RESOLUTION APPROVING THE HAMILTON AFFORDABLE
WORKFORCE HOUSING RESIDENT SELECTION PLAN

WHEREAS, notices describing the proposed Hamilton Affordable Workforce Housing Resident Selection Plan (the “Resident Selection Plan”) were posted at the established public noticing sites within the City; and

WHEREAS, following the 1994 closure of the Hamilton Department of Defense Navy Housing Facility (the “Hamilton Property”), the City of Novato (the “City”) prepared and approved a Reuse Plan for the Hamilton Property; and

WHEREAS, the City is committed as a matter of adopted public policy, as well as by contractual obligations to both the Navy and the County of Marin, to achieve to the extent feasible the affordable housing goals of the Reuse Plan; and

WHEREAS, in November 1999, the City Council adopted the Reuse Plan as the Master Plan for the Hamilton Property; and

WHEREAS, in June 1998, the City Council adopted the Redevelopment Plan for the Hamilton Property which provides, in part, a funding mechanism to achieve the affordable housing goals of the Reuse Plan; and

WHEREAS, in October 1999, the City approved Novato Community Partners, LLC (the “Developer”) as the master developer for the Hamilton property following the purchase of the Hamilton Property from the Department of the Navy (the “Navy”); and

WHEREAS, on December 13, 1999, the Developer and the City entered into a Development Agreement (the “Development Agreement”) for the development of a significant portion of the Hamilton Property; and

WHEREAS, Exhibit C, Paragraph IV, 9, of the Development Agreement provides that during the entitlement process for the Capehart/Hillside area the Developer shall prepare for City approval a housing preference marketing plan for the Capehart/Hillside affordable units that provides a tiered preference structure and instead of the Developer, the City has prepared such plans; and

WHEREAS, the proposed Resident Selection Plan has been developed in implementation of the Development Agreement; and

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WHEREAS, pursuant to the Development Agreement, the Developer has submitted to the City for its consideration and approval a Final Affordable Housing Plan providing for the development of 297 affordable rental units deed restricted to be affordable for very low and low income households and 351 affordable ownership units deed restricted to be affordable for low and moderate income households in the Capehart/Hilside areas of the Hamilton Property; and

WHEREAS, the Resident Selection Plan applies to only one-third of the deed restricted affordable rental and ownership housing to be developed in the Capehart/Hilside areas in order to insure that the implementation of the Resident Selection Plan priorities does not arbitrarily discriminate against or cause any disparate impact on any protected class of persons; and

WHEREAS, the Housing and Services Commission reviewed the Resident Selection Plan and provided comments to the City Council at the special meeting held on March 29, 2001.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The City Council hereby makes the following findings and determinations:
   a. The City Council hereby finds and determines that by reason of the extremely high costs of market rate ownership and rental housing in the County of Marin, the City of Novato in particular, and the public entities in the County of Marin generally, face a severe impediment in their ability to recruit and retain qualified employees due to the lack of affordable housing for such employees within or near their jurisdictions.
   b. The City Council hereby further finds and determines that the lack of affordable housing for public sector employees in the City of Novato negatively impacts regional transportation, the local jobs/housing balance and the ability of the City and other public entities with jurisdictions in Marin County to assure their residents of an adequate level of public services, including public safety and emergency services;
   c. The City Council hereby further finds and determines that the public employee and other essential employee priorities for a portion of the deed restricted affordable rental and ownership housing to be developed in the Capehart/Hilside areas, as provided for under the Resident Selection Plan, will help to mitigate the negative impacts of the shortage of affordable housing in the City of Novato on regional transportation, the local jobs/housing balance and the ability of the City and other public entities with jurisdictions in Marin County to recruit and retain employees for the provision of public services to their residents.
   d. The City Council further finds and determines that the proposed Resident Selection Plan, including the Resident Selection Criteria and preferences and priorities set forth therein, are supported by substantial evidence in the record.
demonstrating the need for the priorities set forth in the Resident Selection Plan, and that the administration and application of the priorities in the proposed Resident Selection Plan are reasonably taken to address such need and will not arbitrarily discriminate against or have a disparate impact on a protected class of persons.

e. The City Council further finds and determines that the proposed Resident Selection Plan is consistent with the requirements of the Development Agreement.

