



# AGENDA

## Regular Meeting of the Hemet Housing Authority

City of Hemet

City Council Chamber

450 E. Latham Ave., Hemet, California 92543



### Notice Regarding Americans with Disabilities Act

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting or if you need agenda documents provided in an alternative format, please contact the City Clerk's Office at 756-2689 at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made (28CFR 35.102-35.104 ADA Title II)

**Tuesday, March 10, 2020 – 7:00 p.m. or as soon thereafter**

**CALL TO ORDER:** Chairperson Perciful

### 1. ROLL CALL:

Chairperson: Perciful  
Vice Chairperson: Wright  
Board Members: Brown, Krupa, Meyer

### 2. COMMUNICATIONS FROM THE PUBLIC

#### Welcome to a meeting of the Hemet Housing Authority

- Anyone who wishes to speak during public comment or on a particular item will be required to fill out a speaker slip. Speaker slips must be turned in to the Authority Secretary. Each request will cover one speaker. Those who wish to speak must submit their own request to be called on by the Chairperson.
- **There is a 3-minute-per-person time limit for all comments, including public or quasi-judicial hearings.**
- Written comments on any item may also be submitted to the Authority Secretary to be included in the meeting record; however, they will not be read aloud.
- All who wish to speak, including Council members and staff, need to be recognized by the Chairperson before speaking.
- Members of the public shall comply with the adopted Rules of Decorum, Resolution No. 4545. A copy of which can be requested through the Secretary Authority's Office.
- Please turn off or mute your **Cell Phone** while the meeting is in session

### 3. CONSENT CALENDAR

All Consent Calendar items will be acted upon by a single action of the Hemet Housing Authority unless otherwise requested by an individual Board Member for separate consideration.

**Item 3.A:**

**Approval of Minutes**

Minutes of the February 11, 2020 Regular Hemet Housing Authority Meeting.

**Recommendation:**

Approve by vote to Consent Calendar

**4. DISCUSSION ITEMS**

**Item 4.A:**

A **Resolution** Approving the First Amendment to Agreement Containing Covenants Affecting Real Property; 203 Prado Dr., Hemet, CA 92545

**Recommendation:**

Adopt a Resolution Approving the First Amendment to Agreement Containing Covenants Affecting Real Property: 203 Prado Dr., Hemet, CA 92545

**5. FUTURE AGENDA ITEMS**

If Members of the Authority have items for consideration at a future Housing Authority meeting, please state the agenda item to provide direction to the City Manager.

None.

**6. ADJOURNMENT**

**AFFIDAVIT OF POSTING**

I, Clay James, Deputy Authority Secretary for the Hemet Housing Authority, declare under penalty of perjury that the foregoing agenda for the March 10, 2020 meeting was posted on March 5, 2020 at City Hall, located at 445 E. Florida Ave, and Council Chamber at 450 E. Latham Ave., Hemet, CA as well as on the City's website.

\_\_\_\_\_  
Clay James, Deputy Secretary Authority

Time:

**Authority Agendas:** Agenda for Regular Meetings are available for public review on the City's website at cityofhemet.org and in the City Clerk's Office, 445 E. Florida Avenue typically by 4:00 p.m. on the Thursday prior to the meeting, but no later than 72 hours prior to the meeting. Agendas for Closed Sessions and other Special meetings are made available at least 72 hours prior to the meeting when possible, but no later than 24 hours prior to the meeting.

**Broadcasting:** Regular (televised) Housing Hemet Authority meetings are available for viewing 24/7 at cityofhemet.org

**Use of Equipment:** Please contact the City Clerk's Office if requesting to use the chamber equipment during public comment or as part of a scheduled presentation, 24 hours prior to the meeting at (951)756-2307.



# *Housing Authority Staff Report*

## *Agenda # 3.A*

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TO: Honorable Chairperson and Board Members of the Hemet Housing Authority

FROM: Christopher Lopez, City Manager  
Clay James, Deputy Authority Secretary

DATE: March 10, 2020

RE: Minutes of the February 11, 2020 Regular Hemet Housing Authority Meeting

### **RECOMMENDED ACTION:**

Approve by roll call vote to Consent Calendar.

### **BACKGROUND:**

Attached for your consideration are the minutes of the February 11, 2020 Regular Hemet Housing Authority Meeting.

### **FISCAL IMPACT:**

None

### **OPTIONS:**

1. Approve as submitted
2. Provide edits and approve

### **ATTACHMENTS:**

1. Minutes of February 11, 2020 Regular Hemet Housing Authority Meeting

Respectfully Submitted,

Clay James  
Deputy Authority Secretary



# MINUTES

## Regular Meeting of the Hemet Housing Authority

City of Hemet

City Council Chamber

450 E. Latham Ave., Hemet, California 92543



### Notice Regarding Americans with Disabilities Act

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting or if you need agenda documents provided in an alternative format, please contact the City Clerk's Office at 756-2689 at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made (28CFR 35.102-35.104 ADA Title II)

**Tuesday, February 11, 2020 – 7:00 p.m. or as soon thereafter**

The Board of the Hemet Housing Authority met this date in a Regular Session at 9:41 p.m. in the City Council Chamber, 450 E. Latham Avenue, Hemet, California with Chairperson Perciful presiding.

**CALL TO ORDER:** Chairperson Perciful

### 1. ROLL CALL:

**Deputy Authority Secretary James provided the Roll Call as follows:**

**Present:**

Chairperson: Perciful

Vice Chairperson: Wright

Board Members: Brown, Krupa, Meyer

**Staff Present:**

City Manager: Lopez

Authority Attorney: Vail

Authority Secretary: James

### 2. COMMUNICATIONS FROM THE PUBLIC

Chairperson Perciful asked for Public Comments; no one spoke.

### 3. CONSENT CALENDAR

All Consent Calendar items will be acted upon by a single action of the Hemet Housing Authority unless otherwise requested by an individual Board Member for separate consideration.

**Item 3.A:            Approval of Minutes**

Minutes of the December 10, 2019 Regular Hemet Housing Authority Meeting.

**Action:**                    Approve by vote to Consent Calendar

**Motion by Board Member Krupa, second by Vice Chairperson Wright to approve the Consent Calendar item.**

**AYES:            5    Board Members: Krupa, Meyer, Perciful, Wright, and Chairperson Perciful**

**NOES:            0**

### 4. DISCUSSION ITEMS

**Item 4.A:**            A **Resolution** Approving the First Amendment to Agreement Containing Covenants Affecting Real Property

**Recommendation:**            Adopt a Resolution Approving the First Amendment to Agreement Containing Covenants Affecting Real Property

**Item 4.A was continued to a future Hemet Housing Authority Meeting.**

### 5. FUTURE AGENDA ITEMS

If Members of the Authority have items for consideration at a future Housing Authority meeting, please state the agenda item to provide direction to the City Manager.

None.

### 6. ADJOURNMENT

**There being no further business, Chairperson Perciful adjourned the meeting at 9:43 p.m.**

APPROVAL:

ATTEST:

\_\_\_\_\_  
Chairperson Perciful

\_\_\_\_\_  
Clay James  
Deputy Authority Secretary





# Housing Authority Staff Report

## Agenda # 4.A

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TO: Honorable Chairperson and Board Members of the Hemet Housing Authority

FROM: Christopher Lopez, City Manager  
Tiffany Barnett, Accounting Manager

DATE: March 10, 2020

RE: A **Resolution** Approving the First Amendment to Agreement Containing Covenants Affecting Real Property; 203 Prado Dr., Hemet, CA 92545

### **RECOMMENDED ACTION:**

It is respectfully recommended that City Council:

1. Adopt a Resolution and approve the First Amendment to Agreement Containing Covenants Affecting Real Property; 203 Prado Dr., Hemet, CA 92545; and
2. Provide direction on handling future matters of the same situation involving Redevelopment Agency funding of Down-Payment Assistance Program loans.

