

San Marcos

RECORDING REQUESTED BY  
AND RETURN TO

Community Services Department  
Housing and Community Development Division  
County of Santa Barbara  
123 E. Anapamu Street, Room 202  
Santa Barbara, CA 93101

ATTN: HCD/Property Management

---

APN(s): 065-040-041, and 065-030-012

AGREEMENT TO PROVIDE AFFORDABLE HOUSING  
AND RENTAL RESTRICTIVE COVENANT  
AND PREEMPTIVE RIGHT

**This Document Creates a Lien on Real Property**

PROJECT NAME:  
**SAN MARCOS RANCH**

COUNTY OF SANTA BARBARA PLANNING  
AND DEVELOPMENT DEPARTMENT CASE NUMBER: **23ZCI-00083**

This Agreement to Provide Affordable Housing and Rental Restrictive Covenant and Preemptive Right (“Agreement”) is entered into by and between Natalie Penn Hodges, Trustee of the Brett Edward Hodges Irrevocable Trust dated January 30, 2023, SWBradford LLC, a California limited liability company, Ryan W. Hale, Trustee of The Bradford 2023 Irrevocable Trust dated April 18, 2023, and San Marcos Holdings LLC, a Delaware limited liability company (collectively, the “Initial Market Rate Parcel Owners”), San Marcos Ranch Associates, LP, a California limited partnership (the “Initial Affordable Parcel Owner” and together with the Initial Market Rate Parcel Owners, collectively, the “Initial Subject Property Owners”), and the County of Santa Barbara, a political subdivision of the State of California (“County”) effective as of the first date duly executed by all of the parties hereto.

**RECITALS**

WHEREAS, as of the Effective Date, the Initial Market Rate Parcel Owners are the only owners of that certain real property known as 4960 Hollister Avenue, Assessors’ Parcel Number 065-040-041, consisting of approximately 27.37 acres, as more particularly described in Exhibit A1, attached hereto and incorporated herein by this reference (the “Market Rate Parcel”); and

San Marcos

WHEREAS, as of the date of this Agreement, the Initial Affordable Parcel Owner is the sole owner of that certain real property known as 125 South San Marcos Road, Assessor's Parcel Number 065-030-012, consisting of approximately 5.82 acres, as more particularly described on Exhibit A2, attached hereto and incorporated herein by this reference (the "Affordable Parcel", and together with the Market Rate Parcel, collectively, the "Subject Property"); and

WHEREAS, the Initial Subject Property Owners have applied for County building permits to construct a residential development on the Subject Property consisting of nine hundred fifty-six (956) multi-family rental units as described in Project Case Number 23ZCI-00083 to be called the San Marcos Ranch (the "Project"), comprised of two components: (i) a market-rate multifamily development to be constructed on the Market Rate Parcel (the "Market Rate Project"), and (ii) an affordable multifamily development comprised of two hundred thirty-four (234) affordable housing units to be constructed on the Affordable Parcel (the "Affordable Rate Project"). The Initial Subject Property Owners are working collaboratively to complete the Project, with the Market Rate Parcel Owners to develop, own, and operate the Market Rate Project, and the Affordable Parcel Owner to develop, own, and operate the Affordable Rate Project; and

WHEREAS, on May 3, 2024, the County approved the 2023-2031 Housing Element Update Rezone Amendments, selecting sufficient rezone sites, including the Subject Property described as San Marcos Growers 1 and 2, to help accommodate the County's 2023-2031 Regional Housing Needs Assessment requirements; and

WHEREAS, the County has determined that the issuance of building permits for the Project in Project Case Number 23ZCI-00083 requires, as Project Conditions of Approval ("Conditions of Approval"), that the owners of the Subject Property, and all subsequent owners of the Subject Property during the Term (defined below), provide and maintain (as applicable) two hundred thirty-four (234) affordable housing units on the Affordable Parcel (the "Restricted Units"); and

WHEREAS, following the County's issuance of the Conditions of Approval, the Initial Market Rate Owners conveyed the Affordable Parcel to the Initial Affordable Parcel Owner, subject to satisfaction of the Project Conditions of Approval; and

WHEREAS, the Project Conditions of Approval require the owners of the Subject Property to enter into and record this Agreement memorializing such affordable housing requirements; and

WHEREAS, pursuant to State Density Bonus Law (Cal. Gov't Code Sec. 65915 et seq.) the Subject Property Owners have received incentives in return for providing the Affordable Units; and

WHEREAS, the Conditions of Approval require that the Restricted Units be leased in accordance with certain affordability criteria established by the County, as set forth herein, so that the Restricted Units will remain affordable for lease by Low-Income Households (defined below) for a period of at least fifty-five (55) years after the first date when a Certificate of Occupancy has been issued for each and every one of the Restricted Units, consistent with the provisions of State Density Bonus Law, the Housing Element of the Comprehensive Plan of the County of Santa Barbara, and the Project Conditions of Approval; and

WHEREAS, the parties hereto are entering into this Agreement to impose maximum rent restrictions on each of the Restricted Units, and maximum income restrictions on Low-Income

San Marcos

households eligible to occupy the Restricted Units, to be legally enforceable for the entirety of the Term; and

WHEREAS, this Agreement must be recorded prior to issuance of building permits in order to satisfy the Project Condition of Approval No. 30.1; and

WHEREAS, the purpose of this Agreement is to assure that the Restricted Units remain affordable and available for lease by Low-Income Households (defined below) for a period of at least fifty-five (55) years after the first date when a Certificate of Occupancy has been filed for each of the Restricted Units; and

WHEREAS, it is the intention of the Parties that the Market Rate Parcel Owners' obligations hereunder be limited solely to the recordation of this Agreement and the requirement that all of the Restricted Units be completed prior to the completion of the Market Rate Units or any other residential housing units on the Market Rate Parcel; and

WHEREAS, the Subject Property Owners and the County intend that the recordation of this Agreement satisfy the requirements of Condition No. 30.1 for the Project, unless it is replaced by a subsequent restrictive covenant or other agreement, approved by the County, as set-forth herein.

NOW, THEREFORE, in consideration of the benefits and good and valid consideration received by the parties hereto, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### I. DEFINITIONS

- A. "Affordable Parcel Owner" shall mean each person or entity holding, claiming or asserting a claim of title to the Affordable Parcel or any portion of or interest in the Affordable Parcel. The parties hereto acknowledge and agree that, as of the Effective Date hereof, the Affordable Parcel Owner is SAN MARCOS RANCH ASSOCIATES, LP, a California limited partnership.
- B. "Maximum Monthly Rent" means the maximum rent for each of the Restricted Units as established and periodically revised by the County's Housing and Community Development Division, as reduced in accordance with the County Housing Authority utility allowance for Section 8 housing, which is updated annually (see [www.hasbarco.org](http://www.hasbarco.org) for current figures); provided, however, for so long as the Affordable Parcel is encumbered by a tax credit regulatory agreement with the California Tax Credit Allocation Committee ("CTCAC"), Maximum Monthly Rent for all Restricted Units shall be established strictly in accordance with the rent schedules published by CTCAC.
- C. "Market Rate Parcel Owner" shall mean each person or entity holding, claiming or asserting a claim of title to the Market Rate Parcel or any portion of or interest in the Market Rate Parcel. The parties hereto acknowledge and agree that, as of the Effective Date hereof, the Market Rate Parcel Owner is the Initial Market Rate Parcel Owners.

San Marcos

- D. “Restricted Unit” means one of the 234 Units on the Affordable Parcel subject to occupancy and rent restrictions pursuant to this Agreement as provided for herein.
- E. “Subject Property” means the real property located at 4960 Hollister Ave. & 125 S. San Marcos Rd., in Santa Barbara County, California, comprised of both the Affordable Parcel and the Market Rate Parcel, and which is more fully described in Exhibit A, attached hereto.
- F. “Tenant” means a tenant or occupant of a Restricted Unit on the Affordable Parcel.
- G. “Unit” means a residential housing unit on the Subject Property.
- H. “Low-Income Household” means a household whose annual gross income does not exceed the maximum income levels permitted within the Low-Income category as defined, established, and periodically revised by the County. As of the Effective Date, a “Low-Income Household” means a household whose annual gross income does not exceed 80% of Area Median Income.
- I. “Area Median Income” means the area median income for the Santa Barbara/Santa Maria/Lompoc Primary Metropolitan Statistical Area, with adjustments for household size, as determined from time to time by the United States Department of Housing and Urban Development (“HUD”) pursuant to the United States Housing Act of 1937, as amended (“Act”), or such other method of median income calculation applicable to the Lender that HUD may hereafter adopt in connection with the Act.
- J. “Project Conditions of Approval” means the conditions of approval set forth by the County in connection with the applications submitted by the Subject Property Owners for the Project, including, but not limited to, in connection with County Planning and Development Project Case Number 23ZCI-00083.
- K. “Certificate of Occupancy” means a Certificate of Occupancy issued by the County of Santa Barbara Planning and Development Building and Safety Division for one or more of the Units.
- L. “Initial Affordability Period” means the 55-year period commencing upon the first date as of which a Certificate of Occupancy has been issued for each and every one of the Restricted Units.
- M. “Affordability Period” means the Initial Affordability Period, as extended (as provided below in Section III.B) by an amount of time equal to the aggregate amount of time during the Initial Affordability Period when any of the Affordable Parcel Owner(s), the Affordable Parcel, or any of the Restricted Units are not in compliance with this Agreement.
- N. “Affordable Parcel” means that certain real property known as 125 South San Marcos Road, Santa Barbara, California, Assessor’s Parcel Number 065-030-012.

San Marcos

- O. “Market Rate Parcel” means that certain real property known as 4960 Hollister Avenue, Santa Barbara, California, Assessor’s Parcel Number 065-040-041.
- P. “Market Rate Unit” means any Unit other than the Restricted Units.
- Q. “Subject Property Owner” shall mean each of the Market Rate Parcel Owners and the Affordable Parcel Owner, and each of their respective successors, designees, assigns, Transferees, representatives, agents, affiliates, and subsidiaries, and any subsequent purchaser, devisee, grantee, holder, successor in interest, assignee, beneficiary, heir, legal representative, executor or trustee holding, claiming or asserting a claim of title to the Subject Property or any portion of or interest in the Subject Property.

## II. TERM; ENFORCEABILITY

- A. The Subject Property Owners agree to cause to be constructed on the Affordable Parcel, and the Affordable Parcel Owner agrees to maintain for the entirety of the Affordability Period, two hundred thirty-four (234) Restricted Units, restricted for rent to Low-Income Households, pursuant to the Conditions of Approval, including, but not limited to, Project Condition of Approval No. 30.1, which is set forth in Exhibit B, attached hereto and incorporated herein by this reference, plus two (2) unrestricted manager’s units, also set forth on Exhibit B.
- B. The term of this Agreement shall commence as of the first date that this Agreement is fully executed by all of the parties hereto (“Effective Date”) and shall terminate on the date that is the day after the last day of the Affordability Period, unless earlier terminated in accordance with the provisions of this Agreement (the “Term”).
- C. This Agreement shall cease and be of no further force and effect without further action of any party following the expiration of the Term.
- D. The Subject Property Owners shall cause to be completed, and Certificates of Occupancy issued for, the Restricted Units, and two (2) unrestricted manager’s units, on the Affordable Parcel prior to issuance of any Certificate of Occupancy for any of the Market Rate Units or any other residential housing units on the Market Rate Parcel. No Certificate of Occupancy will be issued for any of the Market Rate Units, or any other residential housing units on the Market Rate Parcel, prior to the date when Certificates of Occupancy have been issued for each and every one of the Restricted Units (“Restricted Unit Completion Date”). Nothing in this Agreement shall require the construction of a Restricted Unit on the Market Rate Parcel.
- E. During the Term, this Agreement shall bind the Subject Property Owners, and each of their respective legal representatives, executors, trustees, transferees, successors in interest, and assigns (each, a “Transferee”), regardless of how such Transferee’s interest in the Subject Property was acquired, and the benefit hereof shall inure to the Subject Property Owners and their respective permitted Transferees in accordance with the provisions of this Agreement, and to the County, its successors, designees or assigns. Upon any Transfer of any part the Subject Property, the

San Marcos

restrictions with respect to the Subject Property under this Agreement shall run with the land.

- F. The Subject Property is held and hereafter shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and occupied, at all times during the Term, subject to the covenants, conditions, restrictions and limitations set forth herein; provided, however, that the obligations of the Market Rate Parcel Owners hereunder shall terminate as of the Restricted Unit Completion Date. All of the covenants, conditions, restrictions and limitations in this Agreement are intended to constitute both equitable servitudes and covenants running with the land.
- G. Every purchaser, beneficiary, trustee, successor in interest or assignee of the Subject Property, or of any portion of or interest in the Subject Property, during the Term, no matter how such interest is acquired, shall be deemed to have taken title with knowledge of this Agreement, and to have personally covenanted, consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.
- H. Each Tenant of a Restricted Unit shall be subject to the restrictions of this Agreement, by the execution of a rental agreement or lease or by taking possession of a Restricted Unit, whichever occurs first, and shall also be deemed to have knowledge of this Agreement, and to have personally covenanted, consented to, and accepted the covenants, conditions, restrictions, and limitations set forth herein. The Affordable Parcel Owner must cause each Tenant of a Restricted Unit to agree in writing, prior to occupancy of such Restricted Unit, to be subject to the restrictions of this Agreement with respect to such Restricted Unit.
- I. Each Subject Property Owner, for itself and all of its successors in interest, assignees, Transferees, and beneficiaries, hereby grants and assigns to the County the right to review and enforce compliance with this Agreement, and in furtherance of this right, grants to the County liquidated damages, described under and subject to Section VI of this Agreement.
- J. In addition to the requirements set forth above, only Low-Income Households may apply to be a Tenant of a Restricted Unit. Eligibility of prospective Tenants shall be determined by the County's Community Services Department (CSD); however, CSD may choose, in CSD's sole discretion, to authorize the Affordable Parcel Owner to conduct income certifications, subject to review and monitoring by CSD, in accordance with the County Affordable Housing income requirements and Administrative Guidelines in effect at the time of such lease, including, but not limited to, income certification. Each Tenant of a Restricted Unit must execute, prior to occupancy of such Restricted Unit, a written agreement to occupy such Restricted Unit as such Tenant's primary residence. The amount of monthly rent for each of the Restricted Units shall not exceed the Maximum Monthly Rent; provided, however, for so long as the Affordable Parcel is encumbered by a CTCAC tax credit regulatory agreement, maximum rental rates for all Restricted Units shall be established strictly in accordance with the rent schedules published

San Marcos

by CTCAC, and the Affordable Parcel Owner shall provide the County with notice annually of the then-applicable maximum rental rates.

- K. The parties hereto acknowledge that this Agreement is being executed and recorded prior to the Restricted Units being identified by individual mailing addresses for each Restricted Unit. The Subject Property Owners agree to record an Addendum to this Agreement that shall include an updated Exhibit C specifying the address of each Restricted Unit, subject to the approval of the Director of CSD ("Director") or his or her designee.
- L. Each Restricted Unit shall be functionally equivalent and of similar quality to the other Units, including the Market Rate Units.

### III. OCCUPANCY AND RENT RESTRICTIONS

- A. A total of TWO HUNDRED THIRTY-FOUR (234) Units in the Affordable Parcel shall be designated as Restricted Units, as specified on Exhibit C, attached hereto and incorporated herein by this reference. Each of the Restricted Units must be occupied by, or reserved for occupancy by, certified Low-Income Households at all times during the Affordability Period. The initial applicable maximum income level for a Low-Income Household is described in Exhibit C hereto.
- B. This Agreement shall bind each of the Subject Property Owners, and their respective legal representatives, executors, trustees, beneficiaries, devisees, grantees, successors in interest and assigns, and the benefit hereof shall inure to the Subject Property Owners and their respective permitted Transferees in accordance with the provisions of this Agreement, and to the County, its successors, designees, and assigns, for fifty-five (55) years from the Restricted Unit Completion Date. The running of the 55-year Affordability Period shall be tolled during any time that any of the Affordable Parcel or the Affordable Parcel Owner is in violation of this Agreement.

Notwithstanding the foregoing, this Agreement shall terminate upon the occurrence of either of the following events:

1. The Zoning Clearance expires under the terms of County Land Use and Development Code Section 35.82.210(E)(2); or
  2. The Subject Property Owners, or the Affordable Parcel Owner, record(s) a separate restrictive covenant or other agreement, which the County, in its sole discretion, determines satisfies the requirements of Zoning Clearance Condition No. 30.1.
- C. For the Restricted Units, the total rent charged, including utilities or a utility allowance if utilities are not included in rent, and including all services charged to Tenants of a Restricted Unit, cannot exceed the Maximum Monthly Rent.

The income levels and other qualifications of applicants to lease as Tenants of a

San Marcos

Restricted Unit shall be certified by the Affordable Parcel Owner as conforming to the income restrictions for such Restricted Unit as set forth herein prior to initial occupancy. The income level and other qualifications of each Tenant occupying a Restricted Unit shall be re-certified by the Affordable Parcel Owner annually thereafter. Certifications and recertification shall, upon County's request, be subject to review and approval by CSD. Notwithstanding the above, the County reserves the right to perform certifications of eligibility and re-certifications instead of the Affordable Parcel Owner if the County so elects, in which case County will provide written notice of such election to the Affordable Parcel Owner.

- D. In the event that re-certification of a Tenant occupying the Restricted Unit indicates that such Tenant's household income exceeds the County's maximum income limit for a Low-Income Household (i.e., 50% to 80% of Area Median Income), then the Affordable Parcel Owner shall terminate the tenancy of such Tenant(s) of such Restricted Unit upon ninety (90) days' written notice from the Affordable Parcel Owner to such Tenant(s). Upon the vacancy of such Restricted Unit, Developer shall rent such Restricted Unit to a qualified Low-Income Household at no more than the Maximum Monthly Rent as provided for herein.
- E. Any transfer by any Affordable Parcel Owner of any interest in one or more of the Restricted Units or the Affordable Parcel, in whole or in part, whether directly or indirectly, by operation of law or otherwise, including, but not limited to, by devise, bequest, foreclosure, or as part of or in conjunction with a transfer of the entire ownership interest in the Affordable Parcel, must be in accordance with all of the provisions of this Agreement, and each such Transferee shall be subject to all of the provisions of this Agreement as an Affordable Parcel Owner hereunder, and each such Transferee must execute and deliver to the County, concurrently with such transfer, an amendment to this Agreement as an "Affordable Parcel Owner" hereunder in substantially the form attached hereto as Exhibit H, following the County's completion of due diligence with respect to such proposed Transferee. Prior to the Restricted Unit Completion Date, any transfer by any of Market Rate Parcel Owners of any interest in the Market Rate Parcel, in whole or in part, whether directly or indirectly, by operation of law or otherwise, including, but not limited to, by devise, bequest, foreclosure, or as part of or in conjunction with a transfer of the entire ownership interest in the Market Rate Parcel, must be in accordance with all of the provisions of this Agreement, and each such Transferee shall be subject to all of the provisions of this Agreement as a Market Rate Parcel Owner hereunder, and each such Transferee shall promptly execute and deliver to the County an amendment to this Agreement as a "Market Rate Parcel Owner" hereunder. Upon the delivery to the County of an amendment to this Agreement, in substantially the form attached hereto as Exhibit H and duly executed by each Transferee as an "Affordable Parcel Owner" or "Market Rate Parcel Owner" hereunder, as applicable, following the County's completion of due diligence with respect to such proposed Transferee(s), the transferring Subject Property Owner shall be released from any obligations or claims under this Agreement arising after the effective date of such amendment to this Agreement memorializing such transfer, other than obligations or claims arising from any act(s) or omissions(s) by or on behalf of such transferring

San Marcos

Subject Property Owner prior to the effective date of such amendment to this Agreement memorializing such transfer. The County acknowledges that the Initial Market Rate Parcel Owner intends to transfer the Market Rate Parcel to San Marcos Ranch LLC, a California limited liability company ("SMR LLC") and approves SMR LLC as a Transferee, provided SMR LLC executes the required amendment described above.