The foregoing findings are based on substantial evidence in the record before the City Council, including without limitation the facts and information contained in the Staff Report to the City Council, dated April 10, 2001.

2. The City Council does hereby approve the Resident Selection Plan, subject to any technical, clarifying and conforming changes approved by the City Attorney and Special Counsel.

List of Attachments in this Resolution:

Exhibit “A” – Hamilton Affordable Workforce Housing Resident Selection Plan

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the City Council of the City of Novato, Marin County, California, at a meeting hereof, held on the 10th day of April, 2001, by the following vote, to wit:

AYES: Councilmembers Di Giorgio, Dillon-Knutson, Eklund, Mani, Henderson

NOES: Councilmembers None

ABSTAIN: Councilmembers None

ABSENT: Councilmembers None
1. **Purpose.**

The purpose of this Resident Selection Plan (the “Plan”) is to provide Resident Selection Criteria, constituting priorities for the sale and rental of a portion of the units to be developed as deed-restricted affordable housing in the Capehart/Hillside area of Hamilton Field, City of Novato. This Plan is developed in implementation of that certain Development Agreement between the City of Novato (“City”) and Novato Community Partners, LLC (the “Developer”), dated as of December 13, 1999, which provides, in part, that:

“During the entitlement process for Capehart/Hillside, DEVELOPER shall prepare for CITY approval a housing preference/marketing plan for the Capehart/Hillside affordable units that provides, subject to applicable legal requirements, a tiered preference structure for:

1. City of Novato employees;
2. Novato local government employees;
3. Others who work in the City of Novato;
4. Residents of the City of Novato;
5. Local government employees working in Marin County; and
6. Marin County residents and employees.”

(Development Agreement, Exhibit C, para. IV.9, page 11.)

Rather than the Developer preparing the Plan, the City will prepare and adopt the Plan. Until the initial sale of the last unit in the project, the Developer will market and administer the Plan in conjunction with the marketing and administration of the Affordable Housing Plan for the Capehart/Hillside affordable housing units to be prepared by the Developer and approved by the City. Thereafter, the City will be responsible for such marketing and administration. In all events, the City will be responsible for defending any legal challenges to the adoption, provisions or implementation of this Plan, except for implementation not in accordance with the provisions of this Plan. It is the intent of the City in adopting this Plan that the Plan will be periodically reviewed from time to time as to its operation and
effectiveness and will be revised as deemed necessary by the City to fulfill its intended purposes.

2. Background.

A. The Capehart/Hillside areas of Hamilton Field (the “Property” for purposes of this Plan) were acquired, together with the Rafael Village area, by the Novato Public Finance Authority (“NPFA”) from the United States Government acting by and through the Department of the Navy (“Navy”), subject to restrictions that the housing units, or new housing units constructed in replacement thereof, be subject to deed restrictions for a range of affordable housing. Concurrently with the transfer from the Navy, NPFA sold and conveyed the Property and the Rafael Village area to Developer pursuant to an Agreement of Purchase and Sale, dated as of December 13, 1999, and an Amendment to Agreement of Purchase and Sale, dated as of August 22, 2000 (collectively, the “Purchase Agreement”), subject to similar restrictions. In implementation of the Purchase Agreement, the City and Developer entered into the Development Agreement, and the Redevelopment Agency of the City of Novato (“Agency”) and Developer entered into an Owner Participation Agreement dated as of December 13, 1999.

B. Pursuant to the Development Agreement, Developer has submitted to the City for its consideration and approval an Affordable Housing Plan providing for the development of the Property with 297 affordable rental units deed restricted to be affordable for very low and low income households and 351 affordable ownership units deed restricted to be affordable for low income and moderate income households (as set forth in the Affordable Housing Plan). The term “Affordable Housing Plan,” as referred to herein, shall mean the Affordable Housing Plan as approved by the City.

C. Because of the extremely high costs of market rate ownership and rental housing in the County of Marin, the City of Novato in particular, and the public entities in the County of Marin generally, face a severe impediment in their ability to recruit and retain qualified employees due to the lack of affordable housing for such employees within or near their jurisdictions. This circumstance negatively impacts regional transportation, the jobs/housing balance and the ability of the City and other public entities with jurisdictions in Marin County to assure their residents of an adequate level of public services, including public safety and emergency services.
D. In response to the circumstances referred to in Subsection 2. C, above, the following public entities in the County of Marin have adopted public employee priorities for below market rate housing located within their particular jurisdictions: County of Marin; the cities of Corte Madera, Larkspur, Mill Valley and San Rafael; the Town of San Anselmo; the Marin City Project, and the Marinwood Community Services District.

