

RECORDED AT THE REQUEST OF AND
WHEN RECORDED RETURN TO:

City Clerk
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

(Space Above For Recorder's Use)

This Density Bonus and Affordable Housing Agreement is recorded at the request and for the benefit of the City of Huntington Beach and is exempt from the payment of a recording fee pursuant to Government Code Sections 6103 and 27383.

**AFFORDABLE HOUSING AGREEMENT
FOR
19070 HOLLY LANE,
HUNTINGTON BEACH
BY AND BETWEEN**

**CITY OF HUNTINGTON BEACH,
a California Municipal Corporation**

and

**Bonanni Development Company IV LLC,
a Limited Liability Corporation**

**AFFORDABLE HOUSING AGREEMENT
FOR 19070 HOLLY LANE, HUNTINGTON BEACH**

This AFFORDABLE HOUSING AGREEMENT ("Agreement") is entered into as of the _____ day of _____, 2023 ("Effective Date") by and between the CITY OF HUNTINGTON BEACH, a California municipal corporation ("City"), and BONANNI DEVELOPMENT COMPANY IV, LLC, a limited liability company ("Owner"). City and Owner are hereinafter sometimes referred to collectively as the "Parties" and individually as a "Party."

RECITALS

A. City is a municipal corporation and charter city organized and existing pursuant to the Constitution and laws of the State of California.

B. Owner is the owner in fee of that certain real property located at 19070 Holly Lane, Huntington Beach, consisting of approximately 2.11 acre lot, and more particularly described in the legal description attached hereto as Exhibit "A" (the "Property").

C. Owner has submitted to City plans to develop the Property as a thirty-five (35) unit townhome development, as more particularly depicted in the attached Exhibit "B" (the "Project"). Owner will build the Project in a multiple phases and sell or rent individual units to individual homebuyers. Currently, as set forth in the Project approvals, Owner will sell the individual units in accordance with the terms and conditions herein. If Owner later desires to rent all of the units, including market rate and affordable, Owner may make this request to City and an amendment to this Agreement will be prepared by the City Attorney's Office to incorporate all of the additional required rental provisions.

D. Pursuant to California Government Code Section 65915 (the "State Density Bonus Law"), as implemented under Huntington Beach Zoning and Subdivision Ordinance ("HBZSO"), Chapter 230.14, developers of housing projects that include specified levels of affordable housing are entitled to apply for and receive certain density bonuses and additional incentives in order to facilitate the economic feasibility of those projects. Owner is proposing an increase in the number of units allowed per the State Density Bonus Law and will meet the affordability requirements as outlined in HBZSO Chapter 230.14. In exchange for making at least fifteen percent (15%) of the 32 total base units affordable to Moderate Income Households per Chapter III. C. 12. of the Holly-Seacliff Specific Plan, the State Density Bonus Law provides that the developer may receive up to one "incentive or concession." (Gov't § 65915(d)(2)(A).)

E. The City's Inclusionary Housing Ordinance as outlined in HBZSO Chapter 230.26 requires that ten percent (10%) of new housing within the Project be affordable to households earning less than 120% of Orange County Median Income. In compliance with HBZSO Chapter 230.14 requirement, Owner agrees to provide as part of the thirty-five (35) ownership units permitted under the City development standards, (32 "base" units and three density bonus units), five units to be affordable to Moderate Income Households (the "Affordable Units").

F. Pursuant to Government Code Section 65915(e), Owner has applied for waivers and reduction of development standards on the basis that they would physically preclude the construction of the Project with the density bonus. Since the Project will be providing 15 percent of the total base

dwelling units for Moderate Income Households, the Owner seeks relief in the form of a reduction from the City parking standards and is implementing the parking ratios for three-bedroom units and guest parking under the State Density Bonus Law regulations. The Owner has applied for waivers to existing development standards related to the following: 1) 10-foot yard setback in lieu of the required 15-foot yard setback along Holly Lane; and 2) a reduction in building separation between several of the onsite buildings from 20-feet to 15-16 feet.

G. On May 24, 2022, the Planning Commission approved the Project application consisting of a 1) General Plan Amendment No. 20-003; 2) Zoning Text Amendment No. 20-003; 3) Tentative Tract Map No. 19118; 4) Conditional Use Permit (CUP) No. 20-025; and 5) Environmental Assessment No. 20-003, consisting of an Addendum No. 1 to the Holly-Seacliff Specific Plan Environmental Impact Report No. 89-1 to analyze the potential environmental impacts of the proposed Project. As part of the entitlements, the Planning Commission approved Owner's request to exercise a ten percent (10%) density bonus option for the Project, in which Owner would construct thirty-two (32) base residential units and three (3) density bonus residential units, for a total of thirty-five (35) residential units of which five (5) units will be Affordable Units (rental or for sale) in conformance with the Holly-Seacliff Specific Plan. In order to take advantage of the increase in allowable density, Owner must ensure, pursuant to the terms of this Agreement, that no less than five residential units (rental or for sale) will be used and occupied or available for use and occupancy by Moderate Income Households as defined in Health and Safety Code Section 50093 at the time of this Agreement. As approved, the Project includes the aforementioned waivers. In order to take advantage of the waivers, Owner must ensure, pursuant to the terms of this Agreement, that no less than fifteen percent (15%) of the thirty-two (32) base units permitted under City development standards are affordable to Moderate Income Households.

H. This Agreement sets forth the terms and conditions for the implementation of the Project's requirement to provide affordable housing units in exchange for receiving the density bonus waivers of development standards as set forth herein.

I. The development of the Project on the Property pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of City and the welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements.

COVENANTS

NOW, THEREFORE, in consideration of the above Recitals, which are incorporated herein by this reference, and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS AND EXHIBITS

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "*Adjusted For Family Size Appropriate To The Unit*" means a household of one person in the case of a studio unit, a household of two persons in the case of a one-bedroom unit, a household of three persons in the case of a two-bedroom unit, a household of four

persons in the case of a three-bedroom unit, and a household of five persons in the case of a four-bedroom unit.

1.1.2 “*Affordable Housing Cost*” for a Moderate Income Household means that purchase price which would result in an annual Monthly Housing Cost which does not exceed the product of Thirty-Five Percent (35%) of One Hundred Ten Percent (110%) of the current Orange County monthly median income for a household adjusted for family size appropriate to the Unit under Health and Safety Code Section 50052.5(b)(4). Affordable Housing Cost shall be calculated pursuant to the City Housing Regulations.

1.1.3 “*Affordable Units*” means the five (5) units, consisting of three (3) two-bedroom Units and two (2) three-bedroom Units that are designated pursuant to Section 3.2 to be sold or rented to and occupied by five (5) Moderate Income Households in the Project.

1.1.4 “*Affordable Housing Covenant*” means the Declaration of Conditions, Covenants and Restrictions for Moderate Income Affordable Housing to be recorded against each Affordable Unit in the form attached hereto as Exhibit “C.”

1.1.5 “*Base Units*” means the Thirty-Two (32) Units that Owner would be authorized to develop without application of the State Density Bonus Law.

1.1.6 “*City Housing Regulations*” means the “Affordable Ownership Housing Regulations-Homeowner Requirements of the City of Huntington Beach,” dated August 15, 2011, as they exist now, and as they may be amended in the future.

1.1.7 “*Condominium Map*” means that certain final map for condominium purposes for Tract No. 19118 that will create the Units within the Project.

1.1.8 “*Density Bonus Units*” means the three (3) Units in addition to the Base Units that Owner shall develop pursuant to the density allowance in the State Density Bonus Law and the terms and conditions of this Agreement, of which Owner would not be entitled to develop without providing that at least five (5) Units of the Base Units will be Affordable Units designated for occupancy by Moderate Income Households in accordance with the Holly-Seacliff Specific Plan.

1.1.9 “*Effective Date*” means the date the City Council of City approves this Agreement, which date shall be inserted in the preamble to this Agreement.

1.1.10 “*Household*” means all persons residing in a Unit.

1.1.11 “*Incentives and Waivers*” means the incentives and waivers identified in Recital F above.

1.1.12 “*Market Rate Units*” means the Units within the Project to be rented or sold by Owner to a Household without restriction as to income levels, rental rate or sales price.

1.1.13 “*Median Income*” means the Orange County area median income, adjusted for household size, as established by the United States Department of Housing and Urban Development, and as published periodically by the California Department of Housing and Community

Development.

1.1.14 “*Moderate Income Household*” means a Household whose income does not exceed the qualifying limits for moderate income households pursuant to Health and Safety Code Section 50093, which is those Households whose income does not exceed one hundred twenty percent (120%) of Median Income, adjusted for family size. The income level of a Household shall be determined in accordance with the City Housing Regulations.

1.1.15 “*Monthly Housing Cost*” shall include all of the following associated with the Affordable Unit: (i) principal and interest payments on a mortgage loan; (ii) property taxes and assessments; (iii) the cost of fire and casualty insurance covering replacement value of property improvements; (iv) homeowner's association fees; (v) reasonable Unit maintenance and repair costs; and (vi) reasonable utility allowance, all as determined according to the City Housing Regulations. In determining monthly housing payments, the City will assume principal and interest payments on a conventional home mortgage after paying a ten percent (10%) down payment.

1.1.16 “*Project*” means that certain housing development as more particularly described in Recital C and Section 2 of this Agreement. In the event of any inconsistency between the description of the Project in this Agreement and the entitlements and permits for the Project, the approved entitlements and permits shall govern. In no event shall any development be permitted that is not permitted under the entitlements in effect at the time of development.

1.1.17 “*Qualified Purchaser*” means a Household that complies with all income verification requirements in this Agreement, and earns not more than the qualifying limits of one hundred twenty percent (120%) of the Median Income, adjusted for family size, as established annually by HCD income regulation, for the five Moderate Income Household Units.

1.1.18 “*State Density Bonus Law*” means Government Code Sections 65915-65918 as they exist on the Effective Date.

1.1.19 “*Unit*” means a residential dwelling unit within the Project to be sold or rented by Owner pursuant to this Agreement.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit “A” — Legal Description of the Affordable Units

Exhibit “B” — Depiction of the Project

Exhibit “C” — Declaration of Conditions, Covenants and Restrictions for Moderate Income Affordable Housing, with attachments

Exhibit “D” — Density Bonus and Affordable Housing Agreement Release Agreement

2. DEVELOPMENT OF THE PROPERTY

2.1 Project. Owner shall develop the Project as a thirty-five (35) unit condominium residential community in accordance with and subject to all applicable entitlements and permits. The Project shall have thirty (30) Market Rate Units, and five (5) Affordable Units. There shall be at a minimum three (3) two-bedroom and two (2) three-bedroom Affordable Units. Owner shall not

construct or develop, or otherwise claim a right to construct or develop, more than Three (3) Density Bonus Units on the Property. Owner expressly understands and agrees that the State Density Bonus Law at the time of this Agreement allows up to a ten percent (10%) increase in the number of the Base Units because Owner shall restrict fifteen percent (15%) of the Base Units for occupancy by Moderate Income Households in accordance with the Holly-Seacliff Specific Plan.

2.2 Market Rate Units. The Project shall have no more than Thirty (30) Market Rate Units with Unit sizes as may be determined by Owner.

2.3 Affordable Units. Project shall have no less than Five (5) Affordable Units pursuant to the terms and conditions of this Agreement. The Project shall have no less than Five (5) Affordable Units designated for Moderate Income Households. The average square footage of the Affordable Units shall be no more than approximately 20 percent lower than the average square footage of the Market Rate Units of the same number of bedrooms. The Affordable Units shall be constructed with the same exterior appearance and interior features, fixtures, and amenities, and shall use the same type and quality of materials as the Market Rate Units in the Project. The Affordable Units shall be dispersed throughout the Project. At its discretion, Owner may increase the number of Affordable Units.

2.4 Authorized Waivers and Modifications, and Incentives and Concessions. In accordance with the State Density Bonus Law and pursuant to the entitlements for the Project, City authorized the Waivers and Modifications, and Incentives and Concessions described in the Recitals, above.

2.5 Compliance with Laws. Owner at its sole cost and expense shall secure or cause to be secured any and all permits that may be required by City or any other federal, state, or local governmental entity having or claiming jurisdiction over the Property or Project. Upon securing any and all permits, Owner shall carry out and perform the development, and marketing of the Project in conformity with all applicable federal, state, and local laws and regulations, and all conditions of approval of Tentative Map No. 19118.

2.6 Mechanic's Liens; Indemnification. Owner shall take all actions reasonably necessary to prevent and remove any mechanic's liens or other similar liens (including design professional liens) against the Property or Project, or any part thereof, by reason of work, labor, services, or materials supplied or claimed to have been supplied to Owner or anyone holding the Property or Project, or any part thereof, through or under Owner, that arises from the original construction of the Affordable Units. In the event any such mechanics lien or other similar lien is filed against the Property or Project that arises from the original construction of the Affordable Units, Owner shall, at its sole cost and expense, bond against or discharge such lien within thirty (30) days after the initial filing of the same. Upon request by the City, Owner shall provide to the City updated information from Owner's title insurer. City hereby reserves all rights to post notices of non-responsibility and any other notices as may be appropriate upon a filing of a mechanic's lien. Owner shall indemnify, defend (with counsel of City's choosing and the consent of Owner, which shall not be unreasonably withheld, and which may be joint defense counsel upon City's and Owner's consent), and hold harmless City and all of its officials, officers, employees, representatives, volunteers and agents from any and all alleged or actual claims, causes of action, liabilities, and damages from any third party by reason of a mechanic's lien or work, labor, services, or materials supplied or claimed

to have been supplied to Owner or anyone holding the Property or Project, or any part thereof, through or under Owner, that arises from the original construction of the Affordable Units.

3. AFFORDABLE UNITS

3.1 Execution and Recording of This Agreement. Owner shall execute this Agreement prior to City Council consideration of approval of this Agreement. No later than thirty (30) days after the recordation of the Condominium Map, Owner shall record an executed original of this Agreement against the Property in the Official Records for Orange County, California.

