

NO FEE DOCUMENT

**Recording requested by and  
When recorded, mail to:**

County of Santa Barbara  
Housing and Community Development  
123 East Anapamu Street, 2nd Floor  
Santa Barbara, CA 93101  
Attn: Deputy Director

NO FEE DOCUMENT PURSUANT TO  
CALIFORNIA GOVERNMENT CODE SECTION 27383

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**AMENDED AND RESTATED COUNTY HOME-ARP LOAN REGULATORY  
AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS**

This Amended and Restated County HOME-ARP Loan Regulatory Agreement and Declaration of Restrictive Covenants (this “Agreement”) is made as of this 4<sup>th</sup> day of April, 2023, by and between the County of Santa Barbara, a political subdivision of the State of California (the “Lender” or “County”), and Good Samaritan Shelter, a California nonprofit public benefit corporation (the “Owner” or “Borrower” and, together with the County, collectively, the “Parties” and each individually a “Party”).

**RECITALS**

A. The Owner owns a parcel of real property located at 2723 Marlberry Street, in Santa Maria, California, as more particularly described in Exhibit A, attached hereto and incorporated herein by reference (the “Property”), which the Owner intends to provide as housing targeted to serving formerly homeless veterans who qualify as HOME-ARP Qualifying Populations pursuant to the October 10, 2021, Federal Register Notice 86 FR 56764, *Waivers and Alternative Requirements for Implementation of the HOME American Rescue Plan (HOME-ARP) Program* (the “Project”).

B. The Lender has received HOME-ARP Investment Partnerships Program funds, and HOME funds from the United States Department of Housing and Urban Development (“HUD”) pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990 for the purpose of expanding the supply of decent, safe, sanitary and affordable housing for low-income persons and families (collectively, “HOME-ARP Funds”).

C. On March 21, 2023, Lender extended to Borrower a HOME-ARP loan in the total amount of Four Hundred Thousand Dollars (\$400,000) (the “County HOME-ARP Loan”), evidenced by that certain County HOME-ARP Loan Agreement dated March 21, 2023, as amended by that certain First Amendment to County HOME-ARP Loan Agreement dated as of the date hereof (as amended, “County HOME-ARP Loan Agreement”), a County HOME-ARP Promissory Note dated March 21, 2023, in the

original principal amount of Four Hundred Thousand Dollars (\$400,000), executed by Borrower in favor of Lender (“HOME-ARP Loan Note”), secured by a Deed of Trust (“County HOME-ARP Deed of Trust”), and subject to that certain County HOME-ARP Loan Regulatory Agreement and Declaration of Restrictive Covenants (“County HOME-ARP Loan Regulatory Agreement”).

D. Borrower has requested additional funds in order to complete the Project, and Lender desires to lend to Borrower an additional \$100,000 in HOME Entitlement Funds from the United States Department of Housing and Urban Development, pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990, for the purpose of expanding the supply of decent, safe, sanitary and affordable housing for low-income persons and families (“HOME Funds”).

E. Concurrently herewith, the Parties are memorializing the addition of the HOME Funds to the County HOME-ARP Loan, and the resultant increase of \$100,000 in the total amount of the County HOME-ARP Loan, by entering into a First Amendment to the County HOME-ARP Loan Agreement, a HOME Promissory Note in the original principal amount of One Hundred Thousand Dollars (\$100,000), executed by Borrower in favor of Lender (“HOME Note”), Amending and Restating the County HOME-ARP Deed of Trust (“Amended and Restated County HOME-ARP Deed of Trust”), and entering into this Agreement.

F. As further consideration for the County HOME-ARP Loan, as increased by the HOME Funds, the Owner has agreed to enter into and record this Agreement. The purpose of this Agreement is to regulate and restrict the occupancy, rents, operation, ownership, and management of the Project. The covenants in this Agreement are intended to run with the land and be binding on the Owner and its successors and assigns with respect to the Property.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the aforementioned County HOME-ARP Loan, as amended, the Owner and the Lender hereby agree as follows:

### **1. DEFINITIONS**

All initially capitalized terms used but not defined in this Agreement shall have the definition ascribed to such terms in the County HOME-ARP Loan Agreement and First Amendment to County HOME-ARP Loan Agreement. Some of the following terms are defined in the County HOME-ARP Loan Agreement, and as amended, and repeated here for convenience of reference.

1.1 “**ANNUAL INCOME**” means the definition of Annual Income as more particularly defined at 24 CFR 5.609.

1.2 “**AREA MEDIAN INCOME**” means the area median income for the Santa Maria-Santa Barbara Metropolitan Statistical Area, with adjustments for household size, as determined from time to time by HUD pursuant to the United States Housing Act of 1937, as amended, or such other method of median income calculation applicable to the Lender that HUD may hereafter adopt in connection with said Act.

1.3 **“COORDINATED ENTRY SYSTEM”** means the information system utilized by Lender under the Continuum of Care for coordinating, prioritizing and insuring to the greatest extent possible non-duplication of homeless programs and services, which accordingly identifies the most vulnerable homeless persons and households, and serves as basis to inform priority provision of the Project as a HOME-ARP Assisted Unit to Qualifying Populations, defined below.

1.4 **“COUNTY HOME-ARP LOAN”** means the loan of HOME-ARP Funds in the amount of Five Hundred Thousand Dollars (\$500,000) made by the Lender to the Owner to finance acquisition and improvement costs of the Project pursuant to the County HOME-ARP Loan Agreement, as amended, and the County HOME-ARP Loan Note and HOME Note.

