

**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

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

This County HOME-ARP Loan Regulatory Agreement and Declaration of Restrictive Covenants (this "Agreement") is made as of this 27th day of June, 2023 ("Effective Date"), by and between the County of Santa Barbara, a political subdivision of the State of California (the "Lender" or "County"), and the Housing Authority of County of Santa Barbara, a California public body corporate and politic (the "Owner" or "Borrower").

RECITALS

A. The Owner owns a parcel of real property located at 6021 Hollister Avenue, in Goleta, California, as more particularly described in Exhibit A, attached hereto and incorporated herein by reference (the "Property"), upon which the Owner intends to construct sixty (60) units of permanent rental housing, of which one unit is designated as a manager's unit, which is not subject to income or rent limits. Of the remaining fifty-nine (59) units, eleven (11) shall be dedicated to serving 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 ("HOME-ARP 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.

C. Owner has received a loan from Lender in the amount of Three Million Five Hundred Thirty Thousand Three Hundred and Eighty-Three Dollars (\$3,530,383), of which amount Two Million Thirty Thousand Three Hundred Eighty-Three Dollars (\$2,030,383) is in the form of HOME-ARP Funds, and One Million Five Hundred Thousand (\$1,500,000) is in the form of American Rescue Plan Act (ARPA), State and Local Fiscal Recovery Funds (SLFRF), to provide financing for the Project (the "County HOME-ARP Loan").

D. As further consideration for the County HOME-ARP Loan, and to further the interests of the Lender, 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.

1. DEFINITIONS

All capitalized terms in this Agreement shall have the meanings ascribed to such terms in the County HOME-ARP Loan Agreement. Some of the following terms are defined in the County HOME-ARP Loan Agreement and repeated herein for convenience of reference. Where such terms are not defined in the County HOME-ARP Loan Agreement, the following terms have the meanings and content set forth in this Section 1 wherever used in this Agreement and in the exhibits attached hereto.

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

1.2 **"AREA MEDIAN INCOME" or "AMI"** 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 Units to Qualifying Populations as defined in Section 1.29 herein.

1.4 **"COUNTY HOME-ARP LOAN"** means the loan of HOME-ARP Funds in the amount of Three Million Five Hundred Thirty Thousand Three Hundred and Eighty-Three Dollars (\$3,530,383) made by the Lender to the Owner to finance certain development costs of the Project pursuant to the County HOME-ARP Loan Agreement and the County HOME-ARP Loan Note.

1.5 **"COUNTY HOME-ARP LOAN AGREEMENT"** is the loan agreement executed concurrently herewith by and between the Owner and the Lender, setting forth the terms and conditions governing the County HOME-ARP Loan.

1.6 **"COUNTY HOME-ARP LOAN DEED OF TRUST"** means that certain deed of trust, assignment of rents, and security agreement placed on the Property and the improvements to be constructed thereon as security for the County HOME-ARP Loan, 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 evidencing the County HOME-ARP Loan, the County HOME-ARP Loan Deed of Trust securing the County HOME-ARP Loan Note, and this Agreement, and all exhibits hereto and thereto, as they may be amended, modified, or restated from time to time.

1.8 **"COUNTY HOME-ARP LOAN NOTE"** means the promissory note executed by the Owner concurrently herewith in favor of the Lender in the amount of Three Million Five Hundred Thirty Thousand Three Hundred and Eighty-Three Dollars (\$3,530,383) evidencing the County HOME-ARP Loan, which is secured by the County HOME-ARP Loan Deed of Trust, as well as any amendments to, modifications of, or restatements of said promissory note.

1.9 **"HOME-ARP-ASSISTED UNIT"** means any of the eleven (11) Units on the Property designated by the Owner as HOME-ARP Assisted Units with restricted occupancy and

Qualifying Households. A Unit shall not be considered a HOME-ARP-Assisted Unit until such Unit has been constructed and made available for occupancy.

1.10 This section intentionally left blank.

1.11 **"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.

1.12 **"LOW-INCOME HOUSEHOLD"** means a household, as defined in 24 CFR 92.2, whose annual income does not exceed fifty percent (80%) of the Area Median Income, with adjustments for household size as defined by the U.S. Department of Housing and Urban Development at 24 CFR Part 92.

