

EXHIBIT "E" TO EXHIBIT "D"

DEED OF TRUST WITH ASSIGNMENT OF RENTS

RECORDING REQUESTED BY AND RETURN TO:

Housing and Community Development
Attn: Affordable Housing Program
County of Santa Barbara
105 East Anapamu Street, Room 105
Santa Barbara, CA 93101-2062

NO FEE DOCUMENT PURSUANT TO
GOVERNMENT CODE SECTION 27383

APN: _____

**DEED OF TRUST WITH
ASSIGNMENT OF RENTS**

THIS DEED OF TRUST, ASSIGNMENT OF ("Deed of Trust") is made as of this _____ day of _____, 20__ by _____, ("Trustor"), to _____, as trustee ("Trustee"), for the benefit of the County of Santa Barbara, a public body corporate and politic ("Beneficiary").

GRANT IN TRUST

1. **GRANT.** Trustor, hereby irrevocably grants and conveys to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, all of Trustor's interest in the property located at _____ in an unincorporated area of Santa Barbara County, California, as more particularly described in Exhibit A, incorporated herein by this reference (the "Property"); the Property is a condominium unit in that certain common interest development commonly known as Hummel Village II.

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property; all buildings, structures, fixtures, improvements, signs, and landscaping now or hereafter erected or located on the Property, together with rents, issues and profits.

All of the foregoing, together with the Property, is herein referred to as the "Security."

OBLIGATIONS SECURED

2. OBLIGATIONS. Trustor makes this grant for the purpose of securing the following obligations:

A. That certain RESALE RESTRICTIVE COVENANT AND PREEMPTIVE RIGHT (“Covenant”) made by Trustor, to order of Beneficiary and extensions and renewals *thereof*; and

B. Payment of any sums advanced by Beneficiary to protect the security and priority of this Deed of Trust; and

C. Any liquidated damages accruing to Beneficiary under Covenant.

3. ENFORCEMENT. Upon the happening of a default under the Resale Restrictive Covenant recorded concurrently herewith on _____ as instrument number _____, Beneficiary may, in addition to OTHER rights and remedies permitted by the Covenant, this Deed of Trust, or applicable law: (a) enter upon, take possession of, and manage the Security, either in person as a mortgagee-in-possession, by agent, or by a receiver appointed by a court, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Security, (b) collect all Rents, including those past due and unpaid, and apply the same to pay for the costs and expenses of operation of the Security, including attorneys’ fees, and pay off any indebtedness secured by this Deed of Trust, all in such order as Beneficiary may determine.

4. APPOINTMENT OF A RECEIVER. In any action to enforce this assignment, Beneficiary may apply for the appointment of a receiver to take possession of the Security and take whatever measures are necessary to preserve and manage the Security for the benefit of Beneficiary and the public interest. Trustor hereby consents to the appointment of a receiver. The receiver shall have all of the authority over the Security that Beneficiary would have if Beneficiary took possession of the Security under this assignment as a mortgagee-in-possession, including the right to collect and apply Rents.

5. NO WAIVER OF POWER OF SALE. The entering upon and taking possession of the Security and the collection of Rents shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or notice of default and, notwithstanding the continuance in possession of the Security or the collection and application of Rents, Beneficiary shall be entitled to exercise every right provided for in this Deed of Trust or by law upon occurrence of any Event of Default, including the right to exercise the power of sale.

RIGHTS AND OBLIGATIONS OF TRUSTOR

6. PERFORMANCE OF SECURED OBLIGATION. Trustor shall promptly perform each obligation secured by this Deed of Trust in accordance with the Covenant.

7. FORECLOSURE BY INSTITUTIONAL LENDER. If the Security is foreclosed upon by an Institutional Lender which is the maker of a loan secured by a First Deed of Trust; and the

Security is transferred through a trustee's sale, judicial *foreclosure* or deed in *lieu of* foreclosure by an Institutional Lender on a First Deed of Trust, Trustor shall promptly pay to Beneficiary the amount of surplus to which Beneficiary is entitled pursuant to XII.B. of the Covenant.

