

**COUNTY CDBG LOAN AGREEMENT  
(\$450,000)**

Between

**County of Santa Barbara**

and

**Good Samaritan Shelter  
(Safe Haven, Transitional Housing and Supportive  
Services Project, City of Lompoc)**



Catalogue of Federal Domestic Assistance, CFDA 14.218

**COUNTY CDBG LOAN AGREEMENT  
(GOOD SAMARITAN SHELTER TRANSITIONAL HOUSING AND SUPPORTIVE SERVICES  
PROJECT)**

This agreement (“County CDBG Loan Agreement”) is made as of this 5<sup>th</sup> day of May, 2020, by and between the County of Santa Barbara, a political subdivision of the State of California (“Lender”), and Good Samaritan Shelter, a California nonprofit organization, whose address is 245 E. Inger Dr., Suite 103B, Santa Maria, CA 93454 (“Borrower”).

**RECITALS**

A. Lender wishes to promote the development of affordable housing in neighborhoods in need of revitalization in Santa Barbara County communities and provide a greater choice of housing opportunities for low income people.

B. There is a need to expand affordable transitional and permanent rental housing to homeless persons, and to promote projects that combine supportive services with housing, as documented in the County’s 2015-2019 Consolidated Plan.

C. Borrower represents that it has the skills, expertise, and all licenses and permits necessary to carry out the project described under this Agreement.

D. Borrower intends to acquire and rehabilitate a three-bedroom, single family residence (Project), that will provide transitional housing and supportive services to qualifying households. The residence will be designated for households having incomes at or below 50% of Area Median Income for the Santa Maria-Santa Barbara Metropolitan Statistical Area as determined by HUD and published annually with adjustments for household size and will house female victims of domestic violence or human trafficking activities. The Project location is in Lompoc, California.

E. Lender has been awarded federal Community Development Block Grant Program funds (“CDBG Funds”) from the United States Department of Housing and Urban Development (“HUD”) under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383 (42 U.S.C. 5301 et seq.); and the regulations promulgated thereunder (24 CFR Part 570) (“Regulations”);

F. Borrower wishes to borrow from Lender and Lender wishes to extend to Borrower a loan of CDBG Funds in the total amount of Four Hundred Fifty Thousand Dollars (\$450,000), which will be used to acquire and rehabilitate the Project. The terms of the County CDBG Loan are set out in this County CDBG Loan Agreement.

G. The Lender and Borrower reasonably expect that the acquisition and rehabilitation of the Project will commence and be completed within one year of execution of this Agreement.

H. Borrower will execute a document concurrently herewith that restricts program eligibility to certain Qualifying Households, as defined herein. This document, the County CDBG Loan Regulatory Agreement and Declaration of Restrictive Covenants (“County CDBG Loan Regulatory Agreement”), shall be executed contemporaneously herewith and recorded against the Property and shall designate the bedrooms in the Project as the CDBG-assisted units.

I. The CDBG-assisted units will be classified and operated as transitional housing units, as defined in 24 CFR 92.2.

J. The County CDBG Loan will be evidenced by a promissory note in the amount of Four Hundred Fifty Thousand Dollars (\$450,000) executed by Borrower in favor of Lender, and the County CDBG Loan and promissory note will be secured by a deed of trust.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the making of the County CDBG Loan, Borrower and Lender hereby agree as follows:

#### **ARTICLE 1 DEFINITIONS**

The following terms have the meanings and content set forth in this section wherever used in this County CDBG Loan Agreement, attached Exhibits, or documents incorporated into this County CDBG Loan Agreement by reference.

1.1 **“AFFIRMATIVE MARKETING”** means actions taken to provide information and otherwise attract eligible persons in the housing market area to the Project that are not likely to apply without special outreach, without regard to race, color, national origin, sex, religion, familial status or disability, in conformance with 24 CFR 92.351. Special outreach in regard to the Project shall include identifying eligible Qualifying Households whom this Project exclusively proposes to serve.

1.2 **“ANNUAL FINANCIAL STATEMENT”** means the financial statement of Operating Expenses and Revenue, prepared at Borrower’s expense, by an independent certified accountant acceptable to Lender, which shall be provided as part of Borrower’s annual reporting to Lender, in conformance with Section 5.12 below.

1.3 **“AREA MEDIAN INCOME”** means the area median income for the Santa Maria-Santa Barbara Metropolitan Statistical Area as determined annually by HUD with adjustments for household size.

1.4 **“BORROWER”** means Good Samaritan Shelter, a California nonprofit organization, and its authorized representatives, assigns, transferees, or successors-in-interest thereto.

1.5 **“BUDGET”** means that budget for the acquisition and rehabilitation of the Project Scope of Work and Budget attached hereto as Exhibit A, which is hereby incorporated into this County CDBG Loan Agreement by this reference and which identifies the sources and uses of Project acquisition and rehabilitation costs and specifies the costs to be paid with County CDBG funds in conformance with federal CDBG program regulations at 24 CFR Part 570.

1.6 **“CDBG AFFORDABILITY PERIOD”** means the fifteen (15) year term during which the CDBG Assisted Units must meet the affordability requirements that are described in Article V herein and in the County CDBG Loan Regulatory Agreement. This term commences upon project completion in conformance with CDBG Program regulations cited at 24 CFR 570 and evidenced by a written notice of completion provided to the Borrower by Lender.

1.7 **“CDBG-ASSISTED UNIT”** means any one of the three (3) bedrooms in the Project designated by Borrower as a CDBG-Assisted unit subject to the requirements of the County CDBG Loan Regulatory Agreement executed contemporaneously herewith and in a form substantially similar to Exhibit D, which is attached hereto and hereby incorporated into this County CDBG Loan Agreement by

this reference. The Project will be operated as transitional housing with up to six (6) Qualifying Households at any given point-in-time, except that Borrower, at Borrower's discretion, may provide one Unit or one bed in a Unit to be occupied by a non-qualified person for the purposes of providing housing for an on-site case manager or service provider.

1.8 **"CDBG FUNDS"** means funds provided to Borrower by Lender pursuant to the terms of this County CDBG Loan Agreement and as defined in CDBG Program Regulations at 24 CFR Part 570. Federal award information and detail is included herein as Attachment J.

1.9 **"COUNTY"** means the County of Santa Barbara, a political subdivision of the State of California and its authorized representatives, officers, officials, directors, employees, and agents.

1.10 **"COUNTY CDBG LOAN"** means the loan of CDBG funds in the amount specified in Section 2.2 as provided in this County CDBG Loan Agreement to finance the acquisition and rehabilitation costs of the Project.

1.11 **"COUNTY CDBG LOAN AGREEMENT"** means this loan agreement entered into between Lender and Borrower.

1.12 **"COUNTY CDBG LOAN DEED OF TRUST"** means that deed of trust, assignment of rents, and security agreement placed on, and recorded in the County real estate records of, the Project and the improvements to be constructed thereon as security for the County CDBG Loan by Borrower as trustor with Lender as beneficiary, as well as any amendments to, modifications of, and restatements of said County CDBG Loan Deed of Trust, executed contemporaneously herewith and in a form substantially similar to Exhibit B and hereby incorporated into this County CDBG Loan Agreement by this reference. The terms of the County CDBG Loan Deed of Trust are incorporated into this County CDBG Loan Agreement.

1.13 **"COUNTY CDBG LOAN DOCUMENTS"** are collectively the County CDBG Loan Agreement, the County CDBG Loan Note, the County CDBG Loan Deed of Trust, and the County CDBG Loan Regulatory Agreement, as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

1.14 **"COUNTY CDBG LOAN NOTE"** means the promissory note executed by the Borrower in favor of Lender in the amount specified in Section 2.2, to evidence the County CDBG Loan as well as any amendments to, modifications of, or restatements of said promissory note, executed contemporaneously herewith and in a form substantially similar to Exhibit C, which is attached hereto and hereby incorporated into this County CDBG Loan Agreement by this reference.

1.15 **"COUNTY CDBG LOAN REGULATORY AGREEMENT"** means the agreement executed by Borrower and Lender, executed contemporaneously herewith and in a form substantially similar to Exhibit D, and recorded against the Property which regulates the use of the Project assisted with CDBG funding.

1.16 **"HAZARDOUS MATERIALS"** means any hazardous or toxic substances, materials, wastes, pollutants, or contaminants which are defined, regulated, or listed as "hazardous substances," "hazardous wastes," "hazardous materials," "pollutants," "contaminants," or "toxic substances," under federal or state environmental and health and safety laws and regulations, including without limitation petroleum and petroleum byproducts, flammable explosives, urea formaldehyde insulation, radioactive materials, asbestos, and lead. Hazardous Materials do not include substances that are used or consumed in

the normal course of developing, operating, or occupying a housing project, to the extent and degree that such substances are stored, used, and disposed of in the manner and in amounts that are consistent with normal practice and legal standards at the time of such use.

1.17 **“HOMELESS”** means the United States Department of Housing and Urban Development’s definitions at 24 CFR 91.5, (Attachment K).

1.18 **“HUD”** means the United States Department of Housing and Urban Development.

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

1.20 **“MONITORING FEE”** The Lender may charge an annual monitoring fee, not to exceed \$1,000 annually, to conduct on-site monitoring and insure continued program compliance and operations pursuant to CDBG Program Regulations cited at 24 CFR Part 570.

1.21 **“OPERATING EXPENSES”** means, actual, reasonable and customary costs, fees and expenses directly attributable to the operation, maintenance, and management of the Project, including painting, cleaning, repairs and alterations, landscaping, utilities, rubbish removal, certificates, permits and licenses, sewer charges, real and personal property taxes and assessments, insurance, reasonable property management fee, County monitoring fee, security, advertising, promotion and publicity, office, janitorial, cleaning and building supplies, lease payments if any, cash deposited into reserves for operating expenses with respect to the Project, not to exceed an amount equal to three (3) months operating expenses, and capital replacements with respect to the Project in an amount not to exceed \$3,000 annually, purchase, repair, servicing and installation of appliances, equipment, fixtures and furnishings, fees and expenses of accountants, attorneys, consultants and other professionals. The Operating Expenses shall be reported in the Annual Financial Statement.

1.22 **“PROGRAM BENEFICIARY:** means the Qualifying Household benefitting from the CDBG Project.

1.23 **“PROJECT”** means the acquisition, rehabilitation, improvements, operations and management of the Property and program according to the terms of this County CDBG Loan Agreement and as defined in CDBG Program Regulations at 24 CFR Part 570.

1.24 **“PROPERTY”** means the real property located at [REDACTED]

1.25 **“QUALIFYING HOUSEHOLD”** means one or more related or unrelated persons occupying a Unit, and who are low and moderate income earning 50% or less of the Area Median Income for the Santa Maria-Santa Barbara Metropolitan Statistical Area as determined by HUD and published annually with adjustments for household size. A Qualifying Household must also be a female victim of domestic violence or human trafficking activities and presumed to be homeless as a result.

1.26 **“QUALIFYING RENT”** means thirty-percent of a Qualifying Household’s income, paid monthly. If the tenant pays for utilities (excluding telephone, TV, and Internet), then the Qualifying Rent

shall be reduced by the maximum monthly allowance for utilities using the annual HUD Utility Schedule Model or other annual utility schedule as determined by the County. Fees charged by the Owner for the provision of food, clothing, supplies, or Supportive Services are not included in the Qualifying Rent; however, such fees must be reasonable and not effectively preclude Qualifying Households from occupying a Unit and participating in programs or services offered at the Project.

1.27 **“STANDARD INDEMNIFICATION AND INSURANCE REQUIREMENTS”** means the insurance coverages which must be in full force and effect during the term of this County CDBG Loan Agreement, as specified in Exhibit E, which is attached hereto and hereby incorporated into this County CDBG Loan Agreement by this reference.

1.28 **“TERM”** means the 15-year period that this CDBG Loan Agreement will be in effect as described in Sections 2.5 and 9.6 herein.

1.29 **“TRANSITIONAL HOUSING”** means “a project that is designed to provide housing and appropriate supportive services to homeless or otherwise low-income households to facilitate movement to independent living within 24 months, or a longer period approved by HUD,” pursuant to 24 CFR 91.5.

1.3 **“UNIT”** means a bedroom in the Project that may occupy up to two (2) Qualifying Households.

1.3 **VERY LOW-INCOME PERSON**” means a household, as defined in 24 CFR 570 and whose annual income does not exceed fifty percent (50%) of the Area Median Income with adjustments for household size.

## **ARTICLE 2 TERMS OF THE COUNTY CDBG LOAN**

2.1 **COUNTY CDBG LOAN.** On and subject to the terms and conditions of the County CDBG Loan Documents, Lender agrees to make and Borrower agrees to accept a loan with the following terms:

2.2 **AMOUNT.** The principal amount of the County CDBG Loan shall be an amount not to exceed Four Hundred and Fifty Thousand Dollars (\$450,000) and shall be evidenced by the County CDBG Loan Note. In the event Lender is unable to secure CDBG Funds for this County CDBG Loan Agreement for any reason at any time, Lender shall not be obligated to make payments to Borrower unless and until CDBG Funds become available to Lender, and Borrower shall hold Lender harmless.

2.3 **INTEREST.** Subject to the provisions of Section 2.4, the County CDBG Loan Note shall bear simple interest at a rate of zero percent (0%) per annum from the date of the final disbursement under the County CDBG Loan Note. Interest is not compounding and the loan shall be deferred and forgivable as per Section 2.5.

2.4 **DEFAULT INTEREST.** In the event of a default by Borrower of any of its obligations under this County CDBG Loan Agreement and expiration of applicable cure periods, Borrower shall pay to Lender interest on the outstanding principal of the County CDBG Loan, at an annual rate equal to the lesser of (i) ten percent (10%) or (ii) the highest interest allowed by law, in addition to the interest rate in Section 2.3 above, from the date of the default until the date that the default is cured or the County CDBG Loan is repaid in full. The default interest shall be paid monthly and is due to the County on the first day of each month.

2.5 **TERM OF COUNTY CDBG LOAN.** The principal and all accrued interest of the County CDBG Loan shall be due and payable on the earlier of: (a) fifteen (15) years after the date of project completion as evidenced by a written notice of completion provided to the Borrower by Lender or (b) the date the Property is sold or otherwise transferred, or (c) Borrower has failed to commence property rehabilitation and improvement work as set forth in Section 4.1 of this County CDBG Loan Agreement, or (d) an event of default by Borrower, as defined below in Section 8.1, which has not been cured as provided for below in Section 8.2. In the event of default by Borrower, as defined below in Section 8.1, which has not been cured as provided for below in Section 8.2, the principal and all current and accrued interest shall be due and payable in accordance with Section 8.3. The foregoing notwithstanding, if Borrower remains compliant with the terms of the CDBG Regulatory Agreement, as determined by the Lender through periodic inspections of the Project and Project files documenting occupancy by Qualifying Households , for the fifteen (15) year term described therein, then the principal amount of the loan, along with all accrued interest, except interest accrued pursuant to Section 2.4, shall be forgiven.

2.6 **USE OF CDBG FUNDS.** CDBG Funds shall be used only for the purposes specified in the Project Scope of Work and Budget attached hereto as Exhibit A and shall only be disbursed in accordance with the provisions of Article 3. Budget modifications may be approved in accordance with Section 9.19 of this Agreement; provided that costs are eligible under 24 CFR Part 570, and that the level of Environmental Review completed under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, et seq.), and HUD's implementing regulations at 24 CFR Part 58 remains applicable. CDBG Funds shall be utilized for costs related to residential uses only and shall not be utilized for costs related to commercial uses or any other nonresidential uses associated with the Project.

2.7 **CDBG BUDGET.** The budget prepared by the Borrower and provided to Lender for the performance of the work stated and set out in the Project Scope of Work and Budget is delineated in Exhibit A to this Agreement. Lender may require a more detailed budget breakdown than the one contained herein, and the Borrower shall provide supplementary budget information within one (1) week of Lender's request for a more detailed budget breakdown in the form and content prescribed by Lender. Any amendments to the budget must be approved in writing in accordance with Section 9.19.

Borrower represents that the budget includes only costs allowable under 24 CFR 570.502, which includes requirements for compliance with 2 CFR Part 200. These items shall be in sufficient detail to provide a sound basis for the Lender to effectively monitor Borrower's performance under this Agreement.

## 2.8 ADMINISTRATIVE REQUIREMENTS AND FINANCIAL MANAGEMENT.

### A. Accounting Standards

The Borrower agrees to comply with 24 CFR 570.502 and 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Borrower agrees to adhere to the accounting principles and procedures referenced therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

### B. Cost Principles

The Borrower agrees to comply with 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", as set forth at §570.502. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

### C. Administrative Requirements

The Borrower agrees to comply with all applicable uniform administrative requirements set forth in 24 CFR 570.502 and all applicable requirements set forth in 24 CFR Part 5 (24 CFR 5.100-5.2011) and 24 CFR Part 200. CDBG Funds received by Borrower from Lender pursuant to this County CDBG Loan Agreement shall be maintained in an account in a banking or savings and loan institution separate and apart from any other funds of Borrower or of any principal or member of Borrower. No costs shall be invoiced or billed except for expenditures authorized in the budget contained within this County CDBG Loan Agreement and Exhibit B. The itemized costs shall be in sufficient detail to provide a sound basis for the Lender to effectively monitor costs under this County CDBG Loan Agreement.

#### D. Records to be Maintained

The Borrower shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 and by Lender's ordinances or policies that are pertinent to the work to be performed or activities to be funded under this County CDBG Loan Agreement. Such records shall include but not be limited to: Records providing a full description of each activity undertaken; Records required to determine the eligibility of activities; Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance; Records documenting compliance with the fair housing and equal opportunity components of the CDBG program; Financial records as required by 24 CFR 570.502; and other records as necessary to document compliance with Subpart K of 24 CFR Part 570.

#### E. Retention

The Borrower shall retain all financial records, supporting documents, statistical records, and all other records pertinent to this County CDBG Loan Agreement for a period of at least four (4) years. The retention period begins on the date of the submission of the Lender's annual performance and evaluation report to HUD, as prescribed in 24 CFR 91.520, in which the activities assisted under the County CDBG Loan Agreement are reported on for the final time rather than from the date of submission of the Lender's final expenditure report for HUD's award to Lender. Notwithstanding the above, if there is litigation, claims, disputes, audits, negotiations or other actions that involve any of the records and that have started before the expiration of the four-year period, then all records must be retained until completion of the actions and final resolution of all issues, or the expiration of the four-year period, whichever occurs later.

#### F. Ownership of Documents

Each and every report, draft, map, record, plan, document and other writing produced (hereinafter "Documents"), prepared or caused to be prepared by Borrower, its officers, employees, agents, representatives, contractors and subcontractors, in the course of performing this County CDBG Loan Agreement, shall be and become the exclusive property of Lender, and Lender shall have the sole right to use such materials in its sole discretion without further compensation to Borrower or any other party. Borrower shall, at Borrower's own expense, provide such Documents to Lender upon Lender's written request.

#### G. Disclosure

The Borrower understands that client information collected under this County CDBG Loan Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the Lender's or Borrower's responsibilities with respect to the work performed or the Project described in this County CDBG Loan Agreement, may be prohibited under state or federal law unless written consent is obtained from such person benefitting from the work performed under this County CDBG Loan Agreement or the Project and, in the case of a minor, that of a responsible parent/guardian.

