

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

County of Santa Barbara  
123 East Anapamu Street, 2nd Floor  
Santa Barbara, CA 93101  
Attn: Deputy Director, HCD

NO FEE DOCUMENT PURSUANT TO  
GOVERNMENT CODE SECTION 27383

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Address: 4949 Sawyer Avenue

A.P.N. 003-153-05

**INTERIM AFFORDABILITY CONTROL COVENANT**  
**IMPOSED ON REAL PROPERTY**

THIS INTERIM AFFORDABILITY CONTROL COVENANT (“Interim Covenant”) is made for the benefit of the County of Santa Barbara, a public body politic (“County”), by Habitat for Humanity of Southern Santa Barbara County (“Owner”), as of this \_\_\_ day of April, 2017.

This Interim Covenant applies to the Owner's interest and Owner's successors' interest in the real property commonly known as 4949 Sawyer Avenue, Carpinteria, California, Assessor’s Parcel Number 003-153-05 and more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference (“Property”).

RECITALS

WHEREAS, Owner intends to construct three (3) new affordable housing units for low income households (“Project”) on the Property; and

WHEREAS, County has provided Owner with financial assistance for the development of the Project from funds in the County Housing Trust Funds (“County Funds”) made up of fees collected from developers of residential projects who were required to pay fees in-lieu of constructing affordable housing units in satisfaction of certain development approval conditions imposed pursuant to Chapter 46A of the Code of Santa Barbara County, and used for the purpose of expanding the supply of decent, safe, sanitary and affordable housing for low income persons and families. Owner has received a grant from County in the amount of three Hundred Thousand Dollars (\$300,000) to provide funding for the construction costs of the Project (the “Grant”); and

WHEREAS, Owner has benefited from the financial assistance provided by County and the Grant; and

WHEREAS, it is the intent of the County and Owner that this Interim Covenant serve as the affordability restriction on the Property until construction of the Project is complete and ensure that all units developed on the Property be sold to qualified low income purchasers and a covenant similar in form to the Affordable Housing Covenant attached hereto as Exhibit B

("Homeowner's Covenant") is recorded against each of the units, which shall replace this Interim Covenant; and

WHEREAS, Owner and County now wish to clarify their respective rights and obligations regarding the affordability and occupancy requirements arising from the aforementioned conditions.

NOW THEREFORE, in consideration of the benefits received by Owner, Owner hereby covenants and agrees with the City to impose the following covenants, conditions, restrictions and limitations upon the possession, use and enjoyment of the Property. Owner and City agree as follows:

**I. AFFORDABILITY AND SALE RESTRICTIONS:**

All units developed on the Property ("Units") shall be offered for sale and sold only to qualified low income households whose annual income does not exceed eighty percent (80%) of the Area Median Income ("Homeowners") as specified in the Homeowner's Covenant. Each subsequent sale shall be conducted in accordance with the provisions of the Homeowner's Covenant. Household Income of the Homeowners shall be determined in accordance with 24 CFR 5.609 – 612.

**II. TERM AND ENFORCEABILITY**

- A. This Interim Covenant shall be binding upon Owner and the successors and assigns of Owner and the heirs, personal representatives, grantees, lessees, sublessees, contract purchasers, and assignees of Owner and any subsequent owner of the Property until construction of the Project is complete and until each of the Units is sold to a Homeowner and the Homeowner's Covenant for each Unit is recorded in the Office of the Santa Barbara County Recorder's Office.
- B. The Property is held and hereafter shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and occupied subject to these covenants, conditions, restrictions and limitations. All of the above-stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.
- C. Any purchaser or transferee of the Property or of any portion or interest in the Property, shall, by the acceptance of any interest in the Property, or by the signing of a contract or agreement to purchase any interest in the Property, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