1.5 **“COUNTY HOME-ARP LOAN AGREEMENT”** means that certain County HOME-ARP Loan Agreement by and between the Owner and the Lender dated March 21, 2023, as amended by that certain First Amendment to County HOME-ARP Loan Agreement dated on or about the date hereof, setting forth the terms and conditions governing the County HOME-ARP Loan.

1.6 **“AMENDED AND RESTATED COUNTY HOME-ARP LOAN DEED OF TRUST”** means that certain deed of trust, assignment of rents, and security agreement dated on or about the date hereof recorded against the Property and the improvements to be constructed thereon as security for the County HOME-ARP Loan and the Notes, with the Owner as trustor and the Lender as beneficiary, as well as any amendments to, modifications of, and restatements of said deed of trust.

1.7 **“COUNTY HOME-ARP LOAN DOCUMENTS”** means, collectively, the County HOME-ARP Loan Agreement, the County HOME-ARP Loan Note and HOME Note evidencing the County HOME-ARP Loan, the Amended and Restated County HOME-ARP Loan Deed of Trust securing the Notes, and this Agreement, as such documents may be amended, modified, or restated from time to time, along with all exhibits and attachments hereto and thereto.

1.8 **“COUNTY HOME-ARP LOAN NOTE”** means the promissory note executed by the Owner in favor of the Lender and dated on or about March 21, 2023, in the original principal amount of Four Hundred Thousand Dollars (\$400,000) evidencing the portion of the County HOME-ARP Loan comprised of HOME-ARP Funds, which is secured by the Amended and Restated County HOME-ARP Loan Deed of Trust, as well as any amendments to, modifications of, or restatements of said promissory note.

1.9 **“HOME NOTE”** means the promissory note executed by the Owner in favor of the Lender and dated on or about the date hereof in the amount of One Hundred Thousand Dollars (\$100,000) evidencing the portion of the County HOME-ARP Loan comprised of HOME funds, which is secured by the Amended and Restated County HOME-ARP Loan Deed of Trust, as well as any amendments to, modifications of, or restatements of said promissory note.

1.10 **“GRANT AND PER DIEM PROGRAM”** means the financial assistance program pursuant to the United States Department of Veterans Affairs, which provides a per-diem daily amount of financial assistance to Veterans in supportive housing, of which per diem pays for rent, Project operations, case management and supportive services for Tenants of the Project.

1.11 **“HOME-ARP-ASSISTED UNIT”** means the 5-bedroom group home Project located at 2723 Marlberry Street, in the City of Santa Maria, which is subject to the requirements of this Agreement. The HOME-ARP-Assisted Unit must be occupied, or reserved for occupancy, by HOME-ARP Qualifying Households, except that one bedroom may be occupied by a house manager.

1.12 **“NOTES”** means the County HOME-ARP Loan Note and the HOME Note, collectively.

1.13 **“LENDER”** is the County of Santa Barbara, a political subdivision of the State of California, and its authorized representatives, officers, officials, directors, employees, and agents.

1.14 This section intentionally left blank.

1.15 **“OWNER”** means Good Samaritan Shelter, a California nonprofit public benefit corporation.

1.16 **“PROJECT”** means the construction, operation and management of the Property and the improvements to be constructed thereon according to the terms of the County HOME-ARP Loan Agreement.

1.17 **“PROPERTY”** means the real property located at 2723 Marlberry Street, in Santa Maria, California as more particularly described in Exhibit A attached hereto and incorporated herein, including the improvements constructed thereon pursuant to the County HOME-ARP Loan Agreement.

1.18 **“QUALIFYING HOUSEHOLD”** means a household that qualifies as meeting the definition of a Qualifying Population pursuant to the October 10, 2021, Federal Register Notice 86 FR 56764, *Waivers and Alternative Requirements for Implementation of the HOME American Rescue Plan (HOME-ARP) Program*. A Qualifying Household who meets the definition of Veteran must be given a preference to be first considered for a vacancy or may be moved to the top of a waiting list, if applicable. “Veteran” is defined as the Head of Household or Spouse who has served in active duty in the United States Armed Forces for a minimum of six (6) continuous months, and if separated from military service, received other than dishonorable discharge. The veteran preference will also be given to a surviving spouse or registered domestic partner of a deceased veteran, as defined herein. Verification of veteran status will be by the submittal of a copy of the veteran's DD-214.

1.19 **“QUALIFYING RENT”** means the Fair Market Rent (FMR) for the number of bedrooms in the Property, except that, if one bedroom is occupied by a house manager, then the house manager’s bedroom is not included in the total bedroom count. Rent includes utilities, but

does not include food or cost of any supportive services provided. Each household, except the house manager household, will pay its proportional share of the total unit rent.

1.20 **“TENANT”** means a household meeting the definition of a “Qualifying Household” occupying the HOME-ARP Assisted Unit.

1.21 **“TERM”** means the period of time during which the HOME-ARP-Assisted Unit must meet the affordability requirements imposed under the HOME-ARP Program, commencing upon project completion in conformance with 24 CFR 92.2 and 24 CFR 92.252(e), and terminating on the date that is six months after the date that is twenty (20) years after the date of issuance of a notice of completion for the Project (“Notice of Completion”).

