

NO FEE DOCUMENT

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

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

NO FEE DOCUMENT PURSUANT TO  
CALIFORNIA GOVERNMENT CODE SECTION 27383

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

This County CDBG Loan Regulatory Agreement and Declaration of Restrictive Covenants (this “Agreement”) is made as of this third day of December, 2024 (“Effective Date”) by and between the County of Santa Barbara, a political subdivision of the State of California (the “Lender” or “County”), and Fighting Back Santa Maria Valley, a California nonprofit public benefit corporation (the “Owner” or “Borrower” and, together with the County, collectively, the “Parties” and each individually a “Party”).

**RECITALS**

A. Borrower intends to acquire a property located at 526 East Chapel Street in the City of Santa Maria, which is located in Santa Barbara County, California, as more particularly described in the legal description attached hereto as Exhibit A and incorporated herein by reference (the “Property”). The Property will be used to provide navigation services to homeless youth.

B. The Lender has received Community Development Block Grant Program (“CDBG”) funds (“CDBG Funds”) from the United States Department of Housing and Urban Development (“HUD”) pursuant to Title I of the Housing and Community Development Act of 1974, as amended.

C. Concurrently herewith, Lender is lending to Owner a loan in the amount of Two Hundred Ninety-Nine Thousand Dollars (\$299,000), as evidenced by that certain County CDBG Loan Promissory Note of even date herewith executed by Borrower in favor of Lender in the amount of Two Hundred Ninety-Nine Thousand Dollars (\$299,000), (“County CDBG Loan Note”), and that certain County CDBG Loan Agreement of even date herewith by and between Lender and Borrower (“County CDBG Loan Agreement”), and secured by that certain Deed of Trust of even date herewith (“County CDBG Loan Deed of Trust”).

D. As further consideration for the County CDBG Loan and to further the interests of the Lender, the Owner has agreed to enter into and record this Agreement. The purpose of this Agreement is to regulate and restrict the occupancy, rents, operation, ownership, and management of the Property during the Term. The covenants in this Agreement are intended to run with the land and be binding on the Owner and its successors and assigns with respect to the Property.

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

## **1. DEFINITIONS**

All capitalized terms used but not defined in this Agreement shall have the respective meanings ascribed to such terms in the County CDBG Loan Agreement. Some of the following terms are defined in the County CDBG Loan Agreement and repeated herein for convenience of reference.

1.1 [This section intentionally left blank.]

1.2 [This section intentionally left blank.]

1.3 [This section intentionally left blank.]

1.4 **“COUNTY CDBG LOAN”** means the loan of CDBG Funds in the amount of Two Hundred Ninety-Nine Thousand Dollars (\$299,000), made by the Lender to the Owner to finance certain acquisition costs of the Project pursuant to the County CDBG Loan Agreement and the County CDBG Loan Note.

1.5 **“COUNTY CDBG LOAN AGREEMENT”** means the County CDBG Loan Agreement executed concurrently herewith by and between the Owner and the Lender, setting forth the terms and conditions governing the County CDBG Loan.

1.6 **“COUNTY CDBG LOAN DEED OF TRUST”** means that certain deed of trust, assignment of rents, and security agreement, executed concurrently herewith by the Owner, as trustor, and the Lender, as beneficiary, to be recorded against the Property as security for the County CDBG Loan, as well as any amendments to, modifications of, and restatements thereof.

1.7 **“COUNTY CDBG LOAN DOCUMENTS”** means, collectively, the County CDBG Loan Agreement, the County CDBG Loan Note, the County CDBG Loan Deed of Trust, and this Agreement, including all exhibits hereto and thereto, as such documents may be amended from time to time in accordance with the provisions hereof and thereof.

1.8 **“COUNTY CDBG LOAN NOTE”** means the promissory note executed by the Owner concurrently herewith in favor of the Lender in the amount of Two Hundred Ninety-Nine Thousand Dollars (\$299,000), evidencing the County CDBG Loan, which is secured by the County CDBG Loan Deed of Trust, as well as any amendments to, modifications of, or restatements thereof.

1.9 [This section intentionally left blank.]

1.10 [This section intentionally left blank.]

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

1.12 [This section intentionally left blank.]

1.13 **“OWNER”** or **“BORROWER”** means Fighting Back Santa Maria Valley, a California nonprofit public benefit corporation, and its representatives and assigns, transferees, and successors-in-interest.

1.14 **“PROJECT”** means the acquisition, operation and management of the Property as described in the County CDBG Loan Agreement and in accordance with 24 CFR 570.3.