#### H. Close-outs



The Borrower also agrees to comply with all grant closeout procedures set forth in 24 CFR § 570.509 and all applicable requirements set forth in 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The Borrower's obligations to the Lender shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Lender), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Borrower has control over CDBG Funds, including program income.

#### I. Audits & Inspections

All Borrower records with respect to any matters covered by this County CDBG Loan Agreement shall be made available to Lender, HUD, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make copies, excerpts or transcripts of all relevant data. Any deficiencies, audit findings, or required corrective actions noted in audit reports must be fully cleared by the Borrower within 30 days after receipt by Lender unless a longer time period is agreed upon in writing by the Lender. Borrower hereby agrees to have an annual program-specific audit conducted by a certified public accounting firm in accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and current Lender policy and requirements concerning audits.

If this County CDBG Loan Agreement exceeds ten thousand dollars (\$10,000.00), Borrower shall be subject to the examination and audit of the California State Auditor, at the request of the Lender or as part of any audit of the Lender, for a period of three (3) years after final payment under this County CDBG Loan Agreement (Cal. Govt. Code Section 8546.7). Borrower shall participate in any audits and reviews, whether by Lender or the State, at no charge to Lender.

If federal, state or Lender audit exceptions are made relating to this County CDBG Loan Agreement, Borrower shall reimburse all costs incurred by federal, state, and/or County governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from Lender, Borrower shall reimburse the amount of the audit exceptions and any other related costs directly to Lender as specified by Lender in the notification.

#### J. Access to Records

The Borrower shall furnish and cause each of its own contractors and subcontractors to furnish all information and reports required hereunder and will permit access to books, records and accounts by the Lender, HUD or other authorized officials or their agents, to ascertain compliance with the laws, rules, regulations, executive orders, ordinances, resolutions, guidelines, policies, directives, standards and provisions stated in this Agreement or the CDBG program at 24 CFR 570.

#### K. Reports

Borrower shall provide Lender with a monthly Project Status and Completion Report (Report) on Lender's form (Exhibit H). Upon completion of the Statement of Work, Borrower shall complete and submit Section III of the Report documenting an unduplicated count of persons benefiting from the completion of the Statement of Work. The Report shall contain, without limitation, the household income level, and race and ethnicity of each client assisted as a result of the completion of the Statement of Work, and other data as may be requested by Lender). Annually thereafter, for a period of five (5) years, Borrower shall complete

Section IV of the Report and submit the Report to Lender by June 30 of each year. If Borrower fails to complete and submit required reports, Lender may withhold CDBG Funds until the required written CDBG Reports are received.

2.9 **SECURITY.** Borrower shall secure its obligation to repay the County CDBG Loan by executing a County CDBG Loan Deed of Trust, in substantially the form attached hereto as Exhibit B and recording it as a lien against the Property, subordinate only to existing Senior Loans, if any. Upon closing of the acquisition of the Property, Borrower shall cause the recordation of the County CDBG Loan Deed of Trust, and the County CDBG Loan Regulatory Agreement with the Recorder for the County of Santa Barbara, and shall cause the delivery of conformed copies of the recorded documents to Lender.

2.10 **REPAYMENT OF THE COUNTY CDBG LOAN.** All accrued interest and principal shall be due and payable in accordance with the terms set forth in Section 2.5.

2.11 **PREPAYMENT OF COUNTY CDBG LOAN.** No prepayment penalty will be charged to Borrower for payment of all or any portion of the County CDBG Loan amounts prior to the end of the term described herein. However, prepayment of the County CDBG Loan shall not affect Borrower's obligations under the County CDBG Loan Regulatory Agreement. If Borrower prepays the County CDBG Loan prior to five (5) years before the date of execution of the County CDBG Loan Agreement, Borrower is required to structure prepayment to Lender in accordance with provisions of Section 3.3, Reversion of Assets, herein.

2.12 **ANNUAL OPERATING EXPENSES.** Thirty (30) days prior to the end of each calendar year, Borrower shall submit to Lender, for Lender's review and approval, a proposed operating budget for the Project, for the following calendar year. The proposed operating budget shall include scheduled contributions to be made into operating and replacement reserve accounts. Actual Operating Expenses incurred by Borrower shall not exceed one hundred twenty percent (120%) of the amount approved by Lender in the approved operating budget without Lender's prior written consent.

2.13 **OPERATING AND CAPITAL REPLACEMENT RESERVE FUNDS.** As soon as financially feasible, Borrower shall fund a capital replacement reserve in the amount of not less than Three Thousand Dollars (\$3,000) per year and shall capitalize an operating reserve in the amount equal to three months of operating expenses as projected in the Operating Budget, attached hereto as Exhibit G.

### **ARTICLE 3 COUNTY CDBG LOAN DISBURSEMENT**

3.1 **CONDITIONS PRECEDENT TO DISBURSEMENT.** Lender shall not be obligated to make any disbursements of CDBG Funds or take any other action under the County CDBG Loan Documents unless the following conditions precedent are satisfied prior to the disbursement of CDBG Funds:

- A. Borrower has acquired title to the Property;
- B. There exists no Event of Default or any act, failure, omission or condition that with the giving of notice or passage of time would constitute an Event of Default;
- C. Borrower has executed and delivered to Lender all documents, instruments, and policies required under the County CDBG Loan Documents, including but not limited to an ALTA Lender's policy of title insurance in the amount specified in Section 2.20, from a title insurance company approved by the Lender in a form reasonably acceptable to Lender;

D. Borrower has provided to Lender certificates of insurance as specified in the insurance provisions set forth in Exhibit E;

E. Borrower has secured all final permits, entitlements and approvals required by all permitting and regulatory authorities and jurisdictions; and

F. Borrower has complied with all reporting requirements set forth in this County CDBG Loan Agreement in accordance with Section 3.2 and Section 5.12 as applicable.

**3.2 DISBURSEMENT OF CDBG FUNDS.** Lender shall provide CDBG Funds to Borrower for acquisition and property improvement and rehabilitation costs incurred by Borrower and approved by Lender in accordance with the Project Scope of Work and Budget (Exhibit A). CDBG Funds for the acquisition will be disbursed to the escrow agency selected to coordinate the purchase transaction, after satisfaction of all closing requirements of Lender, as specified in the “Closing Instructions” provided by County to escrow company. CDBG funds for the property improvement and rehabilitation work shall only be disbursed after the successful transfer of the Property to Borrower and only after property improvement and rehabilitation costs which are to be paid have been incurred. Borrower may not request disbursement of CDBG Funds until needed for payment of those certain property improvement and rehabilitation costs as specified in the Project Scope of Work and Budget (Exhibit A). Disbursement of CDBG Funds shall not exceed the amount specified in Section 2.2.

CDBG Funds shall be disbursed through periodic payments based upon construction costs incurred and Project improvement and rehabilitation work completed, as evidenced by documentation supporting the completed work signed by the Project architect or General Contractor and verified by Lender. Borrower shall submit to Lender disbursement requests (“Written Disbursement Requests”) in writing no more frequently than one time per month. Written Disbursement Requests shall include itemized invoices corresponding to the Project Scope of Work and Budget (Exhibit A). Borrower shall also attach copies of receipts or other acceptable proof of payment by Borrower and that demonstrates date of payment. Borrower shall also attach copies of certified payroll reports current to within 21 calendar days of the date of the Written Disbursement Request documenting compliance with the Davis-Bacon Act, except for housing developments with fewer than Eight (8) CDBG-assisted units and federal assistance is limited to CDBG funds, evidence of compliance with Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C., 1701u) and 24 CFR Part 135 and evidence of compliance with the requirement to take all necessary affirmative steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used when possible pursuant to 24 CFR 85.36(e). Lender reserves the right to request additional documentation as necessary to comply with Federal, state and local regulations.

Written Disbursement Requests shall only be for items included in the Project Scope of Work and Budget (Exhibit A). Changes in individual items comprising the Budget shall require the prior written request of Borrower and the written approval of Lender. However, Lender’s obligations shall in no event exceed the amount specified above in Section 2.2. Any costs in excess of this amount that are necessary for the completion of the Project shall be the sole responsibility of Borrower.

Notwithstanding the above, as a special disbursement condition, Lender shall retain Ten Thousand Dollars (\$10,000) of CDBG Funds until 30 days after Borrower has completed the acquisition and related improvement work of the Project and provided beneficiary data for the three (3) CDBG-assisted units of the Project as required under the CDBG Program; and any and all liens against the Property are released.

3.3 **REVERSION OF ASSETS.** Upon the expiration of this Agreement, the Borrower shall transfer to the Lender any CDBG funds it has on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the Borrower's control that was acquired or improved in whole or in part with CDBG Funds in excess of \$25,000 shall either be either:

1. Used to meet one of the national objectives in 24 CFR 570.208 (formerly 24 CFR 570.901) until five years after expiration of the Agreement, or for such longer period of time as determined to be appropriate by Lender. Any change in use to meet one of the aforementioned national objectives shall first be approved in writing by the Lender; or
2. Not used in accordance with 24 CFR 570.503 (b)(7)(i) in which event the Borrower shall pay to the Lender an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG Funds for the acquisition of, or improvement to, the property. The payment is program income to the Lender.
  - a. To determine the current market value of the property, the Borrower shall obtain a real estate appraisal of the property, performed by a California licensed real estate appraiser. Such appraiser must be approved by the Lender. An alternate method of valuation may be used by mutual written consent of the Lender and Borrower.
  - b. The Lender will determine the amount due to the Lender in accordance with 24 CFR 570.503(b)(7)(ii).

#### **ARTICLE 4 DEVELOPMENT OF PROJECT**

4.1 **COMMENCEMENT OF CONSTRUCTION.** Borrower shall commence construction of the Project rehabilitation and improvement work no later than 12 months from the execution of this County CDBG Loan Agreement. Commencement of construction shall mean obtaining all final permits, entitlements and approvals required by all permitting and regulatory authorities and jurisdictions and commencing work on any task associated with a line item in the Project Scope of Work and Budget (Exhibit A) at the Property that requires a permit, entitlement or approval. If Borrower fails to commence construction as set forth above, Lender may terminate this County CDBG Loan Agreement pursuant to Article 8 below.

4.2 **COMPLETION OF REHABILITATION WORK** Borrower shall diligently pursue rehabilitation and improvement and work of the Project to completion, and shall complete construction of Project and have the CDBG-Assisted unit occupied by eligible Program Beneficiaries, no later than 12 months after completion of said work. Borrower shall be provided proof of completion as evidenced by the issuance of a notice of completion by Lender and securing certificate(s) of occupancy as warranted and as may be required. Any requests to extend the length of construction must be provided in writing to Lender and subject to Lender written approval.

4.3 **FINANCING.** Borrower shall promptly inform Lender in writing of any changes in the amount, terms, and/or sources of financing or funding for the Project.

4.4 **CONTRACTS AND SUBCONTRACTS.** All work and professional services for the Project shall be performed by persons or entities licensed or otherwise authorized to perform the applicable work or service in the State of California.

Unless otherwise approved by Lender, to ensure that all construction costs incurred are reasonable and appropriate, all contracts entered into for construction-related improvement work (“Construction Contract”) shall be the result of either competitive or negotiated bids in accordance with federal procurement standards pursuant to CDBG regulations cited at 24 CFR Part 570.

All costs incurred in development and operation of the Project shall be the responsibility and obligation solely of Borrower.

**4.5 INSPECTIONS.** Borrower shall permit and facilitate, and require its contractors to permit and facilitate, observation and inspection at the Project site by Lender and by public authorities during reasonable business hours for the purposes of determining compliance with this County CDBG Loan Agreement. Copies of construction inspection reports shall be provided to the County immediately upon completion of the construction inspection report throughout the course of Project rehabilitation and improvement activities.

**4.6 SITE SUPERVISION.** During the construction and improvement work of the Project, Borrower shall maintain a site superintendent to supervise all construction-related work on the Property. The site superintendent shall be on-site during construction work hours.

**4.7 CONSTRUCTION RESPONSIBILITIES.** Borrower shall be solely responsible for all aspects of Borrower's conduct in connection with the Project, including, but not limited to, the quality and suitability of the construction and improvement work described in the Project Scope of Work and Budget (Exhibit A), the supervision of construction work, and the qualifications, financial condition, and performance of all contractors, subcontractors, suppliers, consultants, and property managers. Any review or inspection undertaken by Lender with reference to the Project is solely for the purpose of determining whether Borrower is properly discharging its obligations to Lender, and should not be relied upon by Borrower or by any third parties as a warranty or representation by Lender as to the quality of the construction of the Project.

**4.8 BARRIERS TO THE DISABLED.** The Project shall be developed and the Property 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 U.S.C. 794), as amended, and with implementing regulations at 24 CFR, Part 8, and the Fair Housing Act (42 U.S.C. 3601-3619), implemented at 24 CFR Part 100, Subpart D. Within 30 days after Borrower has completed the construction of the Project, Borrower shall submit satisfactory documentation of compliance with these requirements, including, but not limited to, a certification from the Project architect documenting the number and type of accessible units and the accessibility features of those units.

**4.9 LEAD-BASED PAINT AND ASBESTOS REMOVAL.** Borrower and its contractors and subcontractors shall not use lead-based paint or asbestos in the construction or maintenance of the Project and shall comply with Federal regulations set forth in 24 CFR Part 35, subparts A, B, J, K, M and R, , 29 C.F.R., 40 C.F.R., the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as Title X (42 U.S.C., 4851, et seq.), the Lead-Based Paint Poisoning Paint Provision Act (42 USC 4821, et seq.), California O.S.H.A., California Health and Safety Code, and all other applicable Federal, state and County standards. Borrower shall incorporate or cause to be incorporated this provision in all contracts and subcontracts for work performed on the Project which involve the application of paint or removal of asbestos.

4.10 **QUALITY OF WORK AND PROPERTY STANDARDS.** Borrower shall construct the Project in conformance with, including, but not limited to:

- A. All applicable Federal, state and local statutes and regulations;
- B. All applicable Federal, state and local building codes and zoning ordinances;
- C. All permits, entitlements and approvals for the Project;
- D. International Energy Conservation Code and applicable Federal, state and local energy conservation codes; and
- E. CDBG Property standards at 24 CFR Part 570.

4.11 **MECHANICS LIENS AND STOP NOTICES.** If any claim of lien is filed against the Property or a stop notice affecting the County CDBG Loan is served on Lender or any other lender or other third party in connection with the Project, Borrower shall, within sixty (60) days of such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to Lender a surety bond in sufficient form and amount, provide Lender with a lien-free endorsement or provide Lender with other assurance reasonably satisfactory to Lender that the claim of lien or stop notice will be paid or discharged.

If Borrower fails to discharge any lien, encumbrance, charge, or claim referred to herein, then in addition to any other right or remedy, Lender may, but shall be under no obligation to, discharge such lien, encumbrance, charge, or claim at Borrower's expense. Alternatively, Lender may require Borrower to immediately deposit with Lender the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof. Lender may use such deposit to satisfy any claim or lien that is adverse to or against Borrower.

Borrower shall record a valid notice of cessation or notice of completion upon cessation of construction work on the Project for a continuous period of 30 days or more, and take all other reasonable steps to forestall the assertion of claims of lien against the Property. Borrower authorizes Lender, but without any obligation on the part of Lender, to record any notices of completion or cessation of labor, or any other notice that Lender deems necessary or desirable to protect its interest in the Project and Property.

4.12 **COMPLIANCE WITH CDBG PROGRAM AND OTHER FEDERAL REQUIREMENTS.** All requirements imposed on properties assisted under the CDBG program as contained in 24 CFR Part 570, and other implementing rules and regulations are incorporated herein by this reference (Exhibit I). In the event of any conflict between this County CDBG Loan Agreement and the CDBG regulations, the CDBG regulations shall govern.

The laws and regulations not otherwise stated in this County CDBG Loan Agreement governing the use of the CDBG Funds include (but are not limited to) the following:

- A. 2 CFR 200.
- B. Audit requirements. In accordance with 2 CFR 200.501, agencies that expend \$750,000 or more in federal funds in a year as calculated therein must undergo a single audit in compliance with 2 CFR 200 Subpart F.
- C. Architectural Barriers. The requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157).

D. Handicap Discrimination. The requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and federal regulations issued pursuant thereto, which prohibits discrimination against the handicapped in any federally assisted program.

E. Environmental Review. The provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, et seq.), and applicable related environmental authorities at 24 CFR 50.4, and HUD's implementing regulations at 24 CFR Parts 50 and 58.

F. Fair Housing. The requirements of the Fair Housing Act (42 U.S.C. 3601-3619) and implementing regulations at 24 CFR Parts 100, 109 and 110; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1.

G. Prevailing Wages. If applicable, Borrower shall comply, and cause all contractors and subcontractors to comply with (1) Davis-Bacon and Related Acts (40 U.S.C. 3141, et seq.); (2) Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327-333); (3) Copeland Anti-Kickback Act (40 U.S.C. 3145); and (4) Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.).

H. Training Opportunities. The requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, requiring that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the Project area and agreements for work in connection with the Project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the areas of the Project. Borrower agrees to include the following language in all contracts and subcontracts executed under this County CDBG Loan Agreement, as required pursuant to 24 CFR 135.38:

“1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b)."

I. Minority and Women's Business Enterprise. The requirements of Executive Orders 11625, 12432 and 12138 and 24 CFR 85.36(e) whereby Borrower shall take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

J. Conditions for Faith-Based Organizations. Borrower agrees to comply with CDBG regulations pertaining to faith-based activities found at 24 CFR Part 570.

K. Debarred Contractors. All contractors, subcontractors, and consultants used by Borrower in the development of the Project shall not be debarred or otherwise prohibited from participation in a federal project pursuant to 2 CFR Part 2424. Borrower shall furnish Lender with evidence of compliance generated from the System for Award Management (SAM) at [www.sam.gov](http://www.sam.gov).

L. Anti-Lobbying. Borrower hereby certifies that: (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement; (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and (3)



It will require that the language of subparagraphs (1) and (2) of this paragraph (L) and the paragraph (M), immediately below, of this certification be included in the award documents for all awards and subawards at all tiers (including subcontracts, subgrants, contracts, and grants under grants, loans, and cooperative agreements) and that Borrower and all contractors and subcontractors shall certify and disclose accordingly.

M. Lobbying Certification. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

N. HUD Regulations. Any other HUD regulations present or as may be amended, or added in the future pertaining to CDBG.

#### 4.13 ADMINISTRATIVE REQUIREMENTS AND FINANCIAL MANAGEMENT.

A. Accounting Standards. The Borrower agrees to comply with 24 CFR 570.502 and 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Borrower agrees to adhere to the accounting principles and procedures referenced therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Cost Principles. The Borrower agrees to comply with 24 CFR 570.610 "Uniform Administrative Requirements and Cost Principles". These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

C. Administrative Requirements. The Borrower also agrees to comply with all applicable uniform administrative requirements set forth in 24 CFR 570.502 and all applicable requirements set forth in 24 CFR Part 5 (24 CFR 5.100-5.2011) and found in the provisions contained in 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. CDBG Funds received by Borrower from Lender pursuant to this Agreement shall be maintained in an account in a banking or savings and loan institution separate and apart from any other funds of Borrower or of any principal or member of Borrower. No costs shall be invoiced or billed except for expenditures authorized in the budget contained within this County CDBG Loan and also Exhibit A. The itemized costs shall be of sufficient detail to provide a sound basis for the Lender to effectively monitor costs under this Agreement.

