

**AMENDED REGULATORY AGREEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS**

**THIS AMENDED REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS** to restrict use of Property is made and entered into this 15th day of August, 2006, by and between the **COUNTY OF SAN MATEO**, hereinafter referred to as "County," and **THE PETER AND PHYLLIS MARCHI TRUST**, hereinafter referred to as "Owner".

**RECITALS**

- A. "Owner" is the owner of the fee interest in certain real property located on Cloverdale Road, Pescadero, in the County of San Mateo, State of California (County) also identified as APN 086-050-080 and further described in Exhibit "A" (the Property) attached hereto; and
- B. County, on December 3, 1982, approved Owner's tentative map (SMN 82-14) to create the Property (Parcel C), and as a condition of approval required that the Owner enter into an Agreement to limit the use of any housing unit constructed on the Property to occupancy by low or moderate income households; and
- C. In fulfillment of this requirement, Owner and County entered into an Agreement to Restrict Property; this Agreement was executed on July 29, 1985, and recorded (Document No. 85118748); and
- D. Owner and County now wish to enter into a revised Agreement to permit sale or transfer of the Property to a person or family that does not qualify as low or moderate income provided any housing unit constructed on the Property is occupied solely by a low or moderate income household.
- E. On November 8, 2005, Owner and County entered a revised Regulatory Agreement and Declaration of Restrictive Covenants, but prior to recordation of the document, an error in the property reference was discovered, and it is hereby corrected by adoption of this amended Agreement.

**PART I**

A. **Description of the Property**

The Real Property subject to this Agreement is located in the County of San Mateo, State of California, and is more fully described in Exhibit "A," attached hereto and by this reference made a part hereof.

B. **Maintenance of Long-Term Affordability**

The unit of affordable housing, located on Parcel C, required as a condition of approval of the aforementioned tentative map, shall be sold or rented only to very

low, low or moderate income households. Alternatively, the property may be sold to a person or household that does not qualify as very low, low or moderate income, provided they do not occupy a housing unit on the parcel, but rather rent to a person or household who does qualify as very low, low or moderate income. Whether a prospective buyer or tenant qualified as very low, low or moderate income shall be determined by the County Planning Division. The following rent and/or cost controls will apply to said units of affordable housing.

**C. Rent Restrictions**

The monthly rent for any housing unit on the Property shall not exceed the maximum affordable rent payment for a median income household as determined by the County Housing Department or its successor agency. As of the date of this Regulatory Agreement, the maximum rent for a 2-bedroom unit is \$2,137 [exclusive of tenant utility allowance based on calculations provided under Section 8 of the United States Housing Act of 1937 (“Section 8” or “Section 8 Program”) described further below].

**D. Tenant Requirements**

Any unit constructed on the Property shall be continuously occupied by Very Low, Low or Moderate Income Tenants as defined in General Plan Housing Chapter Policy 14.5, except that the maximum income of a moderate income household occupying the unit shall not exceed 100% of the County Median Household Income as established annually by U.S. Department of Housing and Urban Development (HUD). As of the date of this Regulatory Agreement, the maximum income of the tenant shall not exceed the following:

<u>Household Size</u>	<u>Median Income</u>
1	66,500
2	76,000
3	85,500
4	95,000
5	102,600
6	110,200
7	117,800

These income amounts will be revised as reflected by law. For purposes of satisfying the Very Low, Low or Moderate Income Tenant occupancy requirements set forth above, a unit occupied by a person or family who at the commencement of their occupancy qualified as a Very Low, Low or Moderate Income Tenant, shall be treated as occupied by a Very Low, Low or Moderate Income Tenant until said tenant vacates the unit. All subsequent tenants must meet the moderate income guidelines per Part I, Subsection C, at commencement of occupancy.

The Owner shall accept as tenants on the same basis as all other prospective tenants, Very Low, Low or Moderate Income Tenants who are recipients of federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937 or its successor, and shall not apply selection criteria to Section 8 certificate holders that are more burdensome than the criteria applied to all other prospective tenants.

Each lease pertaining to an affordable unit shall contain a provision to the effect that the Owner has relied on the income certification and supporting information supplied by the tenant in determining qualification for occupancy of the affordable unit, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease. Except for the affordable rent to be paid by a Very Low, Low or Moderate Income Tenant, the Owner shall not collect any additional fees or payments from a Low Income Tenant or Very Low Income Tenant except security deposits or other deposits or fees required of all similarly situated tenants.

