

THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT (this “**Third Amendment**”) is dated for reference purposes as of July 29, 2022, by and between **SANTA ROSA CITY SCHOOLS (City of Santa Rosa Elementary School District)**, a public school district organized and existing under the laws of the State of California (“**Seller**” or “**District**”) and **CHRISTOPHERSON BUILDERS, LLC**, a California limited liability company (“**Buyer**”). Buyer and Seller are sometimes individually referred to herein as a “**Party**” and collectively as the “**Parties**”).

RECITALS

A. Buyer and Seller entered into that certain Purchase and Sale Agreement dated as of March 31, 2022 (the “**Agreement**”), with respect to that certain real property commonly known as the Fir Ridge property and located at Fir Ridge Drive, Santa Rosa, California, containing approximately 6.03 acres, and bearing APN 173-620-030, as more particularly described in the Agreement (the “**Property**”).

B. On or about June 28, 2022, Seller and Buyer entered into a First Amendment to the Agreement, extending the Due Diligence Period to July 15, 2022.

C. On or about July 15, 2022, Seller and Buyer entered into a Second Amendment to the Agreement to further extend the Due Diligence Period to July 29, 2022.

D. During its due diligence, Buyer has determined that it will not be able to create the number of market rate lots on the Property that it originally anticipated when the Parties entered into the Agreement. The Parties anticipate that the total number of market rate lots that can be created will not be known until after the Close of Escrow. The Parties desire to enter into this Third Amendment to the Agreement to address this situation and to change certain terms of the Agreement to allow for payment on the terms discussed herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties hereto agree as follows:

1. Defined Terms; Incorporation of Recitals. All terms used with initial capitalization and not otherwise defined in this Third Amendment shall have the meanings given to them in the Agreement. The Parties acknowledge and agree upon the accuracy of the recitals hereto and incorporate them herein by this reference.

2. Purchase Price. Section 2.1 of the Agreement is hereby amended to delete the phrase and language “Three Million Dollars and 00/100 (\$3,000,000.00)” and replace it with the phrase and language “One Million Two Hundred Ten Thousand Dollars and 00/100 (\$1,210,000.00)”. As such, the “Purchase Price” is now \$1,210,000.00, with an additional payment to be made as described below.

3. Additional Lots; City Approval of Map. The Parties have agreed that Buyer shall pay Seller a total of One Million Two Hundred Ten Thousand Dollars and 00/100 (\$1,210,000.00) at Close of Escrow, based upon the assumption that at least eleven (11) market rate lots can be created on the Property. For each market rate lot created on the Property in excess of eleven (11) lots, Buyer shall pay Seller an additional One Hundred Ten Thousand Dollars and 00/100 (\$110,000.00) per lot (the “**Additional Lot Payment**”). As an illustration for clarity and avoidance of doubt, if one (1) additional market rate lot can be created on the Property (twelve [12] total market rate lots) then Buyer shall pay Seller an additional One Hundred Ten Thousand Dollars (\$110,000), and if seven (7) additional market rate lots (a total of eighteen [18] market rate lots) can be created, then Buyer shall pay an additional seven hundred seventy thousand dollars (\$770,000), and so on. Buyer agrees that it shall use commercially reasonable efforts to develop the maximum number of market rate lots on the Property. The Additional Lot Payment shall be paid to the District within thirty (30) days of approval of any final map for the Property. Buyer and Seller agree to execute and record an agreement regarding these terms substantially in the form attached hereto as Exhibit A. Buyer and Seller further agree to take such actions and execute such other documents as necessary to effectuate the recording of such document. The recording shall occur at the time of, and in conjunction with, the Close of Escrow.

4. Deposit. Buyer has deposited its Initial Deposit of Fifty Thousand Dollars and 00/100 (\$50,000.00) into Escrow. Buyer shall deposit the additional sum of Two Hundred Thousand Dollars and 00/100 (\$200,000.00) (the “Additional Deposit” and together with the Initial Deposit the “Deposit”) into Escrow concurrently with the execution of this Third Amendment. The total Deposit of Two Hundred Fifty Thousand Dollars and 00/100 (\$250,000.00) shall be non-refundable upon the Parties’ execution of this Third Amendment, except in the event of Seller default. The \$250,000.00 Deposit shall be applicable to the Purchase Price at closing.

5. Board Approval. The Parties agree that the terms of this Third Amendment shall become effective upon approval of the District’s governing board and execution by the Parties.