D. Records to be Maintained. The Borrower shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 or by Lender's ordinances or policies that are pertinent to the work to be performed or activities to be funded under this Agreement. Such records shall include but not be limited to: Records providing a full description of each activity undertaken; Records required to determine the eligibility of activities; Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance; Records documenting compliance with the fair housing and equal opportunity components of the CDBG program; Financial records as required by 24 CFR 570.502; and other records necessary to document compliance with Subpart K of 24 CFR Part 570.

#### E. Retention

The Borrower shall retain all financial records, supporting documents, statistical records, and all other records pertinent to this Agreement for a period of at least four (4) years. The retention period begins on the date of the submission of the Lender's annual performance and evaluation report to HUD, as prescribed

in 24 CFR 91.520, in which the activities assisted under the Agreement are reported on for the final time rather than from the date of submission of the Lender's final expenditure report for HUD's award to County. Notwithstanding the above, if there is litigation, claims, disputes, audits, negotiations or other actions that involve any of the records and that have started before the expiration of the four-year period, then all records must be retained until completion of the actions and final resolution of all issues, or the expiration of the four-year period, whichever occurs later.

F. Ownership of Documents

Each and every report, draft, map, record, plan, document and other writing produced (hereinafter "Documents"), prepared or caused to be prepared by Borrower, its officers, employees, agents, representatives, contractors and subcontractors, in the course of performing this Agreement, shall be and become the exclusive property of Lender, and Lender shall have the sole right to use such materials in its sole discretion without further compensation to Borrower or any other party. Borrower shall, at Borrower's own expense, provide such Documents to Lender upon Lender's written request.

G. Disclosure

The Borrower understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the Lender's or Borrower's responsibilities with respect to the work performed or the Project described in this County CDBG Loan Agreement, may be prohibited under state or federal law unless written consent is obtained from such person benefitting from the work performed under this County CDBG Loan Agreement or the Project and, in the case of a minor, that of a responsible parent/guardian.

H. Close-outs

The Borrower also agrees to comply with all grant closeout procedures set forth in 24 CFR § 570.509 and all applicable requirements set forth in 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The Borrower's obligations to the Lender shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Lender), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this County CDBG Loan Agreement shall remain in effect during any period that the Borrower has control over CDBG Funds, including program income.

I. Audits & Inspections

All Borrower records with respect to any matters covered by this Agreement shall be made available to Lender, HUD, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make copies, excerpts or transcripts of all relevant data. Any deficiencies, audit findings, or required corrective actions noted in audit reports must be fully cleared by the Borrower within 30 days after receipt by Borrower unless a longer time period is agreed upon in writing by the Lender. Borrower hereby agrees to have an annual program-specific audit conducted by a certified public accounting firm in accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and current Lender policy and requirements concerning audits.

If this Agreement exceeds ten thousand dollars (\$10,000.00), Borrower shall be subject to the examination and audit of the California State Auditor, at the request of the Lender or as part of any audit of the Lender, for a period of three (3) years after final payment under this Agreement (Cal. Govt. Code Section 8546.7). Borrower shall participate in any audits and reviews, whether by Lender or the State, at no charge to Lender.

If federal, state or Lender audit exceptions are made relating to this Agreement, Borrower shall reimburse all costs incurred by federal, state, and/or county governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from Lender, Borrower shall reimburse the amount of the audit exceptions and any other related costs directly to Lender as specified by Lender in the notification.

J. Access to Records

The Lender shall furnish and cause each of its own contractors and subcontractors to furnish all information and reports required hereunder and will permit access to books, records and accounts by the Lender, HUD or other authorized officials or their agents, to ascertain compliance with the laws, rules, regulations, executive orders, ordinances, resolutions, guidelines, policies, directives, standards and provisions stated in this Agreement or the CDBG program.

K. Reports

Borrower shall provide Lender with a monthly Project Status and Completion Report (Report) on Lender's form (Exhibit H). Upon completion of the Statement of Work, Borrower shall complete and submit Section III of the Report documenting an unduplicated count of persons benefitting from the completion of the Statement of Work. The Report shall contain, without limitation, the household income level, and race and ethnicity of each client assisted as a result of the completion of the Statement of Work, and other data as may be requested by Lender). Annually thereafter, for a period of five (5) years, Borrower shall complete Section IV of the Report and submit the Report to Lender by June 30 of each year. If Borrower fails to complete and submit required reports, Lender may withhold CDBG Funds until the required written CDBG Reports are received.

4.14 **RELOCATION.** If and to the extent that the Project results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, Borrower shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits, including but not limited to the Uniform Relocation and Real Property Acquisitions Act As Amended (42 USC 4601, et seq.) ("URA"), Section 104(d) of the Housing and Community Development Act of 1974 (42 USC 5304(d)), regulations at 24 CFR Part 42 and 49 CFR part 24, and HUD Handbook 1378. Borrower shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with said relocation laws. If, upon audit review by Lender or by any Federal agency, it is determined that additional relocation payments are due, then Borrower consents to make such payments. In the event Borrower does not make payments as requested by Lender, then this shall constitute an Event of Default, and subject to Borrower's cure rights. Lender may require repayment of the County CDBG Loan plus any and all relocation payments due. Without limiting or otherwise affecting the standard indemnity and insurance provisions set forth in Article 6 and/or Exhibit F, Borrower hereby agrees to indemnify Lender for any action brought against Lender based on an alleged failure to comply with relocation obligations on this Project.

4.15 **UNAVOIDABLE DELAY IN PERFORMANCE.** The time for performance of provisions of this County CDBG Loan Agreement by either party shall be extended for a period equal to the period of any delay directly affecting the Project or this County CDBG Loan Agreement which is caused by: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; quarantine restrictions; or freight embargoes or other events beyond the reasonable control of the party claiming the delay. An extension of time for any of the above-specified causes will be deemed granted only if written

notice by the party claiming such extension is sent to the other party within ten (10) calendar days from the commencement of the cause, and such extension of time is either accepted by the other party in writing, or is not rejected in writing by the other party within ten (10) calendar days of receipt of the notice. In any event, construction of the Project must be completed no later than ninety (90) calendar days after the scheduled completion date specified herein, any unavoidable delay notwithstanding. Times of performance under this County CDBG Loan Agreement may also be extended for any cause for any period of time by the mutual written agreement of Lender and Borrower.

## **ARTICLE 5 OPERATION**

**5.1 OPERATION OF PROJECT.** Borrower shall operate and manage the Project after completion in full conformance with the terms of the County CDBG Loan Regulatory Agreement and Operating Budget (Attachment G).

Borrower shall agree to maintain and operate the CDBG-Assisted Units so as to provide decent, safe, and sanitary housing and provide the CDBG-Assisted Unit with the same level of services (including security), amenities, and maintenance as are applied to all dwelling units in the Project. Optional services provided must be available to all residents under the same terms and conditions.

Borrower agrees that during the term of the CDBG Regulatory Agreement, Lender shall have the right to review, approve and request material changes to the Management Plan as described in Section 5.2, below, and Exhibit F attached hereto and incorporated herein, operation of the Project and property management entity, in order to preserve the affordability, physical appearance and condition of the Project. Any changes not disapproved by Borrower within thirty (30) days after receipt of such changes shall be deemed approved.

**5.2 MANAGEMENT PLAN.** In the management and operation of the Project, Borrower shall comply with the Management Plan attached hereto as Exhibit F and incorporated herein. Any changes to the Management Plan require prior written approval from Lender.

**5.3 AFFIRMATIVE MARKETING PLAN.** In the marketing of the Project, Borrower shall comply with the affirmative marketing provisions of the Management Plan attached hereto as Exhibit F and incorporated herein. The Management Plan includes information on affirmative marketing efforts and compliance with fair housing laws. Any changes to the Management Plan require prior written approval from Lender. At a minimum the Project must meet the affirmative marketing requirements set forth in 24 CFR 92.351 and any modifications thereto.

**5.4 PROJECT BENEFICIARY SELECTION.** In the selection of Program Beneficiaries, Borrower shall comply with the written provisions of the Management Plan attached hereto as Exhibit F and incorporated herein. Selection of Program Beneficiaries must, at a minimum, meet the income eligibility requirements for Qualifying Households and be female victims of domestic violence or human trafficking. Any changes to the Management Plan require prior written approval from Lender.

Borrower shall provide the CDBG-Assisted Units to any Program Beneficiary according to the Management Plan. Borrower shall verify the prospective Qualifying Household's eligibility and require from each Program Beneficiary or referring agency documentation that they qualify as a Program Beneficiary and status as victim of domestic violence or human trafficking in accordance with

documentation requirements pursuant to Section 5.6 (1) and (2) below, as described in the County CDBG Loan Regulatory Agreement.

**5.5 PROGRAM BENEFICIARY QUALIFICATION.** The Annual Income levels and other qualifications of applicants for CDBG-Assisted Units are to be at or below 50% of Area Median Income for the Santa Maria-Santa Barbara Metropolitan Statistical Area as determined by HUD and published annually with adjustments for household size and are female victims of domestic violence or human trafficking.

**5.6 DOCUMENTATION OF PROGRAM BENEFICIARY QUALIFICATION.** Prior to a Program Beneficiary occupying a CDBG-Assisted Unit, the Borrower shall verify that the Program Beneficiary to be served meets the income requirements as a very low income household and status of being a female victim of domestic violence or human trafficking by taking the following steps as a part of the verification process:

- (1) **Income Qualification:** Borrower shall qualify Program Beneficiaries in accordance with 24 CFR 5.609-612; and,
- (2) **Documentation of Domestic Violence or Human Trafficking:** The Borrower or third-party agency referring Program Beneficiaries to the Project will provide documentation confirming and verifying status as female victims of domestic violence or human trafficking.
- (3) **Self-Certification from Program Beneficiary,** if options 1 and 2 above are unavailable, attesting to income and status of being female victim of domestic violence or human trafficking.

**5.7 INITIAL OCCUPANCY OF THE PROJECT.** Within six (6) months of completion of Property rehabilitation and improvements as defined in Section 4.2, Borrower shall make available for eligible Qualifying Households all three (3) CDBG-Assisted Units and provide Lender with detailed occupancy data and demographic information on the Program Beneficiaries of the CDBG-Assisted Units. The three-bedrooms of the Project will be operated as shared housing, allowing up to two (2) persons per-bedroom for a maximum of six (6) persons at any give point in time.

**5.8 AFFORDABILITY RESTRICTIONS.** Three (3) units in the Project shall be designated by Borrower as CDBG-Assisted Units. The CDBG-Assisted Units shall be occupied by Qualifying Households, as set forth in the County CDBG Loan Regulatory Agreement and shall meet the following standards:

- A. Be similarly constructed and of comparable quality to all other units in the Project; and
- B. Provide tenants access and enjoyment of all common areas and facilities of the Project on the same basis as tenants of other units.

**5.9 CDBG-ASSISTED UNIT RENTS.** Rents for CDBG-Assisted Units shall be limited to Qualifying Rents as set forth in the County CDBG Loan Regulatory Agreement.

**5.10 CONFLICTS BETWEEN COVENANTS OR RESTRICTIONS AFFECTING THE PROPERTY.** Any conflicts between the restrictive provisions contained in this County CDBG Loan Agreement, County CDBG Loan Note, County CDBG Loan Deed of Trust, County CDBG Loan Regulatory Agreement, and any other agreements in connection with the County CDBG Loan which affect

the Property are to be resolved by applying the more restrictive covenants or restrictions which affect the Property.

5.11 **NONDISCRIMINATION.** Borrower shall not discriminate or segregate in the development, construction, use, enjoyment, occupancy, conveyance, lease, sublease, or rental of any part of the Property on the basis of race, color, ancestry, national origin, religion, sex, sexual preference or orientation, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC) acquired or perceived, or any basis prohibited by law. Borrower shall otherwise comply with all applicable local, state, and federal laws concerning discrimination and equal opportunity in housing.

5.12 **RECORDS AND REPORTS.** Borrower shall be accountable to Lender for all CDBG Funds disbursed to Borrower pursuant to the County CDBG Loan Documents. Borrower agrees to maintain records that accurately and fully show the date, amount, purpose, and payee of all expenditures for all costs drawn from CDBG Funds, and to keep all invoices, receipts, and other documents related to expenditures for such costs for said CDBG Funds for five years after the Lender issues a notice of completion for the Project. Commencing on the first day of April following issuance to Borrower by Lender of a notice of completion for the Project, Borrower shall submit reports annually to Lender with information regarding Project Beneficiary qualification, demographic, income, rent and unit inspection information. Project Beneficiary eligibility income, rent, unit inspection information, and all records related to any revenue received by the Project must be kept until five years after the affordability period ends. Records must be kept accurate and current.

Borrower shall promptly comply with all requirements and conditions of the County CDBG Loan Documents relating to notices, extensions, and other events required to be reported or requested. Borrower shall promptly supply, upon the request of Lender, any and all information and documentation which involves the Project and cooperate with Lender in the development, operations and management of the Project.

Borrower shall submit monthly to Lender written Project construction progress reports and updated construction schedule within ten (10) days following the end of each month, commencing with the execution of this County CDBG Loan Agreement and concluding upon the completion of the Project.

Records of all permits, entitlements and approvals, inspections and sign-offs required by all permitting and regulatory authorities and jurisdictions shall be submitted by Borrower to Lender within 30 days following the County issuance of the notice of completion.

Copies of the certificate(s) of occupancy, if required, shall be submitted by Borrower to Lender upon receipt.

Data on the initial lease-up of the three (3) CDBG-Assisted Unit sufficient and necessary to close-out the Project in the federal Integrated Disbursement and Information System (IDIS), shall be submitted by Borrower to Lender within 10 days following occupancy of the CDBG-Assisted Units.

5.13 **AUDITS.** Borrower shall conduct annual audits in accordance with 2 CFR 200 Subpart F and submit to Lender an Annual Audited Financial Statement. Borrower shall make available to Lender for examination at reasonable intervals and during normal business hours all books, accounts, reports, files, and other papers or property with respect to all matters covered by these County CDBG Loan Documents,

and shall permit Lender to audit, examine, and make excerpts or transcripts from such records. Lender may make audits of any conditions relating to the County CDBG Loan.

Lender shall notify Borrower of any records it deems insufficient. Borrower shall have fifteen (15) calendar days from the date of said notice to correct any deficiency in the records specified by Lender in said notice, or, if more than fifteen (15) days shall be reasonably necessary to correct the deficiency, Borrower shall submit a written request to Lender for an extension. Lender shall respond to extension request within fifteen (15) days. Borrower shall begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

5.14 **ENCUMBRANCE OF PROPERTY.** Except as otherwise provided in this County CDBG Loan Agreement, Borrower shall not engage in any financing or any other transaction creating any security interest or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or allow any encumbrance or lien to be made on or attached to the Property, except with the prior written consent of Lender. Borrower shall notify Lender in writing in advance of any financing secured by any deed of trust, mortgage, or other similar lien instrument that it proposes to enter into with respect to the Project or Property, and of any encumbrance or lien that has been created on or attached to the Property whether by voluntary act of Borrower or otherwise.

5.15 **TRANSFERS.** Borrower has not made or created, and shall not make or permit any sale, assignment, conveyance, or other transfer of this County CDBG Loan Agreement, including the sale or transfer of any interests, without the prior written consent of Lender.

5.16 This paragraph is left intentionally blank.

5.17 **FEES, TAXES, AND OTHER LEVIES.** Borrower 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 or the Project, and shall pay such charges prior to delinquency. However, Borrower shall not be required to pay and discharge any such charge so long as (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by Lender, Borrower deposits with Lender any funds or other forms of assurance Lender in good faith from time to time determines appropriate to protect Lender from the consequences of the contest being unsuccessful.

5.18 **DAMAGE TO PROPERTY.** If any building or improvement erected by Borrower on the Property is damaged or destroyed by an insurable cause, Borrower shall, at its sole cost and expense, diligently undertake to repair or restore said buildings or improvements consistent with the original plans and specifications for the Project if Borrower reasonably determines that such restoration or repair is economically feasible. Such work or repair shall be commenced within 120 days after the damage or loss occurs and shall be completed within one year thereafter, subject to any extensions of time granted in writing by Lender. Subject to Borrower's election to rebuild, all insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, Borrower shall make up the deficiency.

If Borrower determines that restoration or repair is not economically feasible, then Lender may declare an event of default pursuant to Section 8.1.G below. Upon request by Lender to repay principal and interest, Borrower shall apply insurance proceeds thereto, subject to the rights of Senior Lenders.

5.19 **EQUAL EMPLOYMENT OPPORTUNITY.** Borrower and all contractors, subcontractors, and professional service providers for the Project shall comply with all requirements

concerning equal employment opportunity. Borrower and all contractors, subcontractors, and professional service providers for the Project shall comply with all requirements concerning equal opportunities for business and lower-income persons (referred to as the Section 3 clause of the HUD Act of 1968, 12 U.S.C. 1701u), incorporated herein as Section 4.12(H).

5.20 **DRUG FREE WORKPLACE.** Borrower shall comply with the Federal Drug-Free Workplace Act (41 U.S.C., §§ 8101 *et seq.*), and shall make all good faith efforts to continue to maintain a drug-free workplace, including establishing a drug-free awareness program to inform employees about the dangers of drug abuse and the Borrower's policy and penalties for drug abuse violations occurring in the workplace. In addition, Borrower agrees to provide a drug-free workplace in accordance with the Lender's Drug Free Workplace Policy as follows:

- A. Borrower will publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Owner's workplace and will specify the actions that will be taken against employees for violation of such prohibition.
- B. Borrower will establish an ongoing drug-free awareness program to inform employees about:
  1. The dangers of drug abuse in the workplace;
  2. The Borrower's policy of maintaining a drug-free workplace;
  3. Any available drug counseling, rehabilitation, and employee assistance programs; and
  4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- C. Borrower will require that each employee to be engaged in the performance of the County CDBG Loan Agreement be given a copy of the statement specified in paragraph A.
- D. Borrower will notify the employee that, as a condition of employment under the Agreement, the employee will:
  1. Abide by the terms of the statement specified in paragraph A; and
  2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
- E. Borrower will notify the Lender in writing, within ten calendar days after receiving notice under paragraph D from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice to every grant officer or other designee on whose Agreement activity the convicted employee was working.



- F. Borrower will take one of the following actions, within 30 calendar days of receiving notice under paragraph D, with respect to any employee who is so convicted:
1. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 U.S.C., §§ 701 *et seq.*), as amended; or
  2. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency.
- G. Borrower agrees to make a good faith effort to maintain a drug-free workplace through implementation of paragraphs A, B, C, D, E, and F.

5.21 **CRIMINAL DISCLOSURE.** Borrower must disclose, in a timely manner, in writing to the Lender all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR parts 180 and 2424 and 31 U.S.C. 3321.)”

#### **ARTICLE 6 INDEMNITY AND INSURANCE**

6.1 **INDEMNITY.** Borrower shall comply with the indemnification provisions set forth in Exhibit F “Standard Indemnification and Insurance Provisions” attached hereto and incorporated herein.

