

**COUNTY HOME LOAN AGREEMENT  
(\$777,621)**

Between

**County of Santa Barbara**

and

**The Housing Authority  
of the County of Santa Barbara**

**(Buena Tierra Affordable Housing Development,  
6021 Hollister Avenue, City of Goleta)**



**COUNTY HOME LOAN AGREEMENT  
(BUENA TIERRA AFFORDABLE HOUSING DEVELOPMENT PROJECT - GOLETA)**

This agreement (“County HOME Loan Agreement”) is made as of this 2nd day of April 2024, by and between the County of Santa Barbara, a political subdivision of the State of California (“Lender” or “County”), and the Housing Authority of the County of Santa Barbara, a public body, corporate and politic, whose address is 815 West Ocean Avenue, Lompoc, California, 93436 (“Borrower” and, together with Lender, collectively, the “Parties” and each a “Party”).

**RECITALS**

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

B. There is a need to expand affordable rental housing to homeless persons, and to promote projects that combine supportive services with housing, as documented in the County’s 2020-2024 Consolidated Plan.

C. Borrower and Lender are parties to those certain HOME-ARP Loan Documents approved by the Santa Barbara County Board of Supervisors on June 27, 2023.

D. Borrower is the owner of that certain real property located at 6021 Hollister Avenue, in Goleta, California, as more particularly described in the legal description attached hereto as Exhibit A and incorporated herein by reference (“Property”) and improvements thereon, including a sixty-five-unit building previously used as a motel (“Building”).

E. Borrower is in the process of converting and re-purposing the Building into a permanent supportive housing residential apartment development (the “Project”). Of the sixty-five (65) existing units in the Building, five (5) units will be converted for use as community space for residents, and one (1) of the remaining sixty (60) units will be designated as a manager’s unit. Eleven (11) of the remaining fifty-nine (59) improved units shall be restricted to occupancy by certain Low-Income Households pursuant to the HOME-ARP Loan Documents. Four (4) of the remaining forty-eight (48) improved units shall be restricted to occupancy by Qualifying Households, as defined below (“Assisted Units”); the amount of monthly rent charged to tenants of Assisted Units shall not exceed the Qualifying Rent, as defined in Section 1.29, below.

F. Under the American Rescue Plan Act of 2021 (“ARP”), signed into law by President Biden on March 11, 2021 (Public Law 117-2), Lender has been awarded Home Investment Partnerships Program funds (“HOME-ARP Funds”) from the United States Department of Housing and Urban Development (“HUD”), pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990, for the purpose of expanding the supply of decent, safe, sanitary and affordable housing for low-income persons and families. Pursuant to the HOME-ARP Loan Documents, Lender previously loaned to Lender \$3,530,383 in HOME-ARP Funds and American Recovery Plan Act, State and Local Fiscal Recovery Funds State and Local Fiscal Recovery Funds. Such HOME-ARP funds are subject to HOME-ARP regulations set forth in the October 10, 2021 Federal Register Notice (86 FR 56764), *Waivers and Alternative Requirements for Implementation of the HOME American Rescue Plan (HOME-ARP) Program* (the “HOME-ARP Notice”).

G. Implementation of the Project is currently underway and is subject to the County's HOME-ARP Allocation Plan, and Santa Barbara County's CDBG Urban County 2020-21 Annual Action Plan, as amended, each of which were approved by HUD in September of 2022, the U.S Department of Treasury's January 6, 2022 Final Rule regarding ARPA and related eligible activities, and the HOME-ARP Loan Documents. Borrower has requested additional funding to assist in completing the Project.

H. Lender has been awarded Home Investment Partnerships Program funds ("HOME Funds") from HUD pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990 for the purpose of expanding the supply of decent, safe, sanitary and affordable housing for low-income persons and families.

I. Borrower therefor wishes to borrow from Lender and Lender wishes to extend to Borrower a loan in the amount of seven hundred seventy-seven thousand, six hundred and twenty-one dollars, (\$777,621) which will be used to perform construction-related improvement work on the Project ("County HOME Loan"). The Parties are entering into this County HOME Loan Agreement to memorialize the terms and conditions of the County HOME Loan.

J. The Parties reasonably expect that construction and development of the Project for conversion to use as permanent supportive housing for formerly homeless persons will be completed and fully leased to Qualifying Households within three months after execution of this HOME Loan Agreement.

K. Concurrently herewith, the Parties are entering into that certain County HOME Loan Regulatory Agreement and Declaration of Restrictive Covenants ("County HOME Loan Regulatory Agreement") restricting rents and establishing tenant income eligibility requirements with respect to the Assisted Units.

L. The Parties desire to memorialize the terms of the County HOME Loan in this County HOME- ARP Loan Agreement, a promissory note in the original principal amount of seven hundred seventy-seven thousand, six hundred and twenty-one dollars (\$777,621) executed by Borrower in favor of Lender, and secured by a deed of trust.

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

#### ARTICLE 1 DEFINITIONS

The following terms have the meanings and content set forth in this Article 1 wherever used in this County HOME Loan Agreement, attached Exhibits, and documents incorporated into this County HOME Loan Agreement by reference.

1.1 "AFFIRMATIVE MARKETING" means actions taken to provide information to and otherwise encourage eligible potential tenants in the housing market area who are not likely to apply without special outreach to apply for the available Project housing, without regard to race, color, national origin, sex, religion, familial status or disability, in conformance with 24 CFR 92.351.

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 Barbara/Santa Maria/ Lompoc Primary Metropolitan Statistical Area as determined annually by HUD with adjustments for household size.

1.4 **"ASSISTED UNIT" or "HOME -ASSISTED UNIT"** means those four (4), Project apartment Units subject to HOME funding requirements attendant to the HOME Loan Documents, and subject to additional restrictions and requirements set forth the HOME Regulatory Agreement attached hereto as Exhibit E and incorporated herein by reference, which are restricted to occupancy by Qualifying Households.

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

1.6 **"BUDGET"** means that budget for the Project attached hereto as Exhibit B, which is hereby incorporated into this County HOME Loan Agreement by this reference, and which identifies the sources and uses of Project costs and specifies the costs to be paid with County HOME Loan proceeds in conformance with 24 CFR 92.206.

1.7 **"COORDINATED ENTRY SYSTEM"** means the information system utilized by Lender under the Continuum of Care for coordinating, prioritizing and insuring to the greatest extent possible non-duplication of homeless programs and services, which accordingly identifies the most vulnerable homeless persons and households and serves as basis to inform priority provision of Assisted Units to Qualifying Households.

1.8 [Intentionally Omitted].

1.9 **"COUNTY"** means Lender, the County of Santa Barbara, a political subdivision of the State of California.

1.10 **"COUNTY HOME LOAN"** means the loan of HOME Funds from County to Borrower in the original principal amount of seven hundred seventy-seven thousand six hundred and twenty-one dollars (\$777,621) as provided in this County HOME Loan Agreement to finance Project construction.

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

1.12 **"COUNTY HOME LOAN DEED OF TRUST"** means that deed of trust, assignment of rents, and security agreement recorded against the Property and the improvements to be constructed thereon as security for the County HOME Loan by Borrower as trustor with Lender as beneficiary, as well as any amendments to, modifications of, and restatements of said County HOME Loan Deed of Trust, which is attached hereto as Exhibit C and hereby incorporated into this County HOME Loan Agreement by this reference.

1.13 **"COUNTY HOME LOAN DOCUMENTS"** means, collectively, the County HOME Loan Agreement, the County HOME Loan Note, the County HOME Loan Deed of Trust, and the County

HOME Loan Regulatory Agreement, as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to such documents.

1.14 **“COUNTY HOME LOAN NOTE”** means the promissory note executed by the Borrower concurrently herewith in favor of Lender in the amount of seven hundred seventy-seven thousand six hundred and twenty-one dollars, (\$777,621) to evidence the County HOME Loan as well as any amendments to, modifications of, or restatements of said promissory note, substantially in the form attached hereto as Exhibit D and hereby incorporated into this County HOME Loan Agreement by this reference.

1.15 **“COUNTY HOME LOAN REGULATORY AGREEMENT”** means the agreement executed by Borrower and Lender, attached hereto as Exhibit E, and recorded against the Property which regulates the use of the Assisted Units.

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, state, or local 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 industry standards and in compliance with all applicable laws at the time of such use.

1.17 **“HOME AFFORDABILITY PERIOD”** means the period of twenty (20) years commencing upon Project Completion and during which the Assisted Units must meet the affordability requirements that are described in Article V herein and in the County HOME Loan Regulatory Agreement.

1.18 **“HOME FUNDS”** means funds provided to Borrower by Lender pursuant to the terms of this County HOME Loan Agreement and as defined in 24 CFR 92.2.

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

1.20 **“LENDER”** means the County of Santa Barbara, a political subdivision of the State of California.

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 each Annual Financial Statement.

1.22 **“MONITORING FEE”** The County shall charge Lender an annual monitoring fee in the initial amount of \$2,500, and increased annually by 3%, to conduct on-site Project monitoring, in accordance with 24 CFR 92.504 (d)(i) and (ii).

1.23 **“PROJECT”** means the construction, operation and management of the Property and the improvements thereon according to the terms of this County HOME Loan Agreement and as defined in 24 CFR 92.2.

1.24 **“PROJECT COMPLETION”** means completion of the Project in conformance with 24 CFR 92.2 and 24 CFR 92.252(e), and as evidenced by a Certificate of Occupancy for the Project issued by the City of Goleta Building Official and delivered to Lender by Borrower.

1.25 **“PROPERTY”** means the property located at 6021 Hollister Avenue, Goleta, California, as more particularly described in Exhibit A, which is attached hereto and hereby incorporated into this County HOME Loan Agreement by this reference.

1.26 **“QUALIFYING HOUSEHOLD”** means a household that qualifies as a Very Low-Income Household as defined in Section 1.28, below, and as set forth in the County HOME Loan Regulatory Agreement.

1.27 **“QUALIFYING RENT”** means the total monthly charges for rent for an Assisted Unit, which shall not exceed the Fair Market Rent for a zero-bedroom unit as established by HUD under 24 CFR 92.252(c)(2). Occupants' share of the cost of utilities must be included in the maximum rent.

In accordance with 24 CFR 92.252(d), if the tenant pays for utilities and services (excluding telephone), then the Qualifying Rent shall be reduced by the maximum monthly allowance for utilities and services using the annual HUD Utility Schedule Model or other annual utility schedule as determined by the County.

1.28 **“STANDARD INDEMNIFICATION AND INSURANCE REQUIREMENTS”** means the insurance coverages which must be in full force and effect at all times during the Term of this County HOME Loan Agreement, as specified in Exhibit F, which is attached hereto and hereby incorporated into this County HOME Loan Agreement by this reference.

1.29 **“TERM”** means the period of time that this HOME Loan Agreement will be in effect as described in Section 9.6, below.

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

## ARTICLE 2 TERMS OF THE COUNTY HOME LOAN

2.1 **COUNTY HOME LOAN.** Subject to the terms and conditions of this County HOME Loan Agreement and the other County HOME Loan Documents, Lender agrees to make, and Borrower agrees to accept, the County HOME Loan.

2.2 **AMOUNT.** The principal amount of the County HOME Loan shall be an amount not to exceed seven hundred seventy-seven thousand six hundred and twenty-one dollars, (\$777,621) and shall be evidenced by the County HOME Loan Note. In the event Lender is unable to secure HOME Funds for

this County HOME Loan Agreement for any reason at any time, Lender shall not be obligated to make payments to Borrower unless and until HOME Funds become available to Lender, and Borrower shall hold Lender harmless.

**2.3 INTEREST.** Subject to the provisions of Section 2.4, below, the County HOME Loan Note shall bear simple interest at a rate of zero percent (0%) per annum from the date of the first disbursement under the County HOME-ARP Loan Note. Interest is not compounding.

**2.4 DEFAULT INTEREST.** In the event of a default by Borrower of any of its obligations under this County HOME Loan Agreement or any of the other County HOME Loan Documents and expiration of applicable cure periods, Borrower shall pay to Lender interest on the outstanding principal of the County HOME Loan at an annual rate equal to the lesser of (i) ten percent (10%), or (ii) the highest interest rate allowed by law ("Default Interest"), from the date of such default until the date that such default, if subject to and capable of cure, is cured in accordance with the terms of the County HOME Loan Documents, or the County HOME Loan is repaid in full ("Default Interest Period"). The Default Interest shall be paid to Lender monthly, due and payable on the first day of each month during the Default Interest Period.

