



## AGENDA REPORT

**Meeting Date:** October 5, 2010  
**Item Number:** E-2  
**To:** Honorable Mayor & City Council  
**From:** City Attorney  
**Subject:** Resolution of the Council of the City of Beverly Hills Approving Amendment No. 2 to the Employment Agreement Between Jeff Kolin and the City of Beverly Hills and Approving Form Housing Loan Documents  
**Attachments:**

1. Resolution
2. Amendment
3. Secured Promissory Note, Deed of Trust, and Closing/Escrow Instructions

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### **RECOMMENDATION**

If the City Council wishes to provide housing assistance to the City Manager in the form of a low interest loan, then the City Attorney's office recommends adoption of the attached resolution approving: (1) Amendment No. 2 to the City Manager's employment agreement, and (2) a promissory note, deed of trust and closing/escrow instructions in substantially for the form presented; and authorizing the Mayor to execute the same once they have been completed to the satisfaction of the City Attorney.

### **INTRODUCTION**

Housing assistance for City executives has become increasingly common in recent years in those communities where housing prices make it difficult for executives to relocate into the community or the immediately surrounding area. For example, both Santa Monica and Culver City have hired city managers in the past year and both communities offered housing assistance as part of the compensation package to the city manager. Jeff Kolin, the Beverly Hills City Manager, currently rents a home owned by the City. Additionally, Mr. Kolin's employment agreement provides that "if Employee elects to purchase housing within a reasonable distance of the City, Employer and Employee will discuss potential housing assistance opportunities." The City Manager has indicated that he wishes to purchase housing in Beverly Hills or the surrounding area and has requested housing assistance in the form of a low interest loan from the City of Beverly Hills.

### **DISCUSSION**

Attached for the City Council's consideration are a proposed amendment to the City Manager's employment agreement and form documents to provide the City Manager with housing assistance in the form of a low interest loan.

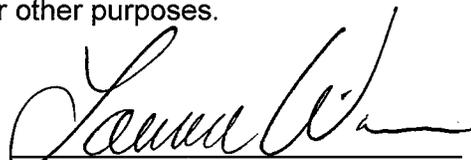
In summary, the amendment and the loan documents provide that a loan would be made to the City Manager and his spouse that would be used to pay all or part of the purchase price for a home in the City of Beverly Hills or surrounding area. The maximum loan amount would be One Million Six Hundred Thousand Dollars (\$1,600,000.00). The loan would be secured by a first priority deed of trust on the home. The loan would mature upon the earliest of: (i) twelve months after the City Manager's employment by the City ends for any reason; (ii) thirty (30) years from the date of the purchase and loan; or (iii) the sale of the home. The loan would bear simple interest at the rate of three percent (3%) per annum during the first ten years, and three and one quarter percent (3.25%) per annum thereafter. Monthly payments of all accrued interest and a small portion of principal (one quarter of one percent of the initial principal divided by twelve) will be made during the first ten years. Thereafter, the monthly payments will be in an amount necessary to repay all principal and all interest over twenty (20) years in equal monthly installments. The home must serve as the City Manager's residence during the term of the loan.

The City Council is also being asked to approve form loan documents at this time so that the loan documents may be completed and executed quickly if Mr. Kolin wishes to purchase a home. The attached resolution provides that the City Council approves the form loan documents and authorizes the Mayor to execute the documents in substantially the form presented after they have been completed to the satisfaction of the City Attorney.

#### **FISCAL IMPACT**

The proposed loan would earn interest at the rate of three percent per annum during the first ten years and the rate of three and one quarter percent per annum thereafter. This interest rate currently exceeds the rate of return that the City receives on its investments in the Local Agency Investment Fund.

Additionally, while the City will devote capital to this loan, if the City Manager purchases a home, he will vacate the home currently owned by the City on LaPeer Drive. The City will then be free to dispose of this asset or use it for other purposes.

  
Laurence S. Wiener, City Attorney

# **Attachment 1**

RESOLUTION NO. 10-R-

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING AMENDMENT NO. 2 TO THE EMPLOYMENT AGREEMENT BETWEEN JEFF KOLIN AND THE CITY OF BEVERLY HILLS AND APPROVING FORM HOUSING LOAN DOCUMENTS

The City Council of the City of Beverly Hills does resolve as follows:

Section 1. That certain Amendment No. 2 to the Employment Agreement between Jeff Kolin and the City of Beverly Hills dated \_\_\_\_\_ and identified as Contract No. \_\_\_\_\_ (“Amendment No. 2”) is hereby approved.

Section 2. The Mayor is hereby authorized to execute Amendment No. 2, and shall also be authorized to execute the promissory note, deed of trust, and closing escrow instructions in substantially the form presented to the City Council at its meeting of October 5, 2010, once they have been completed to the satisfaction of the City Attorney.

