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RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

County of Monterey
Housing and Community Development – Housing Office
1441 Schilling Place, 2nd Floor
Salinas, CA 93901
Attn: Housing Program Manager

No fee for recording pursuant to
Government Code Section 27383

(Space above for Recorder's Use)

INCLUSIONARY HOUSING AGREEMENT

(Master Developer – Inclusionary and Workforce I Units)

(Carmel Reserve LLC [September Ranch Subdivision Project PLN050001/PLN110173])

This INCLUSIONARY HOUSING AGREEMENT ("Agreement") is entered as of this ____ day of _____, 2020, by and between the COUNTY OF MONTEREY, a political subdivision of the State of California (the "County"), and Carmel Reserve LLC, a Delaware limited liability company (together with its successors and assigns, the "Developer"), with reference to the following facts:

A. At the time the application for this subdivision was deemed complete, the County adopted an Inclusionary Housing Ordinance (Ordinance #03419), codified at Monterey County Code Chapter 18.40, ("Chapter 18.40" or the "Ordinance"). The Ordinance required that 15% of all new residential units developed in the unincorporated portions of the County be affordable to moderate-income households, subject to certain exceptions. The Ordinance is administered by the County's Housing Office (the "Department").

B. Developer is the Owner or Agent for the Owner of certain real property in the County of Monterey, California more particularly described in Exhibit A, attached hereto, and incorporated herein by reference (the "Property"), which is a portion of APN 015-171-012.

C. For purposes of this Agreement, Developer applied for a Standard Subdivision known as "September Ranch Subdivision" (hereinafter referred to as the "Master Development") (File PLN050001/PLN110173). The Master Development will result in a total of 95 residential units. Under Chapter 18.40, Developer is required to execute this Agreement as a condition of approval prior to recordation of the Final Map for the Standard Subdivision. PLN050001/PLN110173 (the "Permit") for the Property was approved by the County on November 9, 2010 (Board of Supervisors Resolution No.10-312), and is attached hereto, and incorporated herein by reference as Exhibit C. Condition #48 of the Conditions of Approval required that the Developer execute this Inclusionary Housing Agreement in compliance with the County's Inclusionary Ordinance (#03419). Under Ordinance No. 3419 and Condition #48, the inclusionary obligation for the entire subdivision is calculated as follows: 95 units minus 0 commercial lots minus 0 existing units equals 95 new residential units times the Inclusionary Ordinance requirement that 15% of all new residential units be restricted to moderate-income households equals 15

inclusionary units. In addition to the inclusionary units, the Developer has agreed to construct seven (7) residential units that are to be restricted to Workforce I income households.

D. This Agreement is executed in conjunction with the recordation of the Final Map for PLN050001/PLN110173 for a total of 73 market-rate housing lots in the Master Development (the "Market-Rate Units"), 15 Moderate Income Inclusionary Units, 0 Low Income Inclusionary Units, 0 Very Low Income Inclusionary Units, and seven (7) Workforce I Income Units in the Master Development (the "Inclusionary Units and/or Workforce I Units").

E. September Ranch subdivision consists of two phases. The Developer has agreed to comply with the Inclusionary Obligation by constructing, or causing to be constructed on-site, and selling 15 Inclusionary-housing units to Moderate-Income Households (up to 120% of median income) and seven Workforce housing units to Workforce I Income Households (up to 150% of median income) under Condition #48 of the Conditions of Approval adopted for PLN050001/PLN110173. The 22 affordable housing lots will be created by the approval and recordation of a separate phase(s) of the subdivision as further described in this Agreement.

F. Developer is required by Chapter 18.40, Ordinance 3149, and Condition #48 of the Conditions of Approval for PLN050001/PLN170113 to enter an Inclusionary Housing Agreement with the content specified by those documents, on terms acceptable to the Housing Program Manager. This Agreement is an Inclusionary Housing Agreement pursuant to Section 18.40.100 of the Ordinance, and shall be executed and recorded against the Property prior to the recordation of the parcel map or the Final Map in the case of subdivision of the Property, or prior to issuance of building permits for the Property in the case of all other land use permits.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

SECTION 1. DEFINITIONS.

In addition to those terms defined in the Recitals to this Agreement, the following terms have the following meanings in this Agreement:

(a) "Administrative Manual" means the manual prepared pursuant to subsection 18.40110H of the Ordinance.