**2.5 TERM OF COUNTY HOME LOAN.** The principal and interest of the County HOME Loan shall be due and payable in accordance with the provisions of the County HOME Loan Note. 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 then-current and accrued interest shall be due and payable in accordance with Section 8.3, below. The foregoing notwithstanding, if Borrower remains compliant with the terms of the HOME Regulatory Agreement, as determined by the County through periodic inspections of the Project and tenant files documenting occupancy by Qualifying Households, and as indicated with monitoring close-out letters from Lender to Borrower indicating compliance with the HOME Regulatory Agreement, for the entirety of the HOME Affordability Period, then, upon the expiration of the HOME Affordability Period, Lender may forgive the principal amount of the County HOME Loan, excluding interest accrued pursuant to Section 2.4, above.

**2.6 USE OF HOME FUNDS.** HOME Funds shall be used only for Project construction-related costs specified in the Budget attached hereto as Exhibit B and shall only be disbursed in accordance with the provisions of Article 3. The Budget shall not be modified unless approved in accordance with Section 9.2 of this County HOME Loan Agreement, provided that all costs set forth therein are eligible under 24 CFR 92.206, 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 applicable related environmental authorities at 24 CFR 50.4, and HUD's implementing regulations at 24 CFR Parts 50 and 58, remain applicable. HOME Funds shall only be utilized for costs related to residential uses, and shall not be utilized for costs related to commercial uses or any other nonresidential uses associated with the Project.

**2.7 SECURITY.** Borrower shall secure its obligation to repay the County HOME Loan by executing a County HOME Loan Deed of Trust, in substantially the form attached hereto as Exhibit C and recording it as a lien against the Property, subordinate only to the County HOME Loan Regulatory Agreement. Upon closing, Borrower shall cause the recordation of the County HOME Loan Deed of Trust, and the County HOME 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 Borrower.



**2.8 REPAYMENT OF THE COUNTY HOME LOAN.** All accrued interest and principal of the County HOME Loan shall be due and payable in accordance with the terms set forth in Section 2.5, above, and as provided in the County HOME Loan Note.

**2.9 PREPAYMENT OF COUNTY HOME LOAN.** Prepayment of the County HOME Loan shall not affect Borrower's obligations under the County HOME Loan Regulatory Agreement.

**2.10 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. Each such proposed operating budget shall include scheduled payments to be made into operating and replacement reserve accounts. Actual Operating Expenses incurred by Borrower shall not exceed the amount of Operating Expenses set forth in the applicable Lender-approved operating budget without Lender's prior written consent.

**2.11 OPERATING AND CAPITAL REPLACEMENT RESERVE FUNDS.** Prior to the first disbursement of HOME Funds to Borrower, Borrower shall fund a capital replacement reserve account 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 Proforma, attached hereto as Exhibit B. All HOME funds expended for project operating cost assistance reserves shall be held by Borrower in a separate interest-bearing account. Borrower shall request written approval from Lender prior to disbursing funds from the Project operating cost assistance reserve, and all such requests by Borrower shall be in writing and shall include supporting documentation demonstrating that the requested distribution is reasonable and necessary to cover the operating deficit associated with Assisted Units occupied by Qualifying Households. No less than annually, Borrower shall submit to Lender for Lender's review operating cost assistance reserve account documentation sufficient for Lender to determine that the account is appropriately sized based on the projected operating deficits of Assisted Units restricted for occupancy by qualifying households.

### **ARTICLE 3 COUNTY HOME LOAN DISBURSEMENT**

**3.1 CONDITIONS PRECEDENT TO DISBURSEMENT.** Lender shall not be obligated to make any disbursements of HOME Funds, or take any other action under the County HOME Loan Documents, unless the following conditions precedent are satisfied prior to the disbursement of HOME 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 HOME Loan Documents, including but not limited to an ALTA Lender's policy of title insurance in the amount of seven hundred seventy-seven thousand, six hundred and twenty-one dollars (\$777,621), 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 requirement provisions set forth in Exhibit F;

E. Borrower has secured all final permits, entitlements and approvals required by all permitting and regulatory authorities and jurisdictions in connection with the Project; and

F. Borrower has complied with all reporting requirements set forth in this County HOME Loan Agreement, including, but not limited to, Section 3.2 and Section 5.11, as applicable, as well as all reporting requirements set forth in the other County HOME Loan Documents.

**3.2 DISBURSEMENT OF HOME FUNDS.** Lender shall provide HOME Funds to Borrower only for eligible Project costs incurred by Borrower and approved by Lender in accordance with the Project Budget (Exhibit B). HOME Funds subject to reimbursement to Borrower for eligible Project costs will be disbursed as incurred and after Borrower has submitted to Lender all Project cost and related documentation confirming cost eligibility and evidence of payment for which reimbursement is requested by Lender. Borrower may not request disbursement of HOME Funds until needed for payment of eligible Project costs in accordance with the Project Budget. The amount of each Borrower reimbursement request must be limited to the amount needed. Program income must be disbursed before Borrower requests funds from Lender. Disbursement of HOME Funds to Borrower shall not exceed a total of seven hundred seventy-seven thousand, six hundred and twenty-one dollars (\$777,621) ("Maximum Contract Amount").

HOME Funds shall be disbursed through periodic payments based upon construction costs incurred and construction work completed, as evidenced by documentation supporting the completed work signed by the Project architect 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 Budget (Exhibit B). 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, evidence of compliance with Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C., 1701u) and 24 CFR Part 75, 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, and Borrower shall comply with all such requests.

Written Disbursement Requests shall only be for items included in the Budget (Exhibit B) in the form of a signed Expenditure Summary Payment Request ("ESPR") form attached hereto as Exhibit J. Changes shall not be made to the Budget without the prior written consent of Lender. However, Lender's obligations shall in no event exceed the Maximum Contract Amount. All costs incurred in construction, development and operation of the Project shall be the responsibility and obligation solely of Borrower.

Notwithstanding the foregoing, as a special disbursement condition, Lender shall retain Ten Thousand Dollars (\$10,000) of HOME Funds until 30 days after Borrower has completed the construction of the Project and provided beneficiary data for the four (4) Assisted Units of the Project as required under the HOME Program, and all liens against the Property, if any, are released.

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

**4.1 COMMENCEMENT OF CONSTRUCTION.** Borrower shall commence construction of the Project no later than 12 months from the Effective Date of this County HOME Loan Agreement. Commencement of Project construction shall mean obtaining all final permits, entitlements and approvals

required by all permitting and regulatory authorities and jurisdictions and commencing work at the Property on any task associated with a line item in the Budget that requires a permit, entitlement or approval. If Borrower fails to commence construction as set forth above, Lender may terminate this County HOME Loan Agreement pursuant to Article 8, below, without affording Borrower any opportunity to cure such default.

**4.2 COMPLETION OF CONSTRUCTION.** Borrower shall diligently pursue construction of the Project to completion, and shall complete construction of the Project, and shall have the Assisted Units occupied by eligible tenants no later than six (6) months after commencement of construction. Borrower shall deliver to Lender proof of Project Completion as evidenced by, inter alia, the recording of a notice of completion for the Property and certificate(s) of occupancy issued by the City of Goleta Building official for the Project.

**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 such 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 in connection with the Project ("Construction Contract") shall be the result of either competitive or negotiated bids.

All costs incurred in construction, 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 of the Project site by Lender and by public authorities during business hours for the purposes of determining compliance with this County HOME Loan Agreement and the other County HOME Loan Documents. Copies of monthly construction inspection reports completed by Borrower shall be provided to the County immediately upon completion of such construction inspection reports throughout the course of Project construction.

**4.6 SITE SUPERVISION.** During the construction of the Project, Borrower shall maintain a full time Project site superintendent to supervise all construction work on the Property. The site superintendent shall be on-site at all times during construction work on the Property.

**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 work described in the Budget (Exhibit B), 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 all applicable laws, 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. Property standards set forth at 24 CFR 92.251.

**4.11 MECHANICS LIENS AND STOP NOTICES.** If any claim of lien is filed against the Property or a stop notice affecting the County HOME 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 HOME AND HOME PROGRAM(S) AND OTHER FEDERAL REQUIREMENTS.** All requirements imposed on properties assisted under the HOME program as contained in 42 U.S.C. Sections 12701, et seq., 24 CFR Part 92, and other implementing rules and regulations governing the use of the HOME Funds (collectively, the "HOME Regulations") are incorporated herein by this reference. In the event of any conflict between this County HOME Loan Agreement and the HOME Regulations, the HOME Regulations shall govern.

The laws and regulations governing the use of the HOME Funds include (but are not limited to) the following:

A. OMB Circulars. The applicable policies, guidelines, and requirements of OMB Circulars Nos. A-87, A-102, Revised, A-110 and A-122.

B. Audit requirements. In accordance with 24 CFR 84.26 and 85.26, agencies that expend \$500,000 or more in federal funds in a year as calculated therein must undergo a single audit in compliance with OMB Circular A-133.

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. Section 3. The work to be performed under this HOME Loan 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. The regulations are found at 24 CFR Part 75 ("part 75").

Borrower agrees to comply with HUD's regulations in part 75, which implement Section 3. Borrower agrees to comply with the requirements set forth in 24 CFR Sections 75.9 and 75.19, as applicable. As

evidenced by their execution of this HOME Loan, Borrower certifies that it is under no contractual or other impediment that would prevent it from complying with the part 75 regulations.

Borrower shall, and shall cause its contractors and subcontractors to, implement part 75 regulatory requirements as described herein, and shall conduct its business practices in a manner that provides records and reports consistent with HUD Section 3 reporting and compliance under covered contracts, including, but not limited to: 1) certifications, records and documentation confirming contractor and business qualification as a Section 3 Business Concern, if applicable; 2) certifications, records and documentation confirming workers' qualification and status as a Section 3 and/or Targeted Section 3 Worker; if applicable; c) certified payroll records, reports and documentation reflecting time and hours for all labor performed on Section 3 covered contracts, including hours for certified Section 3 and Targeted Section 3 workers, if and as applicable; and d) any such additional records, documents and reports that Lender may request to confirm compliance with part 75 requirements.

The Borrower shall, and shall cause each of its contractors and subcontractors to, include this Section 3 clause in every contract or subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the contract or subcontract or in such Section 3 clause, upon a finding that the contractor or subcontractor is in violation of the regulations in 24 CFR part 75. The Borrower shall not contract with or permit its contractors to subcontract with any contractor or subcontractor where the Borrower has notice or knowledge that the contractor or subcontractor has been found in violation of the regulations in 24 CFR part 75.

In the event that Lender or HUD determines that it is necessary to deploy qualitative efforts in accordance with 24 CFR Sections 75.15(b) and/or 75.25(b), Borrower shall work in good faith with Lender in order to implement such qualitative efforts. Such efforts may include the qualitative efforts outlined in Lender's Section 3 Plan, Policies and Procedures, as it may be revised or amended from time to time. Lender's Section 3 Plan, Policies and Procedures are available upon request at HCD offices and provided electronically.

Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

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 shall comply with HOME regulations pertaining to faith-based activities set forth at 24 CFR 92.257.

K. Debarred Contractors. Borrower shall ensure that no contractors, subcontractors, or consultants in connection with the Project are debarred or otherwise prohibited from participation in a federal project pursuant to 2 CFR Part 2424. Borrower shall furnish Lender with evidence of compliance with this Section 4.12.K 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 shall be paid, by or on behalf of Borrower, 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) Borrower shall 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 HOME.

4.13 **RELOCATION.** If and to the extent that development of 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 Lender may require immediate repayment by Borrower to Lender of the County HOME 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, defend, and hold harmless Lender for any action brought against Lender arising out of any alleged failure to comply with relocation obligations with respect to this Project.

4.14 **UNAVOIDABLE DELAY IN PERFORMANCE.** The time for performance of provisions of this County HOME Loan Agreement by a Party shall be extended for a period equal to the period of any delay directly affecting such Party which is in no way attributable to the acts or omissions of such Party and is caused by: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; applicable government-mandated quarantine restrictions; freight embargoes, or other events beyond the reasonable control of, and in no way attributable to the acts or omissions of, such Party claiming the delay (the foregoing, collectively "Force Majeure Events"). An extension of time for any of the above-specified Force Majeure Events 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 such Force Majeure Events, 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. Times of performance under this County HOME Loan Agreement may otherwise be extended only by the mutual written agreement of Lender and Borrower, duly executed by both Parties. Notwithstanding the foregoing or any other provision of this County HOME Loan Agreement or any other County HOME Loan Document, the Borrower shall immediately repay to Lender all HOME funds invested in Units that are not rented to eligible Qualifying Households or Very Low-Income Households, as applicable, within 12 months of Project Completion, and the time for such performance shall not be subject to extension due to Force Majeure Events or otherwise, or subject to cure.

