

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attn: Assistant Deputy Director, Housing and Community Improvement Division

No fee for recording pursuant to
Government Code Section 27383

INCLUSIONARY HOUSING DEVELOPER AGREEMENT
(SD21-9559, RZ21-03258, DP21-03001, Oak Road Townhomes, Unincorporated Walnut Creek)

This Inclusionary Housing Developer Agreement (the "Developer Agreement") is dated _____, 20__, and is between the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (the "County"), and SUMMERHILL OAK ROAD LLC, a California limited liability company ("Developer").

RECITALS

A. Defined terms used but not defined in these recitals have the meaning given to them in Section 1 of this Developer Agreement.

B. Developer owns or intends to own real property located at 2740 Jones Road in the unincorporated Walnut Creek area of Contra Costa County, California, described in Exhibit A (the "Property"). Developer intends to execute and deliver this Developer Agreement to County prior to the date that the Property has been conveyed to Developer. Developer shall cause this Developer Agreement to be recorded against the Property immediately after Developer has closed escrow on its purchase of the Property and the Property has been conveyed to Developer.

C. The Developer is entering into this Developer Agreement to fulfill the conditions for development that apply to the construction of 125 new for-sale residential units the Developer wishes to construct on the Property, which project has been designated as County Files SD21-9559, RZ21-03258 and DP21-03001 (the "Residential Project").

D. The Residential Project is subject to the requirements of the Contra Costa County Inclusionary Housing Ordinance, Chapter 822-4 of the County Ordinance Code (the "Ordinance"). To comply with the Ordinance, the Developer has submitted, and the County has approved, the Inclusionary Housing Plan set forth in Exhibit B (the "Plan"). The Plan calls for

(i) the construction of 10 residential units, including six (6) 4-bedroom units and four (4) 3-bedroom units, that are each affordable to a Moderate Income Household (together, the “Inclusionary Housing Units”), (ii) the sale of each of the Inclusionary Housing Units to a Moderate Income Household, and (iii) payment by the Developer to the County of an in-lieu fee in the amount of \$387,753.52.

E. The County is charged with the responsibility for improving, increasing, and maintaining the stock of affordable housing in unincorporated Contra Costa County. Pursuant to the Ordinance and the Plan, the Developer is required to enter into and record this Developer Agreement as a condition of the County’s approval of the development of the Residential Project. The County is entering into this Developer Agreement in reliance on the Developer’s promises to meet the requirements of the Ordinance and the Plan and to assure the development of the Inclusionary Housing Units.

The parties therefore agree as follows:

AGREEMENT

1. Definitions. The following terms have the following meanings:

- a. “Affordable Sales Price” means a sales price that does not exceed the price at which a Moderate Income Household can afford to purchase an Inclusionary Housing Unit. The Affordable Sales Price is calculated to include a reasonable down payment and results in projected average monthly housing costs, including ownership housing costs described in California Code of Regulations, Title 25, Section 6920, equal to one-twelfth (1/12th) of forty percent (40%) of one hundred ten percent (110%) of area median income adjusted for household size (5 persons for a 4-bedroom unit and 4 persons for a 3-bedroom unit). The Affordable Sales Price will be calculated annually by the County.
- b. “Conditions of Approval” means conditions of approval nos. 49-58, set forth in the Findings and Conditions of Approval for the Oak Road Townhomes Project (County Files #SD21-9559, RZ21-03258 and DP21-03001).
- c. “Ordinance” means Chapter 822-4 of the County’s Ordinance Code.
- d. “Moderate Income Household” has the meaning set forth in the Ordinance.
- e. “Official Records” means the official records of Contra Costa County.
- f. “Resale Restriction” means the Buyer’s Occupancy and Resale Restriction Agreement in the form attached as Exhibit D-1.
- g. “Term of Affordability” means, for each Inclusionary Housing Unit, three (3) years from the date of its initial sale.

2. Exhibits. The following exhibits are attached to this Developer Agreement:

Exhibit A – Legal Description of Property
Exhibit B – Inclusionary Housing Plan
Exhibit C – Income Certification Form
Exhibit D-1 – Form of Resale Restriction
Exhibit D-2 – Form of Promissory Note
Exhibit D-3 – Form of Deed of Trust

3. Covenants.

- a. After the mutual execution of this Developer Agreement by the parties, Developer shall cause the fully-executed Developer Agreement to be held in escrow by First American Title Insurance Company (“Escrow Holder”) at its office located at 333 W. Santa Clara St., Suite 220, San Jose, CA 95113, Attn: Terri Moralez, email: TMoralez@firstam.com, Tel: 408-451-7838, and Developer will cause Escrow Holder to record this Developer Agreement against the Property immediately after Developer has closed escrow on its purchase of the Property and the Property has been conveyed to Developer.
- b. The County will release this Developer Agreement, through a termination or such other document in form sufficient to remove this Developer Agreement from title to the Property, after the Developer complies with its obligations under this Developer Agreement and following the County’s receipt of (i) a Resale Restriction in substantial conformity with Exhibit D-1 for each of the Inclusionary Housing Units, executed by the buyer of the unit and recorded in the Official Records, (ii) a promissory note in favor of the County in substantial conformity with Exhibit D-2, from each buyer of an Inclusionary Housing Unit, and (iii) a deed of trust for each of the Inclusionary Housing Units, which is in substantial conformity with Exhibit D-3 and which has been recorded in the Official Records.
- c. The parties expressly intend that the covenants and restrictions set forth in this Developer Agreement run with the land and bind all successors in title to the Property. Notwithstanding the foregoing, the parties agree that the restrictions in this Developer Agreement apply only to the Inclusionary Housing Units and are not binding upon the market rate units or any common area lots. Furthermore, as to the Inclusionary Housing Units, the buyers of the Inclusionary Housing Units are not bound to perform Developer’s obligations under this Agreement but are instead bound by the Resale Restriction, Promissory Note and Deed of Trust executed by each such buyer at their respective close of escrow.
- d. Prior to the release of this Developer Agreement, each and every contract, deed, or other instrument hereafter executed covering or conveying the Property, or any portion of it, is to be held conclusively to have been executed, delivered, and accepted subject to the covenants and restrictions of this Developer Agreement, regardless of whether such covenant and restrictions are set forth in such contract,

deed, or other instrument, unless the County expressly releases such conveyed portion of the Property from the requirements of this Developer Agreement.

4. Satisfaction of Conditions of Approval. The County hereby agrees that Developer's execution, recordation, performance of, and compliance with this Developer Agreement constitutes performance of the Conditions of Approval. The County hereby agrees that Developer's recording of this fully-executed Developer Agreement is sufficient to permit Developer to file applications for demolition and building permits for the Residential Project, and for the County to issue such demolition and building permits for the Residential Project, subject to compliance with the Conditions of Approval, this Developer Agreement, and all other provisions of the law. Notwithstanding the foregoing, the Conditions of Approval remain forever applicable to the Residential Project and will survive any transfer of title to the Property (whether voluntary or the result of a trustee's sale, judicial foreclosure, or deed in lieu of foreclosure under or relating to any senior deed of trust or senior lien on the Property) or any assignment of Developer's interest in the Residential Project, and will remain in effect notwithstanding the subordination of this Developer Agreement to any senior developer agreement recorded against the Property in connection with the financing of the Property or the Residential Project.
5. Inclusionary Housing Unit Standards.
 - a. The Residential Project is a phased residential development. The Inclusionary Housing Units shall be constructed in proportion to the construction of the market rate units. The parties agree that the phasing schedule for construction of the Inclusionary Housing Units will be as described in the Plan.
 - b. The Inclusionary Housing Units must be dispersed throughout the Residential Project. The parties agree that the Inclusionary Housing Units will be located within the Residential Project as described in the Plan.
 - c. The Inclusionary Housing Units must have access to all on-site amenities that are available to the market rate units.
 - d. The construction quality and exterior design of the Inclusionary Housing Units must be comparable to the market rate units. However, the Inclusionary Housing Units may be smaller in size, developed on smaller lots, and have alternative interior finishes.
6. Sale of Inclusionary Housing Units.
 - a. In consideration of the subdivision, rezoning, and final development plan approved by the Board of Supervisors on _____, 20__, the Developer will sell 10 Inclusionary Housing Units, which will include six (6) 4-bedroom units and four (4) 3-bedroom units, in a condition meeting the reasonable satisfaction of the County and in accordance with this Developer Agreement.

- b. The Residential Project is a phased residential development. Consistent with the Plan, the Inclusionary Housing Units shall be made available for sale in proportion to the sale of the market rate units. Developer may revise the phasing with the written consent of the County.
- c. The initial sale of each Inclusionary Housing Unit must be at a price that does not exceed the Affordable Sales Price to a buyer that is a Moderate Income Household. Notwithstanding the foregoing, the maximum affordable sales price may not exceed the appraised value of the unit.
- d. The initial sale of an Inclusionary Housing Unit may occur only to a household that meets the following criteria:
 - i. The household is a Moderate Income Household;
 - ii. The household has not owned a residence within the previous three years; and
 - iii. The household has no more than \$250,000 in assets. This amount excludes assets reserved for a down payment and closing costs, assets in retirement savings accounts, and assets in medical savings accounts.
- e. Based on the information provided to the Developer by the buyers of the Inclusionary Housing Units, the Developer or its third-party designee will determine the income-eligibility of each buyer of an Inclusionary Housing Unit prior to permitting the buyer to purchase and occupy the Inclusionary Housing Unit. The Developer will submit a completed Income Certification Form, attached hereto as Exhibit C, to the County not later than 30 days prior to the close of escrow. The Developer will retain all records related to income eligibility for at least five years.
- f. Developer may independently source qualified buyers for the Inclusionary Housing Units, determine income-eligibility of such buyers, and complete the Income Certification Form, and/or Developer may also hire or utilize one or more third party vendors or brokers to source qualified buyers for the Inclusionary Housing Units, determine income-eligibility of such buyers, and complete the Income Certification Form. If necessary, the County agrees to cooperate with such third parties hired by Developer.
- g. Prior to the close of escrow for the initial sale of each Inclusionary Housing Unit, Developer shall ensure that the following documentation is entered into and/or obtained:
 - i. Appraisal. Developer shall require the buyer to obtain and deliver to Developer a third party appraisal obtained by the buyer in connection

with its financing of the purchase of the Inclusionary Housing Unit (or if no appraisal is required, the buyer shall nevertheless obtain a third party appraisal from a third party appraiser who regularly appraises residential real estate in Contra Costa County for institutional lenders), which appraisal shall set forth the market value of the Inclusionary Housing Unit as if the Inclusionary Housing Unit were unencumbered by this Agreement (the "Appraised Market Value"). The Appraised Market Value shall be used in connection with the calculation of amounts payable to the County under the Resale Restriction and memorialized by a promissory note and secured by a deed of trust.

- ii. Resale Restriction. Developer shall ensure that the County and the buyer execute, acknowledge, and deposit into escrow for recordation against the Inclusionary Housing Unit a Resale Restriction in the form attached hereto as Exhibit D-1. The Resale Restriction shall record immediately after the grant deed conveying the Inclusionary Housing Unit and before any deed of trust or other instrument securing any financing to the buyer.
- iii. Promissory Note. Developer shall require the buyer to execute a promissory note in favor of the County that obligates the buyer to pay the County the amount required under Section 822-4.410(b)(3) of the Ordinance. The promissory note will substantially conform with the form attached hereto as Exhibit D-2 and will be subject to County's reasonable review and approval.
- iv. Deed of Trust. Developer shall ensure that the County and the buyer execute, acknowledge, and deposit into escrow for recordation against the Inclusionary Housing Unit a deed of trust in the form attached hereto as Exhibit D-3 to secure performance of the buyer's covenants under the Resale Restriction and payment of the amounts due under the Promissory Note. The deed of trust shall record immediately after the grant deed conveying the Inclusionary Housing Unit and concurrent with the Resale Restriction, subordinate only to the lien for the first mortgage loan obtained by the buyer to finance the purchase of the Inclusionary Housing Unit.

7. Inclusionary Housing Unit Restrictions.

- a. In accordance with County Ordinance Code section 822-4.410(b), Inclusionary Housing Units must remain affordable to Moderate Income Households for the Term of Affordability. Upon the initial sale of each Inclusionary Housing Unit, the Developer will cause agreements that are in substantial conformance with Exhibit D-1 and Exhibit D-3 to be recorded in the Official Records against the Inclusionary Housing Unit. The agreements will stipulate that the Inclusionary Housing Units are to remain affordable to Moderate Income Households for the

Term of Affordability. Each recorded agreement will be a covenant running with the land, binding on the assigns, heirs, and successors of the Developer during the term of the Resale Restriction.

- b. The buyer's first mortgage amount may not exceed the amount needed to finance the purchase of the Inclusionary Housing Unit and the buyer's closing costs. The buyer may not refinance any other debt or receive funds at the close of escrow, except to reimburse the buyer for overpayment of estimated buyer closing costs.
- c. The initial purchaser of each Inclusionary Housing Unit must agree to occupy the unit as their principal residence for at least three years unless an emergency requires the earlier sale of the unit.
- d. Prior to the expiration of the Resale Restriction, an Inclusionary Housing Unit may be sold to an above-moderate income purchaser and at a market price, provided that the sale results in a recapture by the County of a financial interest in the unit equal to the sum of (hereinafter the "Recapture Amount"):
 - i. The difference between the initial affordable sales price (the "Initial Purchase Price") and the appraised market value of the unit at the time of the initial sale (the "Initial Appraised Market Value"), such difference is referred to herein as the "Excess Sales Proceeds"; and
 - ii. The County's proportionate share of any appreciation since the time of the initial sale. Appreciation is the difference between the resale price to the above-moderate income purchaser and the Initial Appraised Market Value. The County's proportionate share of appreciation is equal to the percentage by which the Initial Purchase Price was less than the Initial Appraised Market Value (hereinafter, the "Proportionate Share").
 - iii. FOR ILLUSTRATION PURPOSES ONLY:
 - If the Initial Purchase Price was \$800,000, the Initial Appraised Market Value was \$900,000, and the resale price is \$1,000,000; the Excess Sales Proceeds will be \$100,000 (calculated as \$900,000 - \$800,000); the Proportionate Share will be 11.11% (calculated as \$100,000/\$900,000 = 11.11%); the Appreciation will be \$100,000 (calculated as \$1,000,000 - \$900,000 = \$100,000) and the Proportionate Share of the Appreciation will be \$11,111 (calculated as 11.11% x \$100,000); therefore the seller of the unit will owe the County a total Recapture Amount of \$111,111 (calculated as \$100,000 in Excess Sales Proceeds, plus \$11,111 in the Proportionate Share of Appreciation).