1.15 **“PROPERTY”** means that certain real property and improvements thereon located at 526 East Chapel Street, in the City of Santa Maria, which is located in Santa Barbara County, California, as more particularly described in Exhibit A, which is attached hereto and hereby incorporated into this Agreement by this reference.

1.16 **“TERM”** shall have the meaning set forth in Section 9.8 of the County CDBG Loan Agreement.

## **2. TERM AND COMPLIANCE**

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

**2.2 TERM OF AGREEMENT.** This Agreement shall remain in full force and effect for the entirety of the Term. The requirements of this Agreement shall apply throughout the Term without regard to the term of any loan or mortgage or any Transfer.

**2.3 COMPLIANCE WITH CDBG PROGRAM REQUIREMENTS.** At all times during the Term, the Owner shall comply with all CDBG Requirements.

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

**3.1 OCCUPANCY OF PROJECT.** The Project shall be designated as a CDBG-Assisted Project. The CDBG-Assisted Project must be occupied by Fighting Back Santa Maria Valley to provide navigation services to homeless youth. The Project shall exclusively serve persons

belonging to groups defined as “presumed to be principally low and moderate income persons” at 24 CFR 570.208(a)(2)(i)(A).

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

[This section intentionally left blank.]

#### **5. PROPERTY MANAGEMENT**

**5.1 MANAGEMENT RESPONSIBILITIES.** The Owner shall be solely responsible for management of the Project, including all management functions with respect to the Project, including, without limitation, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security.

5.2 [This section intentionally left blank.]

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

**5.4 COMPLIANCE MONITORING.** The Owner shall, at all times during the Term, operate the Property and the Project in full compliance with this Agreement and the CDBG Requirements. The Owner shall permit the Lender to conduct compliance monitoring, including performing on-site records review and inspections of the Property, as required by applicable laws and regulations, the CDBG Requirements, and/or as requested by Lender.

**5.5 ANNUAL REPORT.** On or before March 1<sup>st</sup> of each year during the Term, the Owner shall submit to the Lender a report, in a form approved by Lender, for the immediately preceding calendar year, containing all information requested by Lender so as to allow the Lender to determine the Owner's compliance with this Agreement (“Annual Report”). The Annual Report shall include, at a minimum: (i) an Annual Financial Statement, as defined in Section 1.2 of the County CDBG Loan Agreement, (ii) a report on the occupancy of the Project, (iii) a report on the physical condition of the Project, (iv) a report on the general management of the Project, (v) a report on the use(s) of the Property in accordance with the CDBG Requirements, and (vi) all other information requested by Lender.

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

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

**5.7 MAINTENANCE OF EXISTING STRUCTURES.** Owner shall maintain all buildings on the Property in good condition, in good repair, ordinary wear and tear excepted, and in a decent, safe, sanitary, habitable and tenantable condition. Owner shall not cause or permit any violations of any laws, ordinances, regulations, covenants, conditions, restrictions, or equitable servitudes as they pertain to improvements, alterations, maintenance or demolition on the Property. Owner shall be solely responsible for maintenance of the Property.

## **6. GENERAL PROVISIONS**

**6.1 SUBORDINATION.** This Agreement shall be senior to all, and shall not be subordinate to any, deeds of trust, notes, agreements, and other obligations of Lender concerning the Property, and may be subordinated in priority only as to liens and encumbrances otherwise approved in advance in writing by the Lender in each instance, in Lender's sole and absolute discretion.

**6.2 DEFAULT AND REMEDIES** In the event of any breach of any provision(s) of this Agreement by the Owner, the Lender shall provide written notice to the Owner of such breach; provided, however, that if Owner has actual or constructive knowledge of such breach and has not received written notice of such breach from Lender, Owner shall immediately provide written notice to Lender of such breach. If Lender determines that such breach is capable of cure, Lender shall provide written notice to Owner stating that such breach is capable of cure, the actions required to effect such a cure, and the date by which such cure must be completed ("Opportunity to Cure Notice"), provided that the Owner diligently undertakes to cure such breach in accordance with such Opportunity to Cure Notice. Lender shall accept a cure of such breach by the Owner's limited partner on the same basis as Lender would accept a cure of such breach by the Owner. If the Owner fails to perform a timely cure of the specified breach in accordance with such Opportunity to Cure Notice, or immediately upon the occurrence of a breach that the Lender determines to be incapable of cure, the Lender may proceed with any or all of the following remedies:

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

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

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

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

**6.3 EVENT OF DEFAULT.** In the event that, at any time during the Term, any of Owner or the Project are not in compliance with any of the CDBG Requirements or any provision of this Agreement, subject to applicable notice and cure periods as provided herein, such failure shall constitute an Event of Default hereunder and under the County HOME Loan Agreement.