## ARTICLE 5 OPERATION

**5.1 OPERATION OF PROJECT.** Borrower shall operate and manage the Project after Project Completion in full conformance with the terms of the County HOME Loan Regulatory Agreement.

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

Borrower agrees that during the Term of the HOME 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 attached hereto as Exhibit G and incorporated herein by reference, operation of the Project and property management entity, in order to preserve the affordability, physical appearance and condition of the Project. Any changes to the Management Plan requested by Lender and not reasonably disapproved by Borrower within thirty (30) days after Borrower's receipt of such request shall be deemed approved and shall be implemented by Borrower.

**5.2 MANAGEMENT PLAN.** In the leasing and operation of the Project, Borrower shall comply with the Management Plan attached hereto as Exhibit G and incorporated herein ("Management Plan"). No change shall be made to the Management Plan without Lender's prior written approval in each instance.

**5.3 AFFIRMATIVE MARKETING PLAN.** In the marketing of the Project, Borrower shall comply with the affirmative marketing provisions of the Management Plan. The Management Plan includes information on affirmative marketing efforts and compliance with fair housing laws. At a minimum, the Project must at all times during the Term meet the affirmative marketing requirements set forth in 24 CFR 92.351, as such may be amended from time to time.

**5.4 TENANT SELECTION.** In the selection of tenants, Borrower shall comply with the written tenant selection provisions of the Management Plan ("Tenant Selection Plan"). Tenant selection must, at a minimum, meet the requirements for tenant selection set forth in 24 C.F.R. 92.253(d), as amended from time to time.

Borrower shall rent the Assisted Units to Qualifying Populations according to the Tenant Selection Plan. Borrower shall verify each prospective HOME Assisted Unit tenant's eligibility as a Qualifying Household, and shall require from each prospective HOME Assisted Unit tenant a statement that such prospective tenant's household income from all sources does not exceed allowable limits as described in the County HOME Loan Regulatory Agreement. In selecting tenants for residence of the Project, Borrower will utilize and coordinate with the County Coordinated Entry System, Homeless Management Information System (HMIS) and rent Assisted Units to members of Qualifying Households.



**5.5 INCOME CERTIFICATION.** The Annual Income levels and other qualifications of applicants for Assisted Units shall be certified by Borrower no earlier than sixty (60) calendar days prior to the Qualifying Household's expected occupancy of an Assisted Unit and recertified annually thereafter by the Borrower. If the household size of a Qualifying Household occupying an Assisted Unit changes, the Borrower may request additional information and documentation to determine eligibility.

A. Initial Annual Income Verification. Before a Qualifying Household occupies an Assisted Unit, the Borrower shall verify that the Annual Income provided in an Annual Income certification for such Qualifying Household is accurate by taking both of the following steps as a part of the verification process, and this Initial Annual Income Certification will serve as basis for determining the tenant rent portion for payment of monthly rent, not for determining such Qualifying Household's income eligibility to reside in the HOME Assisted Unit:

- (1) **Third-Party Verification:** Borrower shall contact all third parties in writing (*e.g.*, employer, Social Security Administration, public assistance agency) to request that such third parties provide information in writing to verify such Qualifying Household's Annual Income. Written requests and responses are required; and
- (2) **Review of Documents:** Borrower shall require such Qualifying Household to provide documents verifying such Qualifying Household's Annual Income (*e.g.*, pay stubs, tax returns), and shall then retain such documents in the Project files.

B. Annual Income Recertification. At the time of such Qualifying Household's lease renewal, or pursuant to an annual schedule adopted by the Borrower, and no later than the one-year anniversary of the initial Annual Income verification for such Qualifying Household, and annually thereafter, Borrower shall recertify the Annual Income of each Tenant occupying a HOME-Assisted Unit using the method as described in Section 5.5.A, above.

**5.6 INITIAL LEASING THE PROJECT.** Before leasing any Unit, Borrower shall submit its proposed form of lease for Lender's review and approval ("Lease"). The term of the Lease shall be for no less than one year and shall not contain any provision which is prohibited by 24 C.F.R. Section 92.253(b), as may amended from time to time. No rent increase shall occur at any time during the term of the Lease. Any termination of the Lease or refusal to renew must be in conformance with 24 C.F.R. 92.253(c), and must be preceded by not less than 30 days' prior written notice to the tenant by the Borrower specifying the grounds for such action. 30 days prior to leasing the HOME Assisted Units in the Project, Borrower shall submit its proposed HOME Assisted Units rents and utility allowance schedule to Lender for Lender's review and approval. Within six (6) months of Project Completion ("Occupancy Deadline"), Borrower shall lease all four (4) HOME Assisted Units to Qualifying Households, and shall deliver to Lender detailed occupancy data and demographic information on the tenants occupying the HOME Assisted Units.

In the event that any Assisted Unit is not occupied by a Qualifying Household as of the Occupancy Deadline ("Assisted Unit Vacancy"), Borrower may cure such breach by (i) providing to Lender within five (5) days after the Occupancy Deadline written notice of each such Assisted Unit Vacancy, (ii) providing to Lender within ten (10) days after the Occupancy Deadline a detailed record of Borrower's marketing efforts with respect to the Project and the Assisted Units, and (iii) comply with all of Lender's requests for additional information pertaining to such marketing efforts.

In the event that any Assisted Unit is not occupied by a Qualifying Household, within eleven (11) months after the date of Project Completion (“Occupancy Default Deadline”), such occurrence shall constitute an Event of Default by Borrower hereunder. On or before the date that is three (3) days after the last day of the eleventh (11th) month after the date of Project Completion, Borrower shall provide to Lender written notice of each such Assisted Unit Vacancy. Within five (5) days of receipt of such notice of Assisted Unit Vacancy from Borrower, Lender shall give written notice to Borrower of such Event of Default in accordance with Section 6.2, below, and Borrower shall have the opportunity to cure such Event of Default before the last day of the twelfth (12<sup>th</sup>) month after the date of Project Completion.

Notwithstanding any other provision of this County HOME Loan Agreement, or of any provision of any other County HOME Loan Document or subordination agreement, to the contrary, Borrower shall immediately repay to Lender, upon Lender’s request, all HOME Funds invested in Units that are not rented to eligible Qualifying Households or Very Low-Income Households, as applicable, within 12 months of Project Completion.

**5.7 AFFORDABILITY RESTRICTIONS.** Four (4) units in the Project shall be designated by Borrower as HOME-Assisted Units. The HOME Assisted Units shall only be occupied by Qualifying Households, as set forth in the County HOME Loan Regulatory Agreement, and the Project shall meet the following standards:

- A. Each of the Assisted Units shall 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.

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

**5.9 CONFLICTS BETWEEN COVENANTS OR RESTRICTIONS AFFECTING THE PROPERTY.** Any conflicts between the restrictive provisions contained in this County HOME Loan Agreement, the County HOME Loan Note, the County HOME Loan Deed of Trust, the County HOME Loan Regulatory Agreement, and any other agreements in connection with the County HOME Loan which affect the Property are to be resolved by applying the more restrictive covenants or restrictions herein or therein.

**5.10 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.

**5.11 RECORDS AND REPORTS.** Borrower shall be accountable to Lender for all HOME Funds disbursed to Borrower pursuant to the County HOME Loan Documents. Borrower agrees to maintain records that accurately and fully reflect the date, amount, purpose, and payee of all expenditures for expenditures reimbursed from HOME Funds, and to keep all invoices, receipts, and other documents related to such expenditures reimbursed by HOME Funds for five (5) years after Project Completion. On each first

day of April during the Term following Project Completion, Borrower shall submit reports to Lender with information regarding tenant income, rent and Unit inspection information. Tenant income, rent, Unit inspection information, and all records related to revenue received in connection with the Project must be kept until five (5) years after the HOME Affordability Period ends. Borrower shall keep all such records accurate and current. Borrower shall retain all records of individual tenant income verifications, project rents, and project inspections for five (5) years after the creation of such records, including such records created less than five (5) years prior to the expiration or termination of this Agreement. This Section 5.11 shall survive the termination or expiration of this County HOME Loan Agreement.

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

Borrower shall submit monthly to Lender written Project construction progress reports and an updated construction schedule within ten (10) days following the end of each month during the period commencing upon the Effective Date and concluding upon Project Completion.

Within 30 days following Project Completion, Borrower shall submit to Lender records of all permits, entitlements and approvals, inspections and sign-offs required by all permitting and regulatory authorities and jurisdictions .

Copies of the Certificate of Occupancy shall be submitted by Borrower to Lender upon receipt of same by Borrower.

Data on the initial lease-up of the Assisted Units sufficient to close-out the Project in the federal Integrated Disbursement and Information System shall be submitted by Borrower to Lender within 10 days following the first date on which all of the Assisted Units are subject to fully executed leases.

**5.12 REVERSION OF ASSETS.** Upon the expiration or termination of this County HOME Loan Agreement, the Borrower shall transfer to the Lender all HOME Funds it has on hand at the time of expiration or termination, and all accounts receivable attributable to the use of such funds, if any.

**5.13 REPORT ON OCCUPANCY BY VETERANS.** In addition to the requirements set forth above in this Section 5.11, on or before March 1 of each year during the Term, the Owner shall submit directly to the County Board of Supervisors, with a copy to the Director of the County's Community Services Department (CSD), a report on the number of HOME-Assisted Units that were occupied by veterans during any portion of the immediately preceding calendar year. .

**5.14 AUDITS.** Borrower shall conduct annual audits in accordance with 24 CFR 84.26 and 85.26, and OMB Circular A-133, and shall submit to Lender an Annual Financial Statement each year during the Term. Borrower shall make available to Lender for examination at reasonable intervals and during normal business hours all books, accounts, reports, files, data, and other papers and property with respect to all matters covered by these County HOME Loan Documents, and shall permit Lender to audit, examine, and make excerpts and transcripts from such records. Lender may make audits of any conditions relating to the County HOME Loan.

Lender shall notify Borrower of any records Lender deems to be 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 specifying the requested additional time, explaining in detail the reason such extension is necessary, and providing supporting documentation evidencing the necessity of the requested extension; provided that Borrower shall begin to correct the deficiency with within such initial fifteen (15) day period, and shall diligently proceed to correct the deficiency as soon as possible. Lender shall respond to such extension requests within fifteen (15) days of Lender's receipt of such extension request.

**5.15 ENCUMBRANCE OF PROPERTY.** Except as otherwise provided in this County HOME 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 on or attached to the Property whether by voluntary act of Borrower, operation of law, or otherwise.

**5.16 TRANSFERS.** Borrower has not made or created, and shall not at any time during the Term make or permit any sale, assignment, conveyance, or other transfer of the Property, the Project, this County HOME Loan Agreement, or of any of Borrower's rights or obligations hereunder, whether by operation of law or otherwise, including, but not limited to, the sale or transfer of any partnership interests, or other change of control of Borrower or merger involving Borrower, without the prior written consent of Lender in each instance.

**5.17 ANNUAL OCCUPANCY SUITABILITY CERTIFICATION.** The Borrower shall annually certify to Lender that each building and all Assisted Units in the Project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the County to meet the requirements of 24 CFR 92.251.

**5.18 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 legal proceedings, and (b) upon request by Lender, Borrower deposits with Lender any funds or other forms of assurance requested by Lender in good faith from time to time to protect Lender from the consequences of such contest being unsuccessful.

**5.19 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 Lender reasonably determines that such restoration or repair is economically feasible. Such work or repair shall be commenced within 120 days after such damage or loss occurs, and shall be completed within one year thereafter, subject to any extensions of time granted pursuant to the provisions of Section 4.14, above. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs and restoration and, if such insurance proceeds shall be insufficient for such purpose, Borrower shall be responsible for paying for the deficiency.

If Lender determines that such restoration or repair is not economically feasible, then Lender may declare an Event of Default pursuant to Section 8.1.G, below, which Borrower shall not have opportunity to cure,

and, upon request by Lender to repay the then-outstanding principal of and all accrued interest on the County HOME Loan, Borrower shall apply all available insurance proceeds thereto until the County HOME Loan is repaid.

**5.20 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).

## 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 by reference.

**6.2 INSURANCE.** Borrower shall comply with the insurance provisions set forth in Exhibit F.

**6.3 NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** No officials, officers, representatives, directors, employees, or agents of Lender shall be personally liable to Borrower for any obligation created hereunder or under any of the other County HOME Loan Documents.