Section 3. The City Attorney is hereby directed to complete the promissory note, deed of trust and escrow instructions as necessary to implement Amendment No. 2 and to obtain an appraisal for review by the Mayor before execution of these documents.

Section 4. The City Clerk shall furnish a copy of said Amendment No. 2, along with a copy of this resolution, to: Jeffrey Kolin, 455 North Rexford Drive, Beverly Hills, California 90210.

Section 5. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of this City.

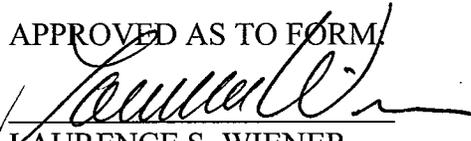
Adopted:

\_\_\_\_\_  
JIMMY DELSHAD  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

# **Attachment 2**

**AMENDMENT NO. 2 TO THE EMPLOYMENT AGREEMENT BETWEEN  
JEFF KOLIN AND THE CITY OF BEVERLY HILLS**

This Amendment No. 2 is to that certain Employment Agreement between Jeff Kolin (“Employee”), an individual, and the City of Beverly Hills (“Employer” or “City”), a municipal corporation, dated November 17, 2009 and identified as Contract No. 440-09, as amended by Amendment No. 1, dated January 12, 2010 and identified as Contract No. 13-10.

**RECITALS**

A. Employer and Employee entered into the Agreement on November 17, 2009.

B. Employer and Employee entered into Amendment No. 1 to the Agreement on January 12, 2010. Amendment No. 1 advanced the start date of the Agreement by five days and allowed Employee to participate in the City’s newly adopted cafeteria plan.

C. Section 16 of the Agreement currently provides that “[i]n the future, if Employee elects to purchase housing within a reasonable distance of the City, Employer and Employee will discuss potential housing assistance opportunities.”

D. Employee wishes to purchase housing in or near Beverly Hills and Employer wishes to provide assistance to Employee in the form of a loan.

NOW, THEREFORE, the parties agree as follows:

Section 1. Paragraph C of Section 16 of the Agreement is hereby amended to read as follows:

“C. In the future, if Employee elects to purchase housing within a ten (10) mile radius of Beverly Hills City Hall, the City will provide a loan to Employee, in a form satisfactory to and approved by the City Council, and on the basic terms set forth in this paragraph. The loan would be made to the City Manager and his spouse and would be used to pay all or part of the purchase price for a home in which Employee will reside that is located within a radius of ten (10) miles from Beverly Hills City Hall. The maximum loan amount would be the lesser of: (i) One Million Six Hundred Thousand Dollars (\$1,600,000.00); or (ii) the appraised value of the home determined by an appraisal satisfactory to the City and obtained at the City’s cost. The loan would be secured by a first priority deed of trust on the home, as shown by lender’s title insurance issued to the City at the closing of the purchase and loan. The loan would mature upon the earliest of: (i) twelve months after the City Manager’s employment by the City ends for any reason; (ii) thirty (30) years from the date of the purchase and loan; or (iii) the sale of the home. The loan would bear simple interest at the rate of three percent (3%) per annum during the first ten years, and three and one quarter percent (3.25%) per annum thereafter. Monthly payments of all accrued interest and a portion of principal (specifically, one quarter of one percent of the initial principal divided

by twelve) will be made during the first ten years. Thereafter, the monthly payments will be in an amount necessary to repay all outstanding principal and interest over twenty (20) years in equal monthly installments.”

Section 2. Except as otherwise specifically provided in this Agreement, the provisions of the Agreement, as amended by Amendment No. 1, shall remain in full force and effect.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date and year first written above.

EMPLOYEE

\_\_\_\_\_  
JEFF KOLIN

CITY

\_\_\_\_\_  
JIMMY DELSHAD  
Mayor of the City of  
Beverly Hills, California

ATTEST:

\_\_\_\_\_(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

# **Attachment 3**

**SECURED PROMISSORY NOTE**

\_\_\_\_\_, 20\_\_

Beverly Hills, California

**1. BORROWER'S PROMISE TO PAY; SECURITY**

Jeffrey Kolin and Patricia Kolin (collectively, "Borrower") hereby promise to pay \_\_\_\_\_ Dollars (\$\_\_\_\_\_) [MUST NOT EXCEED \$1,600,000], (the "Principal"), plus interest, to the order of the CITY OF BEVERLY HILLS, a municipal corporation (the "Lender"). The Lender may transfer this Secured Promissory Note (the "Note"). The Lender or anyone who takes this Note by transfer is called the "Note Holder."

