

NO FEE DOCUMENT

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

Attachment B

County of Santa Barbara
105 East Anapamu Street, Room 105
Santa Barbara, CA 93101
Attn: Housing and Community Development

NO FEE DOCUMENT PURSUANT TO
GOVERNMENT CODE SECTION 27383

REGULATORY AGREEMENT

This Regulatory Agreement (the "Agreement") is made this ___ day of June, 2008 by and between the County of Santa Barbara, a political subdivision of the State of California (the "Lender"), and Good Samaritan Shelters, Incorporated, a California non-profit public benefit corporation (the "Owner").

RECITALS

A. The Owner has acquired real property at 608 West Ocean Avenue, in the City of Lompoc, in Santa Barbara County, as more particularly described in Exhibit A (the "Property") upon which the Owner intends to operate a sixteen- (16) bed transitional housing facility

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

C. Owner has received a loan from Lender of HOME Funds in the amount of Seventy Five Thousand Dollars (\$75,000) to finance the acquisition and development of the Property (the "Loan").

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

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

DEFINITIONS

The following terms have the meanings and content set forth in this section wherever used in this Agreement or attached exhibits.

1. "**AREA MEDIAN INCOME**" means the 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 HUD pursuant to the United States Housing Act of 1937, as amended, or such other method of median income calculation applicable to the Lender that HUD may hereafter adopt in connection with said Act.

2. "**DEED OF TRUST**" means that certain deed of trust assignment of rents and security agreement, recorded on the Property as security for the Loan, with the Owner as trustor and the Lender as beneficiary, as well as any amendments to, modifications of, and restatements of said deed of trust.

3. "**LENDER**" is the County of Santa Barbara, political subdivision of the State of California, and its officers, officials, directors, employees, agents and authorized representatives.

4. "**LOAN**" means the Loan made by the Lender to the Owner for the Project pursuant to the Loan Agreement and the Note.

5. "**LOAN AGREEMENT**" is the Loan Agreement executed by and between the Owner and the Lender, setting forth the terms and conditions governing the Loan.

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

7. "**NOTE**" means the promissory note executed by the Owner in favor of the Lender in the amount of Seventy Five Thousand Dollars (\$75,000) to evidence the Loan, which is secured by the Deed of Trust, as well as any amendments to, modifications of, or restatements of said promissory note.

8. "**OWNER**" means Good Samaritan Shelters, Incorporated, a California nonprofit public benefit corporation.

9. "**PROGRAM**" means Good Samaritan Shelters, Incorporated's *Recovery Way Home* Program, and any supportive services, case management, treatment and other services under the program's umbrella.

10. **"PROJECT"** means the sixteen (16) bed transitional housing facility to be developed on the Property according to the terms of the Loan Agreement, and all parking, landscaping, and other improvements appurtenant thereto.

11. **"PROPERTY"** means the real property described in Exhibit A attached hereto and incorporated herein, including the Project to be developed thereon pursuant to the Loan Agreement.

12. **"QUALIFYING HOUSEHOLD"** means a household that qualifies as a Very Low-Income Household.

13. **"QUALIFYING RENT"** means the total annual charges for rent, utilities, and related services to each Qualifying Household which shall not exceed thirty percent (30%) of fifty percent (50%) of Median Income for the Santa Barbara/Santa Maria/Lompoc Primary Metropolitan Statistical Area as determined by HUD with adjustments for household size.

14. **"TERM"** means the term of this Agreement described herein.

15. **"TRANSITIONAL HOUSING SPACE"** means any of the sixteen (16) residential living spaces that will be provided on the Property for Very Low Income Household members including associated supportive services, drug and/or alcohol addiction treatment, perinatal treatment, case management and related programming.

16. **"UNIT"** means any one of the sixteen (16) transitional housing beds in the Project.

17. **"VERY LOW-INCOME HOUSEHOLD"** means a household whose annual income does not exceed fifty percent (50%) of the Area Median Income as determined by HUD with adjustments for smaller and larger households.

THE OWNER'S OBLIGATIONS

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

18. **TERM OF AGREEMENT.** This Agreement shall commence upon execution and shall remain in full force and effect until thirty (30) years following the date of issuance of a final Certificate of Completion for the Project.

19. **COMPLIANCE WITH PROGRAM REQUIREMENTS.** The Owner shall comply with all requirements imposed on projects assisted under the HOME program as contained in 42 U.S.C. 12701, et seq., 24 CFR Part 92, and other implementing rules and regulations.

OCCUPANCY AND RENTS

20. OCCUPANCY OF PROJECT. Sixteen (16) Transitional Housing Spaces in the Project shall be designated as Assisted Units. The Assisted Units must be occupied, or reserved for occupancy by, Qualifying Households.