E. **Sales Restrictions**

If said unit is to be sold, the sales price must be equal to or less than 2.5 times the County median family income for moderate income households as adjusted for a family size which corresponds to the unit size as determined by the County Housing Department.

The unit shall remain available to low or moderate income persons and families throughout the life of the units. Appreciation of equity in the unit cannot exceed an amount determined by application of the Consumer Price Index.

Rent levels shall not exceed the levels established pursuant to Part I, Subsection C, above for the life of the unit.

Before the close of escrow when there is any change in ownership, Owner or his successors in interest shall notify the County Planning Division of any such change and shall provide such information as may be requested to verify compliance with the terms of this Agreement. Close of escrow shall not be consummated until the Planning Division has verified the low or moderate income status of the purchaser.

F. **Income Certification**

The Owner will obtain, complete, and maintain on file income certifications and verifications from each Very Low, Low or Moderate Tenant, obtained immediately prior to the initial occupancy of the restricted unit.

A copy of each such income certification obtained prior to initial occupancy shall be filed with the County prior to occupancy by the tenant whenever possible but in

no event more than seven days after initial occupancy by the tenant.

The Owner shall make a good faith effort to verify that the income provided by an applicant in an income certification is accurate by taking one or more of the following steps as part of the verification process: (1) obtain a pay stub for the most recent pay period, (2) obtain an income tax return for the most recent tax year, (3) conduct a credit check or similar search, (4) obtain an income verification form from the applicant's current employer, (5) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies, or (6) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. Copies of said verifications shall be made available to County upon demand.

**G. Covenants to Run with the Land**

The Owner hereby subjects the property to the covenants, reservations, and restrictions set forth in the Regulatory Agreement. The County and the Owner hereby declare their express intent that the covenants, reservations, and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors in title to the property. Each and every contract, deed, or other instrument hereafter executed covering or conveying the property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

**PART II**

**A. Enforcement**

If the Owner defaults in the performance of observance of any covenants, agreement or obligation of the Owner set forth in this Regulatory Agreement, and if such default remains uncured for a period of 30 days after notice thereof shall have been given by the County, then the County shall declare an "Event of Default" to have occurred hereunder, and, at its option may take any one or more of the following steps:

1. By injunction or other suit, action or proceeding at law or in equity, require the Owner to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the County hereunder.
2. Have access to and inspect, examine and make copies of all of the books and records of the Owner pertaining to the property.
3. Take such other action at law or in equity as may appear necessary or

desirable to enforce the obligations, covenants and agreements of the Owner hereunder.

**B. Recording and Filing**

A Memorandum of Deed Restriction referencing this Regulatory Agreement shall be recorded and filed in the real property records of the County of San Mateo, California. The Owner shall pay all fees and charges incurred in connection with any such recording. A copy of this recording shall be submitted to the County Planning Division for filing with the Planning file.

**C. Project Representation**

The County and Owner hereby designate the following agents to act as project representatives in the matters dealing with the performance of work under this Agreement:

**COUNTY:** Community Development Director  
Planning and Building Division  
455 County Center, 2nd Floor  
Redwood City, CA 94063  
650/363-4161

**OWNER:** Phyllis and Peter Marchi Trust  
P.O. Box 337  
Pescadero, CA 94060

**D. Interest of Public Officials**

No members, officers, or employees or agents of San Mateo County, no member of the Board of Supervisors, and no other public official who exercises any function or responsibility with respect to this program during his/her tenure, or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or a related subcontract, or the proceeds thereof. Owner shall incorporate in all subcontracts hereunder a provision prohibiting such interest.

**E. Compliance with County Affirmative Action Plan**

Owner shall not discriminate based on age (over 40), ancestry, creed, color, disability, marital status, medical condition (cancer related), national origin, political or religious affiliation, race, sex, sexual orientation, or union membership.

**F. Hold Harmless**

The Owner shall indemnify and save harmless the County, its officers, agents, employees and servants from all claims, suits or actions of every name, kind and

description, brought for, or on account of, injuries to or death of any person, including Owner, or damage to Property of any kind whatsoever and to whomsoever belonging, including but not limited to, the concurrent active or passive negligence of the County, officers, agents, or employees and servants, resulting from the performance of any work required by this Agreement of Owner, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of the Owner to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

G. **Merger Clause**

The document constitutes the sole Agreement of the parties hereto relating to said property and correctly states the rights, duties, and obligations of each party as of the document's date. Any prior Agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year first above written.

