City of St. Helena
Special City Council Meeting
Monday, June 19, 2017 @ 5:00 PM
Vintage Hall Board Room - Second Floor
465 Main Street, St. Helena

PLEASE NOTE: Any person who wishes to speak regarding an item on the agenda or make a comment under the "public comment" portion of the agenda may do so, but please observe the time limit of three minutes.

This agenda was posted at City Hall, 1480 Main Street, and at Vintage Hall, 465 Main Street, St. Helena, California on June 16, 2017.

Cindy Black

Cindy Black, City Clerk

In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 967-2792. Notification 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Recommendations to the City Council from the Ad Hoc Utility Rate Committee

Background

The Ad Hoc Utility Rate Committee was appointed by and received direction from the City Council to review the Water and Wastewater Study dated October 31, 2016. We were directed to make recommendations, if any, to the Council for revisions to the Study and potential adjustments to the rates adopted on November 29, 2016. The Committee began meeting on April 10, 2017. Committee members were: Chair Bonnie Long, Vice Chair Tom Vence, Chris Dann, Lester Hardy, Joel Gott, Doug Cutting and Mark Smithers. We held our 9th and final meeting on May 31, 2017. Chris Dann was on the East Coast and unable to attend.

The committee has listened to public comments at all of our meetings, asked questions and received input from staff and consultants, and reviewed and discussed written recommendations from all seven committee members.

There was consensus from the six committee members attending our last meeting that adjustments need to be made to the current rates. With that in mind, we reviewed the individual recommendations submitted by committee members and made the following determinations based on Council direction.

This is a recitation of recommendations made by the committee at our final meeting as recorded by City Clerk Cindy Black, Finance Director April Mitts and Committee Chair Bonnie Long.

Recommendations

All recommendations were endorsed by the Committee with the exception of Doug Cutting in opposition to number 11. Some of these recommendations are based solely on the pressing needs of our systems. Others are also concerned with generally accepted principles. And a few are tinged with our attempt to provide unique solutions to our unique problems. Without testing the recommendations that follow the Committee can only assure the Council that these are our best predictions. Testing these proposals by running new rate scenarios is needed before implementation of any or all is contemplated.

1. Increase CIP for water and waste water costs by 5%.
2. Update CIP costs and schedules with best available current information.
3. Increase water and waste water mainline replacement to 4% per annum from 1%.
4. Accept new spray field cost of $1.4M.
5. Seek timely compliance with bond covenants.
6. When pursuing new debt use debt service ratio of 1.3 to 1.5 as guideline.
7. Maximize the use of state and federal loans and grants for CIP projects.
8. Prioritize CIP funding in terms of regulatory and infrastructure needs. Request guidance from financial consultant to pursue other funding options including municipal bonds. Seek the guidance of financial consultant to attain a balance between debt and cash financing.
9. Create adequate sinking funds and rehabilitation funds for both water and waste water.
10. Operating cash reserves should range from 6-8 months for waste water and 10-14 for water.
11. Replace the current wastewater rate structure with the Modified Rate Structure previously offered as an option to the current rate structure by Catherine Hansford in 2016.
12. Update and recalculate the rate model to include the committee's recommendations.
13. Consider requiring new businesses to put in a sewer meter and two water meters (inside and landscape) for more accurate measurement.
14. Revisit the subject of multiple users on a single meter.
15. Examine the issue of water rates for intermittently occupied versus continually occupied residences. Work towards including more costs in the base rates.
16. Examine the longer range issue of charging some users more based on the actual costs to provide service, with particular emphasis on those outside of the City.
17. Review businesses for actual wastewater usage. Move away from charging by meter size and move towards flow and quality.

Respectfully Submitted:
Bonnie Long, Chair, Ad Hoc Utility Rate Committee
Tom Vence, Vice Chair, Ad Hoc Utility Rate Committee

Report to the City Council
Council Meeting of June 19, 2017

Agenda Section: **New Business**

Subject: **Consideration regarding notice of intent to sell affordable housing unit at 1620 Voorhees Circle and direction as to whether the city desires to exercise its option to purchase said property**

CEQA Determination: **Not a CEQA project**

Prepared By:
Noah Housh, Planning Director

Reviewed By:

Approved By:
Larry F. Pennell, Interim City Manager

BACKGROUND

On May 11, 2017, the City received notice from St. Helena's affordable housing agency, the Housing Authority of the City of Napa ("Housing Authority") that the home owner, at 1620 Voorhees Circle in St. Helena intends to sell the home. The home is a two bedroom, owner- occupied affordable housing unit in the Wallis Subdivision. The owner, Marilyn Rothfeld has lived in the home since 1996.

DISCUSSION

As an owner-occupied affordable housing unit, 1620 Voorhees Circle was sold to the current owner ("Owner") subject to a Resale Restriction Agreement and Option to Purchase ("Agreement"). The Agreement provides that if Owner no longer wishes to occupy or own the home, the home must be sold to an income-qualified buyer at a price set by the Agreement at either fair market value or restricted sales price, whichever is lower.