The Borrower's obligations under this Note are secured by a Deed of Trust and Fixture Filing executed by Borrower, as trustor, in favor of Lender, as beneficiary (the "Deed of Trust") dated substantially concurrently herewith encumbering the property more particularly described in said Deed of Trust (the "Home") purchased with proceeds of the loan evidenced by this Note.

**2. INTEREST**

Outstanding principal shall bear simple interest at the rate of three percent (3%) per annum during the first ten (10) years after the date of this Note. Thereafter, outstanding principal shall bear simple interest at the rate of three and one quarter percent (3.25%).

**3. MATURITY DATE; PAYMENTS**

(A) Maturity Date.

All principal and accrued interest shall become due and payable on the earlier of: (i) the date that is one (1) calendar year after the conclusion for any reason of \_\_\_\_\_'s employment by Lender; (ii) \_\_\_\_\_, 20\_\_ [30 YEARS]; or (iii) the sale of the home (the "Maturity Date").

(B) Payments.

(i) While Jeffrey Kolin is employed by Lender, the Borrower will make all payments under this Secured Promissory Note (the "Note") in the form of automatic payroll deductions on a payroll schedule, as designated by Lender. The automatic payroll deductions shall begin on \_\_\_\_\_, 20\_\_ and shall be in an amount equal to the sum of all interest accrued during the preceding calendar month and \$\_\_\_\_\_ [.25% x INITIAL PRINCIPAL AMOUNT, DIVIDED BY 12] until the tenth anniversary of the date of this Note, at which time the monthly payment shall increase to an amount sufficient to pay all principal and interest over twenty (20) years in equal monthly installments.

(ii) If, for any reason, Jeffrey Kolin is on unpaid leave, is no longer employed by Lender, or is otherwise not regularly receiving payments through the payroll system in a manner that allows for automatic deduction as described above, then the Borrower will make monthly payments on the first business day of each calendar month.

(iii) Each payment will be applied to interest before principal. Payments will be made to the Lender at the Cashier's Office, Administrative Services Department, 455 NORTH REXFORD DRIVE, BEVERLY HILLS, CALIFORNIA 90210, or at a different place if required in writing by the Note Holder.

**4. BORROWER'S RIGHT TO PREPAY**

The Borrower may make payments of all or any portion of the Principal at any time before they are due (a "Prepayment") without additional charge. Borrower will notify the Note Holder in writing of any Prepayment, but may not designate a payment as a Prepayment if any payments then due under the Note are past due.

The Note Holder will use Prepayments to reduce the amount of Principal owed under this Note. If a partial Prepayment is made after the tenth anniversary of the date of this Note, there will be no changes in the due date or in the amount of the monthly payment unless the Note Holder agrees in writing to those changes.

**5. USURY SAVINGS CLAUSE**

If a law which applies to this Note and which sets maximum loan charges is interpreted so that the interest or other loan charges collected or to be collected in connection with this Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected which exceed permitted limits will be refunded. The Note Holder may choose to make this refund by reducing the Principal owed under this Note or by making a direct payment to the Borrower. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

**6. BORROWER'S FAILURE TO PAY AS REQUIRED**

(A) Late Charge for Overdue Payments

Subject to Note Holder's compliance with California Civil Code Section 2954.5, as amended or restated from time to time, if the Note Holder has not received the full amount of any payment due under Section 3(B)(ii) within ten (10) calendar days after the date it is due, the Note Holder may require the Borrower to pay a late charge to the Note Holder. The amount of the charge will be three percent (3%) of the overdue payment of principal and interest, and the Borrower must pay the late charge within ten (10) days after written demand.

(B) Default

If the Borrower does not pay the full amount of each payment within ten (10) days after the date it is due, or fails to comply with the deed of trust securing this Note or any other document executed in connection with the loan evidenced by this Note, the Borrower will be in default, provided, however, that failure to pay accrued interest and outstanding principal on the Maturity Date shall also be a default.

(C) Notice of Default

Upon a default by the Borrower, the Note Holder may send the Borrower a written notice informing the Borrower that failure to pay the overdue amount by a certain date or failure to cure any other applicable default (which will be described in the notice) may result in the Note Holder requiring the Borrower to pay immediately the full amount of Principal which has not been paid and all the interest the Borrower owed on that amount. That date must be at least fifteen (15) days after the date on which the notice is mailed or delivered by other means; provided, however, that this paragraph shall not apply to sums due on the Maturity Date.