## ARTICLE 7 HAZARDOUS MATERIALS

**7.1 REPRESENTATIONS AND WARRANTIES.** After reasonable investigation and inquiry, Borrower hereby represents and warrants that, as of the Effective Date and except as previously disclosed by Borrower to Lender in writing and acknowledged in writing by Lender, or as disclosed in the written reports based on environmental audit(s) performed on the Property and submitted to Lender by Borrower, that (a) the Property is not and has not been a site for the use, generation, manufacture, transportation, storage, or disposal of Hazardous Materials; (b) the Property is in compliance with all applicable environmental and health and safety laws, regulations, ordinances, and 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 in connection 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 on or under the Property during the Term requiring or which may require notice to be given to any governmental entity or agency under Hazardous Materials Laws; (b) any knowledge of Borrower, or of any of Borrower's officials, officers, representatives, partners, employees, or agents that the Property is not in compliance with any Hazardous Materials Laws at any time during the Term; (c) the receipt by Borrower of notice of any Hazardous Materials claims during the Term; and (d) the discovery by or knowledge of Borrower or of any of

Borrower's officials, officers, partners, representatives, employees, or agents, at any time during the Term, 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 in connection therewith.

**7.3 USE AND OPERATION OF PROPERTY.** Borrower shall not, and shall not permit any of its agents, employees, or contractors, or any other person to, use the Property or allow the Property to be used for the generation, manufacture, storage, disposal, or release of Hazardous Materials. At all times during the Term, Borrower shall comply and shall cause the Project and the Property to be in compliance with Hazardous Materials Laws.

**7.4 REMEDIAL ACTIONS.** If Borrower or any of Borrower's officials, officers, partners, representatives, employees, or agents knows or has reason to know 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 and 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 as described below.

**7.5 RIGHT OF CONTEST.** Borrower may contest in good faith any claim, demand, levy or assessment under Hazardous Materials Laws, and such contest shall not be deemed to constitute an Event of Default, if: (a) such contest is based on a material question of law or fact raised by Borrower in good faith and reasonably objectively substantiated, (b) Borrower promptly commences and thereafter diligently pursues such contest, (c) such contest will not materially impair the taking of any remedial action with respect to such claim, demand, levy or assessment, and (d) upon request by Lender, Borrower deposits with Lender any funds or other forms of assurance requested by Lender in good faith from time to time as Lender determines appropriate to protect Lender from the consequences of such contest being unsuccessful and to cover the costs of any remedial action then reasonably necessary.

**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 all 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 HOME 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 HOME Loan Agreement:

A. Monetary. (1) Borrower's failure to pay when due any sums payable under the County HOME Loan Note or any advances made by Lender under the County HOME Loan Deed of Trust or this County HOME Loan Agreement; (2) Borrower's use of HOME Funds for costs other than approved

construction costs or for uses inconsistent with other terms and restrictions in the County HOME Loan Documents; (3) Borrower's failure to obtain and maintain the insurance coverage required under this County HOME Loan Agreement; (4) Borrower's failure to make any other payment or assessment due under the County HOME Loan Documents; (5) Borrower's failure to pay taxes when due; (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 deviation from the Budget, without Lender's prior written consent; (2) the use of defective or unauthorized materials or defective workmanship in constructing the Project; (3) Borrower's failure to commence or complete construction pursuant to Section 4.1 or 4.2, above; (4) the cessation of construction prior to completion of the Project for a period of more than thirty (30) consecutive calendar days without prior written approval from Lender; (5) Borrower's failure to remedy any deficiencies in recordkeeping or failure to provide records to Lender upon Lender's request; (6) Borrower's failure to substantially comply with any applicable federal, state, or local laws or Lender policies governing construction, development, or operation of the Project, including, but not limited to, provisions of this County HOME 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 HOME Loan Agreement or applicable law, or (2) the imposition of any encumbrances or liens on the Property without Lender's prior written approval that have the effect of invalidating, reducing the priority of, or materially impairing the value of the County's interest in the Security (as defined in the HOME Loan Deed of Trust);

D. General performance of County HOME Loan obligations. Any breach by Borrower of any provision of any of the County HOME Loan Documents and which, if subject to cure, is not cured by Borrower within the applicable cure period;

E. General performance of other obligations. Any breach by Borrower of any provision of 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, and which breach may materially impair Lender's interest in the Security (as defined in the County HOME Loan Deed of Trust);

F. Representations and warranties. A determination by Lender that the Security has or will be materially impaired due to the fact that any of Borrower's representations or warranties made in the County HOME Loan Documents, or in 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 to or destruction of the Property by fire or other casualty if Borrower does not take steps to reconstruct the Project as required by the County HOME 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 HOME Program requirements by or on behalf of Borrower, including, but not limited to, the provisions of Section 4.12 and the County HOME Loan Regulatory Agreement pursuant to the HOME Investment Partnerships Program Final Rule at 24 CFR Part 92. Borrower shall be required to repay the funds disbursed to Borrower hereunder if the Project does not meet the requirements set forth in the HOME Regulations for the time period specified therein, and such an Event of Default shall not be subject to cure.

J. Relocation Benefits. Failure to make any payments requested by Lender pursuant to Section 4.13, 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) whether the Event of Default is subject to cure, and the action required to cure the Event of Default, if applicable, and (c) a date, which shall not be less than thirty (30) calendar days from the date of such notice or the date such 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 within the additional period of time specified by Lender in such notice, and in no event later than the date that is ninety (90) days after the date of such notice. The Lender has the sole discretion to determine reasonable time 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, if applicable, within the time specified in Section 8.2 above, Lender's obligation to disburse HOME- Funds shall terminate, and Lender may also, in addition to other rights and remedies permitted by the County HOME 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 HOME Loan Agreement, in which event the entire principal amount outstanding and all accrued interest under the County HOME Loan Note, as well as any other monies advanced to Borrower by Lender under the County HOME Loan Documents, including, but not limited to, administrative costs and relocation benefits described in Section 4.13, above, shall immediately become due and payable by Borrower 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 HOME 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 HOME Loan, and demand immediate full payment of the principal amount outstanding and all accrued interest under the County HOME Loan Note, as well as any other monies advanced to Borrower by Lender under the County HOME 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 Lender's judgment to complete construction of the Project, including without limitation (1) making changes in the construction work as described in the Budget 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 HOME 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 HOME Loan Deed of Trust and apply them to operate the Property or to pay off the County HOME Loan or any advances made under the County HOME Loan Documents, as provided for by the County HOME 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 HOME 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 8.3 is intended or shall be construed as precluding Lender from proceeding with a nonjudicial foreclosure under the power of sale contained in the County HOME Loan Deed of Trust in the Event of Default by Borrower and failure to cure, if applicable, as provided in Section 8.2, above.

Notwithstanding the foregoing or any other provision of this County HOME Loan Agreement or any of the other County HOME Loan Documents, in accordance with 2 CFR 200.338, suspension or termination of this County HOME Loan Agreement may occur if Borrower materially fails to comply with any term of this County HOME Loan Agreement.

## 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 HOME Loan Documents and the County HOME 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 HOME Loan Documents, (4) that the persons executing and delivering the County HOME 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 HOME 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 HOME 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 HOME Loan Agreement, the HOME Promissory Note, and the HOME Regulatory Agreement. CSD is authorized to approve Budget revisions as authorized under Section 2.6 of this County HOME Loan 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 HOME Loan Agreement, Borrower shall maintain and submit records to Lender, within ten (10) business days of Lender's request for same, which clearly document Borrower's performance under each requirement under the County HOME Loan Documents.

**9.3 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 HOME 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 9.3 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.

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

**9.5 PUBLICITY.** Any publicity produced by Borrower for the Project during the term of the County HOME 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.

**9.6 TERM OF THIS AGREEMENT.** The Term of this County HOME Loan Agreement shall commence as of the Effective Date, and shall remain in full force and effect until the date that is twenty (20) years after the date of Project Completion, unless earlier terminated in accordance with the provisions of this County HOME Loan Agreement.

9.7 **GOVERNING LAW.** This County HOME Loan Agreement and the other County HOME 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.

9.8 **STATUTORY REFERENCES.** All references in this County HOME Loan Agreement and the other County HOME Loan Documents 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.

9.9 **TIME.** Time is of the essence in this County HOME Loan Agreement and the other County HOME Loan Documents.

9.10 **CONSENTS AND APPROVALS.** Any consent or approval of Lender or Borrower required under this County HOME Loan Agreement and the other County HOME Loan Documents shall not be unreasonably withheld. All approvals provided under this County HOME Loan Agreement shall be in writing and executed by an authorized representative of the party granting such approval.

9.11 **NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications between Borrower and Lender shall be sufficiently given if, and shall not be deemed given unless, dispatched by registered or certified United States Postal Service mail, postage prepaid, return receipt requested, or delivered personally, to the respective 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:** Housing Authority of the County of Santa Barbara  
815 West Ocean Avenue  
Lompoc, CA 93436  
Attn: Executive Director

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

9.12 **BINDING UPON SUCCESSORS.** All provisions of this County HOME Loan Agreement and the other County HOME Loan Documents shall be binding upon and inure to the benefit of the permitted successors-in-interest, transferees, and assigns of each of the Parties; provided, however,

that this Section 9.12 does not waive the prohibition on assignment or transfer of this County HOME Loan Agreement by Borrower without Lender's prior written consent, as provided in Section 9.14, below.

**9.13 RELATIONSHIP OF PARTIES.** The relationship of Borrower and Lender under this County HOME Loan Agreement and with respect to the Project 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 HOME Loan.

**9.14 ASSIGNMENT AND ASSUMPTION.** Borrower shall not assign or otherwise transfer, by operation of law or otherwise ("Transfer"), this County HOME Loan Agreement or any of the County HOME Loan Documents, or any of Borrower's rights or obligations hereunder or thereunder, except as expressly and specifically permitted herein, without the prior written consent of Lender. Any unauthorized Transfer shall be voidable at the sole discretion of Lender.

**9.15 WAIVER.** Any waiver by Lender of any obligation in this County HOME Loan Agreement and the other County HOME 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 this County HOME Loan Agreement and the other County HOME Loan Documents or applicable law. Any extension of time granted to Borrower to perform any obligation under the County HOME Loan Documents shall not operate as a waiver of or release from any of the Borrower's obligations under the County HOME Loan Documents. Consent by Lender to any act or omission by Borrower shall not be construed to constitute consent to any other or subsequent act or omission, or to waive the requirement for Lender's written consent for all future waivers.

**9.16 INTEGRATION.** This County HOME Loan Agreement and the other County HOME-Loan Documents, including all exhibits and attachments hereto and thereto, contain the entire agreement of the parties hereto and thereto with respect to the subject matter hereof and thereof, and supersede any and all prior negotiations, representations, and agreements regarding same.

**9.17 OTHER AGREEMENTS.** Borrower represents that it has not entered into any agreements that are inconsistent with any provisions of this County HOME Loan Agreement and the other County HOME Loan Documents. Borrower shall not enter into any agreements that are inconsistent with any of the terms of this County HOME Loan Agreement or any of the other County HOME Loan Documents, without Lender's prior written consent in each instance.

**9.18 AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this County HOME Loan Agreement and the other County HOME Loan Documents must be in writing, and shall be valid only if duly executed by both Borrower and Lender.

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

**9.20 COUNTERPARTS.** This County HOME Loan 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, Lender and Borrower have caused this County HOME Loan Agreement to be executed by their respective duly authorized officers.

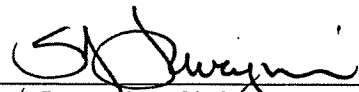
**ATTEST:**

MONA MIYASATO  
Clerk of the Board

By:   
Deputy Clerk of the Board

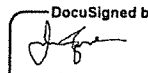
**LENDER:**

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

By:   
Steve Lavagnino, Chair  
Board of Supervisors

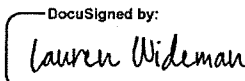
**APPROVED AS TO ACCOUNTING FORM:**

BETSY SCHAFFER, CPA  
AUDITOR-CONTROLLER

DocuSigned by:  
  
By: 6BAAFEA15901943E  
Deputy

**APPROVED AS TO FORM**

RACHEL VAN MULLEM  
COUNTY COUNSEL

DocuSigned by:  
  
By: 8F464D822C8445A...  
Deputy County Counsel

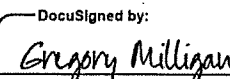
**BORROWER**

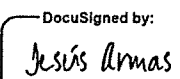
Housing Authority of the County of Santa Barbara,  
a public body, corporate and politic,

By: \_\_\_\_\_  
Robert P. Havlicek Jr, Executive Director

**APPROVED AS TO FORM:**

RISK MANAGEMENT

DocuSigned by:  
  
By: 8075F746119...  
Gregory Milligan, ARM, AIC  
Risk Manager

DocuSigned by:  
  
By: E338804A6E03475...  
Jesús Armas  
Director, Community Services Dept

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

**ATTEST:**

MONA MIYASATO  
Clerk of the Board

**LENDER:**

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

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

By: \_\_\_\_\_  
Steve Lavagnino, Chair  
Board of Supervisors

**APPROVED AS TO ACCOUNTING  
FORM:**

BETSY SCHAFFER, CPA  
AUDITOR-CONTROLLER

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

**APPROVED AS TO FORM**

RACHEL VAN MULLEM  
COUNTY COUNSEL

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

**BORROWER**

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

By: Robert P. Havlicek Jr.  
Robert P. Havlicek Jr, Executive Director

**APPROVED AS TO FORM:**

RISK MANAGEMENT

By: \_\_\_\_\_  
Gregory Mulligan, ARM, AIC  
Risk Manager

By: \_\_\_\_\_  
Jesús Armas  
Director, Community Services Dept

## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROPERTY

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

**PARCEL 1:**

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

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

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

**PARCEL 2:**

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

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



OR LESS TO THE POINT OF BEGINNING.