3.2 Designation of Affordable Units. At least three (3) months prior to the recordation of the Final Map with the approval of the California Department of Real Estate, Owner shall obtain the approval from the City's Housing Manager of the designation of the five (5) Affordable Units. The Affordable Units shall be disbursed throughout the buildings of the Project. Immediately following the recordation of each Condominium Map for the Project, Owner shall cause the Affordable Housing Covenant (Exhibit "C") to be recorded against any Affordable Units within the Condominium Map.

3.3 Leasing of Market Rate or Affordable Units by the Owner. Owner will sell the individual units in accordance with the Project approvals and the terms and conditions herein. If Owner later desires to rent all of the units, including market rate and affordable, Owner may make this request to City and an amendment to this Agreement will be prepared by the City Attorney's Office to incorporate all of the additional required rental provisions

3.4 Term of Affordable Unit Covenants. Each Affordable Unit designated for Moderate Income Households shall be restricted for use and occupancy by Moderate Income Household, for a total period of forty-five (45) years, commencing on the date that the Owner conveys title to the first purchaser of each Affordable Unit. By way of explanation of the foregoing sentence, it is possible that the affordability term for one Affordable Unit will neither commence on the same date nor terminate on the same date as another Affordable Unit, and it is possible that the affordability terms for all Affordable Units will commence on different days and terminate on different days.

3.5 Memorializing Commencement of Affordability Term. The Notice of Affordability Restrictions is attached as an exhibit to Exhibit "C", the Declaration of Conditions, Covenants, and Restrictions for Moderate Income Affordable Housing. This Notice shall be recorded concurrently with conveyance of title to the first buyer of each Affordable Unit and the affordability term for each Affordable Unit shall begin as of the recordation date of the Notice.

3.6 Sale of Affordable Units to Moderate Income Households. When marketing the Affordable Units, Owner shall comply with the City Housing Regulations. Owner shall not convey title to any Affordable Unit to a Household that the City has not verified as a Moderate Income Household, as determined pursuant the City Housing Regulations. Owner shall not convey title to any Affordable Unit to a Moderate Income Household at a price that exceeds the Affordable Housing Cost for that Affordable Unit as established by the City. In the event that Owner desires to sell an Affordable Unit, Owner shall comply with the requirements of Section 6.4 of the Affordable Housing Covenant.

4. TERM OF THIS AGREEMENT AND RELEASE OF UNITS

4.1 The term of this Agreement shall commence on the Effective Date and shall continue until the date Owner conveys fee title to buyers of all of the Affordable Units of the Project in accordance with the requirements of this Agreement. Upon satisfaction of the foregoing, the City shall, at the request of Owner, record a termination of this Agreement in the form of Exhibit "D" to this Agreement. The recording of such a termination document shall remove this Agreement as an encumbrance upon title to the Property. Notwithstanding any other provision herein to the contrary, Owner's indemnity obligations under Sections 2.4 (Replacement Housing), 2.5 (Mechanic's Liens) and 5.3 (Indemnification) hereof shall survive the termination of this Agreement.

4.2 Owner shall have the right at the time that it enters into a sales agreement for each of the Units to request that City execute a Unit Release for the Unit in the form of Exhibit E to this Agreement.

5. DEFAULT AND TERMINATION; INDEMNIFICATION

5.1 Default. Failure or delay by any Party to perform any term or provision of this Agreement which is not cured within thirty (30) days after receipt of notice from the other Party specifying the default (or such other period specifically provided herein) constitutes a default under this Agreement; provided, however, if such default is of the nature requiring more than thirty (30) days to cure, the defaulting Party shall avoid default hereunder by commencing to cure within such thirty (30) day period, and thereafter diligently pursuing such cure to completion within an additional sixty (60) days following the conclusion of such thirty (30) day period (for a total of ninety (90) days). Except as required to protect against further damages, the injured Party may not institute proceedings against the Party in default until the time for cure has expired. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default.

5.2 Rights and Remedies Cumulative. The rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

5.3 Indemnification. In addition to any other indemnity specifically provided in this Agreement, Owner shall defend (with counsel of City's choosing and the consent of Owner, which shall not be unreasonably withheld, and which may be joint defense counsel upon City's and Owner's consent), indemnify and hold harmless City and its officers, officials, agents, employees, representatives, and volunteers from and against any loss, liability, claim, or judgment arising from any act or omission of Owner in connection with its obligations under this Agreement.

6. ASSIGNMENT

6.1 Assignment by Owner. The qualifications and identity of Owner are of particular concern to City. It is because of those qualifications and identity that City has entered into this Agreement. Accordingly, Owner shall not sell, transfer, or assign the Property or Project in whole or in part, or transfer or assign Owner's rights and obligations in this Agreement, without City's prior written approval, which shall not be unreasonably withheld. In considering whether to

grant its approval of any proposed transfer or assignment by Owner of its interest in the Property, Project, or this Agreement, City shall consider factors such as the financial strength and capacity of the proposed transferee or assignee to perform Owner's obligations in this Agreement, and the proposed transferee's or assignee's experience and expertise in the planning, financing, development, and operation of similar projects.

6.2 Subsequent Assignment. As used in this Agreement, the term "Owner" shall be deemed to include any such transferee or assignee after the date such transfer or assignment occurs in compliance with this Agreement.

6.3 Unpermitted Assignments Void. Any sale, transfer, or assignment made in violation of this Agreement shall be null and void, and City shall have the right to pursue any right or remedy at law or in equity to enforce the provisions of the restriction against unpermitted sales, transfers, or assignments.

7. MISCELLANEOUS

7.1 Notices. As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder. All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; or (iii) five (5) days after deposit in the United States mail in a sealed envelope, first class mail and postage prepaid, and addressed to the recipient named below; or (iv) one (1) day after deposit with a known and reliable next-day document delivery service (such as FedEx), charges prepaid and delivery scheduled next-day to the recipient named below, provided that the sending party receives a confirmation of delivery from the delivery service provider. All notices shall be addressed as follows:

If to CITY:

City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648
Attn: Director of Community Development
& Housing Manager

If to OWNER:

Bonanni Development Company IV, LLC
5500 Bolsa Avenue, Suite 120
Huntington Beach, CA 92649

7.2 Change of Address. Either Party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

7.3 Entire Agreement. This Agreement and all of its Exhibits and attachments set forth and contain the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

7.4 Amendments. The terms of this Agreement may only be modified or amended by an instrument in writing executed by each of the parties hereto; provided, however, the City Manager shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of City so long as such actions do not substantially change the uses or development permitted on the Property.

7.5 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform, taking into consideration the purposes of this Agreement.

7.6 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California without regard to conflict of law principles. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all Parties having been represented by counsel in the negotiation and preparation hereof.

7.7 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

7.8 Singular and Plural. As used herein, the singular of any word includes the plural, and vice versa, as context so dictates. Masculine, feminine, and neuter forms of any word include the other as context so dictates.

7.9 Joint and Several Obligations. If at any time during the term of this Agreement the Property and/or Project is owned, in whole or in part, by more than one Owner, all obligations of such Owner under this Agreement shall be joint and several, and the default of any such Owner shall be the default of all such Owners.

7.10 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

7.11 Days. Unless otherwise specified in this Agreement or any Exhibit attached hereto, use of the term "days" shall mean calendar days. For purposes of this Agreement and all Exhibits attached hereto, "business days" shall mean every day of the week that City Hall of the City is open for business to the general public.

7.12 Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

7.13 Force Majeure. Neither Party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, pandemics, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the Party's control (including the Party's employment force), court actions (such as restraining orders or injunctions), government regulations or other causes beyond the Party's control. If any such events shall occur, the term of this Agreement and the time for performance by either Party of any of its obligations hereunder may be extended by the written agreement of the Parties for the period of time that such events prevented such performance.

7.14 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the Party benefited thereby of the covenants to be performed hereunder by such benefited Party.

7.15 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each Party and each successor in interest during ownership of the Property or any portion thereof.

7.16 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a Party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California, or any other court in that county, and the Parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

7.17 Project as a Private Undertaking. It is specifically understood and agreed by and between the Parties hereto that the development of the Project is a private development, that neither Party is acting as the agent of the other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between City and Owner is that of a government entity regulating the development of private property and the Owner of such property.

7.18 Attorneys' Fees and Costs. If either Party to this Agreement commences an action against the other Party to this Agreement arising out of or in connection with this Agreement, each party shall bear its own attorneys' fees and costs of suit.

7.19 Authority to Execute. The person or persons executing this Agreement on behalf of either Party warrants and represents that he or she/they have the authority to execute this

Agreement on behalf of his or her/their agency, corporation, partnership or business entity and warrants and represents that he or she/they has/have the authority to bind the Party to the performance of its obligations hereunder.

7.20 Counterparts. This Agreement may be executed by the Parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the Parties had executed the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth above.

“OWNER”

BONANNI DEVELOPMENT COMPANY IV, LLC,
a limited liability company

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

“CITY”

CITY OF HUNTINGTON BEACH
a California municipal corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



EXHIBIT A
TO AFFORDABLE HOUSING AGREEMENT
FOR 19070 HOLLY LANE, HUNTINGTON BEACH

(Legal Description)

That real property located in the City of Huntington Beach, County of Orange, State of California, described as follows:

LOTS 1 THROUGH 11 INCLUSIVE, AND LOT 33 (ALLEY), IN BLOCK "A" OF THE GARFIELD STREET ADDITION TO HUNTINGTON BEACH, IN THE CITY OF HUNTINGTON BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON THE MAP FILED IN BOOK 7, PAGES 27 AND 28 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THE NORTH 20' OF SAID LOT 7 AS DESCRIBED IN DEED RECORDED JUNE 26, 1961 IN BOOK 5765, PAGE 950 OF OFFICIAL RECORDS.

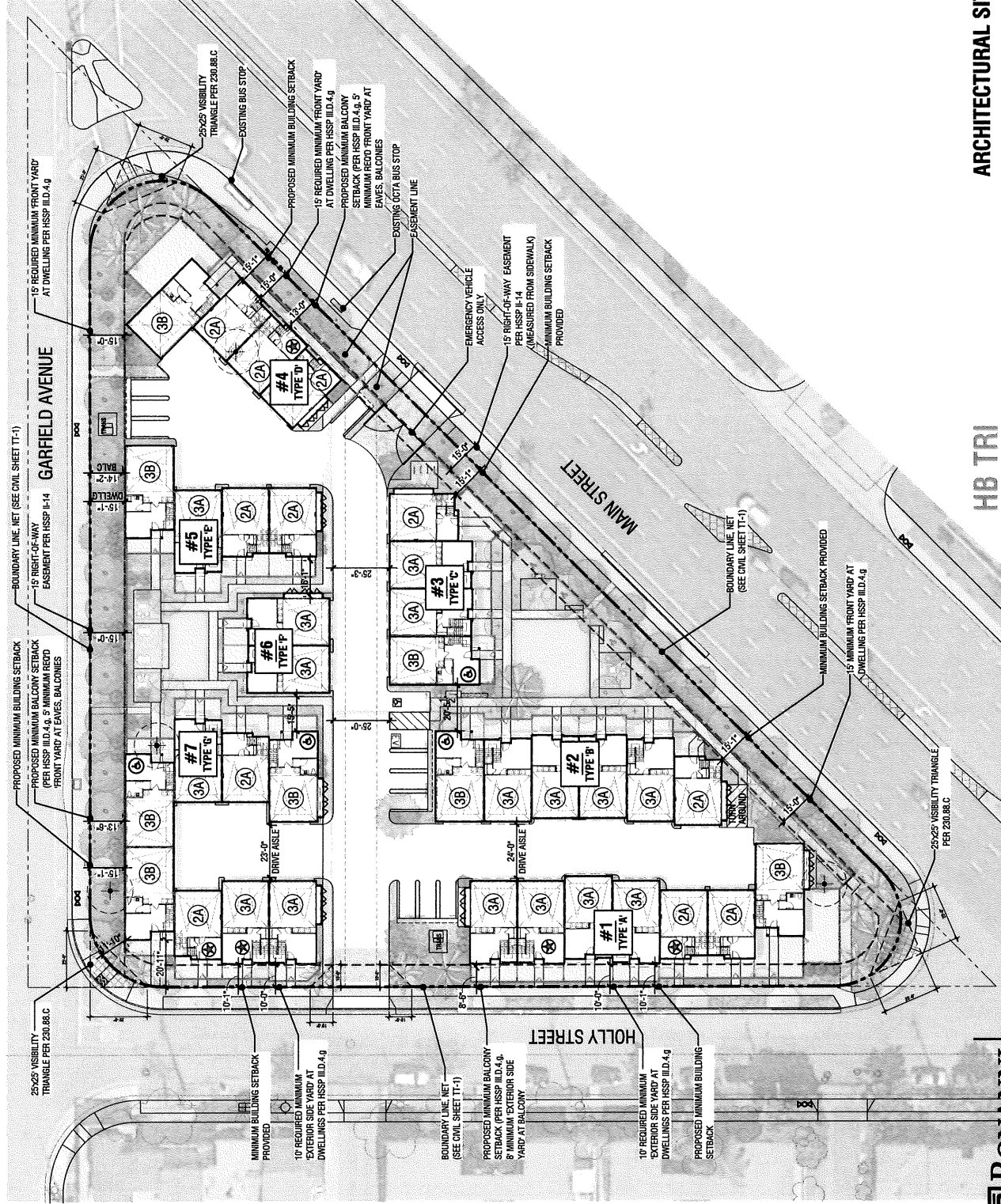
EXCEPT ALL MINERALS, GAS, PETROLEUM, OTHER HYDROCARBON SUBSTANCES AND ALL UNDERGROUND WATER IN OR UNDER OR WHICH MAY BE PRODUCED FROM SAID LAND WHICH UNDERLIES A PLANE PARALLEL TO AND 500 FEET BELOW THE PRESENT SURFACE OF SAID LAND, FOR THE PURPOSES OF PROSPECTING FOR, THE EXPLORATION, DEVELOPMENT, PRODUCTION, EXTRACTION AND TAKING OF SAID MINERAL, OIL, GAS, PETROLEUM, OTHER HYDROCARBON SUBSTANCES AND WATER FROM SAID LAND BY MEANS OF MINES, WELLS, DERRICKS AND/OR OTHER EQUIPMENT FROM SURFACE LOCATIONS ON ADJOINING OR NEIGHBORING LAND OR LYING OUTSIDE OF THE ABOVE DESCRIBED LAND, IT BE UNDERSTOOD THAT THE OWNER OF SUCH MINERALS, OIL, GAS PETROLEUM, OTHER HYDROCARBON SUBSTANCES AND WATER, AS SET FORTH ABOVE, SHALL HAVE NO RIGHT TO ENTER UPON THE SURFACE OF THE ABOVE DESCRIBED LAND NOR TO USE ANY OF THE SAID LAND OR ANY PORTION THEREOF ABOVE SAID PLANE PARALLEL TO AND 500 FEET BELOW THE PRESENT SURFACE OF THE SAID LAND FOR ANY PURPOSE WHATSOEVER, AS RESERVED BY HUNTINGTON BEACH COMPANY IN THE DEED RECORDED JUNE 03, 1991 AS INSTRUMENT NO. 91-273901 OF OFFICIAL RECORDS.