(D) No Waiver By Note Holder

Even if, at a time when the Borrower is in default, the Note Holder does not require the Borrower to pay immediately in full as described above, the Note Holder will still have the right to do so if the Borrower is in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required the Borrower to pay immediately in full as described above, the Note Holder will have the right to be paid by the Borrower for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

**7. GIVING OF NOTICES**

Any notice that must be given to the Borrower under this Note will be given by delivering it personally, or by mailing it by first class mail to the Borrower to the Home (or to a different address if the Borrower gives the Note Holder written notice of a different address to be used under this Note).

Notices shall be deemed delivered (i) if delivered by personal delivery, then upon personal delivery; or (ii) if delivered by mail, then three (3) business days after deposit in the U.S. mail, addressed as set forth above.

**8. SECURED NONRECOURSE LOAN**

Notwithstanding anything to the contrary in this Note, the Deed of Trust or any other document relating to the Loan, Note Holder's recourse for repayment of the sums owed under this Note or under the Deed of Trust or any other document relating to the Loan shall be limited to the collateral described in the Deed of Trust and in no event shall the Note Holder seek or obtain a deficiency judgment against the Borrower except in the event of a material misrepresentation by Borrower.

**9. WAIVERS**

The Borrower and any other person who has obligations under this Note hereby waive the rights of "presentment" and "notice of dishonor". "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

**10. OWNER-OCCUPANCY COVENANT**

Except for vacations, illness requiring hospitalization, and periods of construction of or in the Home and other periods during which Jeffrey Kolin cannot reside in the Home as a result of events outside of the control of Borrower, Jeffrey Kolin shall continuously reside in the Home. In the event that Jeffrey Kolin fails to continuously reside in the Home (except for such events), Note Holder may accelerate the sums outstanding under this Note by giving Borrower written notice of acceleration which shall provide a period of not less than 30 days from the date the Notice is given within which Borrower must pay all sums outstanding under this Note.

**BORROWER:**

\_\_\_\_\_  
PRINT NAME: \_\_\_\_\_

\_\_\_\_\_  
PRINT NAME: \_\_\_\_\_

Recording Requested By,  
And After Recording Return To:

CITY OF BEVERLY HILLS  
455 NORTH REXFORD DRIVE  
BEVERLY HILLS, CALIFORNIA 90210

Attn: \_\_\_\_\_

APN: \_\_\_\_\_

\_\_\_\_\_ [Space Above This Line For Recording Data] \_\_\_\_\_

### **DEED OF TRUST AND FIXTURE FILING**

#### **CERTAIN DEFINITIONS**

(A) "Security Instrument" means this Deed of Trust and Fixture Filing, which is dated for reference purposes as of \_\_\_\_\_, 20\_\_.

(B) "Borrower" means, collectively, Jeffrey Kolin and Patricia Kolin; Borrower is the trustor under this Security Instrument.

(C) "Lender" is the CITY OF BEVERLY HILLS, a municipal corporation organized under the laws of the State of California. Lender's address is 455 NORTH REXFORD DRIVE, BEVERLY HILLS, CALIFORNIA 90210. Lender is the beneficiary under this Security Instrument.

(D) The "Trustee" under this Security Instrument is the City of Beverly Hills, a municipal corporation organized under the laws of the State of California.

(E) "Note" means that certain secured Promissory Note signed by Borrower and dated \_\_\_\_\_, 20\_\_. The Note states that Borrower owes Lender \_\_\_\_\_ AND 00/100 Dollars (U.S. \$ \_\_\_\_\_), plus interest as described in the Note. Borrower has promised to pay this debt in full not later than the earliest of: (i) one year after Jeffrey Kolin's employment by the Lender ends for any reason; (ii) \_\_\_\_\_, 20\_\_ or (iii) the sale of the Property (as defined below).

(F) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(G) "Applicable Law" means all applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders as well as all applicable final, non-appealable judicial opinions.

(H) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(I) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(J) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(K) "Periodic Payment" means the regularly scheduled amount due for principal and/or interest under the Note.

(L) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

#### **SECURED OBLIGATIONS; GRANT OF LIEN**

This Security Instrument secures to Lender: (i) the repayment of the loan evidenced by the Note (the "Loan"), and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note.

For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property:

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TOGETHER WITH all the improvements now or hereafter erected on said property, all goods which due or are to become fixtures on said property or improvements (including any and all goods purchased by Borrower with Loan proceeds as part of repairs, alterations, renovations or replacements relating to the Property or the improvements), all right, title and interest of Borrower in, under or to any condominium association or homeowners association or similar organization and all easements, appurtenances, and fixtures now or hereafter a part of said property, and all rents and profits from the Property, and all other rights that Borrower may have with respect to, or relating to, such property or improvements.

All of the foregoing is collectively referred to in this Security Instrument as the "Property."

