

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Brentwood
150 City Park Way
Brentwood, California 94513
Attn: Housing Manager

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

AFFORDABLE HOUSING AGREEMENT

THIS AFFORDABLE HOUSING AGREEMENT (the "Agreement") is entered into as of _____ (the "Effective Date"), by and between TH Apricot Way Brentwood LLC, a California Limited Liability Company ("Developer"), and THE CITY OF BRENTWOOD (the "City"). Developer and City agree as follows, with reference to the following facts:

RECITALS

Developer owns that certain real property located in the northwestern portion of Brentwood, 1777 Apricot Way (Subdivision 9610) and identified as the Trailside property, Assessor's Parcel Numbers 019-092-13 and 019-092-034010-100-014 ("Site").

- A. City is acting to carry out its obligations under its General Plan, Ordinance No. 1014 (Brentwood Municipal Code Chapter 17.725) (the "Ordinance") and any implementing regulations (collectively, the "City Inclusionary Housing Requirements"), and Developer agrees to comply with the City Inclusionary Housing Requirements.
- B. City Council adopted Ordinance 1014 on April 28, 2020, thereby codifying the requirement that developers of residential developments of five or more lots or dwelling units fulfill an affordable housing obligation of two percent (10%) of the total number of dwelling units as affordable units (the "Ten Percent Affordability Requirement"). The Ordinance provided as follows:

Developers of residential developments of five or more lots or dwelling units designed and intended for residential occupancy shall construct or make possible the construction of a minimum of ten percent of the total number of dwelling units within the residential development as Affordable Units, allocated to income levels as set forth in this chapter, or as provided in an affordable housing agreement which specifies the means of satisfying this chapter. The foregoing requirement shall be applied prior to the application of a density bonus and no more than once to an approved residential development, regardless of changes in its character or ownership, provided that the total number of dwelling units does not change.

- C. Developer and City agree that six (6) Units (3 Duet units) on the Site, as described in Legal Description of Affordable Units ("Restricted Units"), attached as Exhibit A hereto and incorporated herein by reference, shall be subject to the conditions and restrictions, and the rights of City as specified herein (each a "Restricted Units and collectively, the "Restricted Units"). The remaining units shall be referred to as the "Non-Restricted Units."

AGREEMENT

NOW, THEREFORE, Developer and City agree as follows:

ARTICLE 1 SALE OF RESTRICTED UNITS

- 1.1 Defined Terms. The following terms shall have the meanings set forth in this Section 1.1:
- A. "Affordable Housing Cost" shall be as defined in Health and Safety Code Section 50052.5 or any successor statute thereto. If the statute is no longer in effect and no successor statute is enacted, the City shall establish the Affordable Housing Cost for purposes of this Agreement. For purposes of determining the Affordable Housing Cost: (i) the purchase price for a 2-bedroom Restricted Unit shall be established using the assumption that the Eligible Household purchasing the Unit is comprised of three persons, (ii) the purchase price for a 3-bedroom Restricted Unit shall be established using the assumption that the Eligible Household purchasing the Unit is comprised of four persons; (iii) the purchase price for a 4 bedroom Restricted Unit shall be established using the assumption that the Eligible Household purchasing the Unit is comprised of five persons; and (iv) the purchase price for a 5 bedroom Restricted Unit shall be established using the assumption that the Eligible Household purchasing the Unit is comprised of six persons.
- B. "Eligible Household" shall mean and include a person or household (i) meeting the definition of "Very Low Income Household" or "Low Income Household" under this Section 1.1; (ii) meeting the definition of a First Time Homebuyer; and (iii) who otherwise meets Developer's standard criteria for determining eligibility for occupancy, which may include an evaluation of the applicant's ability to pay mortgage, employment status and credit history. These standard criteria may vary from time to time, but must be uniformly applied at all times.
- C. "First Time Homebuyer" shall mean and include a person or household, no member of which has had any of the following interests in real property in his or her primary residence in the three years preceding the date of purchase of the Unit: fee simple, joint tenancy, tenancy in common, life estate, shareholder in a cooperative or interest held in trust that would continue on to ownership if held.
- D. "Very Low Income Household" shall mean a person or household whose annual gross income does not exceed 50% (which percentage shall be adjusted as provided in Title 25, Section 6932 of California Code of Regulations) of the Median Income (as defined below).

- E. "Low Income Household" shall mean a person or household whose annual gross income does not exceed 80% (which percentage shall be adjusted as provided in Title 25, Section 6932 of California Code of Regulations) of the Median Income (as defined below).
- F. "Moderate Income Household" shall mean a person or household whose annual gross income does not exceed 110% (which percentage shall be adjusted as provided in Title 25, Section 6932 of California Code of Regulations) of the Median Income (as defined below).
- G. "Median Income" is the area-wide median gross yearly income in Contra Costa County, adjusted for household size, as established from time to time by the U.S. Department of Housing and Urban Development ("HUD"). In the event that such income determinations are no longer published or are not updated for a period of at least 18 months by HUD, Median Income shall mean the area-wide median gross income for households in Contra Costa County, adjusted for family size, as published from time to time by the California Department of Housing and Community Development ("HCD"). In the event that such income determinations are no longer published, or not updated for a period of at least 18 months, the City shall provide Developer with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by HUD or HCD.