The sale of the property would be subject to another agreement to continue restricting resale under similar terms, all intended to keep the home as an affordable housing unit. Alternatively, the Agreement gives the City the opportunity to exercise or assign an option to purchase the property. Should the City exercise its option, the City should be prepared to purchase the home at
the fair market value or restricted sales price of $307,500.00, whichever is lower.

Sale by the Owner
If the City does not exercise the option to buy, the sale by the owner would proceed under the Resale Agreement restrictions that were written in 1996. Under these agreements the owner is not required to sell the property subject to the City's Local Preference Policy which was adopted by the St. Helena City Council in 2005 and amended in July 2010.

Sale by the Owner would require that the Owner cooperate with the Housing Authority in finding an income-qualified buyer, who would purchase according to the Agreement (at the restricted sales price, subject to another similar agreement). The owner would have eight (8) months to market and sell the home in this manner.

City's Option
As an alternative to Owner's sale of the home, the Agreement gives the City an opportunity to exercise or assign an option to purchase. This option would need to be exercised in order for the City to insure that the terms of the 2010 Local Preference Policy are followed.

The City has two opportunities to exercise the option; now, upon Owner's notice of intent to sell or later if Owner's eight month marketing period ends without any sale to an income-qualified buyer. If the City exercises its option to purchase the home, either before or after the Owner's marketing, the option can be assigned to a purchaser identified and selected by the Housing Authority through implementation of the City's preference policy.

Factors Affecting Exercise of Option
One factor to consider in the City's decision whether or not to exercise the option in the first instance available is that the first option must be exercised within 45 days of the notice of intent to sell. Therefore, the option must be exercised by June 23, 2017. Further, once the option is exercised, escrow on a sale of the home must close no later than 90 days after the notice of intent to sell, which would be August 7, 2017. The Housing Authority cautions that these time limits may not allow sufficient time to advertise for and then conduct a lottery in order to find an income- qualified buyer under the City's preference policy.

Ideally, the City would exercise its option and then assign the right to purchase before the deadline to close escrow. The 90 day limit for close of escrow would apply to any assignee also. Or, the City could exercise its option, purchase the unit, and enter into a sales and purchase agreement with another buyer before the close of escrow. However, by the terms of the Agreement, if the City exercises its option it must close escrow by August 7, 2017. There is a chance that no buyer will have been identified by then, and the City will have to close escrow and hold the home until a buyer can be found.

FISCAL IMPACT

If the City exercises its option, the City will pay $307,500, plus any costs associated with close of escrow according to the terms of the Agreement. Additional costs may be incurred with amending and recording the regulatory agreements to include the provisions of the Local Preference Policy and any costs associated with the resale to an income-qualified buyer identified through implementation of the preference policy.

RECOMMENDED ACTION

Discuss and provide direction to staff regarding the option or the Owner's attempt to sell.

ATTACHMENTS

May 11, 2017 Notice of Intent to Sell
Rothfeld - Resale Restriction Agreement

CITY OF NAPA

Housing Authority

May 11, 2017

Larry Pennell, Interim City Manager
City of St. Helena
1480 Main Street
St. Helena, CA 94574

Re: Notice of Intent to Sell
1620 Voorhees Circle, St. Helena
Marilyn Rothfeld

Dear Mr. Pennell:

The Housing Authority is in receipt of a letter from Marilyn Rothfeld dated May 1, 2017 and received in this office on May 9, 2017. The letter states that Mrs. Rothfeld intends to sell her affordable housing/below market rate home at 1620 Voorhees Circle.

Under the Resale Restriction Agreement and Option to Purchase signed by Marilyn Rothfeld and the City of St Helena (the City) on March 20, 1996, the City has "the first right to exercise its option to purchase the property. The City has 45 days from the time it received notification to sell to inform the owner in writing whether or not it intends to exercise its option to purchase. Thus, the City must respond to the owner by June 23, 2017.

Should the City exercise its option, the City should be prepared to purchase the home at the fair market value or restricted sales price of $307,500.00, whichever is lower. If the City elects to exercise its option to purchase it has 90 days from the receipt of Owner's notice of intent to sell to close the escrow. The 90-day period commenced when the City received the owner's notice to sell, which was May 9, 2017 with the period ending on August 7, 2017.

Housing Authority: 1115 Seminary Street, Napa CA 94559 | Mailing Address: P.O. Box 660, Napa CA 94559 | (707) 257-9543 phone
(707) 257-9239 fax | TTY: 711 (Telecommunication Relay Service | www.cityofnapa.org/housing

Under the current owner's Resale Agreement, the owner of the property is not required to sell the property under the terms of the Local Preference Policy. In order for the City to insure that terms of the Local Preference Policy are being followed, the City may want to exercise their option to purchase the property and assign the sale to an eligible purchaser under the terms of the Local Preference Policy.

The Housing Authority is prepared to assist the City in locating an eligible purchaser for the property under the terms of the Local Preference Policy however; this process may take longer than the allowable 90 days the City would have to actually close the escrow. Please contact me to discuss how the City wants to proceed and how the Housing Authority may assist you.