## COVENANTS

1. Payment of Principal, Interest, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any late charges due under the Note.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the Note. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current within the period permitted by the Note. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. All payments accepted and applied by Lender shall be applied in the following order of priority: (a) late charges (if any); (b) the interest portion of each periodic payment due under the Note; (c) the principal portion of each Periodic Payment due under the Note; (d) other principal under the Note; (e) accrued interest (including Additional Interest). Such payments shall be applied to each Periodic Payment in the order in which it became due. Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments (unless approved by the Lender).

3. Fixture Filing. This Security Instrument also constitutes a fixture filing to be recorded in the real property records of the County of Los Angeles.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, and Community Association Dues, Fees, and Assessments, if any. Borrower shall promptly discharge or cause to be released by bonding or otherwise any lien which has priority over this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien; within 30 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

5. Insurance. Borrower shall maintain the hazard/casualty insurance described in the Hazard Insurance Authorization & Requirements form executed and delivered by Trustor and flood hazard insurance if the Home is located in a special flood hazard area and insurance is available under the National Flood Insurance Act of 1968, or its successor. A special flood hazard area shall mean land in a flood plain having at least a one percent chance of flooding in any given year, as designated by the Director of the Federal Emergency Management Authority

("FEMA") or its successor. However, in the case of a condominium, such hazard/casualty insurance and flood insurance may be the insurance required by the applicable condominium association. The City shall be named as loss payee on the policy. The Borrower(s) will be responsible for maintaining this insurance during the term of the Loan. The Borrower(s) will provide proof of insurance to the City upon request.

If Borrower fails to maintain any required insurance, and does not cure the failure within thirty (30) days after written notice from Lender, then the Lender may obtain such insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that, based on market insurance conditions, the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument and the City may deduct reimbursement from the paycheck of any person who is a Borrower as defined in this Deed of Trust and an employee of Lender. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

Lender shall have the right to copies of the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Subject to the foregoing, Lender shall disburse proceeds for the repairs and restoration in a series of progress payments as the work is completed subject to reasonable construction loan disbursement conditions, including confirmation by inspection that the work to be paid for has been properly completed. Lender shall not be required to pay interest on such proceeds provided however that any interest paid to Lender on such proceeds shall become part of the proceeds and applied as part of the proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds may, at the election of Lender, be applied to the sums secured by this

Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Borrower shall also maintain, repair and improve the Property in accordance with Applicable Law. Borrower may not make improvements that decrease the value of the Property. Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage, provided that if insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released such proceeds for such purposes; however, if the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower shall nevertheless be obligated to promptly commence and diligently complete such repair or restoration. Lender or its agent may make reasonable entries upon and inspections of the Property. If Lender has reasonable cause, Lender may inspect the interior of the improvements on the Property; Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

7. Material Misrepresentations. Borrower shall be in default if Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

8. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform any of the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might adversely affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting

and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section. Any amounts disbursed by Lender under this Section shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the rate of ten percent per annum from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

9. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender. If the Property is damaged, Miscellaneous Proceeds shall be applied to restoration or repair of the Property as described in Section 5, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Subject to the foregoing, Lender shall pay for the repairs and restoration in a series of progress payments as the work is completed. Lender shall not be required to pay Borrower any interest on such Miscellaneous Proceeds provided, however, that any interest actually paid to Lender on such proceeds shall become part of the Miscellaneous Proceeds and shall be applied as provided herein. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

10. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

11. Nonrecourse; Successors and Assigns. Notwithstanding anything to the contrary in this Deed of Trust, the Note or any other document relating to the loan evidenced by the Note, Lender's only recourse against Borrower for performance of the obligations of Borrower under this Security Instrument shall be limited to the Property and in no event shall Lender seek or obtain a deficiency judgment against Borrower except in the event of a material misrepresentation by the Borrower in the loan application materials. Subject to the provisions of Section 15, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing, but Borrower's and such successors in interest's liability shall be subject to the preceding sentence. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender.

12. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing and shall be given in accordance with the Note.

13. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

14. Due on Sale. If all or any part of the Property or any interest in the Property is sold or transferred without Lender's prior written consent, all sums outstanding under the Note shall become due and payable without notice.

15. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 14.

16. Hazardous Substances. As used in this Section 20: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do or (to the extent within the Borrower's reasonable control) permit anyone else to do anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower

has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

17. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 14). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided herein, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Trustee shall cause this notice to be recorded in each county in which any part of the Property is located. Lender or Trustee shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the other persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser a Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

18. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee

shall reconvey the Property without warranty to the person or persons legally entitled to it. Lender may charge such person or persons a reasonable fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law. If the fee charged does not exceed the fee set by Applicable Law, the fee is conclusively presumed to be reasonable.