- If the Initial Purchase Price was \$925,000, the Initial Appraised Market Value was \$975,000, and the resale price is \$1,050,000; the Excess Sales Proceeds will be \$50,000 (calculated as \$975,000 - \$925,000); the Proportionate Share will be 5.13% (calculated as \$50,000/\$975,000 = 5.13%); the Appreciation will be \$75,000 (calculated as \$1,050,000 - \$975,000 = \$75,000) and the Proportionate Share of the Appreciation will be \$3,847.50 (calculated as 5.13% x \$75,000); therefore seller of the unit will owe the County a total Recapture Amount of \$78,847.50 (calculated as \$75,000 in Excess Sales Proceeds, plus \$3,847.50 in the Proportionate Share of Appreciation).
- 8. In-Lieu Fee. In addition to the construction and sale of the Inclusionary Housing Units as described herein, the Developer shall pay an in-lieu fee in the amount of \$387,753.52 (the “In-Lieu Fee”) to satisfy its inclusionary housing obligations under the Ordinance. The In-Lieu Fee shall be paid before the approval of the final map or the issuance of the first building permit for any portion of the residential development, whichever occurs first.
- 9. No Discrimination. The Developer will cause all of the units in the Residential Project to be available for sale to members of the general public. The Developer may not give preference to any particular class or group of persons in selling the units, except to the extent required to cause the relevant units to be sold to Moderate Income Households, as applicable. The Developer may not permit discrimination against or segregation of any person or group of persons on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age (except for lawful senior housing), ancestry, or disability, in the sale of any unit in the Residential Project. In addition, the Developer may not permit any such practice or practices of discrimination or segregation in connection with the employment of persons in the construction of the Residential Project.
- 10. Remedies.
 - a. For any breach of this Developer Agreement by Developer that the Developer fails to cure within 30 days after delivery of a notice from the County of the breach, the County may, in addition to any other remedy authorized by law, institute against the Developer, or any of its successors in interest, a civil action for declaratory relief, injunction, or any other equitable relief, including but not limited to an action to rescind a transaction.
 - b. No right, power, or remedy given to the County by the terms of this Developer Agreement or the Ordinance is intended to be exclusive of any other right, power, or remedy; and each and every right, power, or remedy is cumulative and in addition to every other right, power, or remedy given to the County by the terms of this Developer Agreement, the Ordinance, or by any statute or ordinance or

otherwise against Developer and any other person; but duplicative damages may not be recovered by the County.

- c. Neither the failure nor any delay on the part of the County to exercise any right and remedy shall operate as a waiver thereof, nor shall any single or partial exercise by the County of any right or remedy preclude any other or further exercise of the right or remedy, or any other right or remedy.

- 11. Notices. All notices required or permitted by any provision of this Developer Agreement are to be in writing and sent by overnight delivery or certified mail, postage prepaid and directed as follows:

To the County:

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attn: Assistant Deputy Director, Housing and
Community Improvement Division

To Developer:

SummerHill Oak Road LLC
3000 Executive Parkway, Suite 450
San Ramon, CA 94583
Attn: President

With copy to:

SummerHill Oak Road LLC
777 South California Avenue
Palo Alto, CA 94304
Attn: General Counsel

- 12. Records. Developer shall retain all records related to compliance with obligations under this Developer Agreement for a period not less than five (5) years from the date of origination of the records, and make them available to the County for inspection and copying on five (5) business days' written notice. The County is entitled to monitor compliance with this Developer Agreement and the Ordinance, and Developer shall cooperate with County monitoring, including providing records related to the Inclusionary Housing Units upon request of the County.

13. Order of Precedence. In the event of any conflict or inconsistency between the terms of this Developer Agreement and the referred documents, the following order of precedence will apply: the Inclusionary Ordinance, this Developer Agreement, the Plan.
14. Governing Law. This Deed of Trust is governed by the laws of the State of California. The venue for any legal action pertaining to this Deed of Trust shall be Contra Costa County, California.
15. Severability. In the event that any provision or clause of this Deed of Trust, the Resale Restriction, or the Note conflicts with applicable law, such conflict will not affect other provisions of this Deed of Trust, the Resale Restriction, or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust, the Resale Restriction, and the Note are declared to be severable.
16. Mortgagee Protection. No breach of this Agreement by Developer shall defeat or render invalid the lien of any deed of trust or mortgage recorded against the Property or any portion thereof. No lender taking title to the Property or portion thereof through foreclosure or deed in-lieu of foreclosure shall be liable for any defaults or monetary obligations of Developer arising prior to acquisition of possession of such property by such lender. Any lender who has recorded a deed of trust or mortgage against all or any portion of the Property shall have the right, but not the obligation, during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the condition of default claimed or the areas of noncompliance set forth in County's notice. No lender who takes title to all or any portion of the Property through foreclosure or deed in-lieu of foreclosure shall be obligated to construct or continue with construction of the Residential Project on the Property.

[SIGNATURES ON FOLLOWING PAGE]

The parties are signing this Developer Agreement as of the date set forth in the introductory paragraph.

COUNTY:


County of Contra Costa


DEVELOPER:

SummerHill Oak Road LLC, a California limited liability company

By: SummerHill Homes LLC, its manager

By: _____
John Kopchik, Director
Department of Conservation and
Development

By: 
Name: Monica Wong
Its: Controller

By: 
Name: Joshua Taylor
Its: Assistant Secretary

(Signatures must be notarized.)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF CONTRA COSTA)

On February 10, 2022 before me, M. Rinetti, Notary Public, personally appeared, Monica Wong who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature M. Rinetti

(seal)



STATE OF CALIFORNIA)
)
COUNTY OF CONTRA COSTA)

On February 10, 2022 before me, M. Rinetti, Notary Public, personally appeared, Joshua Taylor who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature M. Rinetti

(seal)

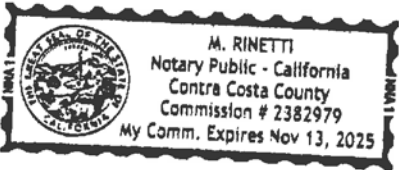


EXHIBIT A

Legal Description of Property

LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Contra Costa, State of California, described as follows:

PARCEL ONE:

PORTION OF LOT 57, AS DESIGNATED ON THE MAP ENTITLED, "SUBDIVISION NO. 1, OF THE LARKEY RANCH, WALNUT CREEK, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON JANUARY 5, 1911 IN VOLUME 4 OF MAPS, AT PAGE 79, DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTHERN LINE OF SAID LOT 57, AT THE EASTERN LINE OF THE PARCEL OF LAND DESCRIBED IN THE LIS PENDENS ENTITLED, SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT VS BURTON H. DANIELS, CASE NO. 93523 IN THE LOCAL SUPERIOR COURT, A CERTIFIED COPY OF WHICH WAS RECORDED JULY 28, 1964 IN VOLUME 4669 OF OFFICIAL RECORDS, AT PAGE 777; THENCE FROM SAID POINT OF BEGINNING ALONG THE EASTERN AND SOUTHEASTERN LINE OF SAID PARCEL ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 270 FEET AN ARC DISTANCE OF 111.27 FEET; THENCE SOUTH 35° 07' 52" EAST, 94.32 FEET TO THE SOUTHERN LINE OF SAID LOT 57; THENCE NORTH 89° 39' 47" WEST, ALONG SAID SOUTHERN LINE 134.16 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

PORTION OF LOT 56, AS DESIGNATED ON THE MAP ENTITLED "SUBDIVISION NO. 1, LARKEY RANCH, WALNUT CREEK, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON JANUARY 5, 1911, IN VOLUME 4 OF MAPS, AT PAGE 79, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 56, THENCE FROM SAID POINT OF BEGINNING SOUTH 14° 22' WEST ALONG THE WEST LINE OF SAID LOT 56, 125.70 FEET TO THE SOUTH LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM C. STROTH, ET UX, TO CARL PIONA, DATED DECEMBER 20, 1943 AND RECORDED DECEMBER 21, 1943, IN VOLUME 761 OF OFFICIAL RECORDS, AT PAGE 382, THENCE EASTERLY ALONG SAID SOUTH LINE TO THE WEST LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM PETE W. PIONA, AS GUARDIAN TO MILTON A CASH, ET UX, DATED DECEMBER 22, 1947, AND RECORDED DECEMBER 23, 1947, IN VOLUME 1158 OF OFFICIAL RECORDS, AT PAGE 494, THENCE NORTHERLY ALONG SAID WEST LINE TO THE NORTH LINE OF SAID LOT 56, THENCE WESTERLY ALONG SAID NORTH LINE TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

ALL PETROLEUM, OIL, MALTHA, TAR, GAS AND ASPHALTUM AND OTHER HYDROCARBONS, AND TO ALL METALLIC AND MINERAL SUBSTANCES WHATSOEVER, AS GRANTED IN THE DEED FROM MARTHA E. LARKEY, ET AL, TO WALNUT CREEK, OIL COMPANY, DATED JANUARY 14, 1902, AND RECORDED JANUARY 13, 1903, IN VOLUME 97 OF DEEDS, AT PAGE 21.

PARCEL THREE:

PORTION OF LOTS 32, 33, 54, 55 AND 56 OF THE MAP OF SUBDIVISION NO. 1 - LARKEY RANCH, WALNUT CREEK, CALIFORNIA, FILED JANUARY 5, 1911, IN BOOK 4 OF MAPS, PAGE 79, IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERN LINE OF THE LAND DESCRIBED IN THE DEED

TO WILLIAM S. PALMER, ET UX, RECORDED APRIL 1, 1965, IN [BOOK 4836 OF OFFICIAL RECORD OF CONTRA COSTA COUNTY, PAGE 407](#), WITH THE EASTERN LINE OF JONES ROAD, AS SAID LINE WAS ESTABLISHED BY QUITCLAIM DEED TO CONTRA COSTA COUNTY, RECORDED NOVEMBER 8, 1968, IN [BOOK 5747 OF OFFICIAL RECORDS OF CONTRA COSTA COUNTY, PAGE 808](#); RUNNING THENCE ALONG SAID EASTERN LINE, SOUTH 23° 04' 34" WEST, SAID BEARINGS USED FOR THE PURPOSE OF THIS DESCRIPTION, 40.26 FEET AND SOUTHWESTERLY ON THE ARC OF A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 2970 FEET, A DISTANCE OF 262.26 FEET TO THE SOUTHERN LINE OF SAID LOT 55; THENCE ALONG THE LAST NAMED LINE EASTERLY, 114.69 FEET TO THE WESTERN LINE OF THE LAND DESCRIBED IN THE DEED TO WILLIAM S. PALMER, ET UX, RECORDED JUNE 3, 1955, IN [BOOK 2546 OF OFFICIAL RECORDS OF CONTRA COSTA COUNTY, PAGE 208](#); THENCE ALONG THE LAST NAMED LINE, SOUTH 3° 10' WEST 108.88 FEET TO THE NORTHERN LINE OF THE LAND DESIGNATED AS PARCEL 3 IN THE DEED TO CONTRA COSTA TITLE COMPANY, RECORDED OCTOBER 20, 1955, IN [BOOK 2633 OF OFFICIAL RECORDS OF CONTRA COSTA COUNTY, PAGE 177](#); THENCE ALONG THE LAST NAMED LINE AND ALONG THE NORTHERN LINE OF THE PARCELS OF THE LAND DESIGNATED AS PARCELS 2 AND 1 IN SAID LAST MENTIONED DEED, NORTH 89° 54' EAST, A DISTANCE OF 455.57 FEET TO THE EASTERN LINE OF SAID LOT 33; THENCE ALONG THE LAST NAMED LINE AND ALONG THE EASTERN LINE OF SAID LOT 32, BEING THE CENTERLINE OF OAK ROAD, NORTH 7° 33' EAST 254.62 FEET TO THE NORTHERN LINE OF THE LAND DESCRIBED IN THE DEED TO WILLIAM S. PALMER, ET UX, RECORDED NOVEMBER 15, 1950, IN [BOOK 1669 OF OFFICIAL RECORDS OF CONTRA COSTA COUNTY PAGE 174](#); THENCE ALONG THE LAST NAMED LINE AND THE DIRECT EXTENSION THEREOF; NORTH 86° 46' 35" WEST 372.25 FEET THENCE NORTH 15° 40' EAST 120 FEET, MORE OR LESS, TO THE NORTHERN LINE OF THE LAND DESCRIBED IN THE DEED TO LENORE E. CHANEY, RECORDED SEPTEMBER 22, 1943, IN [BOOK 748 OF OFFICIAL RECORDS OF CONTRA COSTA COUNTY, PAGE 243](#); AND THENCE ALONG THE LAST NAMED LINE AND ALONG SAID NORTHERN LINE FIRSTLY MENTIONED, NORTH 87° 17' 40" WEST 156 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM; THAT PORTION THEREOF WHICH LIES WITHIN THE LINES OF THE LAND DESCRIBED IN THE DEEDS TO CONTRA COSTA COUNTY, RECORDED SEPTEMBER 24, 1941, IN [BOOK 621 OF OFFICIAL RECORDS OF CONTRA COSTA COUNTY, PAGE 118](#) AND IN [BOOK 622 OF OFFICIAL RECORDS OF CONTRA COSTA COUNTY, PAGE 190](#) AND RECORDED OCTOBER 6, 1972, [BOOK 6768, OFFICIAL RECORDS, PAGE 380](#).

ALSO EXCEPTING THEREFROM: AS TO THAT PORTION LYING WITHIN LOTS 54, 55 AND 56:

THE RIGHT TO ALL PETROLEUM, OIL, TAR, GAS, WATER AND OTHER RIGHTS UNDER THE PREMISES, GRANTED TO WALNUT CREEK OIL COMPANY BY DEED RECORDED JANUARY 13, 1903, [BOOK 97 OF DEEDS, PAGE 21](#).

PARCEL FOUR:

THE NORTHEAST PORTION OF LOT 56, AS SHOWN ON THE MAP OF SUBDIVISION NO. 1, LARKEY RANCH, FILED JANUARY 5, 1911, IN [BOOK 4 OF MAPS, PAGE 79](#), IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, AND A PORTION OF THAT PARCEL DESCRIBED IN THE DEED DATED DECEMBER 20, 1943, EXECUTED BY C. STROTH, ET UX, TO CARL PIONA, RECORDED DECEMBER 21, 1943, IN [BOOK 761 OF OFFICIAL RECORDS, PAGE 382](#), DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 56; THENCE ALONG THE NORTH LINE OF SAID LOT 56, SOUTH 89° 00' WEST, 148.49 FEET; THENCE LEAVING SAID LINE, SOUTH 12° 47' WEST 138.70 FEET TO THE SOUTHERLY LINE OF SAID "PIONA PARCEL", THENCE ALONG THE SOUTH LINE OF SAID PARCEL, SOUTH 88° 31' EAST 142.26 FEET TO THE EASTERLY LINE OF SAID LOT 56; THENCE ALONG THE EASTERLY LINE OF SAID LOT, NORTH 14° 39' EAST 146.34 FEET TO THE POINT OF BEGINNING.

PARCEL FIVE:

PORTION OF LOT 31 AS SHOWN ON THE MAP OF SUBDIVISION NO. 1, LARKEY RANCH FILED JANUARY 5, 1911 IN [BOOK 4 OF MAPS, PAGE 79](#), IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING ON THE EAST LINE OF THE ABOVE MENTIONED LOT 31 ALSO BEING ON THE CENTER LINE OF OAK ROAD AT THE SOUTHEAST CORNER OF THE PARCEL OF LAND DESCRIBED AS PARCEL ONE IN THE DEED FROM MILTON A. CASH, ET UX, TO WILLIAM M. GRIFFIN, ET UX, RECORDED MARCH 22, 1950 IN [BOOK 1526 OF OFFICIAL RECORDS, PAGE 20](#); THENCE FROM SAID POINT OF BEGINNING ALONG THE SOUTHERLY LINE OF SAID PARCEL ONE; GRIFFIN PARCEL (1526 OR 20) NORTH 83° 20' WEST 215.55 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE ALONG THE WEST LINE OF SAID PARCEL ONE (1526 OR 20) NORTH 14° 40' EAST 30 FEET THENCE SOUTHEASTERLY IN A DIRECT LINE TO THE EAST LINE OF SAID LOT 31, DISTANT THEREON NORTH 7° 33' EAST 20 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 7° 33' WEST 20 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM PARCEL FIVE:

1. THE INTEREST CONVEYED BY DEED FROM SANFORD B. JESSUP, ET UX, TO CONTRA COSTA COUNTY, A POLITICAL SUBDIVISION, RECORDED SEPTEMBER 24, 1941 IN [BOOK 618 OF OFFICIAL RECORDS, PAGE 317](#).
2. THAT PORTION DESCRIBED IN THE DEED TO THE CITY OF WALNUT CREEK RECORDED AUGUST 23, 1990 IN [BOOK 16069, PAGE 23](#), CONTRA COSTA COUNTY RECORDS.

