

NO FEE DOCUMENT

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

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

NO FEE DOCUMENT PURSUANT TO  
CALIFORNIA GOVERNMENT CODE SECTION 27383

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**COUNTY 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 12th day of September, 2017 by and between the County of Santa Barbara, a political subdivision of the State of California (the “Lender”), and Good Samaritan Shelter, 245 E. Inger Dr., Suite 103B, Santa Maria, CA 93454, a California Nonprofit Organization, (the “Owner”).

**RECITALS**

A. The Owner owns a parcel of real property located at 310 North School Street in the city of Santa Maria, California as more particularly described in Exhibit A (the “Property”) upon which the Owner intends to acquire and rehabilitate a seven-bedroom, single-family residence, of which one bedroom is designated as a manager’s unit and six bedrooms are Single Room Occupancy (SRO) units, as defined in 24 CFR 92.2, targeted to low and very-low income households (the “Project”).

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

C. Owner has received a loan from Lender of HOME Funds in the amount of Five Hundred Fifty Thousand Dollars (\$550,000) to provide financing for the Project (the “County HOME Loan”).

D. As further consideration for this funding and to further the interests of the Lender, the Owner has agreed to enter into and record this Agreement. The purpose of this Agreement is to regulate and restrict the occupancy, rents, operation, the ownership, and management of the

Project. The covenants in this Agreement are intended to run with the land and be binding on the Owner and its successors and assigns in the Property.

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

## **1. DEFINITIONS**

All initially capitalized terms in this Agreement shall have the definition ascribed to such terms in the County HOME Loan Agreement. Some of the following terms are defined in the County HOME Loan Agreement and repeated here 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 wherever used in this Agreement or attached exhibits.

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

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

1.3 **“COUNTY HOME LOAN”** means the loan of HOME funds in the amount of Five Hundred Fifty Thousand Dollars (\$550,000) made by the Lender to the Owner to finance certain acquisition and construction costs of the Project pursuant to the County HOME Loan Agreement and the County HOME Loan Note.

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

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

1.6 **“COUNTY HOME LOAN DOCUMENTS”** are 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 as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

1.7 **“COUNTY HOME LOAN NOTE”** means the promissory note executed by the Owner in favor of the Lender in the amount of Five Hundred Fifty Thousand Dollars (\$550,000), 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.

1.8 **“HOME-ASSISTED UNIT”** means any of the six bedrooms (Units) on the Property designated by the Owner as units with restricted occupancy and rents pursuant to and subject to the requirements of this Agreement. A unit shall not be considered a HOME-Assisted Unit until the Unit has been constructed and made available for occupancy.

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

1.10 **“LOW-INCOME HOUSEHOLD”** means a household, as defined in 24 CFR 92.2 and, for the purposes of this Project, whose annual income does not exceed sixty percent (60%) of Area Median Income for the Santa Maria-Santa Barbara Metropolitan Statistical Area as determined by HUD and published annually with adjustments for household size.

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

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

1.13 **“PROPERTY”** means the real property located at 310 North School Street, Santa Maria, California, as more particularly described in Exhibit A attached hereto and incorporated herein, including the improvements constructed thereon pursuant to the County HOME Loan Agreement.

1.14 **“QUALIFYING HOUSEHOLD”** means a household that qualifies as a Low-Income Household as defined in Section 1.10 of this Agreement or Very Low-Income Household as defined in Section 1.20 of this Agreement. A Qualifying Household who meets the definition of Veteran must be given a preference to be first considered for a vacancy or may be moved to the top of a waiting list, if applicable. Veteran is defined as the Head of Household or Spouse who has served in active duty in the United States Armed Forces for a minimum of six (6) continuous months, and if separated from military service, received other than dishonorable discharge. The veteran preference will also be given to a surviving spouse or registered domestic partner of a deceased veteran, as defined herein. Verification of veteran status will be by the submittal of a copy of the veteran's DD-214.

1.15 **“QUALIFYING RENT”** means the total monthly charges for rent, which shall not exceed seventy-five percent of the of the Fair Market Rent (FMR) for a zero-bedroom unit as 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.

1.16 This paragraph left intentionally blank.

1.17 “TENANT” means a household occupying a Unit.

1.18 “TERM” means the period of time during which the HOME-Assisted Units must meet the affordability requirements imposed under the HOME Program, as described in Section 2.2 of this HOME Regulatory Agreement.

