

Recording Requested By  
 First American Title Company  
 Riverside Resale

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RECORDING REQUESTED BY AND  
 WHEN RECORDED MAIL TO:

REDEVELOPMENT AGENCY OF  
 THE CITY OF RIVERSIDE  
 3900 Main Street, 5th Floor  
 Riverside, CA 92522  
 Attn: Housing Manager

Project: Down Payment  
 Assistance Program  
 APN. 218-216-001  
 3325345-04

DOC # 2009-0463623

09/04/2009 08:00A Fee:48.00

Page 1 of 11

Recorded in Official Records  
 County of Riverside

Larry W. Ward  
 Assessor, County Clerk & Recorder



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AGREEMENT AND COVENANTS, CONDITIONS  
 AND RESTRICTIONS AFFECTING REAL PROPERTY  
 INCLUDING OWNER-OCCUPANCY RESTRICTION

48



THIS AGREEMENT AND COVENANTS, CONDITIONS AND RESTRICTIONS AFFECTING REAL PROPERTY INCLUDING OWNER-OCCUPANCY RESTRICTION ("Agreement") is entered into this 17th day of July, 2009 (the "effective date"), by and between the REDEVELOPMENT AGENCY OF THE CITY OF RIVERSIDE, a public body corporate and politic, ("Agency") and Adam and Beth Wright, as joint tenants ("Owners"), with reference to the following facts:

RECITALS

WHEREAS, the Agency has approved and implemented a Down Payment Assistance Program ("Program"), under which the Agency will provide a subsidy to Eligible Persons and Families towards the purchase of a residence. The Agency intends that the subsidy, a deferred-payment mortgage loan, provided by the Program will assist first time homebuyers who are Eligible Persons and Families to purchase residential property for owner-occupancy at affordable housing cost; and

WHEREAS, the Program will be funded with money from Agency's low and moderate income housing set aside fund as described in Health & Safety Code section 33334.2 ("Fund"); and

WHEREAS, the Owners are the initial owners of the certain real property known as 5410 Magnolia Avenue (the "Property"), which is described on Exhibit A attached hereto and incorporated herein by reference, which will benefit from the Program; and

WHEREAS, the Agency and the Owners have agreed to impose certain continuing obligations related to and on the Property; and

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WHEREAS, the Owners agree for itself, its successors and assigns, to remain an owner-occupant for a period of fifty (50) years following the date on which the Owners receives a deferred-payment mortgage loan in the amount of Fifty Thousand Seven Hundred Eighty-Three Dollars (\$50,783) ("Loan Amount"); and

WHEREAS, the Agency has an interest in insuring that the Residential Property funded by the Program is properly maintained and remains attractive.

NOW, THEREFORE, in consideration of the promises contained below and other good and sufficient consideration, the receipt of which is hereby acknowledged, the Agency and the Owners agree that the Property against which these covenants, conditions and restrictions are recorded shall be held, sold and conveyed subject to the following covenants, conditions and restrictions.

1. Redevelopment Agency of the City of Riverside Supports Affordable Housing. The Agency supports Affordable Housing for very low and low to moderate income residents within the City of Riverside as set forth in regulations published in the California Department of Housing and Community Development pursuant to Health and Safety Code Section 50093.

2. Definitions For purposes of this Agreement, the following definitions shall apply:

(a) "Affordable Housing Cost" shall have the same meaning as set forth in Health and Safety Code section 50052.5, as that section is amended or substituted.

(b) "Dwelling Unit" means a single family residential home as originally constructed or as reconstructed, altered, or replaced.

(c) "Persons and families of low or moderate income" shall have the same meaning as set forth in Health & Safety Code section 50093, as that section is amended or substituted.

(d) "Very Low Income Households" shall have the same meaning as set forth in Health & Safety Code Section 500105, as that section is amended or substituted.

3. Term. The terms, covenants, conditions and restrictions contained in this Agreement shall be effective for a period of fifty (50) years following the effective date.

4. Disclosure Requirements. Prior to the execution of a purchase and sale agreement between the Owner and any subsequent purchaser of the Property, and prior to the execution of a purchase and sale agreement between any subsequent owner of the Property and any subsequent purchasers, the Owners or subsequent owner (as may be applicable) shall disclose, in writing, to each purchaser the fact that the property has been assisted with down payment assistance funds and that the requirements stated in this Agreement will remain in effect for the term described in Section 3.