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

PARCEL 3:

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

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

APN: 073-080-028

**EXHIBIT B**

**SOURCES AND USES/BUDGET  
20-YEAR OPERATING PROFORMA**



**EXHIBIT C**

**COUNTY HOME LOAN 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  
Attn: Deputy Director

NO FEE DOCUMENT PURSUANT TO  
CALIFORNIA GOVERNMENT CODE SECTION 27383

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

THIS COUNTY HOME LOAN DEED OF TRUST, ASSIGNMENT OF RENTS, AND SECURITY AGREEMENT ("County HOME Loan Deed of Trust") is made as of this 2<sup>nd</sup> day of April, 2024, by the Housing Authority of the County of Santa Barbara, a public body corporate and politic ("Trustor"), to First American Title Company as trustee ("Trustee"), for the benefit of the County of Santa Barbara, a political subdivision of the State of California ("Beneficiary"). This County HOME Loan Deed of Trust is junior and subordinate to the Regulatory Agreement previously recorded in favor of the State of California Housing and Community Development Department HomeKey loan in the amount of Fifteen Million, Three Hundred Fifty-Seven Thousand, Five Hundred and One Dollars (\$15,357,501).

**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 6021 Hollister Avenue, city of Goleta, in the County of Santa Barbara, 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 HOME 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 seven hundred seventy-seven thousand six hundred and twenty-one dollars, (\$777,621) with interest thereon, evidenced by the County HOME Loan Promissory Note executed by Trustor on or about the date hereof, in the amount of seven hundred seventy-seven thousand six hundred and twenty-one dollars, (\$777,621) (the "County HOME Loan Note"), on file at the offices of Beneficiary and hereby incorporated by reference into this County HOME Loan Deed of Trust, or as much of such principal sum as has been disbursed to Trustor thereunder; and

B. Payment of any sums advanced by Beneficiary to protect the Security and priority of this County HOME 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 HOME 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 HOME Loan Deed of Trust, the County HOME Loan Note, and the County HOME Loan Agreement executed between Trustor and Beneficiary on file at the offices of Beneficiary and

hereby incorporated into this County HOME Loan Deed of Trust by this reference, including all exhibits thereto ("County HOME Loan Agreement"), and the County HOME Loan Regulatory Agreement executed between Trustor and Beneficiary of even date herewith ("County HOME Loan Regulatory Agreement"), including all modifications, extensions and renewals of such 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 HOME 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 or 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 documents described in Section 2.D., above (collectively, the "County HOME Loan Documents"). The assignment in this Section 3 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 HOME Loan Deed of Trust.

4. **ENFORCEMENT.** Upon the occurrence of an Event of Default which remains uncured after expiration of the applicable cure period, if any, pursuant to the terms of the County HOME Loan Agreement or other County HOME Loan Documents, Beneficiary may, in addition to other rights and remedies permitted by the County HOME Loan Agreement, this County HOME 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 HOME 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 HOME 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 HOME 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 HOME 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 HOME Loan Deed of Trust, in the County HOME 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 HOME 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 HOME 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. Notwithstanding the foregoing, in addition to the senior liens listed in the first paragraph hereof, Beneficiary also approves of the following subordinate liens: A City of Goleta Loan in the amount of Five Hundred Ninety-Two Thousand, Nine Hundred and Five Dollars (\$592,509). This County HOME 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 HOME 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 HOME Loan Deed of Trust or County HOME 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 HOME 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 HOME 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, ordinary wear and tear excepted, 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 provisions of this County HOME Loan Deed of Trust or any of the other the County HOME 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 HOME 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 HOME 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 HOME Loan Deed of Trust, as provided for in the County HOME 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 materially 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 County HOME Note, County HOME Loan Agreement, this County HOME Loan Deed of Trust and County HOME 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 HOME Loan Documents. In the event Trustor fails to maintain the full insurance coverage required by this County HOME Loan Deed of Trust and the County HOME 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 HOME 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 HOME 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 HOME Loan Deed of Trust or the County HOME 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 County HOME 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 HOME 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, encumbers, transfers, or conveys, or agrees to sell, encumber, transfer or convey, its interest in the Security, or any part thereof or any interest

therein, Beneficiary may, at its option declare all sums secured by this County HOME 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 HOME Loan Agreement;

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

C. This Section intentionally left blank.

D. This Section intentionally left blank.

E. This Section intentionally left blank.

**23. RECONVEYANCE BY TRUSTEE.** This County HOME Loan Deed of Trust shall continue for the entire term of the County HOME Loan. Upon written request of Beneficiary stating that all sums secured by this County HOME Loan Deed of Trust have been paid and upon surrender of this County HOME 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 HOME Loan Agreement as an Event of Default shall also constitute an Event of Default under this County HOME Loan Deed of Trust. A cure of any default made or tendered by Trustor's limited partners shall be accepted or rejected on the same basis as if made or tendered by Trustor.

**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 HOME Loan Agreement, Beneficiary may declare all sums advanced to Trustor under the County HOME Loan Note and this County HOME 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 HOME Loan Agreement, Beneficiary may, in addition to other rights and remedies permitted by the County HOME Loan Agreement, the County HOME 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 HOME 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 HOME Loan Deed of Trust, the County HOME Loan Agreement, or the County HOME Loan Note;

D. Commence an action to foreclose this County HOME 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 HOME Loan Deed of Trust, Beneficiary shall notify Trustee and shall deposit with Trustee this County HOME Loan Deed of Trust (the deposit of which shall be deemed to constitute evidence that the unpaid sums disbursed under the County HOME 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 HOME 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 HOME 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 HOME 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 HOME 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 from Trustor 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 HOME Loan Deed of Trust shall not be unreasonably withheld.

33. **TIME.** Time is of the essence in this County HOME 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 USPS 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:** Housing Authority of the County of Santa Barbara  
815 West Ocean Avenue  
Lompoc, CA 93436  
Attn: Executive Director

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

35. **BINDING UPON SUCCESSORS.** All provisions of this County HOME 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.** No waiver by Beneficiary of any obligation of Trustor in this County HOME Loan Deed of Trust shall be effective unless in writing signed by Beneficiary. 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 HOME Loan Deed of Trust, the other County HOME Loan Documents, or applicable law. Any extension of time granted to Trustor to perform any obligation under this County HOME Loan Deed of Trust shall not operate as a waiver, or release Trustor from any of its obligations under this County HOME 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.** No amendment of or modification to this County HOME Loan Deed of Trust shall be effective unless it is in writing duly executed by both Beneficiary and Trustor.

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

**39. DEFINITIONS.** Capitalized terms used but not otherwise defined in this County HOME Loan Deed of Trust shall have the same meaning ascribed to such terms in the County HOME 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 HOME Loan Deed of Trust is intended to be severable in the event that any term or provision of this County HOME Loan Deed of Trust is declared to be illegal, invalid, or unenforceable by a court of competent jurisdiction, in which case the legality, validity, and enforceability of the remaining provisions hereof shall not be affected. If the lien of this County HOME 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 HOME 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 HOME 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 HOME 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 intentionally left blank.

**45. NONRECOURSE.** Except as expressly provided in the second paragraph of this Section 45, 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 HOME Loan Note. The sole recourse of the Beneficiary with respect to the principal of, or interest on, the County HOME Loan Note shall be to the property securing the indebtedness evidenced by this County HOME 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 HOME Loan 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 HOME Loan Note as demand for money within the meaning and intendment 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 HOME Loan 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 HOME 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 HOME 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 HOME 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 HOME Loan Deed of Trust.

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

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

**TRUSTOR:**

**HOUSING AUTHORITY OF THE COUNTY OF SANTA BARBARA**, a public body, corporate and politic,

By:

\_\_\_\_\_  
Robert P. Havlicek, Jr.  
Executive Director

[TRUSTOR'S SIGNATURE MUST BE ACKNOWLEDGED]



**ACKNOWLEDGMENT**

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

State of California  
County of Santa Barbara

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ 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**

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

**PARCEL 1:**

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

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

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

**PARCEL 2:**

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

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

DIXON, ET UX., RECORDED MAY 16, 1961, AS INSTRUMENT NO. 16977, IN BOOK 1847, PAGE 340 OF OFFICIAL RECORDS, THENCE 5TH, SOUTH 29° 49' EAST, ALONG THE LINE OF SAID LAST MENTIONED TRACT,  
128.40 FEET TO AN ANGLE POINT THEREIN, THENCE 6TH, SOUTH 4° 00' WEST, ALONG THE EASTERLY LINE OF SAID LAST MENTIONED TRACT, 50 FEET TO THE SOUTHEAST CORNER THEREOF, THENCE 7TH, SOUTH 86° 00' EAST ALONG THE SOUTHERLY LINE OF THE TRACT OF LAND DESCRIBED IN THE DEED TO E.D. DIXON, ET UX., RECORDED APRIL 6, 1960, AS INSTRUMENT NO. 11078, IN BOOK 1731, PAGE 117 OF SAID OFFICIAL RECORDS, 127 FEET MORE OR LESS TO THE WESTERLY LINE OF FAIRVIEW AVENUE, THENCE 8TH, NORTH 0° 19' EAST ALONG SAID WESTERLY LINE, 93.45 FEET, MORE

OR LESS TO THE POINT OF BEGINNING.

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

PARCEL 3:

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

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

APN: 073-080-028

**EXHIBIT D**

**COUNTY HOME LOAN NOTE**

COUNTY HOME  
HOME LOAN PROMISSORY NOTE

Santa Barbara, California

\$777,621

April, 2 2024

FOR VALUE RECEIVED, the Housing Authority of the County of Santa Barbara, a public body, corporate and politic ("Borrower"), whose address is 815 West Ocean Avenue, Lompoc, California 93436, 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 seven hundred seventy-seven thousand six hundred and twenty-one dollars (\$777,621), or so much thereof as may be advanced by Lender to Borrower, together with interest thereon, as may be required subject to Section 4 that follows, and as set forth below.

1. **PURPOSE.** In order to assist Borrower in developing fifty-nine (59) affordable rental housing units and one (1) manager's unit located at 6021 Hollister Avenue, in the city of Goleta, Santa Barbara County, California ("Project"), Lender has agreed to loan the amount of seven hundred seventy-seven thousand six hundred and twenty-one dollars (\$777,621, which funds are derived from funds ("HOME Funds") received by the Lender from the United States Department of Housing and Urban Development ("HUD") through the HOME Investment Partnerships Program.

2. **BORROWER'S OBLIGATION.** This promissory note ("County HOME Loan Note") evidences Borrower's obligation to pay Lender the principal amount of seven hundred seventy-seven thousand six hundred and twenty-one dollars (\$777,621) ("County HOME Loan") for the HOME Funds loaned to Borrower by Lender for the specific uses designated in that certain Loan Agreement by and between Borrower and Lender dated April 2, 2024, ("County HOME Loan Agreement").

3. **INTEREST.** Subject to Section 4, this County HOME Loan Note shall bear zero percent interest (0%) per annum from the date hereof.

4. **DEFAULT INTEREST.** In the Event of Default by Borrower of any of its obligations under this County HOME Loan Note or any of the other County HOME Loan Documents, Borrower shall pay to Lender interest on the outstanding principal of this County HOME Loan Note, at an annual rate equal to the lesser of (i) ten percent (10%) or (ii) the highest interest allowed by law ("Default Interest"), from the date of the Event of Default until the date that the Event of Default is cured, if subject to cure, or until the County HOME Loan is repaid in full. Such Default Interest shall be paid monthly and is due to the County on the first day of each month following such Event of Default.