8. MAINTENANCE OF THE SECURITY. The Declaration of Covenants, Conditions and Restrictions, ("CCRs") recorded against the Security in the Official Records of Santa Barbara County, California provides that the Owners' Association ("Association") shall among other things provide exterior maintenance and repair of all condominiums in the common interest development. To the extent that the Association is not obligated to, or does not, maintain the Security under the CCRs, trustor shall, at the Trustor's own expense, maintain and preserve the Security or cause the Security to be maintained and preserved in good condition, in good repair, and in a decent, safe, sanitary, habitable and tenantable condition. Trustor shall not cause or permit any violations of any laws, ordinances, regulations, covenants, conditions, restrictions, or equitable servitudes as they pertain to improvements, alterations, maintenance or demolition on the Security. Trustor shall not commit or permit waste on or to the Security. Trustor shall not abandon the Security. Beneficiary shall have no responsibility over maintenance of the Security.

9. LIENS, ENCUMBRANCES, AND CHARGES. Except for purchase money loans, Trustor shall discharge any lien or encumbrance not approved by Beneficiary in writing that may attain priority over *this* Deed of Trust.

10. DEFENSE AND NOTICE OF CLAIMS AND ACTIONS. Trustor shall appear in and defend, at its own expense, any action or proceeding purporting to affect the Security and/or the rights of Beneficiary. Trustor shall give Beneficiary and Trustee prompt notice in writing of the assertion of any claim, of the filing of any action or proceeding and of any condemnation offer or action with respect to the Security upon Trustor's receipt of notice thereof.

11. SUITS TO PROTECT THE SECURITY. Beneficiary shall have power to institute and maintain such suits and proceedings as it may deem expedient (a) to prevent any impairment of the Security or the rights of Beneficiary, (b) to preserve or protect its interest in the Security and in the Rents, and (c) to restrain the enforcement of or compliance with any governmental legislation, regulation, or order, if the enforcement of or compliance with such legislation, regulation, or order would impair the Security or be prejudicial to the interest of Beneficiary.

12. DAMAGE TO SECURITY. Trustor shall give Beneficiary and Trustee prompt notice in writing of any damage to the Security. Beneficiary acknowledges that Article _____ of the CCRs provides the mechanism by which a decision shall be made to repair or rebuild a damaged condominium unit and for payment of the expense of such rebuilding and repair.

13. TITLE. Trustor warrants that Trustor lawfully has legal title to the Security.

14. GRANTING OF EASEMENTS. Trustor may not grant easements, licenses, rights- of-way or other rights or privileges in the nature of easements **with** respect to the Security except those required or desirable for installation and maintenance of public utilities including water, gas, electricity, sewer, cable television, telephone, or those required by law. Beneficiary acknowledges that certain easements have been granted with respect to the Security to other condominium owners in the Project and to the Association.

15. TAXES AND LEVIES. Trustor shall pay prior to delinquency, all taxes, fees, assessments, charges and levies imposed by any public authority or utility company which are or may become a lien *affecting* the Security. However, Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as (a) the legality thereof shall be promptly and actively contested in good faith and by appropriate proceedings, and (b) Trustor maintains reserves adequate to pay any contested liabilities. In the event that Trustor fails to pay any of the foregoing items, Beneficiary may, but shall be under no obligation to, pay the same, after Beneficiary has notified Trustor of such failure to pay and Trustor fails to fully pay such items within seven business days after receipt of such notice. *Any* amount so advanced by Beneficiary, together with interest thereon from the date of such advance at the same rate of interest as specified in the Note (unless payment of such an interest rate would be contrary to applicable law, in which event such sums shall bear interest at the highest rate then allowed by applicable law), shall become an additional obligation of Trustor to Beneficiary and shall be secured by this Deed of Trust.

