

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Brentwood
708 Third Street
Brentwood, California 94513
Attn: City Clerk

(Space Above This Line for Recorder's Use Only)
[Exempt from recording fee per Gov. Code § 27383]

REFINANCE AND RESALE LIMITATION AGREEMENT AND OPTION TO PURCHASE

For valuable consideration, the receipt of which is hereby acknowledged, _____ (individually or collectively, "Owner"), and THE CITY OF BRENTWOOD and THE REDEVELOPMENT AGENCY OF THE CITY OF BRENTWOOD (collectively defined herein as "City") agree as follows, with reference to the following facts:

RECITALS

- A. Owner owns that certain real property located at _____, Brentwood, California and more particularly described in Attachment 1 attached hereto and incorporated herein. The real property, which includes the land, the residence and all other improvements thereon, and all membership and other rights appurtenant thereto, is referred to in this Agreement as the "Restricted Unit." The Restricted Unit is part of a ____-unit residential community referred to herein as the "Project."
- B. City has acted to enforce the inclusionary housing requirements set forth in Chapter 17.725 of the Brentwood Municipal Code and any implementing regulations ("City Inclusionary Housing Requirements") by establishing an affordable housing program for the City of Brentwood. As part of the affordable housing program, City has procured assurances that the Restricted Unit will be sold, owned and occupied only by members of an Eligible Household (as defined below), and will be sold only for a price that does not exceed the Affordable Housing Cost (as defined below).
- C. Owner has received the benefit of these assurances in purchasing the Restricted Unit, and is providing the same assurances for the benefit of the City by entering into this Agreement. Owner and City therefore agree that the Restricted Unit shall be subject to the terms, conditions and restrictions, and the rights of City, as specified in this Agreement.

NOW, THEREFORE, in this factual context, for good and valuable consideration, Owner and City agree as follows:

1. Principal Residence. Owner shall occupy the Restricted Unit as his or her principal and legal residence. Upon request by the City, the Owner shall submit an affidavit to the City certifying that the Restricted Unit is the Owner's principal and legal residence.
2. Documentation. Concurrently with execution of this Agreement, Owner shall execute a Disclosure Statement in the form of Attachment 2, attached hereto, and shall execute an acknowledge a Deed of Trust securing its obligations under this Agreement in the form of Attachment 3, attached hereto. The Deed of Trust shall be recorded in the Official Records of Contra Costa County. City may execute and record a Request for Notice of Default in the form attached hereto as Attachment 4.
3. Debt and Refinance Limitations. Without the City's prior written consent, Owner shall not obtain or refinance any loan in connection with the Restricted Unit (a "Loan") that causes Owner's indebtedness (i.e. the total amount borrowed by Owner) in connection with the Restricted Unit to exceed the Affordable Housing Cost (as defined in Section 5(a) below).
4. Submission of Loan or Refinance Information to City. Not less than forty-five (45) days prior to obtaining or refinancing a Loan that requires City's approval, Owner shall submit to City a copy of the proposed loan's terms together with any and all other information reasonably requested by City, including without limitation a copy of the loan application and Good Faith Estimate. Within fifteen (15) business days from receipt of the information, City shall render a decision. If City does not approve the Loan, City shall so notify Owner in writing within such fifteen (15) business days, stating the basis for its determination in reasonable detail.
5. Resale Limitations. Except as otherwise provided in this Agreement during the Term (as defined in section 18 below), the Restricted Unit shall only be sold to an Eligible Household approved by City in accordance with the terms of the Agreement, the City Inclusionary Housing Requirements and the City's Affordable Housing Program for an amount that does not exceed the Affordable Housing Cost. As used in this Agreement:
 - a. "Affordable Housing Cost" shall be as defined in Health and Safety Code Section 50052.5 or any successor statute thereto. If the statute is no longer in effect and no successor statute is enacted, the City shall establish the Affordable Housing Cost for purposes of this Agreement. For purposes of determining the Affordable Housing Cost: (i) the purchase price for a 2 bedroom Restricted Unit shall be established using the assumption that the Eligible Household purchasing the Unit is comprised of three persons; (ii) the purchase price for a 3 bedroom Restricted Unit shall be established using the assumption that the Eligible Household purchasing the Unit is comprised of four persons; and (iii) the purchase price for a 4 bedroom Restricted Unit shall be established using the assumption that the Eligible Household purchasing the Unit is comprised of five persons.
 - b. "Eligible Household" shall mean and include a person or household (i) whose annual gross income does not exceed **[insert "50%" for very-low income**

household or "80% for low income household"] of the Median Income, as defined below (which percentage shall be adjusted as provided in Title 25, Section 6932 of California Code of Regulations); and (ii) who meets the definition of a First Time Homebuyer.