5. **AMOUNT AND TIME OF PAYMENT.** The entirety of principal and all current and accrued interest of the County HOME Loan shall be due and payable on the earlier of: (a)

twenty (20) years after the date of Project completion in conformance with 92 CFR 92.2 and 24 CFR 92,252(e), and as evidenced by a written notice of completion provided by Borrower to County, or (b) the date the Property is sold or otherwise transferred, or (c) Borrower has failed to commence construction as set forth in Section 4.1 of the County HOME Loan Agreement, or (d) an event of default by Borrower, as defined in Section 8.1 of the County HOME Loan Agreement, which, if subject to cure, has not been cured as provided for in Section 8.2 of the County HOME Loan Agreement, in which case, the principal and all current and accrued interest shall be due and payable in accordance with Sections 9 and 10 of this County HOME Loan Note. The foregoing notwithstanding, if Borrower remains compliant with the terms of the County HOME Regulatory Agreement, as determined by the County through periodic inspections of the Project and tenant files documenting occupancy by Qualified Households and Qualifying Population households, as applicable, and as indicated with monitoring close-out letters from Lender to Borrower indicating compliance with the HOME Regulatory Agreement, for the twenty (20) year HOME Affordability Period described in the County HOME Loan Agreement, then the principal amount of the County HOME Loan, along with all accrued interest, except interest accrued pursuant to Section 2.4 of the County HOME Loan Agreement, shall be forgiven upon the expiration of such 20-year HOME Affordability Period.

**6. DEFINITIONS.** All capitalized terms used but not defined in this County HOME Loan Note shall have the respective meanings ascribed to such terms in the County HOME Loan Agreement. The following terms are defined in the County HOME Loan Agreement and repeated here for convenience of reference:

- a. "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 of the HOME Loan Agreement.
- b. "County HOME Loan Deed of Trust" means that deed of trust, assignment of rents, and security agreement recorded against the Property and the improvements to be constructed thereon as security for the County HOME Loan by Borrower as trustor with Lender as beneficiary, as well as any amendments to, modifications of, and restatements of said County HOME Loan Deed of Trust.
- c. "County HOME Loan Regulatory Agreement" means the agreement executed by Borrower and Lender, attached as Exhibit E to the HOME Loan Agreement, and recorded against the Property which regulates the use of the HOME-Assisted Units.
- d. "County HOME Loan Documents" means, collectively, the County HOME Loan Agreement, the County HOME Loan Note, the County HOME Loan Deed of Trust, and the County HOME Loan Regulatory Agreement, as they may be amended,

modified, or restated from time to time, along with all exhibits and attachments to such documents

- e. "Fiscal Year" means the twelve (12) month accounting period, beginning July 1 and ending June 30, for which annual financial statements are regularly prepared.
- f. "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.
- 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 HOME Loan Agreement and as defined in 24 CFR 92.2.
- h. "Property" means the property located at 6021 Hollister Avenue in the city of Goleta, County of Santa Barbara, California as is more fully described in Exhibit A of the County HOME Loan Agreement and County HOME Loan Deed of Trust, executed concurrently herewith.
- i. This paragraph left intentionally blank.
- j. This paragraph left intentionally blank.
- k. "Term" means twenty (20) years from the date of completion of the Project in conformance with 24 CFR 92.2 and 24 CFR 92.252(e) and as evidenced by a Certificate of Occupancy for the Project issued by the City of Goleta Building Official and delivered to Lender by Borrower.

**7. PAYMENTS.** All accrued interest and principal shall be due and payable in accordance with the terms set forth in Section 5, above, and Section 9, below. 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 HOME Loan.

**8. PLACE AND MANNER OF PAYMENT.** All amounts due and payable under this County HOME Loan 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 HOME Loan Note is secured by a County HOME Loan Deed of Trust. All covenants, conditions and agreements contained in the County HOME Loan Deed of Trust and the County HOME Loan Agreement are hereby made a part of this County HOME Loan 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 HOME Loan Agreement which, if capable of cure, has not been cured pursuant to the County HOME Loan Agreement, including, but not limited to, 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 HOME Loan Note and the County HOME Loan Documents.

10. **PREPAYMENT OF COUNTY HOME LOAN.** No prepayment penalty will be charged to Borrower for payment of all or any portion of the County HOME Loan amounts prior to the end of the Term. However, prepayment of the County HOME Loan shall not affect Borrower's obligations under the County HOME Loan Regulatory Agreement.

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 HOME Loan Note.

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

13. **CONSENTS AND APPROVALS.** Any consent or approval of Lender required under this County HOME Loan 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 HOME Loan Documents shall also be sent to Borrower's counsel at the address below.

**BORROWER:** Housing Authority of the County of Santa Barbara  
815 West Ocean Avenue  
Lompoc, CA 93436  
Attn: Executive Director

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

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

16. **GOVERNING LAW.** This County HOME Loan 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 HOME Loan Note is intended to be severable in the event that any provision of this County HOME Loan Note shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in which event the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

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

19. **WAIVER.** No waiver by Lender of any obligation in this County HOME Loan Note or any of the other County HOME Loan Documents shall be valid or enforceable unless delivered by Lender to Borrower in writing in accordance with the Notice provisions hereof and thereof. No waiver shall 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 HOME Loan Documents or applicable law. Any extension of time granted to Borrower to perform any obligation under the County HOME Loan Documents shall not operate as a waiver or release from any of the Borrower's obligations under the County HOME 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 for future waivers.

20. **AMENDMENTS AND MODIFICATIONS.** All amendments or modifications to this County HOME Loan Note, if any, must be in writing, and shall be valid and enforceable only if duly 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 (collectively, the "Borrower Parties") shall not have any personal liability for payment of the principal of, or interest on, this County HOME Loan Note. The sole recourse of the Lender with respect to the principal of, or interest on, the County HOME Loan Note shall be to the property securing the indebtedness evidenced by the County HOME Loan Deed of Trust. Provided, however, that nothing contained in the foregoing limitation of liability shall (i) limit or impair the enforcement against all such security for the County HOME Loan 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 HOME Loan 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 HOME Loan Note, except as hereafter set forth; provided, however, that nothing contained herein is intended to relieve any of the Borrower Parties of personal liability to the extent of actual damages for any of the following: (i)

the Borrower Parties' fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments, or other charges (which are not contested by the Borrower in good faith or which, if contested, are nevertheless found to be validly assessed) which may create liens on the Property that are payable or applicable prior to any foreclosure under the County HOME 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 or on behalf of any of the Borrower Parties other than in accordance with the County HOME 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 HOME Loan Agreement; (vi) any Lender obligation to repay to HUD any HOME Funds in connection with Borrower's failure to comply with any of the HOME Regulations, and (vii) payment to the Lender of any rental income or other income arising with respect to the Property received by any of the Borrower Parties 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 HOME Loan Deed of Trust.

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

**BORROWER:**

**HOUSING AUTHORITY OF THE COUNTY OF  
SANTA BARBARA, a public body, corporate and politic,**

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

Robert P. Havlicek, Jr.  
Executive Director

**EXHIBIT E**

**COUNTY HOME LOAN 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, 2nd Floor  
Santa Barbara, CA 93101  
Attn: Deputy Director

NO FEE DOCUMENT PURSUANT TO  
CALIFORNIA GOVERNMENT CODE SECTION 27383

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

This County HOME Loan Regulatory Agreement and Declaration of Restrictive Covenants (this "Agreement") is made as of this 2<sup>nd</sup> day of April, 2024 ("Effective Date"), by and between the County of Santa Barbara, a political subdivision of the State of California (the "Lender" or "County"), and the Housing Authority of County of Santa Barbara, a California public body corporate and politic (the "Owner" or "Borrower").

**RECITALS**

A. The Owner owns a parcel of real property located at 6021 Hollister Avenue, in Goleta, California, as more particularly described in Exhibit A, attached hereto and incorporated herein by reference (the "Property"), upon which the Owner will construct sixty (60) units of permanent rental housing, of which one unit is designated as a manager's unit, not subject to income or rent limits.

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

C. The Lender has received federal funds through the United States Treasury Department under the American Recovery Plan Act ("ARPA") State and Local Fiscal Recovery Funds ("SLFRF").

D. On June 27 2023, Owner received a prior loan from Lender in the amount of three million five hundred thirty thousand three hundred and eighty-three dollars (\$3,530,383) comprised of two million, thirty thousand, three hundred eighty-three dollars (\$2,030,383) of

HOME-ARP funds, and one million, five hundred thousand, (\$1,500,000) of ARPA SLFRF funds, to provide financing for the Project (the County "HOME-ARP Loan").

E. Pursuant to this HOME-ARP Loan the Project has commenced construction and is underway, and there is an identified need for additional Project funding resulting from unforeseen issues associated with site and improvement work to the Property during course of construction.

F. The Lender has received HOME Investment Partnerships Program funds ("HOME Funds") from HUD pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990 for the purpose of expanding the supply of decent, safe, sanitary and affordable housing for low-income persons and families.

G. Concurrently herewith, Owner and Lender are entering into a County HOME Loan Agreement setting forth the terms and conditions of a loan from Lender to Owner in the amount of seven hundred seventy-seven thousand, six hundred and twenty-one dollars (\$777,621) which will be used to perform construction-related improvement work on the Project ("County HOME Loan").

H. As further consideration for the County HOME Loan, the purpose of this Agreement is to regulate and restrict the occupancy, rents, operation, ownership, and management of the Project. The covenants in this Agreement are intended to run with the land and be binding on the Owner and its successors and assigns with respect to the Property.

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

## **1. DEFINITIONS**

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

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

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

1.3 **“COORDINATED ENTRY SYSTEM”** means the information system utilized by Lender under the Continuum of Care for coordinating, prioritizing and insuring to the greatest extent possible non-duplication of homeless programs and services, which accordingly identifies the most vulnerable homeless persons and households and serves as basis to inform priority provision of Units to Qualifying Populations as defined in Section 1.29 herein.

1.4 **“COUNTY HOME LOAN”** means the loan of HOME Funds in the amount of seven hundred seventy-seven thousand, six hundred and twenty-one dollars, (\$777,621) made by the Lender to the Owner to finance certain development costs of the Project pursuant to the County HOME Loan Agreement and the County HOME Loan Note.

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

1.6 **“COUNTY HOME LOAN DEED OF TRUST”** means that certain deed of trust, assignment of rents, and security agreement placed on the Property and the improvements to be constructed thereon as security for the County HOME Loan, with the Owner as trustor and the Lender as beneficiary, as well as any amendments to, modifications of, and restatements of said deed of trust.

1.7 **“COUNTY HOME LOAN DOCUMENTS”** means, collectively, the County HOME Loan Agreement, the County HOME Loan Note evidencing the County HOME Loan, the County HOME Loan Deed of Trust securing the County HOME Loan Note, and this Agreement, and all exhibits hereto and thereto, as they may be amended, modified, or restated from time to time.

1.8 **“COUNTY HOME LOAN NOTE”** means the promissory note executed by the Owner concurrently herewith in favor of the Lender in the amount of seven hundred seventy-seven thousand, six hundred and twenty-one dollars, (\$777,621) evidencing the County HOME Loan, which is secured by the County HOME Loan Deed of Trust, as well as any amendments to, modifications of, or restatements of said promissory note.

1.9 **“HOME-ASSISTED UNIT”** means any of the four (4) Units on the Property designated by the Owner as HOME-Assisted Units with restricted occupancy and rents pursuant to and subject to the requirements of this Agreement, which must be occupied by Qualifying Households. A Unit shall not be considered a HOME-Assisted Unit until such Unit has been constructed and made available for occupancy.

1.10 This section intentionally left blank.

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

1.12 Intentionally deleted.

1.13 **“OWNER”** means the Housing Authority of the County of Santa Barbara, a public body corporate and politic.

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

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

1.16 **“QUALIFYING HOUSEHOLD”** means a Very Low-Income Household.

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

1.18 **“PROJECT COMPLETION”** means that all necessary title transfer requirements and construction work for the Project have been performed; the Project complies with the requirements of 24 CFR Part 92 (including, but not limited to, the property standards under § 92.251); the final drawdown of HOME funds has been disbursed for the Project; and the Project completion information has been entered into the disbursement and information system established by HUD, except that with respect to rental housing Project completion, for the purposes of § 92.502(d), Project completion occurs upon completion of construction and before occupancy.

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

1.20 **“AFFORDABILITY PERIOD”** means the period of time during which the HOME-Assisted Units must meet the affordability requirements imposed under the HOME Program, commencing upon Project Completion in conformance with 24 CFR 92.2 and 24 CFR 92.252(e), and terminating on the date that is six (6) months after the date that is twenty (20) years after the date of the issuance by the City of Goleta Building Official of a certificate of occupancy issued for the Project.



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

1.22 “VERY LOW-INCOME HOUSEHOLD” means a household, as defined in 24 CFR 92.2, whose annual income does not exceed fifty percent (50%) of the Area Median Income, with adjustments for household size as defined by the U.S. Department of Housing and Urban Development at 24 CFR Part 92.

