

**AGREEMENT BETWEEN THE CITY OF LAGUNA BEACH
AND EMPLOYEE REGARDING HOUSING ASSISTANCE**

This Agreement is made and entered into on December 18, 2001 by and between the City of Laguna Beach (the "City") and John Pietig ("Employee").

Recitals

A. The City Council of the City of Laguna Beach has authorized the establishment of a housing assistance program for a small number of certain current and/or prospective qualified City employees to encourage their residence in the City.

B. A primary consideration for the housing assistance program is that the employee be responsible for the performance of essential services for the City, including but not limited to police, fire, marine safety and sewer services.

C. Employee, who recently has been appointed to the position of Assistant City Manager, is such an essential employee. He is on call to respond to serious emergencies at times outside normal business hours, and he is on this status for a substantial amount of his personal time. There is a great benefit to the community to have Employee reside as near as possible to the scene of possible future emergencies.

D. Employee has located and tentatively committed to purchase the residence at 3280 Rimcrest Circle, Laguna Beach (the "Subject Property") for the price of \$950,000.00 ("Purchase Price"). The City has determined that this sales price represents fair market value.

Agreement

In consideration of the foregoing, the City and Employee agree to participate in a housing assistance program in accordance with the following terms and conditions:

1. In the event that Employee determines to purchase the Subject Property for the Purchase Price, Employee and the City shall participate in the Purchase Price as follows:

a. Employee shall use his own funds or obtain a loan on terms acceptable to Employee, provided that under either circumstance or a combination thereof, Employee shall be responsible for the payment of \$550,000.00, which is equal to

57.89% of the Purchase Price. If Employee does obtain a loan in connection with the payment of his share of the Purchase Price of the Subject Property, such loan shall be referred to in this Agreement as the "Loan".

b. The City shall be responsible for the payment of \$400,000.00, which is equal to 42.11% of the Purchase Price.

c. Employee and the City shall equally share all closing costs related to the purchase of the Subject Property, including but not limited to any real estate broker's fee, title insurance and escrow fees. Notwithstanding the foregoing, Employee alone shall be responsible for any and all costs associated with the Loan.

d. The proportional ownership of the Subject Property shall be shown on the grant deed as a ratio of funds provided by Employee and the City toward the purchase. Thus, the grant deed to the Subject Property shall reflect that Employee (and his spouse, if the property is to be held in joint tenancy or as community property) owns an undivided 57.89% interest and the City owns an undivided 42.11% interest, each as a co-tenant.

e. Employee and the City shall cooperate in the preparation and execution of all title and documents necessary to conform the purchase of the Subject Property to the provisions of this Agreement. In addition, the City agrees to cooperate with Employee in the preparation and execution of documents related to the Loan, provided that in no event shall the City be liable for Employee's obligations as the borrower under the Loan. The grant deed shall reflect the terms and conditions of this Agreement, but this Agreement shall not be recorded by either party unless required in connection with the Loan.

2. Employee shall have an exclusive right to occupy the Subject Property during the term of this Agreement. The Subject Property shall be Employee's primary place of residence, and he continuously shall reside thereon during the term of this Agreement. Employee shall not commit waste, and shall maintain the residence, property improvements and land in good condition and repair and in accordance with all applicable laws during the term of this Agreement. Employee shall be solely responsible for all day-to-day maintenance and repair costs necessary to keep the Subject Property in good condition and repair. However, in the event of damage to the property or structure due to fire, earthquake, flood, or any other event beyond the Employee's control, the City and Employee shall share proportionately (based on the ownership percentages in Section 1(d)) the costs to rebuild and repair the Subject Property, including the shared payment of insurance deductibles or costs not covered by insurance. Employee also shall be solely responsible for all sewer, trash, water and utility charges and fees.

3. Except for the Loan, Employee shall not cause any lien or mortgage to be recorded against the Subject Property except as expressly authorized in writing by the City. The City shall not unreasonably withhold permission for refinancing or equity loans that do not impair the City's interest in the Subject Property, provided the City shall not incur any cost or expense in connection with any such refinancing or equity loans.

