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AND WHEN RECORDED MAIL TO:

City of Santa Ana
20 Civic Center Plaza
Santa Ana, California 92701
Attention: Housing Manager

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**DECLARATION OF INCLUSIONARY HOUSING COVENANTS, RESALE RESTRICTIONS AND
CITY'S OPTION TO PURCHASE AGREEMENT AT:**

This DECLARATION OF INCLUSIONARY HOUSING COVENANTS, RESALE RESTRICTIONS AND CITY'S OPTION TO PURCHASE AGREEMENT ("Inclusionary Housing Covenants Declaration"), dated as of _____, is made by and between _____ ("Homebuyer") and the CITY OF SANTA ANA ("City"), a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California.

RECITALS

- A.** The Homebuyer is acquiring title to an Inclusionary Unit, which is more particularly described in Exhibit 1. The Inclusionary Unit was originally constructed as part of a development that was approved by the City, subject to the requirement that one or more of the units be designed and maintained as affordable to Moderate Income Households.
- B.** The Homebuyer qualifies as a Moderate Income Household, as defined in this Inclusionary Housing Covenant Declaration, and meets the necessary eligibility requirements to acquire the Inclusionary Unit as set forth in Section IV of the Administrative Procedures Manual.
- C.** The Homebuyer is acquiring the Inclusionary Unit at the Affordable Sales Price, which is less than the Fair Market Value for the Inclusionary Unit. The Inclusionary Unit is being sold for a reduced price as a direct result of the requirements imposed pursuant to the City's Housing Opportunity Ordinance ("Ordinance"). In consideration for the right to acquire the Inclusionary Unit at a reduced price, the Homebuyer, its successors and assigns agree to enter into, and be bound by, the terms and conditions of this Inclusionary Housing Covenants Declaration.
- D.** The purpose of this Inclusionary Housing Covenants Declaration is to ensure that the Inclusionary Unit is only purchased and occupied by a Moderate Income Household. This Inclusionary Housing Covenants Declaration accomplishes this purpose by, among other things, imposing conditions on the Owner's future resale of the Inclusionary Unit, and requiring that the Owner maintain the Inclusionary Unit as the Owner's

Primary Residence. The Homebuyer is required to execute this Inclusionary Housing Covenants Declaration as a condition of purchasing the Inclusionary Unit.

NOW, THEREFORE, in consideration of the mutual promises set forth in this Inclusionary Housing Covenants Declaration, the receipt and sufficiency of which is acknowledged by the City and the Homebuyer(s), the Parties agree as follows:

DEFINITIONS OF TERMS

As used in this Inclusionary Housing Covenants Declaration, the terms set forth below shall have the following meanings:

Adjusted Household Size Appropriate for the Unit is based on the definition set forth in California Health & Safety Code (HSC) Section 50052.5, and is only used in the Affordable Housing Cost calculations. For Affordable Housing Cost calculation purposes, the household size is set at one (1) person in the case of a studio unit, two (2) persons in the case of a one-bedroom unit, three (3) persons in the case of a two-bedroom unit, four (4) persons in the case of a three-bedroom unit, and five (5) persons in the case of a four-bedroom unit. This household size standard is used in the Affordable Housing Cost calculations; it is not an occupancy limit.

Administrative Procedures means the Affordable Ownership Housing Administrative Procedures promulgated by the Executive Director pursuant to the Ordinance.

Administrative Procedures Manual is the Affordable Ownership Housing Administrative Procedures Manual – Owner Requirements in effect on the date this Inclusionary Housing Covenants Declaration is fully executed which has been prepared by the City for the implementation and enforcement of the Ordinance. A copy of the Administrative Procedures Manual shall be maintained on file with the City, and shall be provided to each Homebuyer of an Inclusionary Unit.

Affordable Housing Cost means the maximum costs that can be borne by Moderate Income Household based on the requirements imposed by HSC Section 50052.5. The calculation methodology is described in Section VI of the Administrative Procedures Manual.

Affordability Period shall be set at fifty-five (55) years in the Inclusionary Housing Covenant Declaration recorded on legal title to the Inclusionary Unit. The covenant period is set at fifty-five (55) years following the date of the first sale of the Inclusionary Unit.

Affordable Sales Price means the maximum price that can be charged for an Inclusionary Unit. The Affordable Sales Price is equal to the lessor of:

1. The sum of the Supportable Mortgage plus the Benchmark Down Payment; or
2. The purchase price prospective buyers are willing to pay in return for purchasing a home that is subject to restrictive covenants.

The statutorily set Affordable Sales Prices for the initial sale of each Inclusionary Unit are shown in Exhibit 6 to the Inclusionary Housing Agreement. The Affordable Sales Prices for Inclusionary Units shall be adjusted quarterly.

Assumption Agreement means the Disclosure, Acknowledgement and Assumption Agreement in the form attached as Exhibit 4 to this Inclusionary Housing Covenants Declaration that shall be entered into between the City and a transferee as a condition of an Exempt Transfer.

Benchmark Household Income is used in the Affordable Housing Cost calculations, and is based on the requirements imposed by HSC Section 50052.5. For a Moderate Income Household, the Benchmark Household Income is based on one hundred ten percent (110%) of the County Median Income for an Adjusted Household Size Appropriate for the Unit.

City means the City of Santa Ana, California.

City Manager means the City Manager of the City of Santa Ana.

City's Purchase Option means the irrevocable option that the Owner(s) must offer to the City under the circumstances defined in Article 3 – Section II of this Inclusionary Housing Covenants Declaration.

City's Share of Excess Proceeds means fifty percent (50%) of the Excess Proceeds generated under an Extraordinary Sale. The City's Share of Excess Proceeds, if received, shall be deposited in the City's Inclusionary Housing Fund.

County means the County of Orange.

County Median Income shall mean the Median Income adjusted by actual household size as published annual by HCD for the County.

Default means the failure of an Owner to perform any action or covenant required by this Inclusionary Housing Covenants Declaration within the time period provided herein following notice and opportunity to cure, as set forth in Article 5 – Section III of this Inclusionary Housing Covenants Declaration.

Eligible Purchaser shall mean a Homebuyer who meets the eligibility criteria set forth in these Administrative Procedures.

Excess Proceeds means the difference between the Extraordinary Sales Price and the Affordable Sales Price the Inclusionary Unit at the time of the Extraordinary Sale.