Sincerely,

Andrea Clark

Andrea Clark
Affordable Housing Representative

Attachments: Copy of Resale Restriction Agreement
Rothfeld May 1, 2017 letter

cc: Cindy Black
Noah Housh

May 1, 2017

City Of St. Helena
C/O Housing Authority
1115 Seminary Street
Napa, CA 94559

Dear Housing Authority,

I would like to sell my affordable housing unit at 1620 Voorhees Circle, St. Helena, CA 94574.

Please accept this letter as notification of my intent to sell my home and let me know as soon as possible if the city wishes to exercise its option to buy it.

Sincerely,

Marilyn Rothfeld

Marilyn Rothfeld
1620 Voorhees Circle
St. Helena, CA 94574

(3)

Recording requested by and when recorded return to:

Napa Valley Housing Authority
1115 Seminary Street
Napa, CA 94559

APN 009-601-008
FA # 91033-5D

CLERK-RECORDER NAPA COUNTY CALIF.
1996 007161
OFFICIAL RECORDS OF
NAPA COUNTY
H. KATHLEEN BONDS
AT REQUEST OF: FIRST AMERICAN TITLE
03/25/1996 01:55 PM
Fee: $ .00 Pgs: 18
TT : $ .00

For use by Recorder only

EXEMPT FROM RECORDING FEES PURSUANT TO GOVERNMENT CODE #6103

RESALE RESTRICTION AGREEMENT AND OPTION TO PURCHASE

DBL

Section 1. Parties. This Resale Restriction Agreement and Option to Purchase (the "Agreement") is entered into as of this 20 day of March, 1996, by and between the City of St. Helena, a California municipal corporation (the "Agency"), and Jerome and Marilyn Rothfeld (the "Owner" and "Transferor").

Section 2. Definitions. The following defined terms have the meanings indicated in this Section 2. Exhibits to this Agreement are hereby incorporated by reference. All recordings required by this Agreement shall be in the official records of Napa County.

(a) "Agreement" means this Resale Restriction Agreement and Option to Purchase.

(b) "Appraiser" means an appraiser who is a MAI member of the American Institute of Real Estate Appraisers or a SRPA member of the Society of Real Estate Appraisers (or in case such professional designations are modified or discontinued, the most nearly equivalent successor designations).

(c) "Business day" means a day other than a Saturday or Sunday on which banks located in Napa County are not required or authorized to remain closed.

(d) "Agency" means the City of St. Helena, a California municipal corporation.

(e) "Designee" means an individual, corporation, agency or other organization which the Agency has designated to become the Optionee pursuant to Section 6.

(f) The term "including" or variants thereof shall mean "including without limitation."

(g) "Index" means the index of median yearly income, adjusted for family size, for a family in Napa County, California, as published from time to time by the California Department of Housing and Community Development; provided, however, that if such income figures are no longer published or have not been updated for a period of at least eighteen (18) months, the Agency may use such other reasonable method as it may choose to determine median yearly income in Napa County.

(h) "Optionee" means the party who, pursuant to Section 6, is entitled to exercise the Purchase Option as provided in this Agreement.

(i) "Owner" means Jerome and Marilyn Rothfeld.

(j) "Transfer Fees" means those fees payable to the Agency by Transferor upon a Prohibited Transfer or a Transfer pursuant to Section 9 or 10, as set forth in Section 7(c).

(k) "Prohibited Transfer" has the meaning stated in Section 7.

(l) "Purchase Option" means the option to purchase granted by the Owner, as optionor, to the Optionee, as optionee, by this Agreement.

(m) "Residence" means the real property identified in Section 4 of this Agreement and more particularly described on Exhibit A, including all improvements and appurtenances.

(n) "Transfer" has the meaning stated in Section 7.

(o) "Procedures Manual" means the Procedures Manual for the Wallis Project as such may be amended from time to time by the Agency.

Section 3. Recitals. The following recitals of fact are a material part of this Agreement.

(a) WHEREAS, the Agency has developed a program, as described in that certain First Amended and Restated Affordable Housing Agreement, dated as of March 9, 1993, between the Agency and Edward J. Wallis (as such may be amended from time to time, the "Affordable Housing Agreement"), to provide housing opportunities to moderate income purchasers of homes to be offered for sale at prices which are below those otherwise prevailing in the market; and

(b) WHEREAS, the intent of the Agency is to preserve the affordability of the homes for persons of moderate income for as long as possible;

(c) NOW, THEREFORE, in consideration of the benefits received by the Owner, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, and intending to be bound, the Owner and the Agency agree as follows:

Section 4. The Residence. The Residence which is the subject of this Agreement has a street address of 1620 Voorhees Circle, St. Helena, CA, and its legal description is "Exhibit A" to this Agreement. The Residence shall be subject to the terms and conditions here set forth.

Section 5. Owner Representations and Warranties. The Owner represents and warrants to the Agency that the financial and other information previously provided to the Agency, the original subdivider or any lenders by the Owner for the purpose of qualifying to purchase the Residence was true and correct at the time it was given and remains true and correct as of the date of this Agreement. The Owner further represents and warrants to the Agency that the Owner shall occupy the Residence as his or her principal residence (i.e., live in the Residence at least 10 months out of each calendar year). Owner shall comply with all administrative requirements described in the Procedures Manual, a copy of the then current version of which shall be given to Owner upon purchase of the Residence.