APN: 159-281-01, 159-281-02, 159-281-03, 159-281-04 AND 159-281-05.

EXHIBIT B
TO AFFORDABLE HOUSING AGREEMENT
FOR 19070 HOLLY LANE, HUNTINGTON BEACH

(Project Depiction)

SEE FOLLOWING PAGE



SITE PLAN SUMMARY

See Sheet CS2 for more information

Total Site Area:

2.128 Acres Gross
1.80 Acres Net

Total Units:

35 Dwelling Units
11 Units (31.4%)
2-Bedroom Units
Unit 2A
3-Bedroom Units
Unit 3A
Unit 3B
16 Units
8 Units*
*4 Units are accessible
(See Sheet CS2 for Affordable Unit Calculations)

Density:

Allowed: (per RM Zoning)
15 du/gross ac
16.5 du/gross ac
Allowed with Bonus:
(10% bonus for 15% affordable)
Provided:
16.59 du/gross ac*
*See Sheet CS2 for Rounding

Parking:

Required**:
2-Bed = 2 Space/Unit
3-Bed = 2 Space/Unit
Guest = None Required
*(HBMG 230.14.D, By-Right Reduction)
Provided:
Garage:
Open (off-street):
Required Accessible = 1 Space
Unassigned Open (12 x 5%)

Open Space:

Common Open Space Required:
11,700 S.F.
Common Open Space Provided:
11,719 S.F.
Private Open Space Required:
2,625 S.F.
Private Open Space Provided:
16,284 S.F.
Patios
7,204 S.F.
Decks
3,320 S.F.
Roof Decks
5,760 S.F.

Site Coverage:

Maximum Allowed:
50.0%
Provided Site Coverage:
35.3%
(27,723 S.F. Total Coverage / 78,436 S.F. Net Site)

Setbacks:

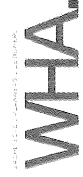
(HSP III.D.4.i.g.h):
Front Yard (to dwelling)
15 feet
Front Yard (to eave/fireplace/balcony)
5 feet
Interior Side Yard (to dwelling)
5 feet
Street Side Yard (to dwelling)
10 feet
Street Side Yard (to eave/fireplace/arch feature)
8 feet
Building Separation (3-Story Buildings)
20 feet

Legend

- Adaptable Unit Per CBC 1102A.3 (4 Units total)
- Existing Oil Well Locations. To Be Capped. 4 Locations
- Affordable Unit Locations (5 Units total)



ARCHITECTURAL SITE PLAN A1.10



SCHEMATIC DESIGN - CITY SUBMITTAL
2020063.01 | 02-11-2022

HB TRI

GARFIELD AVENUE AND MAIN STREET
HUNTINGTON BEACH, CA



WHA | 2809 REDHILL AVENUE, SUITE 200 | SANTA ANA, CA 92705 | 949.255.0667
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EXHIBIT C
TO AFFORDABLE HOUSING AGREEMENT
FOR 19070 HOLLY LANE, HUNTINGTON BEACH

(Affordable Housing Covenant)

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

City Clerk
City of Huntington
Beach 2000 Main Street
Huntington Beach, CA 92648

SPACE ABOVE THIS LINE FOR RECORDERS' USE ONLY

**DECLARATION OF CONDITIONS, COVENANTS AND
RESTRICTIONS FOR MODERATE INCOME AFFORDABLE HOUSING
19070 HOLLY LANE, HUNTINGTON BEACH**

This Declaration Of Conditions, Covenants And Restrictions For Moderate Income Affordable Housing ("Resale Restrictions") is made as of _____, 2023, by and between BONANNI DEVELOPMENT COMPANY IV, LLC, a limited liability company (the "**Owner**"), and the CITY OF HUNTINGTON BEACH, a California municipal corporation (the "**City**"), and the HOUSING AUTHORITY OF THE CITY OF HUNTINGTON BEACH, a public body corporate and politic (the "**Authority**"). At the option of the City and Authority, the Authority may enforce these Resale Restrictions in place of the City.

RECITALS

A. Owner is the owner in fee of that certain real property consisting of Units _____, _____, _____, _____, and _____, located at 19070 Holly Lane, Huntington Beach (APN _____, _____, _____, _____, and _____), as more particularly described in the legal description attached hereto as Exhibit "A" and are referred to herein individually as a "**Restricted Unit**", and collectively as the "**Restricted Units**".

B. Owner submitted to City plans to develop the Property as a thirty-five (35) unit residential community to be subdivided as a condominium development. Owner will build the Project in multiple phases and sell individual units to individual homebuyers. Pursuant to California Government Code Section 65915 (the "State Density Bonus Law"), as implemented under Huntington Beach Zoning and Subdivision Ordinance ("HBZSO"), Chapter 230.14, developers of housing projects that include specified levels of affordable housing are entitled to apply for and receive certain density bonuses and additional incentives in order to facilitate the economic feasibility of those projects. Owner is proposing an increase in the number of units allowed per the State Density

Bonus Law and will meet the affordability requirements as outlined in HBZSO Chapter 230.14 and in accordance with Chapter III. C. 12. Of the Holly-Seacliff Specific Plan. In exchange for making at least fifteen percent (15%) of the 32 total base units affordable to Moderate Income Households per the Holly-Seacliff Specific Plan, the State Density Bonus Law provides that the developer may receive up to one "incentive or concession." (Gov't § 65915(d)(2)(A).)

C. On May 24, 2022, the Huntington Beach Planning Commission approved the Project application consisting of a 1) General Plan Amendment No. 20-003; 2) Zoning Text Amendment No. 20-003; 3) Tentative Tract Map No. 19118; 4) Conditional Use Permit (CUP) No. 20-025; and 5) Environmental Assessment No. 20-003, consisting of an Addendum No. 1 to the Holly-Seacliff Specific Plan Environmental Impact Report No. 89-1 to analyze the potential environmental impacts of the proposed Project. As a condition of approval of the Tentative Tract Map and CUP, the Project includes five (5) units which are to be occupied by, and sold at prices affordable to Moderate Income Households for a term of 45 years (the "Affordable Units"). Tentative Tract Map No. 19118 was later recorded as Final Tract Map No. 19118 at Instrument No. _____ of the Records of Orange County, California.

D. In order to secure the long term affordability of the Affordable Units, the City and Owner entered into the "Density Bonus and Affordable Housing Agreement for 19070 Holly Lane," which was recorded as Instrument No. _____ in the Records of Orange County, California (the "Density Bonus Agreement"). The Density Bonus Agreement provides that Owner shall designate three (3), two-bedroom units, and two (2), three-bedroom units as the Affordable Units.

NOW, THEREFORE, the Parties hereto agree and covenant as follows:

1. **Affordability Covenants.** Owner agrees for itself and the successors and assigns to Owner's interest in the Restricted Units, including each Moderate Income Household purchasing one of the Restricted Units, that for a term of forty-five (45) years from the date of the close of escrow for the initial sale of each such Restricted Unit, that, during the Affordability Period (as defined in Section 4.1 below):

1.1 The Restricted Units shall only be owned and occupied by a Moderate Income Household, which shall mean persons or families in a Moderate Income Household earning not more than 120% of the Orange County median income, adjusted for household size as appropriate to the Unit.

1.2 The Restricted Units shall only be sold at an Affordable Housing Cost to Moderate Income Households.

2. **Definitions and Exhibits.**

2.1 **Definitions.** In addition to the terms that may be defined elsewhere in this Covenant, the following terms when used in these Resale Restrictions shall be defined as follows:

2.1.1 **“Adjusted for family size appropriate to the Unit”** means a household of one person in the case of a studio unit, a household of two persons in the case of one-bedroom unit, a household of three persons in the case of a two-bedroom unit, a household of four persons in the case of a three-bedroom unit, and a household of five persons in the case of a four-bedroom unit.

2.1.2 **“Affordable Housing Cost”** for a Moderate Income Household means that purchase price which would result in an annual Monthly Housing Cost which does not exceed the product of Thirty-Five Percent (35%) of One Hundred Ten Percent (110%) of the current Orange County monthly median income for a household adjusted for family size appropriate to the Unit under Health and Safety Code Section 50052.5(b)(4). Affordable Housing Cost shall be calculated pursuant to the City Housing Regulations.

2.1.3 **“City Housing Regulations”** means the “Affordable Ownership Housing Regulations-Homeowner Requirement of the City of Huntington Beach,” dated August 15, 2011, as they exist now, and as they may be amended in the future.

2.1.4 **“Default”** means the failure of a Party to perform any action or covenant required by these Resale Restrictions within the time periods provided herein following notice and opportunity to cure.

2.1.5 **“First Lien”** means the lien of a primary Lender which secures the obligations of the Owner to repay amounts owed to the Lender.

2.1.6. **“Owner”** means the then-current owner of a Restricted Unit. Initially, Owner refers to Bonanni Development Company IV, LLC, a limited liability company. Subsequent to the initial sale of a Restricted Unit, Owner refers to each subsequent owner of any legal or equitable interest in a Restricted Unit.

2.1.7. **“Lender”** means a lender making a purchase money loan to the Owner for the purchase of the Affordable Unit.

2.1.10 **“Median Income”** means the Orange County, California area median income, adjusted for household size, as established by the United States Department of Housing and Urban Development, and as published periodically by the State of California Department of Housing and Community Development.

2.1.11 **“Moderate Income Household”** means a Household whose income does not exceed one hundred twenty percent (120%) of Median Income, adjusted for family size. The income level of a Household shall be determined in accordance with the City Housing Regulations.

2.1.12 **“Monthly Housing Cost”** shall include all of the following associated with the Restricted Units: (i) principal and interest payments on a mortgage loan; (ii) property taxes and assessments; (iii) the cost of fire and casualty insurance

covering replacement value of property improvements; (iv) homeowner's association fees; (v) reasonable Unit maintenance and repair costs; and (vi) reasonable utility allowance. In determining monthly housing payments, the City will assume principal and interest payments on a conventional home mortgage after paying a ten percent (10%) down payment. All Monthly Housing costs shall be determined by the City according to the City Housing Regulations.

2.1.13 “**Qualified Purchaser**” Means a person or family who complies with all income verification requirements of these Resale Restrictions, and earns not more than one hundred twenty percent (120%) of the Median Income, adjusted for family size, for the five Moderate Income Household Units as to be determined in accordance with the City Housing Regulations.

2.1.13 “**Transfer**” shall mean any sale, assignment, conveyance, lease, or transfer, voluntary or involuntary, of any interest in the Restricted Unit. Without limiting the generality of the foregoing, Transfer shall include (i) a transfer by devise, inheritance or intestacy; (ii) the creation of a life estate; (iii) the creation of a joint tenancy interest; (iv) a gift of all or any portion of the Restricted Unit; or (v) any voluntary conveyance of the Restricted Unit.

3. **Attachments.** The following documents are attached to, and by this reference made a part of, these Resale Restrictions:

Exhibit A – Legal Description of Restricted Units

Exhibit B – Notice of Affordability Restriction

Exhibit C – Promissory Note

Exhibit D – Affordable Housing Deed of Trust

4. **Term of Resale Restrictions.**

4.1 The term of these Resale Restrictions shall commence on the date of the initial sale of each Restricted Unit from Owner to a Qualified Purchaser as evidenced by a deed recorded with the Orange County Recorder's Office and shall continue, with respect to each such Restricted Unit, for forty-five (45) years from said date (the “**Affordability Period**”). The Covenant contained in this Section shall run with each Restricted Unit and shall automatically terminate and be of no further force or effect upon the expiration of the Affordability Period. By way of explanation of the foregoing sentence, it is possible that the affordability term for one Restricted Unit will neither commence on the same date nor terminate on the same date as another Restricted Unit, and it is possible that the affordability terms for all Restricted Units will commence on different days and terminate on different days. The beginning and expiration dates of the Affordability Period for each Restricted Unit shall be established by the City in the Notice of Affordability Covenant (Exhibit B) recorded in connection with each sale of the Restricted Units.

4.2 Prior to the termination of the Affordability period, each Qualified Purchaser of a Restricted Unit shall enter into a Notice of Affordability Restriction, Promissory Note and Deed of Trust in the forms attached as Exhibits B, C, and D to these Resale Restrictions.

5. **Covenant Regarding Use and Sale of Restricted Units.** During the Affordability Period, the Restricted Units shall be owned and occupied as the principal residence of a Moderate Income Household, **and in no event may the Restricted Unit be leased to a third party.** During the Affordability Period, no transfer of a Restricted Unit shall occur until the City determines that: (a) the proposed purchaser intends to occupy the Restricted Unit as the proposed purchaser's principal residence; (b) the proposed purchaser is a Moderate Income Household; and (c) the proposed transfer occurs at an Affordable Housing Cost.