Executive Director is the Executive Director of the Community Development Agency of the City. The Executive Director, or designee, has the ultimate authority to evaluate appeals submitted in relation to the Administrative Procedures.

Exempt Transfer means the following:

1. A transfer resulting from the death of the Owner(s).
2. A transfer by the Owner(s) where the spouse or domestic partner becomes a co-owner of the Inclusionary Unit;

3. A transfer of title to a spouse or domestic partner as part of divorce or dissolution proceedings; and
4. A transfer by the Owner into a trust in which the Owner or Owners are beneficiaries, provided that the Owner or Owners continue to maintain the Inclusionary Unit as their Primary Residence.
5. A transfer by the Owner of a non-possessory interest in the Property, such as an easement or license for utilities or other like purposes; the granting of ingress or egress rights over or across the Property or a portion thereof; or a modification to the non-exclusive common area rights of any Owner located in a common interest subdivision development.
6. A condemnation, or conveyance in lieu of condemnation, that does not preclude the Owner's continued use and occupancy of the Inclusionary Unit, such as a street widening or other incidental taking that does not preclude continued occupancy of the Inclusionary Unit, or a taking of an interest in a portion of the common area appurtenant to any inclusionary Unit located in a common interest development.

Exhibits The following exhibits are attached to this Inclusionary Housing Covenants Declaration and incorporated herein by this reference:

1. Exhibit 1: Property Description
2. Exhibit 2: Occupancy Recertification Form
3. Exhibit 3: Notice of Intent to Transfer
4. Exhibit 4: Assumption Agreement
5. Exhibit 5: Notice of Intent to Sell
6. Exhibit 6: Notice of Extraordinary Sale

Extraordinary Sale means a sale of the Inclusionary Unit to a buyer who is not an Eligible Purchaser, when an Eligible Purchaser has not been secured within the timeframes required by this Inclusionary Housing Covenants Declaration, and the City has opted not to exercise the City's Purchase Option within the timeframes allowed pursuant to this Inclusionary Housing Covenants Declaration.

Extraordinary Sales Price means the gross sales proceeds generated by an Extraordinary Sales executed under the terms included in Article 3 – Section III of this Inclusionary Housing Covenants Declaration.

Fair Market Value means the value of the Inclusionary Unit under normal circumstances in which the seller and the buyer freely negotiate the terms of the transfer of ownership. The Fair Market Value must be established by a licensed Real Estate agent based on three comparable properties.

Gross Household Income means all income from whatever source from all Adult Household members, which is anticipated to be received during the 12-month period following the date of the determination of Gross Income. The applicable sources of income are defined in California Code of Regulations Title 25 Housing and Community Development Section 6914. The definition includes the following specific requirements:

1. Except as provided in subdivision (2), all payments from all sources received by the head of Household (even if temporarily absent) and each additional member of the Household who is not a minor shall be included in the annual income of a household. Gross Income shall include, but not be limited to:
 - a. The gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses;
 - b. The net income from operation of a business or profession or from rental or real or personal property (for this purpose, expenditures for business expansion or amortization of capital indebtedness shall not be deducted to determine the net income from a business);
 - c. Interest and dividends;
 - d. The full amount of periodic payments received from social security, annuities, income policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts (but see subdivision (2)(c));
 - e. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;
 - f. Public Assistance. If the public assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the public assistance agency in accordance with the actual cost of shelter and utilities, the amount of public assistance income to be included as income shall consist of:
 - i. The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus
 - ii. The maximum amount which the public assistance agency could in fact allow for the Household for shelter and utilities.
 - g. Periodic and determinable allowances such as alimony and child support payment, and regular contributions or gifts received from persons not residing in the dwelling;
 - h. All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the Household or spouse or domestic partner (but see subdivision (2)(e));
 - i. Where a Household has net assets in excess of Five Thousand Dollars (\$5,000.00), income shall include the actual amount of income, if any, derived from all of the net Household assets or ten percent (10%) of the value of all such assets, whichever is greater. For purposes of this section, net Household assets means value of equity in real property other than the Household's full-time residence, savings, stocks, bonds, and other forms of capital investment. The value of necessary items such as furniture and automobiles shall be excluded.
2. The following items shall not be considered as income:
 - a. Casual, sporadic or irregular gifts;

- b. Amounts which are specifically for or in reimbursement of the cost of medical expenses;
- c. Lump-sum additions to Household assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
- d. Amounts of education scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans not used for the above purposes of which are available for subsistence are to be included in income;
- e. The special pay to a serviceman head of a Household away from home and exposed to hostile fire;
- f. Relocation payments made pursuant to federal, state, or local relocation law;
- g. Foster child care payments;
- h. The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1964 which is in excess of the amount actually charged the eligible Household;
- i. Payments received pursuant to participation in the following volunteer programs under the ACTION Agency:
 - i. National Volunteer Antipoverty Programs which include VISTA, Service Learning Program and Special Volunteer Programs.
 - ii. National Older American Volunteer Programs for persons aged sixty (60) and over which include Retired Senior Volunteer Programs, Foster Grandparent Program, Older American Community Services Program, and National Volunteer Program to Assist Small Business Experience, Service Corps of Retired Executive (SCORE) and Active Corps of Executives (ACE).

Homebuyer means an Eligible Purchaser that has executed an agreement to purchase an Inclusionary Unit.

Homebuyer Purchase Price means the means the original price paid by the Homebuyer to purchase the Inclusionary Unit, exclusive of any closing or transaction costs. The Homebuyer Purchase price shall not exceed the Affordable Sales Price.

HCD means the California Housing and Community Development Department.

HSC shall mean the California Health and Safety Code.

Household means all the persons who will occupy the Inclusionary Unit as their Primary Residence. A child who is subject to a legally-binding shared-custody agreement, in which the child resides with the Household at least fifty percent (50%) of the time, is counted as a member of the Household. Excluded from the definition of Household are live-in caregivers/caretakers, foster children, unborn children and children being pursued for legal custody or adoptions that are not currently living with the Household.

Inclusionary Housing Covenants Declaration means this Declaration of Inclusionary Housing Covenants, Conditions and Restrictions.

Inclusionary Housing Fund means a separate fund of the City which is codified in Article XVIII.I Section 41-1909 of the City's Municipal Code. The fund was established for the specific purpose of providing the City with funds to assist in the development of housing that is affordable to low and moderate income households. The allowable uses of Inclusionary Housing Funds and the related reporting are described in Attachment I of the Administrative Procedures Manual.