6.2 **INSURANCE.** Borrower shall comply with the insurance provisions set forth in Exhibit E “Standard Indemnification and Insurance Provisions” attached hereto and incorporated herein.

6.3 **NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** No officials, employees and agents of Lender shall be personally liable to Borrower for any obligation created under the terms of these County CDBG Loan Documents.

#### **ARTICLE 7 HAZARDOUS MATERIALS**

7.1 **REPRESENTATIONS AND WARRANTIES.** After reasonable investigation and inquiry, Borrower hereby represents and warrants to the best of its knowledge, as of the date of this County CDBG Loan Agreement and except as previously disclosed and acknowledged in writing by Lender or as disclosed by the reports based on environmental audit(s) performed on the Property and submitted to Lender, that (a) the Property is not and has not been a site for the use, generation, manufacture, transportation, storage, or disposal of Hazardous Materials in violation of Federal or State law; (b) the Property is in compliance with all applicable environmental and health and safety laws, regulations, ordinances, administrative decisions, common law decisions (whether federal, state, or local) with respect to Hazardous Materials, including those relating to soil and groundwater conditions (“Hazardous Materials Laws”); (c) there are no claims or actions pending or threatened with respect to the Property by any governmental entity or agency or any other person relating to Hazardous Materials; and (d) there has been no release or threatened release of any Hazardous Materials on, under, or near the Property (including in the soil, surface water, or groundwater under the Property) or any other occurrences or conditions on the Property or on any other real property that could cause the Property or any part thereof to be classified as

a “hazardous waste property” or as a “buffer zone property” under California Health and Safety Code Sections 25100, et seq., or regulations adopted therewith.

**7.2 NOTIFICATION TO LENDER.** Borrower shall promptly notify Lender in writing of: (a) the discovery of any concentration or amount of Hazardous Materials of which Borrower becomes aware on or under the Property requiring notice to be given to any governmental entity or agency under Hazardous Materials Laws; (b) any knowledge by Borrower (after verification of the veracity of such knowledge to Lender’s reasonable satisfaction) that the Property does not comply with any Hazardous Materials Laws; (c) the receipt by Borrower of written notice of any Hazardous Materials claims; and (d) the discovery by Borrower of any occurrence or condition on the Property or on any real property located within 2,000 feet of the Property that could cause the Property or any part thereof to be designated as a “hazardous waste property” or as a “buffer zone property” under California Health and Safety Code Sections 25100, et seq., or regulations adopted therewith.

**7.3 USE AND OPERATION OF PROPERTY.** Neither Borrower, nor any agent, employee, or contractor of Borrower, nor any authorized user of the Property shall use the Property or allow the Property to be used for the generation, manufacture, storage, disposal, or release of Hazardous Materials. Borrower shall comply and cause the Project to comply with Hazardous Materials Laws.

**7.4 REMEDIAL ACTIONS.** If Borrower has actual knowledge of the presence of any Hazardous Materials on or under the Property, Borrower shall take, at no cost or expense to Lender, all handling, treatment, removal, storage, decontamination, cleanup, transport, disposal or other remedial action, if any, required by any Hazardous Materials Laws or by any orders or requests of any governmental entity or agency or any judgment, consent decree, settlement or compromise with respect to any Hazardous Materials claims. The foregoing, however, shall be subject to Borrower’s right of contest below.

**7.5 RIGHT OF CONTEST.** Borrower may contest in good faith any claim, demand, levy or assessment under Hazardous Materials Laws if: (a) the contest is based on a material question of law or fact raised by Borrower in good faith, (b) Borrower promptly commences and thereafter diligently pursues the contest, (c) the contest will not materially impair the taking of any remedial action with respect to such claim, demand, levy or assessment, and (d) if requested by Lender, Borrower deposits with Lender any funds or other forms of assurance Lender in good faith from time to time determines appropriate to protect Lender from the consequences of the contest being unsuccessful and any remedial action then reasonably necessary. No Event of Default shall be deemed to exist with respect to any claim, demand, levy or attachment being contested by Borrower under the conditions of this section.

**7.6 ENVIRONMENTAL INDEMNITY.** Without limiting or otherwise affecting the standard indemnity and insurance provisions set forth in Article 6 and/or Exhibit F, Borrower shall defend, indemnify, and hold Lender free and harmless against any claims, demands, administrative actions, litigation, liabilities, losses, damages, response costs, and penalties, including all costs of legal proceedings and reasonable attorney’s fees, that Lender may directly or indirectly sustain or suffer as a consequence of any inaccuracy or breach of any representation, warranty, agreement, or covenant contained in this County CDBG Loan Agreement with respect to Hazardous Materials, or as a consequence of any use, generation, manufacture, storage, release, or disposal (whether or not Borrower knew of same) of any Hazardous Materials occurring prior to or during Borrower’s use or occupancy of the Property.

## **ARTICLE 8 DEFAULT AND REMEDIES**

8.1 **EVENTS OF DEFAULT.** The occurrence of any of the following events shall constitute an “Event of Default” under this County CDBG Loan Agreement:

A. Monetary. (1) Borrower’s failure to pay when due any sums payable under the County CDBG Loan Note or any advances made by Lender under the County CDBG Loan Deed of Trust or this County CDBG Loan Agreement; (2) Borrower’s use of CDBG Funds for costs other than approved acquisition, property improvement and rehabilitation costs or for uses inconsistent with other terms and restrictions in the County CDBG Loan Documents; (3) Borrower’s failure to obtain and maintain the insurance coverage required under this County CDBG Loan Agreement; (4) Borrower’s failure to make any other payment or assessment due under the County CDBG Loan Documents; (5) Borrower’s failure to pay taxes; (6) Borrower’s default under other debt secured by the Property after the applicable notice and cure periods have expired;

B. Construction. (1) Borrower’s substantial deviation from the budget specified in Exhibit B (Budget), without Lender’s prior written consent; (2) Borrower’s use of defective or unauthorized materials or defective workmanship in constructing the Project; (3) Borrower’s failure to commence or complete property improvement and rehabilitation work pursuant to Sections 4.1 and 4.2 herein; (4) the cessation of property improvement and rehabilitation work prior to completion of the Project for a period of more than thirty (30) consecutive calendar days without proper written approval from Lender; (5) Borrower’s failure to remedy any deficiencies in recordkeeping or failure to provide records to Lender upon Lender’s reasonable request; (6) Borrower’s failure to substantially comply with any applicable federal, state, or local laws or Lender policies governing construction, including but not limited to provisions of this County CDBG Loan Agreement pertaining to affirmative action and equal employment opportunity, minority and women-owned business enterprises, disabled access, lead paint, Hazardous Materials, and provision or relocation benefits and assistance;

C. Operation. (1) Discrimination by Borrower on any basis prohibited by this County CDBG Loan Agreement or applicable law or (2) the imposition of any encumbrances or liens on the Property without Lender’s prior written approval that are prohibited under this County CDBG Loan Agreement or that have the effect of reducing the priority of or invalidating the County CDBG Loan Deed of Trust;

D. General performance of County CDBG Loan obligations. Any substantial breach by Borrower beyond applicable notice and cure periods of any material obligations on Borrower imposed in the County CDBG Loan Documents;

E. General performance of other obligations. Any substantial or continuous breach by Borrower beyond applicable notice and cure periods of any material obligations on Borrower imposed by any other agreements, including any grant agreements, with respect to the financing, construction, or operation of the Project or the Property, whether or not Lender is a party to such agreement which may materially impair Lender’s security;

F. Representations and warranties. A determination by Lender that its security has or will be materially impaired due to the fact that any of Borrower’s representations or warranties made in the County CDBG Loan Documents, or any certificates, documents, or schedules supplied to Lender by Borrower were untrue in any material respect when made, or that Borrower concealed or failed to disclose a material fact from Lender;

G. Damage to or failure to maintain Property. Material damage or destruction to the Property by fire or other casualty if Borrower does not take steps to reconstruct the Project as required by the County CDBG Loan Documents or if Borrower fails to maintain the Property pursuant to Section 5.1 above;

H. Bankruptcy, dissolution, and insolvency. Borrower's: (1) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or ninety (90) days after the filing; (2) making a general assignment for the benefit of creditors; (3) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or ninety (90) days after the filing; (4) insolvency; (5) failure, inability or admission in writing of its inability to pay its debts as they become due.

I. Program compliance. Any non-compliance with CDBG Program requirements including, but not limited to, the provisions of Section 4.12 and the County CDBG Loan Regulatory Agreement pursuant to the CDBG Program regulations, including other Federal requirements at 24 CFR Part 570.

J. Relocation Benefits. Failure to make any payments requested by Lender pursuant to Section 4.14 above.

**8.2 NOTICE OF DEFAULT AND OPPORTUNITY TO CURE.** For all Events of Default, Lender shall give written notice to Borrower of any Event of Default by specifying: (a) the nature of the event or deficiency giving rise to the Event of Default, (b) the action required to cure the deficiency, if an action to cure is possible, and (c) a date, which shall not be less than thirty (30) calendar days from the date of the notice or the date the notice was refused, by which such action to cure must be taken or if a cure is not possible within thirty (30) days, to begin such cure and diligently prosecute such cure to completion which shall, in any event, not exceed ninety (90) days from the date of notice to cure. The Lender has the sole discretion to determine whatever additional reasonable time is needed to cure.

**8.3 LENDER'S REMEDIES.** Upon the happening of an Event of Default by Borrower and a failure to cure said Event of Default within the time specified in Section 8.2 above, Lender's obligation to disburse CDBG Funds shall terminate, and Lender may also, in addition to other rights and remedies permitted by the County CDBG Loan Documents or applicable law, proceed with any or all of the following remedies in any order or combination Lender may choose in its sole discretion:

A. Terminate this County CDBG Loan Agreement, in which event the entire principal amount outstanding and all accrued interest under the County CDBG Loan Note, as well as any other monies advanced to Borrower by Lender under the County CDBG Loan Documents including administrative costs, shall immediately become due and payable at the option of Lender;

B. Bring an action in equitable relief (1) seeking the specific performance by Borrower of the terms and conditions of the County CDBG Loan Documents, and/or (2) enjoining, abating, or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief;

C. Accelerate the County CDBG Loan, and demand immediate full payment of the principal amount outstanding and all accrued interest under the County CDBG Loan Note, as well as any other monies advanced to Borrower by Lender under the County CDBG Loan Documents plus associated amounts due, such as relocation benefits described in Section 4.13 above;

D. Enter the Property and take any actions necessary in its judgment to complete construction of the Project, including without limitation (1) making changes in the construction work as described in the Budget (Exhibit B) or other work or materials with respect to the Project, (2) entering into, modifying, or terminating any contractual arrangements (subject to Lender's right at any time to discontinue work without liability), and (3) taking any remedial actions with respect to Hazardous Materials that Lender deems necessary to comply with Hazardous Materials laws or to render the Property suitable for occupancy;

E. Seek appointment from a court of competent jurisdiction of a receiver with the authority to complete construction as needed to preserve Lender's interest in seeing the Project developed in a timely manner (including the authority to take any remedial actions with respect to Hazardous Materials that Lender or the receiver deems necessary to comply with Hazardous Materials Laws or to render the Property suitable for occupancy);

F. Order immediate stoppage of construction work and demand that any condition leading to the Event of Default be corrected before construction work may continue;

G. Disburse from County CDBG Loan proceeds any amount necessary to cure any monetary default;

H. Enter upon, take possession of, and manage the Property, either in person, by agent, or by a receiver appointed by a court, and collect rents and other amounts specified in the assignment of rents in the County CDBG Loan Deed of Trust and apply them to operate the Property or to pay off the County CDBG Loan or any advances made under the County CDBG Loan Documents, as provided for by the County CDBG Loan Deed of Trust;

I. Initiate and pursue any private and/or judicial foreclosure action allowed under applicable law and the power of sale provision in the County CDBG Loan Deed of Trust;

J. With respect to defaults under Hazardous Materials provisions herein, pursue the rights and remedies permitted under California Civil Code Section 2929.5, and California Code of Civil Procedure Sections 564, 726.5, and 736; or

K. Pursue any other remedy allowed at law or in equity. Nothing in this section is intended or shall be construed as precluding Lender from proceeding with a nonjudicial foreclosure under the power of sale contained in the County CDBG Loan Deed of Trust in the Event of Default by Borrower and failure to cure as provided in Section 8.2.

## ARTICLE 9 GENERAL PROVISIONS

9.1 **BORROWER'S WARRANTIES.** Borrower represents and warrants (1) that it has access to professional advice and support to the extent necessary to enable Borrower to fully comply with the terms of these County CDBG Loan Documents and the County CDBG Loan Regulatory Agreement, and to otherwise carry out the Project, (2) that it is duly organized, validly existing and in good standing under the laws of the State of California, (3) that it has the full power and authority to undertake the Project and to execute the County CDBG Loan Documents, (4) that the persons executing and delivering the County CDBG Loan Documents are authorized to execute and deliver such documents on behalf of Borrower, (5) that there has been no substantial adverse change in Borrower's financial condition since the date of

application for the County CDBG Loan such as judgment liens, tax liens, mechanic's liens, bankruptcy, etc.; and (6) that all representations in the Borrower's loan application (including all supplementary submissions) are true, correct and complete in all material respects and are offered to induce Lender to make the County CDBG Loan.

9.2 **CONTRACT ADMINISTRATION.** The County's Department of Community Services (CSD) will serve as the County's (or Lender's) administrator of the Project, this County CDBG Loan Agreement, County CDBG Promissory Note, County CDBG Deed of Trust and County CDBG Regulatory Agreement. CSD is authorized to approve budget revisions as authorized under Section 2.6 of this Agreement, collect loan repayments, perform loan and Project monitoring functions and other administrative duties.

9.3 **MONITORING AND EVALUATION.** Except as otherwise provided for in this County CDBG Loan Agreement, Borrower shall maintain and submit records to Lender within ten (10) business days of Lender's request which clearly document Borrower's performance under each requirement of the County CDBG Loan Documents.

9.4 **CONFLICTS OF INTEREST.** Borrower covenants that:

A. Except for approved eligible administrative or personnel costs, no person described in subsection (B) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this County CDBG Loan Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. The Borrower shall exercise due diligence to ensure that the prohibition in this Section is followed.

B. The conflict of interest provisions of Section 9.3(A) above apply to any person who is an employee, agent, consultant, officer, or any immediate family member of such person, or any elected or appointed official of the County, or any person related within the third (3rd) degree of such person.

C. In accordance with 2 CFR 200.112 the Borrower shall promptly disclose to the Lender, in writing, any potential conflict of interest.

9.5 **POLITICAL ACTIVITY.** None of the funds, materials, property or services contributed by Lender or Borrower under this County CDBG Loan Agreement shall be used for any partisan political activity or the election or defeat of any candidate for public office.

9.6 **PUBLICITY.** Any publicity produced by Borrower for the Project during the term of the County CDBG Loan and for one year thereafter shall make reference to the contribution of Lender in making the Project possible. The words "The County of Santa Barbara" will be prominently displayed in any and all pieces of publicity, including but not limited to flyers, press releases, posters, signs, brochures, public service announcements, interviews, and newspaper articles. Borrower further agrees to cooperate with authorized staff and officials of Lender in any Lender-generated publicity or promotional activities undertaken with respect to the Project.

9.7 **TERM OF THIS AGREEMENT.** This County CDBG Loan Agreement shall commence on the date set forth in Section 2.5 and remain in full force and effect throughout the term of the County CDBG Loan.

9.8 **GOVERNING LAW.** The County CDBG Loan Documents shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law or those provisions preempted by federal law.

9.9 **STATUTORY REFERENCES.** All references in the County CDBG Loan Documents or County CDBG Loan Regulatory Agreement to particular statutes, regulations, ordinances, or resolutions of the United States, the State of California, or the County of Santa Barbara shall be deemed to include the same statute, regulation, ordinance, or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject as the provision to which specific reference was made.

9.10 **TIME.** Time is of the essence in these County CDBG Loan Documents.

9.11 **CONSENTS AND APPROVALS.** Any consent or approval of Lender or Borrower required under the County CDBG Loan Documents shall not be unreasonably withheld. Any approval required under the County CDBG Loan Documents shall be in writing and executed by an authorized representative of the party granting the approval.

9.12 **NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications between Borrower and 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 Borrower and 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

**BORROWER:** Good Samaritan Shelter  
245 E. Inger Drive, Suite 103B  
Santa Maria, CA 93456  
Attn: Executive Director

9.13 **BINDING UPON SUCCESSORS.** All provisions of these County CDBG Loan Documents shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of each of the parties; provided, however, that this section does not waive the prohibition on assignment of this County CDBG Loan Agreement by Borrower without Lender's consent.

9.14 **RELATIONSHIP OF PARTIES.** The relationship of Borrower and Lender for this Project under this County CDBG Loan Agreement is and at all times shall remain solely that of a debtor and a creditor, and shall not be construed as a joint venture, equity venture, partnership, or any other relationship. Lender neither undertakes nor assumes any responsibility or duty to Borrower (except as provided for herein) or any third party with respect to the Project, the Property, or the County CDBG Loan.

9.15 **ASSIGNMENT AND ASSUMPTION.** Borrower shall not assign any of its interests under this County CDBG Loan Agreement or the County CDBG Loan Documents to any other party, except as specifically permitted under the terms of the County CDBG Loan Documents, without the prior written consent of Lender. Any unauthorized assignment shall be voidable at the sole discretion of Lender.

9.16 **WAIVER.** Any waiver by Lender of any obligation in these County CDBG Loan Documents must be in writing. No waiver will be implied from any delay or failure by Lender to take action on any breach or default of Borrower or to pursue any remedy allowed under the County CDBG Loan Documents or applicable law. Any extension of time granted to Borrower to perform any obligation under the County CDBG Loan Documents shall not operate as a waiver or release from any of the Borrower's obligations under the County CDBG Loan Documents. Consent by Lender to any act or omission by Borrower shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for Lender's written consent to future waivers.

9.17 **INTEGRATION.** This County CDBG Loan Agreement and the other County CDBG Loan Documents, including exhibits, executed by Borrower for the Property, contain the entire agreement of the parties and supersede any and all prior negotiations.

9.18 **OTHER AGREEMENTS.** Borrower represents that it has not entered into any agreements that are inconsistent with the terms of the County CDBG Loan Documents. Borrower shall not enter into any agreements that are inconsistent with the terms of the County CDBG Loan Documents without an express waiver by Lender in writing.

9.19 **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to the County CDBG Loan Documents must be in writing, and shall be made only if executed by both Borrower and Lender.

9.20 **SEVERABILITY.** Every provision of this County CDBG Loan Agreement is intended to be severable. If any provision of this County CDBG Loan Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

9.21 **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

*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: Shirley de la Guerra  
Deputy Clerk of the Board

**COUNTY:**

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

By: Gregg Hart  
Gregg Hart, Chair  
Board of Supervisors

**APPROVED AS TO ACCOUNTING FORM:**

*SCHAFFER MS*  
BETSY SCHAEFFER, CPA  
AUDITOR-CONTROLLER

By: Betsy M. Schaeffer  
Deputy

By: [Signature]  
Director, Community Services Dept.