1.13 This section intentionally left blank.

1.14 **"OWNER"** means the Housing Authority of the County of Santa Barbara, a public body corporate and politic.

1.15 **"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.

1.16 **"PROPERTY"** means the real property located at 6021 Hollister Avenue, in Goleta, California as more particularly described in Exhibit A, attached hereto and incorporated herein by reference, including the improvements constructed thereon pursuant to the County HOME-ARP Loan Agreement.

1.17 **"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 Unit 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 shall 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.

1.18 **"QUALIFYING RENT"** means that the rental charges for Units reserved for occupancy by low-income households must comply with the rent limitations in 24 CFR 92.252(a) (i.e., the lesser of the Fair Market Rent for existing housing for comparable units in the area, as established by HUD, or for very-low-income households, 30% of the adjusted income of a household whose annual income is equal to or less than 50% of the median income for the area with adjustments for number of bedrooms in the unit. For Single Room Occupancy Units, If the SRO Units have both sanitary and food preparation facilities, the maximum HOME-ARP rent is based on the zero-bedroom fair market rent. If the SRO Unit has only sanitary facilities, the maximum HOME-ARP rent for such Unit is based on 75 percent of the zero-bedroom fair market rent. The rent limits for SRO units must also include the utility allowance established pursuant to Section VI.B.13.d of HUD CPD Notice CPD-21-10. In accordance with 24 CFR 92.252(d), if the Tenant of a HOME-ARP-Assisted Unit pays for utilities and services (excluding telephone, television and Internet services), then the Qualifying Rent shall be reduced by the maximum monthly allowance for utilities and services using the annual HUD Utility Schedule Model, or other annual utility schedule as determined by the County.

and CONSTRUCTION WORK FOR THE PROJECT have been performed; the Project complies with the requirements of 24 CFR Part 92 (including, but not limited to, the property standards under § 92.251); the final drawdown of HOME funds has been disbursed for the Project; and the Project completion information has been entered into the disbursement and information system established by HUD, except that with respect to rental housing Project completion, for the purposes of § 92.502(d), Project completion occurs upon completion of construction and before occupancy.

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

1.21 “AFFORDABILITY PERIOD” means the period of time during which the HOME-ARP-Assisted Units 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 (6) months after the date that is twenty (20) years after the date of the issuance by the City of Goleta Building Official of a certificate of occupancy issued for the Project.

1.22 “UNIT” means one of the fifty-nine (59) housing units in the Project other than the manager’s unit.

1.23 “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 as defined by the U.S. Department of Housing and Urban Development at 24 CFR Part 92.

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 County HOME-ARP Loan funds shall at all times be in full conformity with all of the requirements of the County HOME-ARP Loan Documents and the HOME-ARP Regulations, including, but not limited to, the insurance requirements contained herein and therein.

2.2 **TERM OF AGREEMENT.** The term of this Agreement shall commence upon the Effective Date, and shall terminate on the date that is six (6) months after the date that is twenty (20) years after the date of the issuance by the City of Goleta Building Official of a certificate of occupancy for the Property (“Term”). 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.** The Owner shall comply with all requirements imposed on projects assisted under the HOME-ARP Program in effect during the Term, as such may be amended from time to time.

3. PROJECT OCCUPANCY AND RENTS

3.1 **OCCUPANCY OF PROJECT.** A total of eleven (11) Units in the Project shall be designated as HOME-ARP-Assisted Units. Each HOME-ARP-Assisted Unit must be occupied, or reserved for occupancy, by a Qualifying Household.

3.2 **HOME-ARP-ASSISTED UNITS.** At all times during the Affordability Period, the Owner shall limit the rental of eleven (11) the HOME-ARP-Assisted Units to Very-Low Income Households, at Qualifying Rents that do not exceed the maximum rental charges for each HOME-ARP-Assisted Unit as set forth in Sections 1.18 and 3.4 of this Agreement. The HOME-ARP-Assisted Units shall be designated as “floating,” such that the Units that are designated as HOME-

ARP-ASSISTED UNITS in the Project remains constant at all times during the Affordability Period.

The following standards shall apply to all HOME-ARP-Assisted Units and all Tenants of HOME-ARP-Assisted Units:

- A. The HOME-ARP-Assisted Units shall be similarly constructed and of comparable quality to all other Units in the Project, and shall be dispersed throughout the Project.
- B. All Tenants of HOME-ARP-Assisted Units shall be provided with access to and enjoyment of all common areas and facilities in the Project on the same basis as tenants of other Units.