#### IV. LEASING THE RESTRICTED UNITS

- A. Affordable Parcel Owner agrees that the Restricted Units shall be leased in compliance with the Tenant Selection Plan attached hereto as Exhibit D. This Agreement imposes no responsibility for, or liability on, the Market Rate Parcel Owner or the Market Rate Parcel for violations relating to or arising out of Affordable Parcel Owner's compliance with this Agreement after the Restricted Unit Completion Date.
- B. Before leasing any of the Restricted Units, Affordable Parcel Owner shall submit the proposed form of Restricted Unit lease to the CSD Director for his review and approval ("Lease Form"). The term of each Restricted Unit lease shall be for no less than one year, unless by mutual agreement between the Tenant of such Restricted Unit and Affordable Parcel Owner, as applicable. Subject to the election of the County to perform income certifications as set forth in Section III.C, above, Affordable Parcel Owner shall have the right to enter into residential leases for the Restricted Units without prior written consent by CSD, provided that (1) Affordable Parcel Owner certifies the income and other eligibility requirements of each Tenant as required herein, and (2) each Restricted Unit is so leased pursuant to a rental agreement in the form of the Lease Form as approved by the CSD Director, without modification (each, a "Restricted Unit Lease Agreement").
- C. Each Restricted Unit Lease Agreement must not contain any of the following provisions:
  1. An agreement by the Tenant, to admit guilt, or to a judgment in favor of any Subject Property Owner in a lawsuit brought in connection with such lease;
  2. An agreement by the Tenant that a Subject Property Owner may take, hold, or sell Tenant's personal property 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 a Restricted Unit after the Tenant has moved out of such Restricted Unit. In such a case, Affordable Parcel Owner may dispose of such personal property in accordance with the laws of the State of California;
  3. An agreement by the Tenant not to hold any Subject Property Owner, or such Subject Property Owner's agent, legally responsible for any action or

San Marcos

failure to act, whether intentional or negligent;

4. An agreement of the Tenant that Subject Property Owner may institute a lawsuit without notice to Tenant;
  5. An agreement by the Tenant to waive any right to a trial by jury;
  6. An agreement by the Tenant to waive the Tenant's right to appeal, or otherwise challenge in court, a court decision in connection with the lease; or
  7. An agreement by the Tenant to pay attorney's fees, except if the Tenant has provided false or misleading household income information that the Affordable Parcel Owner could not have discovered despite the Affordable Parcel Owner's due diligence and good faith in reviewing, investigating and confirming such information.
- D. Affordable Parcel Owner shall include in each Restricted Unit Lease Agreement provisions which provide that the Tenant's household income is subject to recertification annually, and that the tenancy of such Tenant shall be immediately terminated should one or more of the Tenants of such Restricted Unit misrepresent any material fact regarding such Tenant's qualification as a qualifying Low-Income Household or refuse or fail to cooperate in the recertification process.
- E. Affordable Parcel Owner shall comply with all applicable State and local laws in terminating or refusing to renew a Tenant's lease.
- F. Prior to tenancy, each prospective Tenant of a Restricted Unit must complete, execute and deliver to Affordable Parcel Owner an Application for Certification on a form approved by County. Affordable Parcel Owner may request additional information to supplement the application as necessary and shall consult with the County if questions are raised regarding a prospective Tenant's eligibility. Notwithstanding the above, the County may elect to take over certifications of eligibility of applicants during the Term of this Agreement as provided for in Section III.C, above.
- G. To be eligible to lease a Restricted Unit, a Tenant must not own any residential real estate.
- H. Affordable Parcel Owner may only lease the Restricted Units to Tenants whose eligibility has been certified to be qualified as Low-Income Households.
- I. In addition to executing a Restricted Unit Lease Agreement, Affordable Parcel Owner must require that each Tenant leasing a Restricted Unit execute an agreement to occupy which shall require the Tenant to occupy such Restricted Unit as the Tenant's primary residence ("Intent to Reside"). Failure of Affordable Parcel Owner to enforce this requirement shall constitute a material violation of this Agreement.

San Marcos

- J. Affordable Parcel Owner hereby agrees to abide by the Tenant Selection Plan at all times during the Term. Modification of the Tenant Selection Plan can be made only pursuant to a written amendment of Exhibit D of this Agreement duly executed by each Affordable Parcel Owner and the Director.
- K. Affordable Parcel Owner must not discriminate or segregate in the use, enjoyment, occupancy, conveyance, lease, sublease or rental of the Restricted Units on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (“AIDS”) or any other basis prohibited by law.
- L. Affordable Parcel Owner agrees that each Restricted Unit shall be leased, at a minimum, in compliance with the marketing plan attached hereto as Exhibit E and incorporated herein (“Marketing Plan”). Affordable Parcel Owner must comply with the Marketing Plan in marketing the Restricted Units. Affordable Parcel Owner agrees to comply with the Lottery Plan attached hereto as Exhibit F (“Lottery Plan”) and by reference made a part of this Agreement as though set forth in full herein. The Lottery Plan shall only apply to the initial rental of each Restricted Unit.

V. MANAGEMENT

- A. Affordable Parcel Owner shall be responsible for the selection of Tenants, evictions, collection of rents and deposits concerning rental of each Restricted Unit in the manner set forth herein. Such management functions over the Restricted Units may be performed by or on behalf of Affordable Parcel Owner only by an experienced, professional management company or organization which must be approved in writing in advance by CSD (“Property Manager”). The County shall have no responsibility over management of the Restricted Units. Affordable Parcel Owner shall submit to the County for County’s prior written approval Affordable Parcel Owner’s proposed designation of a Property Manager pertaining to the Restricted Units, which approval shall not be unreasonably withheld. Subject to prior written approval by the Director, which approval shall not be unreasonably withheld, Affordable Parcel Owner may replace such Property Manager at any time with a qualified professional management company. The County accepts the Affordable Parcel Owner’s initial Property Manager, CONAM Management Corporation, a California corporation.
- B. Affordable Parcel Owner shall submit its written management policies with respect to the Restricted Units, and all changes thereto, to the Director for the Director’s review and approval, which approval shall not be unreasonably withheld, and shall amend such policies as directed by the Director as necessary to ensure that such policies comply with the provisions of this Agreement.
- C. Affordable Parcel Owner, at all times during the Term, and Market Rate Parcel Owner until the date that is five (5) years after the Restricted Unit Completion Date, shall maintain records that clearly document such party’s performance of its

San Marcos

obligations hereunder. Each Subject Property Owner shall submit to CSD all such records requested by CSD within thirty (30) days of such request. Affordable Parcel Owner shall permit the County or its designee to enter and inspect the Restricted Units for compliance with the provisions of this Agreement upon twenty-four (24) hours' advance notice of such visit by the County to Affordable Parcel Owner, and Affordable Parcel Owner shall provide written notice to each Tenant regarding same.

- D. Affordable Parcel Owner shall submit to CSD (i) not later than March 1st of each year during the Term, a report for the preceding period of January 1st through December 31st, showing the necessary information to allow the County to determine Affordable Parcel Owner's compliance with this Agreement, and (ii) within thirty (30) days after receipt of a written request, any other information or completed forms requested by the County to demonstrate Affordable Parcel Owner's compliance with this Agreement.

## VI. ENFORCEMENT

- A. Upon any violation of the provisions of this Agreement, or if any false or misleading statements are made in any document or certification submitted to the County, the County may apply to a court of competent jurisdiction for specific performance of this Agreement, for an injunction prohibiting a proposed letting, sale, or transfer in violation of this Agreement, or for any such other relief as may be appropriate. Notwithstanding the foregoing, neither the Affordable Parcel Owner nor the County shall hold or attempt to hold Market Rate Parcel Owner or the Market Rate Parcel responsible for any breach of this Agreement arising after the Restricted Unit Completion Date, other than breaches relating to or arising out of any act(s) or omission(s) by or on behalf of any Market Rate Parcel Owner(s) prior to the Restricted Unit Completion Date. From and after the Restricted Unit Completion Date, any enforcement rights the County has related to violations of this Agreement that relate to or arise from the Affordable Rate Project and Affordable Parcel, other than breaches, claims, or violations relating to or arising out of any act(s) or omission(s) by or on behalf of any Market Rate Parcel Owner(s) prior to the Restricted Unit Completion Date, shall be the Affordable Parcel Owner's sole responsibility.
- B. Each of the Subject Property Owners understand that County's objective in requiring this Agreement is to ensure that each of the Restricted Units (i) receives a certificate of occupancy prior to any certificate of occupancy being issued for the Market Rate Units, and (ii) remain affordable to eligible Low-Income Households for the entirety of the Term, and that should Affordable Parcel Owner lease, or should a Tenant occupy, a Restricted Units in violation of the requirements set forth herein, subject to any applicable cure periods, the public interest would be prejudiced and the County would thereby be damaged. Each of the Subject Property Owners agrees that it is impracticable and extremely difficult to fix the extent of actual damages to County from such a breach. However, the parties hereto made reasonable efforts to establish fairly the amount of compensation for certain

San Marcos

types of breach described below and agree that a fair and reasonable amount owing to the County for such types of breach by Subject Property Owner(s) as liquidated damages would be as follows:

1. If a Market Rate Unit receives a certificate of occupancy prior to the Restricted Unit Completion Date, the Market Rate Parcel Owner shall be liable to the County for liquidated damages in an amount equal to twice (2x) the rent paid for the Market Rate Units prior to the Restricted Unit Completion Date.
2. If a Restricted Unit is rented or leased for an amount in excess of the Maximum Monthly Rent permitted under this Agreement, Affordable Parcel Owner shall be liable to the County for liquidated damages in an amount equal to twice (2x) the difference between (a) the actual monthly rent charged for such Restricted Unit and (b) the Maximum Monthly Rent, multiplied by the number of months that such Restricted Unit has been leased in violation of this Agreement, or during which rent in an amount exceeding the Maximum Monthly Rent has been charged or collected for such Restricted Unit.
3. If a Restricted Unit is rented or leased to a Tenant whose household income and other qualifications have not been certified as provided for herein, the required certification set forth in Section III must be completed within thirty (30) days of such non-compliance. If the Tenant's household income does not qualify for letting of the Restricted Unit as required by this Agreement, then in addition to Affordable Parcel Owner's obligation under Section III.(D) herein, Affordable Parcel Owner shall be assessed liquidated damages in the amount of three times (3x) the difference between the Tenant's gross monthly household income and one twelfth (1/12<sup>th</sup>) of the County's maximum annual household income level for Low Income households that is allowed for rent or lease of the Restricted Unit in effect at the time the Restricted is rented or leased, multiplied by the number of months that the Restricted Unit has been so leased. Conversely, if any Tenant of a Restricted Unit is initially certified as a qualifying Low-Income Household, and a subsequent recertification reveals that such Tenant no longer qualifies as a Low-Income Household, then Affordable Parcel Owner shall not be subject to any penalty under this Section VI(B)(2), so long as Affordable Parcel Owner complies with the requirements of Section III(D), above.
4. During any period in which a mortgage or deed of trust encumbers the Affordable Parcel and any improvements constructed thereon, the County shall not seek any money damages under Section VI of this Agreement until the expiration of a 120-day period (the "Money Damages Stand Still Period") following Affordable Parcel Owner's and the holders' of record of any mortgages or deeds of trust Affordable Parcel, or portion thereof ("Mortgagee") receipt from the County of a notice of default under this

San Marcos

Agreement; provided, however, the Money Damages Stand Still Period shall be automatically extended for such period of time as Mortgagee is diligently pursuing remedies for an Event of Default under Mortgagee's loan documents secured by the Affordable Parcel, or portion thereof. During the Money Damages Stand Still Period, however, the County shall be entitled to pursue specific performance and/or injunctive relief against Affordable Parcel Owner for those rights and remedies under this Agreement relating to income, rent, or affordability restrictions. Mortgagee shall have the right, but not the obligation, to cure a default under this Agreement during the Money Damages Stand Still Period.

5. If a Restricted Unit is left vacant without efforts made to lease such Restricted Unit in accordance with this Agreement and the Marketing Plan, Affordable Parcel Owner shall be liable to the County for damages in an amount equal to twice (2x) the Maximum Monthly Rent, multiplied by the number of months of such vacancy.

**Each of the Subject Property Owners hereby agrees to the above liquidated damages provisions:**

\_\_\_\_\_ (Subject Property Owners' duly authorized representative's initials)

6. These remedies shall be cumulative to all other rights and remedies the County may have.
- C. In addition to any other remedies the County may have, Affordable Parcel Owner hereby grants, transfers and assigns to the County the right to receive the rents and proceeds from each Unit on or part of the Affordable Parcel due or collected during the entire period such Unit or other part of the Affordable Parcel is rented, leased, Transferred or occupied in violation of this Agreement. Each Affordable Parcel Owner also assigns to the County the right to collect and/or compromise such rents and/or proceeds in whole or in part, and/or to enforce the payment of all or any part thereof as the County may deem proper.
  - D. The running of the Term of this Agreement shall be tolled during any period in which any Affordable Parcel Owner or any part of the Affordable Parcel or any Restricted Unit is in violation of this Agreement.
  - E. The remedies stated herein shall not be exclusive, but shall be cumulative to all other remedies and rights the parties may lawfully exercise.
  - F. A violation of this Agreement constitutes a violation of the Project Conditions of Approval placed upon the Subject Property by the County, and in addition to the remedies provided for herein, a violation of this Agreement may be enforced as a violation of the Project Conditions of Approval.

San Marcos

- G. County hereby agrees that any cure made or tendered by Affordable Parcel Owner's limited partner, as disclosed in Section VII(F) below, shall be deemed to be a cure by Affordable Parcel Owner, and shall be accepted or rejected on the same basis as if made or tendered by Affordable Parcel Owner.
- H. Notwithstanding any other term in this Agreement, the parties acknowledge that nothing in this Agreement imposes any responsibilities or obligations on Market Rate Parcel Owner or the Market Rate Parcel to ensure compliance with the affordability restrictions on and management of the Restricted Units, and that any enforcement of such terms herein shall be against Affordable Parcel Owner, not Market Rate Parcel Owner or the Market Rate Parcel. Neither Market Rate Parcel Owner nor the Market Rate Parcel shall be liable in any way for Affordable Parcel Owner's breach of the terms of this Agreement arising after the Restricted Unit Completion Date.

## VII. ADDITIONAL PROVISIONS

- A. The County may assign its rights and delegate its duties hereunder without the consent of any other party. Upon such assignment or delegation, the County shall notify Affordable Parcel Owner, and, if prior to the Restricted Unit Completion Date, Market Rate Parcel Owners.
- B. Each of the Subject Property Owners and County each hereby covenant that such party has not and will not execute any other agreement or covenant with provisions contradictory to or in opposition to the provisions hereof, and that, in any event, this Agreement is controlling as to the rights and obligations between the Subject Property Owners, the County, and their respective successors, Transferees and assigns, without regard to whether such other agreement or covenant is executed before or after this Agreement.
- C. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision(s) had never been contained herein.
- D. This Agreement shall be interpreted under the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.
- E. This Agreement shall be interpreted in a manner that is consistent with the County Housing Element and Housing Element Implementation Guidelines which were in effect when the County Board of Supervisors approved the Project and the Project Conditions of Approval.
- F. All notices to a party hereto shall be sent by certified mail, return receipt requested,

San Marcos

to the address set forth for such party below, or such other address as such party may subsequently designate in writing in accordance with this Section VII.F:

To the County at: Community Services Department  
Housing and Community Development Division  
123 E. Anapamu St. #202  
Santa Barbara, CA 93101

To Affordable Parcel Owner at:

San Marcos Ranch Associates, LP  
430 E. State St. Suite 100  
Eagle, ID 83616  
Attn: Caleb Roope

With copy to the limited partner:

NEF Assignment Corporation  
540 W. Madison Street, Suite 1900  
Chicago, Illinois 60661  
Attention: General Counsel  
Email: projectnotices@nefinc.org

and:

NEF Assignment Corporation  
540 W. Madison Street, Suite 1900  
Chicago, Illinois 60661  
Attention: SVP Asset Management

and:

Holland & Knight LLP  
10 St. James Avenue, 12th Floor  
Boston, Massachusetts 02116  
Attention: Sean B. Leonard

To Market Rate Parcel Owners at: c/o Brownstein Hyatt Farber Schreck, LLP  
1020 State Street  
Santa Barbara, CA 93101  
Attn: Josh Rabinowitz

or such other addresses that the parties may subsequently provide in writing.

- G. In the event of any transfer of all or any part of the Subject Property, in whole or in part, whether directly or indirectly, by operation of law or otherwise, including, but not limited to, by devise, bequest, or foreclosure (“Transfer”), such Transferee(s) shall be bound by the provisions of this Agreement as an Affordable

San Marcos

Parcel Owner or Market Rate Parcel Owner hereunder, as applicable.