Inclusionary Unit means a home in Santa Ana that is made affordable by an Inclusionary Housing Covenant Declaration that restricts ownership, occupancy and the Affordable Sales Price as described in the Administrative Procedures Manual.

Median Income is calculated by HCD using non-aggregated census income data and applying trending factors for metropolitan statistical areas (MSA) throughout the country. The MSA for Santa Ana is Orange County.

Moderate Income refers to Households whose incomes meet the standards defined by the HSC Section 50093. Generally, Moderate Income means household income that does not exceed one hundred twenty percent (120%) of the County Median Income, as adjusted for Household size. The maximum household income amount for Moderate Income Households shall be set at the amount published by HCD annually.

Moderate Income Household shall mean individuals or Households who have an adjusted Gross Income that does not exceed Moderate Income.

Net Resale Proceeds means the Resale Price for the Inclusionary Unit minus the following amounts and costs in the following priority order:

1. Escrow fees, transfer taxes, recording fees, and any other customary non-recurring closing costs;
2. Brokerage commissions and similar transaction costs; and
3. Repayment of the outstanding balance of the Senior Loan.

Notice of Extraordinary Sale means the form provided in Exhibit 6 to this Inclusionary Housing Covenants Declaration.

Notice of Intent to Sell means the form provided in Exhibit 3 to this Inclusionary Housing Covenants Declaration.

Ordinance means the Housing Opportunity Ordinance adopted by the City Council on November 28, 2011 and subsequently amended on April 19, 2022, which is codified in Article XVIII.I Section 41-1900 et seq. of the City's Municipal Code.

Owner means the current owner of an Inclusionary Unit.

Party and Parties mean the City and the Homebuyer as parties to the Inclusionary under the City's Purchase Option.

Permitted Sales are defined as a sale to an Eligible Purchaser or a sale executed under the City's Purchase Option.

Primary Residence is defined as the only home that may be owned by the Owner. The Owner must reside in the Inclusionary Unit for not less than 10 out of every 12 months.

Program Director has the day-to-day authority for making determinations related to the Ordinance and Administrative Procedures Manual. The Program Director will be appointed by the Executive Director.

Prohibited Sales and Transfers are defined as any sale or transfer that is not explicitly allowed by this Inclusionary Housing Covenants Declaration. Prohibited Transfers specifically include any transfer of a use, rental or leasehold interest in the Inclusionary Unit.

Project means the owner-occupied housing project proposed to be developed on the Property at the Developer's sole cost and expense.

Project CC&Rs means the Declaration of Covenants, Conditions and Restrictions of the Project recorded or to be recorded against the entirety of the Property and applicable to the Inclusionary Unit and the Homebuyer.

Property means the real property on which the Project is to be developed, for which the legal description is provided in Exhibit 1 to the Inclusionary Housing Agreement.

Recordation Date means the date of recording in the Official Records of the County of Orange, California of the City Inclusionary Housing Covenants Declaration.

Resale means the resale of the Inclusionary Unit by the Owner. Prior to the Resale of the Inclusionary Unit, the Owner must submit a Notice of Resale to the City as set forth in Exhibit 4 to this Inclusionary Housing Covenants Declaration.

Resale Price is defined as the lesser of the Fair Market Value or the Affordable Sales Price.

Seller means the current Owner of the Inclusionary Unit in the context of the sale of the Inclusionary Unit.

Senior Lender means a bank, savings and loan association, insurance company, pension fund, publicly traded real estate investment trust, governmental agency, charitable organization or other governmentally regulated entity regularly engaged in making residential real estate loans.

Senior Loan means a purchase money loan of funds to be used by the Homebuyer for financing the acquisition of the Inclusionary Unit, or a refinancing approved by the City, which loan is in a lien position prior to this Inclusionary Housing Covenants Declaration.

Supportable Mortgage means the mortgage amount that can be supported by a Moderate Income Household based on the Affordable Housing Cost calculations. The mortgage calculation is based on the prevailing market interest rate for a 30-year fully amortizing mortgage with a fixed interest rate. See Section VI-B of the Administrative Procedures Manual for an explanation of the calculation methodology.

Transfer shall mean any sale, transfer, lease, exchange, assignment or conveyance of an Inclusionary Unit, including any portion or interest in an Inclusionary Unit or other disposition of any interest in an Inclusionary Unit, whether voluntary or involuntary.

ARTICLE 1

RESTRICTIONS

Owner Acknowledgments and Agreements: Owner hereby acknowledges and agrees that taking title to the Inclusionary Unit shall constitute Owner's acknowledgment of an agreement to the following:

I. Occupancy Requirements

- I-A. The Owner shall occupy and continually use the Inclusionary Unit as the Owner's Primary Residence during the Affordable Period. On an annual basis, the Inclusionary Program Director will send the Owner an Occupancy Recertification Form to be filled out and returned to the City within thirty (30) days of receipt. The Owner shall affirm that they are occupying the Inclusionary Unit as their Primary Residence. The Owner will be required to submit copies of two current utility bills, or other evidence of occupancy that is acceptable to the City, as part of the annual recertification process.
- I-B. If an Owner vacates the Inclusionary Unit, or for any reason does not continue to occupy the Inclusionary Unit as its Primary Residence, the City may declare the Owner in Default pursuant to Article 5- Section III of this Inclusionary Housing Covenants Declaration, and exercise any or all of its rights and remedies hereunder, including without limitation the City's Purchase Option pursuant to Article 3 – Section II of this Inclusionary Housing Covenants Declaration.

II. Resale and Transfer Restrictions

- II-A. The Inclusionary Unit is being acquired by the Homebuyer at a cost that is below the Fair Market Value for the Inclusionary Unit, and that such Inclusionary Unit is subject to resale restrictions and the City's Purchase Option contained in this Inclusionary Housing Covenants Declaration. Any resale or transfer of the Inclusionary Unit in violation of this Inclusionary Housing Covenants Declaration shall be voidable by the City.
- II-B. The Owner's right to resell the Inclusionary Unit at the Fair Market Value is very limited, and in certain instances, the City will have the option to purchase the Inclusionary Unit from the Owner at the Affordable Sales Price.
- II-C. The Inclusionary Unit will not necessarily appreciate in value during the duration of its ownership, and the Affordable Sales Price may decrease from the amount the Owner paid to acquire the Inclusionary Unit. Thus when the owner resells the Inclusionary Unit, the sales proceeds received by the Owner may be less than the amount the Owner paid to acquire the Inclusionary Unit.
- II-D. In the event that the Inclusionary Unit is sold for the Fair Market Value, either through an Extraordinary Sale or pursuant to a foreclosure sale, the Owner must pay to the City the City Share of Excess Proceeds, which is set at fifty percent (50%) of the difference between the Affordable Sales Prices and the Net Resale Proceeds received from the sale of the Inclusionary Unit.