1.2 Affordability Requirements and Restrictions

- A. Developer shall construct 3 Duet units for a total of six (6) Restricted Units in the Development. The six (6) Restricted Units will be sold by Developer to Moderate Income (2 units), Low Income (2 units), and Very Low Income (2 units) Households ("Owner-Occupied Restricted Units").
- B. All Restricted Units within a residential development shall be comparable to the market-rate units in exterior design, quality, materials, architectural elements and overall construction quality, as well as number and proportion of bedroom types. If approved by the Planning Commission in the design review approval process as specified in Section 17.725.006 D, Restricted Units may include reduced front, side and backyard landscaping and may be smaller in size or may be duet-style products. Otherwise, Restricted Units shall be comparable to the "standard" landscaping and size. In addition, all Restricted Units shall include the same or similar interior amenities offered for market rate units within a residential development.
- C. The Restricted Units shall be constructed in the location and in accordance with the schedule of construction set forth in Exhibit B, Location of Restricted Units and Schedule of Construction. All Restricted Units in a residential development or phase of a residential development shall be constructed prior to or concurrently with market-rate units, as set forth, and in the location specified, in a schedule of construction approved by the City and set forth in this agreement. The building permits for the last ten percent of the non-restricted dwelling units shall not be issued until the last Restricted Unit has been issued a building permit and construction of the last Restricted Unit has begun.

D. Developer shall make a written designation to City, at the time the final subdivision map for the Site is recorded, of those Units that shall be Owner-Occupied Restricted Units, which designation shall be consistent with the terms of this Agreement, including without limitation Exhibit B. The total number of Owner-Occupied Restricted Units being offered for sale in accordance with this Article 1 shall be as required by Section 1.2.A. above. During the Term (as defined in Section 3.3) of this Agreement, the Owner-Occupied Restricted Units shall be subject to all of the requirements of this Agreement, including without limitation the following additional restrictions and requirements:

1. Each Owner-Occupied Restricted Unit shall only be sold to and be occupied by an Eligible Household. The Owner-Occupied Restricted Units shall only be sold to and be occupied by Low Income Households at a price that does not exceed the Affordable Housing Cost for Low Income Households.
2. The income of all persons residing in the Owner-Occupied Restricted Unit shall be considered for purposes of calculating the applicable income of the Eligible Household.
3. The Owner-Occupied Restricted Units shall only be sold to Eligible Households approved by City in accordance with this Agreement, the City Inclusionary Housing Requirements and the City's Affordable Housing Program. Developer shall work with City to obtain names of Eligible Households certified or maintained by City in accordance with City's Affordable Housing Program. In the event City no longer certifies or maintains a list of Eligible Households, at least thirty (30) calendar days prior to any proposed sale or other transfer of any Owner-Occupied Restricted Unit during the Term, Developer shall submit to City: (a) a copy of the written agreement of purchase and sale; (b) the prospective purchaser's/transferee's income certification, evidence of the purchaser's/transferee's status as an Eligible Household, a list of all assets owned by the prospective purchaser/transferee and any information reasonably necessary to enable City to determine compliance with the terms of this Agreement, in a form reasonably approved by the City; and (c) the income certification to be provided to any lender making a loan on the Owner-Occupied Restricted Unit. The City may require documentation reasonably evidencing and supporting the income and other financial information contained in the certifications, including the prospective purchaser's/transferee's income most recent income tax return. Within thirty (30) calendar days from receipt of the documentation, City shall render a decision of eligibility or noneligibility. If the prospective purchaser/transferee qualifies as an Eligible Household, the purchase price of the Owner-Occupied Restricted Unit is within the definition of Affordable Housing Cost and the sale or transfer complies with the City Inclusionary Housing Requirements, the City shall so certify in writing within such thirty (30) calendar days, and upon request shall execute a certificate, in recordable form, confirming that the proposed transaction complies with the requirements of this Article 1. If the prospective purchaser/transferee does not qualify as an Eligible Household, the purchase price of the Owner-Occupied Restricted Unit is not within the definition of Affordable Housing Cost or the sale or transfer does not comply with the City Inclusionary Housing Requirements, the City shall so notify the Developer in

writing, within such thirty (30) calendar days, stating the basis for its determination in reasonable detail and the Developer shall not sell the Owner-Occupied Restricted Unit to such non-Eligible Household.

4. THERE SHALL BE NO SALE OR OTHER TRANSFER OF THE OWNER-OCCUPIED RESTRICTED UNIT WITHOUT THE WRITTEN CERTIFICATION BY CITY THAT THE PURCHASER / TRANSFEREE IS AN ELIGIBLE HOUSEHOLD, THE PURCHASE PRICE OF THE OWNER-OCCUPIED RESTRICTED UNIT IS WITHIN THE DEFINITION OF AFFORDABLE HOUSING COST AND THE SALE OR TRANSFER COMPLIES WITH CITY'S INCLUSIONARY HOUSING REQUIREMENTS. ANY SALE OR OTHER TRANSFER OF THE OWNER-OCCUPIED RESTRICTED UNIT IN VIOLATION OF THIS AGREEMENT SHALL BE VOID.
5. EACH PURCHASER OF A OWNER-OCCUPIED RESTRICTED UNIT FROM DEVELOPER SHALL ENTER INTO AND RECORD AT THE CLOSE OF ESCROW A REFINANCE AND RESALE LIMITATION AGREEMENT AND OPTION TO PURCHASE ("LIMITATION AGREEMENT"), IN A FORM SIMILAR TO EXHIBIT C, ATTACHED HERETO, SUPPLIED BY AND APPROVED BY CITY, AND FOR THE BENEFIT OF CITY. UPON RECORDATION OF THE LIMITATION AGREEMENT: (A) THIS AGREEMENT SHALL HAVE NO FURTHER FORCE OR EFFECT AS AN ENCUMBRANCE AGAINST THE OWNER-OCCUPIED RESTRICTED UNIT ENCUMBERED BY THE LIMITATION AGREEMENT; AND (B) DEVELOPER SHALL HAVE NO FURTHER OBLIGATIONS OR LIABILITIES WITH RESPECT TO THE OWNER-OCCUPIED RESTRICTED UNIT, ENCUMBERED BY THE LIMITATION AGREEMENT, INCLUDING WITHOUT LIMITATION ANY RESPONSIBILITY FOR COMPLIANCE BY THE BUYER OR ITS SUCCESSORS WITH THE TERMS AND CONDITIONS OF THE LIMITATION AGREEMENT SIGNED BY PURCHASER, PROVIDED THAT DEVELOPER HAS COMPLIED WITH THE TERMS OF THIS AGREEMENT.

