

**SUBMITTAL TO THE BOARD OF DIRECTORS OF THE  
REDEVELOPMENT AGENCY  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

604



**SUBMITTAL DATE:**  
May 5, 2011

**FROM:** Redevelopment Agency

**SUBJECT:** Memorandum of Understanding with Habitat for Humanity Riverside, Inc.

**RECOMMENDED MOTION:** That the Board of Directors:

1. Approve the attached Memorandum of Understanding by and between the Redevelopment Agency for the County of Riverside and Habitat for Humanity Riverside, Inc.;
2. Authorize the Chairman of the Board to execute the attached Memorandum of Understanding; and
3. Authorize the Executive Director or designee to take all necessary steps to implement this Memorandum of Understanding including, but not limited to, signing subsequent necessary and relevant documents.

**BACKGROUND:** ( Commences on Page 2)

Robert Field  
Executive Director

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$500,000.	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$0	Budget Adjustment:	No
	Annual Net County Cost:	\$0	For Fiscal Year:	2010/11

**COMPANION ITEM ON BOARD OF SUPERVISORS AGENDA:** No

<b>SOURCE OF FUNDS:</b> Redevelopment Low- and Moderate-Income Housing Funds	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** APPROVE  
BY:   
County Executive Office Signature Jennifer L. Sargent

**MINUTES OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY**

On motion of Supervisor Benoit, seconded by Supervisor Buster and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley  
Nays: None  
Absent: None  
Date: May 17, 2011  
xc: RDA, Auditor

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

Prev. Agn. Ref.: N/A

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

District: 2

Agenda Number: **4.3**

FISCAL PROCEDURES APPROVED  
 PAUL ANGULO, CPA, AUDITOR-CONTROLLER  
 DATE BY   
 Departmental SAMUEL WONG  
 ANITA C. WILLIS  
 DATE BY

FORM APPROVED COUNTY COUNSEL  
 BY:   
 DATE BY

Consent  
 Policy  
 Consent  
 Policy

Dept's Recomm.:  
 Per Exec. Ofc.:

**BACKGROUND:** The Redevelopment Agency for the County of Riverside has identified a need in the county to stabilize neighborhoods whose viability has been damaged by the economic effects of properties that have been foreclosed upon, abandoned or subjected to blighted conditions.

Habitat for Humanity Riverside, Inc. (Habitat), a nonprofit public benefit corporation, has proposed to acquire approximately two foreclosed, abandoned or blighted single-family homes or vacant lots on an annual basis within the Jurupa Valley Project Area with the objective to rehabilitate or construct new homes for sale to very low-income, first-time homebuyer households. Acquisition, rehabilitation or new construction, and sale of the homes are intended to serve the interests of the community served by the Redevelopment Agency and of the health, safety, and welfare of the residents of the County of Riverside by providing additional affordable units to the community. The project meets the public purposes and provisions of applicable federal, state, and local laws and requirements which govern the Redevelopment Agency. Such an effort will accomplish the removal of detrimental blight on an established neighborhood and produce affordable homeownership.

Habitat has requested to enter into a Memorandum of Understanding with the Redevelopment Agency for funding assistance in an amount up to \$1,500,000, not to exceed \$500,000 annually, towards acquisition, rehabilitation or new construction, and sale of approximately two homes each year. Additional sources of funding sought after by Habitat may include loans or contributions from Habitat Riverside Restore, Habitat's Fund for Future, Bank of America Foundation, Weingart Foundation, US Bank Foundation, Wells Fargo Foundation, Bosch Foundation, Calvary Presbyterian Church of Riverside, and Lutheran Churches in Riverside, Moreno Valley and Corona.

All homes will be sold to very low-income, first-time homebuyer households earning less than 50% of the county area median income and committed to occupy the homes as their principal residence for a minimum period of 45 years.

Agency Counsel has approved as to form the attached Memorandum of Understanding. Staff recommends that the Board approve the attached Memorandum of Understanding.

**MEMORANDUM OF UNDERSTANDING**

1  
2 This MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into this  
3 day of May 17, 2011, by and between the REDEVELOPMENT AGENCY FOR THE  
4 COUNTY OF RIVERSIDE (“AGENCY”), a public body, corporate and politic, and  
5 HABITAT FOR HUMANITY RIVERSIDE, INC. (“HFHR”), a California nonprofit public  
6 benefit corporation.

7 **RECITALS**

8 WHEREAS, AGENCY is a redevelopment agency duly created, established and  
9 authorized to transact business and exercise its powers, all under and pursuant to the  
10 provisions of the California Community Redevelopment Law (“CRL”), which is Part 1 of  
11 Division 24 of the California Health and Safety Code (commencing with Section 33000 et  
12 seq.); and

13 WHEREAS, AGENCY, pursuant to Section 33334.2 of the California Health  
14 and Safety Code, wishes to utilize its Low- and Moderate- Income Housing Set-Aside Funds  
15 to improve and increase the supply of affordable housing in the unincorporated county; and

16 WHEREAS, the County has adopted by Ordinance No. 638, on December 23,  
17 1986, a redevelopment plan for an area within the County known as the Jurupa Valley Project  
18 Area (the “JVPA”); and

19 WHEREAS, HFHR is a nonprofit public benefit corporation engaged in  
20 building safe and affordable housing for families of low- and moderate-income; and

21 WHEREAS, AGENCY and HFHR have identified a need to revitalize  
22 neighborhoods whose viability has been damaged by the economic effects of properties that  
23 have been foreclosed upon, abandoned or subjected to blighted conditions within the JVPA;  
24 and

25 WHEREAS, HFHR has requested Redevelopment Low- and Moderate-Income  
26 Housing funds for acquisition, rehabilitation or new construction of homes for sale to very low-  
27 income, first-time homebuyer households within the JVPA (the “Project”); and

28 WHEREAS, AGENCY and HFHR desire to enter into this MOU to undertake

1 and assist with redevelopment activities to serve the interests of the community served by the  
2 Redevelopment Agency and of the health, safety, and welfare of the residents of the County of  
3 Riverside by providing additional affordable units to the community; and

4 WHEREAS, HFHR has represented that it has the necessary expertise, skill, and  
5 ability to carry out the commitments contained in this MOU; and

6 WHEREAS, AGENCY endeavors to preserve, protect, improve and increase the  
7 affordable housing stock and eliminate blight in the JVPA.

8 NOW, THEREFORE, in consideration of the mutual understanding provided  
9 herein, the parties hereto execute this MOU based upon the following terms and conditions:

10 1) TERM. The Term of this MOU shall be for thirty-six (36) months from  
11 the Effective Date as defined in **Section 40**.

12 2) PURPOSE. The purpose of this MOU is to set forth the cooperative  
13 efforts between HFHR and AGENCY for which AGENCY agrees to provide HFHR a total of  
14 up to One Million Five Hundred Thousand Dollars (\$1,500,000), not to exceed Five Hundred  
15 Thousand Dollars (\$500,000) annually, of Redevelopment Low- and Moderate-Income  
16 Housing funds ("AGENCY funds"), commencing from the Effective Date, upon the terms and  
17 conditions set forth herein. HFHR agrees to accept AGENCY funds to undertake and assist  
18 with redevelopment activities by utilizing AGENCY funds towards acquisition and  
19 rehabilitation/construction costs of each home for sale to very low-income, first-time  
20 homebuyer households within the JVPA.

21 3) HFHR'S ROLE AND RESPONSIBILITIES: HFHR hereby agrees to  
22 undertake and complete the following activities, subject to its receipt of AGENCY funds:

23 a. Application. HFHR shall submit an application for each property  
24 of the Project to AGENCY for approval, including:

- 25 i. Proposal
- 26 ii. Appraisal Report
- 27 iii. Preliminary Title Report
- 28 iv. Purchase and Sale Agreement

1 v. Plans and Designs

2 vi. Rehabilitation/Construction timeline

3 vii. Development Budget

4 b. Recordation. HFHR shall, for each approved property of the  
5 Project (“Assisted Unit”), execute and record a deed of trust  
6 (“Deed of Trust”), as shown in **Exhibit B**, and execute a  
7 promissory note (“Note”), as shown in **Exhibit C**, both of which  
8 are attached hereto and by this reference incorporated herein.

9 c. Permits. Before commencement of construction or other works  
10 of improvement upon each Assisted Unit, HFHR shall, at its own  
11 expense, secure or cause to be secured any and all permits and  
12 approvals which may be required for rehabilitation or  
13 construction pursuant to the applicable rules and regulations of  
14 the County and any other governmental agency affected by such  
15 rehabilitation of work.