3.3 OTHER PROJECT UNITS. The Units other than HOME-ARP-Assisted Units, excluding any manager's unit, shall comply with the rent and income restrictions pursuant to the program requirements regulating use of funding sources applicable to such units, including, but not limited to, the State of California HomeKey Program, through which the Owner has also received financial assistance for the Project, and the HOME-ARP Regulations applicable to such Units. Non-compliance with the terms of this Agreement shall constitute an event of default under the County HOME-ARP Loan Agreement, subject to applicable cure periods, if any, and the County HOME-ARP Loan Note.

The Owner shall ensure that the Project shall be maintained and operated to comply with all applicable federal, state, and local requirements for access for disabled persons, including but not limited to Section 504 of the Rehabilitation Act of 1973 (29 USC 794), as amended, and with implementing regulations at 24 CFR, Part 8, and the Fair Housing Act (42 USC 3601-3619), implemented at 24 CFR Part 100, Subpart D. Within thirty (30) days after Borrower has completed the construction of the Project, Borrower shall submit to Lender documentation satisfactory to Lender of compliance with such requirements, including, but not limited to, a certification from the Project architect documenting the Unit numbers and type of accessibility features of no less than two (2) Units accessible for individuals with mobility impairments, and one (1) Unit accessible for individuals with either hearing or visual impairments.

3.4 MAXIMUM RENTAL CHARGES.

A. Maximum rental charges for each HOME-ARP-Assisted Unit shall not exceed the Qualifying Rent as defined above in Section 1.17 and Section 3.2.

B. The Qualifying Rent for each HOME-ARP-Assisted Unit 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 Area Median Income published annually by HUD. At least sixty (60) calendar days prior to increasing Qualifying Rents on any HOME-ARP-Assisted Unit on the Project, Owner shall submit to the Lender for review and approval a written request for such increase. Lender shall approve such request if the increased Qualifying Rents will comply with all applicable HOME-ARP Program requirements. Tenants of HOME-ARP-Assisted Units shall be given at least thirty (30) days' written notice prior to any increase in Qualifying Rent, consistent with State law.

3.4.1 OCCUPANCY DEADLINES. Owner shall ensure that each HOME-ARP-Assisted Unit is occupied by a Qualifying Household in accordance with the deadlines for occupancy set forth at 24 CFR 92.252. Each HOME-ARP-Assisted Unit shall be occupied by a Qualifying Household within six (6) months after the date of issuance by the City of Goleta Building Official of a certificate of occupancy for the Project ("Certificate of Occupancy"). In the event that any HOME-ARP-Assisted Unit is not occupied by a Qualifying Household ("HOME-ARP-Assisted Unit Vacancy") on the date that is six (6) months after the date of the issuance by the City of Goleta Building Official of a certificate of occupancy for the Project ("Occupancy Deadline"), Owner shall (i) submit to Lender within five (5) days after the Occupancy Deadline

(10) days after the Occupancy Deadline a detailed record of Owner's marketing efforts with respect to the Project and the HOME-ARP-Assisted Units, and (iii) comply with all of Lender's requests for additional information pertaining to such marketing efforts. In the event any HOME-ARP-Assisted Unit is not occupied by a Qualifying Household within eleven (11) months after the date of Project Completion ("Occupancy Default Deadline"), such occurrence shall constitute an Event of Default by Owner hereunder. On or before the date that is three (3) days after the last day of the eleventh (11th) month after the date of Project Completion, Owner shall provide to Lender written notice of each such HOME-ARP-Assisted Unit Vacancy. Within five (5) days of receipt of such notice of HOME-ARP-Assisted Unit Vacancy from Owner, Lender shall give written notice to Owner of such Event of Default in accordance with Section 6.2, below. Owner shall cure such Event of Default before the last day of the twelfth (12th) month after the date of Project Completion. Notwithstanding any other provision of this Agreement, or any provision of any other County HOME-ARP Loan Document or subordination agreement to the contrary, Owner shall immediately repay to Lender, upon Lender's request, all HOME-ARP funds invested in Units that are not rented to eligible Qualifying Households or Very Low-Income Households, as applicable, within 12 months of Project Completion.