1.19 “UNIT” means a HOME-Assisted unit in the Project.

1.20 “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 for the Santa Maria-Santa Barbara Metropolitan Statistical Area as determined by HUD and published annually with adjustments for household size.

## **2. TERM AND COMPLIANCE**

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

2.2 **TERM OF AGREEMENT.** This Agreement shall commence on the date of recordation of this HOME Loan Regulatory Agreement and terminate fifteen (15) years and six (6) months after the date of project completion in conformance with 24 CFR 92.2 and 24 CFR 92.252(e) and evidenced by a written notice of completion provided to the Borrower by County. 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 on the date the County HOME Loan is executed by all parties, and as may be amended from time to time.

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

3.1 **OCCUPANCY OF PROJECT.** Six (6) bedrooms (Units) in the Project shall be designated as HOME-Assisted Units. The HOME-Assisted Units must be occupied, or reserved for occupancy, by Qualifying Households. Three (3) bedrooms (Units) are restricted for Low-Income Households as defined in Section 1.10 of this Agreement and three (3) bedrooms (Units) are restricted for Very Low-Income Households as defined in Section 1.20 of this Agreement.

3.2 **HOME-ASSISTED UNITS.** The Owner shall limit for the full Term of this Agreement the rental six (6) HOME-Assisted Units to Qualifying Households at Qualifying Rents that do not exceed the maximum rental charges for each HOME-Assisted Unit as set forth in Section 1 above.

The six (6) HOME-Assisted Units shall meet the following standards:

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

3.3 This paragraph left intentionally blank.

3.4 **MAXIMUM RENTAL CHARGES.**

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

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. Tenants of Home-Assisted Units shall be given at least thirty (30) days written notice prior to any increase in Qualifying Rents, consistent with state law. Lender shall approve such request if the increased Qualifying Rents will comply with all applicable HOME Program requirements.

3.4.1 **OCCUPANCY DEADLINES.** Owner shall ensure that the six (6) HOME-Assisted Units are occupied by eligible tenants in accordance with the deadlines for occupancy set forth at 24 CFR 252. Eligible tenants shall occupy the six (6) HOME-Assisted Units within six months from the completion of rehabilitation of the Project, evidenced by the completion and securing Certificate(s) of Occupancy, if issued. If not issued, then Project completion will be evidenced by the satisfactory compliance with the housing standards required by HUD in effect at the time of inspection performed by Lender, currently the Housing Quality Standards (HQS) set forth at 24 CFR 982.401. In the event that any of the six (6) HOME-Assisted Units are not occupied by eligible tenants five months after the date of the issuance of a certificate of occupancy, or a HQS inspection report issued by Lender indicating compliance with HQS, Owner shall submit to Lender within ten (10) days a detailed record of its marketing efforts and comply with Lender's requests for additional information pertaining to the marketing efforts. In the event the six (6) HOME-Assisted Units are not occupied by eligible tenants within 17 months after the date of the issuance of a certificate of occupancy, then this shall constitute an Event of Default. On or before the last day of the 17th month after the date of the issuance of a certificate of occupancy, Lender shall give written notice to Owner in accordance with Section 6.2 herein. Owner shall have 30 days from receipt of such notice to cure the breach, but in any event shall cure the breach before the end of the 18th month after the date of the issuance of a certificate of occupancy.

### 3.5 INCOME CERTIFICATION.

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

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

- (1) Third Party Verification: All third parties (e.g., employer, Social Security Administration, public assistance agency, etc.) are contacted to provide information to verify Annual Income. Written requests and responses are required; and
- (2) Review of Documents: The Qualifying Household provides documents verifying their Annual Income (e.g., pay stubs, tax returns, etc.). These documents must then be retained in the Project files.

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

### 3.6 INCREASES IN QUALIFYING HOUSEHOLD INCOMES.

C. In the event that recertification of a previously-Qualifying Household's Annual Income indicates that the Annual Income exceeds the maximum designated for a Qualified Unit, that the Owner may increase rents on such Unit as permitted by HUD pursuant to 24 CFR 92.252(i) and as further described in HUD guidance published or approved by HUD, including but not limited to HOME CPD Notices, HOME Policy Memos, HOME *FACTS*, HOMEfires and "Compliance in HOME Rental Projects", published in 2009. Upon such occurrence, the original Unit with the non-Qualifying Household will no longer be designated a HOME-Assisted Unit.