16 d. Performance. HFHR shall acquire and complete rehabilitation or  
17 new construction of approximately two (2) Assisted Units  
18 annually commencing from the Effective Date.

19 e. Compliance. The Project shall remain in compliance with all  
20 applicable Federal, State and local codes, laws, regulations and  
21 ordinances.

22 4) AGENCY’S ROLE AND RESPONSIBILITIES. AGENCY agrees to  
23 undertake and complete the following activities:

24 a. Provide a total amount identified in **Section 2** in AGENCY funds  
25 to HFHR towards acquisition and rehabilitation/construction  
26 costs for each Assisted Unit of the Project.

27 b. Comply with all of its obligations under the applicable  
28 regulations set forth in California Community Redevelopment

1 Law.

2 5) PRIOR AGENCY APPROVAL. HFHR shall obtain AGENCY's  
3 approval, through its Economic Development Agency ("EDA"), of all items requiring such  
4 approvals as described in this MOU.

5 6) DEVELOPMENT LOAN. HFHR shall receive AGENCY funds from  
6 AGENCY (the "Development Loan") for acquisition and rehabilitation/construction costs for  
7 each Assisted Unit under the following terms and conditions:

8 a. Term. The term of the Development Loan shall become effective  
9 upon the date the Deed of Trust is executed, and shall be  
10 forgiven on the date of the initial transfer of title of such Assisted  
11 Unit to Qualified Homebuyer, as defined in **Section 16**.

12 b. Principal. The principal of the Development Loan attributable to  
13 an Assisted Unit shall be the amount of AGENCY funds provided  
14 for acquisition and rehabilitation/construction costs of such  
15 Assisted Unit secured by Deed of Trust and evidenced by Note  
16 executed by HFHR in favor of AGENCY in a form satisfactory to  
17 AGENCY.

18 c. Interest. The interest rate shall be zero percent (0%) per annum.

19 d. Note. Each Note shall provide the following:

20 1. The Development Loan attributable to an Assisted Unit  
21 shall be due and payable by an Event of Default by HFHR  
22 which has not been cured as provided for in **Section 20**.

23 2. At the time of sale of each Assisted Unit to Qualified  
24 Homebuyer, AGENCY shall cause to be delivered to  
25 HFHR a reconveyance of the Deed of Trust from such  
26 Assisted Unit and a termination of the Deed of Trust as a  
27 lien on such Assisted Unit.

28 e. Security. Each Development Loan shall be secured by Deed of

1 Trust and recorded against each Assisted Unit. HFHR agrees that  
2 each Deed of Trust shall be in the first position until the home has  
3 been sold to a Qualified Homebuyer.

4 7) TERMS OF AFFORDABILITY. The period of affordability for each  
5 Assisted Unit (the "Affordability Period") shall be forty-five (45) years from the initial  
6 transfer of title of such Assisted Unit to an individual Qualified Homebuyer secured by a  
7 Covenant Agreement, as shown in Exhibit D, which is attached hereto and by this reference  
8 incorporated herein, and recorded in the Official Records of Riverside County.

9 8) DEVELOPER FEE. The developer fee cannot exceed 10% of total  
10 project costs. Developer fee shall be disbursed in accordance with Section 10. Real estate  
11 commissions cannot be included as part of the total project costs in determining the developer  
12 fee.

13 9) CONDITIONS FOR DISPOSITION OF FUNDS. AGENCY shall: (1)  
14 make payments to HFHR as specified in **Exhibit A**, and (2) monitor the Project to ensure  
15 compliance with applicable federal, state and local laws, regulations, ordinances and the terms  
16 of this MOU.

17 There will be no disbursement of funds for acquisition costs for an Assisted  
18 Unit until the following events first occur:

- 19 a. HFHR shall execute this MOU.
- 20 b. HFHR shall provide an application for the Assisted Unit.
- 21 c. HFHR shall provide at its expense, Preliminary Title Reports,  
22 signed Purchase and Sale Agreements and closing cost  
23 statements to AGENCY.

24 There will be no disbursement of funds for rehabilitation costs, on a cost-as-  
25 incurred basis, for an Assisted Unit until the following events first occur with respect to such  
26 Assisted Unit:

- 27 d. HFHR shall provide at its expense an updated Preliminary Title  
28 Report for the Assisted Unit evidencing the recordation of all

1 documents to AGENCY.

2 e. HFHR must provide satisfactory evidence that it has secured any  
3 and all permits and approvals which may be required for  
4 rehabilitation/construction of the Assisted Unit pursuant to the  
5 applicable rules and regulations of the County, Cities where the  
6 properties are located and any other governmental agency  
7 affected by such construction of work.

8 f. HFHR shall provide a detailed timetable to complete the  
9 acquisition, rehabilitation/construction and sale of the Assisted  
10 Unit in accordance with the completion schedule provided in the  
11 AGENCY approved application including a detailed line item  
12 rehabilitation cost budget per unit for review and approval by  
13 AGENCY.

14 g. HFHR provides duly executed documents and instruments  
15 showing the ownership of the Assisted Units.

16 h. HFHR agrees to pay all costs incurred due to the ownership and  
17 development of the Assisted Unit in a timely manner. HFHR  
18 shall pay all incurred costs on or before the date of such incurred  
19 cost becomes delinquent. AGENCY shall not reimburse HFHR  
20 for late payments or penalties incurred by HFHR due to non  
21 timely payment. In the event that AGENCY has inadvertently  
22 paid for a late payment penalty, the amount of the penalty shall  
23 be deducted from the developer's fee, unless otherwise  
24 authorized by AGENCY.

25 AGENCY shall release final draw down of AGENCY funds for rehabilitation  
26 applicable to an Assisted Unit following receipt of all of the following documents ("Closing  
27 Documents") from HFHR with respect to such Assisted Unit:

28 i. unconditional lien release from general contractor and any



1 subcontractor;

2 j. recorded Notice of Completion;

3 k. final development costs and project budget; and

4 l. final sources and uses of funds.

5 10) DISTRIBUTION OF FUNDS. Any disbursement of funds is expressly  
6 conditioned upon the satisfaction of conditions set forth in **Section 9**. Subsequent to  
7 acquisition of each Assisted Unit, AGENCY shall pay HFHR for rehabilitation/construction  
8 costs on a "cost-as-incurred" basis for all approved costs on a monthly basis. All  
9 disbursements of AGENCY funds for rehabilitation will be made within thirty (30) days after  
10 HFHR has submitted its letter identifying payments made and requesting reimbursement.

11 The developer's fee will be disbursed according to the following schedule:  
12 fifty percent (50%) upon the completion of rehabilitation/construction of each Assisted Unit  
13 and fifty percent (50%) upon sale of each Assisted Unit. HFHR shall comply with timely  
14 drawdown of funds by submitting monthly requests for reimbursement. AGENCY shall  
15 release final draw down of AGENCY funds following receipt of all of the items listed in  
16 **Section 9**.

17 11) INSURANCE. Without limiting or diminishing HFHR's obligation to  
18 indemnify or hold AGENCY harmless, HFHR shall procure and maintain or cause to be  
19 maintained, at its sole cost and expense, the following insurance coverage's during the Term  
20 of this MOU.

21 a. Worker's Compensation Insurance.

22 If HFHR has employees, as defined by the State of California,  
23 HFHR shall maintain statutory Workers' Compensation  
24 Insurance (Coverage A) as prescribed by the laws of the State of  
25 California. Policy shall include Employers' Liability (Coverage  
26 B) including Occupational Disease with limits not less than  
27 \$1,000,000 per person per accident. The policy shall be endorsed  
28 to waive subrogation in favor of the Redevelopment Agency for

1 the County of Riverside, and, if applicable, to provide a  
2 Borrowed Servant/Alternate Employer Endorsement.

3 b. Commercial General Liability Insurance.

4 Commercial General Liability insurance coverage, including but  
5 not limited to, premises liability, contractual liability, products  
6 and completed operations liability, personal and advertising  
7 injury, and cross liability coverage, covering claims which may  
8 arise from or out of HFHR'S performance of its obligations  
9 hereunder. Policy shall name the Redevelopment Agency for the  
10 County of Riverside as additionally insured. Policy's limit of  
11 liability shall not be less than \$1,000,000 per occurrence  
12 combined single limit. If such insurance contains a general  
13 aggregate limit, it shall apply separately to this MOU or be no  
14 less than two (2) times the occurrence limit.