### **BACKGROUND:**

The City of Hemet Housing Authority (HHA) offered a Down-payment Assistance Program (DAP) with Redevelopment Agency (RDA) funds. The primary objective of DAP was to provide housing inventory on a continuing basis which would be available for purchase by persons of low or moderate income who had not owned a home in the last three years and had an annual income that was no greater than 120% of the area median income. DAP would provide down payment assistance as a silent, second loan in the amount of up to \$30,000. The first loan must be a fully amortized, fixed rate, thirty-year mortgage, with no adjustable rate rider, and the HHA financial participation would be secured by a deed of trust and an affordability covenant to last the length of forty-five (45) years.

### **ANALYSIS**

On November 18, 2010 the HHA and James Harold Maltby entered into 1) Subordinate Deed of Trust, 2) Notice of Affordability Restrictions and Transfer of Property, and 3) Agreement Containing Covenants Affecting Real Property for the purchase of the property located at 203 Prado Dr., Hemet, CA 92545. The Subordinate Deed of Trust provided by the HHA provided Mr. Maltby Thirty-thousand dollars (\$30,000) as down payment assistance to obtain the home. Within the agreement were the Terms of Affordability which states that the housing unit shall remain available at affordable housing

cost for a period not less than forty-five (45) years from the date of the recorded Covenant Agreement. At the point of initial occupancy, of each and every successor or assign in interest, the household occupying the housing unit shall be low or moderate income.

In early September 2019, an escrow company reached out to the City for a Demand on the property. It was disclosed at this time that the property could be sold but the Affordability Restrictions and Covenant would not be lifted. This would mean that the property would need to be purchased by a low to moderate income household and they too would need to enter into the same Affordability Restrictions and Covenant.

After discussion with the City Attorney, Mr. Maltby was presented with the options to:

1. Pay off the Promissory Note of \$32,000 (principle and accrued interest). This would discharge the Promissory Note and allow the City to reconvey the Deed of Trust. However, this would not discharge the recorded Covenants regarding affordability. The Buyer would need to provide information verifying that the new buyer is income qualified and that the house is being sold for an affordable housing price as determined under California law.
2. Pay off the Promissory Note at \$30,000 (without interest) but also pay the City 19.6% of the equity. This percentage is based on the loan amount of \$30,000 divided by original purchase price \$153,000 not including escrow or closing costs. If new sales price is \$311,000 before closing and escrow costs, then City would be paid an additional \$30,968 for a total of approximately \$60,968. This would permit the City to discharge the Promissory Note, reconvey the Deed of Trust, and cancel and terminate the recorded Covenant.

Mr. Maltby wanted to further discuss the options and reached out to the City Manager and later to the City Council; the options were held firm. It was explained to Mr. Maltby that any other options in this situation would be considered a "gift of public funds" which is prohibited.

In early January 2020, Mr. Maltby contacted the City to inform us that the property was reactivated and would probably sell within the following week. He requested the City to proceed with the agreement amendment and recapture at which time the City Attorney was contacted to continue forward with this action.

While consulting with the City Attorney and other housing loan programs, it was noted when a homeowner, that is bound by covenant restrictions such as these established under DAP, decides to sale the property, the recapture of an equity sharing agreement is a standard and acceptable process that is executed.

Direction is also requested on how to proceed in the event one of the thirteen (13) existing DAP loans with affordability covenants comes into similar situations in the future. Staff is recommending that in the event a property owner with an HHA DAP loan wishes to sell the property and is unable to meet the terms stated within the existing agreement, they may contact the HHA and request to amend the agreement and enter into a revised, equity sharing agreement. This agreement will be based on the percentage the HHA provided as down payment to assist in the purchase of the home and apply that same rate towards the equity being earned in the sale of the home. These equity funds will go back into the HHA to reallocate for future use.

Upon reallocation, the HHA will follow the framework provided by HUD of reasonable affordability periods based on the dollar amount of the loan toward the purchase. Furthermore, recapture will be incorporated into new agreements to allow maximum flexibility for both parties involved; as well as, being easier to administer on the HHA side.

**FISCAL IMPACT:**

Upon acceptance of these terms within the amended agreement, all funds will go back into the HHA to reallocate for future use.

**ATTACHMENTS:**

1. Resolution
2. Exhibit A to Resolution: First Amendment to Agreement Containing Covenants Affecting Real Property
3. Attachment 1 – Subordinate Deed of Trust
4. Attachment 2 – Agreement Containing Covenants Affecting Real Property (“Covenant Agreement”)
5. Attachment 3 – Notice of Affordability Restrictions on Transfer of Property
6. Attachment 4 – HUD Affordability Example

Respectfully Submitted,

Tiffany Barnett  
Accounting Manager



CITY OF HEMET HOUSING AUTHORITY  
Hemet, California  
RESOLUTION NO. HA-2020-XXX

A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE CITY OF HEMET HOUSING AUTHORITY,  
APPROVING THE FIRST AMENDMENT TO  
AGREEMENT CONTAINING COVENANTS AFFECTING  
REAL PROPERTY

**WHEREAS**, on or about November 18, 2010, the Parties entered into an Agreement Containing Covenants Affective Real Property (“Covenant Agreement”), whereby James Harold Maltby, a single man (“Homeowner”) acknowledged receiving a loan from the City of Hemet Housing Authority (“HHA”) for down payment assistance for the purchase of real property in exchange for, among other things, agreeing to an affordable housing covenant to ensure the real property would remain available at affordable housing costs; and

**WHEREAS**, HHA and Homeowner wish to modify the Covenant Agreement to allow for the sale or transfer of the real property that is the subject of the Covenant Agreement, commonly described as 203 Prado Drive, Hemet, CA 92545 (“Property”), at non-affordable housing costs and provide for the removal of the affordable housing covenant, provided certain conditions are met; and

**WHEREAS**, HHA has determined that amending the Covenant Agreement to allow for the removal of the affordable housing covenants in exchange for a share in the accrued equity from the sale of the Property at fair market value best serves the public’s interest in expanding affordable housing opportunities within the City. The money derived from this transaction by HHA will be utilized to provide additional down payment loans for persons qualifying for affordable housing assistance, or will be used to develop additional affordable housing units or improve existing affordable housing units.



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State of California )  
County of Riverside )  
City of Hemet )

I, Clay James, Deputy Secretary the of Hemet Housing Authority, do hereby certify that the foregoing Resolution was adopted by the Board of Directors of the City of Hemet Housing Authority and was passed at a regular meeting of the Housing Authority on the 10<sup>th</sup> day of March, 2019, and was passed by the following vote:

AYES: Board Member:  
NOES: Board Member:  
ABSTAIN: Board Member:  
ABSENT: Board Member:

\_\_\_\_\_  
Clay James, Deputy Secretary

**EXHIBIT A**  
**First Amendment to Agreement Containing Covenants Affecting Real Property**

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

City of Hemet Housing Authority  
445 E. Florida Avenue  
Hemet, CA 92543

Attention:                     

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §§6103, 27383

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Space above this line for Recorder's use.

**FIRST AMENDMENT TO AGREEMENT CONTAINING  
COVENANTS AFFECTING REAL PROPERTY**

by and between

**THE CITY OF HEMET HOUSING AUTHORITY**

and

**JAMES HAROLD MALBY**

This First Amendment to Agreement Containing Covenants Affecting Real Property (“**First Amendment**”) is entered into as of \_\_\_\_\_ (“**Effective Date**”) by and between the City of Hemet Housing Authority (“HHA”), a public agency organized and existing under the laws of the State of California, and James Harold Maltby, a single man (“**Homeowner**”). HHA and the Homeowner are collectively referred to herein as the “**Parties.**”

### RECITALS

A. On or about November 18, 2010, the Parties entered into an Agreement Containing Covenants Affective Real Property (“Covenant Agreement”), whereby Homeowner acknowledged receiving a loan from HHA for down payment assistance for the purchase of real property in exchange for, among other things, agreeing to an affordable housing covenant to ensure the real property would remain available at affordable housing costs.

B. The Parties wish to modify the Covenant Agreement to allow for the sale or transfer of the real property that is the subject of the Covenant Agreement, commonly described as 203 Prado Drive, Hemet, CA 92545 (“Property”), at non-affordable housing costs and provide for the removal of the affordable housing covenant, provided certain conditions are met.