(b) "Affordable Housing Cost to Income Ratio" means average monthly housing payments, including mortgage loan principal and interest, any associated loan insurance fees, property taxes and assessments, an allowance for property maintenance and repairs established by the County based on the initial cost and size of the home, homeowners insurance, a reasonable allowance for utilities, land rent (if the home is on rented land) and homeowners association dues, if any, which during the first calendar year of a household's occupancy, are equal to or less than:

(i) For Low Income Inclusionary Units, 2.5% of annual household income calculated as 30% times 70% of Area Median Income, adjusted for household size and the number of bedrooms in the unit, and divided by 12;

(ii) For Moderate Income Inclusionary Units, 2.9% of annual household income calculated as 35% times 110% of Area Median Income, adjusted for household size and the number of bedrooms in the unit, and divided by 12;

(iii) For Workforce I Income Units, 2.9% of annual household income calculated as 35% times 150% of Area Median Income, adjusted for household size and the number of bedrooms in the unit, and divided by 12.

(iv) Adjustments for household sized based on the number of bedrooms in the unit and amounts utilized for utility allowances and other monthly housing cost factors, including assumed mortgage interest rates, loan insurance fees, maintenance and repair allowances, homeowners' insurance, property tax and assessment costs, and homeowners' association dues, shall be as provided by the County in the Administrative Manual.

(c) "Approval" means any planned unit development or planned community development approval, subdivision approval, use permit, building permit, or combined development permit for a residential development.

(d) "Eligible Buyer" means a Moderate-Income Household or Workforce I Income Household that has been determined by the County to be income and asset eligible to purchase an Inclusionary or Workforce I Unit.

(e) "First Approval" means the first Approval to occur with respect to the Master Development.

(f) "Homebuyer/County Deed of Trust" means the deed of trust in the form provided by the County, executed by each buyer of an Inclusionary or Workforce I Unit at the time of purchase of the Inclusionary or Workforce I Unit that secures the buyer's performance under the Resale Agreement and the Homebuyer/County Note.

(g) "Homebuyer/County Note" means the promissory note, in the form provided by the County, executed by each buyer of an Inclusionary or Workforce I Unit at the time of purchase of the Inclusionary or Workforce I Unit.

(h) "Inclusionary Unit Property" means the legal parcel(s) of land on which the Inclusionary Units and Workforce Units will be constructed together with any Inclusionary Units and Workforce Units and appurtenant improvements constructed on such land.

(i) "Master Development" means the entire 95-unit September Ranch subdivision that will be developed in several phases.

(j) "Maximum Initial Sales Price" means the purchase price for Inclusionary Units that are Affordable to Workforce I Income Households, and Moderate-Income Households, determined by the formula specified in the Administrative Manual for each income level.

(k) "Median Income" means the median household income as determined periodically by HUD for the Salinas Metropolitan Statistical Area and updated on an annual basis.

(l) "Moderate-Income Household" means a household with an annual income which does not exceed 120% of the Median Income, adjusted for household size, and with household assets that do not exceed the maximum asset limitation for purchasers of inclusionary units set forth in the Administrative Manual.

(m) "Moderate-Income-Inclusionary Unit" means an inclusionary unit reserved for occupancy by Moderate-Income Households at an Affordable price.

(n) "Referral List" shall mean the list of Eligible Buyers of the Inclusionary and/or Workforce I Units provided by the County to the Developer pursuant to Section 9 below.

(o) "Resale Restriction" means a Buyer's Occupancy and Resale Restriction Agreement in the form provided by the County, to be executed and recorded at the time of purchase by each buyer of an Inclusionary Unit.

(p) "Term of Affordability" means the length of time that Inclusionary Units must remain affordable. This Master Development was deemed complete July 13, 1995, and therefore

subject to Ordinance 3419, which required a 30-year term of affordability, renewed for a new 30-year term each time an Inclusionary Unit is transferred.

(q) “Trigger Event” means the issuance of any building permit listed in the Building Permit Phasing Plan as shown in Exhibit D, which requires the Developer to comply with the provision of Inclusionary and/or Workforce I Units before any subsequent building permits may be issued.

(r) “Workforce I Income Household” means a household with an annual income which does not exceed 150% of the Median Income, adjusted for household size, and with household assets which do not exceed the maximum asset limitation for purchasers of inclusionary units set forth in the Administrative Manual.

(s) “Workforce I Unit” means an inclusionary unit reserved for occupancy by a Workforce I Income Household at an affordable price.

SECTION 2. SATISFACTION OF INCLUSIONARY AND/OR WORKFORCE I HOUSING OBLIGATION AND CONDITIONS OF APPROVAL

(a) The Inclusionary Housing condition of the First Approval, the requirements of Chapter 18.40, Ordinance 3149, and the Conditions of Approval shall be satisfied with respect to the Property when the following conditions are met:

(i) Developer constructs or causes to be constructed the Inclusionary Units meeting the requirements of Sections 3 through 7 below, in compliance with the schedule set forth in Section 8 below and;

(ii) the Inclusionary Units are sold or leased to homebuyers or tenants in compliance with Sections 9 through 12 below.