15 c. Vehicle Liability Insurance.

16 If vehicles or mobile equipment are used in the performance of  
17 the obligations under this MOU, then HFHR shall maintain  
18 liability insurance for all owned, non-owned or hired vehicles so  
19 used in an amount not less than \$1,000,000 per occurrence  
20 combined single limit. If such insurance contains a general  
21 aggregate limit, it shall apply separately to this MOU or be no  
22 less than two (2) times the occurrence limit. Policy shall name  
23 the Redevelopment Agency for the County of Riverside as  
24 Additionally Insured.

25 d. General Insurance Provisions – All Lines.

26 1. Any insurance carrier providing insurance coverage  
27 hereunder shall be admitted to the State of California and  
28 have an A.M. BEST rating of not less than A: VIII (A:8)

1 unless such requirements are waived, in writing, by  
2 AGENCY Risk Manager. If AGENCY's Risk Manager  
3 waives a requirement for a particular insurer such waiver  
4 is only valid for that specific insurer and only for one  
5 policy term

6 2. HFHR'S insurance carrier(s) must declare its insurance  
7 self-insured retentions. If such self-insured retentions  
8 exceed \$500,000 per occurrence such retentions shall  
9 have the prior written consent of AGENCY Risk  
10 Manager before the commencement of operations under  
11 this MOU. Upon notification of self insured retention  
12 unacceptable to AGENCY, and at the election of  
13 AGENCY's Risk Manager, HFHR'S carriers shall either;  
14 (a) reduce or eliminate such self-insured retention as  
15 respects this MOU with AGENCY, or (b) procure a bond  
16 which guarantees payment of losses and related  
17 investigations, claims administration, and defense costs  
18 and expenses.

19 3. HFHR shall cause HFHR's insurance carrier(s) to furnish  
20 the Redevelopment Agency for the County of Riverside  
21 with either 1) a properly executed original Certificate(s)  
22 of Insurance and certified original copies of  
23 Endorsements effecting coverage as required herein, and  
24 2) if requested to do so orally or in writing by AGENCY  
25 Risk Manager, provide original Certified copies of  
26 policies including all Endorsements and all attachments  
27 thereto, showing such insurance is in full force and effect.  
28 Further, said Certificate(s) and policies of insurance shall

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contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this MOU shall terminate forthwith, unless AGENCY receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. HFHR shall not commence operations until AGENCY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so, on its behalf, shall sign the original endorsements for each policy and the Certificate of Insurance.

4. It is understood and agreed to by the parties hereto that HFHR's insurance shall be construed as primary insurance, and AGENCY's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.
5. If, during the Term of this MOU or any extension thereof, there is a material change in the scope of services; or,

1 there is a material change in the equipment to be used in  
2 the performance of the scope of work which will add  
3 additional exposures (such as the use of aircraft,  
4 watercraft, cranes, etc.); or, the Term of this MOU,  
5 including any extensions thereof, exceeds five (5) years  
6 AGENCY reserves the right to adjust the types of  
7 insurance required under this MOU and the monetary  
8 limits of liability for the insurance coverage's currently  
9 required herein, if; in AGENCY Risk Manager's  
10 reasonable judgment, the amount or type of insurance  
11 carried by HFHR has become inadequate.

12 6. HFHR shall pass down the insurance obligations  
13 contained herein to all tiers of subcontractors working  
14 under this MOU.

15 7. The insurance requirements contained in this MOU may  
16 be met with a program(s) of self-insurance acceptable to  
17 AGENCY.

18 8. HFHR agrees to notify AGENCY of any claim by a third  
19 party or any incident or event that may give rise to a  
20 claim arising from the performance of this MOU.

21 12) PROJECT MONITORING AND EVALUATION. Except as otherwise  
22 provided for in this MOU, HFHR shall maintain and submit records to AGENCY within ten  
23 (10) business days of AGENCY's request which clearly documents HFHR's performance  
24 under each requirement of this MOU. A list of document submissions and timeline are shown  
25 in **Exhibit A**.

26 13) ACCESS TO PROJECT SITE. AGENCY shall have the right to visit  
27 the Project site at all reasonable times, and upon completion of the Project upon reasonable  
28 written notice to HFHR, to review the operation of the Project in accordance with this MOU.

1           14) COMPLIANCE WITH LAWS AND REGULATIONS. By executing  
2 this MOU, HFHR hereby certifies that it will adhere to and comply with all applicable  
3 federal, state and local laws, regulations and ordinances. In particular, HFHR shall comply  
4 with the following as they may be applicable:

5           a)     Obligation to Refrain from Discrimination. HFHR covenants and  
6                 agrees there shall be no discrimination against or segregation of  
7                 any person, or group of persons, on account of sex, sexual  
8                 orientation, marital status, race, religion, color, creed, national  
9                 origin or ancestry in the sale, lease, sublease, transfer, use,  
10                occupancy, tenure or enjoyment of the Project nor shall  
11                AGENCY or any person claiming under or through HFHR  
12                establish or permit any such practice or practices of  
13                discrimination or segregation with reference to the selection,  
14                location, number, use or occupancy of tenants, lessees,  
15                subtenants, sublessees, or vendees of the Project.

16           b)     Environmental Review. HFHR must comply with the California  
17                 Environmental Quality Act (CEQA) and its implementation  
18                 regulations.

19           c)     Prevailing Wages and Compliance with State Laws. The  
20                 exclusive and sole public funds used to construct the Project will  
21                 be Redevelopment Low- and Moderate-Income Housing Set-  
22                 Aside Funds. HFHR shall comply with any applicable labor  
23                 regulations and all other State Laws in connection with the  
24                 construction of the improvements which comprise the Project,  
25                 including if applicable, requirements relating to prevailing  
26                 wages. HFHR believes that the payment of California state  
27                 prevailing wages, as defined by the California Department of  
28                 Industrial Relations, is not required and agrees and acknowledges

1 that it is the responsibility of HFHR to obtain a legal  
2 determination, if necessary, at HFHR'S sole cost and expenses as  
3 to whether prevailing wages must be paid for during the  
4 construction of the Project. HFHR agrees to indemnify, defend,  
5 and hold AGENCY harmless from and against any and all  
6 liability arising out of and related to HFHR'S failure to comply  
7 with any and all applicable prevailing wage requirements.

8 d) All construction contract and professional services for the Project  
9 must be performed by persons or entities licensed or otherwise  
10 authorized to perform the applicable construction work or service  
11 in the State of California.

12 e) Lead-Based Paint. HFHR shall comply with any and all, but not  
13 limited to, applicable requirements of the Lead-Based Paint  
14 Poisoning Prevention Act; Residential Lead-Based Paint Hazard  
15 Reduction Act (Title X, Sections 1012 and 1013, of the 1992  
16 Housing and Community Development Act); and Housing and  
17 Urban Development Lead Safe Housing Regulations (24 Code of  
18 Federal Regulations Part 35).

19 f) Displacement, relocation, and acquisition. HFHR shall comply  
20 with any and all, but not limited to, applicable requirements for  
21 relocation requirements and acquisition requirements of the laws  
22 of the State of California. Prior to rehabilitation, HFHR shall  
23 provide a Relocation Plan as set forth herein of this Agreement  
24 that describes and makes findings for any and all relocation that  
25 is temporary, permanent or involves no relocation.

26 15) INCOME TARGETING REQUIREMENTS. HFHR shall sell each  
27 Assisted Unit to very low-income, first-time homebuyer households whose incomes are at or  
28 below fifty percent (50%) of the Area Median Income (AMI), adjusted by family size at the

1 time of occupancy, for the County of Riverside.

2 16) SALE REQUIREMENTS. HFHR is required to sell each Assisted Unit  
3 to a Qualified Homebuyer, as defined in **Section 17**. The Selling Price of each Assisted Unit  
4 shall not exceed the (a) the fair market value or (b) the total costs to acquire, rehabilitate and  
5 dispose of each Assisted Unit. Upon transfer of title to the Qualified Homebuyer, the balance  
6 shall be converted to a grant.

7 17) QUALIFIED HOMEBUYER. HFHR shall provide to AGENCY  
8 evidence to support the following listed information for EDA's review and approval:

9 a. Income Limits. In order for homebuyers to be eligible to  
10 purchase the homes, the homebuyer's annual income must not  
11 exceed fifty percent (50%) of the AMI, adjusted by family size at  
12 the time of occupancy, for the County of Riverside. The income  
13 and assets of all persons age eighteen (18) and older who will  
14 reside in the home must be included in the calculation to  
15 determine income eligibility.