C. The HHA has determined that amending the Covenant Agreement to allow for the removal of the affordable housing covenants in exchange for a share in the accrued equity from the sale of the Property at fair market value best serves the public’s interest in expanding affordable housing opportunities within the City. The money derived from this transaction by HHA will be utilized to provide additional down payment loans for persons qualifying for affordable housing assistance, or will be used to develop additional affordable housing units or improve existing affordable housing units.

### AGREEMENT

**NOW THEREFORE**, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

1. Definitions. The following terms have the meanings set forth in this Section wherever used in this First Amendment or the attached exhibits.

“Equity Share” shall mean an amount equal to 19.6% of the equity that has accrued in the Property since the Parties entered into the Promissory Note dated November 18, 2010 (“Promissory Note”). The Equity Share shall be calculated by multiplying 19.6% by the following total: the Fair Market Value of the Property, minus the sum of \$30,000 plus the current remaining balance on the First Deed of Trust Loan as identified by Subordinate Deed of Trust between the Parties and dated November 18, 2010.

"Fair Market Value" shall be determined by any of the following methods:

(1) An appraisal from a certified MAI or other qualified real estate appraiser. If possible, the appraisal shall be based upon the sales prices of comparable properties sold in the market area during the preceding three-month period. The cost of the appraisal shall be the responsibility of the Homeowner. In the event that the Homeowner has made Eligible Capital Improvements to the Property, or if Deferred Maintenance has occurred while the Homeowner owned the Property, the appraisal shall specifically ascribe values to the appraised values of Eligible Capital Improvements and Deferred Maintenance.

(2) With the consent of the HHA, the value bargained for and determined by the real estate brokers or agents involved in an arm's length transaction for the sale of the Property. For purposes of this section, an "arm's length transaction" is defined as a sale in good faith and for valuable consideration that reflects the value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, friends, or related companies or partners, is presumed not to be made at "arm's length."

(3) Notwithstanding the above, nothing shall preclude the Homeowner and the HHA from establishing the Fair Market Value of the Property by mutual agreement in lieu of an appraisal pursuant to this definition.

"Eligible Capital Improvements" shall mean improvements: (i) made or installed by the Homeowner; (ii) whose initial cost was at least the greater of Two Thousand Dollars (\$2,000) or one percent (1%) of the original purchase price of the Property.

"Deferred Maintenance" shall mean the decreased value of the Property due to deferred maintenance or disrepair equal to the amount necessary to repair damages to the Property, if any, and to place the Property into saleable condition as reasonably determined by the HHA, including amounts attributed to cleaning, painting, replacing worn carpeting and draperies, making necessary structural, mechanical, electrical and plumbing repairs and repairing or replacing built-in appliances and fixtures.

2. Equity Sharing. Article 1 of the Covenant Agreement is amended to add the following as subsection (c):

“(c) **Equity Sharing**. If Homeowner wishes to remove the affordable housing covenant and transfer the Property or sell the Property for Fair Market Value in exchange for HHA receiving an Equity Share in the Property, the following must occur in the order set forth below:

(i) Within three days of the opening of escrow for the sale of the Property at Fair Market Value, an executed copy of the First Amendment shall be deposited into escrow and be incorporated into any escrow instructions.

(ii) The First Amendment shall be recorded by the escrow officer.

(iii) Upon notice from the escrow officer that the First Amendment has been recorded, within ten (10) days, HHA shall deposit executed copies of the Full Reconveyance (Exhibit A, attached hereto) and Release of Covenant (Exhibit B, attached hereto) into escrow.

(iv) The escrow officer shall process the sale and, at the close of escrow, perform the following actions in the following order: (1) issue payment to HHA for any funds owed to HHA pursuant to the Promissory Note; (2) issue payment to HHA for its Equity Share in the Property; (3) record the Full Reconveyance; (4) record the Release of Covenant; (5) provide an updated title report to all parties showing the removal of Subordinate Deed of Trust and Covenant Agreement from title on the Property.”

3. Entire Agreement; Exhibits. This First Amendment, together with Exhibit A (Full Reconveyance) and Exhibit B (Release of Covenant) contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto.

4. Remainder to Stay the Same. Unless explicitly amended by this First Amendment, terms and provision of the Covenant Agreement shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, the Parties have executed this First Amendment To Agreement Containing Covenants Affecting Real Property as of the date first written above.

**CITY OF HEMET HOUSING AUTHORITY**

By: \_\_\_\_\_  
City Manager

Attest:

By: \_\_\_\_\_  
City Clerk

Approved as to form:

By: \_\_\_\_\_  
City Attorney

**HOMEOWNER:**

By: \_\_\_\_\_  
James Harold Maltby

*SIGNATURES MUST BE NOTARIZED.*

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness,

State of California )  
 ) ss  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(Name of Notary)

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.

\_\_\_\_\_  
(Notary Signature)

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness,

State of California )  
 ) ss  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(Name of Notary)

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.

\_\_\_\_\_  
(Notary Signature)

Exhibit A

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

City of Hemet Housing Authority  
445 E. Florida Avenue  
Hemet, CA 92543  
Attention:                     

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §§6103, 27383

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Space above this line for Recorder's use.

**FULL RECONVEYANCE**

City of Hemet Housing Authority, a public agency organized and existing under the laws of the State of California, as Trustee under Subordinate Deed of Trust, dated November 18, 2010, made by James Harold Malby, Trustor; and recorded as Instrument No. 2010-0589057 on December 9, 2010, of Official Records in the office of the County Recorder of Riverside County, California, concerning land known by APN: 455-400-071-4 and 203 Prado Drive, Hemet, CA 92545, as having received from holder of obligations thereunder a written request to reconvey, reciting that all sums secured by the Deed of Trust have been fully paid, and said Deed of Trust and the note or notes secured thereby having been surrendered to said Trustee for cancellation, does hereby RECONVEY without warranty, to the person or persons legally entitled thereto, the estate now held by it thereunder.

IN WITNESS WHEREOF, City of Hemet Housing Authority, a public agency organized and existing under the laws of the State of California, as TRUSTEE, has caused its signature affixed by its duly authorized officer.

[SIGNATURE ON FOLLOWING PAGE]

CITY OF HEMET HOUSING  
AUTHORITY, a public agency

organized and existing under the laws of the State of California

By: \_\_\_\_\_  
City Manager  
[notary acknowledgement required]

Dated: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

City Manager

**ACKNOWLEDGMENT**



Exhibit B

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

City of Hemet Housing Authority  
445 E. Florida Avenue  
Hemet, CA 92543

Attention:

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §§6103, 27383

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Space above this line for Recorder's use.

**RELEASE OF COVENANT**

**THE UNDERSIGNED DECLARES AS FOLLOWS:**

The undersigned declares that this RELEASE OF COVENANT is exempt from Recording Fees pursuant to California Government Code Section 27383 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code Section 11922.

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged the CITY OF HEMET HOUSING AUTHORITY, a public agency organized and existing under the laws of the State of California (“**HHA**”), HHA hereby releases the property located 203 Prado Drive, Hemet, CA 92545 in the City of Hemet, County of Riverside, State of California, and known by APN: 455-400-071-4 (“**Property**”), from the obligations and restrictions of that certain AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY, dated November 18, 2010, and recorded as instrument No. 2010-0589058 in the Riverside County Recorder’s Office (“**Covenant**”), and any amendments thereto.

IN WITNESS WHEREOF, HHA has caused this instrument to be executed on its behalf by its respective officers thereunto duly authorized as of the dates set forth below.

[SIGNATURE ON FOLLOWING PAGE]

CITY OF HEMET HOUSING  
AUTHORITY, a public agency  
organized and existing under the  
laws of the State of California

By: \_\_\_\_\_  
City Manager  
[notary acknowledgement required]

Dated: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
 ) ss  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(Name of Notary)

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.