6. Miscellaneous. Except as amended by the First and Second Amendments and as amended and modified hereby, the Agreement has not been modified, and as amended hereby, remains in full force and effect. This Third Amendment constitutes a part of the Agreement and all references in the Agreement to the Agreement shall constitute references to the Agreement as amended by this Third Amendment. The Agreement and this Third Amendment may only be amended in writing.

7. Counterparts; PDF. This Third Amendment may be executed in one or more counterparts with the same effect as if the Parties executing several counterparts had executed one counterpart and all such executed counterparts shall together constitute one and the same instrument. Facsimile, DocuSign®, and portable document format (PDF) signatures on this Third Amendment shall be binding as if original.

IN WITNESS WHEREOF, Seller and Buyer have executed this Third Amendment effective as of the date first hereinabove written.

[Signatures on Following Page]

SELLER:

SANTA ROSA CITY SCHOOLS (City of Santa Rosa Elementary School District), a public school district organized and existing under the laws of the State of California

By: _____

Name: Anna Trunnell

Its: Superintendent

BUYER:

CHRISTOPHERSON BUILDERS, LLC, a California Limited Liability Company

By: _____

Name: _____

Its: _____

EXHIBIT "A"
TO
THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT

**RECORDING REQUESTED BY AND,
WHEN RECORDED, MAIL TO:**

CITY OF SANTA ROSA
ELEMENTARY SCHOOL DISTRICT
211 Ridgway Avenue
Santa Rosa, CA 95401
Attention: Superintendent

OFFICIAL STATE BUSINESS – EXEMPT FROM RECORDING FEES PURSUANT TO GOVERNMENT CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.	SPACE ABOVE THIS LINE FOR RECORDER’S USE ONLY
APN: 173-620-030; County of Sonoma	

AGREEMENT

This Agreement (“**Agreement**”), dated as of _____, 2022, is executed by and between **CITY OF SANTA ROSA (Elementary) SCHOOL DISTRICT**, a public school district organized and existing under the laws of the State of California (“**Seller**” or “**District**”) and **CHRISTOPHERSON BUILDERS, LLC**, a California limited liability company (“**Buyer**”). Buyer and Seller are sometimes each referred to herein as a “**Party**” and collectively referred to herein as the “**Parties**”), with reference to the following facts:

RECITALS

- A. Buyer and Seller entered into that certain Purchase and Sale Agreement dated as of March 31, 2022 (the “**PSA**”), with respect to that certain real property commonly known as the Fir Ridge property and located at Fir Ridge Drive, Santa Rosa, California, containing approximately 6.03 acres, and bearing APN 173-620-030, as more particularly described in the PSA (the “**Property**”). The legal description of this Property is attached hereto and incorporated herein by this reference as **Attachment “A.”**
- B. On or about July 29, 2022, the Parties entered into a Third Amendment to the PSA (“**Third Amendment**”) to change certain terms of the PSA. Pursuant to the Third Amendment, Buyer agreed to pay District a lump sum of \$1,210,000.00 at Close of Escrow and an additional \$110,000.00 for each market rate lot, over and above eleven (11) lots, that is approved by the City of Santa Rosa and recorded in a final map subdividing the Property. The Parties wish to memorialize the terms of this arrangement, and ensure that it binds any of Buyer’s successors or assigns, and/or any future owner of the Property who subdivides it.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. Incorporation of Recitals. The Parties acknowledge and agree upon the accuracy of the Recitals hereto and incorporate them herein by this reference.

2. Additional Lot Payment. The Parties have agreed that Buyer shall pay Seller a total of One Million Two Hundred Ten Thousand Dollars and 00/100 (\$1,210,000) at Close of Escrow, based upon the assumption that at least eleven (11) market rate lots can be created on the Property (Buyer shall not be entitled to any refund if less than eleven market rate lots can be created). Additionally, for each market rate lot created on the Property in excess of eleven (11) lots, Buyer, its successors and/or assigns, shall pay Seller an additional One Hundred Ten Thousand Dollars and 00/100 (\$110,000) per lot (the “**Additional Lot Payment**”). As an illustration for clarity and avoidance of doubt, if one (1) additional market rate lot can be created on the Property (twelve [12] total market rate lots) then Buyer shall pay Seller an additional One Hundred Ten Thousand Dollars (\$110,000), and if seven (7) additional market rate lots (a total of eighteen [18] market rate lots) can be created, then Buyer shall pay an additional seven hundred seventy thousand dollars (\$770,000), and so on. Buyer agrees that it shall use commercially reasonable efforts to develop the maximum number of market rate lots possible. The Additional Lot Payment shall be paid to the District within thirty (30) days of City’s approval of any final subdivision map for the Property.