**APPROVED AS TO FORM**

MICHAEL GHIZZONI  
COUNTY COUNSEL

By: [Signature]  
Deputy County Counsel

**BORROWER**

Good Samaritan Shelter  
a California Nonprofit Organization

By: \_\_\_\_\_  
President, Board of Directors

By: Secretary

**APPROVED AS TO FORM:**

RISK MANAGEMENT

By: [Signature]  
Ray Aromatorio, ARM, AIC  
Risk Manager

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

**COUNTY:**

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

By: \_\_\_\_\_  
Gregg Hart, Chair  
Board of Supervisors

**APPROVED AS TO ACCOUNTING  
FORM:**

BETSY SCHAEFFER, CPA  
AUDITOR-CONTROLLER

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

By: \_\_\_\_\_  
Director, Community Services Dept.

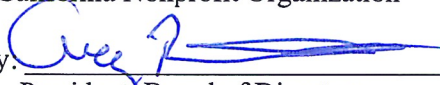
**APPROVED AS TO FORM**

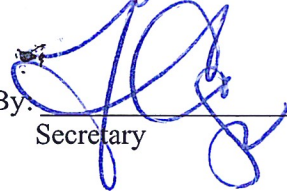
MICHAEL GHIZZONI  
COUNTY COUNSEL

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

**BORROWER**

Good Samaritan Shelter  
a California Nonprofit Organization

By:  \_\_\_\_\_  
President, Board of Directors

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

**APPROVED AS TO FORM:**

RISK MANAGEMENT

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

**Exhibit A**  
**Project Budget and Statement of Work**

Renovations/ Other costs Budget

Renovations	Total Cost with Contractor profit 10%
Removal Popcorn Ceiling	5,198
Fence	7,425
Doors and carpentry	891
Roof	14,108
Flooring	13,365
Painting	13,736
Electrical- misc	3,713
Windows double pane	8,316
Landscaping - Backyard	5,324
Miscellaneous	2,228
Asbestos and lead based testing (windows, popcorn ceiling)	4,622
Contingency	5,198
Insurance 2%	1,529
Total Renovation Costs	85,651
<b>Administration</b>	
Contractor Supervision	4,353
SB County Monitoring Fee	1,000
Admin Delivery - GSS Project Manager	2,636
<b>Other costs</b>	
Escrow Fees	710
Home Inspection	250
Appraisal Fees	400
<b>Total Renovation and other Costs Budget</b>	<b>95,000</b>

\* Amounts are estimated and actual amounts might be slightly different

**Exhibit B**  
**Deed of Trust**

NO FEE DOCUMENT

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

County of Santa Barbara  
Housing and Community Development  
123 E. Anapamu Street, 2<sup>nd</sup> floor  
Santa Barbara, CA 93101  
Deputy Director

NO FEE DOCUMENT PURSUANT TO  
CALIFORNIA GOVERNMENT CODE SECTION 27383

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**COUNTY CDBG LOAN DEED OF TRUST,  
ASSIGNMENT OF RENTS, AND SECURITY AGREEMENT**

THIS COUNTY CDBG LOAN DEED OF TRUST, ASSIGNMENT OF RENTS, AND SECURITY AGREEMENT (“County CDBG Loan Deed of Trust”) is made as of this 5<sup>th</sup> day of May, 2020, by Good Samaritan Shelter, a California nonprofit organization, whose address is 245 E. Inger Drive, Suite 103B, Santa Maria, California, 93454 (“Trustor”) to Fidelity National Title Company, as trustee (“Trustee”) for the benefit of the County of Santa Barbara, a political subdivision of the State of California (“Beneficiary”).

**GRANT IN TRUST**

1. **GRANT.** Trustor, in consideration of the indebtedness referred to below, hereby irrevocably grants and conveys to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, all of Trustor’s interest in the property located at [REDACTED] [REDACTED] Santa Barbara County, California (the “Property”), as more particularly described in the attached Exhibit A, incorporated herein by this reference;

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property; all buildings, structures, fixtures, improvements, signs, and landscaping now or hereafter erected or located on the Property, including all equipment and machinery used for supplying or distributing heating, cooling, electricity, gas, water, air, and light, all kitchen and laundry appliances such as washers, dryers, refrigerators, garbage disposals, ovens, ranges, dishwashers, all plumbing and bathroom fixtures, all security and access control equipment, fire prevention and extinguishment equipment, elevators, floor coverings, window coverings, panelling, cabinets, (provided, however, that Trustor shall have the right to remove, if necessary, such fixtures, furnishings, and equipment for

the purpose of replacement with similar items of the same quality performing the same functions, which replacements shall themselves become part of this grant); all building material and equipment either now or hereafter delivered to the Property and intended to be installed therein or any such material and equipment purchased in whole or in part with CDBG Funds whether or not located on the Property; all reserves, accounts, deferred payments, and refunds relating to development on the Property; all Revenue, including rents and income generated by or derived from the Property or improvements thereon (subject however to the assignment of rents to Beneficiary contained herein); all leases, subleases, rental agreements and licenses covering the Property or any portion thereof now existing or hereafter entered into, and all interests of Trustor in security deposits, advance rentals, accounts, payments, and receivables of similar nature with respect to such leases, subleases, rental agreements and licenses; all easements and rights-of-way appurtenant to the Property, including parking and recreational easements, and all interests of Trustor in any land lying within the right-of-way of any streets, sidewalks, and areas of land adjacent to or used in connection with the Property; all development rights and credits, air rights, water rights, and oil, gas or mineral rights with respect to the Property; all claims or demands with respect to insurance proceeds, bonds, warranties, guarantees and sureties, and all awards made for a taking by eminent domain; all interests and rights in any private or government grants, subsidies, loans, or other financing with respect to development on the Property; all interests in personal property used in and about the Property (except furniture and other personal property of occupants of dwelling units on the Property); all intangible Property and rights relating to the Property or operations on the Property, including copyrights, patents, trade names, goodwill, trademarks, and service marks; all government permits, approvals, and map rights related to construction of the Property; all architectural, structural, and mechanical plans, specifications, designs, studies, and data with respect to construction or improvements on the Property; all environmental tests, studies and reports with respect to the Property; all current and future claims and rights of action of Trustor against prior owners and operators of the Property, neighboring property owners and operators, tenants and former tenants, consultants, advisors, and other third parties with respect to environmental or Hazardous Materials contamination and cleanup of the Property under any federal, state, or local ordinances, statutes, regulations, or administrative decisions or common law.

All of the foregoing, together with the Property, is herein referred to as the "Security."

### **OBLIGATIONS SECURED**

2. **OBLIGATIONS.** Trustor makes this grant for the purpose of securing the following obligations of Trustor:

A. Repayment of the indebtedness of Trustor to Beneficiary in the principal sum of Four Hundred Fifty Thousand Dollars (\$450,000) with interest thereon, evidenced by the County CDBG Loan Promissory Note executed by Trustor, in the amount of \$450,000 (the "County CDBG Loan Note"), on file at the offices of Beneficiary and hereby incorporated by reference into this County CDBG Loan Deed of Trust, or as much as has been disbursed to Trustor therewith; and

B. Payment of any sums advanced by Beneficiary to protect the Security and priority of this County CDBG Loan Deed of Trust; and

C. Payment of any sums advanced by Beneficiary following a breach of Trustor's obligation for payment of said sums, such as Trustor's obligation to pay fees, assessments, taxes, charges, and levies imposed by any public authority or utility company and/or Trustor's obligation to pay any sums payable under the County CDBG Loan Note and the expiration of any applicable cure period, with interest thereon as provided herein; and

D. Performance of every obligation, covenant or agreement of Trustor contained in this County CDBG Loan Deed of Trust, the County CDBG Loan Note, and the County CDBG Loan Agreement executed between Trustor and Beneficiary on file at the offices of Beneficiary and hereby incorporated into this County CDBG Loan Deed of Trust by this reference ("County CDBG Loan Agreement"), and the County CDBG Loan Regulatory Agreement executed between Trustor and Beneficiary of even date herewith ("County CDBG Loan Regulatory Agreement"), including all modifications, extensions and renewals of these obligations; and

E. Performance of any other obligation or repayment of any other indebtedness of Trustor to Beneficiary, where such evidence of obligation or indebtedness specifically recites that it is secured by this County CDBG Loan Deed of Trust; and

F. Performance of any obligations of Trustor in any other agreements with respect to financing of development of the Property or the Security, the failure to perform the absence of which would adversely affect Beneficiary, whether or not Beneficiary is a party to such agreements.

### **ABSOLUTE ASSIGNMENT OF RENTS AND RIGHT TO POSSESSION**

3. **ASSIGNMENT.** As additional security, Trustor hereby assigns to Beneficiary: (a) all of the Revenue, rents, profits, and income from the Security, any deposits now or hereafter in Trustor's possession which have been collected with respect to the Security, and any reserve or capital funds now or hereafter held by Trustor with respect to construction or operation of the Security (collectively, the "Rents"); and (b) the right to enter, take possession of, and manage the Security; provided, however that Trustor shall have, before an Event of Default, the exclusive right to possess the Security and to collect Rents and use them in accordance with the County documents described in Section 2.D. above (collectively, the "County CDBG Loan Documents"). This assignment is intended to be an absolute and present transfer of Trustor's interest in existing and future Rents, effective as of the date of this County CDBG Loan Deed of Trust.

4. **ENFORCEMENT.** Upon the happening of an Event of Default which remains uncured after expiration of the applicable cure period pursuant to the terms of the County CDBG Loan Agreement or other County CDBG Loan Documents, Beneficiary may, in addition to other rights and remedies permitted by the County CDBG Loan Agreement, this County CDBG Loan



Deed of Trust, or applicable law: (a) enter upon, take possession of, and manage the Security, either in person as a mortgagee-in-possession, by agent, or by a receiver appointed by a court, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Security, (b) collect all Rents, including those past due and unpaid, and apply the same to pay for the Project Related Costs, costs and expenses of operation of the Security, including attorneys' fees, and pay off any indebtedness secured by this County CDBG Loan Deed of Trust, all in such order as Beneficiary may determine, (c) enter upon and take possession of the Security, and complete construction of any improvements on the Security as provided for in the plans and specifications approved under the County CDBG Loan Agreement or any modifications to the plans and specifications or the development of the Security that Beneficiary in its sole discretion believes is appropriate, and/or (d) Beneficiary may make, cancel, enforce, and modify leases and rental agreements, obtain and evict tenants, set and modify rent terms, sue for rents due, enter into, modify, or terminate any contracts or agreements, or take any legal action, as it deems necessary with respect to the Rents or to development or operation of the Security, subject to the rent restrictions imposed against the Property by the County CDBG Loan Regulatory Agreement.

5. **APPOINTMENT OF A RECEIVER.** In any action to enforce this assignment, Beneficiary may apply for the appointment of a receiver to take possession of the Security and take whatever measures are necessary to preserve and manage the Security for the benefit of Beneficiary and the public interest. Trustor hereby consents to the appointment of a receiver. The receiver shall have all of the authority over the Security that Beneficiary would have if Beneficiary took possession of the Security under this assignment as a mortgagee-in-possession, including the right to collect and apply Rents and the right to complete construction of improvements.

6. **NO WAIVER OF POWER OF SALE.** The entering upon and taking possession of the Security and the collection of Rents shall not cure or waive any Event of Default or notice of default hereunder or under any of the County CDBG Loan Documents or invalidate any act done by Beneficiary, Beneficiary's agents or a receiver in response to such Event of Default or notice of default and, notwithstanding the continuance in possession of the Security or the collection and application of Rents, Beneficiary shall be entitled to exercise every right provided for in this County CDBG Loan Deed of Trust, in the County CDBG Loan Documents or by law upon occurrence of any Event of Default, including the right to exercise the power of sale.

#### **COMMERCIAL CODE SECURITY AGREEMENT**

7. **GRANT.** This County CDBG Loan Deed of Trust is intended to be a security agreement and financing statement pursuant to the California Commercial Code for any of the items specified above as part of the Security which under applicable law may be subject to a security interest pursuant to the California Commercial Code, and Trustor hereby grants Beneficiary a security interest in the Security. Beneficiary may file a copy of this County CDBG Loan Deed of Trust in the real estate records or other appropriate index as a financing statement for any of the items specified as part of the Security. Trustor shall execute and deliver to Beneficiary at Beneficiary's request any financing statements, as well as extensions, renewals, and amendments thereof, and copies of this instrument in such form as Beneficiary may require

to perfect a security interest with respect to the Security. Trustor shall pay all costs of filing such financing statements and shall pay all reasonable costs of any record searches for financing statements and releases. Without the prior written consent of Beneficiary, Trustor shall not create or permit any other security interest in the Security. This County CDBG Loan Deed of Trust constitutes a fixture filing under Division 9 of the California Commercial Code.

**8. REMEDIES.** Upon Trustor's breach of any obligation or agreement in the County CDBG Loan Documents, after expiration of any applicable cure period, Beneficiary shall have the remedies of a secured party under the California Commercial Code and at Beneficiary's option may also invoke the remedies provided for elsewhere in this County CDBG Loan Deed of Trust or County CDBG Loan Documents. Beneficiary may proceed against the Security specified above separately or together and in any order whatsoever.

### **RIGHTS AND OBLIGATIONS OF TRUSTOR**

**9. PERFORMANCE OF SECURED OBLIGATION.** Trustor shall promptly perform each obligation secured by this County HOME Loan Deed of Trust in accordance with the County CDBG Loan Documents.

**10. PAYMENT OF PRINCIPAL AND INTEREST.** Trustor shall promptly pay when due the principal and any interest due on the indebtedness evidenced by the County CDBG Loan Note.

**11. MAINTENANCE OF THE SECURITY.** Trustor shall, at the Trustor's own expense, maintain and preserve the Security or cause the Security to be maintained and preserved in good condition, in good repair, and in a decent, safe, sanitary, habitable and tenantable condition. Trustor shall not cause or permit any violation of any laws, ordinances, regulations, covenants, conditions, restrictions, or equitable servitudes as they pertain to improvements, alterations, maintenance or demolition on the Security. Trustor shall not commit or permit intentional waste on or to the Security. Trustor shall not abandon the Security. Beneficiary shall have no responsibility over maintenance of the Security. In the event Trustor fails to maintain the Security in accordance with the standards in this County CDBG Loan Deed of Trust or the County CDBG Loan Documents, and after any applicable cure periods, Beneficiary may, but shall be under no obligation to, make such repairs or replacements as are necessary and provide for payment thereof. Any amount so advanced by Beneficiary, together with interest thereon from the date of such advance at the same rate of interest as specified in the County CDBG Loan Note (unless payment of such an interest rate would be contrary to applicable law, in which event such sums shall bear interest at the highest rate then allowed by applicable law), shall become an additional obligation of Trustor to Beneficiary and shall be secured by this County CDBG Loan Deed of Trust.

**12. INSPECTION OF THE SECURITY.** Trustor shall permit Beneficiary to enter and inspect the Security during normal business hours for compliance with these obligations upon at least 24 hours advance notice of such visit by Beneficiary to Trustor or Trustor's management agent.

**13. LIENS, ENCUMBRANCES, AND CHARGES.** Trustor shall discharge any lien or encumbrance not approved by Beneficiary in writing that may attain priority over this County CDBG Loan Deed of Trust, as provided for in the County CDBG Loan Agreement.

**14. DEFENSE AND NOTICE OF CLAIMS AND ACTIONS.** Trustor shall appear in and defend, at its own expense, any action or proceeding purporting to affect the Security and/or the rights of Beneficiary. Trustor shall give Beneficiary and Trustee prompt notice in writing of the assertion of any claim, of the filing of any action or proceeding and of any condemnation offer or action with respect to the Security upon Trustor's receipt of notice thereof.

**15. SUITS TO PROTECT THE SECURITY.** Beneficiary shall have all rights, power and authority to institute and maintain such suits and proceedings as it may deem expedient (a) to prevent any impairment of the Security or Rents or prejudice to any interest or right of Beneficiary, (b) to preserve or protect its interest in the Security and in the Rents, and (c) to restrain or enjoin the enforcement of or compliance with any governmental legislation, regulation, or order if the enforcement of or compliance with such legislation, regulation, or order would impair the Security or Rents or be prejudicial to any interest or right of Beneficiary.

**16. DAMAGE TO SECURITY.** Trustor shall give Beneficiary and Trustee prompt notice in writing of any damage to or destruction of the Security. If any Security is damaged or destroyed, Trustor shall, at its cost and expense, repair or restore said Security consistent with the original plans and specifications. Such work or repair shall be commenced within one hundred twenty (120) days after the damage or loss occurs and shall be completed within one year thereafter. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, Trustor shall make up the deficiency.

**17. TITLE.** Trustor warrants that Trustor lawfully has legal title to the Security without any limitation on the right to encumber other than those limitations set forth in the CDBG Promissory Loan Document, Home County CDBG Loan Agreement, County CDBG Loan Deed of Trust and County CDBG Loan Regulatory Agreement approved by Beneficiary.

**18. GRANTING OF EASEMENTS.** Trustor may not grant easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to the Security except those required or desirable for installation and maintenance of public utilities including water, gas, electricity, sewer, cable television, telephone, or those required by law.

**19. TAXES AND LEVIES.** Trustor 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 or the Project, and shall pay such charges prior to delinquency. However, Trustor shall not be required to pay and discharge any such charge so long as (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by Beneficiary, Trustor deposits with Beneficiary any funds or other forms of assurance Beneficiary in good faith from time to time determines appropriate to protect Beneficiary from the consequences of the contest being unsuccessful.

**20. INSURANCE.** Trustor shall provide such insurance as required under the County CDBG Loan Documents. In the event Trustor fails to maintain the full insurance coverage required by this County CDBG Loan Deed of Trust and the County CDBG Loan Documents, Beneficiary, after at least seven business days prior notice to Trustor, may, but shall be under no obligation to, take out the required policies of insurance and pay the premiums on such policies. Any amount so advanced by Beneficiary, together with interest thereon from the date of such advance at the same rate of indebtedness as specified in the County CDBG Loan Note (unless payment of such an interest rate would be contrary to applicable law, in which event such sums shall bear interest at the highest rate then allowed by applicable law), shall become an additional obligation of Trustor to Beneficiary and shall be secured by this County CDBG Loan Deed of Trust.

**21. CONDEMNATION.** Subject to the rights of any senior lienholders, all judgments, awards of damages, settlements and compensation made in connection with or in lieu of taking all or any part of or interest in the Security under assertion of the power of eminent domain ("Condemnation Funds") are hereby assigned to and shall be paid to Beneficiary. Beneficiary is authorized (but not required) to collect and receive any Funds and is authorized to apply them in whole or in part upon any indebtedness or obligation secured hereby, in such order and manner as Beneficiary shall determine at its sole option. All or any part of the Funds so collected and recovered by Beneficiary may be released to Trustor upon such conditions as Beneficiary may impose in Beneficiary's sole discretion. Application of all or any part of the Funds collected and received by Beneficiary or the release thereof shall not cure or waive any Event of Default under this County CDBG Loan Deed of Trust or the County CDBG Loan Documents.