\_\_\_\_\_  
(Notary Signature)



WHEN RECORDED MAIL TO

CITY OF HEMET  
HOUSING AUTHORITY  
445 E. Florida Avenue  
Hemet, CA 92543

Attn: Edna I. Lebrón

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File: DAP-501

APN: 455-400-071  
TRA: 006-109

**SUBORDINATE DEED OF TRUST**

45

THIS SUBORDINATE DEED OF TRUST ("Security Instrument") is made this 18<sup>th</sup>, Day of November, 2010, among the Trustor(s) **James Harold Maltby**, (herein "Borrower"), CITY OF HEMET HOUSING AUTHORITY (herein "Trustee"), and the Beneficiary, who is the City of Hemet Housing Authority, a public agency (herein "Lender").

BORROWER, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with the power of sale, the following described property located in the County of Riverside, State of California:

The land referred to is situated in the County of Riverside, City of Hemet, State of California and is described as follows:



**Parcel 1:**

Lot 71 of Tract No. 28286-3, in the City of Hemet, County of Riverside, State of California, as shown by map on file in Book 339 Pages 46 through 53 inclusive of Maps, records of Riverside.

EXCEPT THEREFROM, an undivided 1/2 interest in and to all oil, gas, petroleum, naphtha, other hydrocarbon substances and minerals of whatsoever kind and nature together with the right of entry and all other rights of way and easements which may be necessary for the development, production and removal of the above as reserved by the Federal Land Bank of Berkeley in Deed recorded December 30, 1940 in Book 484 Page 546, Official Records.

**Parcel 2:**

A non-exclusive easement, in common with other owners, for access, ingress and egress over, in, to and through the Association Property described in the Declaration, subject to the limitations set forth therein, which easement is appurtenant to the residential lot described above.

**Parcel 3:**

A non-exclusive easement for the benefit of the owner of Parcel 1 for ingress, egress, use and enjoyment over that portion of the adjacent lot which is defined and designated in the Declaration as shared driveways. (Use just for lots with shared driveways.)

APN: 455-400-071-4

which has the address of 203 Prado Drive, Hemet, CA 92545

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents (subject however to the rights and authorities given herein to Lender to collect and apply such rents), all of which shall be deemed to be and remain a part of the property covered by this Security Instrument; and all of the foregoing, together with said property (or the leasehold estate if this Security Instrument is on a leasehold) are hereinafter referred to as the "Property."

Revised: March 23, 2010

1 of 7

TO SECURE to Lender the repayment of the indebtedness evidenced by Borrower's Promissory Note dated **November 18, 2010** and extensions and renewals thereof (herein "Note"), in the principal sum of U.S. **\$30,000** advanced in accordance and herewith to protect the security of this Security Instrument; the performance of the Agreement containing covenants affecting real property ("Covenant Agreement") executed by the Borrower and dated as of **November 18, 2010**.

In addition to the Loan, the Borrower obtained a primary loan (The "First Deed of Trust Loan") from **Bank of America- 975 N. Haven Ave., Suite 200, Ontario, CA 91764** (the "Senior Lien Holder"), which loan is secured by a first deed of trust on the Property.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and have the right to grant and convey the Property, and except for the foregoing first deed of trust and other encumbrances of record acceptable to the Senior Lien Holder, that the Property is unencumbered. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

- 1) **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal indebtedness evidenced by the Promissory Note.
- 2) **Funds for Taxes and Insurance.**
  - a) Subject to applicable law, if required by the Senior Lien Holder, Borrower shall pay to the Senior Lien Holder a sum (herein "Funds") equal to (a) yearly taxes and assessments (including condominium and planned unit development assessments, if any) which may attain priority over this Security Instrument, and ground rents on the Property, if any; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly premium installments for hazard insurance; (d) yearly premium installments for mortgage insurance, if any, that are reasonably estimated initially and from time to time by the Senior Lien Holder on the basis of assessments and bills and reasonable estimates thereof. If there is no Senior Lien Holder, Borrower is to make all payments for taxes and insurance to the Lender. Borrower shall not be obligated to make such payments to the holder of a prior mortgage or Deed of Trust if such holder is an institutional Lender. Said payments shall be made on the first day of each month commencing on the date of the first payment.
  - b) If Borrower pays Funds to Lender, the Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a federal or state agency. Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for so holding and applying the Funds, analyzing said account or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Security Instrument that interest to be paid, Lender shall not be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Security Instrument.
  - c) If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as Lender may require.
  - d) Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Security Instrument.

- 3) **Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Security Instrument and leasehold payments or ground rents, if any.
- 4) **Subordination.**
- a) Lender and Borrower acknowledge and agree that this Security Instrument is subject and subordinate in all respects to the liens, terms, covenants and conditions of the first deed of trust recorded by the Senior Lien Holder and to all advances heretofore made by the Senior Lien Holder including all sums advanced for the purpose of (a) protecting or further securing the lien of the first deed of trust, curing defaults by the Borrower under the first deed of trust or for any other purpose expressly permitted by the first deed of trust or (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Property. The terms and provisions of the first deed of trust recorded by the Senior Lien Holder are paramount and controlling, and they supersede any other terms and provisions herein conflict therewith. In the event of a foreclosure or deed in lieu of foreclosure of the Senior Lien Holder's first deed of trust, any other provisions in any other collateral agreement restricting the use of the Property to low or moderate income households or otherwise restricting the Borrower's ability to sell the Property shall have no further force or effect on subsequent owners or purchasers of the Property, any person, including his/her successors or assignees (other than the Borrower or a related entity of the Borrower), receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the Senior Lien Holder's first deed of trust shall receive title to the Property free and clear from such restrictions.
  - b) Further, if the Senior Lien Holder acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of the Security Instrument shall automatically terminate upon the Senior Lien Holder's acquisition of title, provided that (1) the Lender has been given written notice of a default under the Senior Lien Holder's first deed of trust and (2) the Lender shall not have cured the default under the Senior Lien Holder's first deed of trust, or diligently pursued curing the default as determined by the Senior Lien Holder, within the 60-day period provided in such notice sent to the Lender.
- 5) **Hazard Insurance.**
- a) Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and such other hazards, including floods or flooding. This insurance shall be maintained in the amounts and for the periods that the Senior Lien Holder and/or the Lender may require and in such amounts and for such periods as the Senior Lien Holder and the Lender may require.
  - b) The insurance carrier providing the insurance shall be chosen by Borrower. All insurance policies and renewals thereof shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Security Instrument. All original policies of insurance required pursuant to the Senior Lien Holder's first deed of trust shall be held by the Senior Lien Holder; provided, however, Lender may be named as a loss payee as its interest may appear and may be named as an additional insured. If Lender requires, Borrower shall promptly give to Lender copies of all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier, the Senior Lien Holder and the Lender. Lender may make proof of loss if not made promptly by the Senior Lien Holder or the Borrower.
  - c) Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible, or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower.
  - d) If the Property is abandoned by Borrower, or if the Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Security Instrument.

- e) Notwithstanding the above, the Lender's rights to collect and apply the insurance proceeds hereunder shall be subject and subordinate to the rights of the Senior Lien Holder to collect and apply such proceeds in accordance with the Senior Lien Holder's first deed of trust.
- 6) **Occupancy, Preservation and Maintenance and Protection of the Property.** Borrower shall occupy, establish, and use the Property as the Borrower's principal residence and shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Deed of Trust is on a leasehold.
- 7) **Protection of Lender's Security.**
- a) If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or if any legal action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument.
- b) Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 7 shall require Lender to incur any expense or take any action hereunder.
- c) Prior to taking any actions, Lender shall notify the Senior Lien Holder and shall provide the Senior Lien Holder with opportunity to cure a default hereunder advanced by the Senior Lien Holder and shall be secured by the First Deed of Trust. The Senior Lien Holder shall have the right to exercise all rights and remedies under the Senior Lien Holder's first deed of trust.
- 8) **Mortgage Insurance.** If Lender requires mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect.
- 9) **Inspection.** Lender or its agent may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.
- 10) **Condemnation.**
- a) The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.
- b) In the event of a total taking of this Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to the Borrower.
- 11) **Borrower Not Released; Forbearance by Lender Not a Waiver.** Extension of the time for payment or modification of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify the sums secured by this Security Instrument by reason of any demand made by the original Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.
- 12) **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several.
- 13) **Notices.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may

designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given in the manner designated herein. Any notices required to be given to the Senior Lien Holder shall be given by first class mail to the following address: **Bank of America- 975 N. Haven Ave., Suite 200, Ontario, CA 91764** or such other address the Senior Lien Holder designates by notice to the Borrower.

