STREET PARTNERS, LLC
125 Willow Road
Menlo Park, CA 94025
Attention: Mark Johnson

With a copy to: William R. Garrett, Esq.
Hanna & Van Atta
525 University Avenue, Suite 600
Palo Alto, CA 94301

To COUNTY: County of San Mateo
Real Property Division
455 County Center
Redwood City, CA 94063
Attention: _____

With a copy to: Lee A. Thompson, Chief Deputy County Counsel
Hall of Justice and Records
400 County Center, 6th Floor
Redwood City, CA 94063-1662

Notice shall be deemed given three (3) business days after the date of mailing, or, if personally delivered, when received. A party's address for notice may be changed by giving notice to the other party in the manner set forth above and indicating the new address for notice.

Section 6.09. Governing Law.

This Agreement shall be governed by the laws of the State of California. Any legal action brought under this Agreement must be instituted in the Superior Court of the County of San Mateo, State of California, in an appropriate municipal court in that county or in the Federal District Court in the District of California in which San Mateo County is located.

Section 6.10. Legal Advice.

OWNER represents and warrants the following: OWNER has carefully read this Agreement, and in signing this Agreement and/or agreeing to be bound by the same, OWNER does so with full knowledge of any rights which OWNER may have; OWNER has received independent legal advice from legal counsel as to the matters set forth in this Agreement, or has knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, OWNER has freely signed this Agreement and/or agreed to be bound by it without any reliance upon any agreement, promise, statement or representation by or on behalf of the COUNTY, or its respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise. This Agreement shall be interpreted as though prepared jointly by both OWNER and the COUNTY.

IN WITNESS WHEREOF, OWNER and COUNTY have executed this Agreement as of, although not necessarily on, the date first written above.

OWNER:

Fuller Street Partners, LLC,
a California limited liability company

By: [signature block to be provided]

COUNTY:

County Manager

By: _____
John Maltbie

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a 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 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 (typed or printed), Notary Public
in and for said County and State

(seal)

STATE OF CALIFORNIA
COUNTY OF _____

On _____, before me, _____, a 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 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 (typed or printed), Notary Public
in and for said County and State

(seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF REDWOOD CITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

EXHIBIT “B”

RESALE RESTRICTION AGREEMENT