E. This Plan adopts public employee and other essential employee priorities for a portion of the deed restricted affordable rental and ownership housing to be developed in the Capehart/Hillside areas in order to mitigate the negative impacts of the shortage of affordable housing on regional transportation, the jobs/housing balance and the ability of the City and other public entities with jurisdictions in Marin County to recruit and retain employees for the provision of public services to their residents.

F. The City of Novato has determined that this Plan is supported by substantial evidence in the record demonstrating the need for the priorities set forth herein, and that the administration and application of the priorities in this Plan are reasonably taken to address such need and will not arbitrarily discriminate against or have a disparate impact on a protected class of persons, and that this Plan is consistent with the Housing Element of the City’s General Plan.

3. Application of Plan.

A. One-third of the rental units in each phase developed by the Developer in the Capehart/Hillside areas in accordance with the Affordable Housing Plan for each income category (very low and low) shall first be offered for rental, and one-third of the ownership units developed by the Developer in the Capehart/Hillside areas under the Affordable Housing Plan in each income category (low and moderate) shall first be offered for sale, to persons and households qualifying for such rental or sale under the Resident Selection Criteria set forth in Section 4, below, of this Plan; provided that nothing in this Plan shall prevent persons and households qualifying for preference to such housing from renting or purchasing housing units which are not subject to this Plan and who qualify for such housing without regard to any preference afforded to them under this Plan.

B. For purposes of determining that one-third of the rental and ownership housing units in each income category are offered for rental or sale under this Plan, the number of
units subject to such requirement, if the result is a fraction of a unit, shall be rounded up to the next unit. (By way of example: if one-third of the units in an income category results in a count of 10-1/2 units, the number of units in such income category shall total 11.)

C. After the initial rental of the rental units, if less than one-third of the units in an income category shall be occupied by persons or households pursuant to the Resident Selection Criteria set forth in Section 4, below, then until the one-third requirement for such income category is met the next available unit or units in such income category shall first be offered for rental to a person or household qualified in such income category under the Resident Selection Criteria.

D. After the initial sale of the ownership units, if less than one-third of the units in an income category shall be purchased by persons or households pursuant to the Resident Selection Criteria set forth in Section 4, below, then until the one-third requirement for such income category is met the next unit or units offered by an owner thereof for resale to a person or household in such income category shall be first offered for sale to a person or household qualified in such income category under the Resident Selection Criteria.

E. The City, in monitoring and evaluating the effectiveness of this Plan from time to time, may amend this Plan including, but not limited to, changing the percentage of units in each income category described in Section 3.A. that are subject to this Plan.

F. The application of the Resident Selection Criteria under this Plan to particular rental or ownership units shall be subject to any restrictions on the application of such Criteria that may be lawfully imposed as a condition to the granting of Federal or State financial grants or other forms of financial assistance, for such units (including but not limited to tax credit allocations or tax-exempt bonds); provided, that prior to entering into agreements that impose such restrictions, the Developer shall consult with the City on ways to avoid or mitigate such restrictions.

G. If at the time of a vacancy in a rental unit, or the sale of an ownership unit, no persons qualify under the Resident Selection Criteria set forth in this Plan, then the preference shall not apply to that unit.
4. **Resident Selection Criteria.**

A. The order of priority for each income category of persons or households qualifying under Agency procedures as eligible for the rental and ownership housing units subject to this Plan shall be as follows:

1. first priority, to employees of the City of Novato;
2. second priority, to employees of the Novato Fire Protection District, the Novato Sanitary District, North Marin Water District, Novato Community Hospital, and Novato Unified School District; and
3. third priority, to employees of other public entities with jurisdictions in the County of Marin working in or providing services to the residents of the City of Novato.

B. There shall be no prior residency requirement for a person or household to be eligible to apply for and qualify under these Criteria.