- H. Affordable Parcel Owner covenants to cause to be filed for record in the office of the County Recorder of Santa Barbara County a Request for a copy of any Notice of Default and a copy of any Notice of Sale be recorded with the original and all subsequent deeds of trust or mortgage with power of sale encumbering the Affordable Parcel, pursuant to Section 2924b of the Civil Code of the State of California, which request shall specify that any notice shall be mailed to the address for the County set forth above. Each Market Rate Parcel Owner covenants to cause to be filed for record in the office of the County Recorder of Santa Barbara County a Request for a copy of any Notice of Default and a copy of any Notice of Sale be recorded with the original and all subsequent deeds of trust or mortgage with power of sale encumbering the Market Rate Parcel prior to the Restricted Unit Completion Date, pursuant to Section 2924b of the Civil Code of the State of California, which request shall specify that any notice shall be mailed to the address for the County set forth above.
- I. In addition, in the event of any Transfer of ownership of a Restricted Unit, a Grant of Preemptive Right and Resale Restrictive Covenant, in the form attached hereto and incorporated herein by reference as Exhibit G, shall be recorded with the original and all subsequent deeds at the time of each Transfer of such Restricted Unit.
- J. Indemnity.
  - 1. Affordable Parcel Owner shall defend, indemnify and save harmless the County and Market Rate Parcel Owner and their respective officers, officials, agents and employees from any and all claims, demands, damages, losses, costs, expenses (including attorney fees), judgments or liabilities arising out of, related to, or in connection with this Agreement or occasioned by the performance or non-performance or attempted performance of the provisions hereof, including, but not limited to, any act or omission by or on behalf of the Affordable Parcel Owner or any of its respective agents, officers, representatives, or employees, except to the extent those claims, demands, damages, costs, expenses (including attorney fees), judgments or liabilities result from the sole negligence or willful misconduct of the indemnified party.
  - 2. The Market Rate Parcel Owner shall defend, indemnify and save harmless the County and its respective officers, officials, agents and employees from any and all claims, demands, damages, losses, costs, expenses (including attorney fees), judgments or liabilities to the extent arising out of, related to, or in connection with this Agreement or occasioned by the performance or non-performance or attempted performance of the provisions hereof prior to the Restricted Unit Completion Date, including, but not limited to, any act or omission by or on behalf of the Market Rate Parcel Owner or any of its respective agents, officers, representatives, or employees, except to the

San Marcos

extent those claims, demands, damages, costs, expenses (including attorney fees), judgments or liabilities result from the sole negligence or willful misconduct of the County.

- K. The recitals hereto are incorporated herein by this reference and made a part of this Agreement as if fully set forth herein.
- L. Each signatory and party to this Agreement warrants and represents that such signatory has the power and authority to enter into this Agreement in the name(s), title(s) and capacities herein stated and on behalf of the entity represented or purported to be represented by such signatory, and that all formal requirements necessary or required by applicable law, or by any Partnership Agreement or Limited Liability Company Agreement or Operating Agreement in order to enter into this Agreement, and for this Agreement to be legally binding with respect to such party, have been fully complied with.
- M. This Agreement may be executed in any number of counterparts, each of which is an original and all of which taken together form one single document.

*(Signatures appear on the following page. No further text appears on this page.)*

San Marcos

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement effective as of the Effective Date.

COUNTY OF SANTA BARBARA

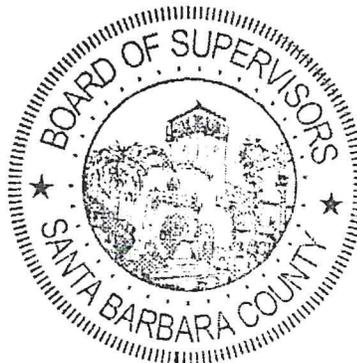
Dated: 12-16-25

By [Signature]  
Laura Capps, Chair  
BOARD OF SUPERVISORS

ATTEST:  
MONA MIYASATO  
COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By: [Signature]  
Deputy Clerk

Dated: 12-16-25



APPROVED AS TO FORM:

RACHEL VAN MULLEM  
COUNTY COUNSEL

Signed by:  
By: [Signature]  
Deputy County Counsel  
Lauren Wideman

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, December 16, 2025 before me, Sheila de la Guerra, a Deputy Clerk, personally appeared SUPERVISOR LAURA CAPPS, CHAIR OF THE BOARD OF SUPERVISORS, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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 State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

*Sheila de la Guerra*

Signature Sheila de la Guerra

California Civil Code section 1189



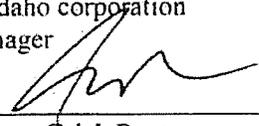
(Seal)

**AFFORDABLE PARCEL OWNER**

San Marcos Ranch Associates, LP, a California limited partnership

By: TPC Holdings IX, LLC,  
an Idaho limited liability company  
Its: Co-Administrative General Partner

By: Pacific West Communities, Inc.,  
an Idaho corporation  
Its: Manager

By:   
Name: Caleb Roope  
Its: President and CEO

By: Housing Authority of the County of Santa  
Barbara,  
a California body corporate and politic  
Its: Co-Administrative General Partner

By: \_\_\_\_\_  
Name: Robert P. Havlicek Jr  
Its: Executive Director

By: Surf Development Company,  
a California nonprofit public benefit corporation  
Its: Managing General Partner

By: \_\_\_\_\_  
Name: Robert P. Havlicek Jr  
Its: Chief Executive Officer

*(Signatures must be notarized)*

San Marcos

**AFFORDABLE PARCEL OWNER**

San Marcos Ranch Associates, LP, a California limited partnership

By: TPC Holdings IX, LLC,  
an Idaho limited liability company  
Its: Co-Administrative General Partner

By: Pacific West Communities, Inc.,  
an Idaho corporation  
Its: Manager

By: \_\_\_\_\_  
Name: Caleb Roope  
Its: President and CEO

By: Housing Authority of the County of Santa  
Barbara,  
a California body corporate and politic  
Its: Co-Administrative General Partner

By: Robert P. Havlicek Jr.  
Name: Robert P. Havlicek Jr  
Its: Executive Director

By: Surf Development Company,  
a California nonprofit public benefit corporation  
Its: Managing General Partner

By: Robert P. Havlicek Jr.  
Name: Robert P. Havlicek Jr  
Its: Chief Executive Officer

*(Signatures must be notarized)*

San Marcos

**MARKET RATE PARCEL OWNERS:**

Signed by:  
Natalie Penn Hodges  
Natalie Penn Hodges, Trustee of the Brett Edward Hodges Irrevocable Trust dated January 30, 2023

SWBradford LLC,  
a California limited liability company

By: Sharon W. Bradford  
Sharon W. Bradford, Manager

Signed by:  
Ryan Hale Trustee of the Bradford 2023 Irrevocable Trust  
Ryan W. Hale, Trustee of The Bradford 2023 Irrevocable Trust dated April 18, 2023

SAN MARCOS HOLDINGS LLC,  
a Delaware limited liability company

By: Brett Hodges  
Brett Hodges, Manager

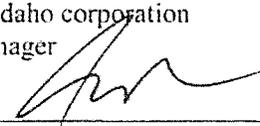
**[Notarial Acknowledgements Begin on Following Page]**

**AFFORDABLE PARCEL OWNER**

San Marcos Ranch Associates, LP, a California limited partnership

By: TPC Holdings IX, LLC,  
an Idaho limited liability company  
Its: Co-Administrative General Partner

By: Pacific West Communities, Inc.,  
an Idaho corporation  
Its: Manager

By:   
Name: Caleb Roope  
Its: President and CEO

By: Housing Authority of the County of Santa  
Barbara,  
a California body corporate and politic  
Its: Co-Administrative General Partner

By: \_\_\_\_\_  
Name: Robert P. Havlicek Jr  
Its: Executive Director

By: Surf Development Company,  
a California nonprofit public benefit corporation  
Its: Managing General Partner

By: \_\_\_\_\_  
Name: Robert P. Havlicek Jr  
Its: Chief Executive Officer

*(Signatures must be notarized)*

San Marcos

**AFFORDABLE PARCEL OWNER**

San Marcos Ranch Associates, LP, a California limited partnership

By: TPC Holdings IX, LLC,  
an Idaho limited liability company  
Its: Co-Administrative General Partner

By: Pacific West Communities, Inc.,  
an Idaho corporation  
Its: Manager

By: \_\_\_\_\_  
Name: Caleb Roope  
Its: President and CEO

By: Housing Authority of the County of Santa Barbara,  
a California body corporate and politic  
Its: Co-Administrative General Partner

By: Robert P. Havlicek Jr.  
Name: Robert P. Havlicek Jr  
Its: Executive Director

By: Surf Development Company,  
a California nonprofit public benefit corporation  
Its: Managing General Partner

By: Robert P. Havlicek Jr.  
Name: Robert P. Havlicek Jr  
Its: Chief Executive Officer

*(Signatures must be notarized)*

San Marcos

**MARKET RATE PARCEL OWNERS:**

Signed by:  
Natalie Penn Hodges  
Natalie Penn Hodges, Trustee of the Brett Edward Hodges Irrevocable Trust dated January 30, 2023

SWBradford LLC,  
a California limited liability company

DocuSigned by:  
By: Sharon W. Bradford  
Sharon W. Bradford, Manager

Signed by:  
Ryan Hale Trustee of the Bradford 2023 Irrevocable Trust  
Ryan W. Hale, Trustee of The Bradford 2023 Irrevocable Trust dated April 18, 2023

SAN MARCOS HOLDINGS LLC,  
a Delaware limited liability company

DocuSigned by:  
By: Brett Hodges  
Brett Hodges, Manager

**[Notarial Acknowledgements Begin on Following Page]**





San Marcos

**Washington Acknowledgment in a Representative Capacity (RCW 42.45.140)**

---

STATE OF WASHINGTON

COUNTY OF \_\_\_\_\_

The foregoing was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2025,  
by **Ryan W. Hale** as Trustee of The Bradford 2023 Irrevocable Trust dated April 18, 2023.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

My Commission Expires: \_\_\_\_\_

(Seal)

San Marcos

**NOTARIAL 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, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared **Brett Hodges**, 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)

San Marcos

**NOTARIAL ACKNOWLEDGMENT**

STATE OF IDAHO )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 2025 before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared **Caleb Roope**, known or identified to me to be the President and CEO of Pacific West Communities, Inc., an Idaho corporation, the Manager of TPC Holdings IX, LLC, an Idaho limited liability company, the Co-Administrative General Partner of San Marcos Ranch Associates, LP, a California limited partnership, who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the within instrument on behalf of said corporation, and that such corporation executed the same on behalf of said limited liability company, and said limited liability company executed the same on behalf of said limited partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

San Marcos

**NOTARIAL 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 \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

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

San Marcos

**NOTARIAL 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, \_\_\_\_\_  
(insert name and title of the officer)

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)

San Marcos

**NOTARIAL 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, \_\_\_\_\_  
(insert name and title of the officer)

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)

San Marcos

**NOTARIAL 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, \_\_\_\_\_  
(insert name and title of the officer)

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)



San Marcos

**EXHIBIT "A"**  
Legal Description

**For APN/Parcel ID(s): 065-040-041 and 065-030-012**

---

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

PARCEL 1: APN 065-040-041

PARCEL "A" OF PARCEL MAP NO. 12677 IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA AS SHOWN ON A MAP RECORDED IN BOOK 22, PAGE 13 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 2: APN 065-030-012

THAT PORTION OF THAT CERTAIN TRACT OF LAND, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, DESCRIBED IN THE DEED IN TRUST TO DONN B. TATUM, AS TRUSTEE, RECORDED MARCH 8, 1961, AS INSTRUMENT NO. 7959 IN BOOK 1832, PAGE 966 OF OFFICIAL RECORDS, OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN ANGLE POINT IN THE WEST LINE OF SAID TATUM TRACT, BEING THE SOUTHWESTERLY TERMINUS OF THE COURSE SHOWN AS "S. 77°19' 1/2' W. 548.5' " ON A MAP OF SURVEY FILED SEPTEMBER 5, 1961 IN BOOK 6, PAGE 28 OF MAPS AND SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ALSO BEING THE NORTHWEST CORNER OF THE TRACT OF LAND DESCRIBED IN DEED TO VALENTINE WINTERS, JR., RECORDED APRIL 7, 1888, IN BOOK 20, PAGE 471 OF DEEDS, RECORDS OF SAID COUNTY; THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID HEREINABOVE MENTIONED TATUM TRACT TO A POINT DISTANT THEREON SOUTH 04°14' WEST 660.36 FEET FROM THE NORTHWEST CORNER THEREOF; THENCE INTO SAID TATUM TRACT SOUTH 87°03' EAST 449.86 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 625.00 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE TO THE CENTERLINE OF SAN MARCOS ROAD, 40.00 WIDE, AS SHOWN ON SAID MAP IN BOOK 6, PAGE 28 OF MAPS AND SURVEYS; THENCE ALONG SAID CENTERLINE SOUTH 4° 15' WEST TO THE SOUTHERLY TERMINUS OF THE COURSE SHOWN AS "N 4 1/4°E. 266.50' " ON SAID MAP; THENCE CONTINUING ALONG SAID CENTERLINE THE FOLLOWING COURSES AND DISTANCES; SOUTH 15°00' EAST, 83.09 FEET; AND SOUTH 03°48' WEST 282.30 FEET TO THE NORTHEAST CORNER OF SAID HEREINABOVE MENTIONED WINTERS TRACT BEING AN ANGLE POINT ON THE SOUTHERLY LINE OF SAID TATUM TRACT; THENCE ALONG THE NORTHERLY LINE OF SAID WINTERS TRACT, ALSO BEING THE SOUTHERLY LINE OF SAID TATUM TRACT SOUTH 77°19'30" WEST 548.00 FEET TO THE POINT OF BEGINNING.

San Marcos

**EXHIBIT B**  
**AFFORDABLE HOUSING CONDITION(S)**  
**FOR**  
**PROJECT NAME:**

**SAN MARCOS RANCH;**

**PLANNING AND DEVELOPMENT CASE NUMBER:**  
**23ZCI-00083**

**30. Rules-29 Other Dept Conditions:** Compliance with Departmental/Division letters required as follows:

1. HCD dated August 4, 2025



Jesus Armas, Director, Community Services  
Joe Lovendk, Assistant Director, Housing & Community Development  
Jeff Lindgren, Assistant Director, Parks  
Andrew Myung, Assistant Director, Administration & Finance  
Sarah York Rubin, Executive Director, Office of Arts & Culture  
Barrett Wong, Division Manager, Sustainability



Community  
Services  
Department

sbccsd.org

August 4, 2025

**TO:** Willow Brown, Planner  
Planning & Development

**FROM:** Andrew Kish, HPSS  
Community Services | Housing & Community Development

**RE:** San Marcos Ranch, LLC – San Marcos Ranch Housing Development  
Case Number: 24ZCI-00083

Thank you for providing the project materials for review; please find County Community Services Housing and Community Development comments below.

Prior to Building Permit Issuance, the applicant shall record a covenant or other form of agreement that subjects the units to affordability restrictions required by Cal Gov. Code Sections 65915, and 65583.2(g)(3) in accordance with the County of Santa Barbara’s Housing Element, and County Code Chapter 46A. The agreement shall be subject to review and approval by County Planning & Development, County Community Services, and County Counsel.

If you or the project applicant have any questions regarding these comments, please contact me at (805) 568-3534 or by email at [akish@countyofsb.org](mailto:akish@countyofsb.org).

Respectfully,

Andrew Kish, HPSS  
CSD/HCD  
Cc: Lucille Boss/HCD

San Marcos

**EXHIBIT C**  
**ADDRESS LIST OF AFFORDABLE HOUSING UNITS**  
For  
**SAN MARCOS RANCH;**

PLANNING AND DEVELOPMENT CASE NUMBER:  
**23ZCI-00083**

TOTAL NUMBER OF RESIDENTIAL UNITS IN THE PROJECT:	<u>956</u>
TOTAL NUMBER OF RESTRICTED UNITS IN THE PROJECT:	<u>234</u>
NUMBER OF AFFORDABLE UNITS FOR 30% AMI INCOME HOUSEHOLDS:	<u>72</u>
NUMBER OF AFFORDABLE UNITS FOR 50% AMI INCOME HOUSEHOLDS:	<u>22</u>
NUMBER OF AFFORDABLE UNITS FOR 60% AMI INCOME HOUSEHOLDS:	<u>22</u>
NUMBER OF AFFORDABLE UNITS FOR 80% AMI INCOME HOUSEHOLDS:	<u>118</u>

<u>Unit #</u>	<u>Bedrooms</u>	<u>Income Level</u>
---------------	-----------------	---------------------

San Marcos

## EXHIBIT D

### SAN MARCOS REANCH TENANT SELECTION PLAN

## CONAM RENTAL CRITERIA TAX CREDIT/HOME/BOND COMMUNITIES

Thank you for choosing San Marcos Ranch as your potential new home. We are pleased that you have taken an interest in our community, and the following Rental Criteria identify the criteria through which we will process your application. All applicants must meet the following rental criteria for tenancy consideration.

It is the policy of CONAM Management to comply with all applicable federal, state, and local fair housing laws and not discriminate against any person based on race, color, religion, sex, family status, national origin, handicap/disability, or any other basis protected by state or local law.

CONAM Management will consider all reasonable accommodations, modifications, accessible apartments, and auxiliary aid and service requests when necessary to provide a person with a disability an equal opportunity to use and enjoy their apartment home and the common community areas. If you or a member of your household has a disability and requires an accommodation or modification, please contact the leasing office and ask to speak with the Community Manager.

The acceptance of the rental application and associated fees or deposits does not constitute a guarantee of acceptance for housing. All documentation requested during the application process must be submitted immediately. Missing information or an applicant's failure to supply requested documentation within forty-eight (48) hours of the request may result in a rejection of the application. Application processing times vary and can take up to ten (10) business days or longer to process.

#### **Application Fee/Reservation Deposit**

An application fee of **\$35.00** is required for each application processed, and cash is **never** accepted. Application fees are non-refundable and cover the costs of obtaining information about you, including but not limited to the cost of using a resident screening/consumer credit service and the reasonable time spent to validate, review, or otherwise process your application.

Credit and background screening is performed instantly upon submission of an application. If an applicant's credit and background screening result in approval or conditional approval, the community will proceed with the remainder verifications to fully approve the application.

Upon notification of credit screening approval and, if applicable, criminal background screening approval, a Reservation Deposit of **\$0.00** is due within twenty-four hours, and a Reservation Deposit and Agreement is executed. Reservation Deposits are non-refundable and retained as liquidated damages when:

- Seventy-two (72) hours have expired since the initial Reservation Deposit Agreement was executed, and the applicant's file is approved

Reservation Deposits are refundable when:

- An applicant's application is pending
- An applicant rejects the security deposit increase based on results found in the application process that would require an increase
- An applicant's application is rejected

Applicants whose application fee or reservation deposit payment is returned as non-sufficient funds will be assessed an NSF fee of **\$25.00**.

#### **Rental Application**

All persons eighteen (18) years of age or older and those deemed to be an adult under applicable law with respect to the execution of contracts will be required to complete an application. Only completed and signed applications are processed for consideration.



San Marcos

An applicant's incomplete application submission, intentional misrepresentation, or intentional omission of any information on the application will be a sufficient reason for the rejection of the application.

**Occupancy Standards**

The occupancy standard per floorplan is as follows:

Bedroom Size	Minimum Persons	Maximum Persons
1 Bedroom	1	3 people
2 Bedroom	2	5 people
3 Bedroom	3	7 people

If you have a special need that you would like us to consider, please contact the leasing office to discuss an accommodation.

Households who do not meet the minimum or maximum occupancy requirement during tenancy may be allowed to remain in the apartment until the lease expires or for a reasonable period after that. This scenario does not apply to a change in occupancy where the household allows unauthorized occupants to reside in the leased premises. All changes in occupancy require applicants to meet the community's rental criteria for tenancy consideration.

**Applicant Identification**

All applicants will be required to confirm their identity. An applicant whose identity cannot be verified is grounds for rejection.