## 4. LEASING THE PROJECT.

4.1 **TENANT LEASES.** The Owner shall execute a written lease with Tenants of HOME-Assisted Units for a term of at least one year, unless the Owner and the Tenant mutually agree to a shorter period. A lease may not be for a period less than thirty (30) days. The Tenant lease and any changes thereto must be approved by Lender.

A. The Owner shall include in leases for all HOME-Assisted Units provisions which provide that a Qualifying Household is subject to annual certification of Annual Income and that the tenancy of the Qualifying Household shall be terminated as soon as possible in accordance with state law should one or more of the Qualifying Household's members

misrepresent any material fact regarding the Qualifying Household's qualification as a Very Low-Income Household. The Owner shall include in all leases for HOME-Assisted Units provisions which prohibit the Qualifying Household from subleasing the HOME-Assisted Unit.

B. In addition to executing a lease for a 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 the 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 this personal property in accordance with State law;

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

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

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

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

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

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

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

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

4.2 **TENANT SELECTION.** Before leasing the Project, the Owner must provide Lender for its review and approval the Owner's written tenant selection plan. Tenant selection must, at a minimum, meet the requirements for tenant selection set out in 24 C.F.R. 92.253(d) and any modifications thereto. A Veteran's preference must be applied pursuant to amended Section 1.14 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 of Agreement.

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

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

## **5. PROPERTY MANAGEMENT**

5.1 **MANAGEMENT RESPONSIBILITIES.** The Owner is responsible for all management functions with respect to the Project, including without limitation the selection of Tenants, certification and recertification of Qualifying Household size and Annual Income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The Lender shall have no responsibility over management of the Project. The Owner shall submit to the Lender for its approval its proposed



Property manager. The Owner may only remove and/or replace the Property manager with the prior written consent of the Lender which consent shall not be unreasonably withheld.

**5.2 APPROVAL OF MANAGEMENT POLICIES.** The Owner shall submit its written management policies with respect to the Project to the Lender for its review, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Agreement, the requirements of the existing HOME Program, as may be amended from time to time, and the requirements of all lenders providing financing for the Project.

**5.3 INSPECTION AND RECORDS.** The Owner shall maintain records which clearly document the Owner's performance of its obligations to operate the Property under the terms of this Agreement. The Owner shall submit all requested records to the Lender within ten (10) business days of the Lender's request. The Owner shall permit the Lender to enter and inspect the Property for compliance with Owner's obligations under this Agreement upon twenty-four (24) hours advance notice of such visit by the Lender to the Owner or the Owner's Property manager and to Tenants of any Units.

**5.4 COMPLIANCE MONITORING.** The Owner shall operate the Property in full compliance with this Agreement and the HOME Program regulations at 24 CFR Part 92 in effect on the date the County HOME Loan is executed by all parties, and as may be amended from time to time, and shall remain in compliance therewith throughout the Term of this Agreement. The Owner shall permit the Lender to conduct annual compliance monitoring, including performing on-site records review and inspections of the Property, as required by regulation or reasonably requested by Lender.

**5.5 ANNUAL REPORT.** The Owner shall submit to the Lender a report in a form approved by Lender for the preceding period of January 1st through December 31st, containing the information requested by Lender so as to allow the Lender to determine the Owner's compliance with this Agreement. The report shall be submitted annually no later than March 1<sup>st</sup>, and shall include, at a minimum: (i) an Annual Financial Statement as defined in Section 1.2 of the County 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 household in occupancy. The report shall also state the date the tenancy commenced for each HOME-Assisted Unit and such other information as the Lender may be request.

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

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

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

**5.8 MAINTENANCE OF EXISTING STRUCTURES.** Owner shall maintain all buildings on the Property in good condition, in good repair and in a decent, safe, sanitary, habitable and tenable condition. All Units in the Project must meet the standards set out in 24 CFR 92.251(f)(2) throughout the Term of this Agreement. Owner shall not cause or permit any violations of any laws, ordinances, regulations, covenants, conditions, restrictions, or equitable servitudes as they pertain to improvements, alterations, maintenance or demolition on the Property. Lender shall have no responsibility over maintenance of the Property.