- c. "First Time Homebuyer" shall mean and include a person or household, no member of which has had any of the following interests in real property in his or her primary residence in the three years preceding the date of purchase of the Unit: fee simple, joint tenancy, tenancy in common, life estate, shareholder in a cooperative or interest held in trust that would continue on to ownership if held.
 - d. "Median Income" shall mean the area-wide median gross yearly income in Contra Costa County, adjusted for household size, as established from time to time by the U.S. Department of Housing and Urban Development ("HUD"), or, by the California Department of Housing and Community Development ("HCD") if HUD ceases to establish such income standards. In the event that neither HUD nor HCD are establishing such income standards, the City shall provide Owner with income standards which are determined in a manner reasonably similar to the methods of calculation previously used by HUD or HCD.
6. Submission of Resale Information to City. Not less than forty-five (45) days prior to any proposed sale or other transfer of the Restricted Unit during the Term, Owner shall submit to City: (a) a Notice of Intent to Transfer in the form attached hereto as Attachment 5, (b) a copy of the written agreement of purchase and sale, (c) the prospective purchaser's/transferee's income certification, evidence of the purchaser's/transferee's status as an Eligible Household, a list of all assets owned by the prospective purchaser/transferee and any information reasonably necessary to enable City to determine compliance with the terms of this Agreement, in a form reasonably approved by the City, and (d) the income certification to be provided to any lender making a loan on the Restricted Unit. City may require documentation reasonably evidencing and supporting the income and other financial information contained in the certifications, including the prospective purchaser's/transferee's income most recent income tax return. Within thirty (30) calendar days from receipt of the documentation, City shall render a decision of eligibility or noneligibility. If the prospective purchaser/transferee qualifies as an Eligible Household, the purchase price of the Restricted Unit is within the definition of Affordable Housing Cost and the sale or transfer complies with the City Inclusionary Housing Requirements, the City shall so certify in writing within such thirty (30) calendar days, and upon request shall execute a certificate, in recordable form, confirming that the proposed transaction complies with the requirements of this Agreement. If the prospective purchaser/transferee does not qualify as an Eligible Household, the purchase price of the Restricted Unit is not within the definition of Affordable Housing Cost or the sale or transfer does not comply with the City Inclusionary Housing Requirements, the City shall so notify Owner in writing, within such thirty (30) calendar days, stating the basis for its determination in reasonable detail and Owner shall not sell the Restricted Unit to such non-Eligible Household.