## **2. TERM AND COMPLIANCE**

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

**2.2 TERM OF AGREEMENT.** The term of this Agreement shall commence upon the Effective Date, and shall terminate on the date that is six (6) months after the date that is twenty (20) years after the date of the issuance by the City of Goleta Building Official of a certificate of occupancy for the Property (“Term”). The requirements of this Agreement shall apply throughout the Term without regard to the term of any loan or mortgage or any transfer of ownership of the Property.

**2.3 COMPLIANCE WITH PROGRAM REQUIREMENTS.** The Owner shall comply with all requirements imposed on projects assisted under the HOME Program in effect during the Term, as such may be amended from time to time.

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

**3.1 OCCUPANCY OF PROJECT.** A total of four (4) Units in the Project shall be designated as HOME-Assisted Units. Each HOME-Assisted Unit must be occupied, or reserved for occupancy, by a Qualifying Household.

**3.2 HOME-ASSISTED UNITS.** At all times during the Affordability Period, the Owner shall limit the rental of four (4) the HOME-Assisted Units to Very-Low Income Households, at Qualifying Rents that do not exceed the maximum rental charges for each HOME-Assisted Unit as set forth in Sections 1.17 and 3.4 of this Agreement. The HOME-Assisted Units shall be designated as “floating,” such that the Units that are designated as HOME-Assisted Units may change over time, provided that the total number and type of HOME-Assisted Units in the Project remains constant at all times during the Affordability Period.

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

- A. The HOME-Assisted Units shall be similarly constructed and of comparable quality to all other Units in the Project, and shall be dispersed throughout the Project.

- B. The Tenants of HOME-Assisted Units shall be provided with access to and enjoyment of all common areas and facilities in the Project on the same basis as Tenants of other Units.

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

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

**3.4 MAXIMUM RENTAL CHARGES.**

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

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

**3.4.1 OCCUPANCY DEADLINES.** Owner shall ensure that each HOME-Assisted Unit is occupied by a Qualifying Household in accordance with the deadlines for occupancy set forth at 24 CFR 92.252. Each HOME-Assisted Unit shall be occupied by a Qualifying Household within six (6) months after the date of issuance by the City of Goleta Building Official of a certificate of occupancy for the Project ("Certificate of Occupancy"). In the event that any HOME-Assisted Unit is not occupied by a Qualifying Household ("HOME-Assisted Unit Vacancy") on the date that is six (6) months after the date of the issuance by the City of Goleta Building Official of a certificate of occupancy for the Project ("Occupancy Deadline"), Owner shall (i) submit to Lender within five (5) days after the Occupancy Deadline written notice of each such HOME-Assisted Unit Vacancy, (ii) submit to Lender within ten (10) days after the Occupancy Deadline a

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

### **3.5 INCOME CERTIFICATION.**

The Annual Income levels and other qualifications of applicants for HOME-Assisted Units shall be (i) certified by Owner no earlier than six (6) months prior to the Qualifying Household's expected occupancy of a HOME-Assisted Unit, and (ii) recertified by Owner annually, in compliance with 24 CFR 92.203.

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

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

**B. Annual Income Recertification.** At the time of each HOME-Assisted Unit lease renewal, or pursuant to an annual schedule adopted by the Owner, and in no event later than the one-year anniversary of the initial Annual Income verification for each HOME-Assisted Unit, and annually thereafter during the Affordability Period, Owner shall recertify the Annual Income of each Tenant occupying a HOME-Assisted Unit using the method described in Section 3.5.A, above.

**3.6 INCREASES IN QUALIFYING HOUSEHOLD INCOMES.** In the event that recertification of the Annual Income of a Tenant who previously qualified as a Qualifying Household (“Previously-Qualifying Household”) indicates that such Tenant’s Annual Income exceeds the maximum Annual Income designated for a HOME-Assisted Unit hereunder and pursuant to the HOME program requirements, the Owner may increase the amount of rent payable by such Tenant for such HOME-Assisted Unit only as permitted in accordance with HOME regulations regarding “over-income tenants,” which regulations are set forth at 24 CFR 92.252(i). If the Previously-Qualifying Household’s income exceeds eighty-percent (80%) of AMI, then the Unit occupied by the Previously-Qualifying Household no longer qualifies as a HOME-Assisted Unit, and the next available Unit of comparable size and amenities or larger must be designated by Owner as the replacement HOME-Assisted Unit.

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

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

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

B. In addition to executing a Lease for each HOME-Assisted Unit, the Owner shall require that each Qualifying Household leasing a HOME-Assisted Unit execute a Declaration of Intent to Occupy, which shall require the Qualifying Household to occupy such HOME-Assisted Unit as the Qualifying Household’s primary residence.

C. The Lease for each HOME-Assisted Unit shall not contain any of the prohibited provisions identified at 24 CFR §92.253(b), including the following:

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

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

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

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

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

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

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

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

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

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

E. Owner shall comply with all requirements of the Violence Against Women Act (VAWA) set forth in 24 CFR part 5, subpart L. Owner shall provide the notice and certification form described in 24 CFR 5.2005(a) to an applicant for a HOME-Assisted Unit at the time the applicant is admitted to a HOME-Assisted Unit, or denied admission to a HOME-Assisted Unit based on the Owner's tenant selection policies and criteria. Owner shall further provide the notice and certification form described in 24 CFR 5.2005 with any notification of eviction from a HOME-Assisted Unit. If a family living in a HOME-Assisted Unit separates under 24 CFR 5.2009(a), the remaining Tenant(s) may remain in the Unit. All Leases for HOME-Assisted Units must include a VAWA lease term/addendum to incorporate all requirements that apply to the Owner or Lease under 24 CFR part 5, subpart L, and 24 CFR 92.359, including the prohibited bases for eviction and restrictions on construing lease terms under 24 CFR 5.2005(b) and (c). The VAWA lease term/addendum must also provide that the Tenant may terminate the Lease without penalty if it is determined that the Tenant has met the conditions for an emergency transfer under 24 CFR 5.2005(e). The Lease term/addendum must require the Owner to notify the participating jurisdiction before the Owner bifurcates the Lease or provides notification of eviction to the Tenant. Owner shall comply with all other VAWA requirements applicable to the HOME program not specified herein.

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

4.2 **TENANT SELECTION.** Before leasing any Unit in the Project, the Owner must provide to Lender for Lender’s review and approval the Owner’s written tenant selection plan (“Tenant Selection Plan”). A Veteran’s preference must be applied pursuant to amended Section 1.16, as described above. Any changes to the Tenant Selection Plan require prior written approval from Lender.

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

4.4 **CONDOMINIUM CONVERSION.** The Owner shall not convert Units to condominium or cooperative ownership or sell condominium or cooperative conversion rights in the Property during the Term.

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

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

## **5. PROPERTY MANAGEMENT**

**5.1 MANAGEMENT RESPONSIBILITIES.** The Owner shall be solely responsible for management of the Project, including all management functions with respect to the Project, including without limitation the selection of Tenants, certification and recertification of Qualifying Household size and Annual Income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The Owner shall submit its proposed Property Manager for the Project to Lender for Lender's approval. Lender hereby preapproves the Housing Authority of the County of Santa Barbara as the Property Manager for the project. The Owner may only remove and/or replace the Property Manager with the prior written consent of the Lender, which consent shall not be unreasonably withheld.

**5.2 APPROVAL OF MANAGEMENT POLICIES.** The Owner shall submit its written management policies with respect to the Project ("Management Policies") to the Lender for Lender's review and approval. Owner shall amend the Management Policies in any way necessary to ensure that the Management Policies comply with the provisions of this Agreement, the requirements of the HOME Program, as may be amended from time to time, and the requirements of all lenders providing financing for the Project; provided, however, that in the event of any conflict between the requirements of the HOME Program and the requirements of any lender providing financing for the Project, the requirements of the HOME Program shall prevail and control and the Management Policies shall comply with such requirements of the HOME Program.

**5.3 INSPECTION AND RECORDS.** The Owner shall maintain records which clearly document the Owner's performance of its obligations under this Agreement. The Owner shall submit all requested records to the Lender within ten (10) business days of the Lender's request. The Owner shall permit the Lender to enter and inspect the Property for compliance with Owner's obligations under this Agreement at all reasonable times upon twenty-four (24) hours' advance notice of such visit by the Lender to the Owner or the Owner's Property Manager, and Owner shall be responsible for notifying tenants regarding same in accordance with the provisions of such tenants' Leases. Owner must include provisions in all Tenant leases that allow for such County inspections of the Units.

**5.4 COMPLIANCE MONITORING.** The Owner shall, at all times during the Term, operate the Property and the Project in full compliance with this Agreement and the HOME Program regulations set forth in 24 CFR Part 92, including, but not limited to, the property condition standards set forth in 24 CFR 92.251(f). The Owner shall permit the Lender to conduct compliance monitoring, including performing on-site records review and inspections of the Property, as required by the HOME Requirements and as reasonably requested by Lender.

**5.5 ANNUAL REPORT.** On or before March 1<sup>st</sup> of each year during the Term following recordation of a notice of completion issued for the Project, the Owner shall submit to the Lender a report in a form approved by Lender for the preceding calendar year, containing all information requested by Lender so as to allow the Lender to determine the Owner's compliance with this Agreement ("Annual Report"). The Annual Report shall include, at a minimum: (i) an Annual Financial Statement, as defined in Section 1.2 of the County HOME Loan Agreement, (ii) a report on the occupancy of the Project, (iii) a report on the physical condition of the Project, (iv) a report on the general management of the Project, (v) for each HOME-Assisted Unit, the rent, Annual

Income, and household size of the Tenant household in occupancy of such Unit, as well as the date such tenancy commenced, and (vi) all other information requested by Lender.

Within thirty (30) days after receipt of a written request from Lender, Owner shall submit all other information and completed forms requested by the Lender in order to comply with reporting requirements of HUD, the State of California, or the Lender. The Lender shall have the right to examine and make copies of all books, records and other documents and data in Owner's possession, custody, or control which pertain to the Project or any Unit to determine compliance with this Agreement.

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

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

**5.8 MAINTENANCE OF EXISTING STRUCTURES.** Owner shall maintain all buildings on the Property in good condition, in good repair, ordinary wear and tear excepted, and in a decent, safe, sanitary, habitable and tenantable condition. All Units in the Project must meet the standards set forth in 24 CFR 92.251(f)(2) at all times during the Term of this Agreement. In the event that Lender establishes property standards in accordance with 24 CFR 92.251(f)(1), and determines in its sole discretion that such standards are applicable to the Project, Lender shall send written notice of such determination to Owner. Upon Owner's receipt of such written notice, the property standards established by Lender pursuant to 24 CFR 92.251(f)(1) shall apply to all Units in the Project throughout the Term of this Agreement. Owner shall not cause or permit any violations of any laws, ordinances, regulations, covenants, conditions, restrictions, or equitable servitudes as they pertain to improvements, alterations, maintenance or demolition on the Property. Owner shall be solely responsible for maintenance of the Property.

## **6. GENERAL PROVISIONS**

**6.1 SUBORDINATION.** This Agreement shall be senior to, and shall not be subordinate to, any deed of trust, note, agreement or to any other obligations of Lender concerning the 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. Except as otherwise provided herein, if Lender determines that such breach is capable of cure, the Owner shall have an opportunity to cure such breach within thirty (30) days from the Owner's receipt of such written notice, or such longer period of time as the Lender determines is reasonably necessary to cure such breach, provided that the Owner diligently



undertakes to cure such breach. Lender shall accept a cure of such breach by the Owner's limited partner on the same basis as Lender would accept a cure of such breach by the Owner. If the Owner fails to perform a timely cure of the specified breach, the Lender may proceed with any or all of the following remedies upon the Owner's failure to cure, or immediately upon the occurrence of a breach that the Lender determines to be incapable of cure:

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

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

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

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

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

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

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

**6.6 GOVERNING LAW.** This Agreement shall be interpreted under and be governed by the laws of the State of California, except for any provisions hereof that may be preempted by federal law.

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

**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 Lender consent or approval must be in writing and executed by a duly authorized representative of the Lender.

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

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

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

**Owner:** Housing Authority of the County of Santa Barbara  
815 West Ocean Avenue  
Lompoc, CA 93436  
Attn: Executive Director

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

**6.11 BINDING UPON SUCCESSORS.** This Agreement shall be recorded and all provisions of this Agreement shall be binding upon and inure to the benefit of the respective heirs, administrators, executors, successors-in-interest, transferees, and assigns of the Owner and the Lender, and shall run with the land for the full Term, regardless of any assignment, payment, prepayment, expiration, extinguishment of the County HOME Loan or County HOME Loan Note, any reconveyance of the County HOME Loan Deed of Trust, or any conveyance or transfer of the Property or any portion thereof.