Section 6. Purchase Option. The Owner hereby grants to the Agency, as optionee (the "Optionee"), an option to purchase the Residence (the "Purchase Option") on the terms of this Agreement. The Agency may designate by resolution any individual or entity (the "Designee") to exercise the Purchase Option. The Designee when so designated shall then be the Optionee. After the exercise of the Purchase Option by the then Optionee in the manner hereinafter prescribed, the Optionee may assign the Purchase Option to any substitute buyer who is approved by the Agency; provided, however, that such subsequent assignment shall not extend any time limits contained herein. Upon approval by the Agency, such substitute buyer shall become the Optionee. The Agency shall give the Owner notice of any designation of a Designee. The Agency, the Designee or the Optionee, as the case may be, shall give the Owner notice of any assignment to an

Optionee. In addition to giving notice to the Owner, any designation of a Designee or assignment by the then Optionee of the Purchase Option shall be by a written instrument executed and acknowledged by the parties, in recordable form, which shall be recorded.

Section 7. Transfer by Owner. Any attempt by the Owner to make a Prohibited Transfer of title to or any interest in the Residence or otherwise in violation of this Agreement shall be void and subject to exercise by the Optionee of the Purchase Option described in Section 6.

(a) "Transfer" means any voluntary or involuntary sale, assignment or transfer of ownership of or any interest in the Residence, including a fee simple interest, tenancy in common, joint tenancy, community property, tenancy by the entireties, life estate, or other limited estate, leasehold interest or any rental of the Residence in excess of 60 days in any calendar year, or any interest evidenced by a land contract. Any Transfer without satisfaction of the conditions of this Agreement shall be deemed a "Prohibited Transfer." In addition, any breach by the Owner of the representations and warranties set forth in Section 5 shall be deemed a "Prohibited Transfer."

(b) The following Transfers are not considered Prohibited Transfers and therefore are not subject to exercise by the Optionee of the Purchase Option: (i) Transfer by gift, devise, or inheritance to the Owner's spouse or natural or adopted children; (ii) Transfer of title by an Owner's death to a surviving joint tenant, tenant by entireties, or a surviving spouse of community property; (iii) Transfer of title to a spouse as part of divorce or dissolution proceedings; (iv) Transfer of title or an interest in the Residence to the spouse in conjunction with marriage; or (v) Transfer of title to an inter vivos or testamentary trust for estate planning purposes where the Owner is a trustee of such trust; providing, however: (x) that these covenants shall continue to run with the title to the Residence following said Transfers; and (y) that an instrument be executed, acknowledged and recorded by the transferee containing the following covenant: "This Residence is subject to the Resale Restriction Agreement and Option to Purchase recorded on March 25, 1996 as Instrument No. 1996-007161 ________________ ("the Agreement") and transferee, on behalf of transferee, and transferee's successors and assigns, covenants and agrees to be bound by and perform the Agreement, and to include in any further Transfer of the Residence pursuant to Section 7(b) of the Agreement the covenant required by Section 7(b) of the Agreement." A transferee who satisfies the conditions of this Section 7(b) shall then be the Owner. Should a transferee under this Section 7(b) fail to record the instrument described in this Section, the provisions of this Agreement will remain in full force and effect and such attempted Transfer shall be a Prohibited Transfer subject to the provisions of Section 15 of this Agreement.

(c) Upon any Prohibited Transfer, or any Transfer pursuant to Section 9 or 10, Transferee shall pay to the Agency a Transfer Fee of Five Hundred Dollars ($500.00). The amount of the Transfer Fee established by this Section may be adjusted by the Agency annually in an amount not to exceed the percentage change in the Consumer Price Index from the later of June 1, 1992 or the last adjustment made to the Transfer Fee. During the month of June of each year, the Agency shall establish by resolution any adjusted Transfer Fee for the ensuing fiscal year. In the event the Agency does not adjust such Transfer Fee in June of any particular year, the prior fee schedule shall remain in effect.

Section 8. [reserved]

Section 9. Procedure on Sale. Whenever the Owner of the Residence no longer desires to own the Residence, and intends to make a Transfer of title to or any interest in the Residence which, unless the Owner complies with this Section 9, would be a Prohibited Transfer, the Owner shall notify the Optionee to that effect. The Optionee, upon receipt of said notice, shall then have the right to exercise its Purchase Option by delivery of notice to the Owner of such exercise at any time within forty-five (45) calendar days from the receipt by the Optionee of such written notice from the Owner of intent to sell or otherwise transfer the Residence.

If the Optionee exercises its right to purchase the Residence, closing shall be through an escrow with the title insurance company issuing the owners title insurance policy required by Section 11 of this Agreement, utilizing the form of escrow agreement customarily used by such escrowee in residential transactions in Napa County, modified to the extent necessary to conform to this transaction. The escrow shall be opened upon delivery by the Optionee to the Owner of notice of the Optionee's exercise of the Purchase Option or as soon thereafter as possible. In the event the Optionee decides to assign the Purchase Option, the Optionee may postpone opening of escrow until selection of the new Optionee pursuant to Section 6, or as soon thereafter as possible. In the event the Optionee postpones opening of escrow and is unable to select such an assignee, the Optionee retains the right to open escrow and complete the purchase. In all cases, the closing of the sales transaction shall be within ninety (90) days from receipt by the Optionee of the Owner's notice of intent to sell.