3.5 INCOME CERTIFICATION.

The Annual Income levels and other qualifications of applicants for HOME-ARP-Assisted Units shall be (i) certified by Owner no earlier than six (6) months prior to the Qualifying Household's expected occupancy of a HOME-ARP-Assisted Unit, and (ii) recertified by Owner 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.

A. Initial Annual Income Verification. Before a Qualifying Household occupies a HOME-ARP-Assisted Unit, the Owner shall verify that the Annual Income, as defined in 24 CFR 5.609, calculated in an Annual Income Certification for such Qualifying Household is accurate by taking both of the following steps as a part of the Annual Income verification process for each Qualifying Household:

- (1) Third Party Verification: Owner shall contact all third parties referenced in such Qualifying Household's Annual Income Certification (e.g., employer, Social Security Administration, public assistance agency) in writing to obtain written verification from each such third party of such Qualifying Household's Annual Income; and
- (2) Review of Documents: Owner shall require each Qualifying Household to provide documents verifying such Qualifying Household's Annual Income (e.g., pay stubs, tax returns), and shall retain all such Qualifying Household Annual Income verification documents in the Project files.

B. Annual Income Recertification. At the time of each HOME-ARP-Assisted Unit lease renewal, or pursuant to an annual schedule adopted by the Owner, and in no event later than the one-year anniversary of the initial Annual Income verification for each HOME-ARP-Assisted Unit, and annually thereafter during the Affordability Period, Owner shall recertify the Annual Income of each Tenant occupying a HOME-ARP-Assisted Unit using the method described in Section 3.5.A, above. Such annual recertification shall be used in order to determine 30% of each Qualifying Household's tenant portion of rent payment for such HOME-ARP-Assisted Unit.

3.6 INCREASES IN QUALIFYING HOUSEHOLD INCOMES. In the event that recertification of the Annual Income of a Tenant who previously qualified as a Qualifying Household ("Previously-Qualifying Household") indicates that such Tenant's Annual Income exceeds the maximum Annual Income designated for a HOME-ARP-Assisted Unit hereunder and pursuant to the HOME-ARP program requirements, the Owner may increase the amount of rent payable by such Tenant for such on such HOME-ARP-Assisted Unit only as permitted in accordance with HOME-ARP regulations regarding "over-income tenants," which regulations are

percent (80%) of AAMI, then the Unit occupied by the Previously-Qualifying Household no longer qualifies as a HOME-ARP-Assisted Unit, and the next available Unit of comparable size and amenities or larger must be designated by Owner as the replacement HOME-ARP-Assisted Unit.

4. LEASING THE PROJECT

4.1 TENANT LEASES. The Owner shall execute a written lease agreement ("Lease") with the Tenant(s) of each HOME-ARP-Assisted Unit for a term of at least one (1) year, unless the Owner and such Tenant(s) mutually agree to a shorter Lease term; provided, however, that no such Lease agreement may be for a term of less than thirty (30) days. Each Lease, and all changes thereto, must be approved in writing in advance by Lender.

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

C. The Lease for each HOME-ARP-Assisted Unit shall not 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 such 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;

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

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 violations 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 such tenancy, the Owner shall serve written notice upon such Tenant specifying the grounds for the action at least thirty (30) days prior to termination of such 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 a HOME-ARP-Assisted Unit at the time the applicant is admitted to a HOME-ARP-Assisted Unit, or denied admission to a 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 a HOME-ARP-Assisted Unit. If a family living in a HOME-ARP-Assisted Unit separates under 24 CFR 5.2009(a), the remaining Tenant(s) may remain in the Unit. All Leases for HOME-ARP-Assisted Units 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 ("CoC") 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 Owner for consideration of tenancy at the Project.

4.2 TENANT SELECTION. Before leasing any Unit in the Project, the Owner must provide to Lender for Lender's review and approval the Owner's written tenant selection plan ("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's September, 13, 2021 CPD Notice 21-10, *Requirements for the Use of Funds in the HOME American Rescue Plan Act*, and all modifications thereto. A Veteran's preference must be applied pursuant to amended Section 1.16, as described above. Any changes to the Tenant Selection Plan require prior written approval from Lender.