(b) An amendment to this Agreement will be required to receive County approval for additional housing units on the Property above the requested total of 73 Market-Rate Units identified by Developer in the First Approval application, to make any changes to the Inclusionary and/or Workforce I Units as they are described in Sections 3 through 12 of this Agreement, or to otherwise change the terms of this Agreement.

SECTION 3. NUMBER OF INCLUSIONARY UNITS.

As a condition to the satisfaction of Owner’s inclusionary housing requirements for the Master Development, Developer shall construct, or cause to be constructed, fifteen (15) for-sale Moderate Income Inclusionary Units as specified in the project approval.

SECTION 4. NUMBER OF WORKFORCE I UNITS.

(a) As a condition to the satisfaction of Owner’s Workforce I requirements for the Master Development, Developer shall construct, or cause to be constructed, seven (7) Workforce I Income Inclusionary Units as specified in the project approval.

SECTION 5. LOCATION OF INCLUSIONARY AND WORKFORCE I UNITS.

(a) The Inclusionary Units and Workforce I Units shall be constructed on the Property on Parcel

F and Parcel G, as described in the subdivision map entitled September Ranch Phase I and recorded on the same date as this Agreement in the official records of Monterey County, California

- (b) The legal lots of record on which the Inclusionary and Workforce units will be constructed will be created by the approval and recordation of a separate phase(s) of the Project.
- (c) The legal parcels of land on which the Inclusionary Units will be constructed, together with any Inclusionary Units and appurtenant improvements constructed on such land, are referred to herein as the "Inclusionary Unit Property."

SECTION 6. APPEARANCE, SIZE AND BEDROOM COUNT.

The external appearance of all Inclusionary and/or Workforce I Units shall be compatible with the market-rate units. The natural landscape shall be sufficiently low in profile and scale to allow mature landscaping to effectively screen the structures from surrounding natural areas.

(a) The Inclusionary and/or Workforce I Units shall include a mix of two- and three- bedroom units, which shall adhere to the minimum square footage indicated in Exhibit B to this Agreement. The Developer agrees to provide at least five (5) three-bedroom units of its total 22-unit obligation under this Agreement.

SECTION 7. REQUIRED ENTITLEMENTS AND PHASING

The 22 legal lots of record on which the Inclusionary Units will be located will be created by way of the approval and recordation of a separate phase (or multiple phases) of the subdivision further subdividing Parcel F and Parcel G, as described in the subdivision map entitled September Ranch Phase I and recorded on the same date as this Agreement in the official records of Monterey County, California. In addition to obtaining approval of the phase(s) further subdividing Parcel F and Parcel G, the Developer shall also obtain Design Approval from the County for the units prior to construction. The entitlements described in this Section 7 must be obtained prior to issuance of building permits for the market rate units (per Condition #48). Construction of the first half of the inclusionary and workforce units (11 units) shall be completed prior to the issuance of the 12th building permit being issued for market rate units. Construction of the second half of the inclusionary and workforce units (22 total) shall be completed prior to the issuance of the 41st building permit being issued for market rate units (per Condition #36).

SECTION 8. SCHEDULE FOR DEVELOPING INCLUSIONARY AND WORKFORCE I UNITS.

- (a) Prior to recordation of the first Final Map, this Agreement shall be duly executed by the County and the Owner/Agent.
- (b) This Agreement shall be recorded against the Property immediately after the first Final Map.
- (c) If Developer contracts with an affordable housing developer to develop the Inclusionary Units, Developer shall enter into a development agreement for the units ("Affordable Housing Development Agreement"), which shall ensure that the terms of this Agreement are complied with.
 - (i) The Affordable Housing Development Agreement shall describe with particularity

the restrictions applicable to sale of the Inclusionary and Workforce I Units, and the record-keeping obligations for the marketing and sale of the units.

(d) Upon satisfying the applicable conditions stated in Section 8 (a)–(c) above, as well as satisfaction of all other requirements for issuance of building permits, building permits may be released subject to the Building Permit Phasing Plan set forth in Exhibit D of this Agreement.

SECTION 9. SALE BY DEVELOPER TO ELIGIBLE BUYERS.

(a) Following completion of construction and as called for in Exhibit D (Building Permit Phasing Plan), the Developer shall sell Moderate-Income-Inclusionary Units to Moderate-Income Households, and Workforce I Units to Workforce I Income Qualified Households, all at Affordable Purchase Prices as described in Section 10 below.

(b) 45 days before the anticipated date any Inclusionary or Workforce units will be scheduled for its final occupancy inspection and the building permit is signed off as complete, the Developer shall request from the County a list of people interested in purchasing an Inclusionary Home.