Notwithstanding anything to the contrary set forth herein, Beneficiary shall, prior to the application of the Funds or any portion thereof to the indebtedness or other obligations, apply such portion of the Funds as is reasonable and necessary to repair and preserve the value, marketability and rentability of the Security. Trustor shall have the right to rebuild repair or restore the Security and to use all available Funds therefor, provided that (a) such Funds are sufficient to keep the all loans encumbering the Property in balance and rebuild repair or restore the Security in a manner that provides adequate security to Beneficiary for repayment of the CDBG Loan or, if such Funds are insufficient or such security is inadequate, then Trustor shall have funded any deficiency and/or provided additional security; (b) Beneficiary shall have the right to approve plans and specifications for any rebuild, repair or restoration and the right to require that disbursement of insurance proceeds and Funds for rebuilding repairing or restoring be placed in a construction escrow or similar arrangement subject to Beneficiary's approval ; and (c) no Event of Default then exists under the County CDBG Loan Documents other than any default which is a direct result of the condemnation.

**22. ACCELERATION ON TRANSFER OF SECURITY; ASSUMPTION.** In the event that Trustor, without the prior written consent of the Beneficiary, sells, transfers, or conveys, or agrees to sell, transfer or convey, its interest in the Security or any part thereof or interest therein, Beneficiary may at its option declare all sums secured by this County CDBG Loan Deed of Trust to be immediately due and payable. This option shall not apply in case of:

A. The grant of a leasehold interest to tenants who will occupy units in the Project as provided for under the County CDBG Loan Agreement;

B. Sale or transfer of personal property pursuant to the grant provisions in this County CDBG Loan Deed of Trust. Consent to one sale or transfer shall not be deemed to be a waiver of the right to require such consent to future or successive transactions.

**23. RECONVEYANCE BY TRUSTEE.** This trust is intended to continue for the entire term of the CDBG Loan and associated documents. Upon written request of Beneficiary stating that all obligations set forth in the County CDBG Loan Agreement and associated documents have been met and upon surrender of this County CDBG Loan Deed of Trust to Trustee for cancellation and retention, and upon payment by Trustor of Trustee's reasonable fees, Trustee shall reconvey the Security to Trustor, or to the person or persons legally entitled thereto.

### **DEFAULT AND REMEDIES**

**24. EVENTS OF DEFAULT.** Any of the events listed in the County CDBG Loan Agreement as an Event of Default shall also constitute an Event of Default under this County CDBG Loan Deed of Trust.

**25. ACCELERATION OF MATURITY.** Upon the happening of an Event of Default which has not been cured within the time and in the manner provided in the County CDBG Loan Agreement, Beneficiary may declare all sums advanced to Trustor under the County CDBG Loan Note and this County CDBG Loan Deed of Trust immediately due and payable.

**26. BENEFICIARY'S REMEDIES.** Upon the happening of an Event of Default which has not been cured within the time and in the manner provided in the County CDBG Loan Agreement, Beneficiary may, in addition to other rights and remedies permitted by the County CDBG Loan Agreement, the County CDBG Loan Note, or applicable law, proceed with any or all of the following remedies:

A. Enforce the assignment of Rents and right to possession as provided for in this County CDBG Loan Deed of Trust, and/or seek appointment of a receiver to take over possession of the Security and collect Rents;

B. Enter the Security and take any actions necessary in its judgment to complete construction on the Security, either in person or through a receiver appointed by a court;

C. Advance any amount necessary to cure any monetary Event of Default under this County CDBG Loan Deed of Trust, the County CDBG Loan Agreement, or the County CDBG Loan Note;

D. Commence an action to foreclose this County CDBG Loan Deed of Trust pursuant to California Code of Civil Procedure Section 725a et seq., as amended, and/or seek appointment of a receiver from a court of competent jurisdiction with the authority

to protect Beneficiary's interests in the Security, including the authority to complete construction of improvements;

E. Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Security to be sold and exercise its power of sale as provided for below; and/or

F. Pursue any other rights and remedies allowed at law or in equity.

**27. FORECLOSURE BY POWER OF SALE.** Should Beneficiary elect to foreclose by exercise of the power of sale contained in this County CDBG Loan Deed of Trust, Beneficiary shall notify Trustee and shall deposit with Trustee this County CDBG Loan Deed of Trust (the deposit of which shall be deemed to constitute evidence that the unpaid sums disbursed under the County CDBG Loan Note are immediately due and payable), and such receipts and evidence of any advances made that are additionally secured hereby as Trustee may require.

Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such notice of default and election to sell as then required by law and by this County CDBG Loan Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such notice of default and after notice of sale having been given as required by law, sell the Security, at the time and place of sale fixed by it in said notice of sale, whether as a whole or in separate lots or parcels or items as Trustee shall deem expedient and in such order as it may determine unless specified otherwise by Trustor, at public auction to the highest bidder for cash or credit in lawful money of the United States payable at the time of sale. Trustee shall deliver to the purchaser its deed or deeds conveying the Security so sold, but without any covenant or warranty, express or implied. Any person, including, without limitation, Trustor, Trustee, or Beneficiary, may purchase at the sale.

Trustee may postpone the sale of all or any portion of the Security by public announcement at such time and place of sale, and from time to time thereafter, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

**28. APPLICATION OF SALE PROCEEDS.** After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale as follows: first, to the payment of all sums then secured by this County CDBG Loan Deed of Trust, in such order and amounts as Beneficiary in its sole discretion determines; and second, the remainder, if any, to the person or persons legally entitled thereto.

**29. REMEDIES CUMULATIVE.** No right, power or remedy conferred upon or reserved to Beneficiary by this County CDBG Loan Deed of Trust is intended to be exclusive of any other rights, powers or remedies, but each such right, power and remedy shall be cumulative

and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

**GENERAL PROVISIONS**

30. **GOVERNING LAW.** This County CDBG Loan Deed of Trust shall be interpreted under and 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.

31. **STATEMENT OF OBLIGATION.** Beneficiary may collect a fee not to exceed the maximum allowable under applicable law for furnishing a statement of obligations as provided in the California Civil Code.

32. **CONSENTS AND APPROVALS.** Any consent or approval of Beneficiary required under this County CDBG Loan Deed of Trust shall not be unreasonably withheld.

33. **TIME.** Time is of the essence in this County CDBG Loan Deed of Trust.

34. **NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications between Trustor and Beneficiary 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 Trustor and Beneficiary as follows:

**BENEFICIARY:** 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

**TRUSTOR:** Good Samaritan Shelter  
245 E. Inger Drive, Suite 103B  
Santa Maria, CA 93454  
Attn: Executive Director

35. **BINDING UPON SUCCESSORS.** All provisions of this County CDBG Loan Deed of Trust shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of Trustor, Trustee, and Beneficiary.

36. **WAIVER.** Any waiver by Beneficiary of any obligation of Trustor in this County CDBG Loan Deed of Trust must be in writing. No waiver will be implied from any delay or failure by Beneficiary to take action on any breach or Event of Default of Trustor or to pursue any remedy allowed under the County CDBG Loan Deed of Trust, the County CDBG Loan Documents or applicable law. Any extension of time granted to Trustor to perform any obligation under this County CDBG Loan Deed of Trust shall not operate as a waiver or release Trustor from any of its obligations under this County CDBG Loan Deed of Trust. Consent by Beneficiary to any act or omission by Trustor shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for Beneficiary's written consent to future waivers.

37. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this County CDBG Loan Deed of Trust must be in writing, and shall be made only if mutually agreed upon by Beneficiary and Trustor.

38. **LOAN AGREEMENT CONTROLS.** If there is any contradiction between this County CDBG Loan Deed of Trust and the County CDBG Loan Agreement, the terms of the County CDBG Loan Agreement shall control, except that Trustor shall have no defense or claim that this County CDBG Loan Deed of Trust does not establish a valid lien on the Property or the Security.

39. **DEFINITIONS.** Capitalized terms not otherwise defined in this County CDBG Loan Deed of Trust shall have the same meaning as defined terms in the County CDBG Loan Agreement.

40. **PROOFS OF CLAIM.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, recomposition or other proceedings affecting Trustor, its creditors or its property, Trustee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by Trustor hereunder after such date.

41. **SEVERABILITY.** Every provision of this County CDBG Loan Deed of Trust is intended to be severable. If any term or provision of this County CDBG Loan Deed of Trust is declared to be illegal, invalid, or unenforceable by a court of competent jurisdiction, the legality, validity, and enforceability of the remaining provisions shall not be affected. If the lien of this County CDBG Loan Deed of Trust is invalid or unenforceable as to any part of the Trustor's indebtedness or the Trustor's obligations secured thereby, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the Trustor's indebtedness and all payments made on the indebtedness (whether voluntary or under foreclosure or other enforcement action or procedure) shall be considered to have been first paid or applied to the payment of that portion of the indebtedness which is not secured or partially secured by the lien of this County CDBG Loan Deed of Trust.

42. **SUBSTITUTION OF TRUSTEES.** Beneficiary may from time to time appoint another trustee to act in the place and stead of Trustee or any successor. Upon such appointment



and without conveyance, the successor trustee shall be vested with all title, powers, and duties conferred upon Trustee.

**43. ACCEPTANCE BY TRUSTEE.** Trustee accepts this trust when this County CDBG Loan Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law, the Trustee is not obligated to notify any party hereto of pending sale under this County CDBG Loan Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

**44. THIS SECTION LEFT INTENTIONALLY BLANK.**

**45. NONRECOURSE.** Except as expressly provided in the second paragraph of this section, the Trustor, and the Trustor's partners, officers, directors, employees and agents shall not have any direct or indirect personal liability for payment of the principal of, or interest on, the County CDBG Loan Promissory Note. The sole recourse of the Beneficiary with respect to the principal of, or interest on, the County CDBG Loan Promissory Note shall be to the property securing the indebtedness evidenced by this County CDBG Deed of Trust. However, nothing contained in the foregoing limitation of liability shall (i) limit or impair the enforcement against all such security for the County CDBG Loan Promissory Note of all the rights and remedies of the Beneficiary, or (ii) be deemed in any way to impair the right of the Beneficiary to assert the unpaid principal amount of the County CDBG Loan Promissory Note as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the County CDBG Loan Promissory Note, except as hereafter set forth; nothing contained herein is intended to relieve the Trustor of personal liability to the extent of actual damages for (i) Trustor's fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges (which are not contested by the Trustor in good faith) which may create liens on the Property that are payable or applicable prior to any foreclosure under the County CDBG Loan Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by the Trustor other than in accordance with the County CDBG Loan Deed of Trust; (iv) the material misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property; (v) the Trustor's indemnification obligations under the County CDBG Loan Agreement; and (vi) payment to the Beneficiary of any rental income or other income arising with respect to the Property received by the Trustor after the Beneficiary has given notice to the Trustor of the occurrence of an Event of Default and after the expiration of all applicable notice and cure periods, subject to the rights of any lender providing a loan secured by the Property to which the Beneficiary has subordinated the County CDBG Loan Deed of Trust.

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

**IN WITNESS WHEREOF**, Trustor has executed this County CDBG Loan Deed of Trust as of the day and year first above written.

TRUSTOR:

Good Samaritan Shelter  
a California nonprofit organization

By: \_\_\_\_\_  
President, Board of Directors

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

[TRUSTOR'S SIGNATURE MUST BE ACKNOWLEDGED]

State of California  
County of Santa Barbara

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_ and \_\_\_\_\_  
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 \_\_\_\_\_ (Seal)

State of California  
County of Santa Barbara

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_ and \_\_\_\_\_  
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 \_\_\_\_\_ (Seal)

EXHIBIT A

Legal Description

(See Attached)

**Exhibit C**  
**Promissory Note**

## COUNTY HOME LOAN PROMISSORY NOTE

Santa Barbara, California

\$450,000

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FOR VALUE RECEIVED, Good Samaritan Shelter, a California nonprofit organization (“Borrower”), whose address 245 E. Inger Drive, Suite 103B, Santa Maria, California 93456 hereby promises to pay to the order of the County of Santa Barbara, a political subdivision of the State of California (“Lender”), whose address is 123 E. Anapamu Street, 2<sup>nd</sup> Floor, Santa Barbara, California 93101, the principal amount equal to Four Hundred Fifty Thousand Dollars (\$450,000), or so much thereof as may be advanced by Lender to Borrower, together with interest thereon, as set forth below.

1. **PURPOSE.** In order to assist Borrower in acquiring and rehabilitating a three-bedroom, single-family residence, [REDACTED] (the “Property”), Lender has agreed to loan the amount of Four Hundred Fifty Thousand Dollars (\$450,000) to Borrower, all of which is derived from funds received by the Lender from the United States Department of Housing and Urban Development through the Community Development Block Grant (CDBG), Program.

2. **BORROWER’S OBLIGATION.** This promissory note (“County CDBG Loan Promissory Note”) evidences Borrower’s obligation to pay Lender the principal amount of Four Hundred and Fifty Thousand Dollars (\$450,000), (“County CDBG Loan”), for the CDBG Funds loaned to Borrower by Lender for the specific uses designated in a loan agreement between Borrower and Lender dated May 5, 2020 (“County CDBG Loan Agreement”).

3. **INTEREST.** Subject to Section 4, this County CDBG Loan Promissory Note shall bear simple interest at the rate of zero percent (0%) per annum from the date of the Promissory Note. Interest is not compounding, and the loan deferred and forgivable after fifteen (15) years from date of execution of the County CDBG Loan Agreement subject to certain precedent conditions within the County CDBG Loan Agreement.

4. **DEFAULT INTEREST.** In the Event of Default by Borrower of any of its obligations under this County CDBG Loan Promissory Note or the Loan Documents, Borrower shall pay to Lender interest on the outstanding principal of this County CDBG Loan Promissory Note, at an annual rate equal to the lesser of (i) ten percent (10%) or (ii) the highest interest allowed by law, in addition to the interest rate provided in Section 3 above, from the date of the Event of Default until the date that the Event of Default is cured or the County CDBG Loan is repaid in full. The default interest shall be paid monthly and is due to the County on the first day of each month.

5. **AMOUNT AND TIME OF PAYMENT.** The principal and interest of the County CDBG Loan shall be due and payable on the earlier of: (a) fifteen (15) years after the date of project completion in conformance with 24 CFR 570 and evidenced by a written notice of

completion provided to the Borrower by County, (b) the date the Property is sold or otherwise transferred, (c) Borrower has failed to commence construction as set forth in Section 4.1 of the County CDBG Loan Agreement, or (d) an event of default by Borrower, as defined in Section 8.1 of the County CDBG Loan Agreement, which has not been cured as provided for in Section 8.2 of the County CDBG Loan Agreement. In the event of default by Borrower, as defined in Section 8.1 of the County CDBG Loan Agreement, which has not been cured as provided for in Section 8.2 of the County CDBG Loan Agreement, the principal and all current and accrued interest shall be due and payable in accordance with Section 9 of this County CDBG Loan Promissory Note. The foregoing notwithstanding, if Borrower remains compliant with the terms of the County's CDBG Regulatory Agreement, as determined by the County through periodic inspections of the Project and program files documenting occupancy by Qualified Project Beneficiaries, and as indicated with monitoring close-out letters from Lender to Borrower indicating compliance with the Regulatory Agreement, for the fifteen (15) year term described therein, then the principal amount of the loan, along with all accrued interest, except interest accrued pursuant to Section 2.4 of the County CDBG Loan Agreement, shall be forgiven.

6. **DEFINITIONS.** All initially capitalized terms in this County CDBG Loan Promissory Note shall have the definition ascribed to such terms in the County CDBG Loan Agreement. The following terms are defined in the County CDBG Loan Agreement and repeated here for convenience of reference:

- a. "Annual Financial Statement" means the financial statement of Operating Expenses and Revenue, prepared at the Borrower's expense, by an independent certified accountant reasonably acceptable to Lender, which shall be provided as part of Borrower's annual reporting to Lender.
- b. "County CDBG Loan Deed of Trust" means that 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 CDBG Loan by Borrower as trustor with Lender as beneficiary, as well as any amendments to, modifications of, and restatements of said County CDBG Loan Deed of Trust.
- c. "County CDBG Loan Regulatory Agreement" means the agreement executed by Borrower and Lender and recorded against the Property which regulates the use of the three (3), CDBG-Assisted Units in the Project.
- d. "County CDBG Loan Documents" are collectively the County CDBG Loan Agreement, the County CDBG Loan Promissory Note, the County CDBG Loan Deed of Trust, and the County CDBG Loan Regulatory Agreement, as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.
- e. "Operating Expenses" means, actual, reasonable and customary costs, fees and expenses directly attributable to the operation, maintenance, and management of the Project, including painting, cleaning, repairs and alterations, landscaping, utilities, rubbish removal, certificates, permits and licenses, sewer charges, real and personal property taxes and assessments, insurance, reasonable property management fee, County monitoring fee, security, advertising, promotion and publicity, office, janitorial, cleaning and building supplies, lease payments if any,

cash deposited into reserves for operating expenses with respect to the Project, not to exceed an amount equal to three (3) months operating expenses, and capital replacements with respect to the Project in an amount not to exceed \$3,000 annually, purchase, repair, servicing and installation of appliances, equipment, fixtures and furnishings, fees and expenses of accountants, attorneys, consultants and other professionals. The Operating Expenses shall be reported in the Annual Financial Statement.

- f. This paragraph left intentionally blank.
- g. "Project" means the construction, operation and management of the Property and the improvements to be constructed thereon according to the terms of the County CDBG Loan Agreement and as defined in 24 CFR 570.
- h. "Property" means the property located at a confidential location in Lompoc, California, as described in Section 1.
- i. This paragraph left intentionally blank.
- j. This paragraph left intentionally blank.

"k. "Term" means the period of time commencing with the date of the County CDBG Loan Promissory Note and terminating fifteen (15) years from the date of this CDBG Loan Promissory Note.

**7. PAYMENTS.** All accrued interest and principal shall be due and payable in accordance with the terms set forth in Section 5.

All payments made by Borrower shall be applied as follows: first to pay current annual interest due, if any; then to the cumulative interest owed, if any; then to reduce the principal amount of the County CDBG Loan.

**8. PLACE AND MANNER OF PAYMENT.** All amounts due and payable under this County CDBG Loan Promissory Note are payable at the office of Lender at the address set forth above, or at such other place as Lender may designate to Borrower in writing from time to time, in any coin or currency of the United States which on the respective Payment Dates thereof shall be legal tender for the payment of public and private debts.

**9. DEFAULT AND ACCELERATION.** This County CDBG Loan Promissory Note is secured by a County CDBG Loan Deed of Trust. All covenants, conditions and agreements contained in the County CDBG Loan Deed of Trust and the County CDBG Loan Agreement are hereby made a part of this County CDBG Loan Promissory Note. Borrower agrees that the principal and all current and accrued interest, shall, at the option of Lender, be immediately due and payable upon any event of default as defined in the County CDBG Loan Agreement which has not been cured pursuant to that County CDBG Loan Agreement, including without limitation the failure of Borrower to make any payment when due. Upon any event of default, Lender may exercise any other right or remedy permitted under this County CDBG Loan Promissory Note



and the Loan Documents. Notwithstanding anything to the contrary contained in the Loan Documents, Lender hereby agrees that any cure of any event of default made or tendered by Borrower's limited partners shall be deemed to be a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower.

10. **PREPAYMENT OF COUNTY CDBG LOAN.** No prepayment penalty will be charged to Borrower for payment of all or any portion of the County CDBG Loan amounts prior to the end of the term described herein. However, prepayment of the County CDBG Loan shall not affect Borrower's obligations under the County CDBG Loan Regulatory Agreement. Prepayment of the County Loan prior to Five (5) years of the date of execution of the County CDBG Loan Agreement shall be subject to provisions and conditions contained in the County CDBG Loan Agreement, Section 3.3, Reversion of Assets.