4. Employee and the City shall share all property taxes, homeowner association dues, and home insurance for the Subject Property in proportion to the percentages established in Section 1(d) above. Employee alone shall have the voting right with respect to the homeowner association. All policies of insurance shall name the City as an insured as long as the City maintains an interest in the Subject Property. All policies of insurance shall state the respective interests of the parties and provide that the proceeds of any such insurance shall be paid to the parties as their respective interests may appear.

5. The City shall provide an annual housing assistance payment to Employee for the portion of any federal and/or state income taxes that would be applicable to and associated with the value of the Subject Property attributed to the City's share of the equity. The precise amount of the payment shall be determined by the ratio established in Section 1(d) above of the rental value of the Subject Property. Neither this housing assistance payment nor the value of the City's equity interest in the Subject Property shall be considered compensation for purposes of the Public Employees' Retirement System.

6. Employee may, at his sole expense, make such capital improvements to the Subject Property as he deems beneficial to it. Employee shall keep an accurate record of the cost of all such improvements, and there shall be an adjustment of the parties' equity interests as set forth in Section 8(b) below.

7. There shall be a sale of the Subject Property on the happening of one of the following:

a. The passage of twenty-four (24) months following the termination of the City's employment of Employee, either voluntarily or involuntarily; provided, however, that if Employee retires from employment with the City, or dies during employment with the City, then the period for sale of the Subject Property shall be extended to ten (10) years following the date of retirement or death;

b. The passage of three (3) months after the Subject Property ceases to be Employee's primary place of residence as provided in Section 2 above; or

c. Upon mutual written agreement of the parties.

8. Unless otherwise provided for to the contrary in this Agreement, upon the sale of the Subject Property, the proceeds of the sale shall be divided between the parties as follows:

a. From the gross sales price, the costs of sale, including, but not limited to escrow fees, real estate broker's fees, and related expenses (collectively, "Transaction Costs") shall first be deducted;

b. Employee's equity share shall be adjusted as applicable by (i) adding the original cost of any capital improvements made by him (as provided in Section 6 above) to the dollar amount of his initial contribution towards the Purchase Price; (ii) subtracting any repair costs to repair the Subject Property (such that upon the sale the Subject Property is in good condition and repair, normal wear and tear excepted, and in accordance with all applicable laws as provided in Section 2 above); and (iii) dividing that amount by the total of his contributions and the City's contributions to come up with a percentage;

c. The City's equity share shall be calculated by deducting Employee's equity share determined in accordance with Subsection (b) above from 100%;

d. The net proceeds of the sale shall then be divided by the percentages calculated in the foregoing steps and paid to the respective parties.

9. If Employee determines to put the Subject Property up for sale, the City shall have the right to purchase Employee's interest rather than have the home sold and the proceeds divided as provided in Section 8 above. In order to determine the interests of the parties in the Subject Property at that time, the Subject Property will be appraised, at the City's expense, by a qualified real estate appraiser acceptable to both parties. If the parties are unable to agree on an appraiser, each party may hire and pay for its own appraiser. The value of the Subject Property will be the average of the two (2) appraisals. After the value of the Subject Property is determined, the City may purchase Employee's share of the home, which share shall be calculated using the formula set forth in Section 8 above, excluding Transaction Costs which shall be paid for solely by the City. The parties agree that no broker(s) will be involved in the event of a buyout as described in this Section 9.

10. At any time during the term of this Agreement Employee shall have the right to buy out the City at his sole option, without penalty. In order to determine the interests of the parties in the Subject Property at that time, the Subject Property will be appraised, at the Employee's sole expense, by a qualified real estate appraiser acceptable to both parties. If the parties are unable to agree on an appraiser, each party

may hire and pay for its own appraiser. The value of the Subject Property will be the average of the two (2) appraisals. After the value of the Subject Property is determined, Employee may purchase City's share of the home, which share shall be calculated using the formula set forth in Section 8 above, excluding Transaction Costs which shall be paid for solely by the Employee. The parties agree that no broker(s) will be involved in the event of a buyout as described in this Section 10.