- 14) **Governing Law; Severability.** The state and local laws applicable to this Security Instrument shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of federal law to this Security Instrument. In the event that any provision or clause of this Security Instrument or the Promissory Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Promissory Note which can be given effect without the conflicting provision, and to this end the provisions of this Security Instrument and the Promissory Note are declared to be severable. As used herein, "costs," "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.
- 15) **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Promissory Note and Security Instrument at the time of execution or after recordation hereof.
  
- 16) **Transfer of the Property or a Beneficial Interest in Borrower.**
  - a) Except for a conveyance to the trustee under the Senior Lien Holder's first deed of trust, if all or any part of the Property or any interest in it is sold or transferred without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. This option shall not be exercised by the Lender if the exercise is prohibited by law as of the date of this Security Instrument.
  - b) If the Lender exercises this option, Lender shall give Borrower and the Senior Lien Holder prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which the Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.
  
- 17) **Borrower's Right to Reinstate.**
  - a) If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days before the sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) 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 Promissory 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; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the 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 16.
  - b) Notwithstanding, Lender's right to invoke any remedies hereunder, as provided in Section 7 above, Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Senior Lien Holder at least 60 days prior written notice.
  - c) The Borrower and the Lender agree that whenever the Promissory Note or this Security Instrument gives the Lender the right to approve or consent with respect to any matter affecting the Property or otherwise, and a right of approval or consent with regard to the same matter is also granted to the Senior Lien Holder

pursuant to the Senior Lien Holder's first deed of trust, the Senior Lien Holder's approval or consent or failure to approve or consent, as the case may be, shall be binding on the Borrower and the Lender.

- 18) **Sale of Note; Change of Loan Servicer.** The Promissory Note or a partial interest in the Promissory Note (together with this Security Instrument) may be sold one or more times without prior notice to the Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that may collect monthly payments under the Promissory Note and Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Promissory Note. If there is a change in the Loan Servicer, Borrower will be given written notice of the change in accordance with Section 13 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments, if any, should be made. The notice will also contain any other information required by applicable law.
- 19) **No Assignment.** Until the loan secured by the Senior Lien Holder's first deed of trust has been satisfied in full, Lender and the Borrower agree that the Promissory Note and the Security Instrument will not be assigned without the Senior Lien Holder's prior written consent.
- 20) **Hazardous Substances.**
  - a) Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not allow anyone else to do anything affecting the Property that is in violation of any Environmental Law. 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.
  - b) Borrower shall promptly give Lender written notice of 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. If Borrower learns, or is notified by any governmental or regulatory authority, 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. Prior to taking any such remedial action, however, Borrower shall notify the Senior Lien Holder that such remedial action is necessary and shall obtain the Senior Lien Holder's prior written consent for such remedial action.
  - c) As used in this Section, "Hazardous Substances" are those substances defined as toxic or hazardous substances 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.
  - d) As used in this Section, "Environmental Law" means federal laws and the laws of the jurisdiction where the Property is located that relate to health, safety and environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

- 21) **Acceleration; Remedies.**
  - a) Upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust and/or the Covenant Agreement, including the covenants to pay when due any sums secured by this Security Instrument, Lender prior to acceleration shall give notice to Borrower as provided in Section 13 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 30 days from the date of notice is mailed to Borrower (and with respect to the Senior Lien Holder, 60 days from the date the notice is given to the Senior Lien Holder), by which such breach must be cured; and (4) that failure to cure such breach 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 nonexistence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, and the Senior Lien Holder has not exercised its right to cure the breach, then Lender, at Lender's option, may declare all of the sums secured by this Security Instrument to be immediately due and payable without further demand and may invoke the power of sale and acceleration of the sums secured by this Security Instrument and sale of the Property.

- b) Notwithstanding Lender's right to invoke any remedies hereunder, the Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Senior Lien Holder at least 60 days prior written notice. Lender shall be entitled to collect all expenses incurred in pursuing the remedies, including, but not limited to, reasonable attorneys' fees and costs of title evidence.
- c) 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 and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Lender or Trustee shall mail copies of such notice in the manner prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the lapse of such time as may be 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 such order as Trustee may determine. 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 Lender's designee may purchase the Property at any sale.
- d) Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold 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 reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees and costs of title evidence; (b) to all sums secured by this Security Instrument; and (c) the excess, if any, to the person or persons legally entitled thereto.

22) **Assignment of Rents; Appointment of Receiver; Lender in Possession.**

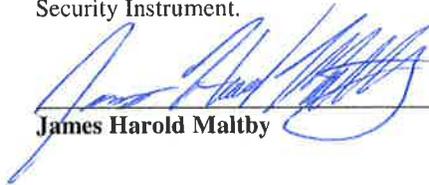
- a) As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.
- b) Upon acceleration hereof or abandonment of the Property, Lender, in person, by agent or by judicially-appointed receiver shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property, including those past due. All rents collected by Lender or the receiver shall be applied first to premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Security Instrument. Lender and the receiver shall be eligible to account only for those rents actually received.

23) **Reconveyance.** Upon payment of all sums secured by this Security Instrument and full performance of all covenants secured by this Security Instrument, including, without limitation, the Affordability Covenant, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing indebtedness secured by this Security Instrument to the Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.

24) **Substitute Trustee.** Lender, at Lender's 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 where the Property is located. The instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page where this instrument is recorded and the name and address of the successor trustee. The successor trustee shall, without conveyance of the Property, 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.

25) **Modification of First Deed of Trust Loan Documents.** The Lender consents to any agreement or arrangement in which the Senior Lien Holder waives, postpones, extends, reduces or modifies any provisions of the Senior Lien Holder's first deed of trust documents, including provisions requiring the payment of money.

BY SIGNING BELOW, the Borrower and the Lender accept and agree to the terms and covenants contained in this Security Instrument.

  
James Harold Maltby

  
Date

**(THIS DOCUMENT IS TO BE NOTARIZED)**

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of RIVERSIDE

On DEC 2, 2010 before me, IWALDO H. PINN, Notary Public  
Date Here Insert Name and Title of the Officer

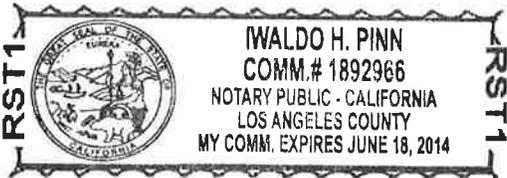
personally appeared JAMES HAROLD MACTBY  
Name(s) of Signer(s)

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 [Signature]  
Signature of Notary Public



Place Notary Seal Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

REQUEST FOR RECONVEYANCE

TO TRUSTEE:

The undersigned is the holder of the Note or Notes secured by this Security Instrument (Deed of Trust). Said Promissory Note or Notes, together with all other indebtedness secured by this Security Instrument (Deed of Trust), have been paid in full and all other covenant, including, without limitation, the Affordability Covenant, have been fully performed. You are hereby directed to cancel said Promissory Note or Notes and this Security Instrument (Deed of Trust), which is delivered hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the person or persons legally entitled thereto.

Dated: \_\_\_\_\_



ORT

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO: City of Hemet Housing Authority 445 E. Florida Avenue Hemet, CA 92543 ATTN: Edna I. Lebrón

Table with columns S, R, M, A, L, 465, 426, PCOR, NCOR, SMF, NCHG, T, CTY, UNI, EXAM, IPY. Includes handwritten '14' and '026'.

File: DAP-501

AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY ("Covenant Agreement")

34

This Agreement is made this 18th day of November 2010 between James Harold Maltby, A Single Man, ("HOMEOWNER") and the City of Hemet Housing Authority ("HHA"), a public agency organized and existing under the laws of the State of California.