6. **Permitted and Prohibited Transfers of Restricted Units.**

6.1 The following Transfers, made in compliance with the terms and conditions of these Resale Restrictions and the City Housing Regulations, shall constitute "Permitted Transfers": (i) a Transfer to a surviving joint tenant or other permitted co-Owner of the Restricted Unit by devise, descent, or operation of law on the death of an Owner; (ii) a Transfer to a spouse such that the spouses become co-Owners of the Restricted Unit; (iii) a Transfer by decree of dissolution, legal separation agreement, or from an incidental property settlement by which the spouse becomes an Owner of the Restricted Unit, provided that in each case the transferee spouse occupies or will occupy the Restricted Unit; (iv) a Transfer to an inter vivos trust in which Owner is and remains the beneficiary and occupant of the Restricted Unit; and (v) a Transfer to a Moderate Income Household at Affordable Housing Cost. A Transfer that is not a Permitted Transfer specified above is a "Prohibited Transfer." During the Affordability Period, the occurrence of a Prohibited Transfer is a Default under these Resale Restrictions.

6.2 **All Transfers Prohibited Without City Approval.** During the Affordability Period, Owner shall not sell, transfer, use as security for any loan, or convey any interest in a Restricted Unit, except with the express written consent of the City, which consent shall be given only if the Transfer is a Permitted Transfer and in strict compliance with the provisions of this Section 6.

6.3 **Maximum Sale Price of Restricted Unit.** In the event that Owner decides to sell or otherwise Transfer the Restricted Unit, Owner shall contact the City to obtain the current Affordable Housing Cost, which shall be the maximum sales price of the Restricted Unit. City shall provide the Affordable Housing Cost pursuant to its current Affordable Housing Regulations. Regarding the Affordable Housing Cost, Owner acknowledges that:

**OWNER, AND EACH SUCCESSOR, HEIR OR ASSIGN OF OWNER,
UNDERSTANDS THAT THE DETERMINATION OF THE**

AFFORDABLE HOUSING COST CAN BE MADE ONLY AT THE TIME OF A PROPOSED SALE OR OTHER TRANSFER OF THE RESTRICTED UNIT, TAKING INTO CONSIDERATION PREVAILING INTEREST RATES, THE OFFERED TERMS OF SALE, THE ECONOMIC CIRCUMSTANCES OF THE PROPOSED PURCHASER AND OTHER FACTORS THAT CANNOT BE ACCURATELY PREDICTED, AND THAT THE TRANSFER PRICE PERMITTED HEREUNDER MAY BE LESS THAN THE FAIR MARKET VALUE OF THE SAME OR OTHER SIMILAR REAL PROPERTY WHICH IS NOT ENCUMBERED BY THIS COVENANT. OWNER, AND EACH SUCCESSOR, HEIR OR ASSIGN OF OWNER, FURTHER ACKNOWLEDGES THAT AT ALL TIMES IN SETTING THE TRANSFER PRICE, THE PRIMARY OBJECTIVE OF THE CITY AND THESE RESALE RESTRICTIONS IS TO PROVIDE HOUSING TO A MODERATE INCOME HOUSEHOLDS AT AN AFFORDABLE HOUSING COST.

Owner's Initials

6.4 Procedure to Verify a Proposed Transfer. In the event that Owner desires to sell the Restricted Unit, Owner shall send written notice thereof to the City at the following address:

City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648
Attention: Housing Manager

City shall process the sale of the Restricted Unit pursuant to the City Housing Regulations within thirty (30) days after receipt of such written notice from Owner notifying City of Owner's desire to sell such Restricted Unit. The City shall not be obligated to approve a transfer unless and until the proposed purchaser has submitted to the City such information and completed such forms as necessary to verify the proposed purchaser's intent with respect to his/her/its residency of the Restricted Unit, his/her/its gross income, and an affidavit of the proposed purchaser disclosing and certifying the amount of the proposed purchase price.

Prior to conveyance of the Restricted Unit, each approved purchaser shall also submit to the City an executed disclosure statement which certifies that the purchaser is aware that: (i) the purchaser buying the Restricted Unit may only sell the Restricted Unit at an Affordable Housing Cost to a Moderate Income Household as provided in Section 1 above, (ii) the maximum permitted sales price may be less than fair market value and (iii) the Restricted Unit must be owner-occupied at all times and cannot be rented or leased. The approved purchaser shall also submit an executed promissory, trust deed,

notice documents, and any other documentation reasonably required by the City to effectuate the Affordable Housing Program. Owner shall cooperate with the City in providing such forms to proposed purchasers and in assisting proposed purchasers to prepare such forms and to provide any required information to the City in connection with only the Owner's sale of the Restricted Unit.

7. **Non-Discrimination Covenants.** Owner covenants by and for itself, its successors and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, sex, sexual orientation, creed, ancestry, national or ethnic origin, age, family or marital status, handicap or disability, in the sale, transfer, use, occupancy, tenure or enjoyment of the Restricted Unit, 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, subtenants, or vendees in the Restricted Unit.

Owner and its successors and assigns shall refrain from restricting the sale of the Restricted Unit on the basis of race, color, religion, sex, sexual orientation, creed, ancestry, national or ethnic origin, age, family or marital status, handicap or disability, of any person. All such deeds or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clause:

(a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, religion, sex, sexual orientation, creed, ancestry, national or ethnic origin, age, family or marital status, handicap or disability, in the sale, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(b) In contracts: "There shall be no discrimination against or segregation of, any person or group of persons on account of race, color, religion, sex, sexual orientation, creed, ancestry, national or ethnic origin, age, family or marital status, handicap or disability, in the sale, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferor himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location,

number, use of occupancy of tenants, subtenants or vendee of the premises.”

(c) In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assignees, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

“That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, sex, sexual orientation, creed, ancestry, national or ethnic origin, age, family or marital status, handicap or disability, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, sublessees, subtenants, or venders in the premises herein leased.”

Nothing in this Section 7 shall be construed to authorize the rental or lease of the Restricted Unit if such rental or lease is not otherwise permitted.

8. Encumbrances.

8.1 Financings on Transfer. This Section 8 shall not prohibit the encumbering of title for the sole purpose of securing financing of the purchase price of the Restricted Unit upon a Transfer thereof; however, any such financing shall be for the Owner and (i) must be a First Lien, (ii) must not be in excess of the Affordable Housing Cost of the Restricted Unit as of date of approval for the financing, (iii) must be in compliance with these Resale Restrictions and the Affordable Housing Deed of Trust, and (iv) shall be subordinate to these Resale Restrictions.

8.2 Subordination. These Resale Restrictions shall have priority over all monetary liens and encumbrances for the Affordability Period. However, the Affordable Housing Deed of Trust only may be subordinated to a First Lien on the Restricted Unit that secures the payment of a principal amount that is not in excess, as of the date of approval for said financing, of the Affordable Housing Cost of the Restricted Unit. The City shall execute a written instrument for the subordination of its rights under the Affordable Housing Deed of Trust in the form approved by the City Attorney as may reasonably be requested by the Lender. The City's agreement to so subordinate its rights is subject to agreement in writing by the Lender providing the City the following rights:

(a) Upon the occurrence of a Default under any of the First Lien documents, the holder of the First Lien shall promptly notify the City

of the occurrence of such Default, which notification shall be provided to the City contemporaneously with the delivery to Owner of any notice of Default under any of the First Lien documents; and

(b) The City shall have the right, during the cure periods which apply to the Owner pursuant to the First Lien documents and any cure period which may apply to the City under applicable law, to cure the Owner's Default relative to the First Lien; and

(c) After a Default on any of the First Lien documents but prior to a foreclosure sale or deed in lieu assignment of the Restricted Unit, the City shall have the right to take title to the Restricted Unit and cure the Default relative to the First Lien documents, without the holder of the First Lien exercising any right it might otherwise have to accelerate the obligations secured by the First Lien by reason of such title transfer, so long as the City promptly cures any such Default upon taking title to the Restricted Unit.

8.3 Request for Notice of Default. The City may cause a Request for Notice to be recorded on the Restricted Unit subsequent to the recordation of the First Lien deed of trust or mortgage requesting a statutory notice of Default as set forth in California Civil Code Section 2924b.

8.4 Further Encumbrances Prohibited. Owner shall not record or cause or permit the recordation of any deed of trust, mortgage, lien or other instrument creating a security interest in or to the Restricted Unit (a "Further Encumbrance") other than these Resale Restrictions, the First Lien and the Affordable Housing Deed of Trust.

9. Uses. The Restricted Unit shall be used as the principal residence of Owner and owner's family and may not be rented or leased. Owner covenants and agrees to devote, use, and maintain the Restricted Unit in accordance with these Resale Restrictions. All uses conducted on the Restricted Unit, including, without limitation, all activities undertaken by the Owner pursuant to these Resale Restrictions, shall conform to all applicable provisions of federal, state, and local laws, including the Huntington Beach Municipal Code, and the City Housing Regulations.

10. Maintenance of Unit. Owner shall maintain the Restricted Unit in a manner consistent with community standards which will uphold the value of the Restricted Unit, in accordance with the Huntington Beach Municipal Code. Owner also shall comply with all applicable federal, state and local laws.

11. Effect of Violation of the Terms and Provisions of These Resale Restrictions.

11.1 Covenants Run with the Land. These Resale Restrictions are designed to create equitable servitudes and covenants running with the Restricted Unit, in accordance with the provisions of Civil Code Section 1468, and the State

Density Bonus Law and the Huntington Beach Zoning and Subdivision Ordinance. The covenants, conditions, restrictions, reservations, equitable servitudes, liens and charges set forth herein shall run with the Restricted Unit and shall be binding upon all persons having any right, title or interest in the leasehold interest in the Restricted Unit, or any part thereof, their heirs, successive owners and assigns; shall inure to the benefit of the City and its successors and assigns, shall be binding upon Owner, and its successors and assigns; and may be enforced by City and its successors and assigns. Owner hereby declares its understanding and intent that the burden of the covenants set forth herein touch and concern the land and that the Owner's interest in the Restricted Unit is rendered less valuable thereby. Owner hereby further declares its understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Restricted Unit by Owner, and by furthering public purposes for City.

In amplification and not in restriction of the provisions hereinabove, it is intended and agreed that City is deemed a beneficiary of the agreements and covenants provided herein both for and in its own right and also for the purposes of protecting the interests of the community. All covenants without regard to technical classification or designation shall be binding for the benefit of City and such covenants shall run in favor of City for the entire period during which such covenants shall be in force and effect, without regard to whether City is or remains an owner of any land or interest therein to which such covenants relate. However, all such covenants and restrictions shall be deemed to run in favor of all real property owned by the City which real property shall be deemed the benefited property of such covenants. Furthermore, all of the covenants, conditions, and restrictions contained herein shall also constitute easements in gross running in favor of the City. City shall have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any action at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

11.2 Notice of Default. Failure or delay by Owner to perform any term or provision of these Resale Restrictions which is not cured within thirty (30) days after receipt of notice from the City constitutes a Default under these Resale Restrictions; provided, however, if such Default is of the nature requiring more than thirty (30) days to cure, Owner may avoid Default hereunder by immediately commencing to cure within such thirty (30) day period, and thereafter diligently pursuing such cure to completion within sixty (60) days after the expiration of the initial thirty (30) day period, for a total of ninety (90) days. Failure or delay in giving notice by the City shall not constitute a waiver of any Default, nor shall it change the time of Default.

11.3 City's Remedies. Upon the declaration of a Default, the City may (i) apply to a court of competent jurisdiction for specific performance, for an injunction prohibiting any act or omission in violation of these Resale Restrictions, or for any such other relief as may be appropriate, (ii) exercise the City's rights under these Resale Restrictions and the Affordable Housing Deed of Trust, including,

without limitation, foreclosure of the Restricted Unit, and (iii) pursue such other rights and remedies permitted under these Resale Restrictions and by applicable law.

11.4 **Prohibited Transfers Void.** Any attempt by the Owner to make a Prohibited Transfer of title to or any interest in the Restricted Unit in violation of these Resale Restrictions shall be void and subject to rescission, specific performance, or any other right or remedy available at law or in equity.

12. **Governing Law.** Owner hereby agrees to comply with all ordinances, rules and regulations of the City, including the City Housing Regulations. Nothing in these Resale Restrictions is intended to be, nor shall it be deemed to be, a waiver of any City ordinance, rule or regulation. These Resale Restrictions shall be governed by the laws of the State of California without regard to conflict of law principles. Any legal action brought under these Resale Restrictions must be instituted in the Superior Court of the County of Orange, State of California, or in the Federal District Court in the Central District of California.

13. **Attorneys' Fees and Costs.** If either Party to these Resale Restrictions institutes any action against the other Party arising out of or in connection with to these Resale Restrictions, each Party shall bear its own attorney's fees and costs of suit.

14. **Severability.** So long as the material bargain of the Parties may be preserved, any provision of these Resale Restrictions that is deemed to be illegal, invalid or unenforceable by an arbitrator or court of competent jurisdiction shall be ineffective to the extent of the invalidity or unenforceability of such provision and shall be deemed stricken from these Resale Restrictions. Any stricken provision shall not affect the legality, enforceability or validity of the remainder of these Resale Restrictions. If any provision of these Resale Restrictions is stricken in accordance with the provisions of this Section, then the stricken provision shall be replaced, to the extent possible, with a legal, enforceable and valid provision that is as similar in tenor and intent to the stricken provision as is legally possible. Any such invalidity or unenforceability of any provision in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

15. **Exhibits.** Each of the Attachments referenced in these Resale Restrictions and attached hereto is incorporated into these Resale Restrictions by this reference as though fully set forth in this Section.

IN WITNESS WHEREOF, the Parties have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized as of the date set forth above.