## **6. GENERAL PROVISIONS**

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

**6.2 DEFAULT AND REMEDIES.** In the event of any breach of any agreement or obligation under this Agreement by the Owner, the Lender shall provide written notice to the Owner of such breach. The Owner shall have an opportunity to cure such breach within thirty (30) days from the Owner's receipt of such written notice or such longer period of time as the Lender determines is necessary to cure the breach if the Owner diligently undertakes to cure such breach. If the Owner fails to perform a timely cure of the specified breach, the Lender may proceed with any or all of the following remedies upon the Owner's failure to cure:

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

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

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

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

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

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

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

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

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

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

6.9 **CONSENTS AND APPROVALS.** Any consent or approval of the Lender required under this Agreement shall not be unreasonably withheld. Any approval must be in writing and executed by an authorized representative of the Lender.

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

**Lender:** County of Santa Barbara  
Housing and Community Development  
105 E Anapamu Street, Room 105  
Santa Barbara, CA 93101  
Attn: Deputy Director

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

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

Attention: General Counsel

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

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

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

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

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

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

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

**ATTEST:**

MONA MIYASATO  
Clerk of the Board

**LENDER:**

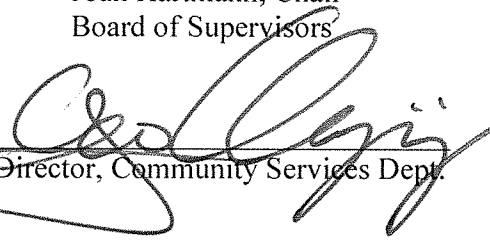
County of Santa Barbara,  
a political subdivision of the State of California


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

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

**APPROVED AS TO ACCOUNTING  
FORM:**

THEODORE A. FALLATI, CPA  
AUDITOR-CONTROLLER


By:   
Director, Community Services Dept.

By:   
Deputy

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

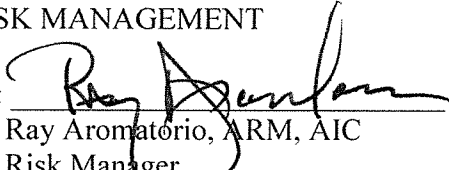
**BORROWER**

Good Samaritan Shelter  
a California Nonprofit Organization

By:   
Deputy County Counsel

**APPROVED AS TO FORM:  
RISK MANAGEMENT**

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

By:   
Ray Aromatorio, ARM, AIC  
Risk Manager

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

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

**ATTEST:**

MONA MIYASATO  
Clerk of the Board

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

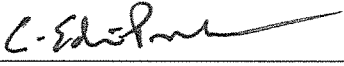
**LENDER:**

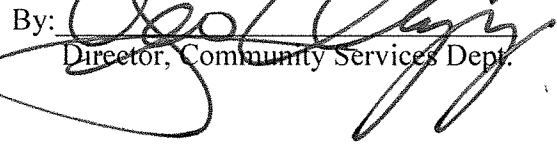
County of Santa Barbara,  
a political subdivision of the State of California

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

**APPROVED AS TO ACCOUNTING  
FORM:**

THEODORE A. FALLATI, CPA  
AUDITOR-CONTROLLER

By:   
Deputy

By:   
Director, Community Services Dept.

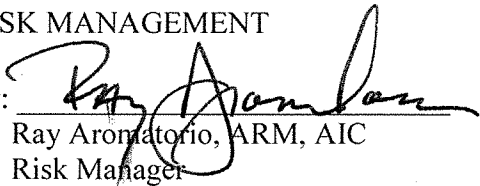
**APPROVED AS TO FORM  
MICHAEL GHIZZONI  
COUNTY COUNSEL**

By:   
Deputy County Counsel

**BORROWER**

Good Samaritan Shelter  
a California Nonprofit Organization

**APPROVED AS TO FORM:  
RISK MANAGEMENT**

By:   
Ray Aronatorio, ARM, AIC  
Risk Manager

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

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

State of California  
County of Santa Barbara

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,  
personally appeared \_\_\_\_\_ and \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

State of California  
County of Santa Barbara

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,  
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Signature \_\_\_\_\_ (Seal)