7. Ineligible Transfers. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THERE SHALL BE NO SALE OR OTHER TRANSFER OF THE RESTRICTED UNIT WITHOUT THE WRITTEN CERTIFICATION BY THE CITY THAT THE PURCHASER / TRANSFEREE IS AN ELIGIBLE HOUSEHOLD, THE PURCHASE PRICE OF THE RESTRICTED UNIT IS WITHIN THE DEFINITION OF AFFORDABLE HOUSING COST AND THE SALE OR TRANSFER COMPLIES WITH THE CITY INCLUSIONARY HOUSING REQUIREMENTS. ANY SALE OR OTHER TRANSFER OF THE RESTRICTED UNIT IN VIOLATION OF THIS AGREEMENT SHALL BE VOID.
8. Permissible Transfers. The following transfers of title to a Restricted Unit or any interest therein are not subject to the City's prior written approval so long as the transferee's household (i.e., the persons or persons acquiring ownership of the Restricted Unit) qualifies as an Eligible Household and occupies the Restricted Unit in compliance with the terms of this Agreement: (a) transfer by gift, devise or inheritance to the spouse, issue or adopted child of the Owner; (b) transfer resulting from death of an Owner when the transfer is to a co-Owner or joint tenant; (c) transfer by an Owner to any person who becomes a co-Owner of the Restricted Unit provided (i) the Owner retains at least a 33% interest in the Restricted Unit, (ii) the co-Owner and Owner together qualify as an Eligible Household, and (iii) co-owner agrees to be bound by this Agreement by signing a copy of this Agreement and delivering it to the City; (d) transfer of title to a spouse resulting from divorce; (e) decree of dissolution or legal separation or from a property settlement agreement incidental to such a decree in which one of the Owners becomes the sole owner; (f) acquisition of title to the Restricted Unit or interest therein in conjunction with marriage; or (g) a transfer between co-Owners or a transfer by Owner into an inter vivos trust in which Owner is a beneficiary and Owner continues to occupy the Restricted Unit.
9. Effect of Sale. THE PURCHASER OF THE RESTRICTED UNIT FROM OWNER SHALL ENTER INTO AND RECORD AT THE CLOSE OF ESCROW A NEW REFINANCE AND RESALE LIMITATION AGREEMENT AND OPTION TO PURCHASE, IN A FORM SIMILAR TO THIS AGREEMENT, SUPPLIED AND APPROVED BY THE CITY, AND FOR THE BENEFIT OF THE CITY. IF THE PURCHASER FAILS TO EXECUTE A NEW AGREEMENT, PURCHASER WILL REMAIN SUBJECT TO THIS AGREEMENT. UPON THE CLOSING, AND RECORDATION OF THE NEW REFINANCE AND RESALE LIMITATION AGREEMENT AND OPTION TO PURCHASE, OWNER SHALL HAVE NO FURTHER OBLIGATIONS OR LIABILITIES TO THE CITY WITH RESPECT TO THE RESTRICTED UNIT, INCLUDING WITHOUT LIMITATION ANY RESPONSIBILITY FOR COMPLIANCE BY THE PURCHASER OR ITS SUCCESSORS WITH THE TERMS AND CONDITIONS OF THE NEW REFINANCE AND RESALE LIMITATION AGREEMENT AND OPTION TO PURCHASE.

10. City's Option to Purchase.

- a. Option Notice. If Owner cannot in good faith, and despite using best commercially reasonable efforts, locate an Eligible Household to purchase the Restricted Unit at an Affordable Housing Cost, Owner shall have the right, but not the obligation, to give the City written notice of such circumstances (the "Option Notice"). However, the Owner shall not sell the Restricted Unit for a price that exceeds the Affordable Housing Cost or to a non-Eligible Household without first giving the City an Option Notice so that the City has the opportunity to exercise the option granted by this Section 10.
- b. Option. In the event Owner gives City an Option Notice or Owner is in default under Section 16 below, the City may purchase the Restricted Unit at a price equal to the lesser of (i) the fair market value of the Restricted Unit (as determined by agreement of the parties or in the absence of an agreement, by an appraisal acceptable to the City), or (ii) the Affordable Housing Cost, using the maximum housing cost for the Eligible Household, as adjusted for the applicable unit size as defined in Health and Safety Code Section 50052 or any successor thereto. This option shall be exercised by the City giving the Owner notice, no later than ninety (90) days following City's receipt of the Option Notice or Owner's Default, of the City's intent to purchase the Restricted Unit (the "Exercise Notice"). The City may designate another governmental entity, a nonprofit organization or an Eligible Household to purchase the Restricted Unit. If City or its designee does not exercise the option to purchase the Restricted Unit, then the terms of Section 12 below shall apply.

11. Escrow. If the City exercises its rights under Section 10 above, the closing of the purchase and sale of the Restricted Unit to the City or its designee shall be effectuated in accordance with the following provisions:

- a. Close of Escrow. Close of escrow shall occur no later than one hundred twenty (120) days following the receipt by Owner of the Exercise Notice. If escrow is required to close on a Saturday, Sunday or Holiday, it shall close on the next business day following the Saturday, Sunday or Holiday.
- b. Prorations and Costs. All title insurance premiums, transfer taxes and escrow fees shall be paid according to customary practice in Contra Costa County.
- c. Escrow Instructions. The parties shall execute all escrow instructions which the Escrow Holder reasonably requires within fifteen (15) days after the request thereof. All escrow instructions shall be consistent with the provisions of this Agreement.
- d. Proceeds of Escrow; Removal of Exceptions to Title. Owner shall convey the Restricted Unit to City free and clear of all liens other than the lien for current, unpaid, non-delinquent taxes. All amounts deposited into escrow by City shall be applied first to the payment of liens recorded against the Restricted Unit in

order of lien priority, and thereafter to the Owner's share of escrow fees and closing costs. The balance of the Option purchase price remaining after payment of liens and Owner's share of escrow fees and closing costs, if any, shall be paid to Owner upon the close of escrow.