- (i) Within five days of receipt of the Developer's request, the County shall provide the names of at least five potential buyers per unit from its Inclusionary Housing Interest List;
- (ii) The Developer shall directly contact and work with the potential buyers the County provides, in the order provided;
- (iii) The Developer shall provide people appearing on the County's list of interested purchasers the first opportunity to purchase the Inclusionary Units.

(c) Developer shall conduct marketing efforts in both English and Spanish and shall sell all units in compliance with applicable state and federal fair housing laws and regulations.

(d) Developer may implement employee and geographic preferences in buyer selection, subject to compliance with applicable fair housing laws and regulations.

(e) Purchase contracts may only be entered into between Developer and buyers which have been income qualified first by the developer and then confirmed by the County to purchase the unit.

- (i) Upon execution of a Purchase Contract with an interested buyer, Developer shall forward copies of the Purchase Contract and the interested buyer's contact information to the County.
- (ii) The County will notify the Developer and the interested buyer of the eligibility determination.
- (iii) If the County determines the interested buyer is not income-qualified, the sale must be cancelled.

(f) Purchase contracts between Developer and interested buyers shall include requirements that buyers execute documents for the benefit of the County of Monterey, as described in Section 12 below. Under the Inclusionary Housing Ordinance, the Developer shall pay the County the Initial Sales Fee at the rate specified in the Inclusionary Manual per Inclusionary and Workforce I Unit to offset the County's cost of income qualifying interested buyers. The fee is due with the first Purchase Contract submitted to the County for each Inclusionary or Workforce I Unit.

SECTION 10. AFFORDABLE PURCHASE PRICE.

(a) The Moderate and Workforce I Units shall be sold to Eligible Buyers at prices that do not

exceed the Maximum Initial Sales Prices calculated by applying the formula set forth in Appendix F of the Administrative Manual.

(b) Maximum Initial Sales Prices for the Moderate and Workforce I Units, as of the date of this Agreement (subject to change annually when published income figures are updated by the California Department of Housing and Community Development) are shown in Exhibit E, attached hereto, and incorporated herein.

(c) Developer acknowledges and agrees that Maximum Initial Sales Prices are determined based on current income levels in the County, changes to which are published annually by the California Department of Housing and Community Development, the number of bedrooms in the Workforce Unit, and the County's determination of the allowance for homeowners' association dues, property taxes and assessments, and insurance costs.

(d) Developer agrees that the allowance for homeowners' association dues, property taxes and assessments and insurance costs shall be calculated by the County on an annual basis, in the exercise of its reasonable discretion, within ten days of the California Department of Housing and Community Development's publication of current income levels and the provision of information by the Developer necessary for the County to establish the allowance for homeowners' association dues, property taxes and assessments, and insurance costs.

(e) The County's calculation of Maximum Initial Sales Prices shall be determinative and binding upon Developer.

(f) The Developer shall contact the County for verification that it possesses the most current and accurate Maximum Initial Sales Prices prior to marketing any of the Moderate or Workforce Units.

(g) The Maximum Initial Sales Price established for each Moderate or Workforce Unit by the County shall be the absolute maximum price that the Developer may charge for a standard Moderate or Workforce Unit or may receive as compensation for a standard Moderate or Workforce Unit.

(h) The Developer may not charge or receive any additional amount for a standard Moderate or Workforce I Unit regardless of whether the additional amount is (i) paid through escrow or outside of escrow, (ii) paid prior to, after or as part of the purchase escrow, or (iii) paid in cash or in kind.

1. The County shall provide Developer with the Maximum Initial Sales Prices for the Moderate and Workforce I Units on an annual basis within ten days of publication of the updated Median Income by the California Department of Housing and Community Development. The Maximum Initial Sales Prices shall be determined by the Criteria for Determining Initial Sales Price as set forth in the Inclusionary Housing Administrative Manual in effect on the date the Developer applies for the building permit for each Moderate or Workforce I Unit.

SECTION 11. HOMEOWNER ASSOCIATION

- (a) Developer shall form a homeowners' association for the 22 Inclusionary/Workforce I Units located on Parcel F and Parcel G (the Inclusionary HOA).
- (b) The Inclusionary HOA shall exist independently from the homeowners' association established for the market rate units (the Market Rate HOA) in the Declaration of Covenants, Conditions and Restrictions for One Carmel (the Market Rate CC&Rs).
- (c) The Inclusionary HOA shall form and execute a Declaration of Covenants, Conditions, and Restrictions (the Inclusionary CC&Rs) prior to the first sale of any inclusionary unit. The Inclusionary CC&Rs shall provide that purchasing an inclusionary unit constitutes

the buyer's acceptance of both the Declaration's terms and of the buyer's membership in the Inclusionary HOA.