11. **NO OFFSET.** Borrower hereby waives any rights of offset it now has or may hereafter have against Lender, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this County CDBG Loan Promissory Note.

12. **WAIVERS.** All presentments, notices of dishonor, and protests are waived by all makers, sureties, guarantors, and endorsers of this County CDBG Loan Promissory Note, if any.

13. **CONSENTS AND APPROVALS.** Any consent or approval of Lender required under this County CDBG Loan Promissory Note shall not be unreasonably withheld or delayed.

14. **NOTICES.** Except as may be otherwise specifically provided herein, any approval, notice, direction, consent request or other action by Lender shall be in writing and may be communicated to Borrower at the principal office of Borrower set forth below, or at such other place or places as Borrower shall designate in writing, from time to time, for the receipt of communications from Lender. Copies of all notices which are sent to Borrower under the terms of the Loan Documents shall also be sent to Borrower's limited Partner at the address below.

**BORROWER:** Good Samaritan Shelter  
245 E. Inger Drive, Suite 103B  
Santa Maria, CA 93454  
Attn: Executive Director

15. **BINDING UPON SUCCESSORS.** All provisions of this County CDBG Loan Promissory Note shall be binding upon and inure to the benefit of the successors-in-interest, transferees, and assigns of Borrower and Lender.

16. **GOVERNING LAW.** This County CDBG Loan Promissory Note shall be interpreted under and 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.

17. **SEVERABILITY.** Every provision of this County CDBG Loan Promissory Note is intended to be severable. If any provision of this County CDBG Loan Promissory Note shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

18. **TIME.** Time is of the essence in this County CDBG Loan Promissory Note.

19. **WAIVER.** Any waiver by Lender of any obligation in these Loan Documents must be in writing. No waiver will be implied from any delay or failure by Lender to take action on any breach or default of Borrower or to pursue any remedy allowed under the Loan Documents or applicable law. Any extension of time granted to Borrower to perform any obligation under the Loan Documents shall not operate as a waiver or release from any of the Borrower's obligations under the Loan Documents. Consent by Lender to any act or omission by Borrower shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for Lender's written consent to future waivers.

20. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this County CDBG Loan Promissory Note must be in writing, and shall be made only if executed by both Borrower and Lender.

21. **NONRECOURSE.** Except as expressly provided in the second paragraph of this Section 21, the Borrower, and the Borrower's partners, officers, directors, employees and agents shall not have any direct or indirect personal liability for payment of the principal of, or interest on, this County CDBG Loan Promissory Note. The sole recourse of the Lender with respect to the principal of, or interest on, the County CDBG Loan Promissory Note shall be to the property securing the indebtedness evidenced by the County CDBG Loan Promissory Note. However, nothing contained in the foregoing limitation of liability shall (i) limit or impair the enforcement against all such security for the County CDBG Loan Promissory Note of all the rights and remedies of the Lender, or (ii) be deemed in any way to impair the right of the Lender to assert the unpaid principal amount of the County CDBG Loan Promissory Note as demand for money within the meaning and intent of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the County CDBG Loan Promissory Note, except as hereafter set forth; nothing contained herein is intended to relieve the Borrower of personal liability to the extent of actual damages for (i) Borrower's fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges (which are not contested by the Borrower in good faith) which may create liens on the Property that are payable or applicable prior to any foreclosure under the County CDBG Loan Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by the Borrower other than in accordance with the County CDBG Loan Deed of Trust; (iv) the material misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property; (v) the Borrower's indemnification obligations under the County CDBG Loan Agreement; and (vi) payment to the Lender of any rental income or other income arising with respect to the Property received by the Borrower after the Lender has given notice to the Borrower of the occurrence of an Event of Default and after the expiration of all applicable notice and cure periods, subject to the rights of any lender providing a loan secured by the Property to which the Lender has subordinated the County CDBG Loan Deed of Trust.

22. **COUNTY HOME LOAN AGREEMENT CONTROLS.** In the event that any provisions of this County CDBG Loan Promissory Note and the County CDBG Loan Agreement conflict, the terms of the County CDBG Loan Agreement shall control.

BORROWER:

**Good Samaritan Shelter**  
a California nonprofit organization

By: \_\_\_\_\_  
President, Board of Directors

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

**Exhibit D**  
**Regulatory Agreement**

NO FEE DOCUMENT

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

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

NO FEE DOCUMENT PURSUANT TO  
CALIFORNIA GOVERNMENT CODE SECTION 27383

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**COUNTY CDBG LOAN REGULATORY AGREEMENT AND  
DECLARATION OF RESTRICTIVE COVENANTS**

This County CDBG Loan Regulatory Agreement and Declaration of Restrictive Covenants (this "Agreement") is made as of this 5<sup>th</sup> day of May 2020, by and between the County of Santa Barbara, a political subdivision of the State of California (the "Lender"), and Good Samaritan Shelter, 245 E. Inger Dr., Suite 103B, Santa Maria, CA 93454, a California Nonprofit Organization, (the "Owner").

**RECITALS**

A. The Owner owns a parcel of real property located at [REDACTED], Santa Barbara County, California as more particularly described in Exhibit A (the "Property"), a three-bedroom, single-family residence used for Transitional Housing as defined below, for up to two persons per bedroom, targeted to qualifying households as defined in Section 1.14 herein (the "Project")

B. The Lender has received Community Development Block Grant Program funds ("CDBG Funds") from the United States Department of Housing and Urban Development ("HUD") pursuant to Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383 (42 U.S.C 5301 *et seq.*); and the regulations promulgated thereunder (24 CFR Part 570) (Regulations) enabling the provision of expanding the supply of decent, safe, sanitary and affordable housing for low-income persons and families.

C. Owner will operate the Property as shared Transitional Housing for certain qualifying households eligible to receive CDBG benefits as provided by the Project, subject to terms and conditions articulated in the County CDBG Loan Agreement and this CDBG Regulatory Agreement.

E. As further consideration for this funding 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, the 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 in the Property.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the aforementioned funding, the Owner and the Lender hereby agree as follows:

## **1. DEFINITIONS**

All initially capitalized terms in this Agreement shall have the definition ascribed to such terms in the County CDBG Loan Agreement. Some of the following terms are defined in the County CDBG Loan Agreement and repeated here for convenience of reference. Where such terms are not defined in the County CDBG Loan Agreement, the following terms have the meanings and content set forth in this section wherever used in this Agreement or attached exhibits.

1.1 **“ANNUAL INCOME”** means the definition of Annual Income as more particularly defined at 24 CFR 5.609 - 612.

1.2 **“AREA MEDIAN INCOME”** means the area median income for the Santa Barbara/Santa Maria/Lompoc Primary Metropolitan Statistical Area, with adjustments for household size, as determined from time to time by the United States Department of Housing and Urban Development (“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 **“COUNTY CDBG LOAN”** means the loan of CDBG funds in the amount of Four Hundred Fifty Thousand Dollars (\$450,000) made by the Lender to the Owner to finance acquisition and improvement costs of the Project pursuant to the County CDBG Loan Agreement and the County CDBG Loan Note.

1.4 **“COUNTY CDBG LOAN AGREEMENT”** is the loan agreement executed by and between the Owner and the Lender, setting forth the terms and conditions governing the County CDBG Loan.

1.5 **“COUNTY CDBG LOAN DEED OF TRUST”** means that certain deed of trust, assignment of rents, and security placed on the Property and the improvements to be constructed thereon as security for the County CDBG 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.

1.6 **“COUNTY CDBG LOAN DOCUMENTS”** are collectively the County CDBG Loan Agreement, the County CDBG Loan Note evidencing the County CDBG Loan, the County CDBG Loan Deed of Trust securing the County CDBG Loan Note, and this Agreement as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

1.7 **“COUNTY CDBG LOAN NOTE”** means the promissory note executed by the Owner in favor of the Lender in the amount of Four Hundred Fifty Thousand Dollars (\$450,000), evidencing the County CDBG Loan, which is secured by the County CDBG Loan Deed of Trust, as well as any amendments to, modifications of, or restatements of said promissory note.

1.8 **“CDBG-ASSISTED UNIT”** means any one of the three (3) bedrooms (Units) on the Property.

1.9 **“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.

1.10 **“OWNER”** means Good Samaritan Shelter, a California Nonprofit Organization.

1.11 **“PROGRAM BENEFICIARY:** means the Qualifying Household benefitting from the CDBG Project.

1.124 **“PROJECT”** means the acquisition, rehabilitation, improvements, operation and management of the Property according to the terms of the County CDBG Loan Agreement.

1.13 **“PROPERTY”** means the real property located at 836 West Oak Avenue, City of Lompoc, Santa Barbara County, California, as more particularly described in Exhibit A attached hereto and incorporated herein, including the improvements constructed thereon pursuant to the County CDBG Loan Agreement.

1.14 **“QUALIFYING HOUSEHOLD”** means one or more related or unrelated persons occupying a Unit, and who are low and moderate income earning less than 50% or less of the Area Median Income for the Santa Maria-Santa Barbara Metropolitan Statistical Area as determined by HUD and published annually with adjustments for household size. A Qualifying Household shall also satisfy any other requirements for “Qualifying Household” as set forth in the County CDBG Loan Agreement.

The foregoing notwithstanding, Owner, at the Owner’s discretion, may provide either one Unit or one bed in a Unit to be occupied by a non Qualifying Household for the purposes of housing an on-site manager or service provider.

1.15 **“QUALIFYING RENT”** means thirty-percent of a Program Beneficiary’s income, paid monthly. If the tenant pays for utilities (excluding telephone, TV, and Internet), then the Qualifying Rent shall be reduced by the maximum monthly allowance for utilities using the annual HUD Utility Schedule Model or other annual utility schedule as determined by the County. Fees charged by the Owner for the provision of food, clothing, supplies, or Supportive Services are not included in the Qualifying Rent; however, such fees must be reasonable and not effectively preclude Qualifying Households from occupying a Unit and participating in programs or services offered at the Project

1.16 This paragraph left intentionally blank.



1.17 **“SUPPORTIVE SERVICES”** means individual service plans, services, programs, resources, and assistance as defined more fully in the County CDBG Loan Agreement. Such services, by design, may be structured as preconditions and requirements for occupying a Unit at the Property.

1.18 **“TENANT”** shall have the same meaning as Program Beneficiary as defined at 1.11 herein.

1.19 **“TERM”** means the fifteen (15) year period during which the CDBG-Assisted Units must meet the affordability requirements imposed under the CDBG Program, as described in Section 2.2 of this CDBG Regulatory Agreement.

1.20 **“TRANSITIONAL HOUSING”** means a project that is designed to provide housing and appropriate supportive services to homeless persons to facilitate movement to independent living within 24 months, or a longer period approved by Lender,” pursuant to 24 CFR 91.5.

1.21 **“UNIT”** means a bedroom in the Project that may occupy up to two Program Beneficiaries.

1.22 **“VERY LOW-INCOME HOUSEHOLD”** means a household whose annual income does not exceed fifty percent (50%) of the Area Median Income for the Santa Maria Santa Barbara Metropolitan Statistical Area as determined by HUD and published annually with adjustments for household size.

1.23 **“LOW-INCOME HOUSEHOLD”** means a household whose annual income does not exceed eighty percent (80%) of the Area Median Income for the Santa Maria Santa Barbara Metropolitan Statistical Area as determined by HUD and published annually with adjustments for household size.

## **2. TERM AND COMPLIANCE**

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

2.2 **TERM OF AGREEMENT.** This Agreement shall commence on the date of execution of the County CDBG Loan Agreement and terminate fifteen (15) years after the date of project completion, as evidenced by a written notice of completion provided to the Borrower by County, subject to certain preconditions contained in the County CDBG Loan Agreement, Section 3.3, Reversion of Assets. 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 CDBG Program in effect on

the date the County CDBG Loan is executed by all parties, and as may be amended from time to time.

### **3. PROJECT OCCUPANCY**

**3.1 OCCUPANCY OF THE PROJECT.** A Program Beneficiary may occupy a Unit at the Property for a period of up to two (2) years, with extension subject to Lender approval, in consideration of each Program Beneficiary's individual needs. Notwithstanding the above, the Owner may, at Owner's discretion, provide either one Unit or one bed in a Unit to be occupied by a non-Qualifying Household for the purposes of housing an on-site manager or service provider. Owner may require that Program Beneficiaries participate in Supportive Services or enter into program agreements, individual service plans, and other related agreements and documents as a condition of continued occupancy. The Units must be occupied, or reserved for occupancy, by Qualifying Households, up to two persons per bedroom for a maximum of six (6) persons at any given point-in-time.

**3.2 CDBG-ASSISTED UNITS.** The Owner shall limit for the full Term of this Agreement the three (3) CDBG-Assisted Units for occupancy by Qualifying Households at Qualifying Rents, except that the Owner may, at Owner's discretion, provide either one Unit or one bed in a Unit to be occupied by a non-Qualifying Household for the purposes of housing an on-site manager or service provider.

The three (3) CDBG-Assisted Units shall meet the following standards:

- A. Be similarly constructed and of comparable quality to all other Units in the Project; and
- B. Provide Tenants of CDBG-Assisted Units access and enjoyment of all common areas and facilities of the Project on the same basis as Tenants of other Units.

3.3 This paragraph left intentionally blank.

#### **3.4 MAXIMUM RENTAL CHARGES.**

A. Maximum rental charges for the CDBG-Assisted Units shall not exceed the Qualifying Rent as defined above in Section 1.15.

B. The Qualifying Rent, if applicable, for each CDBG-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 CDBG-Assisted Unit on the Project, Owner shall submit to the Lender for review and approval a written request for such increase. Qualifying Households of CDBG-Assisted Units who pay rent, if any, shall be given at least thirty (30) days written notice prior to any increase in Qualifying Rents, consistent with state law. Lender shall approve such request if the increased Qualifying Rents will comply with all applicable CDBG Program requirements.

C. OCCUPANCY DEADLINES. Owner shall ensure that the three (3) CDBG Assisted Units are occupied by eligible Qualifying Households within six months from the completion of rehabilitation and improvement work of the Project, evidenced by the completion and securing Certificate(s) of Occupancy, if issued. If not issued, then Project completion will be evidenced by the satisfactory compliance with the housing standards required by HUD in effect at the time of inspection performed by Lender or its designated agent, currently the Housing Quality Standards (HQS) set forth at 24 CFR 982.401. In the event that any of the three (3) CDBG-Assisted Units are not occupied by eligible Qualifying Households five months after the date of the issuance of a certificate of occupancy, or a HQS inspection report issued by Lender indicating compliance with HQS, Owner shall submit to Lender within ten (10) days a detailed record of its marketing and outreach efforts and comply with Lender's requests for additional information pertaining thereto. In the event the three (3) CDBG-Assisted Units are not occupied within 17 months after the date of the issuance of a certificate of occupancy, or an HQS inspection report issued by Lender or its designated agent indicating compliance with HQS, then this shall constitute an Event of Default. On or before the last day of the 17th month after the date of the issuance of a certificate of occupancy, or an HQS inspection report issued by Lender or its designated agent indicating compliance with HQS, Lender shall give written notice to Owner in accordance with Section 6.2 herein. Owner shall have 30 days from receipt of such notice to cure the breach, but in any event shall cure the breach before the end of the 18th month after the date of the issuance of a certificate of occupancy or an HQS inspection report issued by Lender or its designated agent indicating compliance with HQS.

### 3.5 INCOME AND ELIGIBILITY CERTIFICATION.

The Annual Income and other qualifications of Qualifying Households of the CDBG-Assisted Units shall be certified by Owner prior to the Qualifying Household's expected occupancy of a CDBG-Assisted Unit. If the household size of a Qualifying Household occupying a CDBG-Assisted Unit changes, the Owner may request additional information and documentation to determine eligibility. Qualifying Household certification shall include documentation of income eligibility, and further confirmation as required in the County CDBG Loan Agreement in Section 5.4, Project Beneficiary Selection (for purposes of this Section, the "Additional Eligibility Requirements:).

A. Initial Annual Income Verification. Before the Qualifying Household occupies a CDBG-Assisted Unit, the Owner shall verify that the Qualifying Household meets income eligibility in accordance with 24 CFR 5.609-612 and satisfies the Additional Eligibility Requirements by taking the following steps as a part of the verification process:

- (1) Referral: Program Beneficiaries referred to the program internally by Owner shall provide documentation of Qualification of a Program Beneficiary pursuant to the County CDBG Loan Agreement, Section 5.6, Documentation of Program Beneficiary Qualification and this information shall be maintained in the Project files; and,
- (2) Third-Party, external referral: Clientele referred to the Project by third-party community organizations shall provide documentation of satisfaction of the Additional Eligibility Requirements, and this information shall be maintained in the Project files. Owner must

verify that each person referred to the Property meets the income requirements for a Program Beneficiary.

- (3) Self-Certification: In the event that Owner is unable to acquire from a prospective Program Beneficiary documentation pursuant to Sections (1) and (2) above, Owner may accept a signed self-certification statement from the prospective Program Beneficiary affirming and attesting to meeting eligibility requirements, and this information shall be maintained in the Project Files. Notwithstanding, HUD or the County may request source documentation for auditing purposes.
- (4) Acquiring, confirming and maintaining Program Beneficiary eligibility as per Sections 1-3 above, affirms Program Beneficiary eligibility.

#### **4. PROJECT OCCUPANCY.**

4.1 **QUALIFYING HOUSEHOLD AGREEMENTS.** The Owner shall execute a written agreement with each Program Beneficiary of a CDBG-Assisted Unit for a term of up to two (2) years, with provision for extension with Lender approval.

A. Owner written agreement with Program Beneficiaries may include provisions for voluntary or required participation in supportive services and other programming, services, resources, individual service plans and house rules governing initial, ongoing and continued occupancy at the Property.

4.2 **PROGRAM BENEFICIARY SELECTION.** Before commencing with leasing Units at the Property, Owner must provide Lender for its review and approval the Owner's written management plan.

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, sexual preference, age, marital status, family status, source of income, physical or mental disability, 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, subject to provision of federal Fair Housing Laws and regulations.

4.6 **MARKETING PLAN.** Prior to occupancy, Owner shall submit to the Lender for approval its plan for marketing the Units, including information on affirmative marketing efforts and compliance with fair housing laws and the Lender's affirmative fair marketing guidelines. Upon receipt of the marketing plan, the Lender shall promptly review the marketing plan and shall approve or disapprove it within thirty (30) days after submission. If the marketing plan is not approved, Lender shall specify its reasons for disapproval. The Owner shall submit a revised marketing plan within thirty (30) days of Lender's notice of disapproval. The Lender's disapproval of the revised marketing plan shall constitute an Event of Default under Sections 8.1.D, 8.1.E, and/or 8.1.I of the County CDBG Loan Agreement.

## **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 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 over management of the Project. The Owner shall submit to the Lender for its approval its proposed Property management plan. 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 to the Lender for its review, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Agreement, the requirements of the CDBG Program, as may be amended from time to time, and the requirements of all lenders providing financing for the Project.

