

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 to households of lower or moderate incomes.

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 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% x \$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% x \$75,000); therefore Owner will owe the County a total Recapture Amount of \$53,847.50 (calculated as \$50,000 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, LOWER, AND VERY LOW 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