**III. REQUIREMENT FOR REPLACEMENT HOMEOWNER COVENANTS**

As a part of escrow proceedings on the initial sale of each Unit and prior to the recordation of any grant deed or other legal instrument transferring title to the Unit, the Owner and the County shall sign and cause to be recorded in the office of the County Recorder a replacement covenant substantially similar to the Homeowner's Covenant, which assures continued affordability and sets the procedure for calculation of the maximum sale price upon subsequent sale to future Homeowners for a minimum of ninety (90) years. The replacement covenant shall be senior and superior in lien priority to any mortgage, deed of trust, lease, sublease, contract, or any other instrument securing any debt or monetary obligation, including without limitation any deed of

trust recorded by Habitat or any other lender; provided, however, that the aforementioned replacement covenant shall be junior to a Grant of Preemptive Right: Resale Restriction Covenant and Option to Purchase recorded in favor of Habitat and which shall be in a form approved by the Santa Barbara County Community Services Director or designee. Such approval shall not be unreasonably withheld.

**IV. DEFAULTS AND REMEDIES AND ASSIGNMENT OF RENTS**

- A. Upon receiving notice of any violation of the terms of this Interim Covenant, the County may declare a default by delivering written notice to the Owner specifying the nature of the violation. Upon the declaration of a default, the County may apply to a court of competent jurisdiction for specific performance of the Interim Covenant, for an injunction prohibiting the violation of this Interim Covenant, or for any such other relief as may be appropriate.
- B. Owner acknowledges that sale or occupancy of the Property or any Unit in violation of this Interim Covenant is prohibited. In consideration of the benefits conferred on Owner and the Property by the County's Grant, OWNER HEREBY ASSIGNS TO THE COUNTY THE RIGHT TO RECEIVE THE RENTS DUE OR COLLECTED FROM THE PROPERTY OR EACH UNIT WHICH IS SOLD OR OCCUPIED IN VIOLATION OF THE TERMS OF THIS INTERIM COVENANT, DURING THE ENTIRE PERIOD OF THE VIOLATION. The County may enforce this right by any legal means.
- C. The remedies stated herein shall not be exclusive, but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

**V. ADDITIONAL PROVISIONS**

- A. The Units are intended to be sold to qualified low income purchasers. In the event of unexpected marketing difficulties, Owner may request approval from the Housing and Community Development Director or the Director's designee to rent the Units prior to sale, at rental rates approved by the County. The Units shall not be leased or rented by Owner without the express written approval of the County. The County shall determine the length of time that the Units may be rented and may at any time require the units be vacated and marketed for sale.
- C. The Owner covenants that it has not and will not execute any other agreement or covenant with provisions contradictory to or in opposition to the provisions hereof and that in any event this Interim Covenant is controlling as to the rights and obligations between and among the Owner, the County, and their respective successors.
- D. If any one or more of the provisions contained in this Interim Covenant shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Interim Covenant and this Interim Covenant be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- E. The terms of this Interim Covenant shall be interpreted under the laws of the State of California.

IN WITNESS WHEREOF, the Parties have executed this Interim Covenant as of the date first written above.

“OWNER”

HABITAT FOR HUMANITY OF SOUTHERN SANTA BARBARA COUNTY:

\_\_\_\_\_  
Jon Peterson, Executive Director

\_\_\_\_\_  
Jon Martin, Board President

“COUNTY”

MONA MIYASATO  
Clerk of the Board

COUNTY OF SANTA BARBARA,  
a political subdivision of the State of California

By: \_\_\_\_\_  
Deputy Clerk of the Board

By: \_\_\_\_\_  
Joan Hartmann, Chair  
Board of Supervisors

APPROVED AS TO ACCOUNTING FORM:

THEODORE A. FALLATI, CPA  
AUDITOR-CONTROLLER

By: \_\_\_\_\_

APPROVED AS TO FORM

COUNTY COUNSEL

By: \_\_\_\_\_  
Deputy County Counsel

APPROVED AS TO FORM:

RISK MANAGEMENT

By: \_\_\_\_\_  
Ray Aromatorio, ARM, AIC  
Risk Manager