12. Owner's Right to Sell Free of Restrictions. In the event City does not exercise the purchase option provided pursuant to Section 10, or City does exercise the option but fails to close the transaction as provided in Section 11 above for any reason other than a default by Owner, Owner shall have the right, for a period of 180 days after the date City's option expired or City failed to close, as the case may be, to sell the Restricted Unit for a market sales price to any buyer, regardless of income, without any obligation on the part of the buyer to enter into and record a new Refinance and Resale Limitation Agreement and Option to Purchase at closing. In the event of such a sale, this Agreement shall have no force or effect as an encumbrance against the Restricted Unit on and after the closing date. If Owner or the buyer requests, the City shall provide a recordable quitclaim deed at closing in accordance with Section 18 below. If Owner does not close on the sale of the Restricted Unit within the 180 day-period provided herein, the requirements of this Agreement shall again apply to any proposed sale of the Restricted Unit, including without limitation, the City option rights.
13. Distribution of Proceeds in the Event of Foreclosure, Destruction or Condemnation. In the event that the Restricted Unit is (a) sold at a trustee's sale or judicial foreclosure, (b) destroyed and the insurance proceeds are distributed to Owner instead of being used to rebuild, or (c) condemned, then the proceeds of such sale, foreclosure, distribution or condemnation (the "Proceeds") shall be distributed as follows. First, all liens and encumbrances on the Restricted Unit shall be fully paid from the Proceeds (the "Lien Payment"). Second, Owner shall be paid that amount equal to the lesser of (i) the fair market value of the Restricted Unit (as determined by agreement of the parties or in the absence of an agreement, by an appraisal acceptable to the City), or (ii) the Affordable Housing Cost, using the maximum housing cost for the Eligible Household, as adjusted for the applicable unit size as defined in Health and Safety Code Section 50052 or any successor thereto, less the Lien Payment. Third, City shall receive the balance of the Proceeds, which amount shall be deposited in the City's Housing Trust Fund. This Section 13 is not applicable in the event that the lender(s) under the Senior Deed(s) of Trust (defined in Section 25 below) take title to the Restricted Unit upon foreclosure or by a deed in lieu of foreclosure of the Senior Deed(s) of Trust.
14. Transfer Fees. Upon the transfer of the Restricted Unit during the Term, Owner shall may be required to pay City a transfer fee in an amount to be determined by the City.
15. Other Covenants.
 - a. No Discrimination. Owner covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, age, marital status, disability, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Restricted Unit, nor shall

the Owner itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees or vendees in the Restricted Unit.

- b. Maintenance. During the duration of this Agreement, Owner shall keep the Restricted Unit in good condition, order and repair and shall not commit waste or permit impairment, demolition or deterioration of the Restricted Unit. City shall have the right to inspect the Restricted Unit, provided notice is given to the owner prior to any such inspection.
- c. Taxes and Assessments. Owner shall pay at least ten days before delinquency, all taxes and assessments on the Restricted Unit.
- d. No Liens. Owner shall keep the Restricted Property free from mechanic's and other liens.
- e. Payment of all Liens. Owner shall pay all liens or mortgages against the Restricted Property prior to delinquency.

16. Defaults and Remedies.

- a. Default. Failure or delay by Owner to perform any term, provision or covenant of this Agreement which is not cured within thirty (30) days after receipt of notice from City constitutes a default under this Agreement ("Default").
- b. Remedies. City, in the event of any breach of any terms, provisions or covenants contained herein, shall have the right to exercise all of its rights and remedies allowed by this Agreement and by law, including the right to exercise the option set forth in Section 10, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach.

17. Notices. Notices required to be given to the City or to Owner shall be given by hand delivery, recognized overnight courier (such as UPS, DHL or FedEx) or by certified mail, return receipt requested, to the following addresses, or to such other address(es) as a party may designate from time to time by written notice to the other:

To City:

Housing Manager
City of Brentwood
708 Third Street
Brentwood, CA 94513

To Owner:

At the address set forth in Recital A.