19. Substitute Trustee. Lender, at its option, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the office of the Recorder of the county in which the Property is located. The instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page where this Security Instrument is recorded and the name and address of the successor trustee. Without conveyance of the Property, the successor trustee shall succeed to all the title, powers and duties conferred upon the Trustee herein and by Applicable Law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.

20. Statement of Obligation Fee. Lender may collect a fee not to exceed the maximum amount permitted by Applicable Law for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California.

\_\_\_\_\_  
PRINT NAME: \_\_\_\_\_

\_\_\_\_\_  
PRINT NAME: \_\_\_\_\_

State of California )  
County of Los Angeles )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(insert name and title of the officer)

Notary Public, personally appeared \_\_\_\_\_,  
who 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.

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 Los Angeles )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(insert name and title of the officer)

Notary Public, personally appeared \_\_\_\_\_,  
who 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.

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)

Lender: CITY OF BEVERLY HILLS

Borrower(s): \_\_\_\_\_

Property Address: \_\_\_\_\_, \_\_\_\_\_, CALIFORNIA \_\_\_\_\_

**HAZARD INSURANCE DISCLOSURE**

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Pursuant to California Civil Code § 2955.5

NO LENDER SHALL REQUIRE A BORROWER, AS A CONDITION OF RECEIVING OR MAINTAINING A LOAN SECURED BY REAL PROPERTY, TO PROVIDE HAZARD INSURANCE COVERAGE AGAINST RISKS TO THE IMPROVEMENTS ON THAT REAL PROPERTY IN AN AMOUNT EXCEEDING THE REPLACEMENT VALUE OF THE IMPROVEMENTS ON THE PROPERTY.

THIS DISCLOSURE IS NEITHER A CONTRACT NOR A COMMITMENT TO LEND.

By signing below, I hereby acknowledge receipt of a true copy of this disclosure.

\_\_\_\_\_  
Date: \_\_\_\_\_, 20\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_, 20\_\_  
Print Name: \_\_\_\_\_

**HAZARD INSURANCE AUTHORIZATION & REQUIREMENTS**

Date: \_\_\_\_\_, 200\_\_

Escrow Number: \_\_\_\_\_

Escrow Company: \_\_\_\_\_

Lender: CITY OF BEVERLY HILLS

Borrower's Name(s): \_\_\_\_\_

Property Address: \_\_\_\_\_, \_\_\_\_\_, CALIFORNIA \_\_\_\_\_

Listed below are Lender's policies and procedures, and minimum requirements, for the Hazard Insurance which must be provided covering the subject property. If the property is a condominium, than the casualty insurance required by the applicable condominium insurance will satisfy Lender's casualty insurance requirements.

1. Coverage must be in an amount at least equal to the replacement value of improvements on the property.
2. The insurance company providing coverage must have an "A" rating or better in the latest edition of "Best's Insurance Guide," must be licensed to do business in the State in which the property is located, and must be licensed to transact the lines of insurance required in this transaction.
3. Policy shall provide at least "Broad Form" coverage on properties of one to four units, and at least "Vandalism & Malicious Mischief" on properties with over four units, with no deviation. Homeowners policies must provide coverage equal to "HO2" form.
4. Policies must contain deductibles on any peril of NOT MORE THAN \$1,000.00.
5. Policy must provide coverage for a term of at least one year. Premiums may be paid on an annual installment basis only if the policy provides that the lender will be notified in writing of cancellation 30 days prior to expiration of coverage, for any cause. Binders are not acceptable.
6. If any existing policy is provided which will expire within six (6) months from the date of the recording of the deed of trust for the loan, said policy must be renewed for the required term as noted in paragraph 5 above.
7. All forms and endorsements pertaining to the Lender's requirements must appear on the "Declaration Page" of policy.
8. New policies must be accompanied by a signed "Broker of Record Authorization" if borrower(s) has/have changed Insurance Agents.
9. Verification of renewal of insurance policies (such as certificates of insurance for the renewals) must be in Lender's office at least thirty days prior to the expiration date of the policy. If this requirement is not met, LENDER AND ITS SUCCESSORS OR ASSIGNS MAY AT THEIR OPTION, BUT WITHOUT THE OBLIGATION TO DO SO, PROVIDE COVERAGE TO REPLACE ANY EXPIRING POLICIES WHICH HAVE NOT BEEN PROPERLY RENEWED. The premium for such coverage will be remitted promptly b the undersigned, or Lender may charge borrower's account for the cost thereof.

10. Lender's loss Payable Endorsement 438 BFU to be affixed to policy in favor of:

CITY OF BEVERLY HILLS  
ITS SUCCESSORS AND/OR ASSIGNS  
455 NORTH REXFORD DRIVE  
BEVERLY HILLS, CALIFORNIA 90210

11. The property address and the insured's names must be designated on the policy exactly as on the ALTA Title Policy or CLTA Title Policy (whichever is issued).
12. The effective date of new policies, endorsements, and/or assignments shall be as of, or prior to, the date of recording of this loan.
13. Please notify your agent to forward future premium notices directly to you.