1.22 **“VERY LOW-INCOME HOUSEHOLD”** means a household, as defined in 24 CFR 92.2, whose annual income does not exceed fifty percent (50%) of the Area Median Income with adjustments for household size.

## **2. TERM AND COMPLIANCE**

**2.1 COMPLIANCE WITH COUNTY HOME-ARP LOAN DOCUMENTS.** The Owner’s actions with respect to the Property and the use of funds from the County HOME-ARP Loan shall at all times be in full conformity with all of the requirements of the County HOME-ARP Loan Documents, including, but not limited to, the insurance requirements contained herein and therein.

**2.2 TERM OF AGREEMENT.** This Agreement shall commence upon Project completion in conformance with 24 CFR 92.2 and 24 CFR 92.252(e), and terminate on the date that is six months after the date that is twenty (20) years after the date of issuance of a notice of completion for the Project. The requirements of this Agreement shall apply throughout the Term without regard to the term of any loan or mortgage, or any transfer of ownership of the Property.

**2.3 COMPLIANCE WITH PROGRAM REQUIREMENTS.** At all times during the Term, the Owner shall comply with all requirements applicable to the Owner and/or the Project as a project assisted under the HOME-ARP Program, as such HOME-ARP Program requirements may be amended from time to time.

## **3. PROJECT OCCUPANCY AND RENTS**

**3.1 OCCUPANCY OF PROJECT.** The HOME-ARP Assisted Unit shall be occupied, or reserved for occupancy, by Qualifying Household(s) who are formerly homeless veterans.

**3.2 HOME-ARP ASSISTED UNIT.** The Owner shall limit, for the full Term of this Agreement, the rental of the HOME-ARP Assisted Unit to Qualifying Households at Qualifying Rents that do not exceed the maximum rental charges for each HOME-ARP Assisted Unit as set forth herein. Each of the Tenants of the HOME-ARP Assisted Unit shall be provided with access and enjoyment of all common areas and facilities of the Project on the same basis.

**3.3 MAXIMUM RENTAL CHARGES.**

A. Maximum rental charges for the HOME-ARP Assisted Unit shall not exceed the Qualifying Rent, as defined above.

B. The Qualifying Rent for each HOME-ARP Assisted Unit bedroom shall be set by the Lender at the time of initial occupancy of the Project. Annual increases in Qualifying Rents shall be calculated based on the change in allowable rents as published annually by HUD for the HOME-ARP Assisted Unit.

### **3.4. OCCUPANCY DEADLINES.**

Owner shall ensure that each of the HOME-ARP-Assisted Units is occupied by a Qualifying Household in accordance with the deadlines for occupancy set forth at 24 CFR 92.252. Each of the HOME-ARP Assisted Units shall be occupied by a Qualifying Household within six (6) months from Owner securing a Notice of Completion or final Certificate of Occupancy for the Project. In the event that each HOME-ARP-Assisted Unit is not occupied by a Qualifying Household on the date that is six (6) months after the date of the issuance of a Notice of Completion or final Certificate of Occupancy, Owner shall submit to Lender within ten (10) days a detailed record of Owner's marketing efforts, and shall comply with Lender's requests for additional information pertaining to such marketing efforts. Absent a Notice of Completion or final Certificate of Occupancy when not required by the local building official, the commencement date will begin on the date that the Project is fully occupied as evidenced by inspection by the County. In the event that any HOME-ARP Assisted Unit is not occupied by a Qualifying Household within eleven (11) months after the date of the issuance of the Notice of Completion, such occurrence shall constitute an Event of Default. On or before the last day of the eleventh (11th) month after the date of the issuance of the Notice of Completion, Owner shall deliver to Lender written notice of such Event of Default, and shall have thirty (30) days to cure such Event of Default, and shall cure such Event of Default before the last day of the 12th month after the date of the issuance of the Notice of Completion.

Notwithstanding any other provision of this Amended and Restated County HOME-ARP Regulatory Agreement, or of any provision of any other County HOME-ARP Loan Document, as amended, to the contrary, Owner shall immediately repay to Lender, upon Lender's request, all HOME-ARP Funds invested in HOME-ARP Assisted Units that are not rented to eligible Qualifying Households within 12 months of Project Completion.

### **3.5 INCOME CERTIFICATION.**

The Annual Income levels and other qualifications of applicants for the HOME-ARP Assisted Units shall be certified by Owner no earlier than six (6) months prior to the Qualifying Household's expected occupancy of the HOME-ARP Assisted Unit and recertified annually, in compliance with 24 CFR 92.203. Pursuant to the October 10, 2021, Federal Register Notice 86 FR 56764, *Waivers and Alternative Requirements for Implementation of the HOME American Rescue Plan (HOME-ARP) Program*, initial income certification of Qualifying Households, shall be used to determine the portion of the Qualifying Household's 30% portion of payment toward rent. As the household is de facto is a member of one on the HOME-ARP defined Qualifying Populations as incorporated into Section IV, of Federal Register Notice 86 FR 56764, and

evidenced by referral through the Coordinated Entry System, the tenant's definition as such enables occupancy of the HOME-ARP Assisted Unit.

A. Initial Annual Income Verification. Before the Qualifying Household occupies the HOME-ARP-Assisted Unit, the Owner shall verify that the Annual Income calculated in an Annual Income certification is accurate by taking both of the following steps as a part of the verification process:

- (1) Third Party Verification: All third parties (e.g., employer, Social Security Administration, public assistance agency, etc.) are contacted in writing to obtain written verification of Annual Income; and
- (2) Review of Documents: The Qualifying Household provides documents verifying their Annual Income (e.g., pay stubs, tax returns, etc.), which are to then be retained in the Project files.