18. Duration. The covenants set forth herein shall be covenants running with the land and shall inure to the benefit of the City and its successors and assigns, and shall be enforceable by the City, the City of Brentwood or their successors and assigns, without regard to whether the City is or remains an owner of any land or interest to which such covenants relate, until the date that is 45 years after the date this Agreement is recorded (the "Term"). The parties agree that for the Term of this Agreement, all future deeds or transfers of interest shall show or reference the applicable restrictions of this Agreement. Upon expiration of the Term, City shall provide Owner with a quitclaim, release or other instrument, in recordable form, sufficient to confirm the release the Restricted Unit from the effect of this Agreement.
19. Amendment. This Agreement may be amended only in a writing signed by City and the Owner.
20. No Impairment of Lien. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument.
21. Successors and Assigns. The covenants contained in this Agreement shall inure to the benefit of the City and its successors and assigns and shall be binding upon Owner and any successor in interest to the Restricted Unit. Provided that Owner has complied with all terms of this Agreement, upon the transfer by Owner of all of its interest in the Restricted Unit, such Owner shall automatically be released from and have no further obligations or liabilities under this Agreement, and all references in this Agreement to Owner thereafter shall mean and refer to such successor in interest of a prior Owner as may then be the owner of the Restricted Unit. The covenants shall run in favor of the City and its successors and assigns for the entire period during which such covenants shall be in force and effect, without regard to whether the City is or remains an owner of any land or interest therein to which such covenants relate. The City, and its successors and assigns, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings, to enforce the curing of such breach.
22. No Third Party Beneficiaries. Notwithstanding anything in this Agreement to the contrary, there are no third party beneficiaries of this Agreement.
23. California Law. This Agreement shall be construed in accordance with and be governed by the laws of the State of California.
24. Severability. Should any provision of this Agreement be found invalid or unenforceable by a court or other body of competent jurisdiction, said invalidity, unenforceability or ineffectiveness shall not affect the validity of the remaining provisions which shall remain in force to the maximum extent possible.
25. Subordination. The terms and provisions of this Agreement, except Section 13 herein, are subject and subordinate to the terms of the deed(s) of trust made to *[insert name of*

primary lenders, such as California Housing Finance Agency], the primary lender(s) (the "Senior Deed(s) of Trust"). The terms and provisions of Section 13 shall remain senior to the Senior Deed(s) of Trust until the earlier of (a) the date on which a lender(s) under the Senior Deed(s) of Trust take title to the Restricted Unit upon foreclosure or by a deed in lieu of foreclosure of the Senior Deed(s) of Trust, (b) the date on which the Proceeds are paid to the City as provided in Section 13, or (c) the expiration of this Agreement. Upon the earlier of subsections (a), (b) or (c) above, all of the terms and provisions of this Agreement shall be of no further force and effect. Therefore, any lender under a Senior Deed of Trust that takes title to the Restricted Unit upon foreclosure or by a deed in lieu of foreclosure of the Senior Deed(s) of Trust will take title free and clear of the terms and provisions of this Agreement.

IN WITNESS WHEREOF, the City and the Owner have caused this Agreement to be executed on their behalf by their respective officers thereunto duly authorized.

Dated for reference purposes only as of _____, 20__.

CITY:

Date: _____

THE CITY OF BRENTWOOD and THE REDEVELOPMENT AGENCY OF THE CITY OF BRENTWOOD

By: _____

ATTEST:

Name: Donna Landeros

Its: City Manager and Executive Director

By: _____

Margaret Wimberly, City Clerk

APPROVED AS TO FORM:

By: _____

Damien Brower,
City Attorney/Agency Counsel

OWNER:

Date: _____

By: _____

Name: _____

By: _____

Name: _____

SIGNATURES MUST BE NOTARIZED

STATE OF CALIFORNIA)
) ss
COUNTY OF _____)

On _____, before me, the undersigned, a notary public, personally appeared _____,

() personally known to me, or

() 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 _____ executed the same in _____ authorized capacity(ies), and that by _____ signature(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.

Signature

STATE OF CALIFORNIA)
) ss
COUNTY OF _____)

On _____, before me, the undersigned, a notary public, personally appeared _____,

() personally known to me, or

() 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 _____ executed the same in _____ authorized capacity(ies), and that by _____ signature(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.

Signature

STATE OF CALIFORNIA)
) ss
COUNTY OF _____)

On _____, before me, the undersigned, a notary public, personally
appeared _____
_____,

() personally known to me, or

() 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 _____ executed the same in _____ authorized capacity(ies), and that by _
_____ signature(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.