4.3 SECTION 8 CERTIFICATE HOLDERS. The Owner will 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 Units by such prospective Tenants.

4.5 NONDISCRIMINATION. The Owner shall not discriminate or segregate in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of Units 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 other 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 shall be solely responsible for management of the Project, including 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 Owner shall submit its proposed Property Manager for the Project to Lender for Lender's approval. Lender hereby preapproves the Housing Authority of the County of Santa Barbara 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, 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 ("Management Policies") to the Lender for Lender's review and approval. Owner shall amend the Management Policies in any way necessary to ensure that the Management Policies comply with the provisions of this Agreement, the requirements of the HOME-ARP Program, as may be amended from time to time, and the requirements of all lenders providing financing for the Project; provided, however, that in the event of any conflict between the requirements of the HOME-ARP Program and the requirements of any lender providing financing for the Project, the requirements of the HOME-ARP Program shall prevail and control and the Management Policies shall comply with such requirements of the HOME-ARP Program.

5.3 INSPECTION AND RECORDS. The Owner shall maintain records which clearly document the Owner's performance of its obligations under this Agreement. 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, and Owner shall be responsible for notifying tenants regarding same in accordance with the provisions of such tenants' Leases. Owner must include provisions in all tenant leases that allow for such County inspections of the Units.

operate the Property and the Project in full compliance with this Agreement and the HOME-ARP Program regulations set forth in 24 CFR Part 92, including, but not limited to, the property condition standards set forth in 24 CFR 92.251(f), 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*, in effect as of the Effective Date, and as may be amended from time to time (the foregoing, collectively, the "HOME-ARP Requirements"). The Owner shall permit the Lender to conduct compliance monitoring, including performing on-site records review and inspections of the Property, as required by the HOME-ARP Requirements and as reasonably requested by Lender.

5.5 ANNUAL REPORT. On or before March 1st of each year during the Term following recordation of a notice of completion issued for the Project, the Owner shall submit to the Lender a report in a form approved by Lender for the preceding calendar year, containing all 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 include, at a minimum: (i) an Annual Financial Statement, as defined in Section 1.2 of the County HOME-ARP Loan Agreement, (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 Unit, the rent, Annual Income, and household size of the Tenant household in occupancy of such Unit, as well as the date such tenancy commenced, and (vi) all other information requested by Lender.

Within thirty (30) days after receipt of a written request from Lender, Owner shall submit all other information and completed forms requested by the Lender in order to comply with reporting requirements of HUD, the State of California, or the Lender. The Lender shall have the right to examine and make copies of all books, records and other documents and data in Owner's possession, custody, or control which pertain to the Project or any 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 under California Revenue and Taxation Code Section 214(g) for the Property, and hereby provides its consent for such property tax exemption application.

5.8 MAINTENANCE OF EXISTING STRUCTURES. Owner shall maintain all buildings on the Property in good condition, in good repair, ordinary wear and tear excepted, and in a decent, safe, sanitary, habitable and tenantable condition. All Units in the Project must meet the standards set forth in 24 CFR 92.251(f)(2) at all times during 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 such standards are applicable to the Project, Lender shall send written notice of such 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 all Units in the Project 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. Owner shall be solely responsible for maintenance of the Property.

6. GENERAL PROVISIONS

6.1 SUBORDINATION. This Agreement shall be senior to, and shall not be subordinate to, any deed of trust, note, agreement or to any other obligations of Lender concerning the

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. Except as otherwise provided herein, if Lender determines that such breach is capable of cure, the Owner shall have an opportunity to cure such breach within thirty (30) days from the Owner's receipt of such written notice, or such longer period of time as the Lender determines is reasonably necessary to cure such breach, provided that the Owner diligently undertakes to cure such breach. Lender shall accept a cure of such breach by the Owner's limited partner on the same basis as Lender would accept a cure of such breach by the Owner. If the Owner fails to perform a timely cure of the specified breach, the Lender may proceed with any or all of the following remedies upon the Owner's failure to cure, or immediately upon the occurrence of a breach that the Lender determines to be incapable of 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;

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

6.3 EVENT OF DEFAULT. In the event that the Project fails to meet any of the HOME-ARP affordability requirements included in this Agreement at any time during the Affordability Period, subject to applicable notice and cure periods contained herein, such failure shall constitute an Event of Default hereunder and under Sections 8.1.D, 8.1.E, and/or 8.1.I of the County HOME-ARP Loan Agreement. In the event that the Project fails to comply with any of the terms of the State HCD HomeKey Regulatory Agreement, such failure shall constitute an Event of Default hereunder and under Sections 8.1.D, 8.1.E, 8.1.I and/or 8.1.J of the County HOME-ARP Loan Agreement.