5. Owner - Occupancy. Owners hereby agrees that Owners will occupy the Property as Owner's primary residence for a period of fifty (50) years following the date on which Owners

receives a down payment assistance loan. Owner's attempt to rent or actual rental of the Property for any purpose during the fifty-year period of restriction shall be a material breach of this Agreement and shall entitle Agency to exercise all available legal and equitable remedies.

It is expressly understood, acknowledged, and covenanted by the Owners for itself, its successors and assigns, that the Property or any part thereof, shall only be used and maintained for owner-occupied Single Family Residence. Therefore, the Owners, its successor, or its assigns, shall not rent, lease, or sublease the Property (including any improvement or fixture thereto), or otherwise transfer or attempt to transfer a tenancy or leasehold interest in the Property (including any improvement or fixture thereto) or any part thereof.

Agency and Owners acknowledge that this owner-occupancy covenant is a condition to and consideration for the Program Loan provided to Owners. In administering the Program, Agency is implementing the objective of increasing the ratio of decent, safe and sanitary owner-occupied single-family residences to rental property throughout the City. In furtherance of this public use and purpose, Owners for itself and its successors and assigns, also agrees not to rent, lease, license or otherwise permit a non-owner of the Property to take possession and control thereof. Owners and its successors in interest agree and consent that this owner-occupancy restriction may be enforced by the Agency through specific performance. As an additional alternative, in the event of a material breach by the failure to use and maintain the Property as an owner-occupied Single Family Residence, Agency may demand the immediate repayment of the Loan Amount from Owners and Owners shall be required to provide Agency with the Loan Amount within fifteen (15) days of said demand

6. Monitoring by the Agency. On or about July 1st, of each calendar year, the Agency will mail a form to the record owner of the Property requesting specific information. The Owners of the Property shall complete the form and return it to the Agency within thirty (30) calendar days after receipt of the request from the Agency. The form will request the following information:

- (i) whether there was a change in ownership of the dwelling unit from the prior year; and
- (ii) whether the dwelling unit was leased or rented during the prior year, and
- (iii) if there was a change in ownership, the income and family size of the new owners.

7. Binding on the Successors in Interest. The Owners hereby covenant and agree that their heirs, successors and assigns, and every successor in interest to the Property, or any part thereof, shall comply with each and every term, covenant, condition and restriction contained in this Agreement. The covenants, conditions and restrictions of this Agreement shall run with the land, any other provision of law notwithstanding, and shall be enforceable by the Agency in an action for specific performance against the Owners and their successors in interest.

8. Maintenance of Property.

(a) The Owners agree, for itself, its successors and assigns, that they shall maintain the Property, dwelling unit, improvements, landscaping and fixtures in good repair and keep the Property free from any accumulation of debris or waste materials, consistent with the customary practice and so as not to create a nuisance, or violate any provision of the City of Riverside Municipal Code.

(b) All exterior painted surfaces shall be maintained at all times in a clean and presentable manner, free from chipping, cracking and defacing marks. Any such defacing marks shall be cleaned or removed within the time as set forth in subparagraph (d) below.

(c) The Owners shall at all times maintain the front exterior, visible side exteriors and yard in a clean, safe and presentable manner, free from defacing marks or any disrepair. The Owners shall maintain and/or repair the front exterior or rear or visible side yard and exterior of the dwelling unit.

(d) All graffiti and defacement of any type, including marks, words and pictures, must be removed and any necessary painting or repair completed within one (1) week of their creation or within one (1) week after notice to Owners.

(e) Driveways. All driveways must be paved and maintained with impervious material in accordance with the City Municipal Code.

9. Remedies for Breach. Upon breach of any of the covenants, conditions or restrictions set forth in this Agreement, the Agency may exercise any and all remedies available to it at law or equity. These remedies include, without limitation, an action for injunctive relief or specific performance. In the event of a breach of the covenant regarding maintenance of the Property, as set forth in Section 8 of this Agreement, the Agency Executive Director, or his or her designee, shall give written notice to the Property Owners (as listed on the last equalized tax assessment roll) describing the conditions constituting the breach, demanding that such conditions be corrected, and notifying the Owners of the Agency's intention to enter upon the Property to correct such conditions. At any time within fifteen (15) calendar days following the giving of the notice described in the previous sentence, the Owners may request, in writing, a hearing to determine whether the conditions of the Property or the dwelling unit constitute a breach of Section 8 of this Agreement. This hearing shall be held within thirty (30) calendar days following the Agency's receipt of written request from the Owners and shall be held before the Agency Executive Director, or his or her designee. At this hearing, the Owners shall be allowed to introduce evidence in support of his or her position and shall have the right to question those witnesses and evidence against him or her. A transcript or electronic recording of the hearing may be made. At the end of this hearing, the Agency Executive Director, or his or her designee, shall make a finding, based upon substantial evidence in the record of the hearing, as to whether the conditions of the dwelling unit or Property constitute a breach of the terms of Section 8 of this Agreement. The decision of the Agency Executive Director shall be final and there shall be no right of appeal to the Agency Board.