AN ACCEPTABLE POLICY, WITH ENDORSEMENTS AND/OR ASSIGNMENTS (OR INSURANCE CERTIFICATION) MUST BE FORWARDED TO AND RECEIVED BY LENDER BEFORE THIS LOAN CAN BE FUNDED; OTHERWISE, LENDER MAY BE FORCED TO PLACE INTERIM COVERAGE ON THE PROPERTY AT AN ADDITIONAL COST TO THE BORROWER(S).

Each of the undersigned acknowledges that he or she has read and understands the foregoing provisions and insurance requirements. This authorization will remain irrevocable for the undersigned as owner(s) of the subject property, and or any assignees, for as long as this loan remains on the subject property.

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**CALIFORNIA PER DIEM INTEREST DISCLOSURE**

Lender: CITY OF BEVERLY HILLS

Borrower(s): \_\_\_\_\_

Property Address: \_\_\_\_\_, \_\_\_\_\_, CALIFORNIA \_\_\_\_\_

In this disclosure, the terms "I," "me," "my" and "mine" refer to the above-named Borrower(s), and the terms "you" and "your" refer to the above-named Lender.

I understand and acknowledge that pursuant to applicable California law:

1. I may not be required to pay interest on my loan for any period that meets any of the following requirements:
  - (a) Is more than one day prior to the date that the loan proceeds are disbursed from escrow;
  - (b) In the event of no escrow, if a request for recording is made in connection with the disbursement, if more than one day prior to the date the loan proceeds are disbursed to me, to a third party on my behalf, or to the Lender to satisfy an existing obligation of mine; or
  - (c) In all other circumstances where there is no escrow and no request for recording, if prior to the date funds are disbursed to me, to a third party on my behalf of the Borrower, or to the Lender to satisfy an existing obligation of mine.
  
2. Notwithstanding the foregoing, interest may commence to accrue on the business day immediate preceding the day of disbursement, for obligations described in subparagraphs (a) and (b) of paragraph 1 above, if both of the following occur:
  - (a) I affirmatively request, and you agree, that the disbursement will occur on Monday or a day immediately following a bank holiday; and
  - (b) The following information is disclosed to me in writing:
    - i. the amount of additional per diem interest charged to facilitate disbursement on Monday or the day following a holiday, as the case may be, and
    - ii. that it may be possible to avoid the additional per diem interest charge by disbursing the loan proceeds on a day immediately following a business day.

My choice is indicated below:

- Please arrange for the disbursement of the loan proceeds on a day immediately following a business day.
- Please arrange for the disbursement of the loan proceeds on \_\_\_\_\_, \_\_\_\_\_, a date that is either a Monday or a day immediately following a bank holiday, in the amount needed from me in order to close escrow per the draft settlement statement prepared by the escrow. I understand that in order to accommodate disbursement on that date, I will be charged, and I agree to pay, interest for \_\_\_\_\_ at the rate described in the loan documents on the sums disbursed. I also understand that it may be possible to avoid this additional per diem interest charge by disbursing the loan proceeds on a day immediately following a business day.

By signing below, I acknowledge that I have received and read this disclosure prior to the time funds are placed in escrow. This disclosure is neither a contract nor a commitment to lend.

\_\_\_\_\_  
Date: \_\_\_\_\_, 20\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_, 20\_\_  
Print Name: \_\_\_\_\_

**LENDER'S ESCROWCLOSING INSTRUCTIONS**

\_\_\_\_\_, 20\_\_

**VIA FACSIMILE TO \_\_\_\_\_ (ESCROW)**  
**AND \_\_\_\_\_ (TITLE), AND VIA**  
**FEDERAL EXPRESS**

\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_, Escrow Officer

\_\_\_\_\_ Title Company

\_\_\_\_\_

Attn: \_\_\_\_\_, Title Officer

Re: Escrow No. \_\_\_\_\_ ; Order No. \_\_\_\_\_

Ladies and Gentlemen:

This letter constitutes the escrow/closing instructions of the CITY OF BEVERLY HILLS, a municipal corporation ("**Lender**") in connection with a \$ \_\_\_\_\_ loan (the "**Loan**") that Lender is making to \_\_\_\_\_ (collectively, "**Borrower**"), to be secured by the residence (the "**Property**") described in the title report prepared by \_\_\_\_\_ Title Company under Order Number \_\_\_\_\_.