16 b. Co-owners. Co-owners are only permitted if they will occupy the  
17 home as their principal residence and qualify as first time buyers,  
18 as defined herein. The income of all co-owners will be included  
19 in determining if the household qualifies as very low-income, as  
20 noted above. Co-signers are not permitted.

21 c. First-time homebuyer. In order to qualify as a first-time  
22 homebuyer, the homebuyer cannot have had ownership interest  
23 in improved-upon residential real property for the previous three  
24 years from the date the homebuyer enters into a purchase  
25 agreement. HFHR shall cause the homebuyer to sign a sworn  
26 application attesting that they have not owned a home, nor have  
27 had ownership interest in improved-upon real property, and tax  
28 returns from the last three (3) years will be reviewed to ascertain



1 that no mortgage interest or real estate tax deductions have been  
2 claimed.

3 d. Principal Residence. Homebuyer must be the principal resident  
4 during the Affordability Period.

5 e. Occupancy Standard. All homebuyers must meet the occupancy  
6 standard as defined in the Housing Quality Act under 982.401  
7 that states, "The dwelling unit must have at least one bedroom or  
8 living/sleeping room for each two persons." Children of opposite  
9 sex, other than very young children, may not be required to  
10 occupy the same bedroom or living/sleeping room.

11 f. Homebuyer Education. Each homebuyer must receive a  
12 certificate of completion evidencing at least eight (8) hours of  
13 homebuyer counseling from a HUD-approved housing  
14 counseling agency before obtaining a mortgage loan.

15 g. Long Term Affordability. Assisted Units must meet the  
16 affordability requirements for forty-five (45) years after transfer  
17 of title to Qualified Homebuyer. Affordability requirements  
18 apply regardless of the term of any loan, mortgage or the transfer  
19 of ownership. Affordability requirements are imposed by deed  
20 restrictions, but may terminate upon foreclosure or transfer in  
21 lieu of foreclosure.

22 h. Homebuyer's Citizenship. All applicants and household  
23 members must be either a US Citizen or a qualified alien as per  
24 Section 431 of Personal Responsibility and Work Opportunity  
25 Reconciliation Act of 1996 and possess a valid social security  
26 number.

27 18) INDEPENDENT CONTRACTOR. HFHR and its agents, servants and  
28 employees shall act at all times in an independent capacity during the Term of this MOU, and

1 shall not act as, shall not be, nor shall they in any manner be construed to be agents, officers,  
2 or employees of AGENCY.

3 19) HOLD HARMLESS AND INDEMNIFICATION. HFHR shall  
4 indemnify and hold harmless AGENCY, its Agencies, Districts, Special Districts and  
5 Departments, their respective directors, officers, Board of Directors, elected and appointed  
6 officials, employees, agents and representatives from any liability whatsoever, based or  
7 asserted upon any services of HFHR, its officers, employees, subcontractors, agents or  
8 representatives arising out of or in any way relating to this MOU, including but not limited to  
9 property damage, bodily injury, or death or any other element of any kind or nature  
10 whatsoever arising from the performance of HFHR, its officers, agents, employees,  
11 subcontractors, agents or representatives from this MOU. HFHR shall defend, at its sole  
12 expense, all costs and fees including, but not limited, to attorney fees, cost of investigation,  
13 defense and settlements or awards, the County of Riverside, its Agencies, Districts, Special  
14 Districts and Departments, their respective directors, officers, Board of Supervisors, elected  
15 and appointed officials, employees, agents and representatives in any claim or action based  
16 upon such alleged acts or omissions.

17 With respect to any action or claim subject to indemnification herein by HFHR,  
18 HFHR shall, at its sole cost, have the right to use counsel of its own choice and shall have the  
19 right to adjust, settle, or compromise any such action or claim without the prior consent of  
20 AGENCY; provided, however, that any such adjustment, settlement or compromise in no  
21 manner whatsoever limits or circumscribes HFHR'S indemnification to AGENCY as set  
22 forth herein.

23 HFHR'S obligation hereunder shall be satisfied when HFHR has provided to  
24 AGENCY the appropriate form of dismissal relieving AGENCY from any liability for the  
25 action or claim involved.

26 The specified insurance limits required in this MOU shall in no way limit or  
27 circumscribe HFHR'S obligations to indemnify and hold harmless AGENCY herein from  
28 third party claims.

1 In the event there is conflict between this clause and California Civil Code  
2 Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such  
3 interpretation shall not relieve HFHR from indemnifying AGENCY to the fullest extent  
4 allowed by law.

5 20) EVENTS OF DEFAULT. The occurrence of any of the following events  
6 shall constitute an "Event of Default" under this MOU:

- 7 a. Monetary Default. (1) HFHR's or any agent of HFHR's use of  
8 AGENCY funds for costs disallowed under the California  
9 Community Redevelopment Law or for uses inconsistent with  
10 terms and restrictions set forth in this MOU; (2) HFHR's failure  
11 to obtain and maintain the insurance coverage required under this  
12 MOU; (3) HFHR's or any agent of HFHR's failure to make any  
13 other payment of any assessment or tax due under this MOU;
- 14 b. Non-Monetary Default - Operation. (1) Discrimination by HFHR  
15 or HFHR's agent on the basis of characteristics prohibited by this  
16 MOU or applicable law; (2) the imposition of any encumbrances  
17 or liens on the Project (other than the Permitted Liens) without  
18 AGENCY's prior written approval that are prohibited under this  
19 MOU or that have the effect of reducing the priority or  
20 invalidating the Deed of Trust; (3) any material adverse change  
21 in the condition of HFHR or the Project or permanent financing  
22 or funding for the Project that gives AGENCY reasonable cause  
23 to believe that the Project cannot be operated according to the  
24 terms of this MOU;
- 25 c. General Performance of Grant Obligations. (i) any continuous or  
26 repeated breach by HFHR or HFHR's agents of any material  
27 obligations on HFHR imposed in the MOU, and (ii) failure by  
28 HFHR to comply with all requirements specified in this MOU

1 commencing from the Effective Date. All remaining AGENCY  
2 funds not expended will be subject to AGENCY's sole  
3 discretion.

4 d. General Performance of Other Obligations. Any continuous or  
5 repeated breach by HFHR or HFHR's agents of any material  
6 obligations on the Project imposed by any other agreement with  
7 respect to the financing, development, or operation of the  
8 Project; whether or not AGENCY is a party to such agreement;  
9 but only following any applicable notice and cure periods with  
10 respect to any such obligation;

11 e. General Performance of Affordability Requirements. Any  
12 breach by HFHR or HFHR's agents of any housing affordability  
13 requirements imposed in this MOU;

14 f. Representations and Warranties. A determination by AGENCY  
15 that any of HFHR's representations or warranties made in this  
16 MOU, any statements made to AGENCY by HFHR, or any  
17 certificates, documents, or schedules supplied to AGENCY by  
18 HFHR were untrue in any material respect when made, or that  
19 HFHR concealed or failed to disclose a material fact from  
20 AGENCY;

21 g. Damage to Project. In the event that the Project is materially  
22 damaged or destroyed by fire or other casualty, and HFHR  
23 receives an award or insurance proceeds for the repair or  
24 reconstruction of the Project, and HFHR does not use such award  
25 or proceeds to repair or reconstruct the Project; provided,  
26 however, sufficient proceeds are available, no events of default  
27 exists and the restoration of the Project can be completed prior to  
28 maturity of the grant.

1 h. Bankruptcy, Dissolution and Insolvency. HFHR's (1) filing for  
2 bankruptcy, dissolution, or reorganization, or failure to obtain a  
3 full dismissal of any such involuntary filing brought by another  
4 party before the earlier of final relief or thirty (30) days after  
5 such filing; (2) making a general assignment for the benefit of  
6 creditors; (3) applying for the appointment of a receiver, trustee,  
7 custodian, or liquidator, or failure to obtain a full dismissal of  
8 any such involuntary application brought by another party before  
9 the earlier of final relief or sixty (60) days after such filing; (4)  
10 insolvency or (5) failure, inability or admission in writing of its  
11 inability to pay its debts as they become due.

12 21) NOTICE OF DEFAULT AND OPPORTUNITY TO CURE. For  
13 monetary and non-monetary Events of Default, AGENCY shall give  
14 written notice to HFHR of any Event of Default by specifying: (a) the  
15 nature of the Event of Default or the deficiency giving rise to the default,  
16 (b) the action required to cure the deficiency, if an action to cure is  
17 possible, and (c) a date, which shall not be less than sixty (60) calendar  
18 days from the mailing of the notice, by which such action to cure must  
19 be taken. AGENCY agrees that HFHR shall have the right to cure any  
20 and all defaults under this MOU.