- (d) The Inclusionary HOA board of directors shall offer interest-free payment plans, for a duration of up to twelve (12) months, to Inclusionary Unit owners that are 1) delinquent on HOA assessments for three consecutive months; and 2) are unable to pay HOA assessments as they come due based on meeting specific criteria as described in this Section 11. These plans are intended to ensure that inclusionary owners can prevent foreclosure if they cannot pay HOA dues for a limited period due to significant income loss. All HOA dues must be paid, but this provision allows for limited forbearance of payment, if necessary.
- (e) To be eligible for the payment plan identified in subsection 11(e) above, an Inclusionary Owner must show that his or her inability to pay is the result of unemployment, a significant reduction in hours, or a serious, ongoing illness that results in significant loss in income resulting in an inability to pay HOA dues. An Inclusionary Owner payment-plan applicant must provide documentary proof of any such condition. For unemployment, the applicant must provide the Inclusionary HOA with verification that he or she is receiving unemployment benefits. To show a significant reduction in hours, an applicant must provide the Inclusionary HOA with both a letter from an employer and pay stubs demonstrating hour and pay reduction. For illness, the applicant must provide the Inclusionary HOA with a letter from a qualified physician attesting to a serious, ongoing illness, and that illness' effect on the applicant's ability to generate income.
- (f) An inclusionary Unit Owner receiving the initial twelve (12) month forbearance as described in Section 11(e) is eligible for a total of two (2) additional six (6) month forbearance periods upon a demonstration to both the Inclusionary HOA board of directors and the Market Rate board of directors that the owner still qualifies for the forbearance based on the criteria contained in this Section 11. The total forbearance period allowed by this section shall not exceed twenty-four (24) months.
- (g) The Inclusionary HOA shall be prohibited from conducting lien enforcement procedures on any Inclusionary Unit owners during the period that the payment plan is in place.
- (h) The County must be informed prior to the Market Rate HOA pursuing a lien to be imposed upon one of the Inclusionary/Workforce I Units
- (i) The Inclusionary HOA board of directors shall be comprised of a board that includes a minimum of two members from the Inclusionary units and at least one member from the Workforce I units.
- (j) To protect the continued affordability of the Inclusionary/Workforce I Units, Developer shall ensure that the Market Rate HOA will be responsible for the maintenance costs associated with the shared infrastructure and common areas used by both the Inclusionary/Workforce I Unit Property and the market-rate portion of the property. Thus, upon establishment of the Inclusionary HOA, Developer, the Market Rate HOA, and the Inclusionary HOA shall enter into a Joint Use Agreement for Shared Infrastructure (the Joint Use Agreement).
- (k) The Joint Use Agreement shall provide that the Market Rate HOA shall be responsible for the care, operation, management, maintenance, repair, and replacement of Inclusionary Property, including the Common Area, for both the Market Rate and

Inclusionary HOA. The Joint Use Agreement shall set forth a quarterly reimbursement schedule from the Inclusionary HOA to the Market Rate HOA for the Inclusionary HOA's share of such care, operation, management, maintenance, repair, and replacement of Inclusionary Property, including shared Common Area, ensuring that such share remain affordable to persons of "moderate income", as that term is defined in this Agreement. The Joint Use Agreement shall also provide a mechanism for resolving any disagreements relating to the maintenance of that shared infrastructure.

- (l) The Inclusionary Units shall be responsible for payment of any and all metered water and sewer charges associated with the Inclusionary development. Such charges do not include non-metered costs, including, but not limited to, the replacement of sewer lines or laterals.
- (m) The Inclusionary HOA shall not pay any assessment fees required under the Market Rate CC&Rs. The Inclusionary HOA will be assessed fees strictly related to the Inclusionary/Workforce I Units.

SECTION 12. HOMEBUYER DOCUMENTS AND SECURITY INSTRUMENTS.

Prior to the sale of each Inclusionary and/or Workforce I Unit, Developer shall ensure that:

- (a) The Eligible Buyer and the County execute a Resale Restriction.
 - (i) The Resale Restriction shall be recorded against the Inclusionary Unit Property at close of escrow on the Sale to the Eligible Buyer.
 - (ii) The Resale Restriction shall be recorded senior to all other liens.
 - (iii) The Resale Restriction for all Inclusionary Units shall note that the Unit shall remain affordable for 30 years from the date of first occupancy and that the affordability period will restart if the unit is sold during the 30-year term of affordability.
 - (iv) The Resale Restriction for all Workforce I Units shall include a provision that the Unit shall remain affordable for 30 years from the date of first occupancy and that the affordability period will restart if the unit is sold during the 30-year term of affordability.
- (b) The Eligible Buyer signs a Homebuyer/County Note that obligates the Eligible Buyer to pay the County any excess sales proceeds or excess rents received by the Eligible Buyer, if the Eligible Buyer fails to comply with the Resale Restriction on rental or resale of the Inclusionary or Workforce I Unit.
- (c) The Eligible Buyer signs a Homebuyer/County Deed of Trust to secure performance of the Buyer's covenants under the Resale Restriction and payment of the amounts due under the Homebuyer/County Note if the Eligible Buyer fails to comply with the terms of the Resale Restriction.
 - (i) The Homebuyer/County Deed of Trust shall be recorded against the Inclusionary or Workforce I Unit subordinate only to the Resale Restrictions and the lien for the first mortgage loan obtained by the homebuyer to finance the purchase of the Inclusionary or Workforce I Unit (and second mortgage loan if such loan is provided by a public agency which requires such subordination).

SECTION 13. COUNTY APPROVAL OF DOCUMENTS.

The following documents, to be approved in writing by the County, shall be used in connection with the development and sale of the Inclusionary or Workforce I Units shall be required prior to the

issuance of building permits for the Inclusionary or Workforce I Units.

(a) A management and marketing plan consistent with the terms of this Agreement and County marketing requirements as established in the Administrative Manual.

(b) A schedule of Maximum Initial Sales Prices for the Inclusionary Units, subject to adjustment to reflect published changes in County income levels and County administrative procedures (to be prepared by the County, following Owner's request).

(c) Form of Purchase and Sale Agreements for sale of the Inclusionary or Workforce I Units (to be prepared by Developer and submitted to the County).

(d) Form of Resale Restriction, Homebuyer/County promissory note, and Homebuyer/County Deed of Trust (to be prepared by the County, following Owner's request).

(e) The preliminary Department of Real Estate public report for the Inclusionary and Workforce I Units, if any (to be obtained by the Developer and submitted to the County).

SECTION 14. COMPLIANCE REPORTS, INSPECTIONS, MONITORING.

(a) Following completion of construction of any of the Inclusionary or Workforce I Units, a Compliance Report meeting the requirements of the Administrative Manual, verifying compliance by Developer with the terms of this Agreement, and certified as correct by the Developer under penalty of perjury, shall be submitted monthly to the County on the first calendar day of each month, commencing 30 days from the date of issuance of a final certificate of occupancy for the first Inclusionary Unit to be completed and continuing until all Inclusionary Units have been sold to Eligible Buyers or Eligible Tenants.

(b) Developer shall retain all records related to compliance with obligations under this Agreement and Chapter 18.40 for a period not less than five years from the date of sale of all Inclusionary Units and make them available to County employees or others designated by the County for inspection and copying on five business days' written notice.

(c) Developer shall permit County employees or others designated by the County to inspect the Property to monitor compliance with this Agreement following two business days' written notice to Owner/Agent.

(d) The County shall be further entitled to monitor compliance with this Agreement and Chapter 18.40 as provided in the Administrative Manual. The Developer shall cooperate fully in such monitoring.

SECTION 15. RELEASE OF PROPERTY FROM AGREEMENT.

(a) The covenants and conditions herein contained shall apply to and bind, during their respective periods of fee ownership, Developer and its heirs, executors, administrators, successors, transferees, and assignees having or acquiring any right, title, or interest in or to any part of the Property and shall run with and burden such portions of the Property until terminated in accordance with this Section 15.

(b) Until portions of the Property are released from the burdens of this Agreement pursuant to this Section 15, the owners of fee title to the Property shall expressly make the conditions and covenants contained in this Agreement a part of any deed or other instrument conveying any interest in such property.

(c) Upon issuance of final certificates of occupancy for 100% of the Inclusionary and Workforce I Units, the Property, except for the Inclusionary and Workforce I Unit Properties, shall be released

from the burdens of this Agreement.

(d) As Inclusionary and/or Workforce I Units are sold to Eligible Buyers in compliance with this Agreement and Resale Restrictions and Homebuyer/County Deeds of Trust are recorded against the Inclusionary and Workforce I Units, the Developer shall be released from the burdens of this Agreement for the Inclusionary or Workforce I Unit Properties sold to Eligible Buyers.

SECTION 16. DEFAULT AND REMEDIES.