Signature

FOR REVIEW ONLY

ATTACHMENT 1

Legal Description of Restricted Unit

[to be inserted]

FOR REVIEW ONLY

ATTACHMENT 2

DISCLOSURE STATEMENT

THERE ARE RESTRICTIONS ON THE SALE OF THE PROPERTY YOU ARE BUYING. YOU MAY NOT SELL THE PROPERTY FOR MARKET VALUE TO WHOMEVER YOU LIKE. YOU MUST SELL THE PROPERTY TO AN "ELIGIBLE HOUSEHOLD" AT AN "AFFORDABLE HOUSING COST." IF YOU CANNOT DO SO, YOU MUST NOTIFY THE CITY, WHO HAS AN OPTION TO PURCHASE THE PROPERTY.

THERE ARE ALSO RESTRICTIONS ON OBTAINING AND REFINANCING LOANS IN CONNECTION WITH THE PROPERTY. YOU MAY NOT OBTAIN OR REFINANCE ANY EXISTING LOAN THAT CAUSES YOUR INDEBTEDNESS TO EXCEED THE "AFFORDABLE HOUSING COST," EXCEPT AS OTHERWISE APPROVED IN WRITING BY THE CITY OF BRENTWOOD.

THESE RESTRICTIONS WILL BE IN EFFECT UNTIL _____, 20___. IF YOU SELL THE PROPERTY IN VIOLATION OF THE RESTRICTIONS, THE SALE SHALL BE VOID.

TO DETERMINE WHO IS AN ELIGIBLE HOUSEHOLD AND WHAT AN AFFORDABLE HOUSING COST IS, YOU SHOULD CONTACT THE CITY OF BRENTWOOD'S HOUSING MANAGER.

I HAVE READ THIS DISCLOSURE STATEMENT AND THE RESALE AND REFINANCE LIMITATION AGREEMENT AND OPTION TO PURCHASE AND I UNDERSTAND WHAT THEY MEAN.

Owner

Owner

I HAVE REVIEWED THE ABOVE DISCLOSURE STATEMENT AND THE RESALE AND REFINANCE LIMITATION AGREEMENT AND OPTION TO PURCHASE WITH THE OWNER.

City Housing Manager

ATTACHMENT 3

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Brentwood
708 Third Street
Brentwood, California 94513
Attn: City Clerk

(Space Above This Line for Recorder's Use Only)
[Exempt from recording fee per Gov. Code § 27383]

DEED OF TRUST AND SECURITY AGREEMENT

APN: [to be inserted]

THIS DEED OF TRUST AND SECURITY AGREEMENT ("Deed of Trust") is made this _____ day of _____, 20____, among _____ ("Trustor"), whose address is _____, _____ ("Trustee"), whose address is _____, and the City of Brentwood ("Beneficiary"), whose address is 708 Third Street, Brentwood, California 94513.

Trustor irrevocably grants, conveys, transfers and assigns to Trustee in trust, with power of sale and right of entry and possession, all of Trustor's right, title and interest now owned or hereafter acquired in and to the real property in Contra Costa County, California, described on Exhibit A attached hereto and incorporated herein by this reference, together with all buildings, structures and improvements now existing or hereafter constructed thereon (the "Improvements") and all other property and interests of any kind or character which may be reasonably necessary or desirable to promote the present and future beneficial use and enjoyment of such real property and improvements (the "Property").

1. Secured Obligations. Trustor makes the grant, conveyance, transfer and assignment herein for the purpose of securing Trustor's obligations under that certain Refinance and Resale Limitation Agreement between Trustor and Beneficiary dated _____ (the "Secured Obligations").

2. Maintenance and Repair. Trustor shall (a) keep the Property in good condition and repair and not remove or demolish any building; (b) complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed; (c) pay when due all claims for labor performed and materials furnished; (d) comply with all laws affecting the Property or requiring any alterations or improvements to be made; (e) not commit or permit waste; and (f) cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of the Property may be reasonably necessary.

3. Insurance. Trustor shall maintain hazard insurance against loss by fire, hazards included with the term "extended coverage," and any other hazards for which Beneficiary requires insurance, and liability insurance. The insurance carrier and the insurance policies and amounts

of coverage shall be acceptable to Beneficiary, the liability policy shall name Beneficiary as an additional insured, and shall require 30 days' prior notice to Beneficiary before the policy is modified or terminated.

