

SAN FRANCISCO MAYOR'S OFFICE OF HOUSING
CONDOMINIUM CONVERSION BELOW MARKET RATE PROGRAM
For Pre-Legislation Owners

**AGREEMENT TO SUBJECT CONDO CONVERSION BMR PROGRAM UNIT TO POST-
LEGISLATION OWNER PROVISIONS AS ALLOWED BY SUBDIVISION CODE SECTION
1344(i)**

This Agreement to Subject Condo Conversion BMR Program Unit to Post-Legislation Owner Provisions as Allowed by Subdivision Code Section 1344(i) ("Agreement") is made as of _____, 20__, (the "Effective Date") by and between _____ ("Owner") and the City and County of San Francisco, a municipal corporation, represented by the Mayor, acting by and through the Mayor's Office of Housing ("City"). Owner has acquired a fee interest in that certain real property in the City with a street address of _____, San Francisco, California _____, and more particularly described on Exhibit A attached hereto ("Property"). The following recitals of fact are a material part of this Agreement:

- (a) The City developed the Condominium Conversion Below Market Rate Program (the "Program") to provide home ownership opportunities to individuals and families with low and moderate incomes and to existing tenants being displaced by proposed condominium conversions by offering homes for sale at prices which are below those otherwise prevailing in the market;
- (b) Pursuant to the subdivision map recorded against the Property on _____ (the "Subdivision Map Notation"), the Property is subject to the Program restrictions.
- (c) The City's intent is to preserve the affordability of such homes by restricting the resale price and by imposing certain other restrictions on occupancy and transfers; and
- (d) Pursuant to San Francisco Subdivision Code (the "Subdivision Code") Section 1344(i), the Owner is a Pre-Legislation Owner (as defined in the Subdivision Code) who has agreed to be governed by the provisions of the Ordinance applicable to Post-Legislation Owners (as defined in the Subdivision Code) in exchange for a one-time increase in the Property's Base Price (as defined in the Subdivision Code).

NOW, THEREFORE, in consideration of the substantial economic benefits inuring to Owner and the public purposes to be achieved under the Program, Owner and the City agree as follows:

1. Pursuant to Subdivision Code Section 1344(i), Owner hereby acknowledges and agrees that the Property will be governed by the provisions applicable to "Post-Legislation Owners" (as defined in Subdivision Code Section 1344), as such provisions are set forth in the Subdivision Code, the Declaration (as defined below), and the City and County of San Francisco Residential Inclusionary Affordable Housing Program Monitoring Procedures Manual published in 2007 under San Francisco Planning Code Sections 315 et seq., with Condominium Conversion BMR Addendum, on file with the Clerk of the Board of Supervisors in File No. 080520 (the "Procedures Manual"). In doing so, Owner hereby acknowledges, represents and warrants that it has reviewed the Subdivision Code sections and Procedures Manual provisions applicable to the Program for "Post-Legislation Owners" and agrees to the terms therein.
2. In exchange for the agreement set forth in Section 1 above, the City hereby agrees to a one time increase in the Owner's Base Price. The Base Price for the Property shall hereby be \$_____.
3. Concurrently herewith, Owner shall execute the following documents: (i) a Declaration of Restrictions For Condominium Conversion Below Market Rate Units and Option to Purchase Agreement (the "Declaration"); (ii) a promissory note in favor of the City (the "Note"); (iii) a deed of trust securing such Note ("Deed of Trust") in favor of the

City, which Deed of Trust shall be recorded against the Property on the Effective Date; and (iv) an acknowledgement of receipt and review of the Declaration, Procedures Manual, and the Subdivision Code (the "Acknowledgment"). City hereby acknowledges and agrees that in connection with this Agreement, Owner may sell the Property to a Program-qualified buyer, in which event the new buyer shall execute the Declaration, Note, Deed of Trust and Acknowledgment in lieu of the Owner, provided however that Owner shall still be required to execute this Agreement as a condition to such sale.

4. As a material term of this Agreement and condition to City's approval of the increase in the Base Price, Owner, on behalf of itself and its successors, heirs and assigns, waives any right to recover from, and forever releases and discharges, City, its officers, employees, boards, departments, commissions, agents, contractors and representatives, and their respective heirs, successors, legal representatives and assigns, from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Program.

This release and discharge includes, to the extent applicable, an express waiver, release and relinquishment of all rights under section 1542 of the California Civil Code, which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

5. If any action or legal proceeding is instituted by Owner or the City arising out of this Agreement, the prevailing party therein shall recover reasonable attorneys' fees and costs in connection with such action or proceeding. For purposes of this Agreement, reasonable fees of any in-house counsel for the City shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience in the subject matter area of the law for which the City's in-house counsel's services were rendered who practice in law firms located within the City.

6. This Agreement constitutes an integration of the entire understanding and agreement of the Owner and the City with respect to the subject matter hereof. Any representations, warranties, promises, or conditions, whether written or oral, not specifically and expressly incorporated in this Agreement, shall not be binding on any of the parties, and Owner and the City each acknowledge that they have not relied, in entering into this Agreement, on any representation, warranty, promise or condition, not specifically and expressly set forth in this Agreement. All prior discussions and writings have been, and are, merged and integrated into, and are superseded by, this Agreement.

IN WITNESS WHEREOF, Owner and the City have executed this Agreement as of the date written above.

OWNER:

CITY:

City of the City and County of San Francisco

By:

Myrna Melgar
Director of Homeownership Programs
Mayor's Office of Housing

APPROVED AS TO FORM:

DENNIS J. HERRERA

City Attorney

By:

Deputy City Attorney