- E. Developer's execution of this Agreement and compliance with the terms and conditions herein, shall be deemed full and final satisfaction of the City Inclusionary Housing Requirements applicable to the Project.

**ARTICLE 2
MAINTENANCE AND MANAGEMENT**

2.1 Maintenance and Management. During the Term (as defined in Section 3.3 below) of this Agreement, Developer agrees to maintain the improvements and landscaping including backyards, side yards and front yards on the Restricted Units in a clean and orderly condition and in good condition and repair and to keep the Restricted Units free from accumulation of debris and waste materials.

Upon the sale of an Owner-Occupied Restricted Unit, the Eligible Household that purchased the Owner-Occupied Restricted Unit will maintain the landscaping on that unit. Upon the conveyance of the Rental Restricted Units to City, the City or its property manager will maintain the landscaping on the Rental Restricted Units.

2.2 Effect of Article 2. This Article 2 shall terminate and be of no further force and effect upon the first to occur of: (a) the last day of the Term; or (b) the closing of the sale by Developer of, and/or the transfer of title to, the last Restricted Unit pursuant to Article 1 above.

**ARTICLE 3
GENERAL PROVISIONS**

3.1 Conditions of Approval. This Agreement shall not supersede any conditions of approval for the Development pursuant to the Ordinance or other applicable City Inclusionary Housing Requirements, but is intended to be consistent with the Ordinance and other applicable City Inclusionary Housing Requirements. In the event of any conflict between this Agreement and the City Inclusionary Housing Requirements, the City Inclusionary Housing Requirements shall prevail.

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

To City:

City of Brentwood
Housing Division
150 City Park Way
Brentwood, CA 94513

To Developer:

TH Apricot Way Brentwood LLC
A California Limited Liability Company
3001 Bishop Drive, Suite 100
San Ramon, CA 94583

3.3 Duration. The covenants set forth herein on the Restricted Units shall be covenants running with the land and shall inure to the benefit of the City and its successors and assigns, and subject to any shorter time limitations specifically set forth herein, shall be enforceable by the City and its successors and assigns, for a period of forty-five (45) years from the date of recording of this Agreement (the "Term"). The parties agree that for the Term, all future

deeds or transfers of interest shall show or reference the applicable restrictions of this Agreement. Upon recordation of a Resale and Refinance Limitation Agreement and Option to Purchase, this Agreement shall have no further force or effect as an encumbrance against the Owner-Occupied Restricted Unit to which such Limitation Agreement pertains, and Developer shall have no further obligations or liabilities with respect to such Owner-Occupied Restricted Unit, including without limitation any responsibility for compliance by the buyer or its successors with the terms and conditions of the Limitation Agreement, provided that Developer has complied with the terms of this Agreement.

- 3.4 No Discrimination. Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, physical or mental disability, age, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Restricted Units, nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of the Restricted Units.
- 3.5 Amendment. This Agreement may be amended only in writing by City and Developer.
- 3.6 No Impairment of Lien. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument; provided, however, that any successor of Developer to the Site shall be bound by such covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.
- 3.7 Successors and Assigns.
- A. Binding Effect; Covenants Run with Land. The covenants contained in this Agreement shall inure to the benefit of the City and its successors and assigns and shall be binding upon Developer and any successor in interest as owner of fee title to the Site, or any part thereof. Upon the transfer by Developer of all of its interest in the Site, all references in this Agreement to Developer thereafter shall mean and refer to such successor in interest of Developer as may then be the owner of the Site. In the event that Developer transfers the Site to more than one successor in interest, all successors in interest shall be collectively required to comply with the provisions of this Agreement and shall be jointly and severally liable for any breach or failure to comply, unless each successor and City enter into an agreement outlining the specific obligations of each successor for compliance with this Agreement. The covenants shall run in favor of City and its successors and assigns for the entire period during which such covenants shall be in force and effect. City, and its successors and assigns, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings, to enforce the curing of such breach.