C. A person or household selected for rental or ownership of a unit shall become and remain an occupant of that unit. No change in income during such occupancy shall disqualify a person or household otherwise eligible at the time of commencement of occupancy of a unit so long as they remain in occupancy during the term of the lease or for the period of ownership, to the extent allowed by financing requirements for the project (e.g., requirements pertaining to the tax credit financing or tax exempt bonds).

5. **Plan Implementation.**

A. The Agency shall administer this Plan on behalf of the City.

B. To the extent permitted by law, the Developer and its operators and successors and assigns shall comply with the requirements of this Plan in the administration, marketing and enforcement by the Developer and such operators and successors and assigns of the Affordable Housing Plan until the initial sale of the last unit in the project.

C. The Developer (or its designee) shall establish and thereafter maintain, on an annual basis, a current list of persons and households qualified under the Resident Selection Criteria, broken down by order of priority and income category, for rental and
ownership units. The Developer shall screen the qualifications of such persons through its own investigation or rely upon determinations made by other agencies or nonprofit corporations. Developer (or its designee) shall be responsible for the maintenance of preference lists for ownership units until the initial sale of the last unit in the project. Agency (or its designee) shall be responsible for the maintenance of preference lists for ownership units after the initial sale of the last unit in the project.

D. The priority for persons and households qualifying under each of the income categories shall be established by random drawing not less often than annually.

E. With respect to the initial offer of rental, the Developer or the operator of the rental units shall offer the first one-third of the rental units in each phase (subject to compliance with the requirement of Section 3.A., above) to persons or households identified on the preference list maintained by the Developer (or the Management Agent, on behalf of the Developer) for each income category of rental units. Thereafter, each rental unit vacated and offered for rental, to the extent necessary to comply with the requirements of Section 3.C, above, shall be offered to persons or households identified on the preference list maintained by the Developer or Management Agent as provided in the Affordable Housing Plan.

F. With respect to the initial offer of sale of ownership units, the Developer or the builder of such units shall offer the first one-third of the ownership units in each phase (subject to compliance with the requirements of Section 3.A., above) to persons or households identified on the preference list maintained by the Developer for each income category of ownership units, as provided under the Affordable Housing Plan. Thereafter, each ownership unit offered for resale, to the extent necessary to comply with the requirements of Section 3.D, above, shall be offered by the owner thereof to persons or households identified on the preference list to be maintained by the Agency.

G. The Agency and Developer shall mutually agree on procedures and time periods, to the extent not covered in the Affordable Housing Plan, to carry out the implementation provisions of this Section 5, including but not limited to, notices between the Developer and the Agency, reasonable time periods for persons to respond to and accept an offer of rental or sale, and other administrative matters.
H. A qualified person or household (i) on the preference list maintained by the Management Agent who turns down an offer of rental, or (ii) on the preference list maintained by the Developer (or subsequently by the Agency) who turns down an offer of sale, as the case may be, shall be removed from the appropriate preference list. Such person or household shall lose the priority they had on the preference list (subject to the priority order being reestablished by the random drawing referenced in Section 5.D., above).


A. In the event that any provision of this Plan is declared invalid or unenforceable by a court of competent jurisdiction, the remainder of this Plan shall be valid to the extent not inconsistent with such determination of invalidity or unenforceability.

B. The City acknowledges and agrees that this is a City prepared and adopted Plan, and that the Developer, its operators and successors and assigns, as the case may be, have no obligation to determine the validity of this Plan, or the Resident Selection Criteria, or the determination of persons and households qualifying for the preference lists or their order of priority on the preference lists. Provided the Developer, its operators and successors and assigns, as the case may be, have acted in good faith and with reasonable diligence to carry out their obligations under this Plan, the City and Agency shall defend, hold harmless and indemnify the Developer, its operators and successors and assigns, as the case may be, from any costs or liabilities arising out of a legal challenge to the adoption, provisions or implementation of this Plan, except for implementation not in accordance with the provisions of this Plan.
HAMILTON AFFORDABLE WORKFORCE HOUSING
APPLICATION OF RESIDENT SELECTION PLAN