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. 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 upon twenty-four (24) hours advance notice of such visit by the Lender to the Owner or the Owner's Property manager and to Tenants of any Units.

5.4 **COMPLIANCE MONITORING.** The Owner shall operate the Property in full compliance with this Agreement and the CDBG Program regulations at 24 CFR Part 570 in effect on the date the County CDBG Loan is executed by all parties, and as may be amended from time to time, and shall remain in compliance therewith throughout the Term of this Agreement. Owner shall ensure that the Property remains in good repair and in compliance with the housing standards required by HUD in effect, currently the Housing Quality Standards (HQS) set forth at 24 CFR 982.401. The Owner shall permit the Lender to conduct annual compliance monitoring, including performing on-site records review and inspections of the Property.

5.5 **ANNUAL REPORT.** The Owner shall submit to the Lender a report in a form approved by Lender for the preceding period of January 1st through December 31st, containing the information requested by Lender so as to allow the Lender to determine the Owner's

compliance with this Agreement. The 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 CDBG 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 CDBG-Assisted Unit, the rent, Annual Income, and household size of the household in occupancy. The report shall also state the date the tenancy commenced for each CDBG-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 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 all buildings on the Property in good condition, in good repair and in a decent, safe, sanitary, habitable and tenantable condition. All Units in the Project must meet the standards set out in 24 CFR 982.401 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 over maintenance of the Property.

## **6. GENERAL PROVISIONS**

**6.1 SUBORDINATION.** This Agreement shall be senior and 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. 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 necessary to cure the breach if the Owner diligently undertakes to cure such breach. 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:

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

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

**6.3 EVENT OF DEFAULT.** In the event that the Project fails to meet the CDBG affordability requirements included in this Agreement for the Term of the Agreement, this shall constitute an Event of Default under Sections 8.1.D, 8.1.E, and/or 8.1.I of the County CDBG Loan Agreement.

**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 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 Loan Document 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. Any approval must be in writing and 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  
105 E Anapamu Street, Room 105  
Santa Barbara, CA 93101  
Attn: Deputy Director

With copy to: Office of County Counsel  
County of Santa Barbara  
123 E Anapamu Street, 2nd Floor  
Santa Barbara, CA 93101

**Owner:** Good Samaritan Shelter  
245 E. Inger Dr., Suite 103B,  
Santa Maria, CA 93454  
Attn: Executive Director  
Attention: General Counsel

**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 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 of this Agreement, regardless of any assignment, payment, prepayment, expiration, extinguishment of the County CDBG Loan or County CDBG Loan Note, any reconveyance of the County CDBG Loan Deed of Trust, or any conveyance or transfer of the Property or portion thereof.

**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.** Any waiver by the Lender of any obligation in this Agreement must be in writing. No waiver will 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 CDBG Loan Documents, 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.** Any amendment to or modification of this Agreement must be in writing, and shall be made only if executed by both the Owner and the Lender.

**6.15 SEVERABILITY.** Every provision of this Agreement is intended to be severable. If any provision of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, 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: \_\_\_\_\_  
Deputy Clerk of the Board

**LENDER:**

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

By: \_\_\_\_\_  
Gregg Hart, Chair  
Board of Supervisors

**APPROVED AS TO ACCOUNTING  
FORM:**

BETSY SHAEFEER, CPA  
AUDITOR-CONTROLLER

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

By: \_\_\_\_\_  
Director, Community Services Dept.

**APPROVED AS TO FORM  
MICHAEL GHIZZONI  
COUNTY COUNSEL**

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

**BORROWER**

Good Samaritan Shelter  
a California Nonprofit Organization

**APPROVED AS TO FORM:  
RISK MANAGEMENT**

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

By: \_\_\_\_\_  
President, Board of Directors

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

State of California  
County of Santa Barbara

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_ and \_\_\_\_\_  
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 \_\_\_\_\_ (Seal)

State of California  
County of Santa Barbara

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_ and \_\_\_\_\_  
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 \_\_\_\_\_ (Seal)

Exhibit A  
Legal Description of the Property

## EXHIBIT E

### Indemnification and Insurance Requirements (For Construction Contracts)

#### 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 caused by the active negligence, sole negligence, or willful misconduct of the COUNTY.

#### 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 and Limit 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 \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), with limit no less than \$2,000,000 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.
4. **Contractors' Pollution Legal Liability and/or Asbestos Legal Liability:** (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for 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 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 CONTRACTOR'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 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. **Waiver of Subrogation Rights** – CONTRACTOR hereby agrees to waive rights of subrogation which any insurer of CONTRACTOR may acquire from CONTRACTOR by virtue of the payment of any loss. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of the COUNTY for all work performed by the CONTRACTOR, its employees, agents and subcontractors. 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. At the option of the COUNTY, either: the CONTRACTOR shall cause the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the COUNTY, its officers, officials, employees, agents and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the COUNTY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
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** – 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.

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** – 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. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.
10. **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.
11. **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 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.

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.

## Exhibit F:

### Good Sam, Safe Haven Management Plan

#### Selection and Qualification of Eligible Program Beneficiaries:

Good Samaritan Shelter will identify eligible Program Beneficiaries internally as well as through referral from external community partners. Such agencies may include but are not limited to Domestic Violence Solutions, North County Rape Crisis Center, local law enforcement authorities and the Santa Barbara County District Attorney's office, among others.

Good Samaritan Shelter will conduct intake and insure that Program Beneficiaries meet eligibility criteria as Community Development Block Grant (CDBG) Program Beneficiaries as being homeless, having been subject to domestic violence, human trafficking activities, and/or other means that meet program qualifications.

Good Samaritan Shelter will maintain documentation confirming Program Beneficiary as homeless in order to enable participation in the Safe House Transitional Housing and maintain related client program files, which may include, income documentation, if any, personal identifying information, and related records necessary to participate in Transitional Housing program and benefit from supportive services provided.

Good Sam will maintain such client records in a safe, secure manner and take all measures to insure strict confidentiality of such records. To the greatest extent possible, Good Sam will take all measures insuring that its project partners adhere to strict policies of client confidentiality and may execute agreements with partners to this effect.

The program will fall under our shelter operations. Good Sam Director of Homeless services will be in charge of the program. The primary beneficiaries will be women who have been victims of human trafficking, we will also serve those who are fleeing from domestic violence until they can be referred to DVS. The Safe Haven will provide transitional housing for six, female, survivors of human trafficking. The program will provide a dedicated house manager who will ensure the safety of the residents; a camera security system will be put in place as an added security measure. The women in the house will be provided with food, case management services and linkages to supportive services such as mental health and drug and alcohol treatment services. Residents will be able to remain in the program for up to two years. Each room will be occupied by two residents. Residents will come primarily from our Safe House, a temporary shelter for trafficking victims, or will be referred from local partner agencies, law enforcement, the court system, and various other places.

The house manager will oversee the overall well being of the residents, and provide support for residents with any housing-related issues. The Program Director will oversee the overall program and will be the liaison between partner agencies.



## Records and Reports

Good Sam will produce requested reports, information and records requested of Santa Barbara County in accordance with the project Loan Agreement and Regulatory Agreement. Such records, reports and information that Good Sam provides to County will be de-identified to any specific individual client to protect strict confidentiality and security of clients.

In addition to reports requested and articulated in the CDBG Loan Agreement, at a minimum the county may request certain information in order to report on the CDBG program funding through the federal Housing and Urban Development Department's (HUD), Integrated Disbursement and Information System (IDIS), and will maintain such records, reports and information in confidential and secure locations, including electronic files.

Good Sam will work internally and through community partnerships to secure identified needed supportive services for program clients; such services may be required as condition of client program participation.

Good Sam will insure that clients participating in the Transitional Housing program will be allowed to remain for a period of up to two (2) years; the number of clients at a point-in time is for up to six (6) Limited Clientele, or up to two (2) persons per bedroom. For clients who may request or that Good Sam may deem necessary to benefit from the program for a longer period, such request should be addressed with Santa Barbara County and be subject to prior approval from HUD in accordance with the Loan Agreement.

## Property Management and Asset Management:

Good Sam assumes all oversight responsibility of property management, including oversight and management of all client activities, records and information, day-to-day operations, rent collection, if any, procurement and payment of services, maintenance and improvements to the property, including utility services. To the greatest extent feasible, Good Sam will implement policies and procedures insuring that outside vendors treat the property with strict confidentiality.

Good Sam assumes responsibility over hiring either directly or through contract, of house managers, case workers, and other program support personnel and payment of wages, any benefits, and employee related records and documents, that may be required to conduct day-to-day property operations.

Good Sam assumes responsibility of applying for, attaining and overseeing any external program funding sources that will assist in operating the property. This may include local, state and federal private and public funding sources that will support the project operations. Santa Barbara County assumes no responsibility, other than possibly providing letters of support, over such external funding sources.

Good Sam will conduct property operations consistent with those requirements articulated in the CDBG Loan Agreement and CDBG Regulatory Agreement for Safe Haven.

## Asset Management:

For the fifteen-year (15) term of the project regulatory agreement, Good Sam will insure that the integrity, condition and quality of the asset is maintained in good condition and that building systems

are adequately maintained and improved as needed and may be necessary. This includes major building systems, electrical, heating and air, mechanical, plumbing, roof structures and others, as well as insuring adequate Americans with Disabilities Act (ADA) access requirements and improvements, in accordance with provisions and requirements articulated in the CDBG Regulatory Agreement. All such maintenance and improvement work shall be conducted with local permitting in place and meet with prevailing State of California Building Codes and Standards. All records and reports and expenditures in this respect shall be maintained as part of the Project files and provided to Santa Barbara County upon written request.

Exhibit G  
Operating Budget

<b>Project Name</b>		<b>SAFE HAVEN</b>
<b>Income Assumptions</b>		<b>Year 1</b>
Gross Residential Rents-Restricted Income Units		10,728
Gross Residential Rents-Restricted Income Units Subsidy		
Gross Residential Rents-Non-restricted Income Units		
Less Vacancy		(805)
Scheduled Commercial Rents		
Less Vacancy		-
Laundry, Parking		
Other		Government Grants 38,917
Other		
<b>Total Effective Gross Income</b>		<b>48,841</b>
<b>Expense Assumptions</b>		
Legal & Audit		750
Advertising		
Gas & Electric		3,600
Water, Sewer, Waste Removal		3,600
Supplies		500
Payroll		
Insurance		1,500
Pest Control		1,000
Maintenance / Repair		3,000
Operating Reserves		500
Replacement Reserves		1,500
Real Estate Taxes (exempt if in CA)		-
Local & State Assessments		
Other		Supportive Services 26,520
Other		Administrative 6,371
Other		
Other		
<b>Total Expenses</b>		<b>48,841</b>
<b>Net Operating Income</b>		<b>-</b>

**EXHIBIT H**  
County of Santa Barbara  
CDBG Capital Projects  
Project Status and Completion Report

**SECTION I**

Today's Date \_\_\_\_\_  
Project Name: \_\_\_\_\_  
Owner/Developer Name: \_\_\_\_\_  
Project Address: \_\_\_\_\_

- Check one*
- Progress Report: Complete Section II. Reports are due monthly
  - Final Construction Report: Complete Sections III
  - Annual Report: Complete Section IV

**SECTION II: CONSTRUCTION/REHAB PERIOD**

Reporting Period \_\_\_\_\_ through \_\_\_\_\_ Today's Date \_\_\_\_\_

1 Provide the dates that the following activities were completed:

- Contract executed with general contractor
- Permits pulled
- Start of work
- Percent complete
- Estimated date of completion
- Estimated date of final CDBG draw

2 Provide 1 - 3 photographs of the current status of the project

3 Provide a narrative report below on the Project's progress for the period

Report prepared by: \_\_\_\_\_

*I have reviewed the information on this form and attest to its accuracy to the best of my knowledge. I will report any change or anticipated change in the ownership or lease term of the facility to the County.*

Signed \_\_\_\_\_  
Executive Director (non-profit) or Division Manager (government)

**SECTION III: FINAL CONSTRUCTION REPORT**

Date construction completed: \_\_\_\_\_

1

Provide a narrative report below on the outcome of the Project and any issues encountered

2 Provide the dates that the following activities were completed:

	Final Inspection by local code/building department
	Notice of Completion filed
	Certificate of Occupancy issued (housing)

4. a.

For projects qualified under Limited Clientele, please list number of persons served:

*Add additional rows as needed*

*Do not enter data in shaded cells*

Persons  
Households\*

0-30% AMI	31%-50% AMI	51%-80% AM	> 80% AMI

*\*Use "Households" for housing projects. Household means all the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements. 24 CFR 570.3*

TOTAL	0	0	0	0	0
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*Total must equal total below*

Of the total served, provide race and ethnicity data. Note that ethnicity is in addition to race

	0-30% AMI	31%-50% AMI	51%-80% AM	> 80% AMI	# Hispanic
White					
Black/African American					
Asian					
American Indian/Alaskan Native					
Native Hawaiian/Other Pacific Islander					
American Indian/Alaskan Native & white					
Asian & White					
Black/African American & White					

TOTAL	0	0	0	0	0
-------	---	---	---	---	---

4.b. For projects qualified under Area Benefit, the census data collected at the start of the project will be used to document beneficiary data.

Report prepared by: \_\_\_\_\_

*I have reviewed the information on this form and attest to its accuracy to the best of my knowledge. I will report any change or anticipated change in the ownership or lease term of the facility to the County.*

Signed \_\_\_\_\_  
Executive Director (non-profit) or Division Manager (government)

**SECTION IV: ANNUAL REPORT** (not applicable to County-owned infrastructure projects)

Complete the first annual report along with the Final Construction Report, and then annually thereafter for five years.

Reporting Period \_\_\_\_\_ through \_\_\_\_\_ Today's Date \_\_\_\_\_

- 1 Is the facility owned or leased?
- a. If owned, has the facility transferred ownership in the past year?   
(Provide new owner information to HCD)
- b. If leased, when does the lease term expire?

- 5 Please describe the use of the building. Is it being used for the same or different purpose than when the CDBG-funded project was completed? Describe how the facility is serving low income persons.

*I have reviewed the information on this form and attest to its accuracy to the best of my knowledge. I will report any change or anticipated change in the ownership or lease term of the facility to the County.*

Signed \_\_\_\_\_  
Executive Director (non-profit) or Division Manager (government)

## EXHIBIT I

### County of Santa Barbara Housing and Community Development Division

#### FEDERAL TERMS AND CONDITIONS

This Project is being assisted by the U.S. Department of Housing and Urban Development. The following Federal provisions must be included into the contract pursuant to the provisions applicable to Federal assistance, such as Community Development Block Grant (CDBG), HOME Investments Partnership Program and Emergency Shelter Grants (ESG). During the performance of the contract, the Contractor must agree to comply with all applicable Federal laws and regulations including but not limited to each of the following:

#### **A. Equal Opportunity**

During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will comply with Executive Order 11246 of September 24, 1965 entitled Equal Employment Opportunity as amended by Executive Order 11375 of October 1967 as supplemented in Department of Labor regulations (41 CFR chapter 60).
2. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County of Santa Barbara setting forth the provisions of this nondiscrimination clause.
3. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, or national origin.
4. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
8. The Contractor shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.
9. Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.
10. Whenever the Contractor or subcontractor has a collective bargaining agreement or other Contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: *Provided,* That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.
11. The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with



which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

12. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

**B. Disadvantaged/Minority/Women Business Enterprise Federal Regulatory Requirements under 2 CFR 200.321**

1. The Contractor will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
2. Affirmative steps shall include:
  - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
  - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
  - v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

**C. Section 3 Clause in accordance with Federal Regulatory Requirements under 24 CFR 135.38**

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
  3. The Contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
  4. The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
  5. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
  6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
  7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
- D. Copeland "Anti-Kickback" Act (18 U.S.C. 874)**

Contractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

**E. Compliance with Labor Standard Provisions**

Contractor shall comply with all provisions contained in the form HUD-4010, Federal Labor Standards Provisions, attached hereto as **Exhibit A** and incorporated by this reference.

**F. Requirements and Regulations pertaining to Data and Design**

All data and design and engineering work created under this Agreement shall be owned by the District and shall not be subject to copyright protection. The rights to any invention which is developed in the course of this Agreement shall be the property of the District.

**G. Requirements and Regulations Pertaining to Reporting**

1. Contractor shall comply with the reporting requirements contained in **Exhibit B**, attached hereto and incorporated by this reference.
2. The County of Santa Barbara, the District, HUD and the Comptroller General of the United States or any of their duly authorized representatives shall be granted access to any books, documents, papers and records of Contractor which are directly pertinent to the contract.

**H. Compliance with Clean Air Act and Clean Water Act.**

1. Contractor shall comply with all applicable standards, orders and requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)).
2. Contractor shall comply with all applicable standards, orders and requirements issued under Section 508 of the Clean Air Act (33 U.S.C. 1368).
3. Contractor shall comply with Executive Order 11738 and Environmental Protection Agency regulations (40 CFR part 15).

## Exhibit J

<b>Federal Award Identification Information (per 2 CFR 200.331)</b>		
<b>i. Subrecipient Name (which must match the registered name in DUNS)</b>	Good Sam Emergency Safe Haven	
<b>ii. Subrecipient DUNS number</b>	02382457	
<b>iii. Anticipated Federal Award Identification Number</b>	B-19-UC-06-0509	
<b>iv. Estimated Federal Award Date</b>	5/5/2019	
<b>v. Period of Performance</b>	<b>Start Date</b>	When Executed
	<b>End Date</b>	June 30, 2021
<b>vi. Amount of Federal Funds Obligated by this action</b>	\$450,000	
<b>vii. Total Amount of Federal Funds Obligated to subrecipient</b>	\$450,000	
<b>viii. Total Amount of the Federal Award</b>	\$1,206,226	
<b>ix. Federal award project description</b>	To develop viable urban communities by providing decent housing, a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income.	
<b>x. Name of Federal awarding agency,</b>	Department of Housing and Urban Development	
<b>Pass through entity,</b>	County of Santa Barbara	
<b>And contact information for awarding official</b>	(805) 568-3513	
<b>xi. CFDA</b>	<b>Number</b>	14.218
	<b>Name</b>	Community Development Block Grants/Entitlement Grants
<b>xii. Is the award research and development?</b>	No	
<b>xiii. Indirect cost rate for the Federal award (including if the de minimus rate is charged per §200.414 Indirect (F&amp;A) costs.</b>	No	

## EXHIBIT K

### DEFINITIONS OF HOMELESS AND HOMELESS PERSON

#### 24 CFR 91.5

*Homeless.* (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

(i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

(ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or

(iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

(2) An individual or family who will imminently lose their primary nighttime residence, provided that:

(i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;

(ii) No subsequent residence has been identified; and

(iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing;

(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

(i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

(ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

(iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and

(iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction,

histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

(4) Any individual or family who:

(i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

(ii) Has no other residence; and

(iii) Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

*Homeless Management Information System (HMIS).* The information system designated by the Continuum of Care to comply with HUD's data collection, management, and reporting standards and used to collect client-level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness.

*Homeless person.* A youth (17 years or younger) not accompanied by an adult (18 years or older) or an adult without children, who is homeless (not imprisoned or otherwise detained pursuant to an Act of Congress or a State law), including the following:

(1) An individual who lacks a fixed, regular, and adequate nighttime residence; and

(2) An individual who has a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.