**Credit Screening**

Credit screening is performed instantly upon submission of an application. However, the approval of an applicant's credit does not constitute a guarantee of acceptance for housing. All processes identified in this rental criteria outline are performed before application approval is determined.

This community uses a credit screening service to evaluate your consumer credit report. If credit screening is considered, credit scoring is based on actual data and statistics, so all applicants are treated objectively. Your credit report contains information about you and your credit experiences, including your bill-paying history, the number and type of accounts you have, late payments, collection actions, outstanding debt, bankruptcy, and the age of your accounts. Our credit screening provider also checks data sources, including the OFAC Specially Designated Nationals and Blocked Persons List (SDN) Sanctions Search list. Your application will be compared to our predetermined acceptable ranges based on your credit score and related data source information, which are the same for all applications.

Community associates are not permitted to access or discuss the details of an applicant's credit report. If an application results in less than a full approval, applicants are provided the name, address, and telephone number of the consumer reporting agency that provided the consumer information.

Reusable resident screening reports **are not** accepted.

**Criminal Background Screening**

This community **does** conduct criminal background screening.

If the community conducts criminal background screening, it will be conducted on all persons eighteen (18) years of age or older. Criminal background screening is performed instantly upon the approval or conditional approval of an applicant's credit screening.

Criminal background is only considered when the applicant passes credit screening and meets all other rental criteria for the community. If an applicant does not meet the credit or other rental criteria, the applicant is denied on that basis without consideration of the criminal background.

Criminal background screening results may take up to seventy-two (72) hours. The grounds for which a rental application may be denied include convictions for crimes committed by any applicant or by other occupants (including family members) who plan to live in the community for:

- the manufacture or distribution of controlled substances
- criminal conduct that indicates a demonstrable risk to resident safety and/or property, including felony convictions for violence, assault, sex offenses, kidnapping, terrorism, weapons, and property destruction

## San Marcos

Applicants denied based solely on their criminal background screening may submit an appeal within thirty (30) days from receipt of the adverse action notification. CONAM's appeal process includes an individualized assessment where applicants are offered the opportunity to provide information that produces a complete understanding of how past conviction(s) relate to current circumstances. The individualized assessment will take into account relevant mitigating information such as (1) the facts or circumstances surrounding the criminal conduct; (2) the age of the individual at the time the conduct occurred; (3) evidence that the individual has maintained a good tenant history before and after the conviction or conduct; and (4) evidence of rehabilitation efforts. If the individualized assessment results in an approved application, the denied applicant status is reversed.

### **Credit and Criminal Screening Results/Screening Warnings**

- Approve – This means the applicant's credit screening and, if applicable criminal background screening is accepted at the community's established security deposit level. The community will continue with the application process, such as income and other verifications.
- Approve With Conditions – Although the applicant's credit screening and, if applicable criminal background screening is approved, the applicant will be required to pay a higher security deposit based on the results found. Applicants must accept the increase to the security deposit for the community to continue with the application process. Applicants are provided an Adverse Action Notice outlining the reason for the conditional approval.
- Decline – The community may not proceed with the application. Applicants are provided an Adverse Action Notice outlining the reason for the decline. Consideration may be given for extenuating circumstances where this would be required by federal or state law. There may also be a grievance procedure in accordance with applicable state or federal program regulations.
- Screening Warnings – Applicants whose screening returns a security statement or identity warnings, such as name, date of birth, or age warnings, may be required to submit specific documentation to clear the warning. Failure to submit sufficient documentation to clear a warning may result in a rejection of the application.

### **Household Income/Assets**

Residency at this community is limited to households with moderate income and requires that households meet certain income qualifying standards established by the affordable program this community participates in. Household annual gross income must not exceed the affordable program income limits of the apartment home the household is applying for.

All sources of income, including income from assets, must be verified. Every applicant shall provide proof of all income and assets during the application process, which a third party may verify. Gross earned, and unearned annual income for all adult household members and unearned income for all household members is counted.

Rental application documents are valid for 120 days prior to move-in. If any verification is dated 120 days or older and the move-in has not occurred, a new verification must be obtained before the move-in can occur.

Income must be legal and verifiable, and households must meet the income-to-rent ratio of at least **2 times** the monthly rent amount.

Adding unauthorized household occupants without first obtaining management approval is considered a violation of the lease. Additions to an existing household require full third-party recertification of all existing household members in addition to the income certification for the new member of the household.

If there are any changes to a household's composition or income prior to move-in, management must be informed immediately.

All households will be required to recertify their income and assets annually before their move-in anniversary date. If a household fails to comply, a notice to terminate tenancy will be issued, and the household will be required to move.

### **Student Eligibility**

This community is subject to certain student limitations. If applicable, the student status of each applicant for the current calendar year must be certified and verified. Some students may not qualify for housing under one or more of the programs unless certain exemptions are met. Please check with the leasing office staff for more detail regarding student status program requirements.

### **Rental History**

The affordable program in this community requires that each applicant provide a minimum of **24 months** of rental history on their application.

## San Marcos

If an applicant is identified through the screening process as a current or former resident at another CONAM -managed community, the rental history at the CONAM-managed community will be verified. If there is a substantial history of late payments, excluding COVID-related rental debt as that term is defined under Federal or State law, an unlawful detainer judgment in the community owner's favor, or substantial lease violations resulting in the service of a notice, the application will be denied.

Additionally, applications may be denied for the following reason:

- 1) An outstanding debt to a previous landlord
- 2) A public record of an unlawful detainer action or an eviction
- 3) A breach of a prior lease, including failure to pay rent timely and non-compliance with rules, laws, and regulations

### **Rent Subsidy Applicants**

The application screening for applicants with rent subsidies is processed in adherence with federal, state, and local laws.

### **Guarantors**

This community **does not** accept guarantors.

If the community accepts guarantors, they may be accepted for applicants with income or credit-related failures. A guarantor is added only after determining that the applicant does not qualify on their own. One guarantor per household is permissible unless the community is a student housing community and is required to complete an application and pay an application processing fee.

Guarantors must meet a higher financial standard which includes demonstrating the ability to meet the income-to-rent of the household they are guaranteeing, in addition to their mortgage or rent payment. Guarantor income must exceed **5.0** times the rent. Income must be legal and verifiable to be considered. Guarantor income will be verified in the same manner as an applicant.

Guarantor applications are processed the same as applicants as outlined in this rental criteria. An exception is criminal background screening, where it is not considered as guarantors are not granted tenancy rights.

As a guarantor is a person selected to guarantee the applicant's debt should they default, they are required to execute the Residential Lease Contract and Lease Guaranty Addendum.

### **Waitlist**

The waitlist is maintained according to apartment type based on the number of bedrooms. The waitlist will remain open with the understanding that those who are listed are informed of its length, the policies and procedures for selecting individuals, and how individuals are added to the waitlist.

1. If no apartment homes are available, an eligible individual will be placed on the waitlist.
2. In order to maintain a balanced waitlist, the community may restrict or suspend acceptance and close the waitlist. The community will also update the waitlist by removing those who are no longer interested in or no longer qualify for housing.
3. If the waitlist contains enough names to result in a wait of more than approximately two years' worth of demand, the waitlist is closed. The waitlist may remain closed until it is reduced to half the maximum number of waitlist names.
4. When the waitlist is closed, the community will not maintain a list of names who wish to be notified when the waitlist is reopened.
5. The waitlist is updated approximately every six (6) months. Waitlist Preferences:
  - a) Current residents who need to transfer to a different apartment due to disability
  - b) Outside applicants wishing to move into the community
  - c) Date of availability for move-in

### **Liability Insurance Requirements**

This community does not require liability insurance. It is encouraged that applicant's purchase a renter's personal liability insurance policy so that personal property is covered if unexpectedly damaged or ruined during the tenancy.

San Marcos

**Pets**

This community does allow pets. In a community that allows pets, applicants must complete a Pet Application and follow the Pet Acceptance Criteria established for the community. Assistive animals for persons with disabilities are not considered pets but require advanced written approval from management.

**Smoking Restrictions**

This community is not a smoke-free community.

This community offers smoke-free apartment homes.

If any part or all of the community is smoke-free, the resident, members of the resident's household, and resident guests shall not smoke anywhere designated as smoke-free.

**Liquid Filled Furniture**

Liquid-filled furniture over thirty (30) gallons must have a \$100,000.00 liability insurance policy in place. liquid-filled furniture over one hundred (100) gallons will be restricted to the ground floor.

**Reapplying**

- A rejected applicant may not reapply for ninety (90) days.
- An applicant who cancels their application may change their mind and reapply, subject to the community's waitlist policy. If more than thirty (30) days pass from the cancelation date, the community will not reinstate the rental application or credit/criminal screening report. A new application and application screening fee will be required, and a new credit/criminal screening report will be generated.

**Conduct**

An applicant may be rejected for conduct displayed during the tour or application process that would violate the lease policies. Examples are but are not limited to offensive conduct or language on or about the premises, threats or physical injury to another person, or any activity that impairs the physical or social environment of the premises.

**Violence Against Women Act (VAWA)**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are available equally to all individuals regardless of sex, gender identity, or sexual orientation. The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees the Multifamily Project - Based Section 8, LIHTC, and HOME Program compliance with VAWA. This notice explains your rights under VAWA.

**Protections for Applicants**

If you otherwise qualify under the Multifamily Project-Based Section 8, USDA, LIHTC, or HOME program, you cannot be denied admission or assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. VAWA ensures that victims are not denied housing and housing assistance solely because the person is a victim of a VAWA crime. However, being a victim of a VAWA crime is not a reason to change the eligibility or applicant screening requirements.

Under the Violence Against Women Act, the Notice of Occupancy Rights will be provided to applicants and residents, outlining their rights and obligations under VAWA protection from domestic violence, dating violence, stalking, and sexual assault under the following circumstances:

1. When an individual is denied residency,
2. When an individual is admitted to an apartment, and
3. With any notification of eviction or termination of assistance.

**Applicant Consent and Acknowledgement:**

I/We acknowledge that the details of our application will be reviewed, and a consumer credit report, public search, and an investigative consumer report that discloses the consumer's character, general reputation, personal characteristics, and mode of living will be obtained. A copy of any such report(s) will be provided upon request.

I/we, the applicant(s), acknowledge that I/we have received a copy of the rental criteria and consent to allow this community, through its designated agents or associates, to collect my information in accordance with state law and the Federal Fair Credit Reporting Act.

San Marcos

(Applicant Signature) \_\_\_\_\_ Date      (Applicant Signature) \_\_\_\_\_ Date

(Applicant Signature) \_\_\_\_\_ Date      (Applicant Signature) \_\_\_\_\_ Date

San Marcos

**EXHIBIT E**  
**MANAGEMENT PLAN**

**Project Name:** San Marcos Ranch Apartments

**Owner Name:** San Marcos Ranch Associates, LP, A California Limited Partnership

**I. STATEMENT OF MANAGEMENT POLICY**

The goal of CONAM Management Corporation is to ensure resident satisfaction and the long-term financial and physical well-being of San Marcos Ranch Apartments through the provision of high-quality management services. Toward this end, this plan has been developed to set forth the relationship between the Owner and the Agent and to describe the policies, procedures and regulatory requirements to be observed in the management of San Marcos Ranch Apartments.

Specifically, the plan intends to outline a definite program of action to assure:

1. A well-managed and properly maintained project.
2. A pleasant, healthy, and stable living environment for the residents.
3. A pleasant relationship among the residents, Ownership, the Agent's employees, and members of the surrounding community.

Unless otherwise stated in the plan, the term "Owner" will refer to San Marcos Ranch Associates, LP, A California Limited Partnership, the term "Agent" will refer to CONAM Management Corporation and the term "Project" will refer to San Marcos Ranch Apartments.

Prior to implementing any management policy or practice at the Project, Owner and Agent will enter into a Property Management Agreement (the "Agreement"). In the event of any conflict between the terms of this Plan and the Agreement, the terms of the Agreement shall control.

**A. Role and responsibility of the Owner and /or delegation of authority to the agent.**

1. It shall be the responsibility of the Owner to establish the general policies under which Agent will operate in conformance with the regulatory agreements placed on the Project. The Agent, based on previous experience with effective management practice, shall provide advice and recommendations in this regard. Such policies shall include, but are not limited to, resident selection criteria and property guidelines, eviction policies, rules pertaining to Tenants' occupancy of dwelling units and use of common areas in the Project (the "House Rules"), security and emergency services, social services and allocation of parking spaces.

Once the policies have been established by the Owner, the Owner shall delegate authority to the Agent to implement the policies. Pursuant to the Agreement, the Agent will, by means of periodic budgets, financial statements, and status reports, advise the Owner on the operation of the project.

San Marcos

In addition, the following procedures shall be followed to ensure effective day-to-day operations and cooperation between the Owner and Agent:

- a. Day-to-day operation of the project will be under the direct supervision of the Property Manager, who will report to the Regional Portfolio Manager of the Agent ("RPM").
- b. A senior management person shall be the Agent's representative in reporting to the Owner ("Agent's Representative").
- c. The Owner shall appoint a key contact person or liaison to represent the Owner in regular communications with the Agent.
- d. There will be regular meeting times between the Owner and the Agent for the purpose of reviewing policies, management procedures, resident relations and budget control.
- e. At no time shall the Owner or its representatives issue instructions to any Personnel or other employees, contractors or agents of Agent except for Agent's Representative. Owner concerns and suggestions shall be communicated to Agent's Representative, who shall issue instructions to the Property Manager.

Annual budgets purchases and expenditures shall be prepared and conducted as provided in the Agreement.

B. Personnel policy and staffing arrangements

Once the personnel and staffing requirements have been established by the Owner and Agent, the Agent shall hire, train, pay and supervise all personnel, including independent contractors and other service providers.

1. The anticipated staffing pattern at occupancy will be as follows:

Community Manager  
Maintenance Manager/Technician

The Community Manager position will be responsible for handling application process; applicant screening and interviewing; applicant verifications; resident selection; waiting list management; new resident leasing and orientations; working with the Management Agent's vendors and contractors; collecting, depositing and recording rents and other fees; enforcing the lease and rules; submitting reports to the Management Agent; effectively communicating with residents; and assisting with the provision of various resident amenities to help build a sense of community within the Project.

The Maintenance Manager/Technician positions will be responsible for all maintenance, daily work orders, unit turnovers and for the daily exterior pickup, laundry facilities, clean office/trash and any other common areas to include sidewalks and perform minor maintenance tasks assigned by the maintenance supervisor and/or property manager. Additional temporary staff may be provided for coverage during vacant position periods and/or extended absences. A professional grounds contractor will be hired to mow/edge/trim/fertilize/chemical control.

San Marcos

2. Hiring Policies

- a. All hiring of Agent's employees shall conform to Equal Employment Opportunity requirements. Neither Agent nor Owner shall discriminate against any applicant for employment because of race, religion, color, ancestry, national origin, age, sex, pregnancy, familial or marital status, mental or physical disability, medical condition (including HIV/AIDS), sexual orientation, ethnicity, pregnancy status, military status or any other federal, state or local protected class status.
  - b. All hiring materials will indicate that CONAM Management Corporation is an "Equal Opportunity Employer."
  - c. Minimum qualifications for each position shall be included in job descriptions.
3. Agent believes in hiring personnel with previous experience in their particular field. Nevertheless, all personnel will receive training specific to the compliance needs of their assigned property and consistent with the program from California Tax Credit Allocation Committee. This training will consist of the following:
- a. One-to-one counseling and supervision on the part of the RPM of the Project.
  - b. Written guidelines, manuals and materials.
  - c. Periodic attendance at special training workshops sponsored by various property management associations for the purpose of updating and renewing work-related skills.
4. It is company policy to promote from within when possible. When outside hiring occurs, the Agent will publicize the position(s) within the local community and surrounding area. Each applicant must provide an acceptable work history with references showing experience that is applicable to the vacant position(s). The Agent will verify work history, references and perform a credit and criminal records check prior to employment.
5. As indicated in the Agreement, the Personnel shall be employees of the Agent. Pursuant to the Agreement, the Owner will reimburse the Agent for compensation payable to the Personnel and for all taxes and assessments incident to the employment of the Personnel (collectively, "Personnel Costs"). Personnel Costs shall include similar costs of substitution staff for Personnel. These reimbursements will be treated as Project expenses and paid out of the Operating Account.
6. Employment grievances, termination of employment and promotions shall be conducted according to the Agent's personnel policies and procedures, which conform to equal opportunity goals and requirements.

San Marcos

C. Procedures for marketing and achieving appropriate occupancy

1. The dwelling units in the Project shall be marketed in accordance with all applicable fair housing laws and in accordance with the project's the Resident Selection Policy and Affirmative Fair Housing & Marketing Plan (if required).
  - a. Public agencies, social service agencies and local community groups will be contacted as needed.
  - b. All advertising for the Project shall include appropriate use of Equal Housing Opportunity logos, slogans and/or statements. Material to be used in the plan include: 1) a fair housing poster to be displayed in the rental office, or wherever prospective renter interviews take place, 2) an Equal Housing Opportunity logo to be displayed on the Project sign and 3) an Equal Housing Opportunity logo to be displayed on the marketing brochure, flyers and other marketing materials.
2. The initial rent-up shall be conducted by Agent-supervised personnel well-trained in eligibility requirements, household composition criteria, unit size, selection process, Owner-approved selection criteria and in accordance with the LIHTC program regulations.
  - a. Expression of Interest - The Agent shall maintain an "Expression of Interest" list of potential residents who will be kept informed of appropriate procedures and timetables for applying for admission. Marketing materials for initial occupancy clearly state that applications will be processed on a first come, first serve basis. All written outreach notifications will display the Equal Opportunity Housing logo.
  - b. Ineligible applicants will be advised of the reason for their ineligibility.
3. The Agent shall apply all city, state and federal requirements in determining tenant eligibility at initial rent-up and during subsequent recertification of tenant income.
  - a. When filling a vacancy, initial eligibility of prospective residents shall be determined by the following procedures:
    1. A brief conversation by phone to determine if the applicant meets minimum eligibility criteria.
    2. A personal interview.
    3. Prospective residents who have been determined to be ineligible will be so notified so that they will have an opportunity to provide further information if they feel an error has been made in assessing their eligibility.
  - b. Actual eligibility will be determined as follows:
    1. Each prospective resident shall complete an application form and return it to the Property Manager with signed permission for third-party verification of income.

San Marcos

2. When an applicant name nears the top of the interest list, pertinent information will be confirmed as current and third-party verification letters are sent.
  3. The Property Manager shall conduct a personal interview.
  4. Third-party verification forms will be used to compute income eligibility and a determination will be made concerning applicant's eligibility.
  5. Written notice will be sent advising applicants of their final eligibility status.
4. Procedures will be followed to ensure that interest lists are current. Such procedures shall include the following:
    - a. Applicants will be instructed to notify Property Manager of their continued interest at least every six months, and that failure to notify Property Manager will result in the removal of such applicants from interest lists and "Expression of Interest" lists.
  5. As previously indicated, both public and private community agencies may be used as referral sources for notifying the area's population of the availability of units at the Project. In addition, local newspapers and other media may be utilized as necessary.