6.4 NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS. No official elected or appointed, 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 any provisions hereof that may be preempted by federal law.

6.7 THIS AGREEMENT CONTROLS. In the event of any conflict between any provision of this Agreement and any provision contained in any of the other County HOME-ARP Loan Documents, the terms of this Agreement shall control and prevail.

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

under this Agreement shall not be unreasonably withheld. Any Lender consent or approval must be in writing and executed by a duly 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 if, and shall not be deemed given unless, dispatched by registered or certified U.S. Postal Service mail, postage prepaid, return receipt requested, or delivered personally, to the respective principal offices of the Owner and the Lender as follows:

Lender: County of Santa Barbara
Housing and Community Development
123 E Anapamu Street, 2nd 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: Housing Authority of the County of Santa Barbara
815 West Ocean Avenue
Lompoc, CA 93436
Attn: Executive Director

With copy to: Mark S. Manion
Price, Postel & Parma, LLP
200 E. Carrillo St., Suite 400
Santa Barbara, CA 93101

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 respective heirs, administrators, executors, successors-in-interest, transferees, and assigns of the Owner and the Lender, and shall run with the land for the full Term, regardless of any assignment, payment, prepayment, expiration, extinguishment of the County HOME-ARP Loan or County HOME-ARP Loan Note, any reconveyance of the County HOME-ARP Loan Deed of Trust, or any conveyance or transfer of the Property or any portion thereof.

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

6.13 WAIVER. Any waiver by the Lender of any obligation in this Agreement must be 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 or any of the County HOME-ARP Loan Documents, or under applicable law. Any extension of time granted by Lender to the Owner to perform any obligation under this Agreement shall not operate as a waiver or release of 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 that any waiver by Lender hereunder shall be in writing duly executed by Lender.

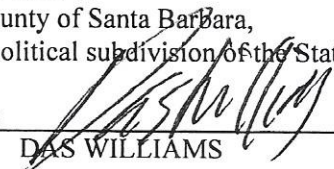
6.14 AMENDMENTS AND MODIFICATIONS. Any amendment to or modification of this Agreement must be in writing, and shall be effected only if duly executed by both the Owner and the Lender

0.15 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 of this Agreement shall not in any way be affected or impaired by such holding.

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

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

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

By: 
DAS WILLIAMS
Chair, Board of Supervisors

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

BORROWER
Housing Authority of the County of Santa Barbara,
a public body, corporate and politic

By: _____
Deputy

By: 
ROBERT P. HAVLICEK, JR.
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

APPROVED AS TO FORM:

By: _____
GEORGE CHAPJIAN
Community Services Department, Director

COUNTY:

County of Santa Barbara,
a political subdivision of the State of California

By: _____
DAS WILLIAMS
Chair, Board of Supervisors

**APPROVED AS TO ACCOUNTING
FORM:**

BESTY M. SCHAFFER, CPA, CPFO
AUDITOR-CONTROLLER

DocuSigned by:
Robert Eis
By: _____
D25019E2AF094BF
Deputy

BORROWER

Housing Authority of the County of Santa Barbara,
a public body, corporate and politic

By: _____
ROBERT P. HAVLICEK, JR.
Executive Director

APPROVED AS TO FORM

RACHEL VAN MULLEM
COUNTY COUNSEL

DocuSigned by:
Lauren Wideman
By: _____
8F464D822C84468
Deputy County Counsel

APPROVED AS TO FORM:

RISK MANAGEMENT

DocuSigned by:
Gregory Milligan
By: _____
DC240AC1E64247D...
GREGORY MILLIGAN, ARM, AIC
Risk Manager

APPROVED AS TO FORM:

DocuSigned by:
George Chapjian
By: _____
89FB8FFEF9E4F2...
GEORGE CHAPIAN
Community Services Department, Director