Section 10. Transfer by Owner if Purchase Option is not exercised. In the event the Optionee does not exercise its Purchase Option within forty-five (45) days of the Owner's notice pursuant to Section 9, the Owner may offer the Residence for sale at any time during the eight (8) months following expiration of the notice period if the following conditions are satisfied. If the Owner fails to Transfer the Residence during this eight-month period, the Owner must comply again with the requirements of Section 9 before a Transfer of the Residence pursuant to this Section 10 can take place.

(a) The transferee intends to occupy the Residence as his or her principal place of residence; the transferee may not collectively earn more than one hundred twenty percent (120%) of the then current median income, adjusted for family size, for a family in Napa County as defined by the Index. The Agency will allow co-signers not meeting the conditions set forth in the preceding sentence for purposes of obtaining loans so long as the transferee of the Residence meets the conditions set forth in the preceding sentence.

(b) The owner must notify the Agency at least forty-five (45) calendar days prior to the date of Transfer of the Residence and otherwise comply with all the eligibility and other requirements of the Agency's program described in this Agreement and in the then current version of the Procedures Manual, including the earnings limitations applicable to the transferee contained in Section 10(a) of the Agreement. The Agency shall approve or disapprove of the proposed transferee within thirty-five (35) calendar days. In the event the Agency does not disapprove of the proposed transferee by notice to the Owner within thirty-five (35) calendar days after receiving the Owner's notice, the Agency shall be deemed to have approved the proposed transferee.

(c) Any transferee approved pursuant to Section 10(b) shall, as part of the closing documentation for the Transfer, execute an agreement substantially similar to this Agreement and for a thirty-year term. The agreement shall be recorded by transferee at closing and, upon recordation, shall supersede the terms of this Agreement and this Agreement shall be of no further force and effect and shall terminate as provided by Section 26. Such transferee shall also execute any documents and take any acts required by the then current version of the Procedures Manual.

(d) If: (i) the Optionee does not exercise its Purchase Option pursuant to Section 9; (ii) the Owner offers the Residence for sale for the eight-month period described above without success; (iii) the Owner again complies with the requirements of Section 9; and (iv) the Optionee still declines to exercise its Purchase Option, the Owner may offer the Residence for sale to anyone, regardless of income criteria. The Owner, however, will be subject to the remaining requirements of this Agreement, including the obligations set forth in Section 10(b) & (c) and the purchase price limitation contained in Section 11.

Section 11. Purchase Price; Owner's Warranties; Title Insurance.

(a) Closing costs and title insurance shall be paid pursuant to the custom and practice in Napa County at the time of the opening of escrow for all Transfers pursuant to Section 9 or Section 10 above. At the closing the Owner shall furnish the Optionee or transferee, as the case may be, an ALTA owner's residential title insurance policy, subject to its exclusions from coverage, special exceptions for current taxes and assessments not yet due, and such matters (other than taxes, assessments, and encumbrances created or suffered by the Owner who signed this Agreement and all those claiming under that Owner) which were exceptions to title on the date of this Agreement. At the closing Owner shall convey title to the transferee, the Optionee or the Optionee's nominee, as the case may be, by grant deed, or its equivalent which warrants title against matters created or suffered by the Owner and those claiming under the Owner.

(b) For all Transfers pursuant to Section 9 or Section 10 above, the purchase price (the "Purchase Price") of the Residence shall be fixed at the lower amount arrived at via the following two methods:

(i) The Optionee or Agency may have an appraisal made by a neutral professional Appraiser of its choice to establish the market value.

The Owner may also, at Owner's own expense, have an appraisal made by a neutral professional Appraiser of the Owner's choice to establish the market value. If agreement cannot be reached, the average of the two appraisals shall be deemed to be the market value.

(ii) One Hundred Sixty-one Thousand ($ 161,000.00) Dollars (the base price) plus the amount of any Transfer Fees paid pursuant to this Agreement , plus any reasonable closing costs actually to be incurred by the Owner in the sale to the transferee pursuant to Section 9 or 10, plus an amount, if any, to compensate for any increase in the Index. For that purpose, the Index prevailing on the date of the purchase of the Residence by the Owner who initially entered into this Agreement shall be compared with the latest Index available on the date of receipt by the Optionee of the Owner's notice of intent to sell. The percentage increase in the Index, if any, shall be computed and the base price shall be increased by that percentage; provided, however, that the price in no event be lower than the purchase price paid by the selling Owner when that Owner purchased the Residence.

This adjusted price shall be increased by the value of any documented, permanent capital real estate or fixed improvements approved by Agency, up to a maximum of 10 percent of the adjusted price. No price adjustment will be made except upon presentation to the Agency of written documentation of all expenditures made by Owner for which an adjustment is requested.