B. Transfer by Developer of Site. Except as expressly permitted by this Section 3.7.B, Developer shall not sell, transfer, convey, assign or ground lease the Site or any part thereof or interest therein (a "Transfer") during the period between the date of recordation of this Agreement and the closing date for the sale or transfer of the last Restricted Unit to be sold or transferred pursuant to Article 1 above without prior written approval of the City. The City's approval shall not be unreasonably withheld or delayed. This restriction shall not apply to (i) any Transfer of a Unit to an individual homebuyer or City, (ii) any Transfer of Developer's interest in the Site to any trust, partnership, corporation, limited liability company or other entity that is managed and controlled by Developer whether through any trust, partnership, corporation, limited liability company or other entity, or (iii) any Transfer after the closing date for the last Restricted Unit sold pursuant to Article 1 above. This restriction on Transfer shall not be deemed to limit or restrict the making of dedications or granting of easements or permits to facilitate the development of the Site, or to limit or restrict the sale of any individual Units. This restriction on Transfer shall also not be deemed to prohibit, limit or restrict the assignment or granting of any security interests in the Site for the purpose of securing loans or funds to be used for financing the construction of the improvements on the Site, or the exercise by any lenders of their rights and remedies, including without limitation foreclosure, under the agreements and instruments evidencing or securing any such financing.

3.8 No Third Party Beneficiaries. Notwithstanding anything in this Agreement to the contrary, there are no third party beneficiaries of this Agreement.

3.9 Effect of Agreement. Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement shall have any force or effect on any buyer of a single Unit or its right, title or interest in or to such Unit, except that buyers of Owner-Occupied Restricted Units shall execute and be subject to the Refinance and Resale Limitation Agreement and Option to Purchase attached hereto as Exhibit C. The foregoing exemption and release shall be self-executing and require no further instruments or assurances to be effective.

3.10 Default.

- a.** Any failure by Developer to perform any term or provision of this Agreement shall constitute an "Event of Default" (1) if Developer does not cure such failure within thirty (30) days following written notice of default from City, or (2) if such failure is not of a nature which cannot reasonably be cured within such thirty (30) day period, Developer does not within such thirty (30) day period commence substantial efforts to cure such failure or thereafter does not within a reasonable time prosecute to completion with diligence and continuity the curing of such failure.
- b.** Any notice of default given hereunder shall specify in detail the nature of the failure in performance alleged by City and the manner in which such failure of performance may be satisfactorily cured in accordance with the terms and conditions of this Agreement. During the time periods herein specified for cure of a failure to perform, Developer shall not be considered to be in default of this Agreement for any purposes.

- c. Any failure or delay by City in asserting any of its rights or remedies as to any Event of Default shall not operate as a waiver of any Event of Default or of any such rights or remedies or deprive City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.
- d. In the event of an Event of Default under this Agreement, City shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other remedy proceedings to cure, correct or remedy such Event of Default.
- e. Notwithstanding the foregoing, in the event that Developer fails to comply with the terms of this Agreement, City may suspend issuance of building permits for Non-Restricted Units, building inspections of Non-Restricted Units, or issuance of occupancy permits for Non-Restricted Units, or pursue any other remedy available to it.

3.11 California Law. This Agreement shall be construed in accordance with and be governed by the laws of the State of California.

3.12 Severability. Should any provision of this Agreement be found invalid or unenforceable by a court or other body of competent jurisdiction, said invalidity, unenforceability or ineffectiveness shall not affect the validity of the remaining provisions which shall remain in force to the maximum extent possible.

3.13 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signature Page Follows]

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

CITY:
THE CITY OF BRENTWOOD

DEVELOPER:
TH APRICOT WAY BRENTWOOD LLC, A
CALIFORNIA LIMITED LIABILITY
COMPANY

By: _____
Name: Tim Y. Ogden
Its: City Manager

Date: _____

By: _____

Name: Tony Bosowski
Its: Authorized Agent

ATTEST:

By: _____
Name: Margaret Wimberly
Its: City Clerk

By: _____

Name: _____

Its: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Name: Katherine Wisinski
Its: City Attorney

EXHIBIT A

Legal Description

LEGAL DESCRIPTION

Real property in the City of Brentwood, County of Contra Costa, State of California, described as follows:

Parcel A:

Parcel 1:

Portion of Lot 237, as shown on the map of "SUBDIVISION NO. SIX, BRENTWOOD IRRIGATED FARMS AMENDED", filed August 4, 1920, in [Book 17 of Maps, Page 373](#), Contra Costa County records, described as follows:

Beginning on the East line of said Lot 237, distant thereon South 586.7 feet from the Northeast corner thereof; thence from said point of beginning South, along said East line, 1003.6 feet to the South line of said Lot 237; thence along said South line as follows: South 86° 10' West, 67.6 feet; North 71° 30' West, 266.1 feet; North 53° 30' West, 347.2 feet and North 84° 30' West, 13.68 feet to the Southwest corner of the parcel of land described in the deed from department of veterans affairs of the State of California to Francis M. Crawford, et ux, recorded December 12, 1949, in [Book 1474 of official records of Contra Costa County, Page 300](#); thence North along the West line of said Crawford Parcel (1474 or 300), 715.86 feet; thence East 612.52 feet to the point of beginning.

Excepting from Parcel One:

That portion thereof granted in the deed to Contra Costa County Flood Control & Water Conservation District, recorded November 30, 1965, [Book 5003, official records, Page 611](#).

Also Excepting therefrom all rights to any and all minerals, gas, and hydrocarbons located at least five hundred feet (500') below the surface of the property without any right of surface entry or right to use any portion of the surface of said property as reserved in a grant deed recorded may 1, 2024 as Instrument no. [2024-0041145](#), Contra Costa County official records.

Parcel 2:

A non-exclusive right of way 6.00 feet in width, for an irrigation ditch, the center line of which is described as follows:

Beginning at a point on the North line of the above described Parcel 1, which bears East 3.00 feet along said North line from the Northwest corner of said Parcel 1; thence from said point of beginning, North 654.69 feet to a point on the south line of subdivision road-h- as shown on said map of Subdivision No. 6 of Brentwood Irrigated Farms amended.