PARCEL SIX:

A NON-EXCLUSIVE EASEMENT APPURTENANT TO PARCELS FOUR AND FIVE ABOVE FOR ACCESS, PARKING, UTILITIES, DRAINAGE, INGRESS AND EGRESS, OVER, UNDER AND ACROSS A PORTION OF LOT 31 AS SAID LOT IS SHOWN ON THE MAP OF SUBDIVISION NO. 1, LARKEY RANCH FILED JANUARY 5, 1911 IN [BOOK 4 OF MAPS, PAGE 79](#), IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA, GRANTED IN THE DEED FROM HENRY BUCHNER, ET UX, RECORDED JUNE 10, 1987, [BOOK 13699, PAGE 798](#), AND IN THE DEED FROM HENRY BUCHNER AND HELEN B. BUCHNER, TRUSTEES OF THE BUCHNER TRUST DATED APRIL 19, 1991 TO BRUDIGAM CONSTRUCTION INC., RECORDED DECEMBER 31, 1992, INSTRUMENT NO. [92-348404](#), DESCRIBED AS FOLLOWS:

COMMENCING ON THE EAST LINE OF SAID LOT 31, ALSO BEING ON THE CENTER LINE OF OAK ROAD, AT THE SOUTHEAST CORNER OF THE PARCEL OF LAND DESCRIBED AS PARCEL ONE IN THE DEED FROM MILTON A. CASH, ET UX, TO WILLIAM M. GRIFFIN, ET UX, RECORDED MARCH 22, 1950 IN [BOOK 1526, PAGE 20](#) OF OFFICIAL RECORDS; THENCE FROM SAID POINT OF COMMENCEMENT ALONG THE SOUTHERLY LINE OF SAID PARCEL AND NORTH 83° 20' WEST, 20.00 FEET TO THE TRUE POINT OF BEGINNING, THENCE FROM SAID TRUE POINT OF BEGINNING AND ALONG SAID SOUTHERLY LINE OF PARCEL ONE, NORTH 83° 20' WEST, 87.56 FEET; THENCE LEAVING SAID SOUTHERLY LINE SOUTH 80° 41' 30" EAST, 87.59 FEET; THENCE NORTH 7° 33' EAST, 4.04 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL SEVEN:

A NON-EXCLUSIVE EASEMENT APPURTENANT TO PARCELS FOUR AND FIVE ABOVE FOR ACCESS, PARKING, UTILITIES, DRAINAGE, INGRESS AND EGRESS, OVER, UNDER AND ACROSS A PORTION OF LOT 56 AS SAID LOT IS SHOWN ON THE MAP OF SUBDIVISION NO. 1, LARKEY RANCH FILED JANUARY 5, 1911 IN [BOOK 4 OF MAPS, PAGE 79](#) IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY STATE OF CALIFORNIA, GRANTED IN THE DEED FROM HENRY BUCHNER, ET UX, RECORDED JUNE 10, 1987, [BOOK 13699, PAGE 798](#), AND IN THE DEED FROM HENRY BUCHNER AND HELEN B. BUCHNER, TRUSTEES OF THE BUCHNER TRUST DATED APRIL 19, 1991 TO BRUDIGAM CONSTRUCTION INC., RECORDED DECEMBER 31, 1992, INSTRUMENT NO. [92-348404](#), DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EASTERLY LINE OF SAID LOT 56 WITH THE SOUTHERLY LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED DATED DECEMBER 20, 1943, EXECUTED BY C. STROTH, ET UX, TO CARL PIONA, RECORDED DECEMBER 21, 1943 IN [BOOK 761 OF OFFICIAL RECORDS, AT PAGE 382](#); THENCE ALONG THE SOUTHERLY LINE OF SAID "PIONA PARCEL" NORTH 88° 31' WEST, 31.12 FEET; THENCE LEAVING SAID SOUTHERLY LINE SOUTH 80° 41' 30" EAST, 30.44 FEET; THENCE NORTH 14° 40' EAST, 4.26 FEET TO THE POINT OF BEGINNING.

PARCEL EIGHT:

PORTION OF LOT 31, AS DESIGNATED ON THE MAP ENTITLED, "SUBDIVISION NO. 1, LARKEY RANCH, WALNUT CREEK, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON JANUARY 5, 1911, IN [VOLUME 4 OF MAPS, AT PAGE 79](#), DESCRIBED AS FOLLOWS:

BEGINNING ON THE WEST LINE OF SAID LOT 31, AT THE SOUTH LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM SANFORD B. JESSUP, ET UX, TO GEORGE E. COUNCILMAN, ET UX, RECORDED JANUARY 30, 1942, IN [VOLUME 637 OF OFFICIAL RECORDS, AT PAGE 485](#); THENCE FROM SAID POINT OF BEGINNING SOUTH 14° 40' WEST, ALONG SAID WEST LINE, 103.86 FEET TO THE NORTH LINE OF THE PARCEL OF LAND DESCRIBED AS PARCEL TWO IN THE DEED FROM WILLIAM M. GRIFFIN, ET UX, TO ROLAND FOSTER MARKS, ET UX, RECORDED AUGUST 16, 1956, IN [VOLUME 2827 OF OFFICIAL RECORDS, AT PAGE 34](#); THENCE SOUTHEASTERLY, ALONG SAID NORTH LINE, TO THE EAST LINE OF SAID LOT 31, BEING THE CENTER LINE OF OAK ROAD; THENCE NORTH 7° 33' EAST, ALONG SAID EAST LINE, 113.03 FEET TO THE SOUTH LINE OF SAID COUNCILMAN PARCEL (637 OR 485); THENCE NORTH 83° 20' WEST, ALONG SAID SOUTH LINE, 196.57 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM PARCEL EIGHT: THE INTEREST CONVEYED TO CONTRA COSTA COUNTY BY DEED FROM SANFORD B. JESSUP, ET UX, DATED JUNE 7, 1941, AND RECORDED SEPTEMBER 24, 1941, IN [VOLUME 618 OF OFFICIAL RECORDS, AT PAGE 317](#), "FOR USE AS A PUBLIC HIGHWAY". ALSO EXCEPTING THEREFROM (PARCEL EIGHT) THE FOLLOWING: THE INTEREST CONVEYED TO THE CITY OF WALNUT CREEK IN THE DEED RECORDED APRIL 29, 1991, IN [BOOK 16552, PAGE 880](#), OFFICIAL RECORDS.

PARCEL NINE:

THE RIGHT OF WAY RESERVED IN THE DEED FROM WILLIAM M. GRIFFIN, ET UX, TO ROLAND FOSTER MARKS, ET UX, RECORDED AUGUST 16, 1956, IN [VOLUME 2827 OF OFFICIAL RECORDS AT PAGE 34](#), AS FOLLOWS:

"A NONEXCLUSIVE EASEMENT AS AN APPURTENANCE TO THE REMAINDER OF THE PARCEL OF LAND DESCRIBED AS PARCEL ONE IN THE DEED FROM MILTON A. CASH, ET UX, TO WILLIAM M. GRIFFIN, ET UX, RECORDED MARCH 22, 1950, IN [BOOK 1526 OF OFFICIAL RECORDS, PAGE 20](#), FOR USE AS A ROADWAY FOR VEHICLES OF ALL KINDS, PEDESTRIANS AND ANIMALS, AND AS A RIGHT OF WAY FOR WATER GAS, OIL AND SEWER PIPE LINES, AND FOR TELEPHONE, ELECTRIC LIGHT AND POWER LINES, TOGETHER WITH THE NECESSARY POLES OR UNDERGROUND CONDUITS TO CARRY SAID LINES OVER, UNDER, AND ACROSS PARCEL TWO", IN SAID DEED TO MARKS (2827 OR 34).

PARCEL TEN:

PORTION OF LOTS 31 AND 32 AS DELINEATED UPON THAT CERTAIN MAP ENTITLED "SUBDIVISION NO. 1 LARKEY RANCH", WALNUT CREEK, CONTRA COSTA COUNTY, CALIFORNIA, FILED JANUARY 5, 1911, IN [BOOK 4 OF MAPS, PAGE 79](#), IN THE OFFICE OF THE COUNTY RECORDER OF CONTRA COSTA COUNTY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF OAK ROAD, DISTANT THEREON NORTH 7° 33' EAST

140 FEET FROM LINE BETWEEN LOTS 32 AND 33, SAID POINT OF BEGINNING BEING THE NORTHEAST CORNER OF THE PARCEL OF LAND DESCRIBED IN DEED OF TRUST FROM WILLIAM S. PALMER, ET UX., TO CORPORATION OF AMERICA, TRUSTEE DATED AUGUST 18, 1938, RECORDED AUGUST 22, 1938, IN [BOOK 500, PAGE 331](#), OFFICIAL RECORDS, THENCE FROM SAID POINT OF BEGINNING NORTH 7° 33' EAST ALONG SAID CENTER LINE OF OAK ROAD, 96.7 FEET TO THE SOUTH LINE OF THE PARCEL OF LAND DESCRIBED IN DEED FROM JOHN N. THOMPSON, ET UX., TO SANFORD B. JESSUP, ET UX., DATED NOVEMBER 5, 1937, RECORDED NOVEMBER 10, 1937, IN [BOOK 447, PAGE 99](#), OFFICIAL RECORDS; THENCE NORTH 83° 20' WEST ALONG SAID SOUTH LINE 215.55 FEET TO THE WEST LINE OF LOT 31, THENCE SOUTH 14° 40' WEST ALONG THE WEST LINE OF LOTS 31 AND 32, 112.88 FEET TO THE NORTH LINE OF PARCEL OF LAND DESCRIBED IN SAID DEED OF TRUST ([BOOK 500, PAGE 331](#), OFFICIAL RECORDS), THENCE SOUTH 86° 46' 35" EAST ALONG SAID NORTH LINE 230.25 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE WESTERLY 20 FEET THEREOF AS DESCRIBED IN THE DEED BY DORIS M. LINCOLN TO CONTRA COSTA COUNTY, DATED JUNE 7, 1941, RECORDED SEPTEMBER 24, 1941, IN [BOOK 624, PAGE 201](#), OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF DESCRIBED IN THE GRANT DEED TO THE CITY OF WALNUT CREEK, A MUNICIPAL CORPORATION, RECORDED APRIL 5, 1990 IN [BOOK 15769, PAGE 578](#), CONTRA COSTA COUNTY RECORDS.

PARCEL ELEVEN:

PORTION OF LOTS 55 AND 56, AS DESIGNATED ON THE MAP ENTITLED "SUBDIVISION NO. 1, LARKEY RANCH, WALNUT CREEK, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON JANUARY 5, 1911 IN [VOLUME 4 OF MAPS, AT PAGE 79](#), DESCRIBED AS FOLLOWS:

BEGINNING ON THE EAST LINE OF SAID LOT 55 AT THE NORTH LINE OF THE STRIP OF LAND DESCRIBED IN THE DEED FROM LENORE E. CHANEY TO WILLIAM S. PALMER, ET UX., DATED AUGUST 15, 1943 AND RECORDED SEPTEMBER 4, 1943 IN [VOLUME 742 OF OFFICIAL RECORDS, AT PAGE 249](#); THENCE FROM SAID POINT OF BEGINNING WESTERLY ALONG SAID NORTH LINE, 142 FEET TO THE NORTHWEST CORNER OF SAID PALMER PARCEL (742 OR 249), THENCE NORTH 14° 40' EAST PARALLEL WITH THE EAST LINES OF SAID LOTS 55 AND 56 TO THE NORTH LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM JOSEPH J. WALLACE, ET UX., TO LENORE E. CHANEY, DATED JUNE 20, 1943 AND RECORDED SEPTEMBER 22, 1943 IN [VOLUME 748 OF OFFICIAL RECORDS, AT PAGE 243](#), THENCE EASTERLY ALONG SAID NORTH LINE TO THE EAST LINE OF SAID LOT 56, THENCE SOUTH 14° 40' WEST, ALONG SAID EAST LINE AND ALONG EAST LINE OF SAID LOT 55, 120 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM PARCEL ELEVEN: ALL "PETROLEUM, OIL, MALTHA, TAR, GAS AND ASPHALTUM AND OTHER HYDROCARBONS, AND TO ALL METALLIC AND MINERAL SUBSTANCES WHATSOEVER", AS GRANTED IN THE DEED FROM MARTHA E. LARKEY, ET AL, TO WALNUT CREEK OIL COMPANY, DATED JANUARY 14, 1902 AND RECORDED JANUARY 13, 1903 IN [VOLUME 97 OF DEEDS, AT PAGE 21](#).

PARCEL TWELVE:

A RIGHT OF WAY (NOT TO BE EXCLUSIVE) AS AN APPURTENANCE TO PARCEL ELEVEN ABOVE FOR USE AS A ROADWAY FOR VEHICLES OF ALL KINDS, PEDESTRIANS AND ANIMALS, FOR WATER, GAS, OIL AND SEWER PIPE LINES, AND FOR TELEPHONE, ELECTRIC LIGHT AND POWER LINES, TOGETHER WITH THE NECESSARY POLES OR CONDUITS OVER A PORTION OF LOT 32, AS DESIGNATED ON THE MAP ENTITLED "SUBDIVISION NO. 1, LARKEY RANCH, WALNUT CREEK, CALIFORNIA", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, ON JANUARY 5, 1911 IN [VOLUME 4 OF MAPS, AT PAGE 79](#), BEING A STRIP OF LAND 10 FEET IN WIDTH, THE SOUTH LINE OF WHICH IS THE ENTIRE SOUTH LINE OF THE PARCEL OF LAND

DESCRIBED IN THE DEED FROM DORIS M. LINCOLN TO WILLIAM G. SEBOLD, ET UX., DATED JANUARY 6, 1942 AND RECORDED JANUARY 19, 1942 IN [VOLUME 630 OF OFFICIAL RECORDS, AT PAGE 253](#).

EXCEPTING FROM PARCEL TWELVE: THE INTEREST CONVEYED TO CONTRA COSTA COUNTY BY DEED FROM DORIS M. LINCOLN, DATED JUNE 7, 1941 AND RECORDED SEPTEMBER 24, 1941 IN [VOLUME 624 OF OFFICIAL RECORDS, AT PAGE 201](#), "FOR USE AS A PUBLIC HIGHWAY".

APN(s): 172-012-001-1 (Affects: Parcel One)
172-012-007-8 (Affects: Parcel Two)
172-012-020-1 (Affects: portion of Parcel Three)
172-012-021-9 (Affects: portion of Parcel Three)
172-012-025-0 (Affects: Parcels Four and Five)
172-012-026-8 (Affects: Parcel Eight)
172-012-023-5 (Affects: Parcel Ten)
172-012-008-6 (Affects: Parcel Eleven)

EXHIBIT B

Inclusionary Housing Plan

Applicant SUMMIT HILL HOMES
Subdivision Name OLIVE RD TOWN CONDOS
Subdivision # 9559
County File # CNDP 21-03001, 03258
AND CDSB 21-09559

Property Owner SAM MENDES
Site Address 2740 JONES RD, WALNUT CREEK
APN 172-012-021, 020, 007, 001, 025, 008, 023
Date Submitted 2-11-21
SHEET 1 - UPDATED 2-11-22 026.

Contra Costa County Department of Conservation and Development Inclusionary Housing Plan

There are five different ways of complying with the Inclusionary Ordinance: on site, off site, land conveyance, in lieu fees, and other. The Inclusionary Housing Plan is required to identify which option the applicant is proposing to fulfill the inclusionary housing requirement. Complete the checklist for the appropriate option.