III. Refinancing Limits

- III-A. The Owner is not permitted to refinance a Senior Loan for more than the outstanding principal amount of the Senior Loan, plus the cost of Qualified Capital Improvements, plus the customary fees and costs associated

with obtaining the new Senior Loan. However, in no event can the refinanced Senior Loan be set at an amount that exceeds the then current Supportable Mortgage.

III-B. If an Owner refinances the Senior Loan in violation of the requirements imposed in the Administrative Procedures Manual and this Inclusionary Housing Covenants Declaration, the City may declare the Owner in Default pursuant to Article 5 – Section III of this Inclusionary Housing Covenants Declaration, and exercise any or all of its rights and remedies hereunder.

IV. Project CC&Rs

The Inclusionary Unit is subject to the Project CC&Rs. The Homebuyer acknowledges and agrees that the Homebuyer is obligated to comply with all of the terms, conditions, covenants and restrictions set forth in the Project CC&Rs.

SAMPLE

ARTICLE 2 TRANSFER PROCEDURES

I. Exempt Transfers of the Inclusionary Unit

The following transfer procedures apply to Exempt Transfers:

I-A. Transfer by Inheritance:

1. If an Exempt Transfer is made by inheritance or rights of survival, the trustee, executor or new Owner shall notify the City in writing of the change in ownership of the Inclusionary Unit within twenty (20) days of such event giving rise to such Exempt Transfer.
2. Any such transferee shall be bound by and subject to the provisions of this Inclusionary Housing Covenants Declaration. The trustee, executor of new Owner shall execute, acknowledge and deliver to the City, within such 45-day period, an Assumption Agreement whereby the transferee agrees to be bound by such documents.
3. The failure to notify the City in writing and execute an Assumption Agreement within the timeframes required by this Section shall constitute a Default; provided that such transferee shall be bound by and subject to the provisions of this Inclusionary Housing Covenants Declaration, notwithstanding its failure to deliver such executed and recordable Assumption Agreement.

I-B. Other Exempt Transfers: If the Owner desires to transfer the Inclusionary Unit by an Exempt Transfer other than inheritance, the Owner shall provide the City with a Notice of Intent to Transfer in the form attached as Exhibit 3 to this Inclusionary Housing Covenants Declaration, together with any other documentation the City may reasonably request in order to ensure that the transfer is an Exempt Transfer.

II. Notice of Intent to Transfer – Exempt Transfer

In case of an Exempt Transfer, this Inclusionary Housing Covenants Declaration imposes the following noticing obligations on the City and the Owner:

II-A. City Obligations:

- a. The City shall have forty-five (45) days after receipt by the City of a Notice of Intent to Transfer and other documentation to deliver written notice to the Owner that the City either approves the transfer as an Exempt Transfer or disapproves the transfer.
- b. The transfer shall be deemed an Exempt Transfer if the City fails to disapprove the proposed transfer within such 45-day period.

II-B. Owner Obligations

1. The Owner shall complete the Exempt Transfer, including recordation of all applicable documents, within sixty (60) days after receipt of approval, or deemed approval of the transfer.
2. Any such transferee of the fee interest in the Inclusionary Unit shall be bound by and subject to the provisions of this Inclusionary Housing Covenants Declaration as the Owner and, as a condition to the conveyance of the Inclusionary Unit, shall execute, acknowledge and deliver to the City an Assumption Agreement.
3. The failure to comply with the requirements of this Section in undertaking any transfer of the Inclusionary Unit shall constitute a Default, provided that any transferee of the Inclusionary Unit shall be bound by and subject to the provisions of this Inclusionary Housing Covenants Declaration as the Owner notwithstanding its failure to deliver such executed and recordable Assumption Agreement.

III. Transfer of the Inclusionary Unit without the City's Approval

- III-A.** If the City determines that a proposed transfer is a Prohibited Transfer, the Owner shall not transfer the Inclusionary Unit.
- III-B.** Any transfer of an Inclusionary Unit without the City's approval shall be voidable. In addition to all other rights and remedies the City may have under this Inclusionary Housing Covenants Declaration, the City shall have the right to exercise the City's Purchase Option. This may be exercised against the transferee or the Owner under such Prohibited Transfer.

ARTICLE 3 RESALE PROCEDURES

I. Permitted Sale

- A-I.** Notice of Permitted Sale: If an Owner desires to sell the Inclusionary Unit, the Owner shall provide City with a Notice of Intent to Sell in the form attached as Exhibit 5.
1. Within fifteen (15) business days after receipt of such Notice, City shall provide the Owner with the Affordable Sales Price and the maximum incomes of Eligible Purchasers.
 2. The Owner shall market the Inclusionary Unit to Eligible Purchasers for a period of not less than ninety (90) days from providing the Notice.
 3. If the Owner is unable to locate an Eligible Purchaser who is ready, willing and able to enter into a purchase agreement for the Inclusionary Unit within the 90-day period:
 - a. The Owner must demonstrate to the Inclusionary Program Director that all reasonable efforts were made to diligently market the Inclusionary Unit.
 - b. If the Inclusionary Program Director determines that adequate marketing efforts were pursued, the City shall have thirty (30) days from after the expiration of the period to exercise City's Purchase Option under Article 3 – Section II.
 - c. If the City does not exercise the City's Purchase Option, the Owner may sell the Inclusionary Unit to a buyer who is not an Eligible Purchaser under the Extraordinary Sale terms identified in Article 3 – Section III.
- I-B.** Inspection and Repair Costs: Upon receipt of a Notice of Intent to Sell, the City shall have the right to inspect the Inclusionary Unit to determine whether any violations of applicable laws or ordinances exist.
1. The City may hire a third party to undertake the inspection.
 2. The inspection shall take place within fifteen (15) days after receipt of the Notice of Intent to Sell.
 3. The City shall undertake the inspection at a reasonable time, and provide the owner with at least twenty four (24) hours advance notice prior to the inspection.
 4. In the event any violations are discovered, within thirty (30) days, the City shall provide the owner with a written report describing the necessary repairs.