11. Subject to Section 12 below, this Agreement shall remain in full force and effect until the Subject Property is sold to a third party, or either party purchases the other party's share in accordance with either Section 9 or 10 above; and upon the occurrence of the first of the foregoing, this Agreement shall automatically terminate.

12. Notwithstanding Section 11 above, Employee may, during the term of this Agreement and while employed by the City, elect to sell the Subject Property and purchase another home located in the City of Laguna Beach (the "New Subject Property"), provided the New Subject Property is not located on that portion of Laguna Beach located on El Toro Road known as Sycamore Hills. Upon Employee's election and the satisfaction of the provisions of this Section 12, the parties agree that Employee shall be entitled to a housing assistance program with the same terms of this Agreement, this Agreement will not terminate upon the sale of the Subject Property, and the parties will amend this Agreement to incorporate the New Subject Property and any new terms agreed to by both Employee and City. The following terms apply in connection with the New Subject Property and Employee's election provided for in this Section 12: (i) City's assistance with respect to the New Subject Property shall be limited to the lesser of \$400,000.00 or 50% of the purchase price for the New Subject Property; (ii) the proceeds of the sale of the Subject Property shall be divided in accordance with Section 8 above, except that Employee shall solely be responsible for the payment of all Transaction Costs, except for any brokerage commission(s), which shall be split based on the ownership percentages in Section 1(d) above; (iii) City shall have the right to disapprove the sale of the Subject Property and the purchase of the New Subject Property if the City's net proceeds from the sale of the Subject Property is less than \$400,000.00; and (iv) Employee shall be solely responsible for the payment of all Transaction Costs in connection with the purchase of the New Subject Property.

13. This Agreement is intended to and shall bind the parties, their successors, heirs and personal representatives, and is not assignable by either party without the express written consent of the other party.

14. The parties, and each of them, freely and voluntarily have entered into and executed this Agreement, and they warrant and represent they are not aware of any duress, fraud, coercion or undue influence which has caused them to enter into and execute this Agreement. The parties, and each of them, represent they have carefully read and fully understand all of the provisions of this Agreement.

15. The parties, and each of them, acknowledge that in entering into and executing this Agreement, and each of them, has had the opportunity to seek and receive independent legal advice as to their respective legal rights and they hereby certify that they have read this Agreement and fully understand all of its terms and contents.

16. This Agreement contains the entire agreement and understanding between the parties concerning the subject matter herein, and supersedes any and all prior or contemporaneous agreements or understandings between them. The parties, and each of them, declare and represent that no promise, representation or agreement not expressly contained in this Agreement has been made to them to induce them to execute this Agreement. This Agreement may only be modified or changed by a written agreement executed by both parties hereto.

17. The parties, and each of them, agree that this Agreement shall be governed by and interpreted under the laws of the State of California and shall be construed as if it were drafted by all parties.

18. In the event this Agreement or any part thereof should be held invalid, the City and Employee agree to discuss alternatives within the City's authority and discretion; however, Employee has no vested right to alternative compensation.

19. The parties agree that nothing in this Agreement shall alter the nature or characterization of Employee's employment with the City, nor shall this Agreement be construed as a guarantee of employment for any specific time period.

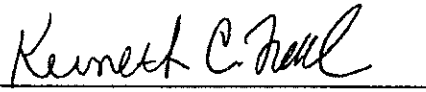
20. This Agreement shall become effective only upon the consent and agreement thereto by Employee's spouse, Peggy Pietig, and shall become null and void if such spouse shall refuse to execute any or all other documents deemed necessary by the City to consummate this transaction in its entirety. Peggy Pietig also agrees to execute all documents necessary to carry out this Agreement at all times during its term.

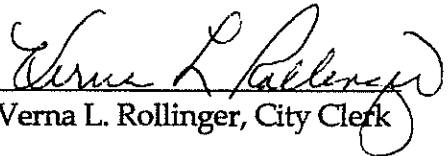
IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date first set forth above.

EMPLOYEE

CITY OF LAGUNA BEACH

By: 
John Pietig

By: 
Kenneth C. Frank, City Manager

ATTEST: 
Verna L. Rollinger, City Clerk

I agree and consent to each of the terms and conditions of the foregoing Agreement.

