



## Board Report

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**File #: 24-424, Version: 1**

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- a. Approve and authorize Amendment No. 2 to James W. Washington, Jr. and Lisa M. Villafranca individual Inclusionary Housing Agreement to allow conveyance of their inclusionary unit into a revocable trust; and
- b. Approve and authorize the Housing and Community Development Director, or his designee to execute the approved Amendment No. 2 to Inclusionary Housing Agreement.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize Amendment No. 2 to James W. Washington, Jr. and Lisa M. Villafranca individual Inclusionary Housing Agreement to allow conveyance of their inclusionary unit into a revocable trust; and
- b. Approve and authorize the Housing and Community Development Director, or his designee to execute the approved Amendment No. 2 to Inclusionary Housing Agreement

### SUMMARY:

Inclusionary Housing Program homeowner, Lisa M. Villafranca, purchased her inclusionary unit as an unmarried woman in early 1998, and executed a 30-year Inclusionary Housing Agreement (“Agreement”). She married James in 2001 and added him to title in 2002. Then, Lisa added James to the Agreement in 2016 via the enclosed Memorandum and Reaffirmation of Inclusionary Housing Agreement document. Now, James W. Washington, Jr. and Lisa M. Villafranca are requesting approval to transfer title of their Inclusionary Housing Unit into a revocable living trust as part of their estate planning. They own the inclusionary unit in the Oak Tree Views Subdivision, and their unit is designated as a moderate-income unit. Under the terms of the recorded Owners’ Agreement with the County, transfers of title between owner-spouses and to eligible purchasers (i.e., new income qualified owner-occupants) are the only permitted transfers of title. Per the terms of the Agreement, any other transfer of property title, including into a trust, is not allowed without Board of Supervisors (“Board”) approval.

The current Inclusionary Housing Program does allow transfers of title by Owner into an inter vivos trust in which Owner is the beneficiary is allowed, provided, however, that Owner shall provide written notice of such transfer to the County. However, this provision of the Inclusionary Housing Agreement requires Board approval. The Board has previously approved requests by other inclusionary homeowners to transfer their inclusionary unit into a revocable living trust.

### DISCUSSION:

Owners of inclusionary units who purchased their home after July 12, 2011, are allowed to transfer their homes into trusts under Section 3.E. TITLE CHANGES AND PROPERTY INHERITANCE of the Inclusionary Housing Program Administrative Manual previously amended and adopted by the Board. The amendment, however, did not provide for retroactive application of this provision for existing homeowners who had entered into an agreement prior to July 12, 2011.

The proposed amendment to the Agreement enables the homeowners to transfer title of their property to a trust by expanding the Agreement’s definition of “Permissible Transfer” to include conveyance to a revocable living trust for estate planning purposes. The amendment will allow the County to preserve its affordable housing program by requiring homeowners: (1) specifically acknowledge the continuing conditions of the Inclusionary

Housing Program; (2) include specific language in the Deed transferring title into the trust; and (3) include specific language in the homeowners' trust documents. The proposed amendment will not affect the Inclusionary Housing Program's restrictions regarding the resale of home to income-and-asset qualified buyers and is consistent with the Inclusionary Housing Ordinance.

**OTHER AGENCY INVOLVEMENT:**

The County Counsel Office has reviewed this report and approved the First Amendment to the Washington Villafranca Trust dated October 30, 2018 and the Quitclaim Deed correction with the required language. The County Counsel Office will approve the Amendment No. 2 to Inclusionary Housing Agreement as to form.

**FINANCING:**

There is no fiscal impact on the General Fund or on revenues. Staff time to prepare this report is included in the FY2023-24 Adopted Budget for Housing and Community Development Appropriation Unit HCD001, Unit 8542.

**BOARD OF SUPERVISORS STRATEGIC INITIATIVES:**

The County's Inclusionary Housing Program provides homeownership opportunities in the unincorporated areas of Monterey County to very low-, low-, or moderate-income households.

☒ Economic Development

☐ Administration

☒ Health & Human Services

☐ Infrastructure

☐ Public Safety

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Reviewed by: Darby Marshall, Housing Program Manager, x5391

Approved by: Craig W. Spencer, Director of Housing & Community Development, x5233

The following attachments are on file with the Clerk of the Board:

Attachment A - Washington Villafranca Inclusionary Housing Agreement w Memo Reaffirm

Attachment B - Amendment No. 2 Transfer to Trust PRE 2002 Washington Villafranca