B. Annual Income Recertification. At the time of lease renewal or pursuant to an annual schedule adopted by the Owner, and no later than the one-year anniversary of the initial Annual Income verification and annually thereafter, Owner shall recertify the Annual Income of each Tenant occupying a HOME-ARP Assisted Unit using the method as described in Section 3.5.A, above. Each subsequent year during the HOME-ARP compliance period, starting year one (1) after initial occupancy, Owner must use the definition of annual income as defined in 24 CFR 5.609.

#### **4. LEASING THE PROJECT**

4.1 **TENANT LEASES**. The Owner shall execute a written lease with the Tenant(s) of each of the HOME-ARP Assisted Units for a term of at least one year, unless the Owner and the Tenant mutually agree to a shorter period; provided, however, that such lease may not be for a period less than thirty (30) days. The form of Tenant Lease used by Owner for the HOME-ARP Assisted Units, and all changes thereto, shall be subject to Lender's prior written approval.

A. The Owner shall include in each lease for each HOME-ARP Assisted Unit provisions which provide that a Qualifying Household is subject to annual certification of Annual Income, and that the tenancy of the Qualifying Household shall be terminated as soon as possible in accordance with state law should one or more of the Qualifying Household's members misrepresent any material fact regarding the Qualifying Household's qualification as a Very Low-Income Household. The Owner shall include in all leases for each HOME-ARP Assisted Unit provisions which prohibit the Qualifying Household from subleasing the HOME-ARP Assisted Unit.

B. In addition to executing a lease for each HOME-ARP Assisted Unit, the Owner shall require that each Qualifying Household leasing a HOME-ARP-Assisted Unit execute a declaration of intent to occupy, which shall require the Qualifying Household to occupy the HOME-ARP-Assisted Unit as the Qualifying Household's primary residence.

C. No lease for any of the HOME-ARP Assisted Unit shall contain any of the prohibited provisions identified at 24 CFR §92.253(b), including the following:

1. *Agreement to be sued.* Agreement by the Tenant to be sued, to admit guilt, or to a judgment in favor of the Owner in a lawsuit brought in connection with the lease;

2. *Treatment of property.* Agreement by the Tenant that the Owner may take, hold or sell personal property of Qualifying Household members without notice to the Tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the Tenant concerning disposition of personal property remaining in the HOME-ARP Assisted Unit after the Tenant has moved out of the HOME-ARP Assisted Unit. The Owner may dispose of this personal property in accordance with State law;

3. *Excusing Owner from responsibility.* Agreement by the Tenant not to hold the Owner or the Owner's agents legally responsible for any action or failure to act, whether intentional or negligent;

4. *Waiver of notice.* Agreement of the Tenant that the Owner may institute a lawsuit without notice to the Tenant;

5. *Waiver of legal proceedings.* Agreement by the Tenant that the Owner may evict the Tenant or Qualifying Household members without instituting a civil court proceeding in which the Tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;

6. *Waiver of a jury trial.* Agreement by the Tenant to waive any right to a trial by jury;

7. *Waiver of right to appeal court decision.* Agreement by the Tenant to waive the Tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and

8. *Tenant chargeable with cost of legal actions regardless of outcome.* Agreement by the Tenant to pay attorney's fees or other legal costs even if the Tenant wins in a court proceeding by the Owner against the Tenant. The Tenant, however, may be obligated to pay costs if the Tenant loses.

9. *Mandatory support services.* Agreement by the Tenant (other than a tenant in transitional housing) to accept supportive services that are offered.

D. Owner shall not terminate the tenancy or refuse to renew the lease of a Tenant of a HOME-ARP Assisted Unit except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; or for other good cause. To terminate or refuse to renew the tenancy, the Owner shall serve written notice upon the Tenant specifying the grounds for the action at least thirty (30) days prior to termination of tenancy.

E. Owner shall comply with all requirements of the Violence Against Women Act (VAWA) set forth in 24 CFR part 5, subpart L. Owner shall provide the notice and certification form described in 24 CFR 5.2005(a) to an applicant for the HOME-ARP Assisted Unit at the time the applicant is admitted to the HOME-ARP Assisted Unit, or denied admission to the HOME-ARP Assisted Unit based on the Owner's tenant selection policies and criteria. Owner shall further provide the notice and certification form described in 24 CFR 5.2005 with any notification



of eviction from the HOME-ARP Assisted Unit. If a family living in the HOME-ARP Assisted Unit separates under 24 CFR 5.2009(a), the remaining tenant(s) may remain in the Unit. All leases for the HOME-ARP Assisted Unit must include a VAWA lease term/addendum to incorporate all requirements that apply to the Owner or lease under 24 CFR part 5, subpart L, and 24 CFR 92.359, including the prohibited bases for eviction and restrictions on construing lease terms under 24 CFR 5.2005(b) and (c). The VAWA lease term/addendum must also provide that the tenant may terminate the lease without penalty if it is determined that the tenant has met the conditions for an emergency transfer under 24 CFR 5.2005(e). The lease term/addendum must require the Owner to notify the participating jurisdiction before the owner bifurcates the lease or provides notification of eviction to the tenant. Owner shall comply with all other VAWA requirements applicable to the HOME-ARP program not specified herein.