By: 
Peggy Pietig

RECORDING REQUESTED BY:
LAWYERS TITLE

AND WHEN RECDRDED MAIL TO:

John F. Pietig and Peggy E. Pietig et al.
3280 Rimcrest Circle
Laguna Beach, CA 92651

Order No.: 01-16943-94
Escrow No.: LB-11628-NB
A.P.N.: 641-501-08

Recorded in Official Records, County of Orange
Gary L. Granville, Clerk-Recorder



12.00

20010931994 04:30pm 12/20/01

104 42 G02 4

0.00 0.00 0.00 0.00 6.00 0.00 0.00 0.00

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S)
DOCUMENTARY TRANSFER TAX IS \$

CITY TRANSFER TAX IS \$

- computed on full value of property conveyed, or
- computed on full value less value of liens or encumbrances remaining at time of sale.
- unincorporated area City of Laguna Beach AND

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

ACDLT Partnership, a California General Partnership

hereby GRANT(S) to JOHN F. PIETIG and PEGGY E. PIETIG, Husband and Wife, as Community Property, with right of survivorship, as to an undivided 57.89% interest and the CITY OF LAGUNA BEACH, a California municipal corporation, as to an undivided 42.11% interest the following described real property in the County of Orange, State of California

Lot 17 of Tract No. 12300, in the City of Laguna Beach, County of Orange, State of California, as per map recorded in Book 626, Page(s) 1 to 5 of Miscellaneous Maps, in the office of the County Recorder of said County.

Dated: November 26, 2001

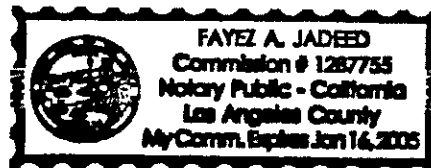
STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

] SS. ACDLT Partnership

On 12/19/2001 before me
FAYEZ A. JADEED
a Notary Public in and for said County and State, personally
appeared LUCY SY DY

By: Lucy S. Dy, Partner

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



WITNESS my hand and official seal.

Signature Fayez A. Jadeed
Signature of Notary
Commission Expiration Date: Jan, 16, 2005

(This area for official notarial seal)

MAIL TAX STATEMENTS TO: John F. Pietig and Peggy E. Pietig et al., 3280 Rimcrest Circle, Laguna Beach, CA 92651

01-16943-94

#01-09

THE UNDERSIGNED ACKNOWLEDGE THAT IT IS THEIR INTENT TO VEST TITLE TO THE PROPERTY AS COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP.

DATE: 12-19-01

John F. Pietig
JOHN F. PIETIG

Peggy E. Pietig
PEGGY E. PIETIG

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF Orange

On December 19, 2001 before me Verna L. Rollinger
a Notary Public in and for said County and State, personally appeared
John F. Pietig and Peggy E. Pietig

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

WITNESS my hand and official seal.
Verna L. Rollinger



Affix Notary Seal Here

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant Deed dated November 26, 2001, in which ACDLT Partnership, a California General Partnership, granted to the CITY OF LAGUNA BEACH, a California municipal corporation, the within described real property, is hereby accepted by the undersigned officer or agent on behalf of the City Council pursuant to authority conferred by Resolution No. 92.021, adopted by said City Council on February 18, 1992, and recorded on September 4, 1992, in Document #92-598920, Official Records of Orange County, California, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: December 19, 2001

(Seal)

By: *Terma L. Ralston*
City Clerk City of Laguna Beach, CA

GOVERNMENT CODE 27361.7

I certify under penalty of perjury that the notary seal on the document to which this statement is attached reads as follows:

Name of the Notary: *FAYEZ A. JADEED*

Date Commission Expires: *1-16-05*

County Where Bond is Filed: *Los Angeles*

Commission No.: *1287755* Manufacture/Vendor No.: *NNAI*

Place of Execution: *Irvine, CA.* Date: *12-20-01*

Signature

Curt J. Stapel for Lawyers Title