OWNER:

Bonanni Development COMPANY IV, LLC,
a limited liability company

By: _____

Its: _____

By: _____

Its: _____

CITY:

CITY OF HUNTINGTON BEACH,
a California municipal corporation

Mayor

ATTEST:

City Clerk

AUTHORITY:

HOUSING AUTHORITY OF THE CITY OF HUNTINGTON BEACH,
a public body corporate and politic

By: _____
Chairperson

ATTEST:

Authority Clerk

APPROVED AS TO FORM:

City Attorney/Authority Counsel *mw*

INITIATED AND APPROVED:

City Manager

EXHIBIT A
LEGAL DESCRIPTION OF FIVE AFFORDABLE UNITS
AT 19070 HOLLY LANE, HUNTINGTON BEACH SUBJECT
TO THE AFFORDABLE HOUSING COVENANT FOR
19070 HOLLY LANE, HUNTINGTON BEACH

(The Affordable Housing Covenant Is Exhibit C To Density Bonus And
Affordable Housing Agreement For 19070 Holly Lane, Huntington Beach)

EXHIBIT B
NOTICE OF AFFORDABILITY RESTRICTION

(The Notice is an Exhibit to the Affordable Housing Covenant,
which is Exhibit C to the Affordable Housing Agreement
For 19070 Holly Lane, Huntington Beach)

Recording Requested By:
Housing Authority of
the City of Huntington Beach
2000 Main Street, 5th Floor
Huntington Beach, California 92648
Attention: Community Enhancement

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**NOTICE OF AFFORDABILITY RESTRICTIONS ON
TRANSFER OF PROPERTY
(Unit ___, 19070 Holly Lane, Huntington Beach, CA 92648)**

NOTICE IS HEREBY GIVEN by _____ ("Owner"), owner of the property located at 19070 Holly Lane, Unit ___, Huntington Beach, California 92648, Assessor's Parcel Map No. _____, and more particularly described in Exhibit "A" attached hereto (the "Property"), that:

1. On _____, 202__, the "Declaration of Conditions, Covenants and Restrictions," were recorded against the Property as Instrument No. _____ in the Office of the County Recorder of the County of Orange (the "Resale Restrictions"). Further, concurrently with this Notice, a "Deed of Trust with Assignments of Rents to Secure the Affordability Restrictions on Transfer of the Property" ("Deed of Trust") was recorded concurrently with this Notice. Among other things, the Resale Restrictions, as amended by the Deed of Trust, limit the price that the Property may be sold to an "Affordable Housing Cost" for "Moderate Income Households," as those terms are defined in the Resale Restrictions, and further defined in the current Affordable Housing Regulations of the City of Huntington Beach and the Deed of Trust.
2. The administration of the Resale Restrictions shall be governed by the Affordable Housing Regulations of the City of Huntington Beach, dated August 15, 2011, as they exist now and may be amended in the future.
3. In summary, the Property may only be sold to a "Moderate Income Household" at a price that does not exceed the "Affordable Housing Cost." The Affordable Housing Cost is the purchase price that results in monthly housing payments which do not exceed Thirty-Five Percent (35%) of One Hundred Ten Percent (110%) of the current Orange County monthly median income for a household equal to the number of bedrooms in the unit

plus one (1) person. In determining monthly housing payments, the City will assume principal and interest payments on a conventional home mortgage after paying a ten percent (10%) down payment. The mortgage interest rate will be the prevailing Fannie Mae thirty (30) year mortgage rate, or a City-selected equivalent. Monthly housing costs will also include homeowner's association dues, utilities, homeowner's insurance, maintenance costs and property taxes. Further, a qualifying buyer of the Property shall be a "Moderate Income Household" whose income does not exceed Thirty-Five Percent (35%) of One Hundred Ten Percent (110%) of the current Orange County monthly median income for a household equal to the number of bedrooms in the unit plus one (1) person.

4. The effect of relying on prevailing interest rates to determine the Affordable Housing Cost is to make the resale price of the Property sensitive to interest rates. For example, if interest rates rise, the resale price will fall, and if interest rates fall, the resale price will rise. This could result in the Affordable Housing Cost decreasing below the original purchase price.
5. In the event that Owner decides to sell or otherwise Transfer of the Property, Owner shall contact the City to obtain the current Affordable Housing Cost, which shall be the maximum sales price of the Property. City shall provide the Affordable Housing Cost pursuant to its current Affordable Housing Regulations. Regarding the Affordable Housing Cost, Owner acknowledges that:

OWNER, AND EACH SUCCESSOR, HEIR OR ASSIGN OF OWNER, UNDERSTANDS THAT THE DETERMINATION OF THE AFFORDABLE HOUSING COST CAN BE MADE ONLY AT THE TIME OF A PROPOSED SALE OR OTHER TRANSFER OF THE RESTRICTED UNIT, TAKING INTO CONSIDERATION PREVAILING INTEREST RATES, THE OFFERED TERMS OF SALE, THE ECONOMIC CIRCUMSTANCES OF THE PROPOSED PURCHASER AND OTHER FACTORS THAT CANNOT BE ACCURATELY PREDICTED, AND THAT THE TRANSFER PRICE PERMITTED HEREUNDER MAY BE LESS THAN THE FAIR MARKET VALUE OF THE SAME OR SIMILAR REAL PROPERTY WHICH IS NOT ENCUMBERED BY THIS COVENANT. OWNER, AND EACH SUCCESSOR, HEIR OR ASSIGN OF OWNER, FURTHER ACKNOWLEDGES THAT AT ALL TIMES IN SETTING THE TRANSFER PRICE, THE PRIMARY OBJECTIVE OF THE CITY AND THESE RESALE RESTRICTIONS IS TO PROVIDE HOUSING TO MODERATE INCOME HOUSEHOLDS AT AN AFFORDABLE HOUSING COST.

6. The City shall approve a Transfer of the Property if such Transfer complies with the Resale Restrictions.
7. The Property shall be owner-occupied at all times and shall not be leased or rented.
8. The Resale Restrictions imposed on the Property began on _____, 20__ and expire forty-five years later, on _____, 20__.

This Notice is recorded for the purpose of providing notice only and does not modify the provisions of the Resale Restrictions or the Deed of Trust.

Dated: _____

By: _____

APPROVED AS TO FORM:

Dated: _____

By: _____
City Attorney 

Exhibit A

Legal Description

EXHIBIT C
PROMISSORY NOTE

(The Promissory Note is an Exhibit to the Affordable Housing Covenant,
which is Exhibit C to the Affordable Housing Agreement
For 19070 Holly Lane, Huntington Beach)

**PROMISSORY NOTE TO SECURE
AFFORDABILITY RESTRICTIONS ON
TRANSFER OF PROPERTY
(Unit ____, 19070 Holly Lane, Huntington Beach, CA 92648)**

THIS PROMISSORY NOTE (the "Note") is dated this ____ day of _____, 202__, between _____ ("Promissor") and the Housing Authority of the City of Huntington Beach ("Authority") with reference to the following facts:

A. This Promissory Note is made in reference to that property in the City of Huntington Beach, County of Orange, State of California, with the street address Unit _____, 19070 Holly Lane, Huntington Beach, California 92648, and the Assessor's Parcel Map No. _____ (the "Property").

B. On _____, 2023, the "Declaration of Conditions, Covenants and Restrictions for Property," were recorded against the Property as Instrument No. _____ in the Office of the County Recorder of the County of Orange (the "Resale Restrictions"). Among other things, the Resale Restrictions limit the price that the Property may be sold to an "Affordable Housing Cost" to "Moderate Income Households," as that term is defined in the Resale Restrictions, and further defined in the Affordable Housing Regulations. The Affordable Housing Regulations, as they may be amended from time to time, are utilized to implement the provisions of the Resale Restrictions.

C. The Affordable Sales Price pursuant to the Resale Restrictions shall be the purchase price that would result in monthly housing payments for a Moderate Income Household that does not exceed Thirty-Five Percent (35%) of One Hundred Ten Percent (110%) of the current Orange County monthly median income for a household equal to the number of bedrooms in the Property plus one (1) person. In determining monthly housing payments, the City will assume principal and interest payments on a conventional home mortgage after paying a ten percent (10%) down payment. The mortgage interest rate will be the prevailing Fannie Mae or Freddie Mac thirty (30) year mortgage rate, or a City-selected equivalent. Monthly housing costs will also include homeowner's association dues, utilities, homeowner's insurance, maintenance costs and property taxes. Further, a qualifying buyer of the Property shall be a "Moderate Income Household" whose income does not exceed Thirty-Five Percent (35%) of One Hundred Ten Percent (110%) of the current Orange County monthly median income for a household equal to the number of bedrooms in the unit plus one (1) person.

The effect of relying on prevailing interest rates to determine the Affordable Housing Cost is to make the resale price of the Property sensitive to interest rates. For example, if interest rates rise, the resale price will fall, and if interest rates fall, the resale price will rise. This could result in the Affordable Housing Cost decreasing below the original purchase price.

D. Concurrently with executing this Note, Promissor has executed a Deed of Trust securing and amending the Resale Restrictions (the "Authority of Deed of Trust").

E. Pursuant to the Resale Restrictions, the City has approved the transfer of the Property to Promissor at an Affordable Housing Cost. To insure that any further sale, transfer or assignment of the Property occurs with the City's approval and at an Affordable Housing Cost, the City has required as a condition of the Promissor's transfer of the Property that Promissor execute this Note.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. Incorporation of Recitals. The recitals set forth above are incorporated by reference as though fully set forth herein.

2. Amount of the Note. The Amount of this Note is the "Transfer Price" of the Property, less the "Affordable Housing Cost." The Transfer Price shall be determined according to the circumstances that cause the Amount of the Note to become due pursuant to Section 3 of this Note. In the case of the sale of the Property without the City's consent, the Transfer Price shall be the market sales price. In the case of the financing or refinancing of the Property without the City's consent, the Transfer Price shall be the loan amount in excess of the last loan balance on the First Mortgage that the City previously approved. In all other cases, the Transfer Price shall be the fair market value of the Property as established by the Director of Community Development of the City pursuant to an appraisal. The term "Affordable Housing Cost" shall be defined according to the current Affordable Housing Regulations as adopted by the City of Huntington Beach.

Promissor promises to pay the Amount of this Note when due to the Housing Authority at 2000 Main Street, P.O. Box 190, Huntington Beach, California 92648, or at such other address as Authority may direct from time to time in writing. All sums hereunder shall be payable in lawful money of the United States of America and all sums shall be credited first to interest then due and the balance to principal.

3. Due on Sale, Transfer or Refinancing. Promissor agrees to notify the Authority not less than thirty (30) days prior to (i) the sale or transfer of the Property or (ii) any financing or refinancing of the Property. This Note shall be due and payable upon (i) such sale or transfer without the City's consent, (ii) the financing or refinancing of the Property without the City's consent, (iii) Promissor is no longer an occupant of the Property, or (iv) Promissor is in material default of any other obligation under the Resale Restrictions, or the Authority Deed of Trust.

4. Expiration of the Note Obligation. In the event Promissor does not sell or transfer the Property, does not fail to occupy the Property, does not refinance, or is not in material breach of any other provision of the Resale Restrictions or the Authority Deed of Trust before the forty-fifth (45) anniversary of the date of this Note, Promissor shall have no obligation to pay the Note Amount to Authority upon later sale, transfer or refinancing of the Property.

5. Default. The entire unpaid Amount of this Note shall be due and payable in full in the event of a default. The following shall be deemed to be an event of default:

(i.) The City determines that the Promissor has made a misrepresentation to obtain the benefits of purchase of the Property or in connection with its obligations under the Resale Restrictions;

(ii.) The Promissor fails to occupy the Property as required pursuant to the Resale Restrictions and the Authority Deed of Trust, and such failure continues following written notice by the City and sixty (60) days opportunity to cure following the date of such notice;

(iii.) The Promissor rents the Property in violation of the Resale Restrictions and the Authority Deed of Trust, and such failure continues following written notice by the City and sixty (60) days opportunity to cure;

(iv.) The Promissor fails to provide information to the City necessary to determine Promissor's compliance with the requirements of the Resale Restrictions;

(v.) The Promissor makes a transfer of the Property in violation of the Resale Restrictions;

(vi.) The Promissor otherwise fails to comply with the requirements of the Resale Restrictions, and such violation is not corrected to the satisfaction of the City within thirty (30) days after the date of written notice by the City to the Trustor of such violation;

(vii.) A notice of default is issued under the First Mortgage Loan or other financing secured by the Property;

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

(ix.) Promissor places a mortgage on the Property without the prior approval of the Authority.

(x.) Promissor declares bankruptcy or makes an assignment of assets for the benefit of creditors.

(xi.) The Promissor fails to pay any real property taxes or insurance premiums on the Property as they become due.

(xii.) Promissor continues to materially breach the Resale Restrictions or the Authority Deed of Trust, following the City or the Authority giving notice of the breach and an opportunity to cure.

(viii.) Promissor fails to pay the Note Amount when due.

6. This Note is secured by a concurrently executed Deed of Trust, to the City of Huntington Beach, as Trustee, executed by Promissor in favor of the Authority.

7. Notice. All payments, notices, consents, waivers and other communications under this Agreement must be in writing and shall be deemed to have been given when (a) delivered by hand, or, (b) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case addressed as set forth below:

If to PROMISSOR:

19070 Holly Lane, Unit ____
Huntington Beach, CA 92648

If to AUTHORITY:

Housing Authority of the
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648
Attn: City Clerk
and
Deputy Director of Community Development
City of Huntington Beach
2000 Main Street, 5th Floor
Huntington Beach, CA 92648

8. Governing Law. This Agreement is governed by and shall be construed in accordance with the laws of the State of California without giving effect to the conflict of laws principles thereof. The parties agree to personal jurisdiction in the State Courts in Orange County, California and specifically waive any claims of forum non-conveniens.

9. Modification. This Agreement shall not be amended or modified, except in writing, signed by both parties.

10. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns under this Note. This Note shall not be assigned without the express written consent of Authority.