I. WHEREAS, HHA is a Housing Authority duly created, established and authorized to transact business and exercise its powers, all under and pursuant to the provisions of the Housing Authorities Law which is Part 2 of Division 24 of the California Health and Safety Code (commencing with Section 34200 et seq.); and



II. WHEREAS, HHA endeavors to provide affordable, safe and sanitary housing opportunities to low income and special needs households within the City of Hemet; and

III. WHEREAS, pursuant to Section 34311 of the Health and Safety Code, HHA is authorized to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; and

WHEREAS, the undersigned HOMEOWNER is the owner of record of that certain real property located in the County of Riverside, California, and commonly described as 203 Prado Drive, Hemet, CA 92545 ("PROPERTY") and more particularly described as:

The land referred to is situated in the County of Riverside, City of Hemet, State of California and is described as follows:

Parcel 1:

Lot 71 of Tract No. 28286-3, in the City of Hemet, County of Riverside, State of California, as shown by map on file in Book 339 Pages 46 through 53 inclusive of Maps, records of Riverside.

EXCEPT THEREFROM, an undivided 1/2 interest in and to all oil, gas, petroleum, naphtha, other hydrocarbon substances and minerals of whatsoever kind and nature together with the right of entry and all other rights of way and easements which may be necessary for the development, production and removal of the above as reserved by the Federal Land Bank of Berkeley in Deed recorded December 30, 1940 in Book 484 Page 546, Official Records.

**Parcel 2:**

**A non-exclusive easement, in common with other owners, for access, ingress and egress over, in, to and through the Association Property described in the Declaration, subject to the limitations set forth therein, which easement is appurtenant to the residential lot described above.**

**Parcel 3:**

**A non-exclusive easement for the benefit of the owner of Parcel 1 for ingress, egress, use and enjoyment over that portion of the adjacent lot which is defined and designated in the Declaration as shared driveways. (Use just for lots with shared driveways.)**

IV. APN: 455-400-071 and;

V. **WHEREAS**, HHA has determined that HOMEOWNER qualifies for use of HHA's Downpayment Assistance Program ("DAP") funds; and

VI. **WHEREAS**, HHA desires to ensure that the housing unit assisted by this Agreement remain affordable and maintained for a period not less than forty-five (45) years; and

VII. **WHEREAS**, in connection with the execution of this Agreement, HOMEOWNER has received a loan from the HHA for downpayment assistance for the purchase of the PROPERTY ("HHA LOAN"); and

VIII. **WHEREAS**, HOMEOWNER agrees to occupy the housing unit as his or her principal place of residence.

**NOW, THEREFORE**, in consideration for the HHA LOAN, the receipt of which is hereby acknowledged, HOMEOWNER covenants and agrees as follows:

1) **ARTICLE 1 – TERMS OF AFFODAPBILITY**

a) **Occupancy.** At the point of signature of this Agreement or at initial occupancy, whichever is earlier, the household occupying the housing unit shall be low or moderate income, as that term is defined in Section 50093 of the CHSC.

b) **Affordability.** The housing unit shall remain available at affordable housing cost, as that term is defined in Section 50052.5 of the CHSC, and determined only at initial occupancy, for a period not less than forty-five (45) years from the date this Covenant Agreement is recorded. At the point of initial occupancy, of each and every successor or

assign in interest, the household occupying the housing unit shall be low or moderate income, as that term is defined in Section 50093 of the CHSC.

2) **ARTICLE 2 - MAINTENANCE REQUIREMENTS**

- a) **Maintenance of Property.** HOMEOWNER shall, for the term of this Agreement, at its sole cost and expense, maintain and repair the PROPERTY and the improvements thereon, including, without limitation, the buildings, fencing, parkways, landscaping, driveways, garages, carports, and lighting, in first class condition and repair, and in decent, safe and sanitary condition.
- b) **Interior Maintenance.** HOMEOWNER shall, for the term of this Agreement, maintain the interior of the dwelling unit(s) located on the PROPERTY in a decent, safe and sanitary condition and shall immediately correct any health and safety code violations identified by staff of the City of Hemet or of HHA.
- c) **Exterior Maintenance.** The PROPERTY shall, for the term of this Agreement, be kept free from the accumulation of debris and waste materials. All exterior, painted surfaces shall be maintained at all times in a clean and presentable manner, free from chipping, cracking, peeling and defacing marks. No building, patio, balcony, wall, fence or yard area, including parkways, may be left in an unmaintained condition so that any of the following exist:
  - i) Buildings abandoned, boarded up, partially destroyed or left unreasonably in a state of partial construction; and
  - ii) Abandoned or non-operational vehicles; and
  - iii) Unpainted buildings or buildings with peeling paint; and
  - iv) Cause dry rot, warping and termite infestation; and
  - v) Constitute an unsightly appearance that detracts from the aesthetic or property values of neighboring properties; and
  - vi) Broken windows, constituting hazardous conditions and/or inviting trespassers and malicious mischief; and

- vii) Broken or discarded furniture, appliances and other household equipment stored for periods exceeding one (1) week; and
  - viii) Packing boxes, lumber, trash, dirt and other debris stored for periods exceeding one (1) week; and
  - ix) Unscreened trashcans, bins or containers stored for periods exceeding fifteen (15) days in areas visible from public streets and common areas.
- d) **Graffiti Removal.** All graffiti, and defacement of any type, including marks, words and pictures, must be removed and any necessary painting or repair completed within the earlier of seventy-two (72) hours of their creation or within forty-eight (48) hours after notice to HOMEOWNER from HHA.
- e) **Trash.** All trash shall, for the term of this Agreement, be collected and placed in appropriate areas for pick-up by refuse haulers on normal trash pick-up days or hauled away, in a timely manner, by HOMEOWNER to an appropriate County approved dump site if trash service is not available.
- f) **Landscaping.** All exterior areas of the PROPERTY that are not buildings, driveways or walkways shall, for the term of this Agreement, be adequately and appropriately landscaped and maintained. The landscaping shall meet minimum standards set from time to time by the HHA. Landscaping on the PROPERTY, including front, back and side yards and parkways shall be absent of the following:
- i) Lawns with grasses in excess of six (6) inches in height; and
  - ii) Untrimmed hedges causing a nuisance to the public right of way; and
  - iii) Trees, shrubbery, lawns and other plant life dying from lack of water or other necessary maintenance; and
  - iv) Trees and shrubbery grown uncontrolled without proper pruning; and
  - v) Vegetation so overgrown as to be likely to harbor rats or vermin; and
  - vi) Dead, decayed or diseased trees, weeds and other vegetation; and Inoperative irrigation system(s), if any; and
  - vii) Parkway with ground cover in excess of eighteen (18) inches in height.

3) **ARTICLE 3 - NON-DISCRIMINATION** HOMEOWNER covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, religion, sex, sexual orientation, marital status, nationality, familial status, source of income or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall HOMEOWNER itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the election, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the real property. The foregoing covenants shall run with the land. HOMEOWNER shall refrain from restricting the sale of the Properties on the basis of race, religion, sex, sexual orientation, marital status, nationality, familial status, source of income or disability of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or no segregation clauses:

- a) **In deeds:** "The Grantee herein covenants by and for himself for herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of race, religion, sex, sexual orientation, marital status, nationality, familial status, source of income or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself or herself nor any person claiming under or through him or her establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, numbers use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."
- b) **In leases:** "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

i) There shall be no discrimination against or segregation of any person or group of persons on account of race, religion, sex, sexual orientation, marital status, nationality, familial status, source of income or disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased.”

c) **In contracts:** “There shall be no discrimination against or segregation of any person or group of persons on account of race, religion, sex, sexual orientation, marital status, nationality, familial status, source of income or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises.”

4) **ARTICLE 4 – TERM**

a) The term of this Agreement shall be for forty-five (45) years from the date of recordation in the Official Records of the County of Riverside, at which time this Agreement shall expire by its own terms. That notwithstanding, the covenants against discrimination set forth in Article 3 shall never expire and shall run in perpetuity.