Parcel B:

Parcel 1:

Parcel B, as shown on the Parcel map filed November 7, 1979, in [Book 82 of Parcel Maps, Page 33](#), Contra Costa County records.

Excepting therefrom one-half of all oil, gas, minerals and other hydrocarbon substances lying below a depth of 550 feet without, however, the right of surface entry, along with an undivided one-half interest in that certain lease dated December 1, 1959, by and between Thomas Milan, a single man, lessor, and Shell Oil Company, a Corporation, lessee, recorded March 10, 1960, in [Book 3573, Page 157](#), official records.

Also Excepting therefrom all rights to any and all minerals, gas, and hydrocarbons located at least five hundred feet (500') below the surface of the property without any right of surface entry or right to use any portion of the surface of said property as reserved in a grant deed recorded may 1, 2024 as Instrument no. [2024-0041145](#), Contra Costa County official records.

Parcel 2:

An easement as an appurtenance to Parcel 1 above created in the deed from Thomas Milan, to Vincent T. Darone, et ux, dated November 18, 1971, and recorded December 3, 1971, in [Book 6533, Page 341](#), Contra Costa County records, as follows:

"An easement (not to be exclusive) as an appurtenance to the remaining lands of the grantor 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 conduits to carry said lines over those portions of said parcel a, designated "area dedicated to Contra Costa County for roadway purposes" as shown on said Parcel Map." .

Parcel 3:

An easement as an appurtenance to Parcel 1 above created in the deed to Vincent T. Darone, et ux, recorded June 10, 1981, in [Book 10360, Page 534](#), official records, as follows:

"A right of way (not to be exclusive) as an appurtenance to Parcel "B" as shown on the Parcel map filed November 7, 1979, in [Book 82 of Parcel Maps, Page 33](#), Contra Costa County records, 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 television, telephone, electric light and power lines, together with the necessary poles or conduits to carry said lines over the "proposed private access and utility easement to Crawford," as shown on the record of survey, filed March 18, 1981, in [Book 68 of licensed surveyor's Maps, Page 26](#), Contra Costa County records.

APN: 019-092-013 (Parcel A) and 019-092-034 (Parcel B)

EXHIBIT B

Schedule of Construction
(and Location of Restricted Units)

Schedule of Construction (Phase)
(and Location of Restricted Units)

Lot	Bedrooms	Affordability level	Project Phase (12 total)
61	3	Very Low	1
60	4	Moderate	1
27	3	Low	7
28	4	Low	7
16	3	Moderate	9
15	4	Very Low	9

LOT	LOT AREA (SQ FT)	PLAN	RESIDENT SQ FT	EST. GARAGE
1	4,000	1	1,000	100
2	4,000	2	1,000	100
3	4,000	3	1,000	100
4	4,000	4	1,000	100
5	4,000	5	1,000	100
6	4,000	6	1,000	100
7	4,000	7	1,000	100
8	4,000	8	1,000	100
9	4,000	9	1,000	100
10	4,000	10	1,000	100
11	4,000	11	1,000	100
12	4,000	12	1,000	100
13	4,000	13	1,000	100
14	4,000	14	1,000	100
15	4,000	15	1,000	100
16	4,000	16	1,000	100
17	4,000	17	1,000	100
18	4,000	18	1,000	100
19	4,000	19	1,000	100
20	4,000	20	1,000	100
21	4,000	21	1,000	100
22	4,000	22	1,000	100
23	4,000	23	1,000	100
24	4,000	24	1,000	100
25	4,000	25	1,000	100
26	4,000	26	1,000	100
27	4,000	27	1,000	100
28	4,000	28	1,000	100
29	4,000	29	1,000	100
30	4,000	30	1,000	100
31	4,000	31	1,000	100
32	4,000	32	1,000	100
33	4,000	33	1,000	100
34	4,000	34	1,000	100
35	4,000	35	1,000	100
36	4,000	36	1,000	100
37	4,000	37	1,000	100
38	4,000	38	1,000	100
39	4,000	39	1,000	100
40	4,000	40	1,000	100
41	4,000	41	1,000	100
42	4,000	42	1,000	100
43	4,000	43	1,000	100
44	4,000	44	1,000	100
45	4,000	45	1,000	100
46	4,000	46	1,000	100
47	4,000	47	1,000	100
48	4,000	48	1,000	100
49	4,000	49	1,000	100
50	4,000	50	1,000	100

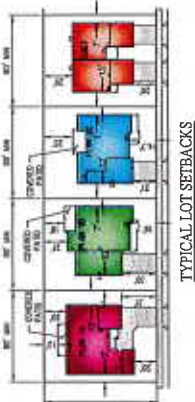
CONTINUED: SEE OTHER SHEETS FOR UNIT SPACES AND GARAGES

SUBDIVISION 9610
PRELIMINARY
DEVELOPMENT PLAN
TRUMARK TRAILSIDE

CITY OF EBERTWOOD CONTRA COSTA COUNTY CALIFORNIA
 SCALE: 1" = 30' DATE: MARCH 2023

cbg
 CIVIL ENGINEERING • SURVEYING • PLANNING

1875 HILL STREET
 OAKLAND, CA 94612
 (415) 763-4444
 WWW.CBG-CA.COM



- LEGEND**
- (M) MODEL HOME SITE
 - (MP) MODEL HOME PARKING LOT
 - TOP OF SLOPE
 - TOP OF SLOPE
 - FWD. WINGLINE
 - RETAINING WALL