5. The Owner shall have the option to either:
 - a. Repair or replace the items on such report at Owner's cost prior to closing, without extending the closing date; or
 - b. At closing, cause the escrow holder to pay the repair costs to the buyer out of Seller's gross proceeds of the sale.
6. If an Owner elects to repair or replace the items on such report, the City shall have the right to re-inspect the Inclusionary Unit after the repairs and/or replacements are complete. If the City determines that deficiencies still remain, the Owner shall cause the escrow agent at closing to pay to buyer from Seller's gross proceeds the repair costs in such amounts as the City determines are necessary to complete the remaining repairs and/or replacements. The City's determination shall be final.
- I-C.** Sales Price: The sale of the Inclusionary Unit pursuant to this Section may only be made to an Eligible Purchaser at a price that does not exceed the lesser of the Affordable Sales Price or the Fair Market Value of the Inclusionary Unit.
- I-D.** At close of escrow, the Eligible Purchaser shall deliver or cause to be delivered into escrow:
 1. A Declaration of Inclusionary Housing Covenants, Resale Restrictions and City's Option to Purchase Agreement in substantially the form of this Inclusionary Housing Covenants Declaration, approved by the City, and executed by the City and the Eligible Purchaser, securing the obligations thereunder.
 2. The required down payment and all documents required by the Eligible Purchaser's Senior Lender.
- I-E.** Proceeds from Permitted Sale: To the extent funds are available; the gross proceeds from a Permitted Sale shall be distributed in the following priority:
 1. Escrow fees, transfer taxes, recording fees, and any other customary non-recurring closing costs;
 2. Brokerage commissions and similar transaction costs;
 3. Repayment of the outstanding balance of the Senior Loan;
 4. Reimbursement to the buyer of all repair costs funded by the buyer pursuant to this Section; and
 5. Any remaining amounts shall be paid to the Seller.
- I-F.** Personal Property: Any sums paid to an Owner by an Eligible Purchaser for personal property shall not be part of the Affordable Sales Price. Any consideration, of any nature whatsoever, paid by an Eligible Purchaser to the Owner must be fully disclosed to and approved by the City in advance.
- I-G.** Closing:

1. At closing, the Owner shall convey fee title to the Eligible Purchaser by standard title company form grant deed.
2. The Owner shall cause the title company to issue to the Eligible Purchaser a CLTA standard coverage owner's form of title insurance policy in the amount of the Affordable Sales Price insuring title to the Inclusionary Unit is vested in the Eligible Purchaser, subject to the following exclusions from coverage:
 - a. Current taxes and assessments not yet due:
 - b. This Inclusionary Housing Covenants Declaration and all documents recorded pursuant to this Inclusionary Housing Covenants Declaration; and
 - c. Such other matters (other than encumbrances created or suffered by the Owner) that were exceptions to title on the date of this Inclusionary Housing Covenants Declaration.
3. All other closing costs shall be paid by the Seller or the Eligible Purchaser pursuant to the custom in Orange County.

II. City's Purchase Option

II-A. Purchase Option: By taking title to the Inclusionary Unit, the Owner irrevocably grants the City's Purchase Option upon the occurrence of any of the following:

1. The Owner is unable to identify an Eligible Purchaser pursuant to and within the times set forth in Article 3 – Section I;
2. Any Prohibited Transfer or Prohibited Sale by the Owner;
3. The Owner is in default of the occupancy requirement set forth in Article 1 – Section 1; and
4. An Event of Default as defined in Article 1:
 - a. City's Purchase Option shall be in addition to any other remedy provided in this Inclusionary Housing Covenants Declaration for an Event of Default.
 - b. By taking title to the Inclusionary Unit, the Owner agrees that City's facilitation of the transfers contemplated hereby constitute adequate consideration for the grant of the City's Purchase Option in the Event of Default.

II-B. Procedure Upon Exercise of Option:

1. The City shall exercise the City's Purchase Option by delivering written notice to the Owner (and to transferee, if applicable).

2. Closing of escrow shall occur within one hundred twenty (120) days (plus any time delays caused by the Owner), or such additional time as reasonably determined by the City is necessary under the circumstances after the date of the City's written notice exercising the City's Purchase Option.
3. Proceeds from the sale shall be distributed in the manner provided in this Section.
4. Closing shall occur in the manner provided in this Section, with the City having the rights and responsibilities of the eligible Purchaser provided thereunder.

II-C. Assignment of City's Purchase Option: After the City has exercised the City's Purchase Option, the City may, without the Owner's or transferee's consent, assign the City's Purchase Option to an Eligible Purchaser or to a government or non-profit organization that agrees to be subject to this Inclusionary Housing Covenants Declaration. Such assignment shall not extend any time limits contained in this Inclusionary Housing Covenants Declaration.

II-D. Failure to Close:

1. If the City exercises the City's Purchase Option pursuant to this Section, and fails to close escrow pursuant to the identified timeframes, the Owner may conduct an Extraordinary Sale under Article 3 – Section III.
2. If the City exercises the City's Purchase Option pursuant to a Prohibited Transfer, a Prohibited Sale or an Event of Default, and the City fails to close escrow pursuant to this Section, then the City shall be deemed to retain all remedies available under Article 5 – Section IV.

II-E. Power of Attorney: By taking title to the Inclusionary Unit, the Owner grants to the City an irrevocable power of attorney that authorizes the City to act on the Owner's behalf to execute, acknowledge and deliver any and all documents related to the City's Purchase Option.

III. Extraordinary Sale

The purpose of this Section is to permit the sale of the Inclusionary Unit to a buyer who is not an Eligible Purchaser when an Eligible Purchaser has not been secured and the City's Purchase Option has not been exercised.

III-A. Notice of Extraordinary Sale: The Owner shall notify the City of the Owner's intent to make an Extraordinary Sale by delivering a Notice of Extraordinary Sale in the form attached as Exhibit 6.

1. The Notice of Extraordinary Sale shall identify the Fair Market Value of the Inclusionary Unit.
2. The Owner shall be required to sell the Inclusionary Unit at a price not less than the Fair Market Value, unless otherwise approved by the City in writing.