3. Injunctive Relief. Buyer, its successors and assigns shall not develop the Property with any residential or commercial structures until the Additional Lot Payment has been made. The Parties agree that any failure by Buyer, its successors and assigns to timely make the Additional Lot Payment would result in immediate and irreparable injury and damage to the District, including without limitation harming the District’s ability to develop its own workforce housing and realize all of the nonmonetary benefits therefrom, which could not be adequately compensated by damages. The Parties therefore also agree that in the event of any such breach or any anticipated or threatened breach by the Buyer, its successors or assigns, the District shall be entitled to equitable relief, including by way of temporary or permanent injunction or specific performance, without having to prove damages, in addition to any other remedies (including damages) to which the District may be entitled at law or in equity.

4. Breach. In the event of a failure by Buyer, or its successors or assigns to make payment as described herein, such failure shall be deemed a material breach of this Agreement and District shall be entitled pursue any and all available legal and equitable remedies.

5. Successor and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, and legal representatives of the Parties hereto. This Agreement shall not be assignable by any Party hereto without the prior written consent of the other Parties.

6. No Subordination. This Agreement shall not be, and shall not be deemed to be subordinated to any deed of trust, mortgage, lien, or any other interest in the Property.

7. Waiver, Modification and Amendment. No provision herein may be waived unless in writing and signed by the Party whose rights are thereby waived. Waiver of any one provision

herein shall not be deemed to be a waiver of any other provision herein. This Agreement may be modified or amended only by written agreement executed by the other Parties hereto.

8. Agreement to Run With the Land. It is intended that this Agreement shall constitute a covenant and shall run with the land and shall burden the Property and bind any successor owner(s) of the Property.

9. Severability. In the event that any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those in respect to which it is invalid or unenforceable) shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law; provided, however, that the Buyer agrees to cooperate in good faith to either amend this Agreement or execute a new Agreement so that the purposes, benefits and burdens of this Agreement are not frustrated.

10. Attorneys' Fees. In the event that any litigation shall be commenced by either Party concerning this Agreement, each Party shall pay its own respective costs and expenses, including without limitation reasonable attorneys' fees and court costs.

11. California Law. All questions with respect to the construction of this Agreement and the rights and liabilities of the Parties hereto shall be governed by the laws of the State of California. Any action to enforce or interpret this Agreement shall be brought in Sonoma County.

12. No Presumption Against Drafting Party. The Parties acknowledge there shall be no presumption against the Party drafting this agreement.

13. Entire Agreement. Each party hereto, acknowledges that no other party or agent or attorney or any other party has made a promise, representation, or warranty whatsoever expressed or implied, not contained herein concerning the subject matter herein to induce the other party to execute this Agreement.

14. Title and Captions. Titles and captions contained in this Agreement are inserted only as a matter of convenience and for reference and shall in no way be construed to define, limit or extend the scope of this Agreement or the intent of any of its provisions.

15. Execution and Counterparts. This Agreement may be executed in one or more counterparts (including multiple signature pages), all of which shall be and shall be deemed to be one instrument. True and correct copies, including facsimile copies, may be used in lieu of the original for any and all purposes.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Seller and Buyer have executed this Covenant effective as of the date first hereinabove written.

<p>CITY OF SANTA ROSA (Elementary) SCHOOL DISTRICT, a public school district organized and existing under the laws of the State of California</p> <p>By: _____ Name: _____ Its: _____</p>	<p>CHRISTOPHERSON BUILDERS, LLC, a California Limited Liability Company</p> <p>By: _____ Name: _____ Its: _____</p>
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EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

The land referred to herein below is situated in the City of Santa Rosa, County of Sonoma, State of California, and is described as follows:

Lot F (School Site), as shown on that certain map entitled "Fir Ridge North at Fountaingrove," filed for record in the Office of the county Recorder of Sonoma County on June 8, 1988 in Book 418 of Maps, at Pages 43 – 48, Sonoma County Records.

APN: 173-620-030-000