PARKING COUNT

UNITS	224
BI-SERVICES SPACES (MINIMUM PARKING AVAILABILITY)	144
TOTAL	424

* 7 PARKING SPACES PER 600

ELEVATION QUANTITY

PLAN	A	B	C	TOTAL
PLAN 1 (1 STORY)	1	5	6	12
PLAN 2 (2 STORY)	2	7	5	14
PLAN 3 (2 STORY)	3	3	7	10
PLAN 4 (2 STORY)	4	1	1	3
PLAN 5 (2 STORY)	5	22	29	51
TOTAL	12	35	38	85

PLAN MIX

PLAN	TOTAL	%
PLAN 1 (1 STORY)	12	14.1
PLAN 2 (2 STORY)	14	16.5
PLAN 3 (2 STORY)	10	11.8
PLAN 4 (2 STORY)	3	3.5
PLAN 5 (2 STORY)	51	60.1
TOTAL	85	100.0

- PURSUANT TO PD-15**
- A MINIMUM OF ONE OF LOTS SHALL HAVE ONE- OR TWO-UNIT GARAGES (IN ACCORDANCE WITH SECTION 15.02.01).
 - A MINIMUM OF ONE OF LOTS SHALL HAVE SINGLE-OR-DUAL UNIT (2 CAR) GARAGES.
 - CONCRETE SHALL BE USED FOR ALL DRIVEWAYS AND SIDEWALKS.
 - CONCRETE SHALL BE USED FOR ALL DRIVEWAYS AND SIDEWALKS.

* Affordable units in "Orange"

EXHIBIT C

Refinance and Resale Limitation Agreement and Option to Purchase

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Brentwood
150 City Park Way
Brentwood, California 94513
Attn: Housing Division

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

**REFINANCE AND RESALE LIMITATION AGREEMENT
AND OPTION TO PURCHASE**

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

RECITALS

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

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

1. Principal Residence. Owner shall occupy the Restricted Unit as his or her principal and legal residence. Upon request by the City, the Owner shall submit an affidavit to the City certifying that the Restricted Unit is the Owner's principal and legal residence.
2. Documentation. Concurrently with execution of this Agreement, Owner shall execute a Disclosure Statement in the form of Attachment 2, attached hereto, and shall execute an acknowledge a Deed of Trust securing its obligations under this Agreement in the form of Attachment 3, attached hereto. The Deed of Trust shall be recorded in the Official Records of Contra Costa County. City may execute and record a Request for Notice of Default in the form attached hereto as Attachment 4.
3. Debt and Refinance Limitations. Without the City's prior written consent, Owner shall not obtain or refinance any loan in connection with the Restricted Unit (a "Loan") that causes Owner's indebtedness (i.e. the total amount borrowed by Owner) in connection with the Restricted Unit to exceed the Affordable Housing Cost (as defined in Section 5(a) below).
4. Submission of Loan or Refinance Information to City. Not less than forty-five (45) days prior to obtaining or refinancing a Loan that requires City's approval, Owner shall submit to City a copy of the proposed loan's terms together with any and all other information reasonably requested by City, including without limitation a copy of the loan application and Good Faith Estimate. Within fifteen (15) business days from receipt of the information, City shall render a decision. If City does not approve the Loan, City shall so notify Owner in writing within such fifteen (15) business days, stating the basis for its determination in reasonable detail.
5. Resale Limitations. Except as otherwise provided in this Agreement during the Term (as defined in section 18 below), the Restricted Unit shall only be sold to an Eligible Household approved by City in accordance with the terms of the Agreement, the City Inclusionary Housing Requirements and the City's Affordable Housing Program for an amount that does not exceed the Affordable Housing Cost. As used in this Agreement:
 - a. "Affordable Housing Cost" shall be as defined in Health and Safety Code Section 50052.5 or any successor statute thereto. If the statute is no longer in effect and no successor statute is enacted, the City shall establish the Affordable Housing Cost for purposes of this Agreement. For purposes of determining the Affordable Housing Cost: (i) the purchase price for a 2 bedroom Restricted Unit shall be established using the assumption that the Eligible Household purchasing the Unit is comprised of three persons; (ii) the purchase price for a 3 bedroom Restricted Unit shall be established using the assumption that the Eligible Household purchasing the Unit is comprised of four persons; and (iii) the purchase price for a 4 bedroom Restricted Unit shall be established using the assumption that the Eligible Household purchasing the Unit is comprised of five persons.
 - b. "Eligible Household" shall mean and include a person or household (i) whose annual gross income does not exceed 50% (Very Low Income) / 80% (Low Income) / 110% (Moderate Income) of the Median Income, as defined

below (which percentage shall be adjusted as provided in Title 25, Section 6932 of California Code of Regulations); and (ii) who meets the definition of a First Time Homebuyer.

- c. "First Time Homebuyer" shall mean and include a person or household, no member of which has had any of the following interests in real property in his or her primary residence in the three years preceding the date of purchase of the Unit: fee simple, joint tenancy, tenancy in common, life estate, shareholder in a cooperative or interest held in trust that would continue on to ownership if held.
- d. "Median Income" shall mean the area-wide median gross yearly income in Contra Costa County, adjusted for household size, as established from time to time by the U.S. Department of Housing and Urban Development ("HUD"), or, by the California Department of Housing and Community Development ("HCD") if HUD ceases to establish such income standards. In the event that neither HUD nor HCD are establishing such income standards, the City shall provide Owner with income standards which are determined in a manner reasonably similar to the methods of calculation previously used by HUD or HCD.