III-B. Distribution of Proceeds: The Extraordinary Sales Price shall be distributed in the following priority to the extent funds are available.

Escrow fees, transfer fees, recording fees, and any other customary non-recurring closing costs;

1. Brokerage commissions and similar transaction costs;

2. Repayment of the outstanding balance of the Senior Loan;
3. Payment to the City of the City Share of Excess Sales Proceeds; and
4. Any remaining amounts shall be paid to the Seller.

III-C. Effect of Extraordinary Sale:

1. Upon the close of escrow for an Extraordinary Sale in compliance with the provisions of this Section, the purchaser shall acquire title to the Inclusionary Unit free and clear of the provisions of this Inclusionary Housing Covenants Declaration, including the City's Purchase Option.
2. Pursuant to Article 5 – Section I, and in accordance with this Section, the City agrees to execute, acknowledge and record a release of the Inclusionary Unit from the provisions of this Inclusionary Housing Covenants Declaration.

II-D. Foreclosure Sale: In the event of a foreclosure sale, this Section shall impose the same obligations on the Owner and the City as in an Extraordinary Sale. All references to the "close of escrow" shall be replaced by "foreclosure sale."

ARTICLE 4 LENDER PROVISIONS

I. Senior Loan

Mortgages, deeds of trust, or any other form of conveyance required for any reasonable method of financing as a Senior Loan permitted, but only as follows:

- I-A. For the sole purpose of securing a purchase money loan of funds to be used by an Owner for financing the acquisition of the Inclusionary Unit. The Senior Loan must comply with the requirements imposed by Section IV-D of the Administration Procedures Manual; or
- I-B. For the sole purpose of refinancing a Senior Loan that was obtained by the Owner, and approved by the City, provided that the principal amount of such refinancing shall be limited to the outstanding principal then owned on the existing Senior Loan, plus any customary fees and costs associated with such current refinancing.

II. Subordination

- II-A. This Inclusionary Housing Covenants Declaration shall be subordinated to the Senior Loan, so long as the Senior Lender agrees to the default and foreclosure provisions set forth in this Inclusionary Housing Covenants Declaration, or other alternative provisions proposed by the Senior Lender, and acceptable to the City in its sole discretion.
- II-B. In the event the City fails to timely cure a default under such Senior Loan, and the Senior Lender proceeds with foreclosure, or deed in lieu of foreclosure, of such Senior Loan, then any provisions herein or in any other collateral agreement restricting the use of the Inclusionary Unit to Moderate Income Households or otherwise restricting the Senior Lender's ability to sell the Inclusionary Unit based upon income qualification of the purchaser shall terminate and shall have no further force or effect on subsequent owners or purchasers of the Inclusionary Unit.
- II-C. In that event, any person, including the Senior Lender's successors and assigns, receiving title to the Inclusionary Unit through foreclosure, or deed in lieu of foreclosure, of such Senior Loan shall receive title to the Property free and clear from such restrictions. The City shall promptly execute, acknowledge and deliver for recordation such subordination documents or agreements as necessary to confirm the foregoing subordination.

III. Default and Foreclosure

- III-A. The City shall record a request for notice of default and any notice of sale under any deed of trust or mortgage with a power of sale encumbering the Inclusionary Unit pursuant to California Civil Code Section 2924b. Whether or not a request for a notice of default is recorded, the Owner shall provide a true and correct copy of any notice of default to the City within three (3) business days of the Owner's receipt.

III-B. In the event of default and foreclosure, the City shall have the same rights as the Owner to cure any defaults and reinstate the Senior Loan prior to foreclosure sale or the acceptance of a deed in lieu of foreclosure by the Senior Lender. Such reinstatement shall be subject to the same fees, charges and penalties that would otherwise be assessed against the Owner. Nothing herein shall be construed as creating any obligation on the part of the City to cure any such default, nor shall this right to cure and reinstate operate to extend any time limitations in the default provisions of the underlying deed of trust or mortgage.

III-C. If the trustee set for in Senior Lender's deed of trust sells the Inclusionary Unit at a foreclosure sale, the proceeds shall be delivered in the following priority to the extent funds are available:

1. Payment of all delinquent assessments, if any, to the extent required by the Project CC&Rs;
2. Payment of all sums due and owing under the Senior Loan, including without limitation the principal amount, interest, fees and costs of sale;
3. Payment to the City of the City Share of Excess Sales Proceeds;
4. Repayment of all sums due and owing to junior creditors; and
5. Any remaining amounts shall be paid to the Owner.

III-D. By taking a loan from a Senior Lender, the Owner represents that it has provided the Senior Lender with the necessary consent and authorization to provide a monthly report of the payment status of the Owner and all other financial information concerning the Owner that the City reasonably requests.

III-E. Except as otherwise expressly provided in a City approved subordination agreement, by making a loan to the Owner, Senior Lender grants to the City the option to purchase the Senior Loan from the Senior Lender at any time after the filing of a notice of default under the Senior Loan, but prior to consummation of the foreclosure or the giving of a deed-in-lieu of foreclosure for an amount equal to the entire indebtedness secured by the Senior Lender Deed of Trust:

1. The City may exercise this option by giving the Senior Lender written notice of its intent to do as;
 - a. with respect to a foreclosure, at any time prior to the filing of a notice of sale under the Senior Loan; and
 - b. with respect to a deed-in-lieu of foreclosure, within ten (10) days after receiving written notice from the Senior Lender of its intent to accept a deed-in-lieu of foreclosure with respect to the Inclusionary Unit.
2. Upon receipt of such written notice from the City, the Senior Lender shall promptly give the City a written statement setting forth the amount of the total indebtedness secured by the Senior Lender Deed of Trust, which shall be the purchase price for the Senior Loan, and a copy of the policy title insurance insuring the priority and validity of the Senior Lender Deed of Trust.
3. Within ten (10) days after the Senior Lender's receipt of notice of the opening of the escrow, the Senior Lender shall deposit in the escrow:

4. Within fifteen (15) days after the City gives such written notice, the City shall establish an escrow at the title company insuring the Senior Lender Deed of Trust and concurrently therewith give the Senior Lender Deed of Trust and concurrently therewith give the Senior Lender written notice thereof, and the City shall deposit the purchase price in such escrow.
- a. the promissory note evidencing the Senior Loan endorsed in favor of the City;
 - b. the original of the Senior Lender Deed of Trust.
 - c. an assignment of the Senior Lender Deed of Trust duly executed by the Senior Lender and in recordable form; and
 - d. all other documents, instruments, agreements, certificates and other items that evidence or secure the Senior Loan.
- III-F.** The Senior Lender and the City shall execute and deliver escrow instructions and such other documents as may be reasonably necessary or appropriate in connection with such escrow and to implement the intent hereof.
- III-G.** The escrow holder shall be instructed to close escrow within two (2) business days after receipt of all such items and upon such close of escrow to issue to the City a CLTA Form No. 104.1 endorsement to the title policy, showing the City as the Senior Lender's assignee with respect to the Senior Lender Deed of Trust.
- III-H.** The City shall pay the escrow fees (irrespective of whether the escrow closes), recording fees and the premium for the CLTA Form No. 104.1 endorsement.