For more information on the Inclusionary Housing Ordinance (including links to the ordinance, the guideline and the in-lieu fee calculator), please go to the Developing Affordable Housing webpage found here:
<http://www.co.contra-costa.ca.us/4881/Developing-Affordable-Housing>

Section A - On Site

The inclusionary housing plan must include the following:

- ☒ A project description including the number of market rate units and inclusionary units proposed, and the basis of the calculation;
- ☒ A site plan indicating the location of the inclusionary units in relationship to the market rate units. (Unit mix, location, and size, and # of bedrooms);
- ☒ The targeted income levels;
- ☒ A phasing plan, if needed, indicating the timely development of the inclusionary units as the residential development is completed;
- ☒ If desired, a density bonus of 15 percent, which would equal the inclusionary unit percentage.

Comments: 18.75 INCLUSIONARY UNITS REQUIRED. PROJECT WILL PROVIDE 10 INCLUSIONARY UNITS 6-4 BR-RANG AND 4-3 BR PLAN | SCATTERED THROUGHOUT THE SITE PER FINAL SITE DEVELOPMENT PLAN. UNITS WILL BE SOLD TO QUALIFIED MODERATE INCOME BUYERS. UNITS TO BE BUILT OUT WITH MARKET RATE UNITS OVER THE ANTICIPATED 29 MONTH BUILD OUT.

Section B - Off-Site

The inclusionary housing plan must include the following:

- ☐ A project description including the number of on site market rate units and off site inclusionary units proposed, and the basis of the calculation;
- ☐ The targeted income levels;
- ☐ A vicinity map indicating where the proposed off-site development is in relationship to the proposed on-site development;
- ☐ Parcel numbers, acreage, zoning, general plan designation, phase one environmental report for the proposed off site development;
- ☐ A phasing plan, if needed, indicating the timely development of the inclusionary units as the residential development is completed;
- ☐ Indicate whether the off site development is new construction or acquisition/rehabilitation.
- ☐ If desired, a density bonus of 15 percent, which would equal the inclusionary unit percentage.

Comments: _____

Applicant _____
Subdivision Name _____
Subdivision # _____
County File # _____

Property Owner _____
Site Address _____
APN _____
Date Submitted _____

Section C - Land Conveyance N/A

The inclusionary housing plan must include the following:

- ☐ A project description including the number of on site market rate units and off site inclusionary units proposed, and the basis of the calculation;
- ☐ The targeted income levels;
- ☐ Parcel numbers, acreage, zoning, general plan designation, phase one environmental report for the proposed off site development.
- ☐ Proposed recipient of land conveyance.
- ☐ A vicinity map indicating where the proposed off-site development is in relationship to the proposed on-site development.

Comments: _____

Section D - In-Lieu Fee

- ☒ Payment of an in-lieu fee is proposed to satisfy this requirement. The fees shall be pursuant to the fee schedule adopted by the Board of Supervisors.

Note: Only applicable for projects with 5 to 125 units of rental or for-sale housing.

Comments: PAYMENT OF FEE FOR 8.75 UNITS

Section E - Other N/A

- ☐ If an alternative compliance method is proposed, information sufficient to allow the County to determine that the alternative would provide equivalent or greater benefit than would result from providing those inclusionary units on site.

Comments: _____

Applicant & Property Owner Verification:

I/We acknowledge that I/we have completely read this form and understand all of the information stated herein. I/We verify that all of the information stated and submitted is complete and accurate to the best of my/our knowledge and should it be found that any of the information is incorrect, incomplete, or inconsistent with the requirements of the ordinance that it may result in increased processing time and/or costs.

Applicant Signature: Marshall Torre Name: MARSHALL TORRE Date: 2-11-21

Owner Signature: _____ Name: _____ Date: _____

Applicant _____
Subdivision Name _____
Subdivision # _____
County File # _____

Property Owner _____
Site Address _____
APN _____
Date Submitted _____

Section C - Land Conveyance

The inclusionary housing plan must include the following:

- ☐ A project description including the number of on site market rate units and off site inclusionary units proposed, and the basis of the calculation;
- ☐ The targeted income levels;
- ☐ Parcel numbers, acreage, zoning, general plan designation, phase one environmental report for the proposed off site development.
- ☐ Proposed recipient of land conveyance.
- ☐ A vicinity map indicating where the proposed off-site development is in relationship to the proposed on-site development.

Comments: _____

Section D - In-Lieu Fee

- ☒ Payment of an in-lieu fee is proposed to satisfy this requirement. The fees shall be pursuant to the fee schedule adopted by the Board of Supervisors.

Note: Only applicable for projects with 5 to 125 units of rental or for-sale housing.

Comments: PAYMENT OF FEE FOR 8.75 UNITS

Section E - Other

- ☐ If an alternative compliance method is proposed, information sufficient to allow the County to determine that the alternative would provide equivalent or greater benefit than would result from providing those inclusionary units on site.

Comments: _____

Applicant & Property Owner Verification:

I/We acknowledge that I/we have completely read this form and understand all of the information stated herein. I/We verify that all of the information stated and submitted is complete and accurate to the best of my/our knowledge and should it be found that any of the information is incorrect, incomplete, or inconsistent with the requirements of the ordinance that it may result in increased processing time and/or costs.

Applicant Signature: Marshall Torre Name: MARSHALL TORRE Date: 2-11-21
Owner Signature: Sam A Mendes Name: SAM A MENDES Date: 2-22-21

EXHIBIT C

Income Certification Form

INCOME CERTIFICATION

-To be completed by homebuyer or renter-

Applicant Name(s): _____

Applicant Address: _____

RETURN ALL CHECKLIST ITEMS TO:

CONTRA COSTA COUNTY
DEPARTMENT OF CONSERVATION AND DEVELOPMENT
CHRISTINE LOUIE
30 MUIR ROAD
MARTINEZ, CA 94553

(i) **Checklist – to be completed and included with application**

Please read the application carefully and complete it accurately before signing. There may be legal consequences if the applicant provides false income and residence information. Submit copies of the following documents for all household members over the age of 18:

- ☐ Completed Income Certification (this document).
- ☐ Complete copy of most recently filed federal tax return, including all schedules and W-2 forms (state tax returns NOT required).
 - ☐ If self-employed, additionally submit two prior year's federal tax returns.
- ☐ Pay stubs from all income sources for the last three (3) months.
- ☐ All other current proof of income statements (including checks or award letters for Social Security, SDI, General Assistance, etc.).
- ☐ All investment account statements (e.g. checking & savings account, stock, and IRA statements) for the last three (3) months.
 - ☐ Attach a signed statement certifying no investment accounts (if applicable).
- ☐ Attach a detailed explanation of missing checklist items (if applicable).

Please Note: The above list is the minimum documentation we require to certify your income for a SummerHill Oak Road home. During the County's review process, we may request additional information in order to ensure qualification for the program.

CERTIFICACIÓN DE INGRESOS PARA

Para Ser completado por el comprador de vivienda o inquilino

Nombre del solicitante (s): _____

Dirección del solicitante: _____

REGRESA TODOS LOS ELEMENTOS DE LA LISTA DE COMPROBACIÓN PARA:

CONDADO DE CONTRA COSTA
DEPARTAMENTO DE CONSERVACIÓN Y DESARROLLO
CHRISTINE LOUIE
30 MUIR ROAD
MARTINEZ, CA 94553

Lista de Comprobación: para ser completado y incluido con la aplicación

Por favor, lea cuidadosamente la solicitud y completarla con precisión antes de firmar. Puede haber consecuencias legales si el solicitante proporciona información falsa sobre los ingresos y residencia. Entrega copias de los siguientes documentos para todos los miembros del hogar que son mayores de 18 años:

- ☐ Certificación de ingresos completo (Este documento).
- ☐ Copia completa de la declaración de impuestos federales más recientemente presentado, incluyendo todos los horarios y las formas W2 (las declaraciones de impuestos estatales no es necesario).
 - ☐ Si trabaja por cuenta propia, presenta los declaraciones de impuestos federales de los ultimo dos años anteriores.
- ☐ Talones de pago de toda las fuentes de ingresos de los últimos tres (3) meses.
- ☐ Toda otra prueba actual de las cuentas de resultados (incluyendo cheques o cartas de aprobación del Seguro Social, SDI, Asistencia General, etc.).
- ☐ Todos los estados de cuenta de inversión (por ejemplo, cuentas de cheques y de ahorros, valores, y declaraciones del IRA) para los últimos tres (3) meses.
 - ☐ Adjunte una declaración firmada que certifica no hay cuentas de inversión (si procede).
- ☐ Adjunte una explicación detallada de los puntos de la lista que faltan (si corresponde).

Nota: La lista anterior es la documentación mínima que requerimos para certificar sus ingresos para un hogar en "SummerHill Oak Road". Durante el proceso de revisión del Condado, podemos solicitar información adicional para asegurar la calificación para el programa.

Income Certification

Property Address: _____

City: _____ Zip: _____

Telephone _____ Work Number: _____

Cell Number: _____ Email: _____

HOUSEHOLD COMPOSITION

HH Mbr #	Head of Household Last Name	First Name & Middle Initial	Relationship to Head HH	Age	DL#	SS# or Alien Reg. No
1			HEAD			
2						
3						
4						
5						

INCOME (USE ALL INCOME SOURCES FOR ALL HOUSEHOLD MEMBERS OVER 18)

HH Mbr#	(A) Employment or Wages		(B) Soc. Security/Pensions		(C) Public Assistance		(D) Other Income	
	Monthly	Yearly	Monthly	Yearly	Monthly	Yearly	Monthly	Yearly
Total s	\$	\$	\$	\$	\$	\$	\$	\$

Add totals from (A) through (D) above

(E) TOTAL INCOME: \$

Signature of Applicant: _____ Date: _____

Signature of Co-Applicant: _____ Date: _____

Certificación de Ingresos

Dirección: _____

Ciudad: _____ Código Postal: _____

Teléfono _____ Número telefónico de trabajo: _____

Número Celular: _____ Correo electrónico: _____

COMPOSICIÓN DEL HOGAR

HH Mbr #	Apellido de la Cabeza del Familia/Hogar	Primero Nombre e Inicial del segundo nombre	Relación a la cabeza del familia/hogar	Edad	# de licencia (pa manejar, si se aplica)	# de Segur Socia o # de extranjero
1			Cabeza del Familia/Hogar			
2						
3						
4						
5						

INGRESOS (USAR TODAS LAS FUENTES DE INGRESOS PARA TODOS LOS MIEMBROS DEL HOGAR SOBRE 18)

HH Mbr#	(A) Empleo o Salarios		(B) Seguro Social / Pensiones		(C) Asistencia pública		(D) Otra entrada	
	Mensual	Anualmente	Mensual	Anualmente	Mensual	Anualmente	Mensual	Anualmente
Total es	\$	\$	\$	\$	\$	\$	\$	\$

Añadir totales de (A) a (D) por encima

(E) TOTAL INGRESOS:: \$

Firma del solicitante: _____ Fecha: _____

Firma del Co-Solicitante: _____ Fecha: _____

2. PARTICIPATION DATA – FY 20____

☐ Male ☐ Female

Name _____

1. **Status** (Check all that apply): ☐ 62 years or older ☐ Disabled
2. **Head of Household:** Are you the head of the household? ☐ Yes ☐ No
3. **If you are not the head of the household, is the head of the household female?** ☐ Yes ☐ No
4. **Household Size and Total Annual Household Income:**
 - A. Circle the total number of people in your household in the first column.
 - B. On the line corresponding to your household size, check the income range that includes your household's annual income.

	a. A. Household Size		B. Total
	Household	Income	
1	<input type="checkbox"/> up to \$43,400	<input type="checkbox"/> \$43,401-\$69,000	<input type="checkbox"/> \$69,001-\$104,160
2	<input type="checkbox"/> up to \$49,600	<input type="checkbox"/> \$49,601-\$78,850	<input type="checkbox"/> \$78,851-\$119,040
3	<input type="checkbox"/> up to \$55,800	<input type="checkbox"/> \$55,801-\$88,700	<input type="checkbox"/> \$88,701-\$133,920
4	<input type="checkbox"/> up to \$61,950	<input type="checkbox"/> \$61,951-\$98,550	<input type="checkbox"/> \$98,551-\$148,680
5	<input type="checkbox"/> up to \$66,950	<input type="checkbox"/> \$66,951-\$106,450	<input type="checkbox"/> \$106,451-\$160,680
6	<input type="checkbox"/> up to \$71,900	<input type="checkbox"/> \$71,901-\$114,350	<input type="checkbox"/> \$114,351-\$172,560

☐ Check here if your income does not fall into any of the income ranges corresponding with your household size.

5. Do you receive assistance from any of the following sources?

- ☐ CalWORKs ☐ General Assistance ☐ Social Security ☐ Food Stamps
☐ Medi-Cal ☐ Section 8 ☐ WIC

6. Race/Ethnicity (Check only one, unless noted):

- ☐ American Indian/Alaskan Native ☐ Asian ☐ White
☐ Native Hawaiian/Pacific Islander ☐ Asian & White ☐ Black/African American
☐ American Indian/Alaskan Native & White ☐ Black/African American
☐ American Indian/Alaskan Native & Black/African American
☐ Other Multi-Racial: _____

☐ **Hispanic Ethnicity** (you must also check one of the racial categories if you select this category)

I hereby certify that the above information is true and correct to the best of my knowledge. I acknowledge and understand that the information provided here will be relied upon for purposes of determining my eligibility for this program. I acknowledge that a material misstatement fraudulently or negligently made in this or in any other statement made by me may constitute a federal violation and may result in the denial of my participation in this program.

Signature

(Income Limits as of 05/26/2017)

Date

Consorcio de Contra Costa
Programa para el Desarrollo de la Comunidad
Información sobre los participantes del año 20__

☐ Hombre ☐ Mujer

Nombre _____

Domicilio _____

Ciudad _____

Código postal _____

1. Marque lo que es aplicable: ☐ 62 años o mas de edad ☐ Discapacitada/o
2. Jefe de Casa: ¿Es usted el jefe de casa? ☐ Si ☐ No
3. Si no es el jefe de casa, ¿es dirigida la casa por una mujer? ☐ Si ☐ No

4. Número de Personas en el Hogar y Ingresos Anuales:

A. Circule en la primera columna el número de personas en su hogar

B. Al lado derecho del número que circuló, por favor marque las cajas que indican el ingreso total de todas las personas en su hogar (aproxime)

A. Numero de personas en el hogar	B. Total de ingresos		
1	<input type="checkbox"/> up to \$43,400	<input type="checkbox"/> \$43,401-\$69,000	<input type="checkbox"/> \$69,001-\$104,160
2	<input type="checkbox"/> up to \$49,600	<input type="checkbox"/> \$49,601-\$78,850	<input type="checkbox"/> \$78,851-\$119,040
3	<input type="checkbox"/> up to \$55,800	<input type="checkbox"/> \$55,801-\$88,700	<input type="checkbox"/> \$88,701-\$133,920
4	<input type="checkbox"/> up to \$61,950	<input type="checkbox"/> \$61,951-\$98,550	<input type="checkbox"/> \$98,551-\$148,680
5	<input type="checkbox"/> up to \$66,950	<input type="checkbox"/> \$66,951-\$106,450	<input type="checkbox"/> \$106,451-\$160,680
6	<input type="checkbox"/> up to \$71,900	<input type="checkbox"/> \$71,901-\$114,350	<input type="checkbox"/> \$114,351-\$172,560

☐ Marque esta caja si sus ingresos no llegan a las tarifas que corresponden con el tamaño de su hogar.