(c) Any sale price determined through the use of the method described in Section 11(b)(ii) (base price adjusted by the Index and value of improvements, fixtures or equipment added) shall be adjusted by decreasing said price by an amount to compensate for deferred maintenance costs, which amount shall be determined as follows: Upon receipt of notice of Owner's intent to sell, the Agency shall have thirty (30) days to determine whether any violations of applicable building, plumbing, electric, fire or housing codes or any other provisions of the City Code exist. In the event deficiencies are noted, the Agency shall obtain estimates to cure the observed deficiencies. The Owner shall cure the deficiencies in a reasonable manner acceptable to the Agency within forty-five (45) days of being notified of the results of the inspection, but in no event later than close of escrow. Should Owner fail to cure such deficiencies prior to the scheduled date of close of escrow, at the option of the Optionee/transferee, exercised on or before closing, the escrow may be closed, title passed and money paid to the Owner subject to the condition that such funds as are necessary to pay for curing such deficiencies (based upon written estimates obtained by the Agency) shall be withheld from the money due the Owner and held by the escrowee holder for the purpose of curing such deficiencies. If the amount necessary to cure such deficiencies exceeds the amount of money due the Owner out of the escrow, the Owner shall pay the amount of such shortfall into escrow prior to closing. The Optionee/transferee shall cause such deficiencies to be cured and upon certification of completion of work by the Agency, the escrowee shall utilize such funds to pay for said work. Any remaining funds shall be paid to the Owner. No other payment shall be due to the Owner.

(d) In no event shall the Agency become in any way liable to the Owner, nor become obligated in any manner to any other party, by reason of the assignment of its Purchase Option, nor shall the Agency be in any way obligated or liable to Owner for any failure of the then Optionee to consummate a purchase of the Residence or to comply with the terms of the Purchase Option.

(e) Until such time as the Optionee's purchase option is exercised, waived, or expired, the Residence shall not be

Transferred, as defined in Section 7 above, except as provided in Section 7(b). This provision shall not prohibit the Owner from encumbering of title for the sole purpose of securing financing; however, in the event of foreclosure or transfer by deed in lieu of foreclosure, the provisions of section 13 of this Agreement shall govern. Further, the Owner shall not use the Residence as collateral for an amount exceeding the Purchase Price of the Residence.

Any requirement of this Agreement may be waived by the Agency in its sole discretion, such waiver to be in writing and consistent with the Agency's goal of creating, preserving, maintaining, and protecting housing for persons of low and moderate income. Notwithstanding the foregoing, any waiver in connection with a Residence purchased by a veteran with a loan guaranteed by the Veterans Administration shall only be effective after submission to, and approval by, the Loan Guaranty Division of the VA Regional Office.

Section 12. Termination of Purchase Option. The provisions set forth in this Agreement relating to the Optionee's Purchase Option shall terminate and become void automatically thirty (30) years following the date of execution of this Agreement.

Section 13. Default and Foreclosure. A request for notice of default and any notice of sale under any deed of trust or mortgage with power of sale encumbering the Residence shall be recorded by the Agency, any Designee and any other Optionee. Any notice of default given pursuant to Civil Code Section 2924b, as amended, shall constitute an Owner's notice of intent to sell under Section 9 of this Agreement, and the Optionee may exercise its Purchase Option pursuant to the provisions of this Agreement; provided however, that, notwithstanding any language contained in this Agreement to the contrary, with regard to the rights of the lien holder, the Optionee must complete such purchase no later than the end of the period established by California Civil Code Section 2924c for reinstatement of a monetary default under the deed of trust or mortgage.

In the event of default and foreclosure, the Agency shall have the same right as the Owner to cure defaults and redeem the Residence prior to the foreclosure sale. Such redemption shall be subject to the same fees, charges and penalties which would otherwise be assessed against the Owner. Nothing herein shall be construed as creating any obligation on the part of the Agency to cure any such default, nor shall this right to cure and redeem operate to extend any time limitations in the default provisions of the underlying deed of trust or mortgage.

In the event that no request for notice is recorded, the

Optionee's Purchase Option shall run from the date the notice of default is given to the Owner, and any such purchase must be completed within the period established in this Section 13. In the event the Optionee elects not to exercise its rights to purchase upon default, and a foreclosure sale is consummated, any surplus proceeds to which the Owner may be entitled following foreclosure under California state law shall be paid as follows: After any required payment of encumbrances, that portion of surplus, if any, up to but not exceeding the net amount that the Owner would have received after any required payment of encumbrances under the formula set forth above had the Optionee exercised its right to purchase the Residence on the date of the foreclosure sale, shall be paid to the Owner on the date of the foreclosure sale; the balance of surplus, if any, shall be paid in accordance with the terms of section 12 of the Affordable Housing Agreement. In the event that the Optionee does not elect to purchase the Residence pursuant to the provisions of this Section 13 and the Residence is sold through foreclosure, the provisions of Section 18 below pertaining to subordination shall apply.