ARTICLE 5 MISCELLANEOUS

I. Term of the Inclusionary Housing Covenants Declaration

1. This inclusionary Housing Covenants Declaration shall become effective upon its execution and delivery.
2. This Inclusionary Housing Covenants Declaration shall terminate as to the Inclusionary Unit at the earliest of:
 - a. as provided under the terms and conditions of any subordination agreement between a Senior Lender and the City; or
 - b. upon the close of escrow for an Extraordinary Sale; or
 - c. at the end of the Affordability Period.
3. Upon termination of the Affordability Period, on request of the then record Owner of the Property, the City shall execute, acknowledge and record a termination of the Inclusionary Housing Covenants Declaration. To the extent permitted by law, any unfulfilled obligations of any Owner shall survive the termination of the Inclusionary Housing Covenants Declaration, but it shall no longer affect title to the Property.

II. Maintenance and Use

1. The Owner shall maintain the interior and exclusive use areas of the Inclusionary Unit in a clean, well maintained condition consistent with the neighborhood, as set forth in the Project CC&Rs.
2. The Inclusionary Unit shall be used and occupied by the Owner solely for residential purposes, and in addition to the residential purpose may also be used for any accessory uses that comply with the provisions of the Santa Ana Municipal Code, as it may be amended from time to time.
3. No Owner shall grant use of, rent or lease all or any part of the Inclusionary Unit, but shall occupy the Inclusionary Unit as its Primary Residence.
4. The Owner shall comply with all of the use and maintenance provisions and obligations set forth in the Project CC&Rs.

III. Default

If the Owner defaults in the performance or observance of any covenant condition or restriction of the Owner set forth in this Inclusionary Housing Covenants Declaration, and if such default remains uncured for a period of thirty (30) days after written notice has been given by the City (or, if such cure reasonably takes longer than thirty (30) days, if such cure has not been commenced within the thirty (30) day period or is not diligently completed within a reasonable time, not to exceed an additional sixty (60) calendar days), or in the event the Owner has provided false information or documentation required in connection with the purchase or resale of an Inclusionary Unit, then the City may declare an Event of Default has occurred. In that event, the City may exercise any or all of its rights or remedies under this Inclusionary Housing Covenants Declaration, including without limitation of any of the following:

1. by any suit, action or proceeding at law or in equity, require the Owner to perform its obligations and covenants under this Inclusionary Housing Covenants Declaration or enjoin any unlawful acts;
2. take such other action at law or in equity as may appear necessary or desirable to enforce the Owner's obligations, covenants and agreements; and
3. in addition to the foregoing remedies, in the event that the Owner rents or resells the Inclusionary Unit in violation of this Inclusionary Housing Covenants Declaration, as restitution, the Owner shall forfeit, and the City shall have the right to recover the following monetary amounts:
 - a. If the Owner rents the Inclusionary Unit in violation of this Inclusionary Housing Covenants Declaration, the Owner shall forfeit all monetary amounts obtained through the rental of the Inclusionary Unit.
 - b. If the Owner resells the Inclusionary Unit in violation of this Inclusionary Housing Covenants Declaration, the Seller and the new Owner shall be jointly and severally liable to the City for an amount equal to the difference between the Fair Market Value and the Affordable Sales Price for the Inclusionary Unit. However, the Executive Director has the discretion to allow the Seller and the new Owner to cure a violation of the resale requirements imposed by this Inclusionary Housing Covenants Declaration.

All such restitution shall be made to the City. Any funds received by the City under this provision of the Inclusionary Housing Covenants Declaration shall be placed in the City's Inclusionary Housing Fund.

IV. Default Remedies

In addition to any other rights or remedies set forth in this Inclusionary Housing Covenants Declaration, or allowed by law or equity, in the event of a default by an Owner of any of the Owner's obligation under this Inclusionary Housing Covenants Declaration, that is not cured within the cure period provided below, the City may apply to a court of competent jurisdiction for specific performance of this Inclusionary Housing Covenants Declaration, or for an injunction prohibiting a proposed resale or transfer in violation of this Inclusionary Housing Covenants Declaration.

V. Distribution of Insurance and Condemnation Proceeds

If the Inclusionary Unit is condemned or the improvements damaged or destroyed, all proceeds from insurance or condemnation shall be distributed to the Owner, for purposes of restoring or replacing the Inclusionary Unit, unless the Senior Lender Deed of Trust, or the Project CC&Rs provide otherwise. In that case, the Senior Lender Deed of Trust, and the CC&Rs shall control, in that order of priority.

VI. Attorneys' Fees and Costs

If any action is brought to enforce the terms of this Inclusionary Housing Covenants Declaration, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

VII. Controlling Agreement

The Owner covenants that it has not knowingly executed, and will not knowingly execute, without the City's prior written approval, any other agreements with provisions contradictory to or in opposition to the provisions of this Inclusionary Housing Covenants Declaration.

VIII. Severability

If any one or more of the provisions contained in this Inclusionary Housing Covenants Declaration for any reason shall be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Inclusionary Housing Covenants Declaration, and this Inclusionary Housing Covenants Declaration shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.

IX. Time of the Essence

Time is of the essence for this entire Inclusionary Housing Covenants Declaration. Whenever the time for performance falls on a day which is not a business day, such time for performance shall be extended to the next business day.