If the Agency Executive Director, or his or her designee finds that the conditions of the dwelling unit or the Property constitute a breach of Section 8 of this Agreement, then the Agency shall so notify the Owners in writing and the Owners shall have five (5) calendar days following this written notice to correct or abate such breach. If the conditions are not corrected to the reasonable satisfaction of the Agency Executive Director, then the Agency, its employees or its agents may enter upon the Property to remedy and abate the conditions creating the breach. The Agency shall be entitled to recover its costs of remedying the conditions creating the breach, including, without limitation, administrative, overhead, and engineering costs. Such costs shall become a lien upon the Property pursuant to Civil Code § 2881, immediately due and payable, and the Agency may collect such costs through the appropriate civil proceedings.

The provisions of this Section 9 are supplemental to all other legal rights and remedies available to either the Agency.

10. Agency as Beneficiary. The Agency is the beneficiary of the terms and provisions of this Agreement and the covenants, conditions and restrictions running with the land, both for and in its own right, and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit this Agreement and the covenants, conditions and restrictions running with the land have been provided. This Agreement and the covenants shall run in favor of the Agency without regard to whether the Agency has been, remains, or is an owner or has any interest in the Property or in any other parcel in the City. The Agency shall have the right, but not the obligation, to exercise all rights and remedies and to maintain any actions at law or in equity or any other proceedings to enforce the covenants, conditions and restrictions contained in this Agreement.

11. Nonwaiver. The failure of Agency to enforce any one or more of the covenants, conditions or restrictions contained in this Agreement on any one or more occasions shall not constitute a waiver of the Agency's right to enforce the covenants, conditions and restrictions in the future.

12. Entire Agreement. This document contains the entire Agreement between the Agency and the Owners with respect to those matters contained herein. This Agreement may be modified only by a writing duly subscribed by both the Agency and the Owners. Notwithstanding the foregoing, the parties acknowledge that additional covenants, conditions and restrictions may be recorded against the Property in the future. In the event of a conflict or inconsistency between the provisions of this Agreement and such future covenants, conditions and restrictions, the document providing the greater measure of control, greater length of time, or more stringent requirement shall govern and supersede the other document to the extent of such conflict or inconsistency. Other than with respect to a conflict or inconsistency, the provisions of this Agreement and the provisions of any future covenants, conditions and restrictions shall be interpreted and enforced to give effect to the requirements of both documents.

13. Attorney's Fees. In the event that the Agency or Owners, or any successor in interest of the Owners, brings an action or begins any other proceeding to contest the validity of this Agreement or to enforce any of the covenants, conditions or restrictions in this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover from the other party its

reasonable costs and expenses associated with such action or proceeding. These costs and expenses shall include, but shall not be limited to, the costs of arbitration, reasonable attorneys fees, expenses associated with the action or proceeding, and the costs of all administrative proceedings and hearings. If payable by the Owners or their successors in interest, such costs and expenses shall become a lien upon the Property pursuant to Civil Code § 2881, et seq., immediately due and payable, and that lien may be enforced by the Agency through the appropriate civil proceedings.

14. Interpretation. The Section headings used in this Agreement are for the purposes of convenience only and shall not in any way limit, alter or amend the express terms of each Section. Words used in the singular will include the plural and visa versa.

15. Severability. If any term, provision, or section of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, the Agency and the Owners agree that invalid portion or section may be severed from the remainder of this Agreement and the remainder of the Agreement may be enforced in its entirety.

16. Nuisance. The result of every act or omission whereby the covenants contained in this Agreement are violated in whole or in part is hereby declared to be and constitutes a nuisance. 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 the Agency without derogation of the Agency's rights under law.

17. Covenant Against Partition. The Owners hereby covenant for themselves and for their heirs, representatives, successors and assigns, that it will not institute legal proceedings or otherwise seek to effect partition of their right and interest in the Property or the burdens running with the land as a result of this Agreement.