21 22) AGENCY REMEDIES. Upon the happening of an Event of Default and  
22 a failure by HFHR to cure said default within the time specified in the  
23 Notice of Default (if an action to cure is specified in said notice),  
24 AGENCY's obligation to disburse AGENCY funds shall terminate, and  
25 AGENCY may also in addition to other rights and remedies permitted  
26 by this MOU or applicable law, proceed with any or all of the following  
27 remedies in any order or combination AGENCY may choose in its sole  
28 discretion:

- 1 a. Terminate this MOU, in which event the entire amount as well as
- 2 any other monies advanced to HFHR by AGENCY under this
- 3 MOU including administrative costs, shall become immediately
- 4 due and payable;
- 5 b. Bring an action in equitable relief (1) seeking the specific
- 6 performance by HFHR of the terms and conditions of this MOU,
- 7 and/or (2) enjoining, abating, or preventing any violation of said
- 8 terms and conditions, and/or (3) seeking declaratory relief;
- 9 c. Demand immediate full payment of the amount outstanding
- 10 under the MOU, as well as any other monies advanced to HFHR
- 11 by AGENCY under this MOU, except for developer fees earned
- 12 to the point of default;
- 13 d. Enter the Project and take any remedial actions necessary in its
- 14 judgment with respect to hazardous materials that AGENCY
- 15 deems necessary to comply with hazardous materials laws or to
- 16 render the Project suitable for occupancy;
- 17 e. Enter upon, take possession of, and manage the Project, either in
- 18 person, by agent, or by a receiver appointed by a court; and
- 19 f. Pursue any other remedy available at law or in equity.

20 23) HFHR'S REMEDIES. Upon the fault or failure of AGENCY to meet

21 any of its obligations under this MOU, HFHR may:

- 22 a. Demand payment from AGENCY of any sums due HFHR;
- 23 and/or
- 24 b. Bring an action in equitable relief seeking the specific
- 25 performance by AGENCY of the terms and conditions of this
- 26 MOU; and/or
- 27 c. Pursue any other remedy allowed at law or in equity.
- 28

1           24) HFHR'S WARRANTIES. HFHR represents and warrants (1) that it has  
2 access to professional advice and support to the extent necessary to  
3 enable HFHR to fully comply with the terms of this MOU, and to  
4 otherwise carry out the Project, (2) that it is duly organized, validly  
5 existing and in good standing under the laws of the State of California,  
6 (3) that it has the full power and authority to undertake the Project and to  
7 execute this MOU, (4) that the persons executing and delivering this  
8 MOU are authorized to execute and deliver such documents on behalf of  
9 HFHR and (5) that neither HFHR nor any of its principals is presently  
10 debarred, suspended, proposed for debarment, declared ineligible, or  
11 voluntarily excluded from participation in connection with the  
12 transaction contemplated by this MOU.

13           25) TERMINATION.

14           a. Notwithstanding the above provision hereof, AGENCY may  
15 suspend or terminate this MOU upon written notice to HFHR of  
16 the action being taken and the reason for such action:

17                   (1) In the event HFHR fails to perform the covenants herein  
18 contained at such times and in such manner as provided  
19 in this MOU after the applicable notice and cure  
20 provision hereof; or

21                   (2) In the event there is a conflict with any federal, state or  
22 local law, ordinance, regulation or rule rendering any of  
23 the provisions of this MOU invalid or untenable; or

24                   (3) In the event the funding, as referred to in **Section 2**, is  
25 terminated or otherwise becomes unavailable.

26           b. Upon expiration of this MOU, HFHR shall transfer to AGENCY  
27 any unexpended AGENCY funds in its possession at the time of  
28 expiration of the MOU as well as any accounts receivable held

1 by HFHR which are attributable to the use of AGENCY funds  
2 awarded pursuant to this MOU. If AGENCY so chooses it will  
3 also require HFHR to transfer title of Assisted Units to  
4 AGENCY.

5 26) AFFORDABILITY RESTRICTIONS. AGENCY and HFHR hereby  
6 declare their express intent that the restrictions set forth in this MOU for each Assisted Unit  
7 of the Project shall be affordable for a period of forty-five (45) years from the transfer of title  
8 to Qualified Homebuyer, and shall bind all successors in title to the Assisted Unit until the  
9 expiration of the Affordability Period. Each and every contract, deed or other instrument  
10 hereafter executed covering and conveying the Assisted Unit or any portion thereof shall be  
11 held conclusively to have been executed, delivered and accepted subject to such restrictions,  
12 regardless whether such restrictions are set forth in such contract, deed or other instrument.

13 27) MECHANICS LIENS AND STOP NOTICES. If any claim of  
14 mechanics lien is filed against the Project or a stop notice is served on AGENCY, HFHR  
15 must, within twenty (20) days of such filing or service, either pay and fully discharge the lien  
16 or stop notice, obtain a release of the lien or stop notice by delivering to AGENCY a surety  
17 bond in sufficient form and amount, or provide AGENCY with other assurance reasonably  
18 satisfactory to AGENCY that the lien or stop notice will be paid or discharged.

19 28) ENTIRE AGREEMENT. It is expressly agreed that this MOU embodies  
20 the entire agreement of the parties in relation to the subject matter hereof, and that no other  
21 agreement or understanding, verbal or otherwise, relative to this subject matter, exists  
22 between the parties at the time of execution.

23 29) AUTHORITY TO EXECUTE. The persons executing this MOU or  
24 exhibits attached hereto on behalf of the parties to this MOU hereby warrant and represent  
25 that they have the authority to execute this MOU and warrant and represent that they have the  
26 authority to bind the respective parties to this MOU to the performance of its obligations  
27 hereunder.  
28



1           30) WAIVER. Failure by a party to insist upon the strict performance of any  
2 of the provisions of this MOU by the other party, or the failure by a party to exercise its  
3 rights upon the default of the other party, shall not constitute a waiver of such party's rights  
4 to insist and demand strict compliance by the other party with the terms of this MOU  
5 thereafter.

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

13           32) JURISDICTION AND VENUE. Any action at law or in equity arising  
14 under this MOU or brought by a party hereto for the purpose of enforcing, construing or  
15 determining the validity of any provision of this MOU shall be filed in the consolidated  
16 Courts of Riverside County, State of California, and the parties hereto waive all provisions of  
17 law providing for the filing, removal or change of venue to any other court or jurisdiction.

18           33) SEVERABILITY. Each paragraph and provision of this MOU is  
19 severable from each other provision, and if any provision or part thereof is declared invalid,  
20 the remaining provisions shall nevertheless remain in full force and effect.

21           34) MINISTERIAL ACTS. AGENCY's Assistant AGENCY Executive  
22 Officer/EDA or designee(s) are authorized to take such ministerial actions as may be  
23 necessary or appropriate to implement the terms, provisions, and conditions of this MOU as  
24 it may be amended from time to time by both parties.

25           35) ASSIGNMENT. HFHR will not make any sale, assignment,  
26 conveyance, or lease of any trust or power, or transfer in any other form with respect to this  
27 MOU or the Project without AGENCY approval.

28           36) EXHIBITS AND ATTACHMENTS. Each of the attachments and

1 exhibits attached hereto is incorporated herein by this reference.

2 37) MEDIA RELEASES. HFHR agrees to allow AGENCY to coordinate all  
3 media releases regarding the Project, with prior approval of HFHR. Any publicity generated  
4 by HFHR for the Project must make reference to the contribution of AGENCY in making the  
5 Project possible. AGENCY's name shall be prominently displayed in all pieces of publicity  
6 generated by HFHR, including flyers, press releases, posters, signs, brochures, and public  
7 service announcements. HFHR agrees to cooperate with AGENCY in any AGENCY-  
8 generated publicity or promotional activities with respect to the Project.

9 38) NOTICES. All notices, requests, demands and other communication  
10 required or desired to be served by either party upon the other shall be addressed to the  
11 respective parties as set forth below or the such other addresses as from time to time shall be  
12 designated by the respective parties and shall be sufficient if sent by U.S. first class, certified  
13 mail, postage prepaid, or express delivery service with a receipt showing the date of delivery.