F. Owner and Lender shall work together to comply with the requirements of the Coordinated Entry System under the Continuum of Care program, as set forth at 24 CFR Part 578, PIH Notice 2013-15 and other guidance from HUD on CoC and PHA collaboration. The Coordinated Entry System will refer Qualifying Households to the Project for consideration of tenancy at the Project.

**4.2 TENANT SELECTION.** Before leasing any HOME-ARP Assisted Unit, the Owner shall provide to Lender for its review and approval the Owner's written tenant selection plan. HOME-ARP Assisted Unit tenant selection will be coordinated and referred to Owner for Qualifying Populations under the CoC Coordinated Entry System and must, at a minimum, meet the requirements for tenant selection pursuant to Section IV(C)(2) of HUD September, 13, 2021 CPD Notice 21-10, *Requirements for the Use of Funds in the HOME American Rescue Plan Act*, and any modifications thereto. A Veteran's preference must be applied as described above. Any changes to the tenant selection plan require prior written approval from Lender.

**4.3 SECTION 8 CERTIFICATE HOLDERS.** The Owner shall accept as Tenants, on the same basis as all other prospective Tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Owner shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective Tenants, nor shall the Owner apply or permit the application of management policies or lease provisions with respect to the Project which have the effect of precluding occupancy of HOME-ARP Assisted Unit by such prospective Tenants.

4.4 This Section Left Intentionally Blank.

**4.5 NONDISCRIMINATION.** The Owner shall not discriminate or segregate in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of the HOME-ARP Assisted Unit on the basis of race, color, ancestry, national origin, religion, sex, gender, gender identity or expression, sexual preference, age, marital status, family status, source of income, military or veteran status, physical or mental disability, medical condition, genetic information, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), or any basis prohibited by law. The Owner shall include a statement in all advertisements, notices and signs for the availability of Units for rent to the effect that the Owner is an Equal Housing Opportunity Provider.

**4.6 MARKETING PLAN.** Pursuant to the September 13, 2021, HUD CPD Notice CPD-21-10, *Requirements for the Use of Funds in the HOME American Rescue Plan Act*, Section 10(a)(ii)(1): “For HOME-ARP units for Qualifying Households, a market assessment is not required. Rather the Owner can demonstrate that there is an unmet need among Qualifying Populations for the type of housing proposed through their gap analysis, Continuum of Care (CoC), data, public housing and affordable housing waiting lists, point-in-time surveys, housing inventory count, or other relevant data on the need for permanent housing for the Qualifying Populations.” The County CoC Coordinated Entry system will provide Owner with referrals for Qualifying Populations and Households for consideration of tenancy.

## **5. PROPERTY MANAGEMENT**

**5.1 MANAGEMENT RESPONSIBILITIES.** The Owner is responsible for all management functions with respect to the Project, including, without limitation, the selection of Tenants, certification and recertification of Qualifying Household size and Annual Income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The Lender shall have no responsibility with respect to management of the Project. Lender hereby preapproves Owner as the Property Manager for the Project. The Owner may only remove and/or replace the Property Manager with the prior written consent of the Lender in each instance, which consent shall not be unreasonably withheld.

**5.2 APPROVAL OF MANAGEMENT POLICIES.** The Owner shall submit its written management policies with respect to the Project to the Lender for its review and approval, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Agreement and the other County HOME-ARP Loan Documents, as amended, the requirements of the existing HOME-ARP Program, as may be amended from time to time, the requirements of Lender, and the requirements of all other lenders providing financing for the Project, to the extent not inconsistent with the provisions of the County HOME-ARP Loan Documents, as amended.

**5.3 INSPECTION AND RECORDS.** The Owner shall maintain records which clearly document the Owner’s performance of its obligations to operate the Property under the terms of this Agreement and the other County HOME-ARP Loan Documents, as amended. The Owner shall submit all requested records to the Lender within ten (10) business days of the Lender’s request. The Owner shall permit the Lender to enter and inspect the Property for compliance with Owner’s obligations under this Agreement at all reasonable times upon twenty-four (24) hours’ advance notice of such visit by the Lender to the Owner or the Owner’s Property manager. Owner shall include provisions in all tenant leases that allow for County inspections of the HOME-ARP Assisted Units.

**5.4 COMPLIANCE MONITORING.** At all times during the Term, the Owner shall operate the Property in full compliance with this Agreement and the HOME-ARP Program regulations at 24 CFR Part 92, and the Requirements of the Use of HOME Funds in HOME American Rescue Plan Program cited in HUD CDP Notice: CDP 21-10, September 13, 2021, *Requirements for the Use of Funds in the HOME American Rescue Plan Act*, and as may be amended from time to time. The Owner shall permit the Lender to conduct annual compliance

monitoring, including performing on-site records review and inspections of the Property, as required by regulation or reasonably requested by Lender.

**5.5 ANNUAL REPORT.** Following recordation of the Notice of Completion issued for the Project, the Owner shall annually submit to the Lender a report in a form approved by Lender for the preceding period of January 1<sup>st</sup> through December 31<sup>st</sup>, containing the information requested by Lender so as to allow the Lender to determine the Owner's compliance with this Agreement ("Annual Report"). The Annual Report shall be submitted annually no later than March 1<sup>st</sup>, and shall include, at a minimum: (i) an Annual Financial Statement as defined in Section 1.2 of the County HOME-ARP Loan Agreement, as amended, (ii) a report on the occupancy of the Project, (iii) a report on the physical condition of the Project, (iv) a report on the general management of the Project, (v) for each HOME-ARP-Assisted Units, the rent, Annual Income, and household size of each household in occupancy. The report shall also state the date the tenancy commenced for each HOME-ARP-Assisted Unit, and such other information as the Lender may be request.