The County will notify the Developer of any default in its obligations under this Agreement. The Developer will have 90 days after the County's notice is delivered to cure. Failure of the Developer to cure will also constitute a failure to satisfy the conditions of Approval with respect to the Property and the requirements of the Ordinance. In addition to remedies for breach of this Agreement, the County may exercise any remedies available to it under the Subdivision Map Act, Chapter 18.40, or otherwise, including but not limited to:

(a) withholding, conditioning, suspending, or revoking any permit license, subdivision approval or map, or other entitlement for the Master Development, including without limitation, final inspections for occupancy and/or certificates of occupancy;

(b) instituting against the Developer, or other parties, a civil action for declaratory relief, injunction or any other equitable relief, or relief at law, including, without limitation, an action to rescind a transaction and/or to require repayment of any funds received in connection with such a violation;

(c) where one or more persons have received financial benefit as a result of violation of this Agreement or of any requirement imposed under Chapter 18.40, instituting legal action to recover, as necessary, a penalty in any amount up to and including the amount of financial benefit received, in addition to recovery of the benefit received;

(d) prosecuting a misdemeanor against any person who has sold a residential unit at a price exceeding the maximum allowed under this Agreement or to a household not qualified under this Agreement, or who has otherwise violated Chapter 18.40, or any other agreement restriction or requirement authorized or imposed under Chapter 18.40; or

(e) any other means authorized under the Monterey County Code.

SECTION 17. REMEDIES CUMULATIVE.

(a) No right, power, or remedy given to the County by the terms of this Agreement or Chapter 18.40 is intended to be exclusive of any other right, power, or remedy. Each and every such right, power, or remedy as against the Developer or any other person shall be cumulative.

(b) Neither the failure nor any delay on the part of the County to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the County of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

SECTION 18. ATTORNEY'S FEES AND COSTS.

In addition to any remedy otherwise available under this Agreement or at law or equity, the County shall be entitled to receive from the Developer, or any person violating this Agreement, the costs of enforcing this Agreement, including, without limitation reasonable attorneys' fees, court costs, and

the costs of County staff time. Should Developer prevail in any legal action or proceeding between the Parties regarding this Agreement, Developer shall be entitled to reasonable attorney's fees, court costs and litigation expenses, as determined by the court.

SECTION 19. APPOINTMENT OF OTHER AGENCIES.

At its sole discretion, the County may designate, appoint, or contract with any other public agency, for-profit or nonprofit organization to perform some or all the County's obligations under this Agreement.

SECTION 20. HOLD HARMLESS.

(a) Developer will indemnify and hold harmless (without limit as to amount) County and its elected officials, officers, employees, and agents in their official capacity (collectively, the "Indemnities"), and any of them, from and against all loss, risk of loss, damage, and expense sustained or incurred because of, or by reason of, any and all claims, demands, suits, actions, judgments, and executions for damages of any kind, by whomever and whenever made or obtained, allegedly caused by, arising out of, or relating in any manner to Owner's performance or non-performance under this Agreement. Additionally, Developer shall protect and defend Indemnitees, and any of them with respect thereto, except to the extent arising from the sole negligence or willful misconduct of the County.

(b) The provisions of this section shall survive expiration or other termination of this Agreement or any release of part or all the Property from the burdens of this Agreement and the provisions of this section shall remain in full force and effect.

SECTION 21. NOTICES.

(a) All notices required by this Agreement shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the party to receive such notice at the addressed set forth below:

TO THE COUNTY:
County of Monterey
Housing and Community Development
1441 Schilling Place, 2nd Floor
Salinas, CA 93901
Attn: Housing Program Manager

With a copy to:

County of Monterey
Office of County Counsel
168 W. Alisal Street, 3rd Floor,
Salinas, CA 93901

TO THE OWNER:
Carmel Reserve LLC
1625 The Alameda,
STE 625
San Jose, CA 95126

With a copy to:

Anthony Lombardo & Associates
Attn: Anthony L. Lombardo, Esq.
144 W. Gabilan St.
Salinas, CA
93901

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

SECTION 22. INTEGRATED AGREEMENT.

- (a) This Agreement constitutes the entire Agreement between the parties. No modification hereof shall be binding unless reduced to writing and signed by the parties hereto.

SECTION 23. DURATION AND AMENDMENT OF AGREEMENT.

- (a) This Agreement shall remain in effect for so long as the Property is subject to inclusionary housing obligations under the Ordinance.
- (b) This Agreement and any section, subsection, or covenant contained herein, may be amended only upon the written consent of the Director of Housing and Community Development, who shall have authority to approve or disapprove minor or technical amendments on behalf of the County.
- (c) If the amendment makes a substantive or material change to this Agreement, it shall be effective only following approval of the governmental authority that gave the First Approval for the Master Development.

SECTION 24. NO CLAIMS.

- (a) Nothing contained in this Agreement shall create or justify any claim against the County by any person that Developer may have employed or with whom Developer may have contracted relative to the purchase of materials, supplies, or equipment, or the furnishing or performance of any work or services with respect to either the Property or the construction of the Master Development.

SECTION 25. APPLICABLE LAW.

- (a) This Agreement shall be governed by California law.

SECTION 26. WAIVERS.