4. Defense of Security. Trustor shall appear in and defend any action or proceeding purporting to affect the security or the rights or powers of Beneficiary or Trustee. Trustor shall pay all costs and expenses, including costs of evidence of title and attorneys' fees, in any such action or proceeding in which Trustee or Beneficiary may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

5. Payment of Taxes and Liens. Trustor shall pay (a) at least 10 days before delinquency, all taxes and assessments affecting the Property, including water stock assessments; (b) when due, all encumbrances, charges and liens, with interest, on the Property, which are or appear to be prior or superior to this Deed of Trust; and (c) upon demand all costs, fees and expenses of this Deed of Trust. If Trustor fails to make any payment or to do any act provided for in this Deed of Trust, then Beneficiary or Trustee may, without obligation to do so, and with or without notice to or demand upon Trustor, and without releasing Trustor from any obligation under this Deed of Trust: (i) make or do the same in such manner and to such extent as either may deem necessary to protect the security, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; (ii) appear in or commence any action or proceeding purporting to affect the security, or the rights or powers of Beneficiary or Trustee; (iii) pay, purchase, contest or settle any encumbrance, charge or lien which in the judgment of either appears to be senior to this Deed of Trust; and (iv) in exercising any such powers, pay allowable expenses, including attorneys' fees.

6. Reimbursement of Costs. Trustor shall pay upon demand all sums expended by Beneficiary or Trustee provided for in this Deed of Trust or allowed by law, with interest from date of expenditure at the maximum rate allowed by law.

7. No Waiver. By accepting payment of any sum after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums or declare a default for failure to pay.

8. Reconveyance. That upon written request of Beneficiary stating that the Secured Obligations have been fulfilled, and upon surrender of this Deed of Trust, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals of such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

9. No Renting Allowed. Trustor may not rent or lease all or any portion of the Property.

10. Default and Foreclosure. Upon default by Trustor in performance of any Secured Obligation, Beneficiary may deliver to Trustee a declaration of default and demand for sale and of a notice of default and a notice of sale, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust and all documents evidencing the Secured Obligations and expenditures, if any, secured by this Deed of Trust. Upon default of any obligation secured by this Deed of Trust and acceleration of all sums due, if any, Beneficiary

may instruct Trustee to proceed with a sale of the Property under the power of sale granted in this Deed of Trust, noticed and held in accordance with California Civil Code Sections 2924, et seq., as such statutes may be amended from time to time. Trustor waives all rights it may have to require marshaling of assets or to require sales of assets in any particular order, including any rights under California Civil Code Sections 2899 and 3433.

11. Substitution of Trustee. Beneficiary, or any successor beneficiary of the Secured Obligations or of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust is recorded and the name and address of the new Trustee.

12. Successors and Assigns. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall mean the holder, including pledgees, of the covenants set forth in the Resale and Refinance Restrictions and Option to Purchase, whether or not named as Beneficiary herein.

13. Trustee Acceptance. Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

14. Further Assurances. Trustor shall, at its own cost and expense, do, execute, acknowledge, and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers, and assurances as Trustee or Beneficiary shall from time to time require, for better assuring, conveying, assigning, transferring, and confirming unto Trustee the Property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which Trustor may be or may hereafter become bound to convey or assign to Trustee, or for carrying out the intention or facilitating the performance of the terms of this Deed of Trust, or for filing, registering, or recording this Deed of Trust. Trustor shall, on demand, execute and deliver, and hereby authorizes Trustee and Beneficiary, or either of them, to execute in the name of Trustor, to the extent it may lawfully do so, one or more financing statements, chattel mortgages, or comparable security instruments, to evidence more effectively the lien hereof. Immediately upon the execution and delivery of this Deed of Trust, and thereafter from time to time, Trustor shall cause this Deed of Trust, and any security instruments creating a lien or evidencing the lien hereof upon any personal property and each instrument of further assurance, to be filed, registered, or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the title of Trustee to, the Property encumbered hereby.

15. Condemnation and Insurance Proceeds. Immediately upon obtaining knowledge of the institution of any proceedings for the condemnation or other taking of all or any portion of