5) **ARTICLE 5 - SUCCESSORS AND ASSIGNS**

a) HOMEOWNER hereby declares the express intent that the covenants and restrictions set forth in this Agreement shall run with the land, and shall bind HOMEOWNER, its executors, administrators and assigns and all persons claiming under or through HOMEOWNER and all successors in title to the PROPERTY. Each and every contract, deed or other instrument hereafter executed covering or conveying the PROPERTY or any portion thereof shall be held conclusively to have been executed, delivered, and

accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument.

6) **ARTICLE 6 – CHANGE OF OWNERSHIP.** Upon HHA’s request or in the event a change of ownership occurs on the PROPERTY, HOMEOWNER shall provide or caused to be provided to HHA all of the following information: a) the date of the change of ownership, b) the income and family size of the new owners of the PROPERTY.

7) **ARTICLE 7 - DEFAULT AND REMEDIES**

a) **Event of Default and Remedies.** Failure or delay by HOMEOWNER to perform any covenant, condition or provision of this Agreement constitutes a default under this Agreement. In such event, HHA shall give written notice of default to HOMEOWNER, specifying the default complained of by HHA. Failure or delay by AGENCY in giving such notice or asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or change the time of default, or deprive AGENCY of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

b) **Cure.** HOMEOWNER shall immediately commence to cure such default upon receipt of the written notice of default and shall complete such cure within thirty (30) days from the date of receipt of the written notice or such longer period if the nature of the default is such that more than thirty (30) days is required to cure such default, but in any event, not longer than ninety (90) days. Failure to cure such default within the prescribed time shall constitute an “Event of Default.”

c) **Remedy.** In the Event of Default or breach of any of the terms or conditions of this Agreement by HOMEOWNER, or HOMEOWNER’s heirs, executors, administrators or assigns, HHA may pursue the remedy thereof by any and all means of enforcement, both in equity and at law, as provided by the laws of the State of California.

d) **Nuisance.** The result of every act or omission whereby any of the covenants contained in this Agreement are violated in whole or in part, is hereby declared to be and

constitutes a nuisance, and every remedy allowable at law or equity, against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any owner or its successors in interest, without derogation of HHA's rights under law.

- e) **Right of Entry.** If the HOMEOWNER cure procedure listed in Article 7(b) lapses and HOMEOWNER fails to maintain the PROPERTY in accordance with the Agreement, then AGENCY, in addition to whatever remedy it may have at law or at equity, shall have the right to enter upon the applicable portion of the PROPERTY and perform all acts and work necessary to protect, maintain and preserve the improvements and landscaped areas on the PROPERTY. To the extent permitted by law, following thirty (30) days written notice to HOMEOWNER specifically outlining the noncompliance with this Agreement, HHA shall have the right of entry at reasonable hours to enforce compliance and affect the repairs or maintenance which HOMEOWNER has failed to perform.
  - f) **Costs of Repair.** The costs borne by HHA from such acts and work of protection, maintenance and repair pursuant to Article 7, Paragraph e, including a reasonable administrative charge, shall become a charge, which HOMEOWNER shall promptly pay upon demand and, if unpaid after fifteen (15) days, shall be assessed as a lien against the PROPERTY.
  - g) **Cumulative Remedies.** The remedies herein provided for breach of the covenants contained in this Agreement shall be deemed cumulative, and none of such remedies shall be deemed exclusive.
  - h) **Failure to Enforce.** The failure to enforce any of the covenants contained in this Agreement shall be not constituted a waiver of the right to enforce the same thereafter.
- 8) **ARTICLE 8 – NOTICE**
- a) Notice to HOMEOWNER under this Agreement shall be made in writing and shall be served personally or by U.S. Mail, first-class, postage prepaid, to the address of the PROPERTY. Notice served personally shall be effective upon receipt and notice served

by mail shall be deemed effective three (3) days after deposit in the U.S. Mail, postage prepaid.

9) **ARTICLE 9 - BINDING EFFECT**

- a) The rights and obligations of this Agreement shall bind and inure to the benefit of the respective heirs, successors and assigns of the parties.

10) **ARTICLE 10 - ATTORNEY'S FEES**

- a) If any party hereto brings an action to enforce the terms hereof or declare its rights hereunder, the prevailing party in any such action shall be entitled to its reasonable attorneys' fees to be paid by the losing party as fixed by the Court.

11) **ARTICLE 11 - SEVERABILITY**

- a) In the event that any provision, whether constituting a separate paragraph or whether contained in a paragraph with other provisions, is hereafter determined to be void and unenforceable, it shall be deemed separated and deleted from the agreement and the remaining provisions of this Agreement shall remain in full force and effect.

12) **ARTICLE 12 - WAIVER**

- a) Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

13) **ARTICLE 13 - INTERPRETATION AND GOVERNING LAW**

- a) This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

14) **ARTICLE 14 - AUTHORITY TO EXECUTE**

- a) The persons executing this Agreement on behalf of the parties to this Agreement hereby warrant and represent that they have the authority to execute this Agreement and warrant and represent that they have the authority to bind the respective parties to this Agreement to the performance of its obligations hereunder.

15) **ARTICLE 15- ENTIRE AGREEMENT**

- a) It is expressly agreed that this Agreement embodies the entire agreement of the parties in relation to the subject matter hereof, and that no other agreement or understanding, verbal or otherwise, relative to this subject matter, exists between the parties at the time of execution.

16) **ARTICLE 16 - COUNTERPARTS**

- a) This Agreement may be signed by the different parties hereto in counterparts, each of which shall be an original but all of which together shall constitute one and the same agreement.

17) **ARTICLE 17 - ASSIGNMENT**

- a) The HOMEOWNER will not make any sale, assignment, conveyance or lease of any trust or power, or transfer in any other form with respect to this Agreement without prior written approval of the HHA.

18) **ARTICLE 18 - AMENDMENTS AND MODIFICATIONS**

- a) Any amendments or modifications to this Agreement must be in writing and shall be effective only if executed by HOMEOWNER and HHA.

20) **ARTICLE 20- EFFECTIVE DATE**

- a) The effective date of this Agreement is the date the parties sign the Agreement. If the parties sign the Agreement on more than one date, then the last date the Agreement is signed by a party shall be the effective date.

SIGNATURES ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, HOMEOWNER has executed this Agreement.

HOMEOWNER

CITY OF HEMET  
HOUSING AUTHORITY

  
\_\_\_\_\_  
**James Harold Maltby**

  
\_\_\_\_\_  
Brian Nakamura, Executive Director

12/2/10  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

*ALL SIGNATURES MUST BE NOTARIZED*

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of Riverside }

On Nov. 29, 2010 before me, Sarah J. McComas, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Brian S. Nakamura  
Name(s) of Signer(s)

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 Sarah J. McComas  
Signature of Notary Public



Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

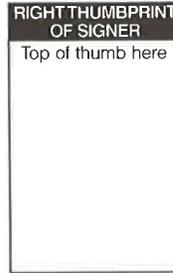
- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of RIVERSIDE

On DEC 2, 2010 Date

before me,

WALDO H. PINN, Notary Public  
Here Insert Name and Title of the Office

personally appeared

JAMES HAROLD MALTBY  
Name(s) of Signer(s)

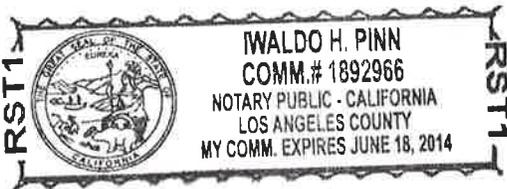
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), 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

[Signature]  
Signature of Notary Public



Place Notary Seal Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

RIGHT THUMBPRINT OF SIGNER  
Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

RIGHT THUMBPRINT OF SIGNER  
Top of thumb here

Signer Is Representing: \_\_\_\_\_

DOC # 2010-058  
12/09/2010 10:59A Fee:21.00  
Page 1 of 3  
Recorded in Official Records  
County of Riverside  
Larry W. Ward  
Assessor, County Clerk & Recorder



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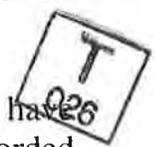
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Recording Requested By:  
When Recorded Return To and  
Mail Tax Statements To:  
  
City of Hemet Housing Authority  
445 E. Florida Avenue  
Hemet, CA 92543  
Attn: Edna I. Lebrón  
File: **DAP-501**

**NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY**

This Notice is to be recorded concurrently with recordation of affordability restriction or within thirty (30) days of recording such document.