D. Procedures for determining household eligibility and certifying and recertifying incomes

1. All Tenants will be periodically recertified for continuing income eligibility as may be required by the specific programs in place at the Project. The procedures for recertification will be determined based upon program requirements and will include ample notification to tenants of their obligation to recertify promptly.

E. Plans for carrying out an effective maintenance and repair program

1. Agent shall perform on-going maintenance of the Project to the reasonable satisfaction of Owner, including the following:
  - a. Scheduled preventive maintenance and repair of installed equipment in accordance with manufacturers' recommendations and the requirements of equipment operating manuals. This work will be performed by skilled maintenance contractors.
  - b. Routine repairs to kitchen appliances, electrical, plumbing and heating equipment. This work will be performed by site staff or independent contractors depending on the repairs needed.
  - c. Preventive annual apartment inspections to regularly and consistently ascertain the conditions of each unit. Maintenance problems discovered during these inspections shall be handled according to the work order procedures.

San Marcos

- d. Regular preventive inspections and inspections of common areas and equipment, as well as regular schedules (daily, weekly, monthly, quarterly, annually), for maintaining the same. Maintenance of exterior and common areas shall include keeping grounds free of litter, trash and paper. Parking areas will be maintained in good repair and free of dirt and litter.
  - e. Ensure that garbage removal and recycling services will be provided by the local collection services. The trash areas will be swept daily and scrubbed with disinfectant when necessary.
  - f. Pest control/extermination services will be contracted for so as to provide a high level of sanitation and cleanliness.
2. All items needing repair or replacement, whether reported by the residents or discovered by management staff, shall be recorded by the Property Manager in a trackable maintenance work order system.
    - a. The work order system shall indicate the disposition of the request, and the Property Manager shall determine any charges to resident for damages beyond normal wear and tear. Residents will be billed promptly for damages they cause and, if applicable, will be required to reimburse the Project per the lease agreement.
  3. Agent will endeavor to respond to routine maintenance requests within one business day and complete requests within 72 hours (subject to available parts). All emergency repairs or replacements, regardless of the time of occurrence, shall be handled promptly. Emergency needs shall be defined as those situations posing an immediate threat to the health and safety of residents and/or the integrity of the grounds, buildings and equipment, including: the interruption of services, hot or cold running water, electricity, gas, adequate heat and plumbing; glass breakage that deprives residents of security or heat; or repairs that, if not performed, would expose residents to injury or result in damage to any property located in the Project. In case of an emergency after business hours, a 24-hour answering system will be maintained to notify the Property Manager and/or maintenance staff.
  4. When repairs are required as a result of resident damage or neglect, the Property Manager will send a copy of the maintenance work order to the resident and inform them of the amount of the repair they owe to the Project. They will also be informed of the provisions of the Lease and House Rules that define their legal obligation to pay and their options for appealing the charges. The amount charged to the resident will be posted on the rent ledger card.

F. Rent collection policies and procedures

The resident orientation for the Project shall address rent collection policies and procedures. Such policies and procedures shall be strict, consistent, easily understood and firmly enforced. This information will be provided to all residents at move-in, as well as to all management staff and the Owner.

San Marcos

1. The Property Manager shall collect and record all rents, resident fees and charges and shall promptly deposit receipts to the appropriate project account(s).
    - a. All rent will be due and payable on the first day of the month, but in no event later than five (5) working days after due date. Method, time and place of payment will be made clear to the residents in their lease agreement and will specify that payment is to be made on-site either by check or money order. When rent is paid, the Agent will provide the resident with a receipt.
  2. Rents not received by the fifth of the month are considered late and will be dealt with through personal contact by the Property Manager, and a written notice of delinquency, in accordance with state law, will be sent by Agent. If the rent is not received or satisfactory payment arrangements made by the expiration of the notice, the Property Manager will authorize the retention of an attorney to pursue unlawful detainer actions.
  3. Partial rent payments (except for pro-rated rents involving a mid-month move in date) will not be encouraged; however, may be permitted in certain circumstances with an approved payment arrangement.
  4. Residents having financial problems that affect payment of their rent may be referred to an appropriate social agency for assistance to remedy their problems.
  5. A late fee will be charged in connection with any rent payment not received by the fifth day of the month. Said late fee will be detailed in the lease agreement.
  6. A service fee of \$25 will be charged for returned checks. Following the occasion of two (2) checks from any Tenant being returned by the bank, Agent shall require that such Tenant make rent payments by cashier's check or money order for a period of not less than one year.
  7. Legal costs incurred in pursuing collections of rents and/or eviction procedures shall be born by the Project and shall be paid for out of the Operating Account provided that Owner has provided prior written approval of such legal costs and/or eviction procedures. When permissible by law and the lease agreement, Agent shall attempt to recoup these costs from the resident including the use of collection agencies.
  8. Rent collections shall be recorded in the property's computerized bookkeeping system, which produces a receipt for the resident, a record on the resident's ledger card and a permanent ledger entry.
  9. A master "rent-roll" shall be maintained and regularly updated, indicating the number and names of occupant(s), rental amount, any subsidy payment(s) and current payment status for each of the units in the Project.
- G. Plan for maintaining adequate accounting records. In addition to the terms and conditions in the Agreement, Agent shall comply with the following:

San Marcos

1. Financial accounting reports and records shall be in conformance with standard accrual basis accounting procedures and shall comply with the regulatory agencies connected with the Project and the Regulatory Agreements.

Accordingly, the Agent will maintain accurate files of all resident transactions, revenue and expenditures and prepare the following monthly reports for the Owner's review:

- a. Balance Sheet
  - b. Cash status report and financial summary
  - c. Monthly and year-to-date budget comparisons
  - d. List of disbursements
  - e. List of accounts payable
  - f. Vacancy report
2. Bills will be paid, and accounts will be funded pursuant to the requirements of the Project's Regulatory Agreements and the Property Management Agreement.
  3. Agent shall establish and maintain the Accounts as provided in the Agreement. Such accounts shall include, but not be limited to, an Operating Account and a segregated Security Deposit Account.
  4. The Agent maintains a computerized general ledger program which shall be continually updated to meet the accounting and reporting needs of the Project and to produce a quality audit trail.
    - a. Careful monthly monitoring shall allow for cost control, prompt identification of potential problems and sufficient lead time to develop plans to meet project needs.
    - b. Agent shall notify Owner of any major variances from the applicable Approved Operating Budget and shall ensure that appropriate actions are taken to ensure that monthly cash flow is sufficient to meet the Project's operating expenses and deposits to the Accounts.
    - c. In addition to the requirements in the Agreement with respect to the procurement of contract services and goods:

Agent shall prepare such bid specifications and supervise the bid proposals and acceptance procedures. At start-up, the Agent will bid out the various major contracts, (i.e., the exterminator service, landscape, property insurance, annual audit and major vendors).

- a. In the event that items need to be purchased that either were not included in the Approved Operating Budget or would bring the Project over budget, the Agent shall not purchase such items without the prior written approval of Owner except as permitted in the Property Management Agreement.
- b. The Agent shall work with the Owner to develop a schedule of projected revenues from operating income to be used for loan payment requirements.

San Marcos

- c. The Agent shall maintain the Project's files and records in accordance with the reporting and accounting requirements of the state agency for the LIHTC program (the "Agency") and the requirements of any other agencies administering the Regulatory Agreements or funds contributing to the development of the Project.
  1. In order to ensure strict compliance with the requirements noted above the Agent will systematically review all Regulatory Agreements and establish a manual of instructions, schedules and tickler files indicating relevant deadlines, reporting formats, etc. This manual will be distributed to all bookkeeping and accounting personnel on the CONAM Management Corporation staff and to any accounting firm hired to provide audits or other reports for the Project.
  2. Vacancies and rent losses will be noted and recorded on the balance sheet summarizing monthly financial activities for the Project. Such losses can also be inferred from the quarterly variance reports indicating budgeted versus actual rental income.
  3. Other reports – The Agent shall provide the Lender and Agency with additional reports deemed necessary by the Agency to monitor the Project. The Agent shall also provide reports required by any other regulatory agencies and funding sources as outlined in the agreements with those entities.
  4. The Agent will ensure that the following reports are filed with the Owner:
    - a. Budget – A proposed annual budget shall be submitted by Agent to Owner ninety (90) days prior to the beginning of each fiscal year.
    - b. Monthly Reports – The following reports will be provided as required:
      1. Monthly income and expense statements.
      2. Occupancy summary (rent roll).
      3. Marketing Reports.
      4. Capital Replacement Analysis.

#### H. Resident-Management Relations

1. Resident-management relations shall be based on a policy of cooperation and communication. Residents shall be encouraged to understand that their involvement with the Project and therefore, their ideas, priorities, suggestions and concerns are both sought and valued.
  - a. Resident orientation shall include:
    - 1) Written orientation material including general information about the Project and brochures on social programs sponsored by the Owner.
    - 2) A thorough review of the House Rules and regulations with each and every resident. In addition, at the time the rental agreement is signed all provisions of

San Marcos

the rental agreement will be thoroughly explained and each resident will be provided with a copy of the agreement.

- 3) Inspection of each dwelling unit by the Property Manager or maintenance staff and new resident(s). At this time a checklist of the unit's condition will be signed by both parties. Written instructions will be provided to all residents explaining the use and care of all appliances, maintenance, and service request procedures.

## 2. Security Deposits

- a. Residents shall be required to make a refundable security deposit. The security deposits shall be held in the Security Deposit Account. The balance of the Security Deposit Account shall be reconciled and trued-up monthly.
- b. When a unit has been vacated, the Property Manager or maintenance staff will perform a move-out inspection to determine any damages to be corrected or cleaning necessary over and above normal wear and tear, which shall be charged against the security deposit. Agent shall invite the resident to, and the resident may, but will not be required to, participate in this inspection. The move-out inspection form will be compared to the move-in inspection form to determine the extent of resident-caused damages.
- c. Within 21 days from the day of the move-out, a security deposit refund form will be completed, indicating:
  - 1) Security deposit on hand
  - 2) Amount of rent or unpaid charges owing as of the date of the move-out.
  - 3) Amount of damage or cleaning charges to be assessed. An itemized list of work and actual costs will be attached to the forms for repair, cleaning, or replacement of items above normal wear and tear.

The balance of the security deposit, after deductions for outstanding rent, charges, cleaning, and damages will be refunded to the resident with this form and itemization of costs.

## **II. PROCEDURES LEASE ENFORCEMENT**

- A. The Agent shall enforce the terms of the Leases as they apply to the eviction policies and procedures.
  1. Cases involving nonpayment of rent shall be handled as follows:
    - a. As stated above, residents having financial problems that affect payment of their rent may be referred to a social agency for assistance with remedying their problems.

San Marcos

- b. Any rent payment workouts will be in writing and signed by the resident household. Such documentation will become part of the household's permanent file.
  - c. Notwithstanding the above, residents who do not pay rent by the fifth day of the month shall be issued a three-day notice to pay or quit. Such notice shall be in accordance with the California Code of Civil Procedures. If the notice is not complied with and Agent is unable to work out a suitable rent payment program with the resident, an unlawful detainer action will be filed. Once such procedures are initiated, the timing of the eviction process will be dependent upon the speed of the processing courts and agencies responsible.
  - d. If the rent is paid in full during the eviction process, the resident's tenancy may not be terminated.
2. Cases involving a violation of the Lease or House Rules shall be handled as follows:
    - a. Management will keep residents advised, through newsletters, reminders or written warning notices, of policies in place at the Project.
    - b. Residents shall be issued written notice of minor infractions of the Lease and House Rules. The initial notice shall advise residents that such infractions are violations of the Lease and/or House Rules and that upon issuance of the third warning notice for the same violation management will issue a 30-day notice of Intent to Terminate Tenancy.
    - c. Any notice of termination or eviction shall contain a statement of the facts, constituting the cause for the termination or eviction, and a statement of the resident's rights under the grievance and appeal procedure.
  3. Processing Tenant Complaints. The Property Manager is responsible to understand the terms/conditions of the lease and take the following steps:
    - a. Timely and appropriate action to address the problem.
    - b. Document all violations and notify the resident in writing.
    - c. Follow up promptly as needed to resolve the problem.
  4. Residents in violation of the Lease or House Rules will be subject to the eviction procedures as described above.

### **III. OTHER MANAGEMENT PLAN CONSIDERATIONS**

Agent shall enforce the special occupancy rules and procedures, which include:

Pets

Permissible Absences

Live-In/Personal Care Attendants

San Marcos

#### **IV. ITEMS NOT ADDRESSED IN THE PLAN**

Any management items or issues not addressed in this plan shall be governed by the terms of the Property Management Agreement and the Lease Agre

San Marcos

## EXHIBIT F

### LOTTERY PLAN FOR INITIAL RENTAL FOR SAN MARCOS RANCH

Project Case No. 23ZCI-00083

---

# Lottery Information for Applicants

## Interest List

The Interest List for **ABC Village Apartments** opened on **June 30, 2021**, and will remain open until **November 1, 2021**.

The Interest List is **online only**. To join, please visit:  
**[www.conamInterestList.com/abc-apartments](http://www.conamInterestList.com/abc-apartments)**

You will need to complete a guest card by providing:

- Household contact information (**please make sure your email address and phone number are accurate**)
- Desired floor plan
- Number of household members
- Estimated total monthly gross household income

**Important:** Placement on the Interest List does **not** guarantee an apartment home. Final eligibility will be determined after the lottery, completion of an application, and a household interview.

---

## Lottery

All guest cards submitted online by the deadline will be entered into the lottery.

- The lottery will **randomly assign** numbers to applicants, determining the order in which they may apply.
- It will be conducted on a computer, videotaped, and witnessed by an independent third party.
- Results are confidential and cannot be posted publicly.

San Marcos

Once the lottery is complete:

- The **first 500 households** on the list will be contacted **by email and phone** with:
  - A link to the online rental application
  - Instructions and deadlines
  - Information about where to get help completing the online application if needed

The lottery is scheduled for **MM/DD/YYYY**.

**Application Timeline:**

- You will have **10 days** after receiving the application link to submit your completed application.
- After 10 days, applications may still be considered but will be reviewed on a **first come, first reviewed basis**.
- If the property is not fully leased after reviewing the first 500 applications, additional households will be contacted in lottery order.

---

**Applicant Interview**

If your household is selected through the lottery, management will contact you to schedule an interview.

- **All household members age 18 or older must attend the interview.**

---

**FAQ**

**Q. What happens if I am not selected in the lottery?**

**A.** Your guest card will remain active on the Interest List in the order assigned during the lottery. You may still be contacted if units remain available after the first group of applicants.

*Instructions: I, \_\_\_\_\_, on [Insert Date], will be following the instructions below to conduct an impartial lottery system for determining the official Interest List order for candidates of **ABC Apartments**. All steps will be followed in the exact order below and signed after each step is taken. The lottery will be monitored by witnesses and video recorded.*

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

San Marcos

**Step By Step Instructions for the ABC Apartments Interest List Lottery**

1. Open the Microsoft Excel spreadsheet titled "ABC Interest List for Lottery OFFICIAL" and find the Interest List Candidates - in the order received from the online Interest Application - starting with the earliest. X
2. Locate Column B labeled "Excel Randomizer Number (Between 0 & 1) for Lottery. This column is labeled but all cells in it are currently blank. Find cell B2 which should be the first cell under Column B and in the first Row of our earliest Interest List Candidate. X
3. Type in to cell B2 the following formula, "=RAND()\*4271" and press Enter. This will supply a randomly generated number between 0 and 1. X
4. Take the cursor and place it on the lower-right corner of cell B2 until a black + symbol appears. Click (and hold) and drag the + symbol all the way down until you get to the bottom of the column or cell B571. Release the cursor. This will copy the Random-Number generating command all the way down, to assign a randomly generated number between 0 and 1, for all Interest List Candidates. X
5. With the same area highlighted (cell B2 through cell B4271), right click on the cursor and select "Copy." X
6. With the same area highlighted (cell B2 through cell B4271), right click and select "Paste Special." A Paste Special box will pop up and you will select "Values." This will lock the randomly generated number values into each cell under Column B and prevent any Candidate's number assignment from changing or regenerated with future steps. X
7. With the same area highlighted (cell B2 through cell B4271), select the "Sort & Filter" drop-down menu from the Home Tool Bar under Editing. Select "Sort Smallest to Largest." A Sort Warning box will display. Select "Expand the Selection" and click "Sort." (By expanding the Selection Excel will not only sort Column B in chronological order but also all Columns associated with the same row so that the Candidate Name and all other info will remain on the same row/line and not get combined with other rows/data). X
8. You will now notice Column B is sorted in order of least numerical value to greatest from the Excel Randomly Generated Number assignment. You will also notice Column A, the order the Candidate submitted to the Interest List is no longer in chronological order but has remained in synchronicity with the candidate it was assigned to originally, and with the new Excel Randomly Generated number now being in chronological order. Move the cursor over to Column C in cell C2. Type in "1" and press Enter. This symbolizes the order of the Candidate based on the newly assigned number from Column B and reflects the candidates place in line on the Official Interest List for ABC Apartments. X
9. Move the cursor over cell C3 directly below. Type in the formula "=(C2+1)" and press Enter. This will provide the number "2" inside cell C3 to symbolize the candidate in that row is the second

San Marcos

person on the new Interest List for ABC Apartments as determined by the Excel Random Number Generator. X \_\_\_\_\_

10. Take the cursor and place it on the lower-right corner of the cell C3 until a black + symbol appears. Click (and hold) and drag the + symbol all the way down until you get to the bottom of the column or cell C572. Release the cursor. This will copy the formula all the way down, to display the number range 1-571 (example), in the order of least to greatest, based on the value of the Excel Randomly Generated Number, and will place all Interest List Candidates into numerical order based on the results of this lottery. X \_\_\_\_\_

**Column C will now represent the official ranking of each candidate on the ABC Apartments Interest List, and the applications will be processed in this specific order. Please save this document and print and sign a hard copy to finalize this Lottery process.**

*I, \_\_\_\_\_, on [Insert Date], followed the instructions above and conducted an impartial lottery system determining the official Interest List order for candidates of **ABC Apartments**. All steps were followed in the exact order written above. This lottery was monitored by witnesses and video recorded.*

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

San Marcos

**EXHIBIT G**

**GRANT OF PREEMPTIVE RIGHT:  
RESALE RESTRICTION COVENANT  
AND OPTION TO PURCHASE  
SECURED BY DEED OF TRUST**

(To be used in the event of Transfer of a Restricted Unit to an Owner resident)

RECORDING REQUESTED BY AND RETURN TO:

Community Services Department  
Housing and Community Development Division  
County of Santa Barbara  
123 East Anapamu Street, Room 202  
Santa Barbara, CA 93101-2062

Attn: Property Management

---

No fee per Government Code Sec. 6103

APN: xxx-xxx-xxx

**GRANT OF PREEMPTIVE RIGHT:  
RESALE RESTRICTIVE COVENANT  
AND OPTION TO PURCHASE  
SECURED BY DEED OF TRUST**

**This document creates a lien on real property and grants  
the County an option to purchase the real property**

Project Name  
Unit Address

This Grant of Preemptive Right: Resale Restriction Covenant and Option to Purchase Secured by Deed of Trust dated **MM/DD/YYYY** (this "Covenant") rescinds and supersedes in its entirety the previous affordability control document recorded with respect to that certain real property located at \_\_\_\_\_ ("Property") which is entitled "Grant of Preemptive Right: Resale Restriction Covenant and Option to Purchase Secured by Deed of Trust" recorded as instrument number xxx-xxxxxx in the Official Records of Santa Barbara County on **MM/DD/YYYY**.