Within thirty (30) days after receipt of a written request, Owner shall submit any other information or completed forms requested by the Lender in order to comply with reporting requirements of the United States Department of Housing and Urban Development, or the State of California, or the Lender. The Lender shall have the right to examine and make copies of all books, records or other documents of Owner which pertain to the Project or any HOME-ARP-Assisted Unit to determine compliance with this Agreement.

**5.6 FEES, TAXES, AND OTHER LEVIES.** The Owner shall be responsible for payment of all fees, assessments, taxes, charges and levies imposed by any public authority or utility company with respect to the Property, and shall pay such charges prior to delinquency.

**5.7 PROPERTY TAX EXEMPTION.** The Owner shall not apply for a property tax exemption for the Property under any provision of law other than California Revenue and Taxation Code Section 214(g) without the Lender's prior written consent. Lender acknowledges Owner will be applying for a property tax exemption for the Property and hereby provides its consent.

**5.8 MAINTENANCE OF EXISTING STRUCTURES.** Owner shall maintain the HOME-ARP Assisted Units and the rest of the Property in good condition, in good repair, ordinary wear and tear excepted, and in a decent, safe, sanitary, habitable and tenable condition at all times during the Term. Owner shall ensure that each of the HOME-ARP Assisted Units meets the standards set out in 24 CFR 92.251(f)(2) throughout the Term of this Agreement. In the event that Lender establishes property standards in accordance with 24 CFR 92.251(f)(1) and determines in its sole discretion that these standards are applicable to the Project, Lender shall send written notice of this determination to Owner. Upon Owner's receipt of such written notice, the property standards established by Lender pursuant to 24 CFR 92.251(f)(1) shall apply to each of the HOME-ARP Assisted Units throughout the Term of this Agreement. Owner shall not cause or permit any violations of any laws, ordinances, regulations, covenants, conditions, restrictions, or equitable servitudes as they pertain to improvements, alterations, maintenance or demolition on the Property. Lender shall have no responsibility with respect to maintenance of the Property.

## **6. GENERAL PROVISIONS**

**6.1 SUBORDINATION.** This Agreement shall be senior, and shall not be subordinate, to any deed of trust, note, agreement and/or to any other obligations of Lender concerning the Property, and may be subordinated in priority only as to liens and encumbrances otherwise approved in writing by the Lender in its sole and absolute discretion.

**6.2 DEFAULT AND REMEDIES** In the event of any breach of any agreement or obligation under this Agreement by the Owner, the Lender shall provide written notice to the Owner of such breach. If such notice provides that such breach or Event of Default is subject to cure, the Owner may have an opportunity to cure such breach within the time period and in the manner specified by Lender in such written notice. If such breach is not subject to cure, or if the Owner fails to perform a timely cure of the specified breach in accordance with such notice, the Lender may proceed with any or all of the following remedies upon the Owner's failure to cure:

A. Bring an action in equitable relief seeking the specific performance by the Owner of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of said terms and conditions, and/or seeking declaratory relief;

B. Enter upon, take possession of, and manage the Property and the Project, either in person, by agent, or by a receiver appointed by a court, and collect any rents, income, deposits, or reserves and apply them to operate the Property;

C. After notice provided for herein, make such repairs or replacements to the Property and Project as are necessary and provide for payment thereof; or

C. Pursue any other remedy provided under the County HOME-ARP Loan Documents, as amended, or allowed at law or in equity.

**6.3 EVENT OF DEFAULT.** In the event that the Project fails to meet the HOME-ARP affordability requirements included in this Agreement for the Term of the Agreement, subject to applicable notice and cure periods contained herein, this shall constitute an Event of Default the County HOME-ARP Loan Agreement, as amended.

**6.4 NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** No official elected or appointed, officer, director, employee or agent of the Lender shall be personally liable to the Owner for any obligation created under the terms of this Agreement.

**6.5 INSURANCE AND INDEMNITY.** Owner shall comply with the insurance and indemnification provisions set forth in Exhibit B attached hereto and incorporated herein by this reference.

**6.6 GOVERNING LAW.** This Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

**6.7 AGREEMENT CONTROLS.** In the event that any provision of this Agreement and that contained in any other County HOME-ARP Loan Document, as amended, conflict, the terms of this Agreement shall control.

**6.8 TIME.** Time is of the essence in this Agreement.

**6.9 CONSENTS AND APPROVALS.** Any consent or approval of the Lender required under this Agreement shall not be unreasonably withheld. No consent or approval of Lender shall be effective unless in writing and duly executed by an authorized representative of the Lender.