The City of Hemet Housing Authority ("HHA") and **James Harold Maltby** ("Owner") have entered into a Covenant Agreement with an expiration of **November 18, 2055** is recorded concurrently herewith / herewith under Recording No. **2003-913972** on **November 19, 2003** in the Official Records of Riverside County, California, on the property located at 203 Prado Drive, Hemet, CA 92545.



**The land referred to is situated in the County of Riverside, City of Hemet, State of California and is described as follows:**

**Parcel 1:**

**Lot 71 of Tract No. 28286-3, in the City of Hemet, County of Riverside, State of California, as shown by map on file in Book 339 Pages 46 through 53 inclusive of Maps, records of Riverside.**

**EXCEPT THEREFROM, an undivided 1/2 interest in and to all oil, gas, petroleum, naphtha, other hydrocarbon substances and minerals of whatsoever kind and nature together with the right of entry and all other rights of way and easements which may be necessary for the development, production and removal of the above as reserved by the Federal Land Bank of Berkeley in Deed recorded December 30, 1940 in Book 484 Page 546, Official Records.**

**Parcel 2:**

**A non-exclusive easement, in common with other owners, for access, ingress and egress over, in, to and through the Association Property described in the Declaration,**

2607/10591-56

subject to the limitations set forth therein, which easement is appurtenant to the residential lot described above.

**Parcel 3:**

**A non-exclusive easement for the benefit of the owner of Parcel 1 for ingress, egress, use and enjoyment over that portion of the adjacent lot which is defined and designated in the Declaration as shared driveways. (Use just for lots with shared driveways.)**

**APN: 455-400-071-4**

CITY OF HEMET  
HOUSING AUTHORITY

Dated \_\_\_\_\_



\_\_\_\_\_  
Brian Nakamura, Executive Director

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

STATE OF CALIFORNIA }

COUNTY OF Riverside }

On Nov. 29, 2010, before me, Sarah J. McComas, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Brian S. Nakamura  
Name(s) of Signer(s)

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 Sarah J. McComas  
Signature of Notary Public

Place Notary Seal Above



# NSP/HOME Resale, Recapture Requirements



1

# 92.254 a.5. Resale and Recapture



To ensure affordability, the participating jurisdiction (PJ) must impose either resale or recapture requirements, at its option. The PJ must establish the resale or recapture requirements that comply with the standards of this section and set forth the requirements in its consolidated plan. HUD must determine that they are appropriate.



# Continued Affordability



**NSP Notice: 3.** Continued affordability. Grantees shall ensure, to the maximum extent practicable & for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed-upon homes & residential properties under this section remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income. . .



# Minimum Standard - HOME



- HUD will consider any grantee adopting the HOME program standards at 24 CFR 92.252 (a), (c), (e), and (f), and 92.254 to be in minimal compliance with this standard & expects any other standards proposed & applied by a grantee to be enforceable & longer in duration.
- (Note that HERA's continued affordability standard is longer than that required of subrecipients & participating units of local government under 24 CFR 570.503 & 570.501 (b).)

# HOME Rule



## HOME funds per-unit

## Minimum Affordability Period

Under \$15,000

5 years

\$15,000 to \$40,000

10 years

Over \$40,000

15 years

Rental - New Construction

20 years



# Recapture

- The participating jurisdiction must recoup all or a portion of the NSP assistance provided
- Subject to period of affordability- (5, 10, 15, 20)
  1. *recapture the entire amount*
  2. *reduction during affordability period*

Pro-rata basis
  3. *shared-equity or net proceeds*

# Recapture



## ADVANTAGES

- Funds can be used to assist more buyers
- Homeowners don't take resources with them
- Homeowners earn equity
- Easy to administer

## DISADVANTAGES

- Recaptured funds may not be adequate to assist new buyers
- Programs serve fewer households
- Does not ensure continued affordability
- Requires ongoing administration



# Recapture – When to use



- Fairly low subsidy amounts
- There are funds to supplement future homebuyers
- Home prices are not expected to rise significantly
- Market offers large & expanding supply of moderately priced housing units to reinvest recaptured funds.



# Recapture - Shared



- *Shared net proceeds.* Homeowner to recover the amount of the homeowner's down payment & any capital improvement investment
- The Grantee may share the net proceeds
- The net proceeds are the sales price minus loan repayment (except NSP funds) & closing costs



# Recapture

- Allows maximum flexibility to Grantee & owner
  - Sell at any price
  - Allows program income; Grantee decides how much
  - Easier to administer
- Lenders prefer
- Can not be used when:
  - No direct assistance
  - No assistance to be recaptured

# Resale



- Fair return on investment (including the homeowner's initial investment & any capital improvements)
- Housing will remain affordable to a reasonable range of low-income homebuyers.
- The period of affordability is based on the total amount of NSP/HOME funds invested in the housing
- Deed restrictions, covenants running with the land, or other similar mechanisms must be used as the mechanism to impose the resale requirements

# Resale Provisions



- Presumption of affordability is allowed
  - Concept
    - Homes are of modest value and will stay so
    - Homes are affordable to low-income buyers using conventional financing
  - Define neighborhood
  - Document with market analysis that is updated periodically



# RESALE



- Maintains affordable housing stock
- Best for appreciating neighborhoods
- Complicated for buyers
- More complex to administer
- Presumption of affordability
  - Simplifies resale
  - Must complete and update market analysis



# Deed Restrictions or Deed Covenants



- Three types of Restrictions:
  - Price Restrictions
  - Buyer Eligibility Restrictions
  - Occupancy & Use Restrictions



# Buyer Eligibility



- Buyer needs to be low, moderate or middle income
- NSP – up to 120% area median income
- Property must be principle residence
- Income eligibility
  - At purchase for existing house
  - At contract signature for new construction
  - At signing of lease-purchase agreement



# Resale text from HOME rule



- i. *Resale*. Resale requirements must ensure, if the housing does not continue to be the principal residence of the family for the duration of the period of affordability, that the housing is made available for subsequent purchase only to a buyer whose family qualifies as a low-income family & will use the property as its principal residence.
- Except as provided in paragraph (a)(5)(i)(B) of this section, deed restrictions, covenants running with the land, or other similar mechanisms must be used as the mechanism to impose the resale requirements.

# Advantages & Disadvantages of Deed Restrictions



- Does not require separate ownership of land & improvements
- More acceptable to buyers “own the land as well as the house”
- Avoid separate tax compilations
- Appears to require less oversight
- Not Perpetual- limited time
- Privity-weakens over time
- Self Enforcing
- Sponsor unaware of problems
- Subordinated to mortgage



# Preparing for Resale Restrictions



1. Option to Purchase Agreement – stating purchase price – OPTIONAL
2. Promissory Note
3. Covenant (deed restriction)
4. Request for notice of default or sale
5. Disclosure to Buyer



# Option to Purchase Agreement



- Procedures for property transfer-timeframe
- Treatment for involuntary sale-divorce, inheritance, etc.
- Addition of parties – by marriage
- Requirements for insurance-hazard, liability
- Provisions for subordination
- Buyers consent to option to purchase
- Default events –failure to pay mortgage, taxes, primary residence, waste, etc.

# Include in Agreement



- Buyer protection – FHA requires original purchase price, commission, cost of capital improvements
- Capital improvements – treatment
- Deferred maintenance
- Repayment of secondary financing
- Subsidy program requirements – residency, etc.





# Disclosure to Buyers

- Explanation of resale restrictions, promissory note, deed restriction or covenant
- Rationale for pro bono counseling
- Buyer acknowledges reading & understanding