the Property, or knowledge of any casualty damage to the Property, or damage in any other manner, Trustor shall immediately notify Beneficiary thereof. Trustor hereby authorizes and empowers Beneficiary as attorney-in-fact for Trustor to make proof of loss, to adjust and compromise any claim under the insurance policies covering the Property, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Beneficiary's expenses incurred in the collection of such proceeds; provided, however, that nothing contained in this Section shall require Beneficiary to incur any expense or take any action hereunder. Trustor hereby authorizes and empowers Beneficiary, at Beneficiary's option, as attorney-in-fact for Trustor, to commence, appear in and prosecute, in Beneficiary's or Trustor's name, any action or proceeding relating to any condemnation or other taking of all or any part of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or any part thereof, or for conveyances in lieu of the Property, or any part thereof, shall be paid to Beneficiary. The foregoing powers of attorney are coupled with an interest and are irrevocable. Trustor hereby authorizes Beneficiary to apply such awards, payments, proceeds or damages relating to condemnation of the Property and insurance covering the Property, after the deduction of Beneficiary's expenses incurred in the collection of such amounts, at Beneficiary's option, subject to the requirements of applicable law and the provisions hereof, to restoration or repair of the Property or to payment of the sums secured by this Deed of Trust. Beneficiary shall be under no obligation to question the amount of any compensation, awards, proceeds, damages, claims, rights of action, and payments relating to condemnation or other taking of the Property or insured casualty affecting the Property, and may accept the same in the amount in which the same shall be paid. Trustor shall execute such further evidence of assignment of any awards, proceeds damages or claims arising in connection with such condemnation or taking or such insurance as Beneficiary may require.

16. Severability. If any one or more of the provisions contained in this Deed of Trust shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Deed of Trust, but this Deed of Trust shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein or therein, but only to the extent of such invalidity.

17. Estoppel Certificate. Trustor shall, within ten (10) days of a written request from Beneficiary, furnish Beneficiary with a written statement, duly acknowledged, setting forth the sums secured by this Deed of Trust and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Deed of Trust.

18. Due-On-Sale or Encumbrance. If all or any part of the Property, or any interest therein, or any beneficial interest in Trustor (if Trustor is not a natural person or persons but is a corporation, partnership, trust, limited liability company or other legal entity), is sold, transferred, mortgaged, assigned, pledged, or further encumbered, whether directly or indirectly, whether voluntarily or involuntarily or by operational law, Beneficiary may, at Beneficiary's option invoke any remedies permitted by this Deed of Trust.

The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to Trustor at Trustor's address hereinbefore set forth.

TRUSTOR:

By: _____

Name: _____

By: _____

Name: _____

FOR REVIEW ONLY

Exhibit A

Situated in the State of California, City of Brentwood, County of Contra Costa, and described as follows:

[insert legal description]

FOR REVIEW ONLY

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20____, before me, _____, the undersigned, personally appeared _____,

- () personally known to me
- () 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) signature(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:

Signature _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20____, before me, _____, the undersigned, personally appeared _____,

- () personally known to me
- () 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) signature(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:

Signature _____

ATTACHMENT 4

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Brentwood
708 Third Street
Brentwood, California 94513
Attn: City Clerk

(Space Above This Line for Recorder's Use Only)
[Exempt from recording fee per Gov. Code § 27383]

REQUEST FOR NOTICE UNDER SECTION 2924B CIVIL CODE

In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale under the Deed of Trust recorded as Instrument No. _____ on _____, _____, in the Official Records of Contra Costa County, California, and describing land therein as: _____

_____ executed by _____, as Trustor, in which _____ is named as Beneficiary, and _____, as Trustee, be mailed to the City of Brentwood, 708 Third Street, Brentwood, California 94513, Attn: _____

By: _____
Name: _____

NOTICE: A COPY OF ANY NOTICE OF DEFAULT AND OF ANY NOTICE OF SALE WILL BE SENT ONLY TO THE ADDRESS CONTAINED IN THIS RECORDED REQUEST. IF YOUR ADDRESS CHANGES, A NEW REQUEST MUST BE RECORDED.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20____, before me, _____, the undersigned, personally appeared _____,

- () personally known to me
- () 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) signature(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:

Signature _____

FOR REVIEW ONLY

ATTACHMENT 5

Notice of Intent to Transfer

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

To: City of Brentwood
708 Third Street
Brentwood, CA 94513
Attn: Housing Manager

Date: _____

Re: Notice of Intent to Transfer

The undersigned Owner(s), _____
_____, hereby give(s) notice of his/her/their intent to transfer the property located at _____
_____, Brentwood, California (the "Property").
Owner may be contacted at the Property or at the following address:

Owner's daytime telephone number is () _____

The proposed transfer of the Property is to the following person(s):

Name: _____

Address: _____

Telephone: () _____

The proposed transfer is (check one):

- Sale
- Other

Specify: _____

Owner(s) signature(s):