14 AGENCY  
15 Assistant Director  
16 Redevelopment Agency  
17 for the County of Riverside  
18 3403 Tenth Street, Suite 500  
19 Riverside, CA 92501

HFHR  
Board President  
Habitat For Humanity Riverside Inc.  
2180 Iowa Avenue  
Riverside, CA 92507

20 39) COUNTERPARTS. This MOU may be signed by the different parties  
21 hereto in counterparts, each of which shall be an original but all of which together shall  
22 constitute one and the same agreement.

23 40) EFFECTIVE DATE. The effective date of this MOU is the date the  
24 Board of Directors execute the MOU.

25 ///  
26 ///  
27 ///  
28 ///

1           **IN WITNESS WHEREOF**, AGENCY and HFHR have executed this MOU as of the  
2 date first above written.

3  
4   AGENCY:  
5   REDEVELOPMENT AGENCY  
6   FOR THE COUNTY OF RIVERSIDE

          HFHR:  
          HABITAT FOR HUMANITY RIVERSIDE, INC.  
          a California nonprofit benefit corporation

7  
8   By: Bob Buster  
9       BOB BUSTER  
10      Chairman, Board of Supervisors

          By: John C. Terrell  
          JOHN C. TERELL  
          Board President

11  
12   APPROVED AS TO FORM:  
13   PAMELA J. WALLS  
14   AGENCY Counsel

15   By: Anita C. Willis  
16      Deputy, Anita C. Willis

17  
18   ATTEST:  
19   KECIA HARPER-IHEM  
20   Clerk of the Board

21   By: Karlungutan  
22      Deputy

MAY 17 2011 4.3

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

STATE OF CALIFORNIA }

COUNTY OF \_\_\_\_\_ }

On \_\_\_\_\_, before me, \_\_\_\_\_  
Date Here Insert Name and Title of the Officer

personally appeared \_\_\_\_\_  
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 \_\_\_\_\_

Place Notary Seal Above

Signature of Notary Public

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

STATE OF CALIFORNIA }  
COUNTY OF \_\_\_\_\_ }

On \_\_\_\_\_, before me, \_\_\_\_\_  
Date Here Insert Name and Title of the Officer

personally appeared \_\_\_\_\_  
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 of Notary Public

Place Notary Seal Above

# Exhibit A

**HFHR:** Habitat for Humanity Riverside, Inc.

**Address:** 2180 Iowa Avenue, Riverside, CA 92507

**Project Title:** Habitat Riverside MOU

**Project Description:**

HFHR will utilize up to \$500,000 annually in AGENCY funds towards acquisition and rehabilitation/construction costs of single-family homes within the Jurupa Valley Project Area for sale to very low-income, first-time homebuyer households whose incomes are at or below fifty percent (50%) of the Area Median Income (AMI), adjusted by family size at the time of occupancy, for the County of Riverside.

Qualified homebuyers cannot have had ownership interest in improved-upon residential real property for the previous three years and are required to attend an eight (8) hour home buyer counseling session certified by the United States Department of Housing and Urban Development (HUD). Assisted Units shall be affordable for a period of at least 45 years from the transfer of title to qualified first-time homebuyers.

# **EXHIBIT B**

Deed of Trust  
(sample)

EXEMPT RECORDING FEE CODE 6103  
RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Riverside County  
Economic Development Agency  
3403 10th Street, Suite 500  
Riverside, CA 92501  
ATTN: Lorena Oseguera

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEED OF TRUST WITH ASSIGNMENT OF RENTS**

This DEED OF TRUST is made on this \_\_\_\_\_ day of \_\_\_\_\_, 2011. The trustor is HABITAT FOR HUMANITY RIVERSIDE, INC., a California nonprofit benefit corporation, ("Borrower" or "HFHR"), and whose address is 2180 Iowa Avenue, Riverside, CA 92507. The trustee is RIVERSIDE COUNTY ECONOMIC DEVELOPMENT AGENCY ("Trustee"). The lender is the COUNTY OF RIVERSIDE ("COUNTY" or "Lender"), a public agency, organized and existing under the laws of the State of California, and whose address is 3403 10th Street, Suite 500, Riverside, CA 92501.

Pursuant to the terms of the Memorandum of Understanding (the "MOU"), dated \_\_\_\_\_, Borrower owes Lender the sum of \_\_\_\_\_ Dollars (U.S. \$) (the "Development Loan") for acquisition and rehabilitation/construction of the "Assisted Unit" at with Assessor Parcel Number \_\_\_\_\_, as legally described as follows:

<LEGAL DESCRIPTION>

This debt is evidenced by Borrower's Note dated \_\_\_\_\_ ("Note"). Capitalized terms not defined herein shall have the meaning ascribed to them in the MOU.

The Development Loan is evidenced by the Note and secured by this Deed of Trust ("Security Instrument"). The Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest as provided in the Note, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest as provided in the Note, advanced under paragraph 8 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, all of Borrower's right, title and interest in and to the Assisted Unit located in Riverside County, California.

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property".



BORROWER COVENANTS that the Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey its fee and leasehold interest in the Property, as applicable, and the Property is unencumbered. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to such encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS Borrower and Lender covenant and agree as follows:

1. **Payment of Principal; Late Charges.** Borrower shall promptly pay when due the principal of on the debt evidenced by the Note and any late charges due under the Note.
2. **Taxes and Insurance.** Borrower shall pay at least ten (10) days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.
  - a. Should Borrower fail to make any payment or to do any act herein provided, then Lender or Trustee, but without obligation so to do and upon written notice to or demand upon Borrower and without releasing Borrower from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Lender or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Lender or Trustee; pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.
3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to amounts payable under paragraph 2; second, to interest due; third, to principal due; and last, to any late charges due under the Note.
4. **Prior Deeds of Trust; Charge; Liens.** The Borrower shall perform all of the Borrower's obligations under this Deed of Trust, including Borrower's covenants to make payments when due, subject to applicable cure periods. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any, subject to applicable cure periods. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

- a) Except for the liens permitted by the Lender, Borrower shall promptly discharge any other lien which shall have attained priority over this Security Instrument unless Borrower: (1) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (2) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; (3) bond around the lien; or (4) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy such lien or take one or more of the actions set forth above within thirty (30) days of the giving of notice.

**5. Subordination.** This Deed of Trust shall be recorded in first position. This Deed of Trust shall remain in a superior position over any other trust deed that may be issued to secure additional public and/or private financing for the Project.

**6. Hazard or Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss of fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods as required in the MOU Agreement. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 8.

- a) All insurance policies and renewals shall be with terms and amounts acceptable to Lender and shall include a standard mortgagee clause. All original policies of insurance required pursuant to the Lender Deeds of Trust shall be held by Borrower; provided, however, Lender shall be named as a loss payee as its interest may appear and may be named as an additional insured. Borrower shall promptly give to Lender certificates of insurance showing the coverage is in full force and effect and that Lender is named as additional insured. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by the Borrower.
- b) Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided Borrower determines that such restoration or repair is economically feasible and there is no default continuing beyond the expiration of all applicable cure periods. If Borrower determines that such restoration or repair is not economically feasible or if a default exists after expiration of all applicable cure periods, the insurance proceeds shall be applied to the sums secured by

this Deed of Trust, with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if 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 Deed of Trust.

- c) Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of Note. If under paragraph 23 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

**7. Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to representations concerning Borrowers use of Property for affordable housing. If this Security Instrument is on a leasehold, Borrower shall comply with all provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

- a) The Borrower acknowledges that this Property is subject to certain use and occupancy restrictions (which may be further evidenced by a separate agreement recorded in the land records where the Property is located), limiting the Property's use to qualified very low-income (VLI) households earning no more than 50% of the median income within Riverside County. The use and occupancy restrictions may limit the Borrower's ability to sell the Property. The violation of any use and occupancy restrictions may, if not prohibited by federal law, entitle the Lender to the remedies provided in Section 22 hereof.

**8. Protection of Lender's Rights in the Property.** If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a

proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then, subject to any applicable grace periods or cure periods, Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument (including sums secured by the Senior Deeds of Trust), appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 8, Lender does not have to do so.

- a. Any amounts disbursed by Lender under this paragraph 8 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

**9. Mortgage Insurance.** (Not used)

**10. Inspection.** Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

**11. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

- a. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Borrower and Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due. Notwithstanding the foregoing, so long as the value of Lender's lien is not impaired, any condemnation proceeds may be used by Borrower for repair and/or restoration of the project.

- b. If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.
- c. Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Except in connection with any successor in interest approved by lender, extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Successors and Assigns Bound; Joint and Several Liability.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 18. Borrower's covenants and agreements shall be joint and several.