<table>
<thead>
<tr>
<th>Income Categories</th>
<th># of Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>297 Rental Units</td>
<td></td>
</tr>
<tr>
<td>Very Low Income Category</td>
<td>52% of 294 = 153</td>
</tr>
<tr>
<td>Low Income Category</td>
<td>48% of 294 = 141</td>
</tr>
<tr>
<td>Moderate Income Category</td>
<td>3</td>
</tr>
<tr>
<td>(For resident managers)</td>
<td></td>
</tr>
<tr>
<td>351 Ownership Units</td>
<td></td>
</tr>
<tr>
<td>Low Income Category</td>
<td>50% of 351 = 176</td>
</tr>
<tr>
<td>Moderate Income Category</td>
<td>50% of 351 = 175</td>
</tr>
</tbody>
</table>

Application of Resident Selection Criteria

Rental Units

<table>
<thead>
<tr>
<th>Income Category</th>
<th># of Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Low Income Category</td>
<td>1/3 of 153 = 51</td>
</tr>
<tr>
<td>Low Income Category</td>
<td>1/3 of 141 = 47</td>
</tr>
</tbody>
</table>

Subtotal rental: 98

Ownership Units

<table>
<thead>
<tr>
<th>Income Category</th>
<th># of Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Income Category</td>
<td>1/3 of 176 = 58</td>
</tr>
<tr>
<td>Moderate Income Category</td>
<td>1/3 of 175 = 58</td>
</tr>
</tbody>
</table>

Subtotal ownership: 116

Total Rental and Ownership Units: 648

Total Resident Selection Plan Units: 214
HAMILTON AFFORDABLE WORKFORCE HOUSING RESIDENT SELECTION PLAN
(Priorities for Capehart/Hillside Affordable Housing)
(Hamilton Field, Novato)

1. Purpose.

The purpose of this Resident Selection Plan (the “Plan”) is to provide Resident Selection Criteria, constituting priorities for the sale and rental of a portion of the units to be developed as deed-restricted affordable housing in the Capehart/Hillside area of Hamilton Field, City of Novato. This Plan is developed in implementation of that certain Development Agreement between the City of Novato (“City”) and Novato Community Partners, LLC (the “Developer”), dated as of December 13, 1999.

Rather than the Developer preparing the Plan, the City will prepare and adopt the Plan. Until the initial sale of the last unit in the project, the Developer will market and administer the Plan in conjunction with the marketing and administration of the Affordable Housing Plan for the Capehart/Hillside affordable housing units to be prepared by the Developer and approved by the City. Thereafter, the City will be responsible for such marketing and administration. In all events, the City will be responsible for defending any legal challenges to the adoption, provisions or implementation of this Plan, except for implementation not in accordance with the provisions of this Plan. It is the intent of the City in adopting this Plan that the Plan will be periodically reviewed from time to time as to its operation and effectiveness and will be revised as deemed necessary by the City to fulfill its intended purposes.

2. Background.

A. The Capehart/Hillside areas of Hamilton Field (the “Property” for purposes of this Plan) were acquired, together with the Rafael Village area, by the Novato Public Finance Authority (“NPFA”) from the United States Government acting by and through the Department of the Navy (“Navy”), subject to restrictions that the housing units, or new housing units constructed in replacement thereof, be subject to deed restrictions for a range of affordable housing. Concurrently with the transfer from the Navy, NPFA sold and conveyed the Property and the Rafael Village area to Developer pursuant to an Agreement of Purchase and Sale, dated as of December 13, 1999, and an Amendment to Agreement of Purchase and Sale, dated as of August 22, 2000 (collectively, the “Purchase Agreement”).
subject to similar restrictions. In implementation of the Purchase Agreement, the City and Developer entered into the Development Agreement, and the Redevelopment Agency of the City of Novato ("Agency") and Developer entered into an Owner Participation Agreement dated as of December 13, 1999.

B. Pursuant to the Development Agreement, Developer has submitted to the City for its consideration and approval an Affordable Housing Plan providing for the development of the Property with 297 affordable rental units deed restricted to be affordable for very low and low income households and 351 affordable ownership units deed restricted to be affordable for low income and moderate income households (as set forth in the Affordable Housing Plan). The term "Affordable Housing Plan," as referred to herein, shall mean the Affordable Housing Plan as approved by the City.