**RECITALS:**

WHEREAS, the County of Santa Barbara ("County") has provided development incentives to this project (such as allowing development at greater density than County zoning allows in the absence of a special permit, or other incentives); and,

WHEREAS, \_\_\_\_\_ ("-\_\_\_\_\_" and together with the County, collectively, the "Parties") has benefited from these development incentives through the opportunity to purchase the Property at a price substantially below fair market value; and

WHEREAS, the intent of the County in providing these development incentives is to preserve the affordability of the Property for persons with incomes within a specified range; and

San Marcos

WHEREAS, subsequent Owners will benefit from the limitation on the purchase price of the Property which this Covenant requires; and,

WHEREAS, the intent of the Parties is to preserve through this Covenant the affordability of the Property for persons with incomes within a specified range, and to grant the County the right to enforce compliance with this Covenant;

NOW, THEREFORE, in consideration of the benefits received by the Parties, the Parties agree as follows:

**I. DEFINITIONS**

A. "Owner": (i) \_\_\_\_\_ (ii) any subsequent purchaser (whether an occupant purchaser or non-occupant titleholder), devisee, successor trustee, transferee, or grantee of an owner or subsequent purchaser, or (iii) any other holder of title to the Property, or any portion thereof, or interest therein, other than the Institutional Lender holding the Institutional Lender First Deed of Trust or easement holders.

B. "Encumber" or "Encumbrance": any mortgage, deed of trust, lien, security agreement or other instrument with respect to the Property intended to secure an obligation or indebtedness.

C. "First Deed of Trust": A deed of trust which is recorded in first position, senior to any other deeds of trust against the Property, and which is made by Owner as trustor as security for purchase money financing or for other financing, and which has been approved by the County in advance in writing.

D. "Institutional Lender": Any FDIC-insured bank or any other lender which is licensed by the State of California or the United States Department of Housing and Urban Development ("HUD") to engage in the business of providing mortgage financing (purchase money or refinancing) for residential real property.

E. "Institutional Lender First Deed of Trust": A First Deed of Trust made by an Institutional Lender.

F. "Household": All those persons – related or unrelated – who occupy a single housing unit.

G. "Maximum Sales Price": The highest price for which an Owner is allowed to sell the Property, inclusive of real estate commissions and closing costs.

The Maximum Sales Price shall be calculated through the following formulas, assuming a thirty-year fixed interest rate mortgage and assuming that all payments are to be monthly:

Maximum Sales Price =  $0.8 \times (\text{Affordable Mortgage Amount} + 5\% \text{ Down Payment [rounded to the nearest hundred dollars]})$ .

"Affordable Mortgage Amount" =  $\text{Affordable Monthly Mortgage Payment} \times ((1 + R \text{ value})^{360 \text{ payments}} - 1) \div ((R \text{ value}) \times (1 + R \text{ value})^{360 \text{ payments}})$ .

"R value" =  $\text{Annual Mortgage Interest Rate} \div 12 \text{ months}$ .

"Affordable Monthly Mortgage Payment" =  $(30\% \times (\text{Target Household Income} \div 12 \text{ months})) - (\text{Insurance Payment} + \text{Property Tax Payment} + \text{HOA Dues})$ .

"Target Household Income" = 80% of AMI.

H. "Maximum Monthly Rent": The maximum monthly rent for the Property, in accordance with the maximum monthly rental rates established, periodically revised, and published annually by the County's Community Services Department ("CSD"), determined as described in the Housing Element, Implementation Guidelines, or as otherwise dictated by applicable State or federal programs.

Maximum Monthly Rent is only applicable when the Owner has met the hardship requirements for rental of the Property as set forth in Section IV.C of this Covenant, and when the Property is being leased as provided therein.

I. "Area Median Income" or "AMI": The median family income of a geographic area of the State, as defined in California Health & Safety Code Section 50093, as may be amended or renumbered, adjusted for family size. The AMI for a household of four is updated and released annually by HUD. The State of California Housing and

San Marcos

Community Development Department ("State HCD") adopts AMI for each county in California after applying an adjustment factor to calculate the AMI for different household sizes.

- J. "Principal place of residence": The place where a person or persons reside(s) on a full-time basis.
- K. "Residential Real Estate": Real property including developed or undeveloped residentially zoned land and improvements thereon, including, but not limited to, mobile homes or manufactured homes when owned by the owner of such real property.
- L. "Transfer": Any sale, conveyance, assignment, or transfer, whether voluntary or involuntary, by operation of law or otherwise, whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise, of any interest in the Property, including but not limited to, a fee simple interest, joint tenancy, life estate, leasehold, or an interest evidenced by a contract pursuant to which possession of the Property is transferred and Owner retains title to the Property.
- M. "Qualified Transferee": A person to whom the Property is transferred in accordance with Sections VII, VIII, and IX of this Covenant.
- N. "Effective Date": The first date as of which this Covenant is duly executed by all of the parties hereto.
- O. "Eligible Household": A Low-income household whose income does not exceed 80% of AMI.
- P. "Low-Income Household": means a household whose annual gross income does not exceed 80% of Area Median Income, adjusted annually and for family size by County HCD.

## **II. TERM AND ENFORCEABILITY**

### **A. Term**

Effective as of the Effective Date, this Covenant shall bind the Owner and Owner's heirs, legal representatives, executors, successors in interest and assigns, and the benefit hereof shall inure to the County, its successors, designees, and assigns until the date that is 55 years after the Effective Date of this Covenant, subject to tolling and extension as set forth in this Covenant ("Term").

### **B. Covenants Running With the Land; Equitable Servitude**

The Property is held, and hereafter shall be held, conveyed, hypothecated, encumbered, leased, rented, used, and occupied subject to all of the covenants, conditions, restrictions and limitations contained herein and in that document entitled "**Agreement to Provide Affordable Housing**" executed by the parties on **MM/DD/YYYY** and recorded on **MM/DD/YYYY**, as Instrument No. **xxxx-xxxxxxx**, in the office of the Recorder of Santa Barbara County, California ("Agreement to Provide").

The covenants and restrictions set forth herein shall be covenants running with the land, which shall pass to and be binding upon all parties having any interest in the Property throughout the Term. Each and every contract, deed, lease, or other instrument covering, conveying, or otherwise transferring the Property or any interest therein, as the case may be ("Contract"), shall conclusively be held to have been executed, delivered, and accepted subject to this Covenant, regardless of whether the parties to such Contract have actual knowledge of this Covenant.

The Owner and the County hereby agree and declare their further understanding and intent that: (i) the covenants and restrictions contained in this Covenant shall be construed as covenants running with the land pursuant to California Civil Code section 1468, and not as conditions which might result in forfeiture of title by Owner; (ii) the burden of the covenants and restrictions set forth in this Covenant touch and concern the Property in that the Owner's legal interest in the Property may be rendered less valuable thereby; and (iii) the benefit of the covenants and restrictions set forth in this Covenant touch and concern the land by enhancing and increasing the enjoyment and use of the Property by Eligible Households who may purchase the Property, the intended beneficiaries of such covenants and restrictions.

All covenants and restrictions contained herein without regard to technical classification or designation shall be binding upon Owner for the benefit of the County, and such covenants and restrictions shall run in favor of such parties for the entirety of the Term, without regard to whether the County is an owner of any land or interest therein to which

San Marcos

such covenants and restrictions relate. In the event of a conflict between the terms of the Agreement to Provide and the terms of this Covenant, the terms of this Covenant shall prevail unless specifically indicated otherwise.

**C. Binding Effect**

Any purchaser or transferee of the Property or of any portion of or interest in the Property, by the acceptance of a deed therefore, whether from Owner or from any subsequent owner of the Property, or by the signing of a contract or agreement to purchase the same, shall, by the acceptance of such deed or by the signing of such contract or agreement be deemed to have consented to, accepted, and agreed to be bound by all of the covenants, conditions, restrictions and limitations set forth herein and in the Agreement to Provide.

**D. Enforceability**

In order to preserve through this Covenant the affordability of the Property for persons of **Low-income (up to 80% AMI)**, the Owner for itself and all successors and assigns, hereby grants and assigns to the County the right to review and enforce compliance with this Covenant and Chapter 46 of the Santa Barbara County Code, and in furtherance of this right, grants to the County an Assignment of Rents, described under Section XIII of this Covenant, and an Option to Purchase the Property, described under Sections III and XIV of this Covenant, the right to collect liquidated damages for certain violations as described in Section XIII of this Covenant, and assigns to the County any and all proceeds payable to the Owner from a foreclosure or deed in lieu of foreclosure in excess of the Maximum Sales Price, as described in Section XII.B of this Covenant.

In the event of any violation of any of the provisions of this Covenant, or the submission to the County of any document or certification in connection with this Covenant that contains false or misleading statements, the County may apply to a court of competent jurisdiction for specific performance of this Covenant, for an injunction prohibiting a proposed letting or Transfer of the Property in violation of this Covenant, to void an executed Transfer, and for penalties, remedies and enforcement pursuant to the Santa Barbara County Code, including, but not limited to, Section 46-10, or for any such other relief as may be appropriate.

**III. DEED OF TRUST: SUBORDINATION; DEFAULT; NOTICE TO COUNTY; RIGHT TO CURE**

**A. Subordination**

This Covenant shall be subject, and subordinate solely, to the lien of a County-approved Institutional Lender First Deed of Trust (“Approved Institutional Lender First Deed of Trust” and such Institutional Lender the “Approved Institutional Lender”), subject to the following conditions and limitations:

**1. Limit on Amount**

The amount secured by the Institutional Lender First Deed of Trust shall not exceed 95% of the Property purchase price paid by the Owner (the “Loan to Value amount”), plus any late fees and charges as may be permitted under the Institutional Lender First Deed of Trust; provided, however, that if the loan secured by the Institutional First Deed of Trust is made through a State or Federal loan or loan insurance program, the Loan to Value amount may be increased in conformity with the loan to value limits established by such State or Federal program. This Covenant shall not be subordinate to any Institutional Lender First Deed of Trust that exceeds such Loan to Value amount.

**2. Default; Right to Cure**

In the event of default under any deed of trust secured by the Property, including, but not limited to, an Approved Institutional Lender First Deed of Trust, the County shall have the same right as the Owner to cure the default and redeem the Property prior to foreclosure sale. Such redemption shall be subject to the same fees, charges and penalties which would otherwise be assessed against the Owner. Nothing herein shall be construed as creating an obligation on the part of the County to cure any such default, nor shall this right to cure and redeem operate to extend any time limitations in the default provisions of any underlying deed of trust or mortgage. Owner consents to the County executing a promissory note and deed of trust to secure the amount necessary to cure the default which will become a lien on the Property in favor of the County.

San Marcos

### **3. Right to Exercise Option**

Any default under any deed of trust or mortgage with a power of sale encumbering the Property, including, but not limited to, the Approved Institutional Lender First Deed of Trust, shall trigger the County's right to exercise its option to purchase the Property, as described more fully in Section XIV, below ("Option").

### **4. Request for Notice of Default**

The holder of the Approved Institutional Lender First Deed of Trust shall be under no obligation to provide notice of default to the County other than a duly filed request for notice of default under Section 2924b of the California Civil Code. In the event the County elects to exercise its Option, and notwithstanding anything herein to the contrary with regard to the rights of the County, the County must complete such purchase no later than the end of the period established by Section 2924c of the California Civil Code for the reinstatement of a monetary default under such deed of trust. In the event of the recordation of a notice of default, then the County shall be deemed to be Owner's successor in interest under California Civil Code Section 2924c (or successor section) solely for purposes of reinstatement of any mortgage on the Property that has led to the recordation of the notice of default. As Owner's deemed successor in interest, the County shall be entitled to pay all amounts of principal, interest, taxes, assessments, homeowners' association fees, insurance premiums, advances, costs, attorneys' fees, and expenses required to cure the default. If the County exercises the Option, then any and all amounts paid by the County pursuant to this section shall be deducted from the Option Sale Price.

## **B. Rights Under Approved Institutional Lender First Deed of Trusts**

Subject to the conditions and limitations set forth herein, this Covenant shall not impair the rights of an Approved Institutional Lender, under an Approved Institutional Lender First Deed of Trust, to foreclose or take title to the Property pursuant to the remedies of the Approved Institutional Lender First Deed of Trust, or accept a deed in lieu of foreclosure in the event of default by a trustor under the Approved Institutional Lender First Deed of Trust. Subsequent to the Approved Institutional Lender, or its successors and assigns, acquiring title through foreclosure sale or accepting a deed in lieu of foreclosure under such Approved Institutional Lender First Deed of Trust, and payment to County of any excess proceeds as set forth in Section XII.B, below, (i) this Covenant shall terminate and be of no further force or effect as an encumbrance against the Property (or any owners, tenants or encumbrancers in the chain of title), and (ii) the Approved Institutional Lender or subsequent transferee may sell the Property to any purchaser at any price, or lease the Property to any tenant at any rental amount, without thereafter being subject to this Covenant, and (iii) at the request of such Approved Institutional Lender or its title insurer, County will execute a recordable instrument to confirm the termination of this Covenant.

## **C. Covenant Not Subordinate to Any Other Deeds of Trust**

This Covenant shall be subordinate solely to an Approved Institutional Lender First Deed of Trust. All other deeds of trust recorded against the Property shall be subject to all of the terms and limitations of this Covenant including, but not limited to, the County's Option to purchase the Property for the Option Sales Price.

## **D. Notice to County by Owner**

Owner shall provide the County with advance written notice of each deed of trust, financing instrument, mortgage, or other Encumbrance on or to be recorded against the Property, and shall provide the County with the information requested by the County to record a Request for Notice of Default. Owner shall not finance, refinance, or otherwise Encumber the Property without the County's prior written approval in each instance in accordance with Sections V, IX and XI, below.

## **IV. OCCUPANCY, LEASING AND OWNERSHIP OF OTHER REAL PROPERTY**

### **A. Property Must be Used as Owner's Principal Residence**

Owner shall occupy the Property as Owner's principal place of residence; provided, however, that Owner may lease the Property solely in accordance with Sections IV.B and C, below. Owner's failure to comply with the owner occupancy requirement set forth in this Section IV.A ("Owner Occupancy Requirement") shall constitute a material violation of this Covenant. If County determines, in County's sole discretion, that Owner is in violation of this Owner Occupancy Requirement, County may exercise its Option to purchase the Property as set forth in Section XIV, below,

San Marcos

so that the County may resell the Property to an Eligible Household and fulfill the purpose of the County's affordable housing program.

**B. Rental of Property**

Owner shall not rent or lease the Property, or otherwise Transfer any interest in the Property, without the prior written approval of the County in each instance. All requests for such consent must be in writing and delivered to County in accordance with the notice provisions set forth herein. The Director of CSD("Director") may only approve a request to rent or lease the Property to the extent that (i) the Owner has met the hardship requirements for rental of the Property as set forth in Section IV.C of this Covenant, below, (ii) the Property is leased in accordance with the provisions of this Covenant, and (iii) such approval is consistent with the County's goal of creating, preserving, maintaining, and protecting the County's supply of affordable housing.

**C. Personal Hardship Exemption**

The Director may approve a Personal Hardship Exception to the Owner Occupancy Requirement if the Owner demonstrates Personal Hardship by submitting a written request to CSD (i) describing the cause of the Personal Hardship in accordance with Section IV.C.1, below, and (i) including supporting documentation that substantiates such request ("Personal Hardship Request").

**1. Definition**

The Director may grant a Personal Hardship Exception to the Owner Occupancy Requirement if the Director determines, in the Director's sole discretion, that one or more of the circumstances listed below will result in an economic hardship to the Owner ("Personal Hardship"): 1) An emergency or a long-term illness or injury of the Owner or a member of Owner's immediate family requiring medical attention ; 2) the death of a member of the Owner's immediate family; 3) an involuntary transfer of Owner's primary place of employment to a geographic location more than 50 miles away from the Property, or termination of Owner's employment, other than for cause; 4) the Property is rendered uninhabitable due to casualty that is in no way attributable to any act or omission on or behalf of Owner; or 5) other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of, and in no way attributable to any act or omission on or behalf of the Owner, as a result of which retention of the Property would result in a substantial and irrevocable loss of the Owner's investment in the Property. CSD's Personal Hardship determinations may depend upon the facts of each case.

**2. Determination**

Within 30 days of receiving a Personal Hardship Request, the Director's will make a Personal Hardship Exception determination either granting or denying such Personal Hardship Request. A Personal Hardship Exception may not be made to the extent that such hardship is or may be relieved by:

- a. Liquidation of the Owner's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or
- b. Reimbursement or compensation via insurance or otherwise.

**3. Remedies**

Upon determination by the County that a Personal Hardship exists, the Director may provide for the following in its written notice to Owner regarding such Personal Hardship Exception determination ("Personal Hardship Exception Determination Notice"):

- a. Owner may market the Property for sale to Eligible Households. The Owner may rent the Property while it is for sale, provided that (i) the monthly amount of such rent does not exceed the Maximum Monthly Rent and (ii) the Owner continues to actively market the Property for sale.
- b. If the Owner submits documentation to the County evidencing Owner's good faith effort to sell the Property for three consecutive months, despite which the Property has not sold, Owner may offer the Property for sale to households other than Eligible Households which are in the next-

San Marcos

highest income category (e.g., a restricted upper-moderate unit may be marketed to both upper-moderate and middle median income households); provided, however, that the Property shall continue to be subject to all of the restrictions, terms and conditions of this Covenant, and the Property shall not be marketed or sold for more than the Maximum Sales Price.

#### **4. Submittal of Approved Rental Agreement to County**

In the event that Owner desires to lease the Property while the Property is for sale, in accordance with a Personal Hardship Exception Determination Notice, Owner shall first obtain the Director's written approval of the form of lease agreement for the Property with a month-to-month lease term, including the amount of monthly rent to be charged thereunder ("Form of Lease Agreement"). Following the Director's written approval of the Form of Lease Agreement, Owner may enter into a lease agreement for the Property using the Form of Lease Agreement ("Lease Agreement"), and shall, within 3 business days of executing such a Lease Agreement, provide a true and correct copy of the Lease Agreement, the names of the tenant(s), the amount of monthly rent being charged, and the new temporary address of the Owner. Owner shall not amend any Lease Agreement without the Director's prior written approval in each instance. Owner shall notify CSD within three (3) days of the termination of any Lease Agreement, and within three (3) days of Owner's re-occupation of the Property. Owner shall not rent or lease the Property other than in accordance with this Section IV.C.4, and Section IV.C.3, above.