PROMISSOR:

Dated: _____

By: _____

HOUSING AUTHORITY OF THE CITY OF
HUNTINGTON BEACH:

Dated: _____

By: _____
Deputy Director of Community Development

APPROVED AS TO FORM:

Dated: _____

By: _____
City Attorney *W*

EXHIBIT D
AFFORDABLE HOUSING DEED OF TRUST

(The Affordable Housing Deed of Trust is an Exhibit to the Affordable
Housing Covenant, which is Exhibit C to the Affordable Housing Agreement For 19070
Holly Lane, Huntington Beach)

OFFICIAL BUSINESS
Document entitled to free
recording per Government Code
Sections 6103 and 27383

Recording Requested By:
Housing Authority of
the City of Huntington Beach
2000 Main Street, 5th Floor
Huntington Beach, California 92648
Attention: Community Enhancement

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST WITH ASSIGNMENTS OF RENTS TO SECURE
RESALE RESTRICTIONS ON TRANSFER OF PROPERTY
(Unit __, 19070 Holly Lane, Huntington Beach, CA 92648)

THIS DEED OF TRUST is made this ____ day of _____, 202_ by and among _____ (the "Trustor"), whose address is Unit __, 19070 Holly Lane, California 92648 ("Trustor") and the CITY OF HUNTINGTON BEACH, a municipal corporation (the "Trustee") and the HOUSING AUTHORITY OF THE CITY OF HUNTINGTON BEACH, a public body corporate and politic (the "Beneficiary"), whose address is 2000 Main Street, Huntington Beach, California 92648, with reference to the following facts:

A. This Deed of Trust is made in reference to that property in the City of Huntington Beach, County of Orange, State of California, described legally in the Legal Description attached hereto as Exhibit "A" and incorporated herein with the street address Unit __, 19070 Holly Lane, Huntington Beach, California, 92648, and the Assessor's Parcel Map No. _____ (the "Property").

B. The City has adopted an Inclusionary Housing Ordinance (the "Inclusionary Ordinance," currently Section 230.26 of the City Zoning Code).

C. On _____, 202_, the "Declaration of Conditions, Covenants and Restrictions for Property," were recorded against the Property as Instrument No. _____ in the Office of the County Recorder of the County of Orange (the "Resale Restrictions"). Among other things, the Resale Restrictions limit the price that the Property may be sold to an "Affordable Housing Cost" to "Moderate Income Households," as that term is defined in the Resale Restrictions, and further defined in the Affordable Housing Regulations. The Affordable Housing Regulations, as they may be amended from time to time, are utilized to implement the provisions of the Resale Restrictions.

D. The Affordable Sales Price pursuant to the Resale Restrictions shall be the purchase price that would result in monthly housing payments for a Moderate Income

Household that does not exceed the product of Thirty-Five Percent (35%) of One Hundred Ten Percent (110%) of the current Orange County monthly median income for a household equal to the number of bedrooms in the Property plus one (1) person. In determining monthly housing payments, the City will assume principal and interest payments on a conventional home mortgage after paying a ten percent (10%) downpayment. The mortgage interest rate will be the prevailing Fannie Mae or Freddie Mac thirty (30) year mortgage rate, or a City-selected equivalent. Monthly housing costs will also include homeowner's association dues, utilities, homeowner's insurance, maintenance costs and property taxes. Further, a qualifying buyer of the Property shall be a "Moderate Income Household" whose income does not exceed Thirty-Five Percent (35%) of One Hundred Ten Percent (110%) of the current Orange County monthly median income for a household equal to the number of bedrooms in the unit plus one (1) person.

The effect of relying on prevailing interest rates to determine the Affordable Sales Price is to make the resale price of the Property sensitive to interest rates. For example, if interest rates rise, the resale price will fall, and if interest rates fall, the resale price will rise. This could result in the Affordable Sales Price decreasing below the original purchase price.

E. The administration of the Resale Restrictions, as modified by this Deed of Trust, shall be governed by the Affordable Housing Regulations of the City of Huntington Beach, as they exist now and may be amended in the future.

F. Pursuant to this Deed of Trust, the Resale Restrictions expire on _____, 20__ (the "Expiration Date").

NOW, THEREFORE, TRUSTOR HEREBY irrevocably grants, transfers and assigns, to Trustee, in trust, with power of sale of the Property, together with (a) all buildings, improvements and fixtures, now or hereafter placed thereon, it being understood and agreed that all classes of property attached or unattached used in connection herewith shall be deemed fixtures, (b) rents, issues and profits thereof, (c) any water rights and/or stock are appurtenant or pertain to said land, and (d) all sums of money payable on the purchase price of the Property secured by a lien thereon or payable under any agreement for the sale thereof, SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits, and all sums of money payable on the purchase price of the Property secured by a lien thereon or payable under any agreement.

A. FOR THE PURPOSE OF SECURING:

1. Payment of the indebtedness evidenced by a promissory note executed by Trustor concurrently with this Deed of Trust (the "City Note"). The Amount of the City Note is the "Transfer Price" of the Property, less the "Affordable Housing Cost." The calculation of the Amount is set forth with specificity in the Note, which is on file with the Community Development Department of the City of Huntington Beach.

2. Performance of each and every obligation, covenant, promise and agreement of the Resale Restrictions.

B. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

1. Restriction on Resale or Transfer of Property.

Trustor agrees for itself, and its successors and assigns, and every successor to Trustor's interest in the Property, or any part thereof until the Expiration Date, to perform all obligations due under the Resale Restrictions, as those obligations are restated and modified as set forth below:

(a) The Property shall only be owned and occupied by persons or families of "Moderate Income." "Moderate Income" shall mean persons or families earning one hundred twenty percent (120%) or less of Orange County median income, adjusted for appropriate family size.

(b) The Property may only be sold to "Moderate Income" households at an "Affordable Housing Cost," as that term is further defined in Affordable Housing Regulations. Generally, those Regulations define Affordable Housing Cost to mean that purchase price which would result in monthly housing payments, which do not exceed the product of Thirty-Five Percent (35%) times One Hundred Ten Percent (110%) for Moderate Income Households of the current Orange County monthly median income for a household equal to the number of bedrooms in the unit plus one (1) person. In determining monthly housing payments, the City will assume principal and interest payments on a conventional home mortgage after paying a ten percent (10%) downpayment. The mortgage interest rate will be the prevailing Fannie Mae thirty (30) year mortgage rate, or a City-selected equivalent. Monthly housing costs will also include homeowner's association dues, utilities, homeowner's insurance, maintenance costs and property taxes.

The effect of relying on prevailing interest rates to determine the Affordable Housing Cost is to make the resale price of the Property sensitive to interest rates. For example, if interest rates rise, the resale price will fall, and if interest rates fall, the resale price will rise. This could result in the Affordable Housing Cost decreasing below the original purchase price of the Property.

(c) The Trustor shall further comply with the Affordable Housing Regulations.

(d) No transfer of the Property shall occur until the City of Huntington Beach determines (a) that the proposed purchaser intends to occupy the Property as the proposed purchaser's principal residence, (b) that the proposed purchaser is a person or family of Moderate Income, and (c) that the proposed transfer occurs at an Affordable Housing Cost. The City of Huntington Beach shall not be obligated to approve a transfer until and unless the proposed purchaser has submitted to the City of Huntington Beach

such information and completed such forms as the City of Huntington Beach shall request to certify the proposed purchaser's intent with respect to its residency of the Property and its gross income, and the proposed purchaser has submitted an affidavit disclosing and certifying the amount of the proposed purchase price. Prior to conveyance of the Property, each approved purchaser shall submit to the City of Huntington Beach an executed disclosure statement which certifies that the purchaser is aware that the purchaser may only sell the unit at an Affordable Housing Cost to a Moderate Income person or family, that the maximum permitted sales price may be less than fair market value and that the unit must be owner-occupied at all times and cannot be rented or leased.

TRUSTOR AND EACH SUCCESSOR, HEIR OR ASSIGN OF TRUSTOR UNDERSTANDS THAT THE DETERMINATION OF THE AFFORDABLE HOUSING COST CAN BE MADE ONLY AT THE TIME OF THE PROPOSED TRANSFER, TAKING INTO CONSIDERATION INTEREST RATES, THE TERMS OF SALE OFFERED TO AND THE ECONOMIC CIRCUMSTANCES OF THE PROPOSED PURCHASER AND OTHER FACTORS THAT CANNOT BE ACCURATELY PREDICTED, AND THAT THE TRANSFER PRICE PERMITTED HEREUNDER MAY BE LESS THAN THE FAIR MARKET VALUE OF THE PROPERTY AND MAY NOT INCREASE OR DECREASE IN THE SAME MANNER AS OTHER SIMILAR REAL PROPERTY WHICH IS NOT ENCUMBERED BY THIS RESTRICTION. TRUSTOR AND EACH SUCCESSOR, HEIR OR ASSIGN OF TRUSTOR FURTHER ACKNOWLEDGES THAT AT ALL TIMES IN SETTING THE TRANSFER PRICE THE PRIMARY OBJECTIVE OF THE BENEFICIARY AND THIS DEED OF TRUST IS TO PROVIDE HOUSING TO ELIGIBLE PERSONS OR FAMILIES AT AN AFFORDABLE HOUSING COST.

Trustor Initials

Trustor Initials

(e) The City of Huntington Beach may impose any conditions on the approval of any transfer of the Property as it determines are reasonably necessary for the effective administration of its Affordable Housing Program. Such conditions may include, but are not limited to, requiring the prospective purchaser to sign: (i) a promissory note in favor of the City by which he or she agrees to pay any excess proceeds of sale or in excess rental proceeds to the City, and (ii) a deed of trust on the Property securing both the Resale Restrictions and the promissory note.

(f) The Trustor shall occupy the Property as the Trustor's principal place of residence and shall not lease or rent the Property. The Trustor shall provide an annual written certification to the City that the Trustor is occupying the Property as his or her principal place of residence, and that the Trustor is not renting the Property to another party.

(g) The Resale Restrictions shall run with the land and shall automatically terminate and be of no further force or effect on _____, 20__.

2. Defaults.

(a) The following events shall constitute a Default by the Trustor under the Resale Restrictions:

(1) The City determines that the Trustor has made a misrepresentation to obtain the benefits of purchase of the Property or in connection with its obligations under the Resale Restrictions;

(2) The Trustor fails to occupy the Property as his or her principal place of residence as required pursuant to Section 1(f) above, and such failure continues following written notice by the City and sixty (60) days opportunity to cure following the date of such notice;

(3) The Trustor rents the Property in violation of Section 1(f) above, and such failure continues following written notice by the City and sixty (60) days opportunity to cure;

(4) The Trustor fails to provide information to the City necessary to determine Trustor's compliance with the requirements of the Resale Restrictions;

(5) The Trustor transfers the Property in violation of the Resale Restrictions;

(6) The Trustor otherwise fails to comply with the requirements of the Resale Restrictions, and such violation is not corrected to the satisfaction of the City within thirty (30) days after the date of written notice by the City to the Trustor of such violation;

(7) A notice of default is issued under the First Mortgage Loan or other financing secured by the Property;

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

(9) Trustor places a mortgage on the Property in violation of Section 9 below; or

(10) Trustor declares bankruptcy or makes an assignment of assets for the benefit of creditors.

(b) Upon a declaration of Default by the City under the Resale Restrictions, the City may exercise any remedies at law or in equity, including without limitation, any or all of the following, none of which shall be an exclusive remedy:

(1) Declare the City Note due and payable without further demand and accelerate payments due under the City Note;

(2) Invoke the power of sale under this Deed of Trust;

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

(4) Take such enforcement action as is authorized under the Huntington Beach Municipal Code; and

(5) Declare a Default under the City Note and this Deed of Trust and pursue all City remedies under the City Note and the City Deed of Trust.

3. Notice of Default and Foreclosure.

A request for notice of default and any notice of sale under any deed of trust or mortgage with power of sale encumbering the Property shall be recorded by the City in the Office of the Recorder of the County of Orange. The City may declare a Default under this Resale Agreement upon receipt of any notice given to the City pursuant to Civil Code section 2924b, and may exercise its rights as provided in Sections 2 and 4.

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

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

4. Purchase Option Upon Default.

Notwithstanding, and in addition to the remedies provided the City in Section 2, the Trustor hereby grants to the City the option to purchase the Property following written notice by the City to the Trustor of the declaration of a Default by the City under the Resale Restrictions. This option to purchase is given in consideration of the economic benefits received by the Trustor resulting from ownership of the Property made possible by the City's Affordable Housing Program.

The City shall have thirty (30) days after a Default is declared to notify the Trustor and the First Lender of its decision to exercise its option to purchase under this Section 4. Not later than ninety (90) days after the notice is given by the City to the Trustor of the City's intent to exercise its option under this Section 4, the City shall purchase the Property for the Affordable Housing Cost calculated in the manner set forth in Section 1.

5. Restrictions on Foreclosure Proceeds.

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

6. Restrictions on Insurance Proceeds.

If the Property is damaged or destroyed and the Trustor elects not to rebuild the Property, the Trustor shall pay the City the portion of any insurance proceeds received by the Trustor for such destruction or damage which is in excess of the Affordable Housing Cost calculated pursuant to Section 2 above.

7. Superiority of Resale Restrictions.

The Trustor covenants that he or she shall has not, and will not, execute any other agreement with provisions contradictory to or in opposition to the provisions hereon, and that, in any event, the Resale Restrictions are controlling as to the rights and obligations between and among the Trustor, the City and their respective successors.

8. Subordination.

(a) Notwithstanding any provision herein, the Resale Restrictions shall not diminish or affect the rights of the First Lender under the First Lender Deed of Trust or any subsequent First Lender Deeds of trust hereafter recorded against the Property in compliance with the Resale Restrictions.

(b) The City may subordinate the Resale Restrictions and this Deed of Trust to the lien of a First Lender Deed of Trust, in which case the Resale Restrictions and this Deed of Trust shall not impair the rights of the First Lender, or such lender's assignee or successor in interest, to exercise its remedies under the First Lender Deed of Trust by the Trustor. Such remedies under the First Lender Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, the Resale Restrictions and this Deed of Trust shall be forever terminated and shall have no further effect as to the Property or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquires title to the Property pursuant to a deed or assignment in lieu of foreclosure, the Resale Restrictions and this Deed of Trust shall automatically terminate upon such acquisition of title, only if (i) the City has been given written notice of default under such First Lender Deed of Trust with a sixty (60) day cure period, (ii) the City shall not have cured the default within such sixty (60) day period or commenced to cure and given its firm commitment to complete the cure

in form and substance acceptable to the first lender, or (iii) the City shall not have exercised its option to purchase the Property pursuant to Section 4 above within such sixty (60) day period and then proceeded diligently to cure the default within sixty (60) days of acquiring title to the Property.