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

**6.5 INSURANCE AND INDEMNITY.** Owner shall, at all times during the Term, comply with all of the insurance and indemnification provisions set forth in Exhibit B, attached hereto and incorporated herein by this reference.

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

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

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

**6.9 CONSENTS AND APPROVALS.** No Lender consent or approval shall be effective unless in writing and executed by a duly authorized representative of the Lender.

**6.10 NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications to a Party hereunder shall be sufficiently given if, and shall not be deemed given unless, dispatched by U.S. Postal Service registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the such Party at the address set forth for such Party as follows, or to such other address as such Party may from time to time designate in writing delivered to the other Party in accordance with this Section 6.10:

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

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

**Owner:** Fighting Back Santa Maria Valley  
201 South Miller Street, Suite 209  
Santa Maria, California 93454  
Attention: Executive Director

**6.11 BINDING UPON SUCCESSORS.** This Agreement shall be recorded in the official records of the Santa Barbara County Clerk-Recorder's Office, and all provisions of this Agreement shall be binding upon and inure to the benefit of the permitted successors-in-interest, permitted transferees, and permitted assigns of the Owner, as permitted in accordance with the County CDBG Loan Documents, and the Lender, and shall run with the land with respect to the Property for the full Term of this Agreement, regardless of any assignment, payment, prepayment, expiration, or extinguishment of the County CDBG Loan or County CDBG Loan Note, any reconveyance of the County CDBG Loan Deed of Trust, or any conveyance or Transfer of the Property or any portion thereof or any interest therein; provided, however, that Owner shall not shall not assign or otherwise transfer, directly or indirectly, whether by operation of law or otherwise ("Transfer"), this Agreement or the Property, or any of Owner's interest herein or therein, or any of Owner's rights or obligations hereunder, without the prior written consent of Lender in each instance. Any purported Transfer in violation of the foregoing provisions of this Section 6.11 shall be void *ab initio*.

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

**6.13 WAIVER.** No waiver, consent, or approval by the Lender with respect to this Agreement shall be effective unless in writing executed by a duly authorized representative of Lender. No waiver shall be implied from any delay or failure by the Lender to take action on any breach or default of the Owner, or to pursue any remedy allowed under this Agreement or any of the other County CDBG Loan Documents, or under applicable law. No extension of time granted by Lender to the Owner to perform an instance of an obligation under this Agreement shall operate as a waiver or release with respect to any other instance or obligation under this Agreement or any of the other County CDBG Loan Documents. No consent by the Lender to an act or omission by the Owner shall be construed to constitute consent by Lender to any other or subsequent act or omission, or to waive the requirement that all waivers by Lender hereunder must be in writing executed by a duly authorized representative of Lender.

**6.14 AMENDMENTS AND MODIFICATIONS.** No amendment to or modification of this Agreement shall be effective unless in writing and duly executed by both the Owner and the Lender.

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

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

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

**ATTEST:**  
Mona Miyasato  
Clerk of the Board

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

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

By: \_\_\_\_\_  
STEVE LAVAGNINO  
Board Chair

**APPROVED AS TO ACCOUNTING FORM:**

DocuSigned by:  
BESTY M. SCHAFFER, CPA, CPFO  
AUDITOR-CONTROLLER

6BAAEA15901943F...  
By: \_\_\_\_\_  
Deputy

**APPROVED AS TO FORM**

Signed by:  
RACHEL VAN MULLEM  
COUNTY COUNSEL  
*Lauren Wideman*  
8F464D822C84458...

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

**APPROVED AS TO FORM:**

Signed by:  
RISK MANAGEMENT  
*Greg Milligan*  
05F555F00269466...

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

**APPROVED BY DEPARTMENT:**

DocuSigned by:  
COMMUNITY SERVICES DEPARTMENT  
*Jesús Armas*  
E33B804A6E03475...

By: \_\_\_\_\_  
Jesús Armas, Director



**BORROWER**

FIGHTING BACK SANTA MARIA VALLEY,  
a California nonprofit public benefit corporation

By  DocuSigned by:  
A94243558B504C5...  
\_\_\_\_\_  
Frank Edwin Weaver, Chief Executive Officer

**ACKNOWLEDGMENT**

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

State of California  
County of Santa Barbara

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

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

WITNESS my hand and official seal.

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

**ACKNOWLEDGMENT**

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

State of California  
County of Santa Barbara

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

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

WITNESS my hand and official seal.