18. Notices. All notices required to be given by this agreement shall be in writing and shall be personally delivered or mailed by first class registered or certified mail. All notices given by mail shall be deemed delivered seventy-two (72) hours after the date and time of deposit, as shown on a receipt issued by the United States Postal Service. All notices to the Owners shall be addressed to the Property. All notices to the Agency shall be addressed to the Redevelopment Agency of the City of Riverside, 3900 Main Street, Riverside, California 92522. Owners address for notices may be changed only by written notice given in accordance with the terms of this provision.

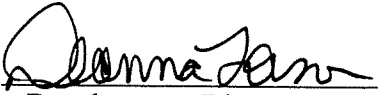
19. Cumulative Remedies. The remedies herein provided for breach of the covenants contained in this Agreement shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

20. Authority. The individuals executing this Agreement and the instruments referenced herein on behalf of Owners each represent and warrant that they have the legal power, right and actual authority to bind Owners to the terms and conditions hereof and thereof.

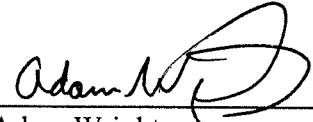
(Signatures on following page)

**AGENCY:**

THE REDEVELOPMENT AGENCY OF  
THE CITY OF RIVERSIDE, a public body  
corporate and politic

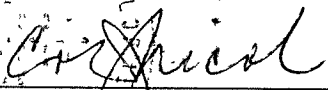
By:   
Development Director

**OWNERS:**

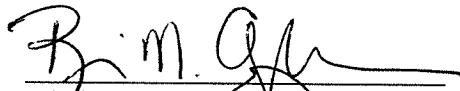
By:   
Adam Wright

By:   
Beth Wright

**ATTEST:**

  
Agency Secretary

**APPROVED AS TO FORM:**

  
for Agency General Counsel

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of Riverside }

On July 17, 2009 before me, Valerie Herrera, Notary Public  
Date Here Insert Name and Title of the Officer

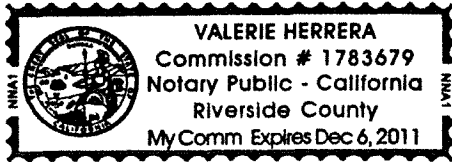
personally appeared Colleen J. Nicol  
Name(s) of Signer(s)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature Valerie Herrera  
Signature of Notary Public



Place Notary Seal Above

**OPTIONAL**

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

**Description of Attached Document**

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

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

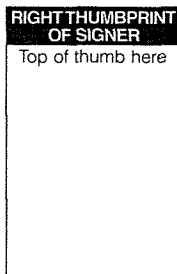
Signer(s) Other Than Named Above \_\_\_\_\_

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

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

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

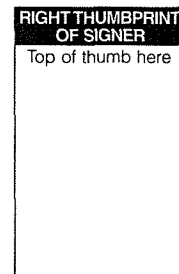
Signer Is Representing \_\_\_\_\_



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

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

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



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**ACKNOWLEDGMENT**

State of California  
County of Riverside

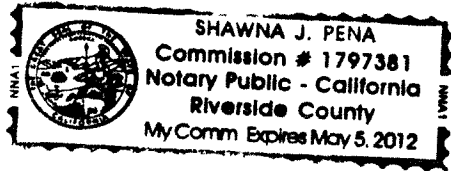
On July 16, 2009 before me, Shawna Peña, Notary Public  
(insert name and title of the officer)

personally appeared Deanna Lorson,  
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 Shawna Peña (Seal)



Shawn S. Pena

**ACKNOWLEDGMENT**

State of California  
County of Riverside)

On June 30, 2009 before me, Shawna Peña, Notary Public  
(insert name and title of the officer)

personally appeared Adam Wright and Beth Wright,  
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 Shawna Peña

(Seal)

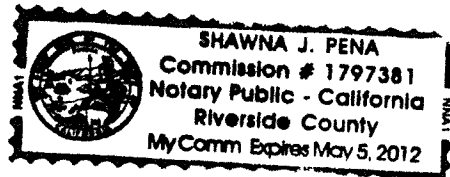



EXHIBIT A

APN 218-261-001  
FEE INTEREST

THAT CERTAIN REAL PROPERTY LOCATED IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOT 1 AS SHOWN BY MAP OF LINWOOD PLACE ADDITION NO. 2 ON FILE IN MAP BOOK 8, PAGE 48 THEREOF, RECORDS OF RIVERSIDE COUNTY CALIFORNIA.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

 4/30/07 Prep. \_\_\_\_\_  
Date  
Mark S. Brown, L.S. 5655  
License Expires 9/30/07