9. Refinance of First Mortgage Loan; Further Encumbrance of Property.

Trustor may not refinance of the first mortgage on the Property and/or add a second mortgage on the Property without approval of the City. The City shall only approve refinancing in compliance with the Affordable Housing Regulations.

10. Interpretation of Resale Restrictions.

The terms of the Resale Restrictions shall be interpreted so as to avoid speculation on the Property and to ensure to the extent possible that its sales price and mortgage payments remain affordable to Moderate Income Households.

11. Covenants Running with the Land.

(a) Trustor hereby subjects the Property to the covenants and restrictions set forth in the Resale Restrictions. Trustor hereby declares its express intent that the covenants and restrictions set forth in the Resale Restrictions shall be deemed covenants running with the land in perpetuity, shall pass to, and be binding upon all parties having any interest in the Property throughout the term of the Resale Restrictions. Each and every contract, deed, lease or other instrument covering, conveying or otherwise transferring the Property or any interest therein, as the case may be, shall conclusively be held to have been executed, delivered and accepted subject to the Resale Restrictions regardless of whether the other party or parties to such contract have actual knowledge of such Resale Restrictions.

(b) The Trustor and the City hereby declare their understanding and intent that: (i) the covenants and restrictions contained in the Resale Restrictions shall be construed as covenants running with the land pursuant to California Civil Code section 1468 and not as conditions which might result in forfeiture of title by Trustor; (ii) the burden of the covenants and restrictions set forth in the Resale Restrictions touch and concern the Property in that the Trustor's legal interest in the Property may be rendered less valuable thereby; and (iii) the benefit of the covenants and restrictions set forth in the Resale Restrictions touch and concern the land by enhancing and increasing the enjoyment and use of the Property by eligible purchasers, the intended beneficiaries of such covenants and restrictions.

(c) All covenants and restrictions contained herein in the Resale Restrictions without regard to technical classification or designation shall be binding upon Trustor for the benefit of the City and eligible purchasers and such covenants and restrictions shall run in favor of such parties for the entire period during which such covenants and restrictions shall be in force and effect, without regard to whether the City is the owner of any land or interest therein to which such covenants and restrictions relate.

12. Trustor's Acknowledgement of Resale Restrictions.

Trustor hereby acknowledges and agrees that:

(1) Trustor hereby subjects the Property to certain restrictions and limits the price for which Trustor may sell the Property and the persons to whom Trustor may sell the Property. The Affordable Housing Cost and other provisions contained in the Resale Restrictions restrict the full benefits of owning the Property. Trustor may not enjoy the same economic or other benefits from owning the Property that Trustor would enjoy if the Resale Restrictions did not exist.

(2) Absent the provisions of the Inclusionary Ordinance and the provisions of the Resale Restrictions, the Property could not be made available to Moderate Income Households at the Affordable Housing Cost, including Trustor.

(3) Trustor understands all of the provisions of the Resale Restrictions. In recognition of the acknowledgments and agreements stated in this Section 12, Trustor accepts and agrees to the provisions of the Resale Restrictions with the understanding that upon the transfer of the Property, the Resale Restrictions will expire on _____, 20____, and will remain in full force and effect as to the Property until such expiration date.

Trustor Initials

Trustor Initials

13. Non-Discrimination.

(a) Trustor covenants by and for itself, its successors and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the said property, nor shall Trustor 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, sublessees, or vendees in the Property.

(b) Trustor and its successors and assigns, shall refrain from restricting the rental or lease (if permitted by Trustor) or sale of the Property on the basis of race, color, religion, sex, marital status, national origin or ancestry of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(1) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or

segregation of, any person or group of persons on account of race, color, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself or herself or any person claiming under or through him or her, 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, sublessee or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(2) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"There shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, sex, marital status, ancestry or national origin in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under to through him or her, 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, sublessees, subtenants or vendees in the premises herein leased."

(3) In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, religion, sex, marital status, ancestry or national origin, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, 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, sublessee or vendees of the premises."

(c) Nothing in this Section 13 shall be construed to authorize the rental or lease of the Property if such rental or lease is not otherwise permitted.

(d) The covenants in this paragraph shall run with the land in perpetuity.

14. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Deed of Trust shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust or security interest.

15. Trustor has made certain representations and disclosures as a requirement under the Resale Restrictions in order to induce Beneficiary to approve the sale of the Property to Trustor. In the event that Trustor has made any material misrepresentation or failed to disclose any material fact regarding said transaction, Beneficiary at its option and without notice, shall have the right to declare a material breach of the Resale Restrictions and the Note. Beneficiary may make a written declaration of default and demand for sale as to paragraph No. 6 herein set forth. Trustee, upon presentation to it of an affidavit signed by Beneficiary setting forth facts showing a default by Trustor under this paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

16. All covenants without regard to technical classification or designation shall be binding for the benefit of the Beneficiary and such covenants shall run in favor of the Beneficiary for the entire period during which some covenants shall be in force and effect, without regard to whether the Beneficiary is or remains an owner of any land or interest therein to which such right to exercise all the rights and remedies and to maintain any action at law or suits in equity or other proper legal proceedings to enforce and to cure such breach to which it or any other beneficiaries of those covenants against discrimination which may be enforced at law or in equity at any time in perpetuity.

17. Upon default by Trustor in the obligations of the City Note, in the performance of any obligation under this Deed of Trust, the Resale Restrictions, or under the terms of any First Lender's Deed of Trust which is or appears to be prior or superior to this Deed of Trust, Beneficiary may declare all sums secured by this Deed of Trust immediately due and payable by delivering to Trustee of a written declaration of default and demand for sale and a written notice of default and election to sell the Property. Default in the payment of any indebtedness secured by this Deed of Trust, in the obligation of the Note, or in the performance of any agreement under this Deed of Trust constitutes a default only under this Deed of Trust and the Note and does not constitute a default under the First Deed of Trust. Trustee shall cause the notice of default to be recorded. Beneficiary also shall deposit with Trustee this Deed of Trust, the Note, and all documents evidencing any additional expenditures secured by this Deed of Trust. After the lapse of such time as then may be required by law following recordation of such notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell the Property at the time and place fixed by it in such notice of sale, whether as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder qualified under said Resale Restrictions and this Deed of Trust in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its Deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recital in such Deed of any matters of fact shall be conclusive of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale. Trustee may also sell at any such sale and as part thereof any shares of corporate

stock securing the obligations secured hereby, and Trustor waives demand and notice of such sale. (Beneficiary at its option may also foreclose on such shares by independent pledge sale, and Trustor waives demand and notice of such sale.) After deducting all costs, fees and expenses of Trustee, and of this Trust, including cost of evidence of title in connection with this sale, Trustee shall apply the proceeds of sale to payment, first; all sums expended under the terms hereof, not then repaid, with accrued interest at the rate then payable under the First Lender Deed of Trust secured hereby, and then of all other sums secured hereby, and, if there are any proceeds remaining, shall distribute them to the person or persons legally entitled thereto.

18. Trustor shall keep the Property in good condition and repair; to allow Beneficiary or its representatives to enter and inspect the Property at all reasonable times and access thereto, shall be permitted for that purpose; not to remove or demolish any building thereon; not to make alterations thereto without the consent of the Beneficiary; to suffer or permit no change in the general nature of the occupancy of the Property without Beneficiary's written consent; to complete or restore promptly and in good workmanlike manner any building which may be constructed, damaged or destroyed thereon, including, without restricting the generality of the foregoing, damage from termites and dry-rot; to pay when due all claims for labor performed and materials furnished in connection with the Property and not to permit any mechanic's lien against the Property; to comply with all laws affecting the Property or requiring any alterations or improvements to be made thereon; not to initiate or acquiesce in any zoning reclassification without Beneficiary's written consent; not to commit or permit waste thereon; not to commit, suffer or permit any act upon the Property in violation of the law; to paint, cultivate, irrigate, fertilize, fumigate, prune, and do all other acts that from the character or use of the Property may be reasonably necessary; and to promptly pay all amounts due others upon agreements of lease or conditional sale of all fixtures, furnishings and equipment located thereon.

19. Trustor shall provide, and maintain in force at all times with respect to the Property, fire and other types of insurance as may be required by Beneficiary. All of such insurance shall have a loss payable endorsement in favor of Beneficiary, shall be for a term and in form, content, amount and in such companies as may be satisfactory to Beneficiary, and the policies therefore shall be delivered to and remain in possession of Beneficiary as further security for the faithful performance of these trusts. At least thirty (30) days prior to the expiration of any such insurance policy, a policy or policies renewing or extending such expiring insurance shall be delivered to Beneficiary together with written evidence showing payment of the premium therefore and, in the event any such insurance policy and evidence of the payment of the premium therefore are not so delivered by Trustor to Beneficiary, Trustor by executing this Deed of Trust specifically requests Beneficiary to obtain such insurance and Beneficiary, without obligation to do so, without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may obtain such insurance through or from any insurance agency or company acceptable to it, pay the premium thereof, and may add the amount thereof to the indebtedness secured hereby, which amount shall bear a like rate of interest. Beneficiary may furnish to any insurance agency or company, or any other person, any

information contained in or extracted from any insurance policy delivered to Beneficiary pursuant hereto and any information concerning the loan secured hereby. Neither Trustee nor Beneficiary shall be responsible for such insurance or for the collection of any insurance monies, or for any insolvency of any insurer or insurance underwriter. In case of insurance loss, Beneficiary is hereby authorized either (a) to settle and adjust any claim under the insurance policies provided for in this document without the consent of the Trustor, or (b) to allow Trustor to agree with the insurance company or companies on the amount to be paid upon the loss. In either case, the Beneficiary is authorized to collect and make receipt of any such insurance money. If Trustor is obligated to restore or replace the damaged or destroyed buildings or improvements under the terms of any lease or leases which are or may be prior to the lien of this Deed of Trust and such damage or destruction does not result in cancellation or termination of such lease, such proceeds, after deducting therefrom any expenses incurred in the collection thereof, shall be used to reimburse the Trustor for the cost of rebuilding or restoring the buildings or improvements on said premises. In all other cases, such insurance proceeds shall either be applied for the cost of the rebuilding or restoring the buildings or improvements on said premises. Such buildings and improvements shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to the damage or destruction, and shall be in a condition satisfactory to Beneficiary. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. Any and all unexpired insurance shall inure to the benefit of, and pass to the purchaser of, the property conveyed at any Trustee sale held hereunder.

20. Trustor shall pay: (a) at least ten (10) days before delinquency, all general and special City and County taxes, and all assessments on appurtenant water stock, affecting the Property, (b) when done, all special assessments for public improvements, without permitting any improvement bond to issue for any special assessment, (c) when done, all encumbrances, charges and lines, with interest, on the Property, or any part thereof, which are or appears to be prior to superior hereto, (d) if the security of this Deed of Trust is leasehold estate, to make any payment or do any act required of the Lessee or its successor in interest under the terms of the instrument or instruments creating said leasehold, (e) all costs, fees and expenses of this trust, (f) for any statement regarding the obligation secured hereby any amount demanded by Beneficiary not to exceed the maximum allowed by law thereof at the time when such request is made, (g) such other charges for services rendered by Beneficiary and furnished at Trustor's request or that of any successor in interest to Trustor as the Beneficiary may deem reasonable.

21. Should Trustor fail to make any payment or do any act as provided in this Deed of Trust, the Beneficiary or Trustee, but without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may (a) make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes, (b) commence, appear in, or defend any action or proceeding purporting to affect the security hereof or the property covered by

this Deed of Trust, or the rights or powers of Beneficiary or Trustee, (c) pay, purchase, contest or compromise any encumbrance, charge or lien, which in the judgment of either is or appears to be prior or superior hereto, and (d) in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees. Trustor agrees to repay any amount so expended on demand of Beneficiary, and any amount so expended may be added by Beneficiary to the indebtedness secured hereby and shall bear a like rate of interest.

22. Trustor shall appear in and defend any action or proceeding purporting to affect the security hereof or the Property which is covered by this Deed of Trust, or the rights or powers of Beneficiary or Trustee, and whether or not Trustor so appears or defends, to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear by virtue of being made a party defendant or otherwise irrespective of whether the interest of Beneficiary or Trustee in the Property is directly questioned by such action, including any action for the condemnation or partition of said premises, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

23. Trustor shall pay immediately and without demand, all sums expended under the terms of this Deed of Trust by Beneficiary or Trustee, with interest from the date of expenditure at the rate which the principal obligation secured hereby bears at the time such payment is made, and the repayment of such sums shall be secured hereby.

24. Should Trustor or any successor in interest to Trustor in the Property drill or extract, or enter into a lease for drilling or extraction of oil, gas or other hydrocarbon substances or any mineral of any kind or character, or sell, convey, further encumber, or alienate the Property, or any part thereof, or any interest therein, or be divested of his title or any interest therein in any manner or way, whether voluntarily or involuntarily, Beneficiary shall have the right, at its option, to declare any obligations secured hereby irrespective of the maturity date specified in any Note evidencing the same, immediately due and payable, and no waiver of this right shall be effective unless in writing.

25. Any award, settlement or damages for injury or damages to the Property, or in connection with the transaction financed by such loan, and any award of damages in connection with any condemnation for public use of or injury to the Property, or any part thereof, is hereby assigned and shall be paid to Beneficiary, who may apply or release such monies received by it in such manner and with the same effect as above provided for the disposition of proceeds of fire or other insurance.

26. By accepting payment of any sums secured by this Deed of Trust after its due date, or by making any payment, performing any act on behalf of Trustor, that Trustor was obligated hereunder, but failed, to make, or perform, or by adding any payment so made by Beneficiary to the indebtedness secured hereby, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare a default for failure so to pay.