Section 14. Distribution of Insurance and Condemnation Proceeds. In the event that the Residence is condemned or destroyed (or in the event that the Residence consists of a unit in a condominium project and the condominium project is destroyed and insurance proceeds are distributed to the Owner, instead of being used to rebuild, or in the event of condemnation, if proceeds thereof are distributed to the Owner, or in the event of termination of the condominium, liquidation of the association and distribution of the assets of the association to the members thereof, including the Owner), any surplus proceeds from insurance or condemnation so distributed remaining after payment of encumbrances on the Residence shall be distributed as follows: That portion of the surplus up to but not to exceed the net amount that Owner would have received under the formula set forth above had the Optionee exercised its Purchase Option on the date of the destruction, condemnation valuation date, or liquidation, shall be distributed to the Owner, and the balance of such surplus, if any, shall be distributed in accordance with the terms of section 12 of the Affordable Housing Agreement.

Section 15. Notice of Prohibited Transfer. Within thirty (30) days after receiving notification that a Prohibited Transfer has occurred in violation of this Agreement, the Optionee will give written notice to the Owner, specifying the nature of the Prohibited Transfer. If the violation is not corrected to the satisfaction of the Optionee within ten (10) days after the date of the notice, or within such further time as the Optionee determines is necessary to correct the violation, the Optionee may declare a default under this Agreement. Upon the declaration of a default, the Optionee may exercise its Purchase Option as set forth in Section 9 or apply to a court of competent jurisdiction for specific performance of this Agreement, for an injunction prohibiting a proposed sale or transfer in violation of this Agreement, for a declaration that the Prohibited Transfer is void, or for any such other relief as may be appropriate.

Section 16. Attorney Fees and Costs. If either party to this Agreement shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Agreement, the losing party shall pay to the prevailing party a reasonable sum for attorneys' fees in bringing such suit and/or enforcing any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorney fees and costs incurred in enforcing such judgment. For purposes of this Section, attorney fees shall include, without limitation, fees incurred in the following: (a) postjudgment motions; (b) contempt proceedings; garnishment, levy and debtor and third party examinations; (d) discovery; and (e) bankruptcy litigation.

Section 17. Controlling Agreement. The Owner covenants that the Owner has not, and will not, execute any other agreement with provisions contradictory to or in opposition to the provisions hereof, and that in any event, the Owner understands and agrees that this Agreement shall control the rights and obligations between and among the parties.

Section 18. Subordination. This Agreement is subordinate to any deed of trust or mortgage on the property made by or held by an institutional lender or institutional investor. Any party, and its successors and assigns, including the United States Department of Housing and Urban Development ("HUD"), receiving title to the property through a trustee's sale, a judicial foreclosure sale or deed in lieu of foreclosure, of such deed of trust or mortgage, and any conveyance or transfer thereafter, shall receive title free and clear of the provisions of this Agreement. Upon assignment of the deed of trust or mortgage to HUD pursuant to 24 CFR 203.650 (or any successor provision), the provisions of this Agreement shall terminate and be of no further force or effect.

Section 19. Severability. If any one or more of the provisions contained in this Agreement shall for any reason 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 Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision(s) had never been contained herein.

Section 20. Time of the Essence. Time is of the essence of this entire Agreement. Whenever under the terms of this Agreement the time for performance falls on a day which is not a business day, such time for performance shall be on the next day that is a business day.

Section 21. Notices. All notices required herein shall be in writing and shall be considered as given when personally delivered or one business day following the day on which notice is delivered to Federal Express or similar overnight delivery service with all delivery charges paid, addressed to the parties as follows:

If to Agency:	City of St. Helena 1480 Main Street St. Helena, CA 94574
with copy to:	Napa Valley Housing Authority 1115 Seminary Street Napa, CA 94559 Attn: Executive Director
If to Owner:	Jerome & Marilyn Rothfeld 1620 Voorhees Circle St. Helena, CA 94574
If to Optionee: (other than the Agency)	At the address specified in the designation or assignment required by Section 6.

The address of a party for notices may be changed by that party's designation to all other parties of the new address and the recording of the designation, including the recording reference of this Agreement and its legal description contained in Exhibit A.

Section 22. Covenants as to Use of and Title to the Residence. The Owner covenants and agrees with the Agency that the Owner will use and maintain the Residence as a single family residence and will perform all obligations of any consensual lien encumbering the Residence, until a permitted Transfer, purchase by the Optionee pursuant to this Agreement or termination of this Agreement.

Section 23. Captions and Pronouns. The captions and headings of the various sections of this Agreement are for convenience only, and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and masculine, feminine and neuter shall be freely interchangeable.

Section 24. Running of Benefits and Burdens. All provisions of this Agreement, including the benefits and burdens, run with the land described in Exhibit A and are binding upon the heirs, successors, assigns and personal representatives of the parties hereto and inure to the benefit of the heirs, personal representatives and permitted successors and assigns of the parties hereto.

Section 25. Construction. The rule of strict construction does not apply to this Agreement. This Agreement shall be given a reasonable construction so that the intention of the parties, to create a valid and enforceable Purchase Option and prevent any Prohibited Transfer or any use of the Residence in violation of this Agreement is carried out.