5. ¿Recibe usted asistencia de alguna de estas organizaciones?

☐ CalWORKs ☐ Asistencia General ☐ Seguro Social ☐ vales para alimentos

☐ Medi-Cal ☐ Sección 8 ☐ WIC

6. ¿Eres Hispano/Latino? Si ☐ No ☐

7. Raza (Marque uno):

☐ Indio Americano/Nativo de Alaska ☐ Asiático ☐ Blanco

☐ Nativo de Hawái/de las Islas del Pacifico ☐ Asiático/Blanco ☐ Negro/Africano Americano

☐ Indio Americano/Nativo de Alaska/Blanco ☐ Negro/Africano Americano/Blanco

☐ Indio Americano/Nativo de Alaska/Negro

☐ Otro Multirracial: _____

Yo juro bajo pena de perjurio que la información proveída es verdadera y correcta. Yo reconozco que la información solicitada será para determinar mi elegibilidad para este programa. Yo acepto que material o declaraciones hechas mal o negligentemente por mí, pueden constituir una violación federal y pueden tener un resultado negativo en mi participación en este programa.

Firma

Fecha

EXHIBIT D-1

Form of Resale Restriction

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attn: Affordable Housing Program Manager

No fee for recording pursuant to
Government Code Section 27383

BUYER'S OCCUPANCY AND RESALE RESTRICTION AGREEMENT
(Contra Costa County Inclusionary Housing Program)

Owner:
<<OWNER NAME>>

Address of Home:
<<ADDRESS>>

Initial Purchase Price Paid for Home by Owner:
<<INITIAL PURCHASE PRICE>>

Initial Appraised Value:
<<INITIAL APPRAISED VALUE>>

This Buyer's Occupancy and Resale Restriction Agreement (the "Resale Restriction") is entered into as of this _____ day of _____, 20____ by and between the County of Contra Costa, a political subdivision of the State of California (the "County") and _____ ("Owner").

RECITALS

A. The County is charged with the responsibility for improving, increasing, and maintaining the stock of affordable housing in unincorporated Contra Costa County. The County administers an Inclusionary Housing Program (the "Program") pursuant to Chapter 822-4 of the Contra Costa County Ordinance Code (the "Ordinance") to provide housing opportunities to households with moderate, low, or very low incomes to purchase homes at prices which are below market rates prevailing in the community. The intent of the County is to preserve and increase the number and availability of affordable homes in the Program. Under the Ordinance and Program, a below market rate unit is to remain affordable for three years from the date of the unit's initial sale.

B. Owner intends to purchase an Inclusionary Housing Unit, which is more particularly described in Exhibit A attached hereto and incorporated herein (the "Home").

C. Owner has agreed to execute and comply with this Resale Restriction as a condition to the purchase of the Home at a price which is below the fair market value of the Home.

D. The purpose of this Resale Restriction is to place resale controls on the Home, require the payment of any excess proceeds of sale to the County, and ensure the Home remains affordable pursuant to the Program. In consideration of the economic benefits to the Owner resulting from purchase of the Home at a below market price under the County's Inclusionary Housing Program, the Resale Restriction allows the County to recapture a financial interest in the Home upon the sale of the Home to a purchaser that is above the moderate income threshold and purchases the unit at a market price.

E. Owner is receiving the following purchase money loans:

Name of Lender: <<NAME OF LENDER>>

Amount: <<AMOUNT OF LOAN>>

Date Deed of Trust Recorded: <<DATE DOT RECORDED>>

All purchase money loans are, collectively, the "First Lender Loan." All lenders of purchase money loans are, collectively, the "First Lender." The First Lender Loan is secured by <<NUMBER>> deed(s) of trust executed by the Owner in favor of the First Lender and recorded in Contra Costa County concurrently with this Resale Restriction (collectively, the "First Lender Deed of Trust").

F. This Resale Restriction is accompanied by a promissory note from the Owner to the County (the "Promissory Note") pursuant to which the Owner agrees to pay any excess proceeds of sale to the County. This Resale Restriction and the Promissory Note shall be secured by a deed of trust on the Home (the "County Deed of Trust"). This Resale Restriction and the County Deed of Trust shall be subordinate to the lien of the First Lender Deed of Trust.

The parties therefore agree as follows:

AGREEMENT

1. Exhibits. The following exhibits are attached to this Resale Restriction:

- Exhibit A: Legal Description of the Home
- Exhibit B: Form of Owner's Notice of Intent to Transfer
- Exhibit C: Form of County Response Notice
- Exhibit D: Form of Owner and Proposed Purchaser Certification of Sale
- Exhibit E: Form of Owner Request to Refinance Notice

2. Description of Property.

a. This Agreement concerns the real property commonly known as <<ADDRESS>>, which is more fully described in Exhibit A attached hereto and incorporated in this Resale Restriction by reference (the "Home").

b. Initial Purchase Price. The initial purchaser price paid by Owner for the Home (the "Initial Purchase Price") shall be inserted on page 1 of this Resale Restriction and shall be used to determine the Excess Sales Proceeds, the Proportionate Share, and the Recapture Amount as set forth in this Resale Restriction.

c. Initial Appraised Value. Upon and in connection with the close of escrow of the initial purchase of the Home by Owner, the Owner shall obtain an appraisal to determine the appraised market value of the Home at the time of the initial purchase (the "Initial Appraised Value"). The Initial Appraised Value shall be determined by a third party appraiser who regularly appraises residential real estate in Contra Costa County for institutional lenders. The Initial Appraised Value shall be inserted in the space on page 1 of this Resale Restriction and shall be used to determine the Excess Sales Proceeds and Proportionate Share of any Appreciation as set forth in this Resale Restriction. Nothing in this Section shall preclude the Owner and the County from establishing an Initial Appraised Value of the Home by mutual agreement in lieu of an appraisal pursuant to this Section.

3. Owner Certifications and Occupancy Requirement.

a. Owner certifies that the financial and other information previously provided in order to qualify to purchase the Home is true and correct as of the date first written above.

b. Owner agrees to occupy the Home as Owner's principal place of residence for a period of not less than three (3) consecutive years, unless an emergency requires the earlier sale of the Home. Owner shall be considered as occupying the Home if the Owner occupies the Home within 30 days after execution of this Resale Restriction and occupies the Home as a full-time primary residence. Owner will fully cooperate with the County in promptly providing all information requested by the County to assist the County in monitoring Owner's compliance with this Resale Restriction. Owner shall not lease, sell or other transfer or convey the Home to any other party except in accordance with this Resale Restriction.

4. Leasing of Home.

a. Owner shall not lease the Home to another party, unless the Owner has a hardship and such lease is first approved in writing, in its sole discretion, by the County. In the event the County provides written approval to Owner for the lease of the Home to another party, Owner shall provide a copy of the executed lease to the County prior to occupancy of the lessee and the rent of the Home shall not exceed the lesser of: (i) thirty percent (30%) of the income of the tenant household that is renting the Home, or (ii) Owner's monthly cost of principal and interest on the First Lender Loan, and property insurance, property taxes, and homeowners association dues, if any, associated with the Home (the lesser rent is the "Affordable Rent").

b. Any lease of the Home in violation of this Resale Restriction is prohibited and shall be a Default under this Resale Restriction and the County Deed of Trust. Owner further agrees that, in the event Owner leases the Home to a third party in violation of this Section 4, any excess rents ("Excess Rents") paid to Owner by the lessee over the Affordable Rent shall be due and payable to the County immediately upon receipt thereof by Owner. Any Excess Rents shall be considered a recourse debt of Owner to the County, which the County may collect by legal action against Owner and/or by foreclosure under the County Deed of Trust.

5. Maintenance, Insurance, and Tax Requirements.

a. Owner shall maintain the Home, including landscaping, in good repair and in a neat, clean, and orderly condition and will not commit waste or permit deterioration of the Home.

b. Owner shall maintain a standard all-risk property insurance policy equal to the replacement value of the Home, naming the County as an additional insured. Additional insurance requirements are set forth in the County Deed of Trust.

c. Owner shall continuously claim a homeowner's exemption for property taxes of the Home with the Contra Costa County Assessor's Office. Failure to claim the homeowner's exemption shall be a Default under this Resale Restriction and the County Deed of Trust.

6. Restrictions on Resale and Transfer of the Home.

a. Transfer. Any Transfer of the Home will be subject to the provisions of this Agreement. "Transfer" means any sale, assignment, or other conveyance, voluntary or involuntary, of any interest in the Home, including, but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest (unless approved pursuant to Section 4 of this Resale Restriction), or an interest evidenced by a land contract by which possession of the Home is transferred and Owner retains title, or a deed of trust. Transfers of the Home shall only be permitted if completed in compliance with this Resale Restriction. Any voluntary Transfers must be made in good faith at fair market value in cash. Any Transfer without satisfaction of the provisions of this Agreement is prohibited and shall constitute a Default for which the County may exercise its remedies available, including foreclosure of the County Deed of Trust.

b. Permitted Transfers. Notwithstanding Section 6.a and subject to the provisions of Section 6.c below, the following shall not be considered a Transfer for the purposes of this Resale Restriction, but all such transferees shall continue to be bound by the requirements of this Resale Restriction: (i) transfers by devise or inheritance to an existing spouse, Domestic Partner, child, surviving joint tenant, or a spouse as part of a dissolution proceeding or in connection with marriage or (ii) refinance of the First Lender Loan in accordance with Section 17 of this Resale Restriction, provided, however, that Owner shall provide written notice of all such transfers to the County pursuant to Section 6.d, and all owners of the Home shall continue to occupy the Home as his or her principal place of residence. For purposes of this Section 6, "Domestic Partners" shall mean two unmarried people, at least 18 years of age, (i) who have lived together

continuously for at least one year and who are jointly responsible for basic living expenses incurred during their domestic partnership or (ii) who have registered as domestic partners with the State of California. Domestic Partners may not be persons related to each other by blood or adoption such that their marriage would be barred in the state of California. For purposes of this section, an individual shall be considered a Domestic Partner of Owner upon presentation of an affidavit, proof of registration, or other acceptable evidence by Owner to the County.

c. Inheritance. In the event a Transfer occurs, or a person receives the Home by devise, inheritance, or operation of law due to death of Owner, the following procedures shall apply:

i. The person inheriting the Home (the "Inheriting Owner") shall succeed to the Owner's interest and obligations under this Resale Restriction, the Promissory Note, and the County Deed of Trust. The Inheriting Owner shall promptly execute and deliver any new documents that may be required or requested to evidence the foregoing and such documents and a new or amended County Deed of Trust shall be recorded against the Home and the Inheriting Owner shall execute and deliver a new or amended Promissory Note. The Inheriting Owner shall assume the obligations under this Resale Restriction and shall comply with the requirements of this Resale Restriction and the County Deed of Trust. The Inheriting Owner shall not be required to occupy the Home but shall not rent the Home except as provided in Section 4.

ii. Failure of an Inheriting Owner to follow the procedures and file the notices described in this Section 6 shall constitute a Default under this Resale Restriction.

d. Notice of Permitted Transfer. Owner shall provide notice to the County of any transfers described in Sections 6.b of this Resale Restriction no later than 30 days before the voluntary sale, assignment, or other transfer occurs. Where the transfer is by devise, inheritance, or operation of law after death of Owner, the administrator of Owner's estate or the Inheriting Owner shall provide written notice to the County of Owner's death within 90 days of the date of death and prior to any other Transfer or lease of the Home.

7. Notice of Intended Transfer.

a. In the event Owner intends to Transfer or vacate the Home, Owner shall give the County written notice of such intent (the "Owner's Notice of Intent to Transfer") not less than 30 days prior to listing of the Home for sale on any Multiple Listing Service or otherwise offering the Home for sale or accepting any offer to purchase the Home. The Owner's Notice of Intent to Transfer shall be in the form shown in Exhibit B attached to this Resale Restriction. The Owner's Notice of Intent to Transfer shall be sent to the County by certified mail, return receipt requested. The Owner's Notice of Intent to Transfer shall include the information necessary for the County to determine the Recapture Amount of the Home, including all the following information:

- i. The address of the Home.
- ii. The date of purchase of the Home by Owner.

- iii. The number of bedrooms in the Home.
- iv. A copy of the HUD-1 Settlement Statement or equivalent document from the close of escrow on the Owner's purchase of the Home.
- v. The date on which Owner intends to vacate the Home.
- vi. The date on which Owner intends to place the Home on the market.
- vii. The name and phone number of the person to contact to schedule inspection of the Home by the County.

b. Following delivery to the County of the Owner's Notice of Intent to Transfer, Owner shall prepare the Home for sale by doing all of the following:

i. Within 30 days of delivery of the Owner's Notice of Intent to Transfer, Owner shall obtain and deliver to the County a current written report of inspection of the Home by a licensed structural pest control operator.

ii. Within 30 days of the date of the Owner's Notice of Intent to Transfer, Owner shall allow the County, or its designee, to inspect the Home to determine its physical condition, and, if requested by the County, following such inspection, Owner shall obtain and deliver to the County a home inspection report prepared by a licensed home inspector no later than 10 days following the County's request.

iii. If the Home is vacant, Owner shall maintain the Home, including the exterior landscaping, in good condition and shall maintain utility connections until the close of escrow on the Transfer.

8. Sale of Home by Owner. No sooner than 30 days after delivery to the County of the Owner's Notice of Intent to Transfer, Owner may proceed to sell the Home, pursuant to the procedure set forth in this Section 8.

a. County Response Notice. Within 30 days after receiving the Owner's Notice of Intent to Transfer, the County will deliver to Owner the County Response Notice in the form of Exhibit C that sets forth the Excess Sales Proceeds and the Proportionate Share for purposes of calculating the Recapture Amount due to County.

b. Disclosure and Submittals. Owner and the proposed purchaser of the Home (the "Proposed Purchaser") shall provide the following information and documents to the County in connection with a Transfer:

- i. The name and address of the Proposed Purchaser.
- ii. The final sales contract and all other related documents which shall set

forth all the terms of the sale of the Home, including a HUD-1 Settlement Statement. Said documents shall include at least the following terms: (a) the sales price; and (b) the price to be paid by the Proposed Purchaser for Owner's personal property, if any, for the services of Owner, if any, and any credits, allowances, or other consideration, if any.

iii. A written certification, from Owner and the Proposed Purchaser in the form of Exhibit D ("Owner and Proposed Purchaser Certification of Sale") that the sale shall be closed in accordance with the terms of the sales contract and other documents submitted to and approved by the County. The certification shall also provide that the Proposed Purchaser or any other party has not paid and will not pay to Owner, and Owner has not received and will not receive from the Proposed Purchaser or any other party, money or other consideration, including personal property, in addition to what is set forth in the sales contract and documents submitted to the County. The written certification shall also include a provision that in the event a Transfer is made in violation of the terms of this Resale Restriction, or false or misleading statements are made in any documents or certification submitted to the County, the County shall have the right to foreclose on the Home or file an action at law or in equity as may be appropriate. In any event, any costs, liabilities, or obligations incurred by Owner and the Proposed Purchaser for the return of any moneys paid or received in violation of this Resale Restriction, or for any costs and legal expenses, shall be borne by Owner and/or the Proposed Purchaser and they shall hold the County harmless and reimburse its expenses, legal fees, and costs for any action it reasonably takes in good faith in enforcing the terms of this Resale Restriction.

iv. A copy of the appraisal for the Home.

v. Upon the close of the proposed sale, a copy of the final sales contract, HUD-1 Settlement Statement, escrow instructions, and any other documents which the County may reasonably request.