27. At any time, or from time to time, without liability of the Beneficiary or Trustee thereof, and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note secured hereby for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, or the lien of the Deed of Trust upon the remainder of the Property for the full amount of the indebtedness then or thereafter secured hereby, or the rights or powers of Beneficiary or the Trustee with respect to the remainder of the Property, Trustee may: (a) reconvey any part of the Property, (b) consent to the making of any map or plat thereof, (c) join in granting any easement thereon, (d) join in any agreement subordinating the lien or charge hereof.

28. The lien hereof shall remain in full force and effect during any postponement or extension of time of payment of the indebtedness secured hereby, or any part thereof.

29. As additional security, Trustor irrevocably assigns to Beneficiary the rents, issues, and profits of the Property for the purposes and upon the terms and conditions set forth below. This assignment shall not impose upon Beneficiary any duty to produce rents from the property affected by this Deed of Trust, or cause Beneficiary to be (a) "mortgages in possession" for any purpose; (b) responsible for performing any of the obligations of the lessor under any lease; or (c) responsible for any waste committed by lessees or any other parties, for any dangerous or defective condition of the property affected by this Deed of Trust, or for any negligence in the management, upkeep, or control of such rights to rents, issues and profits is not contingent upon, and may be exercised without possession of, the property affected by this Deed of Trust.

Beneficiary confers upon Trustor a license ("License") to collect and retain the rents, issues and profits of the property affected by this Deed of Trust as they become due and payable, until the occurrence of a default hereunder. Upon such default, the License shall be automatically revoked and Beneficiary may collect and retain the rents, issues and profits without notice and without taking possession of the property affected by this Deed of Trust. This right to collect rents, issues and profits shall not grant to Beneficiary or Trustee the right to possession, except as otherwise provided herein; and neither said right, nor termination of the License, shall impose upon Beneficiary or Trustee the duty to produce rents, issues or profits or maintain all or any part of the Property affected by this Trust Deed. If Trustor shall default as aforesaid, Trustor's right to collect any such money shall cease and Beneficiary shall have the right, with or without taking possession of the property affected hereby, to collect all rents, issues, royalties and profits and shall be authorized to, and may, without notice and irrespective of whether declaration of default has been delivered to Trustee and without regard to the adequacy of the security for the indebtedness secured hereby, either personally or by attorney or agent without bringing any action or proceeding, or by receiver to be appointed by the Court, enter into possession and hold, occupy, possess and enjoy the Property, make, cancel, enforce and modify leases, obtain and eject tenants, and set and modify rents and terms of rents, and to sue, and to take, receive and collect all or any

part of the said rents, issues, and profits of the property affected hereby, and after paying such costs of maintenance, operation of the Property, and of collection including reasonable attorneys' fees, as in its judgment it may deem proper, to apply the balance upon any indebtedness then secured hereby, the rents, issues, royalties and profits of the Property being hereby assigned to Beneficiary for said purposes. The acceptance of such rents, issues, royalties and profits shall not constitute a waiver of any other right which Trustee or Beneficiary may enjoy under this Deed of Trust or under the laws of California. Failure of or discontinuance by Beneficiary at any time, or from time to time, to collect any such rents, issues, royalties or profits shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power and authority to collect the same. The receipt and application by said Beneficiary of all such rents, issues, royalties and profits pursuant hereto, after execution and delivery of declaration of default and demand for sale as hereinafter provided, or during the pendency of Trustee's sale proceedings hereunder, shall not cure such breach or default nor affect sale proceedings, or any sale made pursuant thereto, but such rents, issues, royalties and profits, less all costs of operation, maintenance, collection and reasonable attorneys' fees, when received by Beneficiary, shall be applied in reduction of the indebtedness secured hereby, from time to time, in such order as Beneficiary may determine. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, nor an assumption of liability under, nor subordination of the lien or charge of this Deed of Trust to, any such tenancy, lease or option.

30. If the security of this Deed of Trust is a leasehold estate, the Trustor agrees that: (a) the term "Lease" as used herein shall mean the lease creating the "leasehold estate" (b) Trustor shall not amend, change or modify his leasehold interest, or the Lease, or agree to do so, without the written consent of the Beneficiary; (c) Trustor will promptly advise Beneficiary regarding any notice, request or demand received by him from the lessor under the Lease and promptly furnish Beneficiary with a copy of any such notice, request or demand; (d) as long as any of the indebtedness secured hereby shall remain unpaid, unless the Beneficiary shall otherwise consent thereto in writing, the leasehold estate shall not merge with the fee title but shall always be kept separate and distinct, notwithstanding the union of said estates in any party; (e) Trustor agrees that it will promptly, strictly, and faithfully perform, fulfill, and comply with all covenants, agreements, terms, conditions and provisions under any lease affecting the premises and to neither do anything, nor to permit anything to be done which may cause modification or termination of any such lease or of the obligations of any lessee or person claiming through such lease or the rents provided for therein or the interest of the lessor or the Beneficiary therein or thereunder. Trustor further agrees he will not execute a Deed of Trust or mortgage which may be or become superior to any leasehold estate that is security for this Deed of Trust. In the event of a violation of any of the covenants set forth in this paragraph, Beneficiary shall have the right, at its option, to declare all sums secured hereby immediately due and payable. Consent to or waiver of one of said violations shall not be deemed to be a consent to or waiver of any other violation. If the security for this Deed of Trust is a leasehold estate, the term "property" as used in this

Deed of Trust shall be deemed to mean the leasehold estate whenever the context so requires for the protection of the Beneficiary.

31. Trustor waives, to the fullest extent permissible by law, the right to plead any statute of limitations as a defense to any demand secured hereby.

32. Beneficiary may, from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed and acknowledged by Beneficiary and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of property substitution of such successor Trustee or Trustees, who shall, without conveyances from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties, including but not limited to the power to reconvey the whole or any part of the property covered by this Deed of Trust. Such instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust is recorded. If notice of default shall have been recorded, this power of substitution cannot be exercised until after the costs, fees and expenses of the then acting Trustee shall have been paid to such Trustee, who shall endorse receipt thereof upon such instrument. The procedures herein provided for substitution of Trustee shall not be exclusive of other provisions for substitution provided by law.

33. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall mean the owner and holder, including pledgee, of the Note secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

34. That in the event of a demand for, and the preparation and delivery of a written statement regarding the obligations secured by this Deed of Trust pursuant to Sections 2943 and 2954 of the *Civil Code* of California, Beneficiary shall be entitled to make a reasonable charge, not exceeding the maximum amount which is permitted by law at the time the statement is furnished. Beneficiary may also charge Trustor a reasonable fee for any other services rendered to Trustor or rendered in Trustor's behalf in connection with the Property of this Deed of Trust, including changing Beneficiary's records, pertaining to this Deed of Trust in connection with the transfer of the Property, or releasing an existing policy of fire insurance or other casualty insurance held by Beneficiary and replacing the same with another such policy.

35. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

36. Any notice which any party hereto may desire or be required to give to the other party shall be in writing. The mailing thereof must be certified mail addressed to the Trustor at his address hereinabove set forth or to the Beneficiary at his office or at such other place as such parties hereto may designate in writing.

THE UNDERSIGNED TRUSTOR REQUESTS that a copy of any notice of default and of any notice of sale hereunder be mailed to him at his address hereinbefore set forth.

TRUSTOR

Dated: _____

By: _____

HOUSING AUTHORITY OF THE CITY OF
HUNTINGTON BEACH

Dated: _____

By: _____
Deputy Director of Community Development

CITY OF HUNTINGTON BEACH

Dated: _____

By: _____
Deputy Director of Community Development

APPROVED AS TO FORM:

By: _____
City Attorney *MJ*

EXHIBIT A
Legal Description

EXHIBIT D
TO AFFORDABLE HOUSING AGREEMENT
FOR 19070 HOLLY LANE, HUNTINGTON BEACH

(Affordable Housing Agreement Release Agreement)

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

City Clerk
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

This Unit Release is recorded at the request and for the benefit of the City of Huntington Beach and is exempt from the payment of a recording fee pursuant to Government Code Sections 6103 27383.

RELEASE OF AFFORDABLE HOUSING AGREEMENT

This RELEASE (the "Release") is being entered into by and between the CITY OF HUNTINGTON BEACH, a California municipal corporation (the "City"), and BONANNI DEVELOPMENT COMPANY IV, LLC, a limited liability company (the "Owner"). City and Owner are hereinafter sometimes referred to collectively as the "Parties" and individually as a "Party."

RECITALS:

A. City is a municipal corporation and charter city organized and existing pursuant to the Constitution and laws of the State of California.

B. Owner and/or its successors and assigns is the owner in fee of that certain real property located at 19070 Holly Lane, Huntington Beach, and more particularly described in the legal description attached hereto as Exhibit "A" (the "Property").

C. On or about _____, 2023, Owner and City entered into that certain Affordable Housing Agreement (the "Affordable Housing Agreement") relating to the Property, recorded on _____, 2023, as Instrument No. _____ of the Official Records for Orange County, California. Pursuant to the Agreement, Owner has developed the Property as an thirty-five (35) unit residential community to be subdivided as a condominium development ("Project"). Owner will build the Project in multiple phases and sell or rent individual units to individual homebuyers. Currently, as set forth in the Project approvals, Owner will sell the individual units in accordance with the terms and conditions of the Affordable Housing Agreement. If Owner later desires to rent all of the units, including market rate and affordable, Owner may make this request to City and an amendment to the Affordable Housing Agreement will be prepared to incorporate all of the additional required rental provisions.

D. Further, the Owner agreed to include in the Project five (5) units that will be sold or rented at an Affordable Housing Cost to Moderate Income Households if ownership units and Low Income Households if rental units, consisting of three (3), two-

bedroom units, and two (2), three-bedroom units, with the remaining units to be sold or rented at market prices.

E. Pursuant to the Affordable Housing Agreement, when the Owner has sold all of the Affordable Units on the Property pursuant to the terms and conditions of the Affordable Housing Agreement, Owner and City may execute and record or cause to be executed and recorded for the benefit of Owner and/or its successors and assigns this Release, whereupon the Property would be released from the terms and conditions of the Affordable Housing Agreement.

COVENANTS:

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, Owner and City agree as follows:

1. From and after the date that this Release is recorded, the Property shall be released from, not be burdened by any of the provisions of the Affordable Housing Agreement.

2. Nothing in this Release terminates or releases, or shall be deemed or construed to terminate or release, the Affordable Housing Covenant recorded against each Affordable Unit owned in fee by a Qualified Purchaser or said Qualified Purchaser's successor in interest or assignee.

3. This Release shall not constitute evidence of compliance with or satisfaction of any obligation of Owner to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the construction or operation of work on Property, or any part thereof.

4. No later than ten (10) days after receipt by Owner of a conformed copy of the executed Release from the Orange County Recorder's Office, Owner shall deliver a copy of said conformed copy to City at the address identified in the Affordable Housing Agreement for delivery of notices.

IN WITNESS WHEREOF, City has executed this Release as of this ____ day of _____, _____.

CITY OF HUNTINGTON BEACH,
a California municipal corporation

By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:
OFFICE OF HUNTINGTON BEACH
CITY ATTORNEY

MICHAEL E. GATES, City Attorney *W*

Dated: _____, 20__

ATTACHMENT 1 TO UNIT RELEASE

LEGAL DESCRIPTION OF RELEASED UNIT(S)

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 ORANGE

)

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.

(Seal)

Notary Public

EXHIBIT E
TO AFFORDABLE HOUSING AGREEMENT
FOR 19070 HOLLY LANE, HUNTINGTON BEACH

(Unit Release Agreement)

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648
Attn: Director of Community Development

(Space Above For Recorder's Use)

UNIT RELEASE AGREEMENT

This Unit Release Agreement ("Release") is entered into as of _____, 202__, by and between the CITY OF HUNTINGTON BEACH, a California municipal corporation (the "City"), and BONANNI DEVELOPMENT COMPANY IV, LLC, a limited liability company (the "Owner") (City and Owner are hereinafter referred to collectively as the "Parties").

RECITALS

A. City and Owner have entered into a Affordable Housing Agreement for 19070 Holly Lane, Huntington Beach, dated _____, 2023 (the "Agreement"), which was recorded in the official records of Orange County on _____, 202__, as Document No. _____.

B. The Agreement requires Owner to develop a thirty-five unit condominium residential community (the "Project") on certain real property located at 19070 Holly Lane, Huntington Beach, California, as described in the Agreement (the "Property"). The Agreement requires that five condominium units in the Project (the "Affordable Units") be sold or rented at an Affordable Housing Cost to Moderate Income Households (as that term is defined in the Agreement). The other thirty condominium units in the Project may be sold or rented at a market rate purchase price without any maximum income requirements as to the purchasers (the "Market Rate Units").

C. The Agreement provides that City will sign and record a release of the Agreement as to the Market Rate Units, at the request of Owner.

D. In order to facilitate the sale of completed Market Rate Units to homebuyers, Owner has requested that the Agreement be released with respect to the following Market Rate Unit(s): _____ (the "Released Parcel(s)").

E. The Parties desire to memorialize the release of the Agreement from the Released Parcel(s).

NOW, THEREFORE, in consideration of the above recitals, which are incorporated herein by this reference, and of the mutual covenants hereinafter contained and for other good and valuable

consideration, the receipt and sufficiency of which is hereby acknowledged, City and Owner agree as follows:

1. Release. From and after the date that this Release is recorded, the Agreement is hereby released as to the Released Parcel(s), and no portion of the Released Parcel(s) shall thereafter be bound or burdened by the Agreement.

2. No Release of Remainder of Property. Nothing in this Release terminates or releases, or shall be deemed or construed to terminate or release, any portion of the Property or Project other than the Released Parcel from the Agreement, which shall remain in effect in accordance with its terms.

IN WITNESS WHEREOF, City and Owner have executed this Release as of the date set forth in the preamble above.

OWNER:

CITY:

BONANNI DEVELOPMENT COMPANY IV,
LLC, a limited liability company

CITY OF HUNTINGTON BEACH, a
California municipal corporation

By: _____

By: _____
City Manager

Its: Sole Member

ATTEST

APPROVED AS TO FORM:

City Clerk

City Attorney