#### **D. No Ownership of Other Residential Real Estate**

Owner shall NOT, without County's prior written consent in each instance, have any form of ownership or ownership interest, whether direct or indirect, in whole or in part (including, but not limited to, long-term leasehold, or via partnership, limited partnership, corporate, or limited liability company interest(s)) in or to any Residential Real Estate other than the Property while Owner retains any interest in the Property. Violation of the foregoing provisions of this Section IV.D. shall constitute a material breach of this Covenant and default hereunder, for which the County may pursue any and all available remedies at law and in equity.

#### **V. REQUIREMENTS FOR COUNTY APPROVAL OF TRANSFER, REFINANCE, OR OTHER ENCUMBRANCE**

##### **A. Approval of All Proposed Transfers, Financing, Refinancing Required**

Except as provided in Section III, above, and Section V.B, below, the Property shall not be Transferred, financed, refinanced, or otherwise Encumbered in any way without the prior written approval of HCD in each instance. A Transfer in violation of section V shall be voidable and may subject the Owner to cumulative remedies as set forth in Section XIII, below. In addition, the running of the Term of this Covenant shall be tolled during any period when the Property has been Transferred, or purportedly Transferred, in violation of this Covenant.

In the event that the Property is Transferred by inheritance or devise to a person or person not meeting the requirements contained in this Covenant, including but not limited to the income, household size and asset requirements contained in the County's eligibility certification guidelines and owner occupancy requirements, the devisee or beneficiary shall sell the Property subject to the terms of this Covenant, including, but not limited to, Section VI.C. and Section XIV.A. regarding the County's Option to Purchase rights, as soon as practicable.

##### **B. Exceptions**

The following transfers are exceptions to the requirements of Section V.A, above, and do not require HCD's prior written approval; provided, however, that Owner is required to notify HCD in writing upon any of the following transfers, and such transfers may trigger resale obligations as set forth in Sections IX.D and XII.A., below:

###### **1. Death**

A transfer resulting from the death of an Owner where the Property is transferred to the spouse, who was a co-owner prior to the transfer.

###### **2. Marriage**

A transfer by an Owner where the Owner's spouse becomes the co-owner of the Property.

###### **3. Divorce**

San Marcos

A transfer resulting from a decree of dissolution of a marriage or legal separation from a property settlement agreement incidental to such a decree by which a spouse who is an Owner become the sole Owner of the Property.

**VI. COUNTY OPTION TO PURCHASE UPON PROPOSED TRANSFER**

**A. Grant of Option and Right of First Refusal**

In consideration of the benefits received by Owner, Owner hereby grants to the County, and the County hereby accepts an Option to purchase the Property, which the County may exercise anytime Owner lists, offers, or otherwise makes the Property, or any interest in the Property, available for a potential Transfer.

**B. Notice to County**

Anytime during the Term of this Covenant when Owner intends to offer to Transfer the Property or any portion thereof or any interest therein, Owner shall give to the County written notice at the address and in the manner specified in Section XVI.E, below, of Owner's intent to Transfer the Property ("Transfer Notice"). The Transfer Notice shall specify the proposed price for such Transfer with respect to the Property, which proposed price shall not exceed the Maximum Sales Price, or equal an amount less than the total amount of all liens encumbering the Property.

After the County's receipt of such Transfer Notice, the County's Housing and Community Development Division ("HCD") staff or designee shall be granted access within 7 days to inspect the Property for damage and to determine whether any repair(s) and/or deferred maintenance ("Deferred Maintenance and Repairs") is required to put the Property in a good and salable condition, as reasonably determined by HCD staff, prior to any sale or other Transfer of the Property. Prior to any sale or Transfer of the Property, other than to the County, Owner shall undertake all such Deferred Maintenance and Repairs to the satisfaction of County.

The Maximum Sales Price has been set to include allowance for a real estate sales commission and closing costs, and Owner may not require subsequent Owners of the Property to pay any commissions or other costs of sale typically paid by sellers of residential real property.

To help assure continued affordability to subsequent Owners, no increase in the Maximum Sales Price will be allowed for Property improvements made by or on behalf of the Owner, or at Owner's direction, or subject to Owner's control. The Owner may make legal and permitted improvements (with the exception of adding bedrooms), but will not be compensated, whether upon the sale of the Property or otherwise, for any improvements on or to the Property. At any given time, the Maximum Sales Price may be greater than the fair market value of the Property, and there is no guarantee or assurance that the Owner will be able to sell the Property for the Maximum Sales Price. The County does not guarantee any minimum price with respect to any Transfer of the Property by Owner.

**C. Exercise of County Option**

The Option may be exercised by County at the times and in the manner set forth below:

1. The County shall have 90 days after receipt of a Transfer Notice from Owner to provide Owner with written notice of the County's intent to exercise its Option to purchase the Property ("Notice of Intent").
2. Should the County be required by law to request approval from the County Board of Supervisors before exercising the Option to purchase the Property, such 30-day time limit may be extended by HCD in order to receive such approval from the County Board of Supervisors. Once HCD provides to Owner a Notice of Intent to exercise the Option to purchase the Property, the County shall then have an additional 90 days to execute a purchase agreement for the Property for the following Option Sale Price:

The lesser of:

- a. The Maximum Sales Price less an amount equal to the sum of (i) six percent (6%) of the Maximum Sales Price, to cover the County's resale costs, plus (ii) the amount of all Deferred Maintenance and Repairs, if any; or,

San Marcos

- b. The appraised value of the Property as determined by a California State-licensed appraiser approved by Owner and County Housing and Community Development Division, less an amount equal to the sum of (i) six percent (6%) of such appraised value, to cover the County's resale costs, plus (ii) the amount of all Deferred Maintenance and Repairs, if any.

Provided, however, that in no event shall the Option Sale Price be less than:

- c. The amount necessary to pay the balance then-due on the outstanding County-approved First Deed of Trust, or any refinancing with respect to the Property that was approved by HCD.

#### **D. Term of Option**

The County may exercise the Option in accordance with the provisions of this Covenant at any time during the Term.

### **VII. TRANSFER OF PROPERTY TO PRIVATE PARTY**

#### **A. County Option to Select Purchaser**

HCD may adopt a program whereby the County selects purchasers of affordable units whose owners have notified County of their intent to transfer their affordable unit ("Affordable Unit Purchaser Program"). If the County has not exercised its Option to purchase the Property during the Term of this Covenant pursuant to Sections III, VI and/or XIV, and if County has adopted such an Affordable Unit Purchaser Program, Owner shall be required to transfer the Property to such County-selected purchaser for the Maximum Sales Price in accordance with the terms of such Affordable Unit Purchaser Program, this Section VII, and Sections VIII, IX and X, below.

#### **B. Owner's Right to Transfer**

If the County has not adopted an Affordable Unit Purchaser Program, and County has not exercised its Option to purchase the Property pursuant to Sections III, VI and/or XIV, this section VII.B shall apply, and Owner shall have the right to Transfer the Property to a Qualified Transferee, subject to the terms and conditions of this Section VII, and Sections VIII and IX, below.

#### **C. Approval of Transfer by County**

1. HCD shall oversee any sale or other Transfer of the Property to a Qualified Transferee. No sale or other Transfer of the Property shall occur under this Section VII without the prior written approval of the Director in each instance.
2. The Director may approve a proposed Transfer of the Property, provided that (i) Owner is not in breach of or default under this Covenant, (ii) the County does not elect to exercise its Option under Sections III, VI and/or XIV, and (iii) the County has determined that each of Owner and Owner's proposed Qualified Transferee(s) have complied with all of the requirements and provisions of this Covenant and then-current County affordable housing policies.
3. Each proposed Qualified Transferee of the Property shall complete, execute and deliver to HCD an Application for Eligibility Certification, in the form approved by HCD. Such proposed Qualified Transferee applicant ("Qualified Transferee Applicant") shall provide to the County all additional information requested by HCD to supplement such Application for Eligibility Certification, to verify such proposed Qualified Transferee's income.

Each Qualified Transferee Applicant shall be held liable for the accuracy of information provided. HCD will review each complete Application for Eligibility Certification and determine whether the Qualified Transferee Applicant(s) meet the County's eligibility standards.

4. In connection with such Application for Eligibility Certification, Owner shall submit to HCD the proposed sales contract, escrow Instructions, and all other related documents that set forth the terms of proposed Transfer of the Property to the Qualified Transferee Applicant ("Proposed Transfer

San Marcos

Documents”). The proposed sales contract shall incorporate information including, but not limited to, all of the following:

- a. Sales price;
  - b. The down payment to be paid by the Qualified Transferee;
  - c. All other amounts of money and other consideration, if any, to be paid by the Qualified Transferee to the Owner, or any other person or entity, in connection with the Property or the proposed Transfer, and the reason for such payment(s);
  - d. Financing terms of the new First Deed of Trust to be executed by the Qualified Transferee as the new Owner;
  - e. The monthly payments to be paid by the Qualified Transferee in connection with the proposed Transfer and ownership of the Property, itemized to reflect taxes, insurance, and homeowner’s association fees.
5. In connection with its Application for Eligibility Certification, each Qualified Transferee Applicant shall submit to HCD information including, but not limited to, all of the following, to enable HCD to determine the eligibility of such Qualified Transferee Applicant:
- a. Documents evidencing such Qualified Transferee Applicant’s identity;
  - b. Documents evidencing such Qualified Transferee Applicant’s residency;
  - c. Documents evidencing such Qualified Transferee Applicant’s income and assets;
  - d. Documents evidencing such Qualified Transferee Applicant’s savings and recent bank activity;
  - e. Documents evidencing all of such Qualified Transferee Applicant’s current debts;
  - f. All documents evidencing all terms, conditions, and provisions of such Qualified Transferee Applicant’s loans in connection with the Transfer.
6. The County reserves the right to collect a reasonable fee to cover HCD’s costs of verifying such information and administering its rights and obligations under this Covenant.
7. No goods or services shall be sold by Owner to the Qualified Transferee in connection with the transfer of the Property.

**VIII. ELIGIBILITY OF QUALIFIED TRANSFEREE TO PURCHASE**

Owner shall not Transfer the Property to any proposed Qualified Transferee without County’s prior written approval of such Qualified Transferee, or in violation of any of the following requirements:

- A. Each Qualified Transferee shall meet the County’s then-current qualification guidelines for the income category of the Property including those pertaining to household size and income.
- B. Each Qualified Transferee shall certify such Qualified Transferee’s intent to occupy the Property as such Qualified Transferee’s principal place of residence.
- C. No Qualified Transferee Applicant shall own any other Residential Real Estate at the time of such Qualified Transferee Applicant’s Application for Eligibility Certification, or at any time during the three-year period immediately preceding such Qualified Transferee’s purchase of the Property. The prohibition set forth in the first sentence of this Section VIII.C. may only be waived by HCD in writing prior to any Transfer of the Property to such Qualified Transferee Applicant for good cause on a case-by-case basis.

San Marcos

**IX. REQUIREMENTS FOR APPROVED TRANSFER TRANSACTION**

**A. Price**

The Transfer price shall not exceed the Maximum Sales Price.

**B. Recordation of Replacement Covenant**

Upon Transfer of the Property, each Owner and Qualified Transferee shall execute and cause the recordation of a new Grant of Preemptive Right Resale Restriction Covenant and Option to Purchase secured by Deed of Trust ("Replacement Covenant") in form approved by HCD and substantially similar to this Covenant and the Deed of Trust securing this Covenant, as may be revised to reflect changes to the County's adopted affordability policies, and which shall supersede this Covenant and the Deed of Trust securing this Covenant.

**C. Escrow Documents**

Each Owner and Qualified Transferee shall approve and sign the HCD's instructions to the escrow agent regarding the requirements of this Covenant and County financing, if any. At least 10 business days prior to the scheduled close of escrow for the Transfer of the Property, Owner and Qualified Transferee shall provide to HCD a true and correct copy of the final sales contract, estimated final settlement statement, signed escrow instructions, and any other document that HCD may reasonably request.

**D. Unapproved or Fraudulent Transfer**

In the event any Transfer of the Property is made in violation of this Covenant, or false or misleading statements are made in any documents or application submitted to HCD for its approval of any Transfer or proposed Transfer, the County may declare a default under this Covenant. The County shall also have the right to file actions at law or in equity to force the parties to terminate and rescind any such Transfer contract and declare the purported Transfer void, notwithstanding the fact that the Transfer may have closed and become final as between the Owner and such transferee. In any event, all costs, liabilities, and obligations incurred by the Owner and Qualified Transferee for the return of any moneys paid or received in violation of this Covenant, and for all costs and legal expenses incurred by County in the enforcement of this Covenant, shall be borne by the Owner, and not by the County.

**E. County Review**

As soon as possible after the County has received all completed executed documents set forth above and any additional information requested by the County, the Director, shall notify escrow in writing that the County consents to the Transfer of the Property to the Qualified Transferee. Any Transfer of the Property without such County approval shall constitute a breach of this Covenant, and shall subject the Owner to the County's cumulative remedies as set forth in Section XIII of this Covenant.

**X. [INTENTIONALLY OMITTED]**

**XI. REQUIREMENTS FOR COUNTY APPROVAL OF FINANCING OR REFINANCING**

**A. Approval by County**

The terms of all financing secured by the Property must be approved by the Director in writing in advance. Purchase financing and refinancing may only be provided by licensed institutional lenders.

**B. Requirements for Approval of Refinancing**

1. The Owner is in full compliance with this Covenant.
2. The terms of the new loan are more favorable than the old loan.
3. Owner's total secured loans-to-value ratio does not exceed the amount allowed under section III.A.1, above.
4. The debt payment-to-income ratio will not be higher than it was upon Owner's purchase of the Property.

San Marcos

5. the refinance does not result in Owner receiving any cash from the refinance other than as approved in advance by the County in writing.
6. Financing which may result in balloon payments or negative amortization including "reverse mortgages" will not be approved.
7. The total outstanding balance of principal and all accrued interest on all loans secured by the Property does not exceed the Maximum Sales Price

**C. Modification of Financing Requirements**

Section XI.B, above may not be waived or amended other than by the Director, in the Director's sole discretion, in the event that Owner demonstrates need or other good cause.

**D. Unapproved Financing**

Securing any financing against the Property that has not been approved in writing in advance by the Director shall constitute a material default of this Covenant which will trigger the County's option to purchase the Property as set forth in Section XIV, below.

**XII. BEQUEST OR FORECLOSURE, INSURANCE AND CONDEMNATION**

**A. Transfers by Operation of Law**

In the event of a Transfer of the Property by operation of law such as by devise or bequest not exempted under Section V.B above, to any transferee who is not a Qualified Transferee, the transferee or the estate of the decedent shall be bound by the provisions of this Covenant; provided, however, that HCD may allow such a transferee a reasonable period of time to transfer the Property to a Qualified Transferee in conformance with all of the provisions of this Covenant, including the Maximum Sales Price.

**B. Excess Foreclosure Funds Payable to County**

In the event that the Property is Transferred through foreclosure, a deed in lieu of foreclosure or a trustee's deed upon sale, a default in a contract of sale, or through any other means, for the purpose of curing or preventing the default by Owner on a loan or obligation, all compensation therefore in excess of the Maximum Sales Price shall be due and owing to the County. However, this Covenant will continue in full force and effect to bind the Property and subsequent owners other than pursuant to foreclosure by Approved Institutional Lender under the Approved Institutional Lender First Deed of Trust.

**C. Insurance Proceeds**

All hazard insurance proceeds received by the Owner which are not used to repair or rebuild the Property, and any condemnation award collected by the Owner, shall be distributed as follows:

1. First, to an Institutional Lender claiming under an Institutional Lender First Deed of Trust.
2. Second to any other Lenders and to Owner but only up to a combined amount (including a loan of an Institutional Lender First Deed of Trust) of the Maximum Sales Price, all as according to the recording priority of their deeds of trust against the Property and as otherwise provided by law.
3. If any funds remain after the Owner has been paid in accordance with the provisions of this Covenant, the remainder shall be paid to the County.

**XIII. DEFAULTS AND REMEDIES: ASSIGNMENT OF RENTS**

**A. Notice of Default**

Upon any violation of the provisions of this Covenant, the County may declare a default under this Covenant by delivering written notice thereof to the Owner. Upon the declaration of a default, the County may purchase the Property as set forth in Section XIV, or apply to a court of competent jurisdiction for specific performance of the Covenant, for an injunction prohibiting a proposed sale or other Transfer in violation of this Covenant, for a declaration

San Marcos

that the prohibited Transfer violates this Covenant and is, therefore, void, to assess liquidated damages as set forth in Section XIII.D, and/or for any such other relief as may be appropriate.

**B. Assignment of Rents**

Owner hereby assigns to County the right to receive the rents due or collected during the entire period the Property is occupied in violation of any of the terms of this Covenant.

**C. Remedies Not Exclusive**

The remedies stated herein shall not be exclusive, but shall be cumulative to all other remedies and rights the parties hereto may lawfully exercise.

**D. Liquidated Damages**

Owner understands that the County’s objective in requiring this Covenant is to ensure that the Property remains affordable for a period of at least fifty-five (55) years, or longer in the event of unapproved or fraudulent Transfers or in the case of a violation of this Covenant, and that should Owner Transfer the Property in violation of the requirements set forth herein, the public interest would be prejudiced and the County would thereby be damaged. The parties hereto agree that it is impracticable and extremely difficult to fix the extent of actual damages to County from such a breach. However, the parties hereto have made reasonable efforts to establish fairly the amount of compensation, and agree that a fair and reasonable amount owing to the County for such a breach by the Owner as liquidated damages would be as follows:

*Note: Liquidated damages for multiple violations are cumulative.*

1. If Property is rented in violation of this Covenant, the Owner shall be liable to the County for damages in an amount equal to the total amount of rent collected.
2. If it is determined that false or misleading information was supplied by the Owner to HCD, a Transfer may be voided or County may require that the Owner transfer the Property to a Qualified Transferee in compliance with the terms of this Covenant. In addition, Owner shall be liable to the County for an amount equal to the Maximum Monthly Rent for the Property for each month (and fraction of a month, if applicable) of the period(s) during which the Owner is in violation of this Covenant.
3. If Owner does not truthfully respond to any County surveys of property owners within 30 days of receiving such survey, Owner shall be liable to County in the amount of \$5.00 per day for each day following the thirty first (31st) day after Owner received such survey until such survey is completed and returned to the County or the County’s authorized agent, as directed by County in connection with such survey. This amount represents the County’s reasonable additional costs of administering the survey.
4. The amounts stated above shall be in addition to any fines and penalties that may be owed under applicable County ordinances.

Owner hereby agrees to the above liquidated damages provisions \_\_\_\_\_  
(Owner’s initials)

**XIV. PURCHASE OPTION UPON DEFAULT**

**A. Option to Purchase Upon Default**

In addition to the remedies provided the County elsewhere in this Covenant, Owner hereby grants to the County the option to purchase the Property effective upon an event of default hereunder (“Default Option”).