**6.10 NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications between the Owner and the Lender shall be sufficiently given and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of the Owner and the Lender as follows:

**Lender:** County of Santa Barbara  
Housing and Community Development  
123 E Anapamu Street, 2<sup>nd</sup> Floor  
Santa Barbara, CA 93101  
Attn: Deputy Director

With copy to: Office of County Counsel  
County of Santa Barbara  
105 E Anapamu Street, Room 201  
Santa Barbara, CA 93101

**Owner:** Good Samaritan Shelter  
245 East Inger Street, Suite 103B  
Santa Maria, CA 93454  
Attn: Executive Director

**6.11 BINDING UPON SUCCESSORS.** This Agreement shall be recorded and all provisions of this Agreement shall be binding upon and inure to the benefit of the permitted successors-in-interest, transferees, and assigns of the parties hereto, to the extent authorized herein, and shall run with the land for the full Term of this Agreement, regardless of any assignment, payment, prepayment, expiration, extinguishment of the County HOME-ARP Loan, County HOME-ARP Loan Agreement, County HOME-ARP Loan Note, or HOME Note, any reconveyance of the Amended and Restated County HOME-ARP Loan Deed of Trust, or any conveyance or transfer of the Property or portion thereof; provided, however, that Owner shall not assign, delegate, or otherwise transfer, whether by operation of law or otherwise, this Agreement or any of Owner's obligations or rights hereunder without the prior written consent of Lender in each instance, and any such purported assignment, delegation, or transfer shall be null and void *ab initio*.

**6.12 RELATIONSHIP OF PARTIES.** The relationship of the Owner and the Lender during the Term of this Agreement is solely that of lender and borrower and shall not be construed as a joint venture, equity venture, or partnership.

**6.13 WAIVER.** No waiver by the Lender with respect to this Agreement shall be effective unless in writing duly executed by Lender. No waiver shall be implied from any delay or failure by the Lender to take action on any breach or default of the Owner or to pursue any remedy allowed under this Agreement, the County HOME-ARP Loan Documents, as amended, or applicable law. Any extension of time granted to the Owner to perform any obligation under this Agreement shall not operate as a waiver or release from any of Owner's obligations under this Agreement. Consent by the Lender to any act or omission by the Owner shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for the Lender's written consent to future waivers.

**6.14 AMENDMENTS AND MODIFICATIONS.** No amendment to or modification of this Agreement shall be effective unless in writing duly executed by both the Owner and the Lender.

**6.15 SEVERABILITY.** Every provision of this Agreement is intended to be severable in the event that any provision of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in which case, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

*Signatures appear on following page. No further text appears here.*

IN WITNESS WHEREOF, County and Borrower have caused this Agreement to be executed by their respective duly authorized officers.

**ATTEST:**  
MONA MIYASATO  
Clerk of the Board

By: Shields de la Guerra  
Deputy Clerk of the Board

**COUNTY:**  
County of Santa Barbara,  
a political subdivision of the State of California

By: DAS WILLIAMS  
Chair, Board of Supervisors

By: \_\_\_\_\_  
GEORGE CHAPJIAN  
Community Services Department, Director

**APPROVED AS TO ACCOUNTING  
FORM:**  
BESTY M. SCHAFFER, CPA, CPFO  
AUDITOR-CONTROLLER

By: Juan Izquierdo  
Deputy

**BORROWER**  
Good Samaritan Shelter, a California nonprofit  
public benefit corporation

By: \_\_\_\_\_  
Sylvia Barnard  
Executive Director

**APPROVED AS TO FORM**  
RACHEL VAN MULLEM  
COUNTY COUNSEL

By: Lauren Wideman  
Deputy County Counsel

**APPROVED AS TO FORM:**  
RISK MANAGEMENT

By: Gregory Milligan  
GREGORY MILLIGAN, ARM, AIC  
Risk Manager

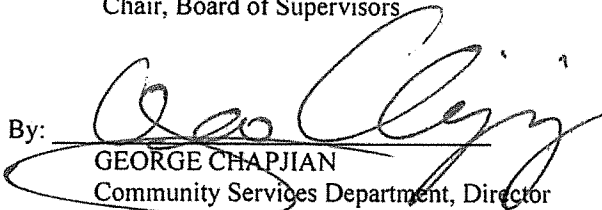
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**ATTEST:**  
MONA MIYASATO  
Clerk of the Board

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

**COUNTY:**  
County of Santa Barbara,  
a political subdivision of the State of California

By: \_\_\_\_\_  
DAS WILLIAMS  
Chair, Board of Supervisors

By:   
GEORGE CHAPIAN  
Community Services Department, Director

**APPROVED AS TO ACCOUNTING  
FORM:**  
BESTY M. SCHAFFER, CPA, CPFO  
AUDITOR-CONTROLLER

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

**APPROVED AS TO FORM**  
RACHEL VAN MULLEM  
COUNTY COUNSEL

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

**APPROVED AS TO FORM:**  
RISK MANAGEMENT

By: \_\_\_\_\_  
GREGORY MILLIGAN, ARM, AIC  
Risk Manager

**BORROWER**  
Good Samaritan Shelter, a California nonprofit  
public benefit corporation

By: \_\_\_\_\_  
Sylvia Barnard  
Executive Director



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

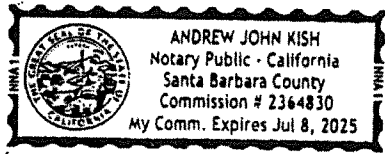
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Santa Barbara )  
On 3/21/23 before me, Andrew John Kish, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared George Chapjian  
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 [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Amended + Restated County Home Area Loan Regulatory Agreement  
Document Date: 3/21/23 Number of Pages: 15  
Signer(s) Other Than Named Above: Das Williams, Sylvia Barwood,

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

Signer's Name: George Chapjian  
 Corporate Officer - Title(s): \_\_\_\_\_  
 Partner -  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: Director, CSD  
Signer Is Representing: County of Santa Barbara

Signer's Name: \_\_\_\_\_  
 Corporate Officer - Title(s): \_\_\_\_\_  
 Partner -  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

IN WITNESS WHEREOF, County and Borrower have caused this Agreement to be executed by their respective duly authorized officers.