(a) Any waiver by the County of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the County to act on any breach or default of Developer or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Developer to perform any obligation under this Agreement shall not be construed as a waiver or release from Developer's obligations under this Agreement.

(b) Consent by the County to any act or omission by Developer shall not be construed as consent to any other act or omission by Developer.

(c) Consent by the County to any Act or Omission by Developer shall not be construed as a waiver of the requirement that Developer obtain the County's written consent to future waivers.

SECTION 27. TITLE OF PARTS AND SECTIONS.

(a) Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

SECTION 28. MULTIPLE ORIGINALS, COUNTERPART.

(a) This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

SECTION 29. RECORDING OF AGREEMENT.

(a) The Developer shall cause this Agreement to be recorded against the Property and the Inclusionary Unit Property (if Inclusionary Units are to be constructed off site) in the Official Records of the County of Monterey.

SECTION 30. SEVERABILITY.

(a) In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void, or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall nevertheless, be, and remain, in full force and effect.


SECTION 31. EXHIBITS.

(a) The following exhibits are attached to this Agreement:

Exhibit A	Legal Description of the Property
Exhibit B	Income Level, Size and Bedroom Count
Exhibit C	Resolution No.10-312
Exhibit D	Building Permit Phasing Plan
Exhibit E	Maximum Initial Sales Prices for Inclusionary and Workforce I units and Maximum Income Levels for Homebuyers and Tenants

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

CARMEL RESERVE, LLC

By: 
Wei Huang

Its: Authorized Signatory

COUNTY

County of Monterey, a political subdivision of the State of California

By: _____
Carl P. Holm, AICP

Its: Director, Housing and Community Development

APPROVED AS TO FORM

By: _____
Deputy County Counsel

ACKNOWLEDGMENT

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

State of California

County of Los Angeles)

On November 27, 2020 before me, Jennifer Kalinowski, Notary Public
(insert name and title of the officer)

personally appeared Wei Huang,
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.

Signature J. Kalinowski

(Seal)



EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

That property situated in Monterey County, in the unincorporated area, State of California, described as follows:

Parcels F and G of that Certain Subdivision Map entitled Tract No. __, September Ranch Phase 1 Recorded on _____ 202_, in Volume _____ of Maps, "Cities and Towns," at Page _____, official records of Monterey County, California.

EXHIBIT B

**INCOME LEVEL, SIZE AND BEDROOM COUNT
OF INCLUSIONARY UNITS**

INCOME LEVEL	TYPE OF UNIT	NUMBER OF UNITS	<u>NUMBER OF BEDROOMS</u>	<u>SQUARE FOOTAGE</u>
Moderate Income (Priced @ 110% of Area Median Income (AMI) but available to households earning up to 120% of AMI)	Attached townhouse /detached unit	15	2 BR Units 3 BR Units	1,000 SF.Min 1,200 SF Min
Workforce I Income (Priced at 130% of Area Median Income but available to households earning up to 150% of AMI)	Attached townhouse /detached unit	7	2 BR Units 3 BR Units	1000 SF Min 1,200 SF. Min

EXHIBIT C
RESOLUTION No.10-312

EXHIBIT D

BUILDING PERMIT PHASING PLAN
FOR DEVELOPMENT OF
INCLUSIONARY AND WORKFORCE I UNITS

Per the Conditions of Approval, phasing of the project shall be in conformance with the policies in the Carmel Valley Master Plan. Construction of the first half of the inclusionary and workforce units shall be completed prior to the issuance of the 12th building permit being issued for market-rate units. Construction of the remaining half of the inclusionary and workforce units shall be completed prior to the issuance of the 41st building permit being issued for market-rate units.

EXHIBIT E

**MAXIMUM INITIAL SALES PRICES FOR INCLUSIONARY
AND WORKFORCE I UNITS AND
MAXIMUM INCOME LEVELS FOR HOMEBUYERS AND TENANTS**
Based on Income Limits in Effect as of November 1, 2019

**Maximum Income Limits
to Purchase Inclusionary or Workforce I Units**

	Moderate- Income 120% of AMI	Workforce I- Income 150% of AMI
1-Person	\$62,250	\$72,600
2-Person	\$71,100	\$83,000
3-Person	\$80,000	\$93,400
4-Person	\$88,900	\$103,700
5-Person	\$96,000	\$112,100
6-Person	\$103,100	\$120,300
7-Person	\$110,250	\$128,700
8-Person	\$117,350	\$136,900

**Maximum Initial Sale Price
For Inclusionary and Workforce I Units**

	Moderate- Income 110% of AMI	Workforce I- Income 150% of AMI
2-Bedroom	\$293,351	\$400,133
3-Bedroom	\$325,944	\$444,524

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