6. Submission of Resale Information to City. Not less than forty-five (45) days prior to any proposed sale or other transfer of the Restricted Unit during the Term, Owner shall submit to City: (a) a Notice of Intent to Transfer in the form attached hereto as Attachment 5, (b) a copy of the written agreement of purchase and sale, (c) the prospective purchaser's/transferee's income certification, evidence of the purchaser's/transferee's status as an Eligible Household, a list of all assets owned by the prospective purchaser/transferee and any information reasonably necessary to enable City to determine compliance with the terms of this Agreement, in a form reasonably approved by the City, and (d) the income certification to be provided to any lender making a loan on the Restricted Unit. City may require documentation reasonably evidencing and supporting the income and other financial information contained in the certifications, including the prospective purchaser's/transferee's income most recent income tax return. Within thirty (30) calendar days from receipt of the documentation, City shall render a decision of eligibility or noneligibility. If the prospective purchaser/transferee qualifies as an Eligible Household, the purchase price of the Restricted Unit is within the definition of Affordable Housing Cost and the sale or transfer complies with the City Inclusionary Housing Requirements, the City shall so certify in writing within such thirty (30) calendar days, and upon request shall execute a certificate, in recordable form, confirming that the proposed transaction complies with the requirements of this Agreement. If the prospective purchaser/transferee does not qualify as an Eligible Household, the purchase price of the Restricted Unit is not within the definition of Affordable Housing Cost or the sale or transfer does not comply with the City Inclusionary Housing Requirements, the City shall so notify Owner in writing, within such thirty (30) calendar days, stating the basis for its determination in reasonable detail and Owner shall not sell the Restricted Unit to such non-Eligible Household.

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

Restricted Unit at an Affordable Housing Cost, Owner shall have the right, but not the obligation, to give the City written notice of such circumstances (the "Option Notice"). However, the Owner shall not sell the Restricted Unit for a price that exceeds the Affordable Housing Cost or to a non-Eligible Household without first giving the City an Option Notice so that the City has the opportunity to exercise the option granted by this Section 10.

b. Option. In the event Owner gives City an Option Notice or Owner is in default under Section 16 below, the City may purchase the Restricted Unit at a price equal to the lesser of (i) the fair market value of the Restricted Unit (as determined by agreement of the parties or in the absence of an agreement, by an appraisal acceptable to the City), or (ii) the Affordable Housing Cost, using the maximum housing cost for the Eligible Household, as adjusted for the applicable unit size as defined in Health and Safety Code Section 50052 or any successor thereto. This option shall be exercised by the City giving the Owner notice, no later than forty-five (45) days following City's receipt of the Option Notice or Owner's Default, of the City's intent to purchase the Restricted Unit (the "Exercise Notice"). The City may designate another governmental entity, a nonprofit organization or an Eligible Household to purchase the Restricted Unit. If City or its designee does not exercise the option to purchase the Restricted Unit, then the terms of Section 12 below shall apply.

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

a. Close of Escrow. Close of escrow shall occur no later than one hundred twenty (120) days following the receipt by Owner of the Exercise Notice. If escrow is required to close on a Saturday, Sunday or Holiday, it shall close on the next business day following the Saturday, Sunday or Holiday.

b. Prorations and Costs. All title insurance premiums, transfer taxes and escrow fees shall be paid according to customary practice in Contra Costa County.

c. Escrow Instructions. The parties shall execute all escrow instructions which the Escrow Holder reasonably requires within fifteen (15) days after the request thereof. All escrow instructions shall be consistent with the provisions of this Agreement.

d. Proceeds of Escrow; Removal of Exceptions to Title. Owner shall convey the Restricted Unit to City free and clear of all liens other than the lien for current, unpaid, non-delinquent taxes. All amounts deposited into escrow by City shall be applied first to the payment of liens recorded against the Restricted Unit in order of lien priority, and thereafter to the Owner's share of escrow fees and closing costs. The balance of the Option purchase price remaining after payment of liens and Owner's share of escrow fees and closing costs, if any, shall be paid to Owner upon the close of escrow.

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

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

16. Defaults and Remedies.

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

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

To City:

Housing Manager
City of Brentwood
150 City Park Way
Brentwood, CA 94513

To Owner:

At the address set forth in Recital A.

18. Duration. The covenants set forth herein shall be covenants running with the land and shall inure to the benefit of the City and its successors and assigns, and shall be enforceable by the City, the City of Brentwood or their successors and assigns, without regard to whether the City is or remains an owner of any land or interest to which such covenants relate, until the date that is 45 years after the date this Agreement is recorded

(the "Term"). The parties agree that for the Term of this Agreement, all future deeds or transfers of interest shall show or reference the applicable restrictions of this Agreement. Upon expiration of the Term, City shall provide Owner with a quitclaim, release or other instrument, in recordable form, sufficient to confirm the release the Restricted Unit from the effect of this Agreement.