**ATTEST:**  
MONA MIYASATO  
Clerk of the Board

**COUNTY:**  
County of Santa Barbara,  
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By: \_\_\_\_\_  
Deputy Clerk of the Board

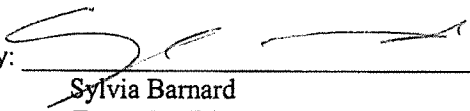
By: \_\_\_\_\_  
DAS WILLIAMS  
Chair, Board of Supervisors

By: \_\_\_\_\_  
GEORGE CHAPJIAN  
Community Services Department, Director

**APPROVED AS TO ACCOUNTING  
FORM:**  
BESTY M. SCHAFFER, CPA, CPFO  
AUDITOR-CONTROLLER

**BORROWER**  
Good Samaritan Shelter, a California nonprofit  
public benefit corporation

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

By:   
Sylvia Barnard  
Executive Director

**APPROVED AS TO FORM**  
RACHEL VAN MULLEM  
COUNTY COUNSEL

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

**APPROVED AS TO FORM:**  
RISK MANAGEMENT

By: \_\_\_\_\_  
GREGORY MILLIGAN, ARM, AIC  
Risk Manager

## ACKNOWLEDGMENT

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

State of California  
County of Santa Barbara )

On March 22, 2023 before me, A Cronan, Notary Public  
(insert name and title of the officer)

personally appeared Sylvia Barnard  
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 *A Cronan* (Seal)



## ACKNOWLEDGMENT

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

State of California  
County of Santa Barbara )

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WITNESS my hand and official seal.

Signature  (Seal)

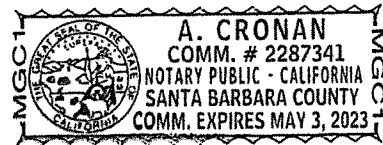


Exhibit A

**LEGAL DESCRIPTION**

Real property in the City of Santa Maria, County of Santa Barbara, State of California, described as follows:

LOT 127 OF COUNTRY CLUB GARDENS, TRACT NO. 5118 IN THE CITY OF SANTA MARIA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON MAP FILED IN BOOK 93, PAGES 10 THROUGH 16, INCLUSIVE, OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SANTA BARBARA COUNTY. ALSO EXCEPTING THEREFROM ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBON SUBSTANCES, BY WHATEVER NAME KNOWN, THAT MAY BE WITHIN OR UNDER SAID LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE HEREINABOVE DESCRIBED, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES, WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF SAID LAND, AS RESERVED BY CAREY MORRISON, ET AL., IN DEEDS RECORDED IN BOOK 2482, PAGE 294 AND PAGE 301 OF OFFICIAL RECORDS OF SANTA BARBARA COUNTY.

**EXHIBIT B**  
**Indemnification and Insurance Requirements**  
**(For All Contracts with Good Samaritan)**

**INDEMNIFICATION**

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR'S indemnification obligation applies to COUNTY'S active as well as passive negligence but does not apply to COUNTY'S sole negligence or willful misconduct.

**NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS**  
CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

**INSURANCE**

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

**A. Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

4. **Professional Liability: (Errors and Omissions)** Insurance appropriate to the CONTRACTOR'S profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR maintains broader coverage and/or higher limits than the minimums shown above, the COUNTY requires and shall be entitled to the broader coverage and/or the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

**B. Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR'S insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

2. **Primary Coverage** – For any claims related to this contract, the CONTRACTOR'S insurance coverage shall be primary insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.

3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.

4. **Mutual Waiver of Workers' Compensation Subrogation Rights** – Notwithstanding anything in this Agreement to the contrary, COUNTY hereby releases and waives unto CONTRACTOR, including its officers, directors, employees and agents, and CONTRACTOR hereby releases and waives unto COUNTY, including its officers, directors, employees and agents, all rights to claim damages for any workers' compensation injury, loss, cost or damage to persons, as long as the amount of such injury, loss, cost or damage has been paid either to or by COUNTY, CONTRACTOR, or any other person, firm or corporation, under the terms of any workers' compensation policy of insurance. Each party shall have its Workers' Compensation policy endorsed with a waiver of subrogation in favor of the other party for all work performed by the either party, its officers, directors, employees and agents. **Each party shall provide the other party with the required insurance endorsement that amends the workers' compensation insurance policy.**

5. As respects all workers' compensation policies of insurance carried or maintained pursuant to this Agreement and to the extent permitted under such policies, COUNTY and CONTRACTOR, each waive the insurance carriers' rights of subrogation. For purposes of this provision, insurance proceeds paid to either party shall be deemed to include any deductible or self-insurance retention amount for which that party is responsible. A party's failure to obtain or maintain any insurance coverage required pursuant to the terms of this Agreement shall not negate the waivers and releases set forth herein, as long as the insurance that the party failed to obtain or maintain would have covered the loss or damage for which the party is waiving its claims.

6. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

7. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".

8. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to

the work beginning shall not waive the CONTRACTOR'S obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**9. Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.

**10. Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.

**11. Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:

- i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

**12. Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt. Indemnification and Insurance Requirements (For All Contracts with Good Samaritan) 2022 03 02

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.