C. Because of the extremely high costs of market rate ownership and rental housing in the County of Marin, the City of Novato in particular, and the public entities in the County of Marin generally, face a severe impediment in their ability to recruit and retain qualified employees due to the lack of affordable housing for such employees within or near their jurisdictions. This circumstance negatively impacts regional transportation, the jobs/housing balance and the ability of the City and other public entities with jurisdictions in Marin County to assure their residents of an adequate level of public services, including public safety and emergency services.

D. In response to the circumstances referred to in Subsection 2.C, above, the following public entities in the County of Marin have adopted public employee priorities for below market rate housing located within their particular jurisdictions: County of Marin; the cities of Corte Madera, Larkspur, Mill Valley and San Rafael; the Town of San Anselmo; the Marin City Project, and the Marinwood Community Services District.

E. This Plan adopts public employee and other essential employee priorities for a portion of the deed restricted affordable rental and ownership housing to be developed in the Capehart/Hillside areas in order to mitigate the negative impacts of the shortage of affordable housing on regional transportation, the jobs/housing balance and the ability of the City and other public entities with jurisdictions in Marin County to recruit and retain employees for the provision of public services to their residents.

F. The City of Novato has determined that this Plan is supported by substantial evidence in the record demonstrating the need for the
priorities set forth herein, and that the administration and application of
the priorities in this Plan are reasonably taken to address such need and
will not arbitrarily discriminate against or have a disparate impact on a
protected class of persons, and that this Plan is consistent with the
Housing Element of the City’s General Plan.

3. Application of Plan.

A. One-third of the rental units in each phase developed by the Developer in
the Capehart/Hillside areas in accordance with the Affordable Housing
Plan for each income category (very low and low) shall first be offered for
rental, and one-third of the ownership units developed by the Developer
in the Capehart/Hillside areas under the Affordable Housing Plan in each
income category (low and moderate) shall first be offered for sale, to
persons and households qualifying for such rental or sale under the
Resident Selection Criteria set forth in Section 4, below, of this Plan;
provided that nothing in this Plan shall prevent persons and households
qualifying for preference to such housing from renting or purchasing
housing units which are not subject to this Plan and who qualify for such
housing without regard to any preference afforded to them under this
Plan.

B. For purposes of determining that one-third of the rental and ownership
housing units in each income category are offered for rental or sale under
this Plan, the number of units subject to such requirement, if the result is a
fraction of a unit, shall be rounded up to the next unit. (By way of
example: if one-third of the units in an income category results in a count
of 10-1/2 units, the number of units in such income category
shall total 11.)

C. After the initial rental of the rental units, if less than one-third of the units
in an income category shall be occupied by persons or households
pursuant to the Resident Selection Criteria set forth in Section 4, below,
then until the one-third requirement for such income category is met the
next available unit or units in such income category shall first be offered
for rental to a person or household qualified in such income category
under the Resident Selection Criteria.

D. After the initial sale of the ownership units, if less than one-third of the
units in an income category shall be purchased by persons or households
pursuant to the Resident Selection Criteria set forth in Section 4, below,
then until the one-third requirement for such income category is met the
next unit or units offered by an owner thereof for resale to a person or
household in such income category shall be first offered for sale to a
person or household qualified in such income category under the Resident Selection Criteria.

E. The City, in monitoring and evaluating the effectiveness of this Plan from time to time, may amend this Plan including, but not limited to, changing the percentage of units in each income category described in Section 3.A. that are subject to this Plan.

F. The application of the Resident Selection Criteria under this Plan to particular rental or ownership units shall be subject to any restrictions on the application of such Criteria that may be lawfully imposed as a condition to the granting of Federal or State financial grants or other forms of financial assistance, for such units (including but not limited to tax credit allocations or tax-exempt bonds); provided, that prior to entering into agreements that impose such restrictions, the Developer shall consult with the City on ways to avoid or mitigate such restrictions.

G. If at the time of a vacancy in a rental unit, or the sale of an ownership unit, no persons qualify under the Resident Selection Criteria set forth in this Plan, then the preference shall not apply to that unit.

4. Resident Selection Criteria.

A. The order of priority for each income category of persons or households qualifying under Agency procedures as eligible for the rental and ownership housing units subject to this Plan shall be as follows:
   (1) first priority, to employees of the City of Novato;
   (2) second priority, to employees of the Novato Fire Protection District, the Novato Sanitary District, North Marin Water District, Novato Community Hospital, and Novato Unified School District; and
   (3) third priority, to employees of other public entities with jurisdictions in the County of Marin working in or providing services to the residents of the City of Novato.