9. Payment to County of Recapture Amount.

a. If Owner Transfers the Home or if Owner makes a Transfer in violation of this Resale Restriction, Owner shall pay the "Recapture Amount" calculated as the amount equal to the Excess Sales Proceeds plus the Proportionate Share of any Appreciation (each defined below) to the County in accordance with Section 822-4.410(b)(3) of the Ordinance pursuant to this Section 9.

b. For purposes of this Resale Restriction, "Excess Sales Proceeds" shall mean the amount by which the Initial Appraised Market Value exceeds the Initial Purchase Price; "Proportionate Share" shall mean the amount equal to the percentage by which the Initial Purchase Price was less than then the Initial Appraised Market Value; and "Appreciation" shall mean the difference in the sales price and the Initial Appraised Market Value. The following are provided for example only:

i. If the Initial Purchase Price was \$800,000, the Initial Appraised Market Value was \$900,000, and the sales price is \$1,000,000; the Excess Sales Proceeds will be \$100,000 (calculated as \$900,000 - \$800,000); the Proportionate Share will be 11.11%

(calculated as $\$100,000/\$900,000 = 11.11\%$); the Appreciation will be $\$100,000$ (calculated as $\$1,000,000 - \$900,000 = \$100,000$) and the Proportionate Share of the Appreciation will be $\$11,111$ (calculated as $11.11\% \times \$100,000$); therefore Owner will owe the County a total Recapture Amount of $\$111,111$ (calculated as $\$100,000$ in Excess Sales Proceeds, plus $\$11,111$ in the Proportionate Share of Appreciation).

ii. If the Initial Purchase Price was $\$925,000$, the Initial Appraised Market Value was $\$975,000$, and the sales price is $\$1,050,000$; the Excess Sales Proceeds will be $\$50,000$ (calculated as $\$975,000 - \$925,000$); the Proportionate Share will be 5.13% (calculated as $\$50,000/\$975,000 = 5.13\%$); the Appreciation will be $\$75,000$ (calculated as $\$1,050,000 - \$975,000 = \$75,000$) and the Proportionate Share of the Appreciation will be $\$3,847.50$ (calculated as $5.13\% \times \$75,000$); therefore Owner will owe the County a total Recapture Amount of $\$78,847.50$ (calculated as $\$75,000$ in Excess Sales Proceeds, plus $\$3,847.50$ in the Proportionate Share of Appreciation).

c. The amount of any Recapture Amount shall be a debt of Owner to the County, evidenced by this Resale Restriction and the Promissory Note, secured by the County Deed of Trust. The County shall reconvey the liens of this Resale Restriction and the County Deed of Trust, provided that Owner pays the Recapture Amount to the County in accordance with this Resale Restriction. Owner acknowledges that the County shall have no obligation to cause reconveyance of this Resale Restriction or of the County Deed of Trust until the full Recapture Amount is paid to the County.

d. The Recapture Amount shall be paid in cash or other immediately available funds through the escrow in connection with the closing of any Transfer.

10. Defaults.

a. Each of following events shall constitute a “Default” by Owner under this Resale Restriction:

i. The County determines that Owner has made a misrepresentation to obtain the benefits of purchase of the Home or in connection with its obligations under this Resale Restriction.

ii. Owner fails to owner occupy the Home, as required pursuant to Section 3.

iii. Owner rents or leases the Home, not in compliance with Section 4.

iv. Owner fails to claim a homeowner's exemption for property taxes, as required pursuant to this Resale Restriction.

v. Owner Transfers, or attempts to Transfer, the Home in violation of this Resale Restriction.

vi. Owner fails to provide information to the County necessary to determine

Owner's compliance with the requirements of this Resale Restriction.

- vii. Judicial foreclosure proceedings are commenced regarding the Home.
 - viii. A notice of default is issued under any financing secured by the Home, or the County receives any other notice of default pursuant to Civil Code Section 2924b, or Owner is in default on any other financing secured by the Home.
 - ix. Owner executes any deed in lieu of foreclosure transferring ownership of the Home.
 - x. A lien is recorded against the Home other than the lien of the First Lender Loan or a junior mortgage loan or equity line of credit approved by the County pursuant to Section 17.
 - xi. Owner otherwise fails to comply with the requirements of this Resale Restriction, the Promissory Note, or the County Deed of Trust.
- b. Upon a declaration of Default by the County under this Resale Restriction, the County may exercise any remedies at law or in equity, including without limitation any or all of the following, none of which shall be an exclusive remedy:
- i. Declare all sums due under the Promissory Note immediately due and payable without further demand.
 - ii. Declare a default under the Promissory Note.
 - iii. Invoke the power of sale under the County Deed of Trust.
 - iv. Apply to a court of competent jurisdiction for such relief at law or in equity as may be appropriate.
 - v. Take such enforcement action as is authorized under the Contra Costa County Ordinance Code.
 - vi. Declare a Default under the Promissory Note and County Deed of Trust and pursue all County remedies under the County Deed of Trust.
- c. The County shall notify the First Lender if the County has declared a Default under this Resale Restriction or under the Promissory Note or the County Deed of Trust.
- d. The Owner shall cause the requests for notice of default and any notice of sale under any deed of trust or mortgage with power of sale encumbering the Home to be recorded in the Office of the Recorder of Contra Costa County for the benefit of the County.

11. Nonliability of the County.

a. **Nonliability for Negligence, Loss, or Damage.** Owner acknowledges, understands and agrees that the relationship between Owner and the County is solely that of an owner and an administrator of a County affordable housing program, and that the County does not undertake or assume any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Home or any other matter. The County owes no duty of care to protect Owner against negligent, faulty, inadequate, or defective building or construction or any condition of the Home, and Owner agrees that neither Owner, or Owner's heirs, successors, or assigns shall ever claim, have, or assert any right or action against the County for any loss, damage, or other matter arising out of or resulting from any condition of the Home and will hold the County harmless from any liability, loss, or damage for these things.

b. **Indemnity.** Owner agrees to defend, indemnify, and hold the County and its officers, employees, agents, and board members harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys' fees that the County may incur as a direct or indirect consequence of: (i) Owner's default, performance, or failure to perform any obligations as and when required by this Resale Restriction or the County Deed of Trust; or (ii) the failure at any time of any of Owner's representations to the County to be true and correct.

12. **Restrictions on Foreclosure Proceeds.** If a creditor acquires title to the Home through a deed in lieu of foreclosure, a trustee's deed upon sale, or otherwise, Owner shall not be entitled to the proceeds of sale to the extent that such proceeds otherwise payable to Owner when added to the proceeds paid or credited to the creditor exceed the Initial Purchase Price. Owner shall instruct the holder of such excess proceeds to pay such proceeds to the County in accordance with Section 9 (in addition to any other amounts due the County from Owner pursuant to this Resale Restriction), in consideration of the benefits received by Owner through purchase of the Home at a price below fair market value.

13. **Restriction on Insurance, Condemnation, and Asset Proceeds.** If the Home is damaged or destroyed and Owner elects not to rebuild or repair the Home, in the event of condemnation, or in the event of distribution of assets resulting from the termination of a condominium wherein the Home is located, if the proceeds thereof are distributed to Owner, Owner shall pay the County the portion of any such proceeds which is in excess of the Initial Purchase Price calculated pursuant to Section 9.

14. **Term of Agreement.** All the provisions of this Resale Restriction, including the benefits and burdens, run with the Home and this Resale Restriction shall bind, and the benefit hereof shall inure to, Owner; Owner's heirs, legal representatives, executors, successors in interest, and assigns; and to the County and its successors, until the date of Transfer of the Home in compliance with this Resale Restriction and payment of the entire Recapture Amount due under the Promissory Note (the "**Term**"), upon which the County shall reconvey its interest in this Resale Restriction and the Deed of Trust.

15. **Superiority of Agreement.** Owner covenants that Owner has not, and will not, execute any other agreement with provisions contradictory to or in opposition to the provisions hereof,

and that, in any event, this Resale Restriction is controlling as to the rights and obligations between and among Owner, the County and their respective successors.

16. Subordination. Notwithstanding any other provision hereof, the provisions of this Resale Restriction and the County Deed of Trust shall be subordinate to the lien of the First Lender Deed of Trust and shall not impair the rights of the First Lender, or such lender's assignee or successor in interest, to exercise its remedies under the First Lender Deed of Trust in the event of default under the First Lender Deed of Trust by Owner. Such remedies under the First Lender Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, this Resale Restriction and the County Deed of Trust shall be forever terminated and shall have no further effect as to the Home or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquires title to the Home pursuant to a deed or assignment in lieu of foreclosure, this Resale Restriction and the County Deed of Trust shall automatically terminate upon such acquisition of title, only if (i) the County has been given written notice of default under such First Lender Deed of Trust with a 60-day cure period and (ii) the County or its designee has not cured the default within the 60-day cure period.

17. Refinance of First Lender Loan; Subordinate Loans,

a. County Consent Required. Owner covenants and agrees not to place any additional mortgage or deed of trust, including any line of credit, on the Home without obtaining prior written consent of the County. In the event Owner desires to refinance the First Lender Loan or borrow a mortgage loan or equity line of credit junior in lien priority to this Resale Restriction, Owner shall submit to the County the Owner Request to Refinance Notice attached as Exhibit E to this Resale Restriction.

b. Permitted Encumbrance Amount. The "Permitted Encumbrance Amount" may not exceed ninety-five percent (95%) of the fair market value of the Home as of the date of the proposed refinancing by Owner.

c. Refinance of First Lender Loan. The County will permit a prepayment and refinance of the First Lender Loan and will agree to subordinate this Resale Restriction and the County Deed of Trust to the refinanced First Lender Loan provided all of the following:

i. Following the refinance, the principal amount of all debt secured by the Home does not exceed the Permitted Encumbrance Amount.

ii. The refinanced First Lender Loan is a fully amortized fixed rate loan, has a 15-year or 30-year term, is fully documented, requires no balloon payments, and carries a rate of interest no higher than the original First Lender Loan.

iii. The refinanced First Lender Loan lowers the interest rate or reduces the term of the First Lender Loan.

iv. At the time of refinance of the First Lender Loan, Owner's total monthly

housing cost does not exceed one-twelfth (1/12th) of thirty-five percent (35%) of Owner's household monthly gross income.

d. **Junior Loans and Equity Lines of Credit.** After the initial sale of the Home to Owner, mortgage loans or equity lines of credit junior in lien priority to this Resale Restriction and the County Deed of Trust are not permitted. However, the County may approve a junior mortgage that is not an equity line of credit if Owner is not in Default under or otherwise in violation of this Resale Restriction. The County shall only approve junior mortgage loans after the initial sale of the Home to Owner if such loans will not cause the total of all debt secured by the Home to exceed the Permitted Encumbrance Amount. The County will not approve any mortgage loan which includes negative amortization, or a mortgage loan with interest only payments or balloon payments.

e. **Request for Notice of Default.** As a condition for subordination of the County Deed of Trust, Owner shall cause a request for notice of default and notice of sale regarding the refinanced First Lender Loan to be recorded in the Office of the Recorder of Contra Costa County for the benefit of the County.

f. **Purpose of Restrictions.** The County and Owner agree that the requirements of this Section 17 are necessary to ensure the continued affordability of the Home to Owner and to minimize the risk of loss of the Home by Owner through default and foreclosure of mortgage loans. Owner further acknowledges that violation of the provisions of this Section 17 shall constitute a Default under this Resale Restriction.

18. **Nondiscrimination.** Owner covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry, or national origin in the sale, transfer, use, occupancy, tenure, or enjoyment of the Home, nor shall Owner or any person claiming under or through Owner establish or permit any such practice or practices of discrimination or segregation with reference to the use, occupancy, or transfer of the Home. The foregoing covenant shall run with the land.

19. **Invalid Provisions.** If any one or more of the provisions contained in this Resale Restriction shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Resale Restriction, and this Resale Restriction shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

20. **Controlling Law.** The terms of this Resale Restriction shall be interpreted under the laws of the State of California. The venue for any legal action pertaining to this Resale Restriction shall be Contra Costa County, California.

21. **No Waiver.** No delay or omission in the exercise of any right or remedy of County upon any default by Owner shall impair such right or remedy or be construed as a waiver. The County's failure to insist in any one or more instance upon the strict observance of the terms of this Resale Restriction shall not be considered a waiver of the County's right thereafter to enforce

the provisions of the Resale Restriction. The County shall not waive its rights to enforce any provision of this Agreement unless it does so in writing, signed by an authorized agent of the County.

22. Notices. All notices required herein shall be sent by certified mail, return receipt requested, express delivery service with a delivery receipt, or personal delivery with a delivery receipt, and shall be deemed to be effective as of the date received, the date delivery was refused, or the date returned as undeliverable as indicated on the return receipt, as follows:

To Owner:

<<OWNER NAME>>
<<OWNER NAME2>>
<<ADDRESS>>

To the County:

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attn: Housing and Community Improvement Division

To the First Lender:

<<FIRST LENDER>>
<<ADDRESS>>

The parties may subsequently change addresses by providing written notice of the change in address to the other parties.

23. Interpretation of Agreement. The terms of this Resale Restriction shall be interpreted to avoid speculation on the Home and to insure to the extent possible that its sales price and mortgage payment remain affordable to persons and families of lower and moderate income.

24. Exhibits. Any exhibits referred to in this Resale Restriction are incorporated in this Resale Restriction by such reference.

25. Covenants Running With the Land.

a. Owner hereby subjects the Home to the covenants and restrictions set forth in this Resale Restriction. Owner hereby declares its express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding

upon all parties having any interest in the Home throughout the Term of this Resale Restriction. Each and every contract, deed, lease, or other instrument covering, conveying, or otherwise transferring the Home or any interest therein, as the case may be, shall conclusively be held to have been executed, delivered, and accepted subject to this Resale Restriction regardless of whether the other party or parties to such contract have actual knowledge of this Resale Restriction.

b. Owner and the County hereby declare their understanding and intent that: (i) the covenants and restrictions contained in this Resale Restriction shall be construed as covenants running with the land pursuant to California Civil Code Section 1468 and not as conditions which might result in forfeiture of title by Owner; (ii) the burden of the covenants and restrictions set forth in this Resale Restriction touch and concern the Home in that Owner's legal interest in the Home may be rendered less valuable thereby; and (iii) the benefit of the covenants and restrictions set forth in this Resale Restriction touch and concern the land by enhancing and increasing the enjoyment and use of the Home by Owner, the intended beneficiaries of such covenants and restrictions.

c. All covenants and restrictions contained herein without regard to technical classification or designation shall be binding upon Owner for the benefit of the County and such covenants and restrictions shall run in favor of such parties for the entire period during which such covenants and restrictions shall be in force and effect, without regard to whether the County is an owner of any land or interest therein to which such covenants and restrictions relate.

26. Owner's Acknowledgement of Resale Restriction. Owner hereby acknowledges and agrees that:

a. Owner may not enjoy the same economic or other benefits from owning the Home that Owner would enjoy if this Resale Restriction did not exist.

b. Absent the provisions of this Resale Restriction, the Home could not be made available to Owner.

c. Owner understands all of the provisions of this Resale Restriction. In recognition of the acknowledgments and agreements stated in this Section 26, Owner accepts and agrees to the provisions of this Resale Restriction with the understanding that this Resale Restriction will remain in full force and effect as to the Home throughout the Term of this Resale Restriction.

d. OWNER UNDERSTANDS THAT THE DETERMINATION OF THE FULL AMOUNT OF THE RECAPTURE AMOUNT CAN BE MADE ONLY AT THE TIME OF THE PROPOSED TRANSFER, TAKING INTO CONSIDERATION INCREASES IN AREA MEDIAN INCOME, WHICH CANNOT BE ACCURATELY PREDICTED, AND THAT THE SALES PRICE MAY NOT INCREASE OR DECREASE IN THE SAME MANNER AS OTHER SIMILAR REAL PROPERTY WHICH IS NOT ENCUMBERED BY THIS AGREEMENT. OWNER FURTHER ACKNOWLEDGES THAT AT ALL TIMES IN SETTING THE SALES PRICE OF THE PROPERTY THE PRIMARY OBJECTIVE OF THE COUNTY AND THIS AGREEMENT IS TO PROVIDE HOUSING TO MODERATE

INCOME HOUSEHOLDS AT AFFORDABLE HOUSING COST.