Section 26. Termination. This Agreement shall terminate on the earlier of conveyance to the Optionee or its nominee pursuant to exercise of the Purchase Option, acquisition of title through a foreclosure of any consensual lien to which this Agreement has been subordinated, or termination of the Purchase Option pursuant to Sections 10 or 12. Upon termination of this Agreement, on request of the then record owner of the fee title to the Residence the Agency and any other Optionee shall execute, acknowledge and record a termination of this Agreement. To the extent permitted by law, any unfulfilled obligations of any Owner which arise during the term of this Agreement shall survive the termination of this Agreement, but this Agreement shall no longer affect title to the Residence.

IN WITNESS THEREOF, the parties have executed this Agreement as of the date first written above.

CITY OF ST. HELENA

By: ______________________________
City Administrator- Gene Armstead

ATTEST

____
Deputy City Clerk
Delia Guijosa

CITY OF ST. HELENA
Incorporated March 24, 1876
Re-Incorporated May 14, 1889
STATE OF CALIFORNIA

____
Jerome Rothfeld

____
Marilyn Rothfeld

9600 7161 0014

NOTARIZATIONS

STATE OF CALIFORNIA)
COUNTY OF NAPA) ss.

On Mar 20, 1996, before me, L. Blessing personally appeared Jerome B. Rothfeld, [ ] personally known to me [X] 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~~ signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

L. Blessing
Notary Public

L. BLESSING
COMM. #1019479
NOTARY PUBLIC - CALIFORNIA
NAPA COUNTY
My Comm. Expires MAR. 3, 1998

STATE OF CALIFORNIA)
COUNTY OF NAPA) ss.

On Mar 20, 1996, before me, L. Blessing personally appeared Marilyn Rothfeld, [ ] personally known to me [X] 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~~ signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

L. Blessing
Notary Public

L. BLESSING
COMM. #1019479
NOTARY PUBLIC - CALIFORNIA
NAPA COUNTY
My Comm. Expires MAR. 3, 1998

EXHIBIT A

PROPERTY DESCRIPTION

The land referred to herein is situated in the State of CALIFORNIA County of Napa, City of St. Helena, and is described as follows:

PARCEL ONE:
Lot 50 as shown on the map entitled, "Final Map of the Wallis Project", filed August 25, 1992 in Book 19 of Maps at pages 9-11, in the office of the County Recorder of said Napa County.

APN #009-601-008

PARCEL TWO:
An Easement, 10 feet in width, for ingress, egress, utility and safety services purposes, over that portion of Lots 34 through 49, inclusive, designated "20' proposed Private Access Easement for the benefits of Lots 34-50, inclusive" on the above mentioned map.

9600 7161 0016

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed to the City of St. Helena, a political corporation by that certain Resale Restriction Agreement and Option to Purchase dated March 20, 1996 to which this Certificate of Acceptance is attached is hereby accepted by the undersigned agent on behalf of the City Council pursuant to authority conferred by resolution of the City Council adopted on April 23, 1991, and the grantee consents to recordation thereof by its duly authorized officer.

Date: 3/6/96

By: Gene Armstead
Gene Armstead
City Administrator

CITY OF ST. HELENA Incorporated March 24, 1876 Re-Incorporated May 14, 1889 STATE OF CALIFORNIA

STATE OF CALIFORNIA
COUNTY OF NAPA

On 3-20-, 1996, before me, the undersigned, Deputy City Clerk of the City of St. Helena, personally appeared Gene Armstead, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Delia Guijosa
Delia Guijosa, Deputy City Clerk

CITY OF ST. HELENA Incorporated March 24, 1876 Re-Incorporated May 14, 1889 STATE OF CALIFORNIA

9600 7161 0017

CERTIFIED COPY

END OF DOCUMENT

CITY OF ST. HELENA, CALIFORNIA

Resolution No. 91-53

AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT AND CONSENT TO DEEDS OR GRANTS OF REAL PROPERTY TO THE CITY

RESOLUTION

The City Administrator is hereby authorized to accept and consent to deeds or grants conveying any interest in or easement upon real estate to the City for public purposes, and to perform such other acts as are required by Gov. C. A. 27281 for the recordation of deeds and grants.

In exercising such authority, the City Administrator is authorized to attach to or print on the grant or deed a certificate in substantially the following form:

"This is to certify that the interest in real property conveyed by the grant or deed dated _______ from _________ to the City of St. Helena, a political corporation is hereby accepted by the undersigned agent on behalf of the City Council pursuant to authority conferred by resolution of the City Council adopted on April 23, 1991, and the grantee consents to recordation thereof by it duly authorized officer.

Date _______________ By ____________________________

Approved by action of the City Council at a Regular Meeting held on April 23, 1991, by the following votes:

AYES : Councilmen Brown, Heitz, Hardy, Salinger, Mayor Hayne

NOES : None

Absent: None

ABSTAIN: None

ATTEST:
The foregoing instrument is a correct copy of the original on file in this office of City Clerk and Clerk of the St. Helena City Council, County of Napa, State of California.
By Gene Armstead Date 3/20/96
Seal

CITY OF ST. HELENA Incorporated March 24, 1876 Reincorporated May 14, 1889 STATE OF CALIFORNIA

Approved:

William Hayne
William Hayne
Mayor

Gene Armstead
Gene Armstead
City Administrator/City Clerk

9600 7161 0018