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

**ATTEST:**

MONA MIYASATO  
Clerk of the Board

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

**LENDER:**

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

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

**APPROVED AS TO ACCOUNTING  
FORM:**

THEODORE A. FALLATI, CPA  
AUDITOR-CONTROLLER

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

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

**APPROVED AS TO FORM**

MICHAEL GHIZZONI  
COUNTY COUNSEL


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

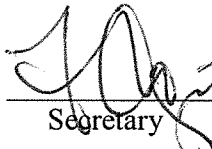
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Good Samaritan Shelter  
a California Nonprofit Organization

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

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

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

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Deputy

By: \_\_\_\_\_  
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MICHAEL GHIZZONI  
COUNTY COUNSEL

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

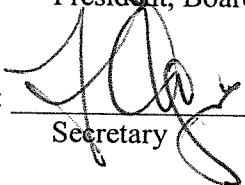
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Risk Manager

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President, Board of Directors

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

## 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 )

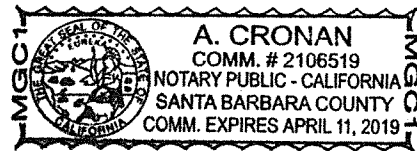
On August 28, 2017 before me, A Cronan  
(insert name and title of the officer)

personally appeared Frank Campo,  
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.

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Signature A Cronan (Seal)



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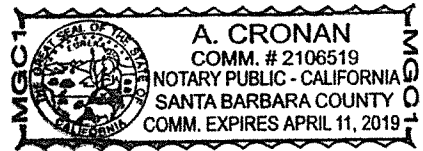
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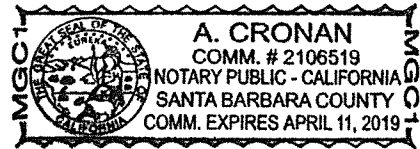
On August 28, 2017 before me, A Cronan  
(insert name and title of the officer)

personally appeared Greg Burtnett,  
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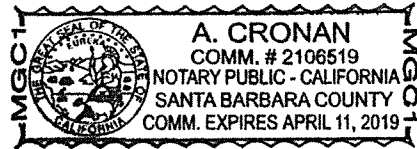
On August 28, 2017 before me, A Cronan  
(insert name and title of the officer)

personally appeared Greg Burtnett,  
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.

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WITNESS my hand and official seal.

Signature A Cronan (Seal)



**EXHIBIT A**

**Legal Description**

**For APN/Parcel ID(s): 121-202-018**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SANTA MARIA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT 37 OF MID-CITY ACRES IN THE CITY OF SANTA MARIA, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 15, PAGE 79 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED IN THE DEED TO THURMAN J. MOYER, ET UX., RECORDED SEPTEMBER 11, 1945 AS INSTRUMENT NO. 9860 IN BOOK 667, PAGE 18 OF OFFICIAL RECORDS, RECORDS OF SAID COUNTY; THENCE NORTH ALONG THE EAST LINE OF SAID BLOCK 50.03 FEET TO THE NORTHEAST CORNER THEREOF; THENCE, WEST ALONG THE NORTH LINE OF SAID BLOCK 187.50 FEET TO THE NORTHWEST CORNER THEREOF; THENCE, SOUTH ALONG THE WEST LINE OF SAID BLOCK 40.03 FEET TO THE NORTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN THE DEED TO MANUEL AVILA, ET UX., RECORDED NOVEMBER 17, 1952 AS INSTRUMENT NO. 756 IN BOOK 1044, PAGE 67 OF OFFICIAL RECORDS, RECORDS OF SAID COUNTY; THENCE, EAST ALONG THE NORTH LINE OF SAID AVILA TRACT OF LAND 72.5 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH ALONG THE EAST LINE OF SAID AVILA TRACT OF LAND 10 FEET TO THE NORTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN THE DEED TO W. B. JOHNSON, RECORDED JULY 12, 1940 AS INSTRUMENT NO. 5547 IN BOOK 495, PAGE 329 OF OFFICIAL RECORDS, RECORDS OF SAID COUNTY; THENCE EAST ALONG THE NORTH LINE OF SAID JOHNSON TRACT OF LAND, TO AND ALONG THE NORTH SIDE OF MOYER TRACT OF LAND 115.00 FEET TO THE POINT OF BEGINNING.

## EXHIBIT B

### **Indemnification and Insurance Requirements (For Service Contracts Not Requiring Professional Liability Insurance)**

#### INDEMNIFICATION

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

#### NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

#### INSURANCE

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

##### A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

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

##### B. Other Insurance Provisions

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



1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
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.

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

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. 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.