[initialed by Owner(s)]

IN WITNESS WHEREOF, the parties have executed this Resale Restriction on or as of the date first written above.

COUNTY:

OWNER:

County of Contra Costa

<<BUYER NAME>>

By: _____

Name: _____

Its: _____

<<BUYER NAME2>>

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF CONTRA COSTA)

On _____, 20__, before me, _____, Notary Public, personally appeared, _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

STATE OF CALIFORNIA)
)
COUNTY OF CONTRA COSTA)

On _____, 20__, before me, _____, Notary Public, personally appeared, _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

EXHIBIT A

Legal Description of the Home

EXHIBIT B

Form of Owner's Notice of Intent to Transfer

To: County of Contra Costa ("County")

From: _____ ("Owner")

Home Address: _____ ("Home")

Date: _____

Please be notified that Owner intends to transfer the Home listed above.

A. The following information is provided to the County pursuant to Section 7 of the Buyer's Occupancy and Resale Restriction Agreement (the "Resale Restriction"):

1. Address of the Home: _____
2. Date Owner purchased Home: _____
3. Purchase Price paid by Owner when Home was purchased: _____
4. Initial Appraised Value of the Home when purchased: _____
5. Date Owner intends to vacate Home: _____
6. Date Home will be placed on market: _____
7. Name and phone number of person for County to contact to schedule inspection:
_____ (name) and _____ (phone number)

B. As required by Section 7 of the Resale Restriction, the following documents are attached to this Notice:

1. Copy of HUD-1 Settlement Statement from Owner's purchase of the Home

C. I agree to prepare the Home for sale by doing all of the following:

1. Obtaining a pest control report within 30 days of the date of this notice.
2. Allowing the County or its designee to inspect the Home within 30 days of this notice.

3. If requested by the County following the County's inspection, I will obtain a home inspection report from a licensed home inspector.
4. Maintaining utility connections until the Home is transferred.

This Owner's Notice of Intent to Transfer is certified by Owner to be true and correct and is signed on _____ <<DATE>> under penalty of perjury.

By: _____
Owner

By: _____
Owner

EXHIBIT C

Form of County Response Notice

To: _____ ("Owner")
Home Address: _____ ("Home")
Date: _____

From: County of Contra Costa ("County")

On _____ 20__, County received the Owner's Notice of Intent to Transfer (as described in Section 7 of the Resale Restriction.) Pursuant to Section 7 of the Resale Restriction, and as of the date written above, County hereby:

- A. County has determined the Excess Sales Proceeds to be \$ _____.
- B. County has calculated the Proportionate Share to be _____ for purposes of calculating the Recapture Amount.
- C. The Recapture Amount Due to County is \$ _____.

County of Contra Costa

By: _____
Name: _____
Its: _____

EXHIBIT D

Form of Owner and Proposed Purchaser Certification of Sale

To: County of Contra Costa ("County")

From: _____ ("Owner")
_____ ("Proposed Purchaser")

Home Address: _____ ("Home")

Date: _____

A. The following information is provided to the County pursuant to Section 8 of the Buyer's Occupancy and Resale Restriction Agreement (the "Resale Restriction"):

1. Name of the Proposed Purchaser: _____
2. Address of the Proposed Purchaser: _____
3. Proposed sales price for Home: _____
4. Amount paid by the Proposed Purchaser for Owner's personal property, if any:

5. Amount paid by the Proposed Purchaser for the services of Owner, if any:

6. Amount paid by the Proposed Purchaser for any credits, allowances, or other consideration, if any: _____

B. As required by Section 8 of the Resale Restriction, the following documents are attached to this Notice:

1. Copy of final sales contract for the Home.
2. Copy of the appraisal for the Home.
3. All other related documents which shall set forth all the terms of the sale of the Home, including a HUD-1 Settlement Statement.

C. Owner and the Proposed Purchaser agree to all of the following:

1. The proposed sale of the Home shall be closed in accordance with the terms of the sales contract and other documents submitted to and approved by the County.

2. The Proposed Purchaser or any other party has not paid and will not pay to Owner, and Owner has not received and will not receive from the Proposed Purchaser or any other party, money or other consideration, including personal property, in addition to what is set forth in the sales contract and documents submitted to the County.

3. If the proposed sale is made in violation of the terms of this Resale Restriction, or false or misleading statements are made in any documents or certification submitted to the County, the County shall have the right to foreclose on the Home or file an action at law or in equity as may be appropriate. Any costs, liabilities, or obligations incurred by Owner and the Proposed Purchaser for the return of any moneys paid or received in violation of the Resale Restriction, or for any costs and legal expenses, shall be borne by Owner and/or the Proposed Purchaser. Owner and the Proposed Purchaser shall hold the County harmless and reimburse its expenses, legal fees, and costs for any action it reasonably takes in good faith in enforcing the terms of the Resale Restriction.

D. Upon the close of the proposed sale, Owner shall provide to the County a copy of the final sales contract, HUD-1 Settlement Statement, escrow instructions, and any other documents which the County may reasonably request.

This Owner and Proposed Purchaser Certification of Sale is certified by Owner to be true and correct and is signed on _____ <<DATE>> under penalty of perjury.

By: _____
Owner

This Owner and Proposed Purchaser Certification of Sale is certified by the Proposed Purchaser to be true and correct and is signed on _____ <<DATE>> under penalty of perjury.

By: _____
Proposed Purchaser

EXHIBIT E

Form of Owner Request to Refinance Notice

To: County of Contra Costa ("County")

From: _____ ("Owner")

Home Address: _____ ("Home")

Date: _____

A. For Proposed Refinance of First Lender Loan

Owner hereby requests the County to approve the Owner's refinance of the existing First Lender Loan (first mortgage loan) on the Home. Owner provides the following information and documentation which it certifies to be true and correct:

1. Copy of a HUD -1 Settlement Statement
2. Copy of new First Lender Loan documents, including escrow instructions
3. Contact information for proposed new First Lender

Phone Number: _____

Contact Person: _____

4. Anticipated closing date of new First Lender Loan: _____
5. Copy of recent preliminary title report for the Home
6. Copy of existing First Lender Loan documents and any other loan documents secured by a deed of trust that has been recorded against the Home.
7. Monthly Housing Payment on First Lender Loan: _____
8. Monthly Housing Payment on all other loans secured by a deed of trust that has been recorded against the Home: _____
9. Contact Information for Title Company

Name: _____
Address: _____
Phone Number: _____
Contact Person: _____

B. For Proposed Junior Loan

Owner hereby requests the County to approve the Owner's proposed junior financing. Owner also provides the following information and documentation which it certifies to be true and correct:

1. Copy of a HUD -1 Settlement Statement
2. Copy of new junior loan documents, including escrow instructions
3. Contact information for proposed new junior lender

Phone Number: _____

Contact Person: _____

4. Anticipated closing date of new junior loan: _____
5. Copy of recent preliminary title report for the Home
6. Copy of existing First Lender Loan documents and any other loan documents secured by a deed of trust that has been recorded against the Home.
7. Monthly Housing Payment on First Lender Loan: _____
8. Monthly Housing Payment on all other loans secured by a deed of trust that has been recorded against the Home: _____
9. Contact Information for Title Company

Name: _____

Address: _____

Phone Number: _____

Contact Person: _____

Owner hereby certifies the above information is true and correct and this Owner Request to Refinance Notice is executed under penalty of perjury on _____ <<DATE>>.

By: _____
Owner

By: _____
Owner

EXHIBIT D-2

Form of Promissory Note

Promissory Note
Secured By Deed Of Trust
(Contra Costa County Inclusionary Housing Program)

Recapture Amount
Excess Sales Proceeds
Proportionate Share of any Appreciation

<<HOME ADDRESS>>

<<DATE>>

FOR VALUE RECEIVED, the undersigned _____ ("Owner"), in accordance with this promissory note ("Note"), promises to pay to the order of the County of Contra Costa, a political subdivision of the State of California ("County"), any amounts due to the County as Recapture Amount, Excess Sales Proceeds, or Proportionate Share of Appreciation, as applicable.

1. Definitions. The capitalized terms set forth in this Note shall have the same meanings as in the Buyer's Occupancy and Resale Restriction Agreement ("Resale Restriction").

2. Purpose of County Note. Owner is purchasing the Home located at <<ADDRESS>> (the "Home"), pursuant to the County's Inclusionary Housing Program, which provides housing opportunities to households with moderate, low, or very low incomes to purchase homes at prices which are below market rates prevailing in the community. Pursuant to the County's Inclusionary Housing Ordinance (Chapter 822-4 of the Contra Costa County Ordinance Code), the purchase price of the Home has been set below the market value so that the Home will be affordable for purchase by moderate income households. Because the purchase price has been set below the market value, Owner is required and has agreed to execute the Resale Restriction that restricts the price of the Home upon resale and requires Owner to pay the Recapture Amount, which includes any Excess Sales Proceeds and the Proportionate Share of any Appreciation to the County. In addition, the Resale Restriction prohibits the Borrower from renting or leasing the Home except with prior written approval by County. This Note evidences Owner's obligation to pay the Recapture Amount, Excess Sales Proceeds, and the Proportionate Share of any Appreciation to the County pursuant to the Resale Restriction.

3. Security. This Note is secured by a deed of trust dated the same date as this Note (the "County Deed of Trust") executed by Owner and the County with respect to the Home. Home includes both the real property and all improvements now or hereafter erected on the property, and all easements, rights, appurtenances, and all fixtures now or hereafter attached to the property. The term "Home," as used herein, shall have the same meaning as the term "Property" used in the County Deed of Trust. Owner and County have also executed the Resale Restriction.

4. Term. The term of this Note commences on the date of this Note and expires

on the date of Transfer of the Home in compliance with the Resale Restriction and payment of the entire Recapture Amount due under this Promissory Note.

5. Payments. The Recapture Amount, including all Excess Sales Proceeds and the Proportionate Share of any Appreciation owed under this Note or the Resale Restriction shall immediately become due and payable: (i) in the event of a Default by Owner under this Note, the Resale Restriction, the County Deed of Trust, or the First Lender Loan; or (ii) on the date a Transfer is made, except for permitted transfers as described in the Resale Restriction. Failure to declare such amounts due shall not constitute a waiver on the part of the County to declare them due in the event of a subsequent Transfer.

6. No Assumption of Note by Subsequent Buyers. Borrower acknowledges that this Note is given in connection with the purchase of the Property by Borrower as part of a program of the County to assist in the purchase of homes by moderate, low, or very low income households. Consequently, this Note is not assumable by transferees of the Property, but is due in full upon Transfer.

7. Default and Acceleration. Owner shall be in default under this Note if: (i) Owner is in default under the Resale Restriction, the County Deed of Trust, or the First Lender Loan; (ii) Owner fails to pay any money when due under this Note; or (iii) Owner breaches any representation or covenant made in this Note, the County Deed of Trust, or the Resale Restriction. Upon the occurrence of a default as defined in this Section, the County shall have the right to declare the Recapture Amount, including the Excess Sales Proceeds and the Proportionate Share of any Appreciation immediately due and payable.

8. Nonliability for Negligence, Loss, or Damage. Owner acknowledges, understands and agrees that the relationship between Owner and the County is solely that of an owner and an administrator of a County affordable housing program, and that the County does not undertake or assume any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Home or any other matter. The County owes no duty of care to protect Owner against negligent, faulty, inadequate, or defective building or construction or any condition of the Home, and Owner agrees that neither Owner, or Owner's heirs, successors, or assigns shall ever claim, have, or assert any right or action against the County for any loss, damage, or other matter arising out of or resulting from any condition of the Home and will hold the County harmless from any liability, loss, or damage for these things.

9. Indemnity. Owner agrees to defend, indemnify, and hold the County and its officers, employees, agents, and board members harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys' fees that the County may incur as a direct or indirect consequence of: (i) Owner's default, performance, or failure to perform any obligations as and when required by this Note, the Resale Restriction, or the County Deed of Trust; or (ii) the failure at any time of any of Owner's representations to the County to be true and correct.

10. No Waiver by County. No waiver of any Default under the terms of this Note

will be implied from any failure of the County to take, or any delay by the County in taking, action with respect to a breach, default, or failure, or from any previous waiver of any similar or unrelated Default. The acceptance by the County of any payment under this Note that is less than the total of all amounts due and payable at the time of such payment will not constitute a waiver of the right to exercise remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy by the County, without the express consent of the County. The County's waiver of any term of the Note must be made in writing and will be limited to the express written terms of such waiver.

11. Attorney Fees and Costs. If any amounts due under this Note are not paid when due, in addition to paying such amount, Borrower shall pay all costs and expenses of collection and reasonable attorney fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

12. Joint and Several Obligations. This Note is the joint and several obligation of all makers, sureties, guarantors, and endorsers, and is binding upon them and their successors and assigns.

13. No Offset. Owner hereby waives any rights of offset it now has or may hereafter have against the County, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.

14. Waiver by Owner. Borrower and any endorsers or guarantors of this Note, for themselves, and their heirs, legal representatives, successors and assigns, respectively, severally waive diligence, presentment, protest, and demand, and notice of protest, notice of dishonor and notice of non-payment of this Note, and expressly waive any rights to be released by reason of any extension of time or change in terms of payment, or change, alteration or release of any security given for the payments under this Note, and expressly waive the right to plead any and all statutes of limitations as a defense to any demand on this Note or agreement to pay the same.

15. Notices. Notices to the County or Owner required hereunder are to be given in the manner described in Section 22 of the Resale Restriction.

16. Controlling Law. This Note shall be construed in accordance with and be governed by the laws of the State of California. The venue for any legal action pertaining to this County Note shall be Contra Costa County, California.

17. Assignment by County. The County may assign its right to receive the proceeds under this County Note to any person and upon notice to Owner by the County that all payments shall be made to the assignee.

18. Severability. Should any provision of this Note be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

19. Entire Agreement. This Note (along with the Resale Restriction and County

Deed of Trust) sets forth the entire understanding and agreement of the County and Owner, and any amendment, alteration, or interpretation of this Note must be in writing signed by both the County and Owner.

OWNER

EXHIBIT D-3

Form of Deed of Trust

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attn: Affordable Housing Program Manager

No fee for recording pursuant to
Government Code Section 27383

DEED OF TRUST AND SECURITY AGREEMENT
(Contra Costa County Inclusionary Housing Program)

THIS DEED OF TRUST AND SECURITY AGREEMENT ("Deed of Trust") is made this ____ day of _____, 20____, among _____, as trustor ("Owner"); _____ a _____, as trustee ("Trustee"); and the County of Contra Costa, a political subdivision of the State of California, as beneficiary ("County").

Owner has signed a Buyer's Occupancy and Resale Restriction Agreement dated _____ (the "Resale Restriction") and a promissory note in favor of the County dated _____ (the "Note").

This Deed of Trust secures to County: (i) the payment of the Recapture Amount, including the Excess Sales Proceeds and the Proportionate Share of Appreciation (all as defined in the Resale Restriction), and (ii) the performance of Owner's covenants and agreements under this Deed of Trust, the Resale Restriction, and the Note. For this purpose, Borrower irrevocably grants, transfers, conveys, and assigns to Trustee, in trust, with power of sale, the property located in the County of Contra Costa, State of California, described in the attached Exhibit A and more commonly known as: <<HOME ADDRESS>>.