X. Covenants Running with the Land

All provisions of this Inclusionary Housing Covenants Declaration, including the benefits and burdens, are equitable servitudes, run with the land and are binding upon the heirs, successors, assigns and personal representatives of the Owner hereto and inure to the benefit of the City and permitted successors and assigns. The covenants benefit and bind the City, the Inclusionary Unit and the owner thereto. Each and every contract, deed or other instrument covering, conveying or otherwise transferring the Inclusionary Unit or any interest therein shall conclusively be held to have been executed, delivered and accepted subject to this Inclusionary Housing Covenants Declaration regardless of whether the other party or parties have actual knowledge of this Inclusionary Housing Covenants Declaration.

XI. Construction

The rule of strict construction does not apply to this Inclusionary Housing Covenants Declaration. This Inclusionary Housing Covenants Declaration shall be given a reasonable construction to prevent any use of the Inclusionary Unit in violation of this Inclusionary Housing Covenants Declaration. Whenever the context and construction so requires, all words used in the singular shall be deemed to be used in the plural, all masculine pronouns shall include the feminine and neuter, and vice versa.

XII. Indemnification

The Owner agrees to indemnify and hold harmless the City and its respective officers, directors, employees and agents from and against all liabilities, losses, claims, damages, judgments, costs and expenses (including, without limitation, reasonable attorney's fees) incurred by the City arising out of or relating to any negligent or wrongful action by the Owner with respect to the Inclusionary Unit. The Owner agrees that if any claims, demands, suits or other legal proceedings are made or instituted by any person against the City that arise out of any of the matters relating to this Inclusionary Housing Covenants Declaration, the Owner shall cooperate fully with the City in the defense or other disposition.

XIII. Entire Inclusionary Housing Covenants Declaration and Modifications

This Inclusionary Housing Covenants Declaration may be modified only in a writing duly signed by the Owner and an authorized agent of the City. The modifications shall become effective when recorded in the official records of Orange County, California.

XIV. No Discrimination

Notwithstanding the following, the Owner acknowledges under this Inclusionary Housing Covenants Declaration that it is expressly prohibited from renting or leasing the Inclusionary Unit, and is required to occupy the Inclusionary Unit as its Primary Residence at all times:

1. The Owner covenants by and for itself, its successors, and its assigns that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, sexual orientation, source of income, age, physical or mental handicap, medical condition, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Inclusionary Unit. The foregoing covenants shall run with the land and shall remain in effect in perpetuity
2. All deeds and contracts made relative to the Inclusionary Unit shall contain or be subject to the following non-discrimination or non-segregation clauses set forth in HSC Section 33436 in substantially the same form:
 - 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 any basis listed in subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of 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 any basis listed in subdivision (a) or (d) of Section 12926, 12926.1 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed. The foregoing covenants shall run with the land."

XV. Notices

1. All notices, demands, requests for approval and other communications provided for in this Inclusionary Housing Covenants Declaration shall be in writing and shall be deemed received if sent to the addresses set forth below:
 - a. on the date of delivery when personally delivered;
 - b. one business day after deposit with a reputable overnight courier or delivery service with all delivery charges paid; or
 - c. date of receipt by party if deposited in the United State first class mail, postage prepaid, registered or certified, return receipt requested.
2. Either party may change its address by notice delivered in the manner specified above.

If to City: City Manager
City of Santa Ana
20 Civic Center Plaza
Santa Ana, CA 92701

If to Owner:

IN WITNESS WHEREOF, the City and the Homebuyer have duly executed this Inclusionary Housing Covenants Declaration as of the dates set forth below.

[Signatures on Following Pages]

SIGNATURE PAGE
TO
INCLUSIONARY HOUSING COVENANTS DECLARATION

CITY:
CITY OF SANTA ANA
A California Charter City and Municipal Corporation

By: _____
Tom Hatch
Interim City Manager

Date: _____

APPROVED AS TO LEGAL FORM:

By: _____
Andrea Garcia-Miller
Assistant City Attorney
City of Santa Ana

SIGNATURE PAGE

**TO
INCLUSIONARY HOUSING COVENANTS DECLARATION**

HOME BUYER:

By: _____

Date: _____

By: _____

Date: _____

SAMPLE

**EXHIBIT 1
PROPERTY DESCRIPTION**

SAMPLE

**EXHIBIT 2
OCCUPANCY RECERTIFICATION FORM**

SAMPLE

CERTIFICATION OF CONTINUED OCCUPANCY

Date:

Owner(s) Name:

Address: Santa Ana, CA

We are the Owners of an Inclusionary Unit that was produced under the requirements of the City of Santa Ana Inclusionary Housing Ordinance. We understand and agree that the Inclusionary Unit must be used as our Primary Residence and for no other purpose.

By this Certification, we declare under penalty of perjury that:

1. We currently occupy the Inclusionary Unit; and
2. We have occupied the Inclusionary Unit for at least ten (10) out of the past twelve (12) months; and
3. We have not used the Inclusionary Unit for any other purpose than as our Primary Residence; and
4. We are not renting or leasing any part of the Inclusionary Unit to another party.

We have attached true and accurate copies of two utility bills or other documentation evidencing our continued occupancy of the Inclusionary Unit.

We acknowledge that any intentional or negligent misrepresentation in this Certification may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment, or both, and liability for monetary damages under the provisions of Title 18, United States Code, Section 100.1, et seq.

**SIGNATURE PAGE
TO
OCCUPANCY RECERTIFICATION FORM**

OWNER:

CO-OWNER:

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Date: _____

Date: _____

Telephone: _____

Telephone: _____

SAMPLE

EXHIBIT 3
NOTICE OF INTENT TO TRANSFER

DATE: _____

TO: City Manager
City of Santa Ana
20 Civic Center Plaza
Santa Ana, CA 92701

The undersigned _____ Owner(s) of the Inclusionary Unit located at _____ **Santa Ana, California**, hereby notifies you of its intent to transfer in compliance with Article 2 of the Inclusionary Housing Covenants Declaration. The reason or circumstances relating to such transfer are as follows:

Any additional information reasonably required regarding the proposed transferee shall be provided to you immediately upon request. The undersigned acknowledges that all applicable time periods under the Inclusionary Housing Covenants Declaration commence only upon the City's receipt of this notice. The undersigned further acknowledge and agrees that any such transfer shall be subject to the provisions of the Inclusionary Housing Covenants Declaration.

OWNER: _____
Signature

Print Name: _____

CO-OWNER: _____
Signature

Print Name: _____

**EXHIBIT 4
ASSUMPTION AGREEMENT**

SAMPLE