The Default Option may be exercised upon a default under this Covenant or upon default under any notes Owner has executed in favor of the County, or any deed of trust, or any other lien, including, but not limited to, a judgment, tax or homeowner’s association lien, recorded against the Property. The County shall have thirty (30) days after declaring a default or receiving notice that a default is declared on any other obligation secured by this Property to notify the

San Marcos

Owner of its decision to exercise its Default Option ("Default Option Notice"). Not later than sixty (60) days after the certified mailing of such Default Option Notice, the County or its assignee may purchase the Property for the Option Sale Price.

**XV. COUNTY REQUIREMENTS AND AUTHORIZATIONS FROM OWNER**

**A. County Requirements from Owner Regarding Compliance Monitoring**

**1. Annual Surveys.**

- a. Upon written request by HCD, Owner shall submit an Annual Survey, signed by Owner, truthfully certifying information requested by HCD therein, which may include, but is not limited to: (i) Owner's statement that Owner has at all times since the immediately preceding Annual Survey, occupied the Property and complied with all provisions of this Covenant, and (ii) Owner's disclosure and explanation of any violation of any provision of this Covenant.
- b. Owner shall mail or deliver the Annual Survey required under this Section XV.A to the County as follows:

Housing and Community Development  
County of Santa Barbara  
123 East Anapamu Street #202  
Santa Barbara, CA 93101-2062

or to such other person or address as may be designated by the County.

- c. Failure to provide the Annual Survey or any other report required hereunder within 30 days of the date specified by the County for the delivery of such Annual Survey or other report, or any misrepresentations in such Annual Survey or other report, shall constitute a material default under this Covenant subject to the enforcement provisions of this Covenant.
- 2. Audits.**

By signing this Covenant, Owner covenants for itself and all of Owner's heirs, legal representatives, executors, successors and assigns that, for the Term, the County may audit Owner's household for the purpose of evaluating or re-evaluating Owner's eligibility for purchase and occupancy of the Property and for compliance with the terms of this Covenant, including, but not limited to, the Owner Occupancy and income requirements and refinancing restrictions set forth herein. Owner for itself and all of Owner's heirs, legal representatives, executors, successors, and assigns, agrees to assist and cooperate with the County in any such audit. Such assistance and cooperation shall include, but not be limited to, promptly supplying any and all information reasonably requested by County including, but not limited to, tax returns, utility bills, bank statements and employment records, and signing any reasonably requested release of information forms. Owner hereby consents to and grants County the right to conduct financial background investigations, including, but not limited to, credit checks during the Term of the Covenant. If upon such audit it is determined that Owner supplied false or misleading information to the County, Owner's purchase of the Property may be voided in County's sole discretion and Owner shall be subject to the enforcement provisions set forth in this Covenant.

**B. Owner's Continuing Authorizations to County**

1. Right of County Housing and Community Development Division to Inspect Property.

Owner shall permit HCD the right to enter and inspect the Property during normal business hours upon at least 72-hours' advance notice to Owner. An Owner's refusal to permit inspection shall constitute a default under this Covenant.

2. Right of County Housing and Community Development Division to obtain status of Owner's loans.

Owner authorizes HCD to contact Owner's lender or lenders to obtain current loan status and loan information at any time without further written authorization from Owner.

San Marcos

**XVI. ADDITIONAL PROVISIONS**

**A. Assignment**

Owner shall not assign or otherwise transfer, directly or indirectly, whether by operation of law or otherwise, this Covenant, or any of Owner's interest, rights, or obligations hereunder, without the prior written consent of County in each instance. The County may assign any or all of its rights and delegate any or all of its duties hereunder without the consent of Owner. Upon any such assignment, the County shall notify the Owner.

**B. Purchase of Other Residential Real Estate**

The Owner covenants that Owner has not and will not purchase, or execute any agreement to purchase, any other residential real property during the Term, including, but not limited to, in trust or any other form of ownership. HCD may, but shall in no event be required to, waive or modify the prohibition set forth in the immediately preceding sentence of this Section XVI.B in writing in advance in the event that Owner first demonstrates need or other good cause therefore, as determined by the HCD in HCD's sole discretion.

**C. Severability**

If any one or more of the provisions contained in this Covenant shall for any reason be held to be invalid, illegal or unenforceable by a court of competent jurisdiction, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Covenant, and this Covenant shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**D. Choice of Law; Venue**

This Covenant shall in all respects be governed by and construed in accordance with the laws of the State of California.

**E. Notices**

All notices required herein shall be sent by certified mail, return receipt requested, (i) to the Owner at the address of the Property, and (ii) to the County at: Community Services Department, Housing and Community Development Division, Attn: Housing Programs, County of Santa Barbara, 123 E. Anapamu Street, #202, Santa Barbara, CA 93101, or such other address that the County may subsequently provide in writing to the Owner.

**F. Recordation of Request for Notice of Default, Request for Notice of Delinquency**

Owner agrees to permit the HCD to record a Request for Notice of Default and a Request for Notice of Delinquency at any time.

**G. Entire Agreement**

This Covenant, together with the Deed of Trust executed by Owner in favor of County and secured by the Property, constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and supersedes any and all other prior negotiations, correspondence, understandings, and agreements with respect thereto. There are no representations, promises, agreements, or other understandings between the parties hereto relating to the subject matter of this Covenant that are not expressed herein. This Covenant may be modified only by an instrument in writing executed by all of the parties hereto.

**H. Survival; No Merger**

All of the terms, provisions, representations, warranties, and covenants of the Parties under this Covenant shall survive the close of escrow of any sale of the Property and shall not be merged in any deed transferring the Property.

**I. Authority and Execution**

Each Party represents and warrants that it has full power and authority to enter into this Covenant and to undertake all its obligations hereunder, that each person executing this Covenant on its behalf is duly and validly authorized to do so.

San Marcos

**J. Waiver; Modification**

No waiver or modification of this Covenant or any provision, condition, or limitation herein contained shall be valid unless in writing and duly executed by the Party to be charged therewith. No evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the Parties arising out of or affecting this Agreement or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing and duly executed as aforesaid. The provisions of this section may not be waived except as herein set forth. A waiver or breach of any covenant, condition or provision of this Covenant shall not be deemed a waiver of any other covenant, condition, or provision hereof.

**K. Time of the Essence.** Time is of the essence in this Covenant as to each provision in which time is an element of performance.

**L. Further Assurances.** Each Party will, upon reasonable request of the other Party, execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such further instruments and documents as may be reasonably necessary to fulfill the purposes of this Covenant.

**M. Counterparts.** This Covenant may be executed in counterparts, each of which shall be deemed an original, and all which together shall constitute one and the same instrument.

**XVII. DECLARATION OF EACH OWNER**

Each Owner hereby declares, certifies, and warrants that:

- A. All of the financial and other information provided by such Owner in connection herewith is true and complete in all respects.
- B. Such Owner has received a copy of this Covenant and agrees to comply with the all of the provisions of this Covenant.
- C. No persons or entity will be on title to the Property other than as listed below as Occupant Purchasers or Non-Occupant Title-holders. Owner understands that no other person or entity shall be listed on the title to the Property without the prior written consent of HCD in each instance.
- D. Owner has not paid and shall not pay any consideration to anyone, or any real estate commissions, or any costs normally paid by sellers, except as already disclosed in the purchase contract and escrow instructions which have been delivered to and approved by the County Housing and Community Development Division.
- E. Owner understands and agrees that any false statements or misrepresentations to the County in connection with this Covenant will constitute a default under this Covenant, and may constitute fraud.

*(Signatures appear on the following page. No further text appears on this page.)*

San Marcos

IN WITNESS WHEREOF, the Parties have executed this Covenant as of the date(s) written below.

OWNERS/OCCUPANTS:

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Owner Occupant

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Owner Occupant

(Signature(s) must be notarized)

COUNTY OF SANTA BARBARA  
COMMUNITY SERVICES DEPARTMENT  
HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
\_\_\_\_\_, Affordable Housing Programs Manager  
(Signature must be notarized)

NOTE: This Covenant will be recorded; a notary must acknowledge the signature of the above parties.

Approved as to form:  
RACHEL VAN MULLEM  
COUNTY COUNSEL

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
\_\_\_\_\_, Deputy County Counsel

San Marcos

**Exhibit A**  
Legal Description

San Marcos

**Exhibit B**  
(Deed of Trust with Assignment of Rents)

RECORDING REQUESTED BY AND RETURN TO:

Community Services Department  
Housing and Community Development Division  
Attn: Property Management  
County of Santa Barbara  
123 East Anapamu St, #202  
Santa Barbara, CA 93101-2062

NO FEE DOCUMENT PURSUANT TO  
GOVERNMENT CODE SECTION 27383

---

APN: xxx-xx-xxx

**DEED OF TRUST WITH  
ASSIGNMENT OF RENTS**

THIS DEED OF TRUST, ASSIGNMENT OF (“Deed of Trust”) is made as of this \_\_\_\_ day of \_\_\_\_, 2021 by **OWNER VESTING** (“Trustor”), to \_\_\_\_\_ **Title Company**, as trustee (“Trustee”), for the benefit of the County of Santa Barbara, a public body corporate and politic (“Beneficiary”).

**GRANT IN TRUST**

**1. GRANT.** Trustor, 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 **SUBJECT PROPERTY ADDRESS** in an unincorporated area of Santa Barbara County, California, as more particularly described in Exhibit A, incorporated herein by this reference (the “Property”); the Property is a condominium unit in that certain common interest development commonly known as the **PROJECT NAME**.

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, together with rents, issues and profits.

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:

San Marcos

- A. That certain RESALE RESTRICTIVE COVENANT AND PREEMPTIVE RIGHT (“Covenant”) made by Trustor, to order of Beneficiary and extensions and renewals *thereof*; and
- B. Payment of any sums advanced by Beneficiary to protect the security and priority of this Deed of Trust; and
- C. Any liquidated damages accruing to Beneficiary under Covenant.

**3. ENFORCEMENT.** Upon the happening of a default under the Resale Restrictive Covenant and Preemptive Right recorded **DATE OF COVENANT RECORDATION** as instrument number **INSTRUMENT NO.**, in the Official Records of Santa Barbara County, Beneficiary may, in addition to OTHER rights and remedies permitted by the Covenant, this 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 costs and expenses of operation of the Security, including attorneys’ fees, and pay off any indebtedness secured by this Deed of Trust, all in such order as Beneficiary may determine.

**4. 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.

**5. 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 default or notice of default hereunder or invalidate any act done in response to such 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 Deed of Trust or by law upon occurrence of any Event of Default, including the right to exercise the power of sale.

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

**6. PERFORMANCE OF SECURED OBLIGATION.** Trustor shall promptly perform each obligation secured by this Deed of Trust in accordance with the Covenant.

**7. FORECLOSURE BY INSTITUTIONAL LENDER.** If the Security is foreclosed upon by an Institutional Lender which is the maker of a loan secured by a First Deed of Trust; and the Security is transferred through a trustee’s sale, judicial *foreclosure* or deed in *lieu of* foreclosure by an Institutional Lender on a First Deed of Trust, Trustor shall promptly pay to Beneficiary the amount of surplus to which Beneficiary is entitled pursuant to **Section \_\_\_\_ of the Covenant.**

**8. MAINTENANCE OF THE SECURITY.** The Declaration of Covenants, Conditions and Restrictions, (“CC&Rs”) recorded against the Security in the Official Records of Santa Barbara County, California provides that the Owners’ Association (“Association”) shall among other

San Marcos

things provide exterior maintenance and repair of all condominiums in the common interest development. To the extent that the Association is not obligated to, or does not, maintain the Security under the CC&Rs, Trustor shall, at the Trustor's own expense, maintain and preserve the Security or cause the Security to be maintained and preserved in good condition, in good repair, and in a decent, safe, sanitary, habitable and tenantable condition. Trustor shall not cause or permit any violations 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 waste on or to the Security. Trustor shall not abandon the Security. Beneficiary shall have no responsibility over maintenance of the Security.

**9. LIENS, ENCUMBRANCES, AND CHARGES.** Except for purchase money loans, Trustor shall discharge any lien or encumbrance not approved by Beneficiary in writing that may attain priority over *this* Deed of Trust.

**10. 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.

**11. SUITS TO PROTECT THE SECURITY.** Beneficiary shall have power to institute and maintain such suits and proceedings as it may deem expedient (a) to prevent any impairment of the Security or the rights of Beneficiary, (b) to preserve or protect its interest in the Security and in the Rents, and (c) to restrain 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 be prejudicial to the interest of Beneficiary.

**12. DAMAGE TO SECURITY.** Trustor shall give Beneficiary and Trustee prompt notice in writing of any damage to the Security. Beneficiary acknowledges that Section 10.1 of the CC&Rs provides the mechanism by which a decision shall be made to repair or rebuild a damaged condominium unit and for payment of the expense of such rebuilding and repair.

**13. TITLE.** Trustor warrants that Trustor lawfully has legal title to the Security.

**14. 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. Beneficiary acknowledges that certain easements have been granted with respect to the Security to other condominium owners in the Project and to the Association.

**15. TAXES AND LEVIES.** Trustor shall pay prior to delinquency, all taxes, fees, assessments, charges and levies imposed by any public authority or utility company which are or may become a lien affecting the Security. However, Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as (a) the legality thereof shall be promptly and actively contested in good faith and by appropriate proceedings, and (b) Trustor maintains reserves adequate to pay any contested liabilities. In the event that Trustor fails to pay any of the foregoing items, Beneficiary may, but shall be under no obligation to, pay the same, after Beneficiary has notified Trustor of such failure to pay and Trustor fails to fully pay such items within seven

San Marcos

business days after receipt of such notice. 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 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 Deed of Trust.

**16. 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 (“Funds”) distributed to Trustor pursuant to **Article \_\_\_\_** of the CC&Rs 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 amounts so collected and recovered by Beneficiary may be released to Trustor upon such conditions as Beneficiary may impose for its disposition. Application of all or any part of the Funds collected and received by Beneficiary or the release thereof shall not cure or waive any default under this Deed of Trust.

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.

**17. ACCELERATION ON TRANSFER OF SECURITY; ASSUMPTION.** In the event that Trustor, without the prior written consent of the Beneficiary, sells, agrees to sell, transfers, or conveys its interest in the Security or any part thereof or interest therein, Beneficiary may at its option declare all sums secured by this Deed of Trust to be immediately due and payable.

**18. RECONVEYANCE BY TRUSTEE.** This trust is intended to continue for the entire term of the Covenant. At the end of the term of the Covenant, upon written request of Beneficiary and upon payment by Trustor of Trustee’s reasonable fees, Trustee shall re-convey the Security to Trustor, or to the person or persons legally entitled thereto.

#### **DEFAULT AND REMEDIES**

**19. EVENTS OF DEFAULT.** A default of a material term of the Covenant shall also constitute an Event of Default under this Deed of Trust.

**20. ACCELERATION OF MATURITY.** Upon the happening of an Event of Default Beneficiary may declare this Deed of Trust immediately due and payable.

**21. BENEFICIARY’S REMEDIES.** Upon the happening of an Event of Default Beneficiary may proceed with any or all of the following remedies:

- A. Declare any and all sums advanced by Beneficiary to protect the security and priority of this Deed of Trust immediately due and payable by Trustor;
- B. Enforce the assignment of rents and right to possession as provided for in this Deed of Trust, and/or seek appointment of a receiver to take over possession of the Security and collect Rents;

San Marcos

- C. Cure any Monetary Default secured by the Property and add the amount of such payment to the amount owing to beneficiary;
- D. Commence an action to foreclose this Deed of Trust pursuant to California Code of Civil Procedure Section 725(a) 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;
- 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; or
- F Pursue any other rights and remedies allowed at law or in equity.

**22. FORECLOSURE BY POWER OF SALE.** Should Beneficiary elect to foreclose by exercise of the power of sale contained in this Deed of Trust, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust, and such receipts and evidence of any expenditures made or of liquidated damages accruing in favor of Beneficiary under the Covenant 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 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, at public auction to the highest bidder for cash 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 property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters of facts shall be conclusive proof of the truthfulness thereof. 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 property 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.

**23. 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 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.

**24. REMEDIES CUMULATIVE.** No right, power or remedy conferred upon or reserved to Beneficiary by this 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.

San Marcos

**GENERAL PROVISIONS**

**26. GOVERNING LAW.** This 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.

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

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

**29. TIME.** Time is of the essence in this Deed of Trust.

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

**BENEFICIARY:** County of Santa Barbara  
123 E. Anapamu Street #202  
Santa Barbara, CA 93101  
Attn: PROGRAM MANAGER

**TRUSTOR:** OWNER  
SUBJECT PROPERTY STREET ADDRESS  
SITUS CITY, CA 9XXXX

**31. BINDING UPON SUCCESSORS.** All provisions of this 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.

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

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

**34. PROOFS OF CLAIM.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, re-composition 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

San Marcos

of Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by Trustor hereunder after such date.

**35. SEVERABILITY.** Every provision of this Deed of Trust *is* intended to be severable. If any term or provision of this Deed of Trust is declared to be illegal, invalid, or unenforceable by a court of competent jurisdiction, the legality, validity, and enforceability of the remaining provisions shall not be affected.

**36. 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.

**37. ACCEPTANCE BY TRUSTEE.** Trustee accepts this Trust when this 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 Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

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

TRUSTOR:

BY: \_\_\_\_\_  
OWNER

(Signature(s) must be notarized)

San Marcos

## EXHIBIT H

### FORM OF AMENDMENT IN CONNECTION WITH TRANSFER OF SUBJECT PROPERTY

#### AMENDMENT TO AGREEMENT TO PROVIDE AFFORDABLE HOUSING AND RENTAL RESTRICTIVE COVENANT AND PREEMPTIVE RIGHT

This Amendment (“Amendment”) is made as of [Date], by and among [Transferring Owner], [Transferee], [Non-Transferring Owner], and the County of Santa Barbara (“County”).

#### RECITALS

- A. The parties reference that certain Agreement recorded on [Date], as Instrument No. [Number], relating to [Project Name], Case No. [Case Number] (the “Agreement”).
- B. Transferring Owner is transferring [describe interest] to Transferee.
- C. Section [X] of the Agreement requires execution of this Amendment upon any Transfer.

#### AGREEMENT

1. Assumption of Obligations. Transferee hereby assumes and agrees to be bound by all terms and conditions of the Agreement as [Affordable Parcel Owner / Market Rate Parcel Owner].
2. Release. County hereby releases Transferring Owner from all obligations arising under the Agreement after the Effective Date of this Amendment, except for any breaches occurring prior to such date.
3. Representations. Each party represents and warrants that it has full authority to execute and deliver this Amendment.
4. Miscellaneous. This Amendment shall run with the land and shall be recorded in the Official Records of Santa Barbara County.

[signatures on net page]

San Marcos

IN WITNESS WHEREOF, the parties hereto hereby execute this Amendment as set forth below.

**TRANSFERRING OWNER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TRANSFeree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**NON-TRANSFERRING OWNER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**COUNTY:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Notary blocks to be inserted]