19. Amendment. This Agreement may be amended only in a writing signed by City and the Owner.
20. No Impairment of Lien. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument.
21. Successors and Assigns. The covenants contained in this Agreement shall inure to the benefit of the City and its successors and assigns and shall be binding upon Owner and any successor in interest to the Restricted Unit. Provided that Owner has complied with all terms of this Agreement, upon the transfer by Owner of all of its interest in the Restricted Unit, such Owner shall automatically be released from and have no further obligations or liabilities under this Agreement and all references in this Agreement to Owner thereafter shall mean and refer to such successor in interest of a prior Owner as may then be the owner of the Restricted Unit. The covenants shall run in favor of the City and its successors and assigns for the entire period during which such covenants shall be in force and effect, without regard to whether the City is or remains an owner of any land or interest therein to which such covenants relate. The City, and its successors and assigns, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings, to enforce the curing of such breach.
22. No Third Party Beneficiaries. Notwithstanding anything in this Agreement to the contrary, there are no third party beneficiaries of this Agreement.
23. California Law. This Agreement shall be construed in accordance with and be governed by the laws of the State of California.
24. Severability. Should any provision of this Agreement be found invalid or unenforceable by a court or other body of competent jurisdiction, said invalidity, unenforceability or ineffectiveness shall not affect the validity of the remaining provisions which shall remain in force to the maximum extent possible.
25. Subordination. The terms and provisions of this Agreement, except Section 13 herein, are subject and subordinate to the terms of the deed(s) of trust made to **Principle Lender**, the primary lender(s) (the "Senior Deed(s) of Trust"). The terms and provisions of Section 13 shall remain senior to the Senior Deed(s) of Trust until the earlier of (a) the date on which a lender(s) under the Senior Deed(s) of Trust take title to the Restricted Unit upon foreclosure or by a deed in lieu of foreclosure of the Senior Deed(s) of Trust, (b) the date on which the Proceeds are paid to the City as provided in Section 13, or (c) the expiration of this Agreement. Upon the earlier of subsections (a),

(b) or (c) above, all of the terms and provisions of this Agreement shall be of no further force and effect. Therefore, any lender under a Senior Deed of Trust that takes title to the Restricted Unit upon foreclosure or by a deed in lieu of foreclosure of the Senior Deed(s) of Trust will take title free and clear of the terms and provisions of this Agreement.

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

CITY:
Date: _____ THE CITY OF BRENTWOOD
By: _____
Name: _____
Its: City Manager

ATTEST:
By: _____
City Clerk

APPROVED AS TO FORM:
By: _____
City Attorney

OWNER:
Date: _____
By: _____
Name: _____

FOR REVIEW ONLY

SIGNATURES MUST BE NOTARIZED

STATE OF CALIFORNIA)
) ss
COUNTY OF _____)

On _____, 20____, before me, _____,
notary public, personally appeared _____,

() personally known to me, or
() proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged
to me that _____ executed the same in _____ authorized capacity(ies), and that by
_____ signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

STATE OF CALIFORNIA)
) ss
COUNTY OF _____)

On _____, 20____, before me, _____,
notary public, personally appeared _____,

() personally known to me, or
() proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged
to me that _____ executed the same in _____ authorized capacity(ies), and that by
_____ signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

STATE OF CALIFORNIA)
) ss
COUNTY OF _____)

On _____, 20____, before me, _____,
notary public, personally appeared _____,

() personally known to me, or

() proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged
to me that _____ executed the same in _____ authorized capacity(ies), and that by
_____ signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

FOR REVIEW ONLY

ATTACHMENT 1

Legal Description of Restricted Unit

[to be inserted]

FOR REVIEW ONLY

ATTACHMENT 2

DISCLOSURE STATEMENT

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

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

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

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

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

DO NOT SIGN

Owner

DO NOT SIGN

Owner

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

City Housing Manager

ATTACHMENT 3

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Brentwood
150 City Park Way
Brentwood, California 94513
Attn: City Clerk

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

DEED OF TRUST AND SECURITY AGREEMENT

APN: [to be inserted]

THIS DEED OF TRUST AND SECURITY AGREEMENT ("Deed of Trust") is made this _____ day of _____, 20____, among _____ ("Trustor"), whose address is _____, _____ ("Trustee"), whose address is _____, and the City of Brentwood ("Beneficiary"), whose address is 150 City Park Way, Brentwood, California 94513.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TRUSTOR:

By: _____

Name: **DO NOT SIGN** _____

By: _____

Name: **DO NOT SIGN** _____

FOR REVIEW ONLY

Exhibit A

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

[insert legal description]

FOR REVIEW ONLY

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20____, before me, _____,
notary public, personally appeared _____,

- () personally known to me
- () proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacity(ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal:

Signature _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20____, before me, _____,
notary public, personally appeared _____,

- () personally known to me
- () proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacity(ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal:

Signature _____

ATTACHMENT 4

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Brentwood
150 City Park Way
Brentwood, California 94513
Attn: City Clerk

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

REQUEST FOR NOTICE UNDER SECTION 2924B CIVIL CODE

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

_____ executed by _____, as Trustor, in which _____ is named as Beneficiary, and _____, as Trustee, be mailed to the City of Brentwood, 150 City Park Way, Brentwood, California 94513, Attn: _____

By: _____
Name: _____

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

FOR REVIEW ONLY

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20____, before me, _____,
notary public, personally appeared _____,

- () personally known to me
- () proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacity(ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal:

Signature _____

FOR REVIEW ONLY

ATTACHMENT 5

Notice of Intent to Transfer

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

To: City of Brentwood
150 City Park Way
Brentwood, CA 94513
Attn: Housing Manager

Date: _____

Re: Notice of Intent to Transfer

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

Owner's daytime telephone number is () _____

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

Name: _____
Address: _____
Telephone: _____

The proposed transfer is (check one):

- Sale
- Other

Specify: _____

Owner(s) signature(s):

DO NOT SIGN

DO NOT SIGN

FOR REVIEW ONLY