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 June 12, 2013 before me, Darcy Stoodley Brady, Notary Public, personally appeared Robert P. Hawlicek Jr 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 Darcy J. Brady (Seal)

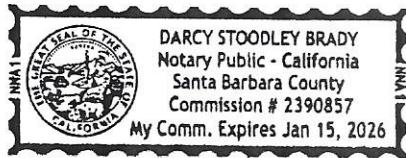


Exhibit A

LEGAL DESCRIPTION

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

PARCEL 1:

THAT PORTION OF RANCHO LOS DOS PUEBLOS IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEGINNING AT A 1-½ INCH PIPE SURVEY MONUMENT SET AT THE SOUTHWESTERLY CORNER OF THE TRACT OF LAND DESCRIBED IN THE DEED TO E.D. DIXON, ET UX., RECORDED APRIL 6, 1960, INSTRUMENT NO. 11078, IN BOOK 1731, PAGE 117 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID PIPE BEING SHOWN ON THE MAP OF SURVEY FILED IN BOOK 61, PAGE 76 OF RECORD OF SURVEYS, IN THE OFFICE OF SAID COUNTY RECORDER, THENCE NORTH 120.83 FEET, ALONG THE MOST WESTERLY LINE OF SAID DIXON TRACT OF LAND, TO THE NORTHWESTERLY CORNER THEREOF AND A POINT IN A CURVE IN THE SOUTHEASTERLY LINE OF HOLLISTER AVENUE, AS SHOWN ON SAID ABOVE MENTIONED MAP OF SURVEY, THE RADIAL CENTER OF WHICH BEARS NORTH 29° 46' 14" WEST 5730.00 FEET, THENCE

NORTHEASTERLY ALONG SAID CURVE, HAVING A DELTA OF 0° 02' 46", A DISTANCE OF 4.61 FEET, THENCE CONTINUING ALONG SAID LINE OF HOLLISTER AVENUE, NORTH 60° 11' EAST 60.35 FEET, THENCE, LEAVING SAID LINE OF HOLLISTER AVENUE, SOUTH 29° 49' EAST 128.40 FEET, THENCE SOUTH 4° 00' WEST 50.00 FEET TO A POINT ON THE MOST SOUTHERLY LINE OF SAID DIXON TRACT OF LAND, THENCE ALONG SAID LINE, NORTH 86° 00' WEST 117 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

THAT PORTION OF RANCHO LOS DOS PUEBLOS IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE TRACT OF LAND DESCRIBED IN THE DEED FROM W.D.V. SMITH, ET UX., TO SEASIDE OIL COMPANY, RECORDED SEPTEMBER 14, 1929, INSTRUMENT NO. 10215, IN BOOK 197, PAGE 247 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, WHICH POINT IS IDENTIFIED ON A MAP OF SURVEY RECORDED IN BOOK 22, PAGE 27 OF RECORD OF SURVEYS, IN THE OFFICE OF SAID COUNTY RECORDER, AS BEING IN THE WESTERLY LINE OF FAIRVIEW AVENUE A DISTANCE OF 164.55 FEET SOUTH OF THE INTERSECTION OF THE SOUTHERLY LINE OF THE STATE HIGHWAY (HOLLISTER AVENUE) AND THE WESTERLY LINE OF SAID FAIRVIEW AVENUE, THENCE 1ST, NORTH 89° 41' WEST, ALONG THE SOUTH LINE OF THE TRACT OF LAND DESCRIBED IN SAID DEED 93.52 FEET, MORE OR LESS TO THE SOUTHWEST CORNER OF SAID TRACT, THENCE 2ND, NORTH 0° 19' EAST 20.55 FEET, MORE OR LESS TO THE MOST SOUTHERLY CORNER OF THE TRACT OF LAND DESCRIBED IN THE DEED FROM LYDIA K. BANGERTER TO SEASIDE OIL COMPANY, RECORDED OCTOBER 21, 1954, INSTRUMENT NO. 18212, IN BOOK 1275, PAGE 168 OF SAID OFFICIAL RECORDS, THENCE 3RD, NORTH 29° 50' 30" WEST, ALONG THE SOUTHWESTERLY LINE OF SAID LAST MENTIONED TRACT, 94.89 FEET, MORE OR LESS TO THE SOUTHEASTERLY LINE OF HOLLISTER AVENUE, THENCE 4TH, SOUTH 60° 09' 30" WEST, ALONG SAID SOUTHEASTERLY LINE 53.29 FEET, MORE OR LESS TO THE MOST NORTHERLY CORNER OF THE TRACT OF LAND DESCRIBED IN THAT CERTAIN DEED OF TRUST EXECUTED BY E.D. DIXON, ET UX., RECORDED MAY 16, 1961, AS INSTRUMENT NO. 16977, IN BOOK 1847, PAGE 340 OF OFFICIAL RECORDS, THENCE 5TH, SOUTH 29° 49' EAST, ALONG THE LINE OF SAID LAST MENTIONED TRACT, 128.40 FEET TO AN ANGLE POINT THEREIN, THENCE 6TH, SOUTH 4° 00' WEST, ALONG THE EASTERLY LINE OF SAID LAST MENTIONED TRACT, 50 FEET TO THE SOUTHEAST CORNER THEREOF, THENCE 7TH, SOUTH 86° 00' EAST ALONG THE SOUTHERLY LINE OF THE TRACT OF LAND DESCRIBED IN THE DEED TO E.D. DIXON, ET UX., RECORDED APRIL 6, 1960, AS INSTRUMENT NO. 11078, IN BOOK 1731, PAGE 117 OF SAID OFFICIAL RECORDS, 127 FEET MORE OR LESS TO THE WESTERLY LINE OF FAIRVIEW AVENUE, THENCE 8TH, NORTH 0° 19' EAST ALONG SAID WESTERLY LINE, 93.45 FEET, MORE