**14. Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be promptly refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

**15. Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Borrower's mailing address stated herein or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice required to be given to a Senior Lien Holder shall be given by first class mail to any Senior Lien Holder at such address Senior Lien Holder designates by notice to the Borrower. Any notice provided

for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

- 16. Governing Law; Severability.** This Security Instrument shall be governed by law of the State of California. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.
- 17. Borrower's Copy.** Borrower shall be given one conformed copy of the Note and of this Security Instrument.
- 18. Transfer of the Property or a Beneficial Interest in Borrower.** Except for the sale of Assisted Units in the Project, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent (including a transfer of all or any part of the Property to any person who, at initial occupancy of the Property, does not use the Property for very low-income (VLI) households, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.
  - a. If Lender exercises the foregoing option, Lender shall give Borrower 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 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.
  - b. Notwithstanding Lender's right to invoke any remedies hereunder, as provided in Section 8 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 at least 60 days' prior written notice.
- 19. Borrower's Right to Reinstate.** 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 (or such other period as applicable law may specify for reinstatement) before 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 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 paragraph 18.

- 20. Sale of Note; Change of Loan Servicer.** The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with paragraph 15 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.
- 21. Hazardous Substances.** 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 do, nor 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, construction, and to maintenance of the Property.
- a. Borrower shall promptly given 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 in writing 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, the Borrower shall notify the Senior Lien Holders that such remedial action is necessary and shall obtain the Senior Lien Holders' prior written consent for such remedial action.
  - b. As used in this paragraph 22, "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. As used in this paragraph 22, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

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

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured by the Borrower on or before the date specified in the notice, and the Senior Lien Holders or the Investment Limited Partner have not exercised their right to cure the default, then Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Notwithstanding Lender's right to invoke any remedies hereunder, as provided in Section 8 above, 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 at least 60 days' prior written notice. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

- a. If Lender invokes the power of sale, Lender or Trustee shall mail copies of a notice of sale in the manner prescribed by applicable law to Borrower. Trustee shall give notice of sale by public advertisement for the time and in the manner prescribed by applicable law. Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.
- b. Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

**23. Release.** Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.



- 24. Substitute Trustee.** Lender, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Security Instrument is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.
- 25. Counterparts.** 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.

(SIGNATURES ON NEXT PAGE)

**BY SIGNING BELOW, Borrower and Lender accept and agree to the terms and covenants contained in this Deed of Trust.**

Date: \_\_\_\_\_

BORROWER:

HABITAT FOR HUMANITY RIVERSIDE, INC.

By: \_\_\_\_\_  
JOHN C. TERELL, Board President

LENDER:

COUNTY OF RIVERSIDE

By: \_\_\_\_\_  
EMILIO RAMIREZ, Assistant Director

**SIGNATURES MUST BE NOTARIZED**

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

STATE OF CALIFORNIA }  
COUNTY OF \_\_\_\_\_ }

On \_\_\_\_\_, before me, \_\_\_\_\_  
Date Here Insert Name and Title of the Officer  
personally appeared \_\_\_\_\_  
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 of Notary Public

Place Notary Seal Above

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. You are hereby directed to cancel said Promissory Note or Notes and this Security Instrument (Deed of Trust), which are 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: \_\_\_\_\_

# **EXHIBIT C**

**Promissory Note**  
**(sample)**



**PROMISSORY NOTE SECURED BY DEED OF TRUST**      \$ \_\_\_\_\_      **Riverside, CA**

In installments as hereafter stated, for value received, HABITAT FOR HUMANITY RIVERSIDE, INC., a California, nonprofit public benefit corporation, (“Borrower” or “HFHR”) promises to pay the REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE (“AGENCY”), a public body, corporate and politic, or order, at 3403 10th Street, Suite 500, Riverside, CA 92501, the sum of \_\_\_\_\_ Dollars (U.S. \$ \_\_\_\_\_) (the “Development Loan”), at the rate of zero percent (0%) per annum, for acquisition, rehabilitation or new construction costs of the “Assisted Unit” or “Property” at \_\_\_\_\_. Capitalized terms not defined herein shall have the meaning ascribed to them in the Memorandum of Understanding (the “MOU”) dated \_\_\_\_\_.

**This Promissory Note shall provide the following:**

The Development Loan will accrue interest at a rate of zero percent (0%) per annum. The Development Loan shall be due and payable by an Event of Default by Borrower which has not been cured as provided for in the MOU.

At the time of the sale of the Assisted Unit to Qualified Homebuyer, AGENCY shall cause to be delivered to Borrower a reconveyance of the Deed of Trust from such Assisted Unit and a termination of the Development Loan as a lien on such Assisted Unit.

Pursuant to the MOU, term of the Development Loan shall become effective upon the date the Deed of Trust is executed, and shall be forgiven on the date of the initial transfer of title of such Assisted Unit to Qualified Homebuyer.

In any action commenced to enforce the obligation of the Borrower to pay principal and interest under the Note, the obligations hereunder shall be non-recourse to the Borrower and the judgment shall not be enforceable personally against the Borrower, Borrower’s partners, or the Borrower’s assets, and the recourse of the AGENCY for the collection of such amounts shall be limited to actions against the Property described in the Deed of Trust executed by the Borrower to secure the Note and the rents, profits, issues, products, and income from the Property.

Should default be made in payment of principal when due and such default shall continue beyond the applicable notice and cure period provided in the Deed of Trust, the outstanding principal balance of this Note shall become immediately due at the option of the holder of this Note. Principal is payable in lawful money of the United States. If action be instituted on this Note, the undersigned promises to pay such sums as the Court may fix as attorney’s fees.

The Borrower shall not have any direct or indirect personal liability for payment of the principal of, or interest on, the Development Loan or the performance of the Borrower’s obligations under the MOU. The sole recourse of the AGENCY with respect to payment of the principal of, or interest on, the Development Loan, shall be to the Assisted Unit. No money judgment (or execution on a money judgment) entered in any action (whether legal or equitable) on the MOU shall be enforced personally against the Borrower, but shall be enforced only against the Property and such other property as may from time to time be hypothecated in connection with the Borrower’s obligations under the MOU. This non-recourse provision does not limit or impair the enforcement against all such security for the Development Loan of all the rights and remedies of the AGENCY, nor does it impair the right of the AGENCY to assert the unpaid principal amount of the Development Loan as a demand for money within the meaning of California Code of Civil Procedure Section 431.70 or any successor provision. In addition, this non-recourse provision does not relieve the Borrower of personal liability for damage to or loss suffered by the AGENCY as a result of any of the following (i) fraud or willful misrepresentation; (ii) any misappropriation of rental proceeds resulting in the failure to pay taxes, assessments, or other charges that could create statutory liens on the Project and that are payable or applicable prior to any foreclosure under the Deed of Trust; (iii) the fair market value of any personal property of fixtures removed or disposed of

by the Borrower other than in accordance with the Deed of Trust; (iv) the misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss, or destruction to any portion of the Property (to the extent of the misapplied proceeds or awards); and (v) any rental income or other income arising with respect to the Property received by the Borrower after the AGENCY has properly exercised its rights under the Deed of Trust to receive such income upon an Event of Default (as defined under the Deed of Trust).

**DATE:** \_\_\_\_\_

**BORROWER:**

HABITAT FOR HUMANITY RIVERSIDE, INC.

By: \_\_\_\_\_  
JOHN C. TERELL  
Board President



**EXHIBIT D**  
**Covenant Agreement**  
**(sample)**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:  
Redevelopment Agency for the County of Riverside  
3403 10<sup>th</sup> Street, Suite 500  
Riverside, CA 92501  
ATTN: <DS Name>

(Free Recording Requested-Government Code §6103)

File: RFH-<FILE NUMBER>

**AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY**  
(“Covenant Agreement”)

This Covenant Agreement is made this <day> day of <month>, 20    between <Homebuyers Name and Vesting>, (“BORROWER”) and the Redevelopment Agency for the County of Riverside (“AGENCY”), a public agency organized and existing under the laws of the State of California.