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions are also covered by this Deed of Trust. All of the foregoing is referred to in this Deed of Trust as the "Property."

OWNER COVENANTS that Owner holds fee title to the Property and has the right to grant and convey the Property and that the Property is unencumbered, except for (i) those encumbrances identified below (together, the "First Lender Loan") and (ii) the Resale Restriction and the Note. Owner warrants and shall defend generally the title to the Property against all claims and demands, subject to the First Lender Loan.

Name of Lender (together, the " <u>First Lender</u> ")	Amount	Date Deed of Trust Recorded
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____

OWNER AND COUNTY COVENANT AND AGREE AS FOLLOWS:

1. Payment of Recapture Amount. Owner shall promptly pay, when and if due pursuant to the Resale Restriction and Note, the Recapture Amount including the Excess Sales Proceeds and the Proportionate Share of Appreciation (all as defined in the Resale Restriction). Under the terms of the Note, the Note is not assumable by transferees of the Property, but is due in full upon any sale, assignment, or transfer.
2. Resale Restriction. Owner shall observe and perform all of the covenants and agreements of the Resale Restriction, the Note, and this Deed of Trust.
3. First Lender Loan. Owner shall observe and perform all of the covenants and agreements of the promissory note(s) (together, the "First Lender Note"), the deed(s) of trust securing the First Lender Note (together, the "First Lender Deed of Trust"), and related documents of the First Lender Loan.
4. Charges; Liens. Owner shall pay all taxes, assessments, and other charges, fines, and impositions attributable to the Property that have or may attain a priority over this Deed of Trust, by Owner making any payment, when due, directly to the payee thereof. Upon request by the County, Owner shall promptly furnish to the County all notices of amounts due under this paragraph.
5. Hazard Insurance. Owner shall keep the improvements now existing or hereafter erected on the Property (the "Improvements") insured against loss by fire, hazards included within the term "extended coverage," and any other hazards for which the County requires insurance. The insurance must be maintained in an amount equal to the current replacement value of the Improvements, which will be initially established by appraisal, and then adjusted annually to reflect changes to local building costs calculated on a per square foot basis. The County has the right, but not the obligation, to inform Owner of the then-current replacement value of the Property. The amount of insurance may not be less than the amount necessary to prevent Owner from becoming a co-insurer under the terms of the policy. If the Property is located in an area with a FEMA flood zone designation of A or AE, Owner shall also obtain flood plain insurance.

The insurance carrier providing this insurance must be licensed to do business in the State of California.

All insurance policies and renewals thereof must be in a form acceptable to the County and include a standard mortgage clause and name the First Lender and the County as mortgagees and as additional loss payees, as their interests may appear. The County has the right to hold, or cause its designated agent to hold, the policies and renewals thereof. Upon request, Owner shall promptly furnish to the County, or its designated agent, the original insurance policies or certificates of insurance, all renewal notices, and all receipts of paid premiums. In the event of loss, Owner shall give prompt notice to the insurance carrier and the County or its designated agent. The County, or its designated agent, may make proof of loss if not made promptly by Owner. The County must receive 30 days advance written notice of cancellation of any insurance policies required under this section.

Subject to the rights of the First Lender, unless otherwise permitted by the County in writing, any insurance proceeds must be applied to restoration or repair of the damaged Property, if the restoration or repair is economically feasible and the County's security is not lessened. During such repair and restoration period, the County has the right to hold the insurance proceeds until the County has had an opportunity to inspect the Property to ensure the work has been completed to the County's satisfaction, provided that such inspection is undertaken promptly. The County may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or applicable law requires interest to be paid on the insurance proceeds, the County is not required to pay Owner any interest or earnings on the proceeds. Fees of public adjusters or other third parties retained by Owner will not be paid out of the insurance proceeds and are the sole obligation of Owner. If the restoration or repair is not economically feasible or the County's security would be lessened, the insurance proceeds will be applied to the sums secured by this Deed of Trust, whether or not then due, with the excess, if any, paid to Owner. If the Property is abandoned by Owner, or if Owner fails to respond to the County or its designated agent within 30 days from the date notice is mailed by either of them to Owner that the insurance carrier has offered to settle a claim for insurance benefits, the County or its designated agent is authorized to (i) negotiate and settle the claim, and (ii) collect and apply the insurance proceeds at the County's option either to restoration or repair of the Property or to pay amounts due under the Resale Restriction and Note.

If the Property is acquired by the County, all right, title, and interest of Owner in and to any insurance policy, as well as any insurance proceeds paid or due Owner for damage to the Property prior to acquisition by the County, will pass to the County, subject to the rights of the First Lender.

6. Preservation and Maintenance of Property. Owner shall keep the Property in good repair and in a neat, clean, and orderly condition. Owner shall not commit waste or permit impairment or deterioration of the Property. If there arises a condition in contravention of this section, and if the Owner has not cured such condition within 30 days after receiving a County notice of such a condition, then in addition to any other rights available to the County, the County will have the right (but not the obligation) to perform all acts necessary to cure such condition, and to establish

or enforce a lien or other encumbrance against the Property to recover its cost of curing the condition.

7. Protection of the County's Interest in the Property. If Owner fails to perform the covenants and agreements contained in this Deed of Trust or if any action or proceeding is commenced that might significantly affect the County's interest in the Property or its rights under this Deed of Trust (including, but not limited to, default under the First Lender Deed of Trust, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy or decedent) or if Owner has abandoned the Property, then the County may do and pay for whatever is reasonable or appropriate to protect the County's interest in the Property and rights under this Deed of Trust, including protecting and assessing the value of the Property, and securing and/or repairing the Property. The County's actions may include but are not limited to: (a) paying any sums secured by a lien that has priority over this Deed of Trust; (b) appearing in court; (c) paying reasonable attorneys' fees to protect its interest in the Property and its rights under this Deed of Trust, including its secured position in a bankruptcy proceeding. Securing the Property includes but is not limited to entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although the County may take action under this Section 7, the County does not have to do so and is not under any duty or obligation to do so. It is agreed that the County incurs no liability for not taking any or all actions authorized under this Section 7.

Any amounts disbursed by the County pursuant to this Section 7, with interest thereon, will become additional debt of Owner secured by this Deed of Trust. Such amounts will be payable upon notice from the County to Owner requesting payment thereof, and will bear interest from the date of disbursement at the lesser of (i) ten percent (10%); or (ii) the highest rate permissible under applicable law.

8. Inspection. The County and its authorized representatives may make or cause to be made reasonable entries upon the Property to determine if the Owner is in compliance with the requirements of the Resale Restriction, the Note, and this Deed of Trust. The County will give Owner reasonable notice of such entry and inspection.

9. Forbearance by the County Not a Waiver. Any forbearance by the County in exercising any right or remedy, including without limitation, the County's acceptance of an amount less than the amount due, is not a waiver of and does not preclude the exercise of any right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by the County is not a waiver of the County's right to accelerate the maturity of the indebtedness secured by this Deed of Trust.

10. Remedies Cumulative. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or any other document, or afforded by law or equity, and may be exercised concurrently, independently, or successively.

11. Hazardous Substances.

As used in this Section 11, "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes under any Environmental Law, and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials.

As used in this Section 11, "Environmental Law" means all federal laws and all laws of the state of California that relate to health, safety, or environmental protection.

Owner may not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Owner may not, and may not allow anyone else to, do anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences do not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property. Owner shall promptly give the County written notice of any investigation, claim, demand, lawsuit, or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Owner has actual knowledge. If Owner learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Owner shall promptly take all necessary remedial actions in accordance with Environmental Law.

12. Successors and Assigns Bound. The covenants and agreements herein contained bind and benefit the successors and assigns of the County and Owner.

13. Joint and Several Liability. Owner covenants and agrees that Owner's obligations and liabilities are joint and several.

14. Notice. Except for any notice required under applicable law to be given in another manner, all notices required herein shall be sent by certified mail, return receipt requested, express delivery service with a delivery receipt, or personal delivery with a delivery receipt, and shall be deemed to be effective as of the date received, the date delivery was refused, or the date returned as undeliverable as indicated on the return receipt. Notice to any one Owner will constitute notice to all Owners unless applicable law expressly requires otherwise. The notice address is the Property address unless Owner has designated a substitute notice address by notice to the County. Owner shall promptly notify the County of Owner's change of address. There may be only one designated notice address under this Deed of Trust at any one time. Any notice to the County must be given by mailing it to Contra Costa County Department of Conservation and Development at 30 Muir Road, Martinez, CA 94553, Attention: Housing and Community Improvement Division, or to such other address as the County may designate by notice to Owner as provided above. If any notice required by this Deed of Trust is also required under applicable law, the applicable law requirement will satisfy the corresponding requirement under this Deed of Trust.

15. Governing Law. This Deed of Trust is governed by the laws of the State of California. The venue for any legal action pertaining to this Deed of Trust shall be Contra Costa County, California.

16. Severability. In the event that any provision or clause of this Deed of Trust, the Resale Restriction, or the Note conflicts with applicable law, such conflict will not affect other provisions of this Deed of Trust, the Resale Restriction, or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust, the Resale Restriction, and the Note are declared to be severable.

17. Captions. The captions and headings in this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

18. Nondiscrimination. Owner covenants that there will be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry, or national origin in the sale, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall Owner or any person claiming under or through Owner establish or permit any such practice or practices of discrimination or segregation with reference to the use, occupancy, or transfer of the Property. The foregoing covenant runs with the land.

19. Nonliability for Negligence, Loss, or Damage. Owner acknowledges, understands and agrees that the relationship between Owner and the County is solely that of an owner and an administrator of a County affordable housing program, and that the County does not undertake or assume any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy, or suitability of the Property or any other matter. The County owes no duty of care to protect Owner against negligent, faulty, inadequate, or defective building or construction or any condition of the Property, and Owner agrees that neither Owner, or Owner's heirs, successors, or assigns shall ever claim, have, or assert any right or action against the County for any loss, damage, or other matter arising out of or resulting from any condition of the Property and will hold the County harmless from any liability, loss, or damage for these things.

20. Indemnity. Owner agrees to defend, indemnify, and hold the County and its officers, employees, agents, and board members harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys' fees that the County may incur as a direct or indirect consequence of: (i) Owner's default, performance, or failure to perform any obligations as and when required by this Deed of Trust, the Resale Restriction, or the Note; or (ii) the failure at any time of any of Owner's representations to the County to be true and correct.

21. Acceleration; Remedies.

a. Upon Owner's breach of any covenant or agreement of Owner in the Resale Restriction, the Note, or this Deed of Trust, the County, prior to acceleration, will mail by express delivery, return receipt requested, notice to Owner specifying: (i) the breach; (ii) the action required to cure such breach; (iii) a date, not less than 30 days from the date the notice is

received by Owner as shown on the return receipt, by which such breach is to be cured; and (iv) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice will also inform Owner of Owner's right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of default or any other defense of Owner to acceleration and sale.

b. Notwithstanding subsection (a) of this Section 21, in the event of a default by Owner under the First Lender Deed of Trust, no notice to Owner is required prior to acceleration.

c. If the breach is not cured on or before the date specified in the notice required by subsection (a), or in the event of a default by Owner under the First Lender Deed of Trust, the County, at the County's option, may: (i) declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by California law; (ii) enter upon and take possession of the Property in the County's name or in the name of Trustee, or by a receiver appointed by a court, and do any acts which it deems necessary or desirable to preserve the value or marketability of the Property or increase the income from the Property, with or without bringing any action or proceeding; (iii) commence an action to foreclose under this Deed of Trust, appoint a receiver, or specifically enforce any of the covenants hereof; (iv) deliver to Trustee a written declaration of default and demand for sale, pursuant to the provisions for notice of sale found at California Civil Code Section 2924 et seq., as amended from time to time; or (v) exercise all other rights and remedies provided herein, in the instruments by which Owner acquires title to the Property, or in any other document or agreement now or hereafter evidencing, creating, or securing all or any portion of the obligations secured hereby, or provided by law. Entering upon and taking possession of the Property pursuant to subsection (ii) above will not cure or waive any breach hereunder or invalidate any act done in response to such breach and, notwithstanding the County's continued possession of the Property, the County will be entitled to exercise every right provided for in this Deed of Trust and by law upon the occurrence of any uncured breach, including the right to exercise the power of sale.

d. The County is entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this section, including, but not limited to, reasonable attorneys' fees.

22. Owner's Right to Reinstate After Acceleration. If Owner meets certain conditions, Owner has the right to have enforcement of this Deed of Trust discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to the power of sale contained in this Deed of Trust; (b) such other period as applicable law might specify for the termination of Owner's right to reinstate; or (c) entry of a judgment enforcing this Deed of Trust. Those conditions are that Owner: (i) pays County all sums that then would be due under this Deed of Trust and the Note if no acceleration had occurred; (ii) cures any default of any other covenants or agreements; (iii) pays all expenses incurred by County and Trustee in enforcing this Deed of Trust, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting the County's interest in the Property and rights under this Deed of Trust; and (iv) takes such other actions as County may reasonably

require to assure that the County's interest in the Property and rights under this Deed of Trust, and Owner's obligation to pay the sums secured by this Deed of Trust, continue unchanged. Upon such payment and cure by Owner, this Deed of Trust and the obligations secured hereby will remain in full force and effect as if no acceleration had occurred. However, this right to reinstate does not apply in the case of acceleration that results from a breach of Section 23.

23. Due on Transfer of the Property. Subject to Section 6 of the Resale Restriction, Owner shall pay in full all amounts secured by this Deed of Trust upon any Transfer (as defined in the Resale Restriction) of the Property or any interest in it.

24. Reconveyance. Upon payment of all sums secured by this Deed of Trust, and following the expiration of the Term of the Resale Restriction, and if Owner is not in violation of any provisions of this Deed of Trust, the Resale Restriction, or the Note, the County will request Trustee to reconvey the Property and will surrender this Deed of Trust to Trustee. Trustee will reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. The County may charge such person or persons a reasonable fee for reconveying the Property, but only if the fee is to be paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under applicable law. If the fee charged does not exceed the fee set by applicable law, the fee is conclusively presumed to be reasonable.

25. Substitute Trustee. The County, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. The successor trustee will succeed to all the title, powers, and duties conferred upon the Trustee herein and by applicable law.

26. Superiority of First Lender Documents. Notwithstanding any other provision of this Deed of Trust, the provisions of this Deed of Trust are subordinate to the lien of the First Lender Deed of Trust and do not impair the rights of the First Lender, or the First Lender's successor or assign, to exercise its remedies under the First Lender Deed of Trust in the event of default under the First Lender Deed of Trust by the Owner. Remedies under the First Lender Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After a foreclosure or acceptance of a deed or assignment in lieu of foreclosure by the First Lender, this Deed of Trust will be forever terminated and will have no further effect as to the Property or any transferee thereafter if (i) the County has been given written notice of default under such First Lender Deed of Trust with a 60-day cure period (which requirement will be satisfied by recordation of a notice of default under California Civil Code Section 2924), and (ii) the County has not cured the default within such 60-day period. Owner agrees to execute any documents necessary to effect such termination, if applicable.

27. Request for Notice. Owner requests that copies of any notice of default and notice of sale be sent to Owner in accordance with Section 14 above.

IN WITNESS WHEREOF, Owner has executed this Deed of Trust as of the date first written above.

BORROWER

BORROWER

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF CONTRA COSTA)

On _____, 20__, before me, _____, Notary Public, personally appeared, _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

STATE OF CALIFORNIA)
)
COUNTY OF CONTRA COSTA)

On _____, 20____, before me, _____, Notary Public, personally appeared, _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (seal)

EXHIBIT A

Legal Description of the Property