OR LESS TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION AS DESCRIBED IN THE DEED TO THE COUNTY OF SANTA BARBARA, RECORDED JULY 25, 1966, AS INSTRUMENT NO. 24059, IN BOOK 2159, PAGE 804 OF OFFICIAL RECORDS.

PARCEL 3:

THAT PORTION OF RANCHO LOS DOS PUEBLOS IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY NORTHEAST CORNER OF THE 830.592 ACRE PARCEL OF LAND SHOWN ON THE MAP FILED IN BOOK 88, PAGE 30 OF RECORD OF SURVEYS IN THE OFFICE OF THE SANTA BARBARA COUNTY RECORDER; THENCE ALONG THE NORTHERLY BOUNDARY LINE OF SAID LAND, NORTH 85° 39' 40" WEST 265.49 FEET TO AN ANGLE POINT IN SAID LINE AND NORTH 00° 28' 46" EAST 13.07 FEET TO THE SOUTHWESTERLY CORNER OF THE W.D.V. SMITH TRACT SHOWN ON THE MAP FILED IN BOOK 22 PAGE 27 OF SAID RECORD OF SURVEYS, SAID SMITH TRACT ALSO BEING SHOWN ON THE MAP FILED IN BOOK 61, PAGE 76 OF SAID RECORD OF SURVEYS; THENCE ALONG THE SOUTHERLY BOUNDARY LINE OF SAID SMITH TRACT SOUTH 84° 57' 55" EAST 265.79 FEET TO THE EASTERLY BOUNDARY LINE OF SAID RANCHO; THENCE ALONG SAID EASTERLY LINE SOUTH 00° 51' 05" WEST 9.83 FEET TO THE POINT OF BEGINNING.

APN: 073-080-028

Exhibit B

Standard Indemnification and Insurance Provisions

INDEMNIFICATION

Owner 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. Owner'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

Owner 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

Owner 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 Owner, its agents, representatives, employees, contractors, 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:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Owner has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** 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.

If the Owner maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the Owner. 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 Owner 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 Owner's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the Owner's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the Owner'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. **Waiver of Subrogation Rights** – Owner hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said Owner may acquire against the COUNTY by virtue of the payment of any loss under such insurance. Owner agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **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 Owner 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.
6. **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".
7. **Verification of Coverage** – Owner 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 Owner's obligation to provide them. The Owner 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.
8. **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.
9. **Subcontractors** – Owner shall require and verify that all contractors and subcontractors maintain insurance meeting all the requirements stated herein, and

Owner shall ensure that COUNTY is an additional insured on insurance required from contractors and subcontractors.

10. **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. Owner agrees to execute any such amendment within thirty (30) days of receipt.

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.