- I. **WHEREAS**, AGENCY is a Redevelopment Agency duly created, established and authorized to transact business and exercise its powers, all under and pursuant to the provisions of the Community Redevelopment Law which is Part 1 of Division 24 of the California Health and Safety Code (commencing with Section 33000 et seq.); and
- II. **WHEREAS**, the Board of Directors of the AGENCY adopted Resolution Number 2005-35 on 20 December 2005, which found and determined that the use of low and moderate-income housing funds outside the project area are of benefit to all project areas; and
- III. **WHEREAS**, AGENCY endeavors to provide affordable, safe and sanitary housing opportunities to low and moderate income and special needs households within the County of Riverside; and
- IV. **WHEREAS**, pursuant to Section 33125 of the Health and Safety Code, AGENCY is authorized to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; and
- V. **WHEREAS**, the undersigned BORROWER is the owner of record of that certain real property located in an unincorporated area of the County of Riverside, California, and commonly described as <Address of purchase property> (“PROPERTY”) and more particularly described as: <INSERT LEGAL DESCRIPTION> APN: <INSERT APN>; and;
- VI. **WHEREAS**, AGENCY has determined that BORROWER qualifies for use of AGENCY’s Low and Moderate Income Housing Set Aside funds (“SET ASIDE FUNDS”); and
- VII. **WHEREAS**, Section 33334.3 of the California Health and Safety Code (“CHSC”) requires that housing units assisted with AGENCY SET ASIDE FUNDS remain affordable to low and moderate income household for a period of not less than forty-five (45) years, for owner occupied housing units; and

- VIII. **WHEREAS**, AGENCY desires to ensure that the housing unit assisted by this Covenant Agreement remain affordable and maintained for a period not less than forty-five (45) years; and
- IX. **WHEREAS**, the AGENCY has entered into agreement with a developer and the developer is eligible to receive funds under AGENCY SET ASIDE FUNDS to purchase and rehabilitate properties within an unincorporated area of the County of Riverside, California; and
- X. **WHEREAS**, the developer is to sell the rehabilitated properties to a qualified low and moderate income first time homebuyers; and
- XI. **WHEREAS**, the Borrower wishes desires to purchase the property located at (INSERT PROPERTY ADDRESS), which was rehabilitated by developer; and
- XII. **WHEREAS**, in connection with the execution of this Covenant Agreement, BORROWER has received a loan from the AGENCY for assistance with the purchase of the PROPERTY (“Agency LOAN”); and
- XIII. **WHEREAS**, BORROWER has agreed to enter into this Covenant Agreement to meet the requirements of Community Redevelopment Law, specifically CHSC 33334.3; and
- XIV. **WHEREAS**, BORROWER agrees to occupy the housing unit as his or her principal place of residence.

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

**1) ARTICLE 1 – TERMS OF AFFORDABILITY**

- a) **Occupancy.** At the point of signature of this Covenant 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 escrow closes on the PROPERTY.

**2) ARTICLE 2 - MAINTENANCE REQUIREMENTS**

- a) **Maintenance of Property.** BORROWER shall, for the term of this Covenant 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.** BORROWER shall, for the term of this Covenant 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 County of Riverside or of AGENCY.

- c) **Exterior Maintenance.** The PROPERTY shall, for the term of this Covenant 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:
- a) Buildings abandoned, boarded up, partially destroyed or left unreasonably in a state of partial construction; and
  - b) Abandoned or non-operational vehicles; and
  - c) Unpainted buildings or buildings with peeling paint; and
  - d) Cause dry rot, warping and termite infestation; and
  - e) Constitute an unsightly appearance that detracts from the aesthetic or property values of neighboring properties; and
  - f) Broken windows, constituting hazardous conditions and/or inviting trespassers and malicious mischief; and
  - g) Broken or discarded furniture, appliances and other household equipment stored for periods exceeding one (1) week; and
  - h) Packing boxes, lumber, trash, dirt and other debris stored for periods exceeding one (1) week; and
  - i) 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 BORROWER from AGENCY.
- e) **Trash.** All trash shall, for the term of this Covenant 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 BORROWER 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 Covenant Agreement, be adequately and appropriately landscaped and maintained. The landscaping shall meet minimum standards set from time to time by the AGENCY. Landscaping on the PROPERTY, including front, back and side yards and parkways shall be absent of the following:
- a) Lawns with grasses in excess of six (6) inches in height; and
  - b) Untrimmed hedges causing a nuisance to the public right of way; and
  - c) Trees, shrubbery, lawns and other plant life dying from lack of water or other necessary maintenance; and
  - d) Trees and shrubbery grown uncontrolled without proper pruning; and
  - e) Vegetation so overgrown as to be likely to harbor rats or vermin; and
  - f) Dead, decayed or diseased trees, weeds and other vegetation; and Inoperative irrigation system(s), if any; and
  - g) Parkway with ground cover in excess of eighteen (18) inches in height.

- 3) **ARTICLE 3 - NON-DISCRIMINATION** Pursuant to Health and Safety Code Section 33436, BORROWER 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 BORROWER 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. Pursuant to Health and Safety Code Section 33435, BORROWER 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:
    - a) 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 Covenant Agreement shall be for forty-five (45) years from the date escrow closes on the PROPERTY, at which time this Covenant 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) BORROWER hereby declares the express intent that the covenants and restrictions set forth in this Covenant Agreement shall run with the land, and shall bind BORROWER, its executors, administrators and assigns and all persons claiming under or through BORROWER 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.
- b) 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.

- 6) **ARTICLE 6 – CHANGE OF OWNERSHIP.** Upon AGENCY's request or in the event a change of ownership occurs on the PROPERTY, BORROWER shall provide or caused to be provided to AGENCY 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 BORROWER to perform any covenant, condition or provision of this Covenant Agreement constitutes a default under this Covenant Agreement. In such event, AGENCY shall give written notice of default to BORROWER, specifying the default complained of by AGENCY. 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.** BORROWER 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 Covenant Agreement by BORROWER, or BORROWER's heirs, executors, administrators or assigns, AGENCY 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 Covenant 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 AGENCY's rights under law.

- e) **Right of Entry.** If the BORROWER cure procedure listed in Article 7(b) lapses and BORROWER fails to maintain the PROPERTY in accordance with the Covenant 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 BORROWER specifically outlining the noncompliance with this Covenant Agreement, AGENCY shall have the right of entry at reasonable hours to enforce compliance and affect the repairs or maintenance which BORROWER has failed to perform.
  - f) **Costs of Repair.** The costs borne by AGENCY 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 BORROWER 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 Covenant 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 Covenant Agreement shall be not constituted a waiver of the right to enforce the same thereafter.
- 8) **ARTICLE 8 – NOTICE**  
Notice to BORROWER under this Covenant 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**  
The rights and obligations of this Covenant Agreement shall bind and inure to the benefit of the respective heirs, successors and assigns of the parties.
- 10) **ARTICLE 10 - ATTORNEY'S FEES**  
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**  
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 Covenant Agreement and the remaining provisions of this Covenant Agreement shall remain in full force and effect.

- 12) **ARTICLE 12 - WAIVER**  
Failure by a party to insist upon the strict performance of any of the provisions of this Covenant 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 Covenant Agreement thereafter.
- 13) **ARTICLE 13 - INTERPRETATION AND GOVERNING LAW**  
This Covenant Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. This Covenant 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 Covenant Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.
- 14) **ARTICLE 14 - AUTHORITY TO EXECUTE**  
The persons executing this Covenant Agreement on behalf of the parties to this Covenant Agreement hereby warrant and represent that they have the authority to execute this Covenant Agreement and warrant and represent that they have the authority to bind the respective parties to this Covenant Agreement to the performance of its obligations hereunder.
- 15) **ARTICLE 15- ENTIRE COVENANT AGREEMENT**  
It is expressly agreed that this Covenant 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**  
This Covenant 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**  
The BORROWER will not make any sale, assignment, conveyance or lease of any trust or power, or transfer in any other form with respect to this Covenant Agreement without prior written approval of the AGENCY.
- 18) **ARTICLE 18 - AMENDMENTS AND MODIFICATIONS**  
Any amendments or modifications to this Covenant Agreement must be in writing and shall be effective only if executed by BORROWER and AGENCY.
- 19) **ARTICLE 19 - JURISDICTION AND VENUE**  
Any action at law or in equity arising under this Covenant Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Covenant Agreement shall be filed in the consolidated Courts of Riverside County, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.



20) **ARTICLE 20- EFFECTIVE DATE**

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

**IN WITNESS WHEREOF, BORROWER has executed this Covenant Agreement.**

BORROWER

REDEVELOPMENT AGENCY  
FOR THE COUNTY OF RIVERSIDE

\_\_\_\_\_  
BORROWER'S NAME

\_\_\_\_\_  
Emilio Ramirez, Assistant Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
BORROWER'S NAME

\_\_\_\_\_  
Date

***ALL SIGNATURES MUST BE NOTARIZED***