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

**6.13 WAIVER.** Any waiver by the Lender of any obligation in this Agreement must be in writing duly executed by Lender. No waiver shall be implied from any delay or failure by the Lender to take action on any breach or default of the Owner, or to pursue any remedy allowed under this Agreement or any of the County HOME Loan Documents, or under applicable law. Any extension of time granted by Lender to the Owner to perform any obligation under this Agreement shall not

operate as a waiver or release of any of Owner's obligations under this Agreement. Consent by the Lender to any act or omission by the Owner shall not be construed to be consent to any other or subsequent act or omission, or to waive the requirement that any waiver by Lender hereunder shall be in writing duly executed by Lender.

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

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

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

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

**COUNTY:**

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

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

Steve Lavagnino  
Chair, Board of Supervisors

**APPROVED AS TO ACCOUNTING  
FORM:**

BESTY M. SCHAFFER, CPA, CPFO  
AUDITOR-CONTROLLER

**BORROWER**

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

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

Deputy

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

ROBERT P. HAVLICEK, JR.  
Executive Director

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

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

Deputy County Counsel

**APPROVED AS TO FORM:**  
RISK MANAGEMENT

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

GREGORY MILLIGAN, ARM, AIC  
Risk Manager

Department Approval

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

Jesús Armas  
Community Services Department, Director

**ACKNOWLEDGMENT**

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

State of California  
County of Santa Barbara

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ 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)

**ACKNOWLEDGMENT**

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

State of California  
County of Santa Barbara

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ 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**

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

**PARCEL 1:**

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

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

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

**PARCEL 2:**

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

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



OFFICIAL RECORDS, THENCE 5TH, SOUTH 29° 49' EAST, ALONG THE LINE OF SAID LAST MENTIONED TRACT, 128.40 FEET TO AN ANGLE POINT THEREIN, THENCE 6TH, SOUTH 4° 00' WEST, ALONG THE EASTERLY LINE OF SAID LAST MENTIONED TRACT, 50 FEET TO THE SOUTHEAST CORNER THEREOF, THENCE 7TH, SOUTH 86° 00' EAST ALONG THE SOUTHERLY LINE OF THE TRACT OF LAND DESCRIBED IN THE DEED TO E.D. DIXON, ET UX., RECORDED APRIL 6, 1960, AS INSTRUMENT NO. 11078, IN BOOK 1731, PAGE 117 OF SAID OFFICIAL RECORDS, 127 FEET MORE OR LESS TO THE WESTERLY LINE OF FAIRVIEW AVENUE, THENCE 8TH, NORTH 0° 19' EAST ALONG SAID WESTERLY LINE, 93.45 FEET, MORE

OR LESS TO THE POINT OF BEGINNING.

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

PARCEL 3:

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

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

APN: 073-080-028

## Exhibit B

### 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:** Insurance Services Office Form CA 0001 covering Code 1 (any auto), with limits no less than \$2,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Contractor's 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 both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR'S insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 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

### STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS

#### 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:** Insurance Services Office Form CA 0001 covering Code 1 (any auto), with limits no less than \$2,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Contractor's 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 both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR'S insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 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 G**  
**MANAGEMENT PLAN**

PROJECT: Buena Tierra Apartments, Goleta, California

OWNER: Housing Authority of the County of Santa Barbara

MANAGING AGENT: Housing Authority of the County of Santa Barbara

This Management Plan has been developed as Exhibit A to the Management Agreement ("the Agreement") for the Buena Tierra Apartments.

**ON-SITE AND INDIRECT MANAGEMENT**

Indirect management services will be provided out of the Agent's offices at Goleta, California. These managerial services are identified in the Agreement and are more specifically detailed in this Management Plan.

Agent will also employ an "on-site" manager who will reside in the development. All direct management services such as this, will be considered Project costs which are chargeable to the rental agency account. Other more indirect forms of management services including overall project management, supervision of management staff, cost of replacement staff while the manager is away for vacation, sick or personnel time from his/her role of employment as manager and an on-site presence would ordinarily be provided and coordination of management services will not be considered as Project costs, but will instead be compensated for out of the Project's management fee.

Management staff, including their duties and responsibilities, are identified and discussed in greater detail under the various sections of this plan. Management positions and project expense relationships are presented as part of the Project's Operating Budget.

The Agent will assume the responsibility for making and carrying out the daily decisions which are necessary to provide this project with the management services identified in this Plan and the Agreement. Where either this Plan or the Agreement requires prior authorization from the Owner before action by the Agent, it is understood that the President or Executive Director of the General Partner of the Owner must provide necessary authorization.

Management will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment.

Typical activities are as follows:

**INITIAL RENT-UP AND CONTINUED OCCUPANCY**

Marketing  
Publications, as required  
Tenant Screening and Selection  
Tenant Eligibility Certification and Recertification  
Tenant Orientation  
Rental Agreements  
Move-In and Move-Out Inspections

**RENT COLLECTION**

Rent Roll and Service Charge Collection Management  
Rent Delinquencies  
Security Deposit Collection and Refunds  
Eviction

**MAINTENANCE**

Routine  
Non-Routine  
Extraordinary Maintenance  
Betterments and Additions  
Preventive

**ACCOUNTING AND FINANCIAL**

General Ledger  
Purchasing and Disbursements  
Financial Reports  
Investments  
Governmental Reporting

**TENANT RELATIONS AND SERVICES**

Tenant Services  
Tenant Grievances and Problems  
Housing Rules and Policies

More detailed descriptions of the above-listed typical activities are as follows:

### **RENT-UP AND OCCUPANCY**

Appropriate Housing Authority Agent staff will:

- 1) Determine and certify eligibility of all new residents, including screening, selection and orientation of residents and establishment of a waiting list in accordance with Agent's Affirmative Fair Housing Marketing Plan and appropriate eligibility criteria as established by Agent in compliance with local, State and Federal regulations. Tenant selection and assignment will be made based on the relevant sections in Agent's Public Housing Statement of Policies. Agent shall comply with the express requirements of Section 202 (h) (4) of the No Place Like Home Program Guidelines.
- 2) Management will ensure that persons with disabilities have full access to the program and services by following the policy set forth in the Housing Authority's continued occupancy plan concerning reasonable accommodations.
- 3) Annually re-determine and certify eligibility and rent payments for all tenants.
- 4) Conduct all move-in and move-out inspections.
- 5) Practices to facilitate Voluntary Moving On Strategies – To the extent available the Housing Authority will issue Housing Choice Vouchers to applicants moving into this Homekey Development. After the first year, any resident with a Housing Choice Voucher could take their voucher to a private market unit. In addition the supportive service providers will work with the clients to assess stability and capability to live independently and encourage moving if feasible.

### **RENT COLLECTION**

- 1) Agent will collect all rents and service charges. Residents may pay rent by mail or direct payment at Agent-designated locations. All rents will be due and payable on the first day of each month. Residents will have five days to make rent payments, after which time the Goleta Area Housing Manager will initiate appropriate delinquency procedures. As necessary, residents will be contacted in person regarding payment of delinquent accounts. A \$10.00 late charge will be assessed for delinquent rents and the current bank charge for returned checks.
- 2) Assume responsibility for the collection and disbursement of resident security deposits. Security deposits will be established at an amount determined by the Owner. All security deposits will be placed in a separate account as specified in the Agreement.
- 3) The Agent will assume responsibility for dealing with all delinquencies regarding rents and charges including taking any legal action as may be required. Any legal action which may be instituted will be in compliance with applicable local, state and federal laws as well as the provisions of the lease.
- 4) Before moving towards eviction proceedings due to missed rent payments, management may allow tenants to enter into repayment agreement for rent arrearages.

- 5) Alcohol or drug use in and of itself will not be considered a lease violation, unless such use results in disturbances to neighbors or is associated with illegal activity (e.g. selling illegal substances). Also, any form of violence will not be tolerated.
- 6) Appeal and Grievance – Every applicant and/or tenant has the right to appeal any adverse action taken against them. Management will follow the Housing Authority's Continued Occupancy Plan for any appeal or grievance.

### **MAINTENANCE SERVICES**

All maintenance services, unless otherwise identified, will be provided by Housing Authority maintenance employees. Maintenance personnel will schedule time on a weekly basis to perform routine, responsive and preventive maintenance as required.

The Agent will assume responsibility for the following maintenance related services:

- 1) Screening and hiring of Maintenance employees.
- 2) Supervision and training.
- 3) Monitoring of service order requests for efficient and timely processing.

Availability and response to emergency maintenance requests will be part of maintenance employees' job descriptions. However, in those instances where extraordinary repairs are required or when maintenance employees are unavailable, the Agent will execute "stand-by" contracts with licensed Contractors for completion of such repairs.

The Agent will secure bids for such contracts.

### **ACCOUNTING AND FINANCIAL**

All routine accounting and financial services required by the Project will be provided by the Agent. The Agent will establish a separate set of books and accounts and an inventory of equipment for the Project. The Agent will be responsible for making the routine operating expense disbursements required of the Project. A rental agency account will be established for the purpose of depositing all Development operating receipts and disbursing all Project operating expenses. Operating funds will be disbursed in accordance with the approved operating budget, however, in the event that any incurred monthly routine operating expenditure exceeds the estimated monthly expense by more than 10% the Owner will be notified and an agreement shall be reached regarding payment. In addition, prior approval of the Owner will be required for any single maintenance or repair expenditure which is not in the annual budget approved by the Owner or which would cause the Agent to exceed a budget line item by more than Two Thousand Dollars (\$2,000) for labor and materials, except where emergency repairs may be required because of danger to the residents or to the property or to avoid suspension of any necessary service to the Project.

Routine accounting will be completed by the Agent's clerical and technical staff, under the supervision of the Agent's Controller. Agent will provide Owner with monthly financial reports. All reporting, accounting and purchasing will be consistent with generally accepted accounting principles.

All financial operations of the Agent are audited on an annual basis. The expense of a similar audit will be borne by the Project, not by the Management Fee. The Agent will make all financial information necessary to complete the audit available to the Auditor on a timely basis.

The Agent will also prepare and submit to the Owner within 60 days of the beginning of a new fiscal year a proposed operating budget for review.

### **TENANT RELATIONS AND SERVICES**

Confidentiality – Management and staff are committed to safeguard confidential information related to our program participants. In order to ensure the security of confidential participant information, staff will refrain from sharing confidential participant information with anyone except authorized parties, (this includes supportive services staff) and will ensure that participant files are kept in a secure location at all times, and maintain heightened electronic security measures.

The Agent will maintain good-faith communication with the tenants so that problems may be avoided or solved on the basis of mutual self-interest. Grievances will be heard in accordance with the Agent's established grievance procedures for its public housing program. The Agent will counsel tenants and make referrals to available community social service agencies in cases of financial hardship or under similar circumstances to avoid involuntary termination of tenancies.

A quarterly newsletter will be published and distributed to the tenants which will include reminders about their obligations relative to various housing rules and policies.

### **AFFIRMATIVE FAIR MARKETING HOUSING PLAN**

As a Public Housing Agency, Agent is acutely aware of the need to Affirmatively Fair Market the project's units. Agent will make outreach efforts through various community organizations and newspapers. Statistical reports will be reviewed on a regular basis to target outreach to specific groups where representation is weakest.

An Outreach Program will be maintained to ensure that public notices and other information about the availability and nature of the housing will reach qualified individuals with handicaps, and organizations serving such individuals. The outreach will include, but not be limited to:

- The advertisement of the availability of accessible units in local newspapers;
- Regular notices to organizations serving handicapped individuals;
- Public posting of information about the availability of accessible units;
- Individual counseling to assist applicants being placed in suitable, accessible units; and
- All advertisements, brochures, etc., will feature Equal Opportunity and Fair Housing logos and information.

### **MANAGEMENT FEE**

The Agent shall be compensated for its service under the Agreement as follows:

- 1) A fee payable each month, equal to the amount specified in paragraph VII.1 of the Agreement.
- 2) Maintenance expenses are to be reimbursed directly by the Project at actual material and contract costs. Where Agent's maintenance personnel are used the Project will be charged the rate currently being charged tenants in the Agent's Public Housing program.
- 3) Utility expenses such as water, sewer, telephone, gas, and electricity will be reimbursed directly by the Project.
- 4) Any Legal Costs for evictions carried out by the Agent will be reimbursed directly by the Project.

### **MISCELLANEOUS**

It is hereby understood that the Agent has in place numerous standard operating procedures and policies that it follows in the normal course of all its business operations as a Public Housing Authority. Where relevant and appropriate, these procedures and policies will be followed in the management of this property.