16. CONDEMNATION. Subject to the rights of any senior lienholders, all judgments, awards of damages, settlements and compensation made in connection with or in lieu of taking all or any part of or interest in the Security under assertion of the power of eminent domain ("Funds") distributed to Trustor pursuant to Article _____ of the CCRs are hereby assigned to and shall be paid to Beneficiary. Beneficiary is authorized (but not required) to collect and receive any Funds and is authorized to apply them in whole or in part upon any indebtedness or obligation secured hereby, in such order and manner as Beneficiary shall determine at its sole option. All or any part of the amounts so collected and recovered by Beneficiary may be released to Trustor upon such conditions as Beneficiary may impose for its disposition. Application of all or any part of the Funds collected and received by Beneficiary or the release thereof shall not cure or waive any default under this Deed of Trust.

Notwithstanding anything to the contrary set forth herein, Beneficiary shall, prior to the application of the Funds or any portion thereof to the indebtedness or other obligations, apply such portion of the funds as is reasonable and necessary to repair and preserve the value, marketability and rentability of the Security.

17. ACCELERATION ON TRANSFER OF SECURITY; ASSUMPTION. In the event that Trustor, without the prior written consent of the Beneficiary, sells, agrees to sell, transfers, or conveys its interest in the Security or any part thereof or interest therein, Beneficiary may at its option declare all sums secured by this Deed of Trust to be immediately due and payable.

18. RECONVEYANCE BY TRUSTEE. This trust is intended to continue for the entire term of the Covenant. At the end of the term of the Covenant, upon written request of Beneficiary and upon payment by Trustor of Trustee's reasonable fees, Trustee shall reconvey the Security to Trustor, or to the person or persons legally entitled thereto.

DEFAULT AND REMEDIES

19. EVENTS OF DEFAULT. A default of a material term of the Covenant shall also constitute an Event of Default under this Deed of Trust.

20. ACCELERATION OF MATURITY. Upon the happening of an Event of Default Beneficiary may declare this Deed of Trust immediately due and payable.

21. BENEFICIARY'S REMEDIES. Upon the happening of an Event of Default Beneficiary may proceed with any or all of the following remedies:

A. Declare any and all sums advanced by Beneficiary to protect the security and priority of this Deed of Trust immediately due and payable by Trustor;

B. Enforce the assignment of rents and right to possession as provided for in this Deed of Trust, and/or seek appointment of a receiver to take over possession of the Security and collect Rents;

C. Cure any Monetary Default secured by the Property and add the amount of such payment to the amount owing to beneficiary;

D. Commence an action to foreclose this Deed of Trust pursuant to California Code of Civil Procedure Section 725(a) *et seq.* as amended, and/or seek appointment of a receiver from a court of competent jurisdiction with the authority to protect Beneficiary's interests in the Security;

E. Deliver to Trustee a written declaration of Default and demand for sale, and a written Notice of Default and election to cause Trustor's interest in the Security to be sold and exercise its power of sale as provided for below; or

F. Pursue any other rights and remedies allowed at law or in equity.

22. FORECLOSURE BY POWER OF SALE. Should Beneficiary elect to foreclose by exercise of the power of sale contained in this Deed of Trust, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust, and such receipts and evidence of any expenditures made or of liquidated damages accruing in favor of Beneficiary under the Covenant that are additionally secured hereby as Trustee may require.

Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and Election to Sell as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Security, at the time and place of sale fixed by it in said Notice of Sale, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to the purchaser its deed or deeds conveying the property so sold, but without any covenant or warranty, express or

implied. The recitals in such deed of any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee, or Beneficiary, may purchase at the sale.

Trustee may postpone the sale of all or any portion of the property by public announcement at such time and place of sale, and from time to time thereafter, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new Notice of Sale.

23. APPLICATION OF SALE PROCEEDS. After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale as follows: first, to the payment of all sums then secured by this Deed of Trust, in such order and amounts as Beneficiary in its sole discretion determines; and second, the remainder, if any, to the person or persons legally entitled thereto.