1. **LOAN DOCUMENTS.** In connection with the Loan, we have enclosed , or you will receive from the Borrower, a Deed of Trust and Fixture Filing dated in \_\_\_\_\_ 20\_ , executed and acknowledged by the Borrower (the "**Deed of Trust**").

2. **FUNDS.** Lender shall wire transfer to you, pursuant to the wire transfer instructions set forth below, Loan funds in the amount of \$ \_\_\_\_\_ (the "**Loan Funds**").

Bank \_\_\_\_\_  
Branch \_\_\_\_\_

Account Number \_\_\_\_\_  
ABA/Routing Number \_\_\_\_\_

Credit To \_\_\_\_\_  
Attention: \_\_\_\_\_ (\_\_\_\_ Escrow No. \_\_\_\_\_)

3. **CLOSING INSTRUCTIONS.** Provided that all of the conditions set forth in Section 4 have been satisfied, you shall record the Deed of Trust in the Official Records of Los Angeles

County, California (the “**Official Records**”); thereafter, you shall disburse the Lender Funds in accordance with the Settlement Statement approved by the Borrower.

4. CONDITIONS PRECEDENT TO CLOSING. You are hereby authorized to record the Deed of Trust in the Official Records when and only when:

- 4.1 You have in your possession the Deed of Trust (fully executed and acknowledged and in recordable form);
- 4.2 You have received the Loan Funds;
- 4.3 You have prepared and delivered to Borrower and Lender a preliminary settlement statement describing all of the costs and expenses related to the Loan and the purchase of the Property by the Borrower (the “**Settlement Statement**”) (such fees, costs and expenses to be paid with loan proceeds, by Borrower or with Lender’s own funds), and you have received Lender’s and Borrower’s written approval thereof.
- 4.4 \_\_\_\_\_ Title Insurance Company is irrevocably committed to issue to Lender an American Land Title Association Loan Policy in the amount of \$ \_\_\_\_\_ insuring that the Deed of Trust encumbers the fee interest in the Property as of the date of recordation of the Deed of Trust in the form of the pro-forma title policy and endorsements attached hereto as “Exhibit A” (collectively, the “**Title Policy**”); and

5. OTHER MATTERS.

- 5.1 You shall deliver to the undersigned: (a) a conformed copy of each of the recorded Deed of Trust within five (5) days after the closing, and (b) one (1) original and one (1) copy of the Title Policy within ten (10) days after the closing.
- 5.2 If you cannot comply with all of the foregoing by \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, you are not authorized to record the Deed of Trust in the Official Records; in such event, you shall call the undersigned at \_\_\_\_\_ without delay.
- 5.3 These instructions may be changed or revoked at any time by oral instructions from the undersigned, to be followed by written confirmation.
- 5.4 Your recordation of the Deed of Trust in the Official Records or use, application or delivery of any Loan Funds shall be deemed your acceptance of these instructions and your irrevocable agreement to comply therewith; however, we request that you sign and return (via facsimile) a copy of this letter indicating your

\_\_\_\_\_ Escrow  
\_\_\_\_\_ Title Company  
\_\_\_\_\_, 20\_\_  
Page 3

acceptance of and agreement to comply with all of the instructions set forth in this letter.

Very truly yours,

cc: Laurence S. Wiener, Esq.

\_\_\_\_\_ Escrow  
\_\_\_\_\_ Title Company  
\_\_\_\_\_, 20\_\_  
Page 4

**ESCROW ACKNOWLEDGMENT AND AGREEMENT**

The undersigned acknowledges and agrees that: (1) the persons executing this Acknowledgment and Agreement on behalf of \_\_\_\_\_ (“Escrow Company”) are duly authorized to do so; and (2) Escrow Company will otherwise act in strict accordance with the foregoing Escrow/Closing instructions.

\_\_\_\_\_ ESCROW

By: \_\_\_\_\_  
\_\_\_\_\_, Escrow Officer

Dated: \_\_\_\_\_, 20\_\_

**TITLE ACKNOWLEDGMENT AND AGREEMENT**

The undersigned acknowledges and agrees that: (1) the persons executing this Acknowledgment and Agreement on behalf of \_\_\_\_\_ (“Title Company”) are duly authorized to do so; (2) \_\_\_\_\_ Title Company is irrevocably committed to cause the Title Policy to be issued in the form required by the foregoing Escrow/Closing Instructions; and (3) Title Company will otherwise act in strict accordance with the foregoing Escrow/Closing instructions.

\_\_\_\_\_ TITLE COMPANY

By: \_\_\_\_\_  
\_\_\_\_\_, Title Officer

Dated: \_\_\_\_\_, 20\_\_

EXHIBIT A

PRO FORMA LENDER'S TITLE POLICY

(Attached.)