B. There shall be no prior residency requirement for a person or household to be eligible to apply for and qualify under these Criteria.

C. A person or household selected for rental or ownership of a unit shall become and remain an occupant of that unit. No change in income during such occupancy shall disqualify a person or household otherwise eligible at the time of commencement of occupancy of a unit so long as they remain in occupancy during the term of the lease or for the period of ownership, to the extent allowed by financing requirements for the project.
(e.g., requirements pertaining to the tax credit financing or tax exempt bonds).

5. **Plan Implementation.**

A. The Agency shall administer this Plan on behalf of the City.

B. To the extent permitted by law, the Developer and its operators and successors and assigns shall comply with the requirements of this Plan in the administration, marketing and enforcement by the Developer and such operators and successors and assigns of the Affordable Housing Plan until the initial sale of the last unit in the project.

C. The Developer (or its designee) shall establish and thereafter maintain, on an annual basis, a current list of persons and households qualified under the Resident Selection Criteria, broken down by order of priority and income category, for rental and ownership units. The Developer shall screen the qualifications of such persons through its own investigation or rely upon determinations made by other agencies or nonprofit corporations. Developer (or its designee) shall be responsible for the maintenance of preference lists for ownership units until the initial sale of the last unit in the project. Agency (or its designee) shall be responsible for the maintenance of preference lists for ownership units after the initial sale of the last unit in the project.

D. The priority for persons and households qualifying under each of the income categories shall be established by random drawing not less often than annually.

E. With respect to the initial offer of rental, the Developer or the operator of the rental units shall offer the first one-third of the rental units in each phase (subject to compliance with the requirement of Section 3.A., above) to persons or households identified on the preference list maintained by the Developer (or the Management Agent, on behalf of the Developer) for each income category of rental units. Thereafter, each rental unit vacated and offered for rental, to the extent necessary to comply with the requirements of Section 3.C, above, shall be offered to persons or households identified on the preference list maintained by the Developer or Management Agent as provided in the Affordable Housing Plan.

F. With respect to the initial offer of sale of ownership units, the Developer or the builder of such units shall offer the first one-third of the ownership units in each phase (subject to compliance with the requirements of Section 3.A., above) to persons or households identified on the preference...
list maintained by the Developer for each income category of ownership units, as provided under the Affordable Housing Plan. Thereafter, each ownership unit offered for resale, to the extent necessary to comply with the requirements of Section 3.D, above, shall be offered by the owner thereof to persons or households identified on the preference list to be maintained by the Agency.

G. The Agency and Developer shall mutually agree on procedures and time periods, to the extent not covered in the Affordable Housing Plan, to carry out the implementation provisions of this Section 5, including but not limited to, notices between the Developer and the Agency, reasonable time periods for persons to respond to and accept an offer of rental or sale, and other administrative matters.

H. A qualified person or household (i) on the preference list maintained by the Management Agent who turns down an offer of rental, or (ii) on the preference list maintained by the Developer (or subsequently by the Agency) who turns down an offer of sale, as the case may be, shall be removed from the appropriate preference list. Such person or household shall lose the priority they had on the preference list (subject to the priority order being reestablished by the random drawing referenced in Section 5.D., above).


A. In the event that any provision of this Plan is declared invalid or unenforceable by a court of competent jurisdiction, the remainder of this Plan shall be valid to the extent not inconsistent with such determination of invalidity or unenforceability.

B. The City acknowledges and agrees that this is a City prepared and adopted Plan, and that the Developer, its operators and successors and assigns, as the case may be, have no obligation to determine the validity of this Plan, or the Resident Selection Criteria, or the determination of persons and households qualifying for the preference lists or their order of priority on the preference lists. Provided the Developer, its operators and successors and assigns, as the case may be, have acted in good faith and with reasonable diligence to carry out their obligations under this Plan, the City and Agency shall defend, hold harmless and indemnify the Developer, its operators and successors and assigns, as the case may be, from any costs or liabilities arising out of a legal challenge to the adoption, provisions or implementation of this Plan, except for implementation not in accordance with the provisions of this Plan.