24. REMEDIES CUMULATIVE. No right, power or remedy conferred upon or reserved to Beneficiary by this Deed of Trust is intended to be exclusive of any other rights, powers or remedies, but each such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

25. SUBORDINATION. The terms and conditions of this Deed of Trust are and shall be subordinate to the terms and conditions of the CCRs. In addition, the terms and conditions of this Deed of Trust are and shall be subordinate to the liens, rights, duties and obligations of an Institutional Lender which is the maker of a purchase money loan secured by a deed of trust recorded in first position or a loan for refinancing of the Property that has been approved by the County and that is secured by a deed of trust recorded in first position.

The provisions of this Deed of Trust shall not impair the rights of an Institutional Lender with a loan on the Property meeting the requirements set forth above, to:

1. Foreclose or take title to the Property pursuant to the remedies in the Institutional Lender's deed of trust; or
2. Accept a deed or assignment in lieu of foreclosure in the event of default by a trustor; or
3. Sell or lease the Property to any person at any price, subsequent to exercising its rights under the Institutional Lender's deed of trust.

GENERAL PROVISIONS

26. GOVERNING LAW. This Deed of Trust shall be interpreted under and governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

27. STATEMENT OF OBLIGATION. Beneficiary may collect a fee not to exceed the maximum allowable under applicable law for furnishing a statement of obligations as provided in the California Civil Code.

28. CONSENTS AND APPROVALS. Any consent or approval of Beneficiary required under this Deed of Trust shall not be unreasonably withheld.

29. TIME. Time is of the essence in this Deed of Trust.

30. NOTICES, DEMANDS AND COMMUNICATIONS. Formal notices, demands and communications between Trustor and Beneficiary shall be sufficiently given and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Trustor and Beneficiary as follows:

BENEFICIARY:

County of Santa Barbara
105 E. Anapamu Street
Room 105
Santa Barbara, CA 93101
Attn: Affordable Housing Program Manager

TRUSTOR:

31. BINDING UPON SUCCESSORS. All provisions of this Deed of Trust shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of Trustor, Trustee, and Beneficiary.

32. WAIVER. Any waiver by Beneficiary of any obligation of Trustor in this Deed of Trust must be in writing. No waiver will be implied from any delay or failure by Beneficiary to take action on any breach or default of Trustor or to pursue any remedy allowed under the Deed of Trust or applicable law. Any extension of time granted to Trustor to perform any obligation under this Deed of Trust shall not operate as a waiver or release Trustor from any of its obligations under this Deed of Trust. Consent by Beneficiary to any act or omission by Trustor shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for Beneficiary's written consent to future waivers.

33. AMENDMENTS AND MODIFICATIONS. Any amendments or modifications to this Deed of Trust must be in writing, and shall be made only if mutually agreed upon by Beneficiary and Trustor.

34. PROOFS OF CLAIM. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, recomposition or other proceedings affecting Trustor, its creditors or its property, Trustee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by Trustor hereunder after such date.

35. SEVERABILITY. Every provision of this Deed of Trust *is* intended to be severable. If any term or provision of this Deed of Trust is declared to be illegal, invalid, or unenforceable by a court of competent jurisdiction, the legality, validity, and enforceability of the remaining provisions shall not be affected.

36. SUBSTITUTION OF TRUSTEES. Beneficiary may from time to time appoint another trustee to act in the place and stead of Trustee or any successor. Upon such appointment and without conveyance, the successor trustee shall be vested with all title, powers, and duties conferred upon Trustee.

37. ACCEPTANCE BY TRUSTEE. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law, the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

TRUSTOR:

By: _____

By: _____

By: _____

(Signature(s) must be notarized)

[TRUSTOR'S SIGNATURE MUST BE ACKNOWLEDGED]

EXHIBIT A
LEGAL DESCRIPTION