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

**Exhibit A**

Legal Description of the Property

**EXHIBIT "A"**  
Legal Description

**For APN/Parcel ID(s): 121-234-055**

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

BEING A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 10 NORTH, RANGE 34 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF SANTA MARIA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, SHOWN ON A MAP RECORDED IN BOOK 88, RECORDS OF SURVEYS AT PAGE 23, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE FOR CHAPEL STREET AND THE WESTERLY RIGHT OF WAY LINE FOR ELIZABETH STREET AS SHOWN ON SAID MAP;

THENCE FOLLOWING SAID SOUTHERLY RIGHT OF WAY LINE SOUTH 89°39'20" WEST 94.0 FEET TO THE TRUE POINT OF BEGINNING;

THENCE LEAVING SAID SOUTHERLY RIGHT OF WAY LINE SOUTH 0°39'28" WEST 126.32 FEET;

THENCE NORTH 89°47'24" WEST 75.00 FEET;

THENCE NORTH 0°39'28" EAST 125.60 FEET TO A POINT ON SAID SOUTHERLY RIGHT OF WAY LINE FOR CHAPEL STREET;

THENCE FOLLOWING SAID SOUTHERLY RIGHT OF WAY LINE NORTH 89°39'20" EAST 75.00 FEET TO THE TRUE POINT OF BEGINNING.

ALSO BEING SHOWN AS LOT 1 ON ARMSTRONG LOT LINE ADJUSTMENT, TRACT NO. 5548, IN THE CITY OF SANTA MARIA, STATE OF CALIFORNIA, RECORDED APRIL 2, 1990 AS INSTRUMENT NO. 90-021688, RE-RECORDED SEPTEMBER 20, 1990 AS INSTRUMENT NO. 90-61862 OF OFFICIAL RECORDS.

**Exhibit B**

Standard Indemnification and Insurance Provisions

## EXHIBIT B

### I. INDEMNITY

Borrower hereby agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless County and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by County on account of any claim except where such indemnification is caused by the sole negligence of the County.

### II INSURANCE

Borrower hereby covenants and agrees to provide the insurance coverage with limits as specified below. Borrower shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the County Home Loan Agreement as follows:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
2. **Automobile Liability:** Insurance Services Office Form CA 0001 covering Code 1 (any auto), with limits no less than \$2,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Pollution Legal Liability and/or Asbestos Legal Liability:** (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

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

5. **Builders Risk Insurance:** Borrower shall obtain a Builders Risk Policy that provides 100% Replacement Cost. Coverage is to be effective upon the date of the Notice to Proceed, the date of site mobilization or the start of any shipment of materials, machinery or equipment to the site, whichever is earlier, and to remain in effect until replaced by permanent All Risk Property Insurance. The policy must include a Loss Payable Endorsement, including mortgage clause (CP 12 18 or similar) in favor of the County. The policy must not contain a coinsurance clause or self-insured retention. The policy must provide coverage for vandalism and Malicious Mischief Coverage.
6. **All Risk Property Insurance:** Borrower shall obtain and maintain in full force during the entire time of its ownership of the property described in this Agreement an All Risk Property Insurance policy that provides 100% Replacement Cost. The policy must contain a Lender's Loss Payable Endorsement, including mortgage clause (CP 12 18 or similar) in favor of the County. The policy may not contain a coinsurance clause or self-insured retention. Earthquake and fire coverage must be included.

7. **Flood Insurance:** If the property is deemed to be in an area identified by FEMA as a "special Flood Hazard area," Borrower must obtain flood insurance coverage with limits of at least the \$2,000,000 County is lending to Borrower.

B. Other Insurance Provisions

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

1. **Additional Insured** – County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Borrower including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Borrower's insurance at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).
2. **Primary Coverage** – For any claims related to this Agreement, the Borrower's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Borrower's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the County.
4. **Waiver of Subrogation Rights – Borrower hereby agrees to waive rights of subrogation which any insurer of Borrower may acquire** from Borrower by virtue of the payment of any loss. Borrower agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of the County for all work performed by the Borrower, its employees, agents and subcontractors. This provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either: the Borrower shall cause the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, agents and volunteers; or the Borrower shall provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – Borrower shall furnish the County with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Borrower's obligation to provide them. The Borrower shall furnish evidence of renewal of coverage throughout the term of the Agreement. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.



8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, County has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by County as a material breach of contract.
9. **Subcontractors** – Borrower shall require and verify that all contractors maintain insurance meeting all the requirements stated herein, and Borrower shall ensure that County is an additional insured on insurance required from contractors. For CGL coverage contractors shall provide coverage with a format least as broad as CG 20 38 04 13.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
  - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
  - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
  - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Borrower must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Borrower agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of County.