**COUNTY OF SAN MATEO**

By: \_\_\_\_\_  
President, Board of Supervisors  
San Mateo County

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

**OWNER**

By: \_\_\_\_\_  
Peter Marchi

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Phyllis Marchi

Date: \_\_\_\_\_

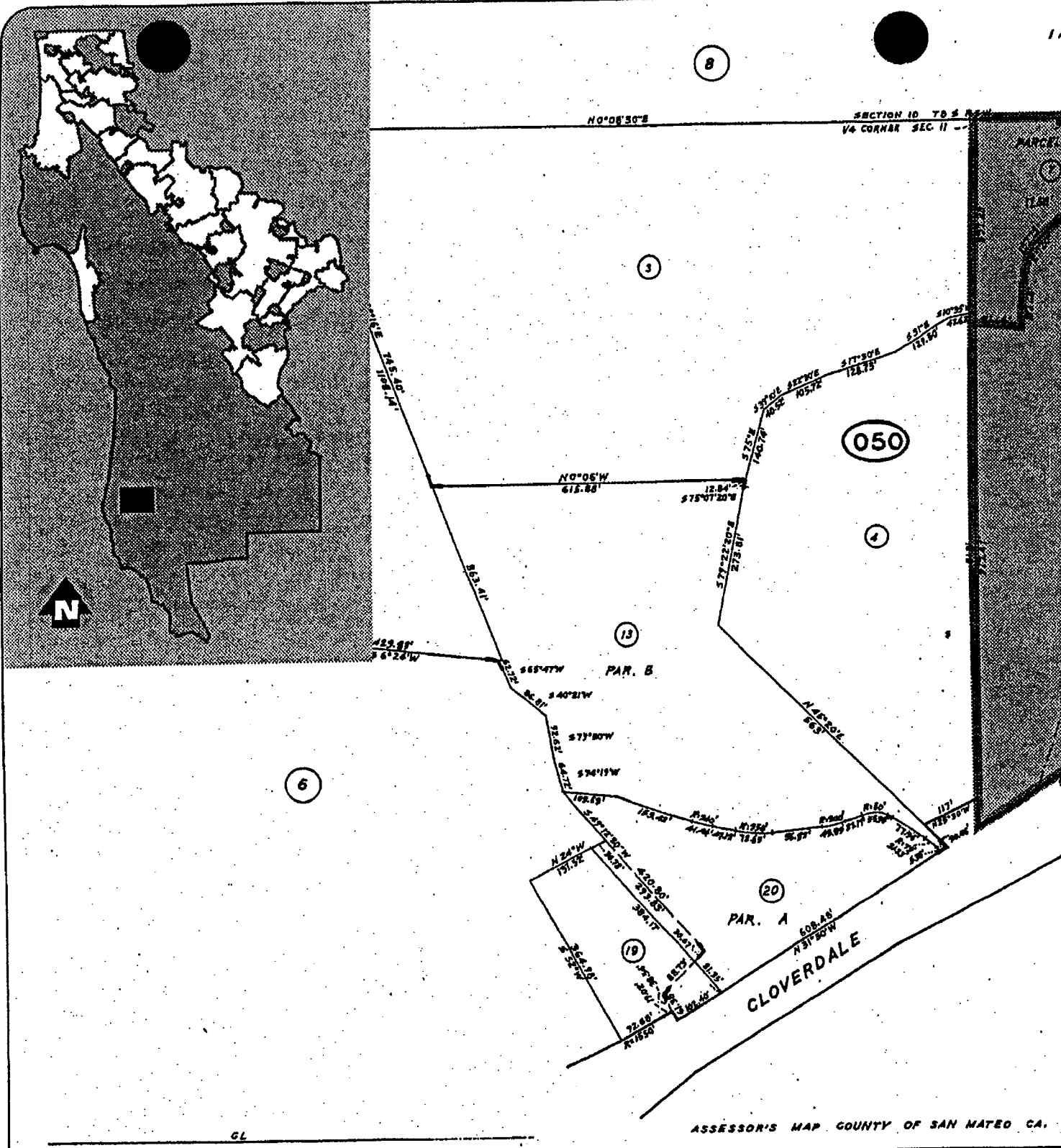
**PROPERTY DESCRIPTION**

The land herein referred to is situated in the State of California, County of San Mateo, and is described as follows:

Parcel C as show on that certain Map filed for record in the office of the Recorder of the County of San Mateo, State of California on November 7, 1985 in Book 56 of Parcel Maps, at Page 49, Official Records.

APN: 086-050-080





# San Mateo County Board of Supervisors Meeting

Applicant: \_\_\_\_\_

File Numbers: \_\_\_\_\_