21. TRANSITIONAL HOUSING SPACES. The Owner shall limit for the full term of this Agreement the use and rental of all Transitional Housing Spaces, to Very Low- Income Households at rents that do not exceed the maximum rental charges for Qualifying Households as set forth in this Agreement. The Owner shall provide tenants access to all necessary supportive services, programs, and case management as may be made available through the Project for assisting them in addressing their drug and/or alcohol addiction and in achieving recovery, sobriety and self-sufficiency.

22. MAXIMUM RENTAL CHARGES.

(a) The total Charges for rent, utilities, and related services to each Very Low Income Household occupying one or more Transitional Housing Spaces shall not exceed thirty percent (30%) of fifty percent (50%) of Median Income regardless of how many Transitional Housing Spaces are occupied by members of that Very Low Income Household. Initial rents for each Very Low Income Household occupying one or more Transitional Housing Spaces shall be as set forth in the Regulatory Agreement. Annual rent increases shall be calculated by Lender based on the change in permissible rents published annually by HUD. Borrower shall annually certify each tenant household's gross income and make any rent adjustment pursuant to the terms of the Regulatory Agreement.

(b) Initial maximum rents for each Qualifying Household shall be set by the Lender at the time of initial occupancy of the Project. The initial lease and all subsequent leases for each household occupying one or more Transitional Housing Spaces shall provide for a term of no less than twelve (12) months, conditioned by household's enrollment and participation in any required supportive services, case management and other requirements attendant to the Program. Rents shall be increased no more than once annually and annual rent increases shall be calculated by the Owner and the Lender based on the change in permissible rents published annually by HUD. At least sixty (60) calendar days prior to increasing rents on any Qualifying Household, the Owner shall submit to the Lender for review and approval a written request for such increase, which the Lender shall approve if the increased rent will comply with any applicable HOME Fund requirements. Households occupying Transitional Housing Spaces shall be given at least thirty (30) days written notice prior to any rent increase.

23. INCOME CERTIFICATION AND INCREASES IN TENANT INCOMES. The income levels and other qualifications of Very Low-Income Household applicants for Transitional Housing Spaces shall be certified prior to initial occupancy and recertified yearly by the Owner. In the event that recertification of a Very Low-Income Household's income indicates that the household's income exceeds the maximum designated income for a Very Low-Income

Household, the Owner may increase rents on such household as permitted by HUD to no more than 30% of 1/12 of the household's income, and the household may be permitted to continue to occupy Transitional Housing Spaces in the Project.

24. LEASING THE DEVELOPMENT.

(a) Before leasing any Transitional Housing Space, the Owner shall submit its proposed lease and Program participation requirements for the Lender's review and approval. The term of the Lease shall be for no less than one year and shall not contain any provision which is prohibited by 24 CFR Section 92.253(b) and any modifications thereto. Any termination of the Lease or refusal to renew must be in conformance with 24 CFR 92.253(c), as amended, and must be preceded by not less than thirty (30) days written notice to the tenant by the Owner specifying the grounds for the action. The Owner shall include in leases for all Transitional Housing Spaces provisions which provide that the household is subject to annual certification of income and that the tenancy of the household shall be immediately terminated should one or more of the household's members misrepresent any material fact regarding the household's qualification as a Very Low-Income Household. The Owner shall include in all leases for Transitional Housing Spraces in the Project provisions which prohibit the household from subleasing the Space.

(b) Qualifying Households shall abide by identified Program requirements intended to assist them in attaining and maintaining sobriety from drug and/or alcohol addiction, and abide by any "house rules" established by Lender to insure Program's efficacy.

25. TENANT SELECTION. Before leasing the Project, the Owner must provide Lender for its review and approval the Owner's written tenant selection plan. The Owner's tenant selection plan must, at a minimum, meet the requirements for tenant selection set out in 24 CFR 92.253(e) and any modifications thereto, including provisions for Program participation and continued residency for up to the two- (2) year Program term.

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

27. paragraph intentionally left blank.

28. NONDISCRIMINATION. The Owner shall not discriminate or segregate in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of Units on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), or any other arbitrary basis. The Owner shall include a

statement in all advertisements, notices and signs for the availability of Units for rent to the effect that the Owner is an Equal Housing Opportunity Provider. The Owner shall also comply with the Lender's Nondiscrimination ordinance.

29. **MARKETING PLAN.** No later than thirty (30) days following the date of commencement of construction work, the Owner shall submit to the Lender for approval its plan for marketing the transitional housing program spaces, including information on affirmative marketing efforts and compliance with fair housing laws and the Lender's affirmative fair marketing guidelines. Upon receipt of the marketing plan, the Lender shall promptly review the Marketing Plan and shall approve or disapprove it within thirty (30) days after submission. If the Marketing Plan is not approved, Lender shall specify its reasons for disapproval. The Owner shall submit a revised Marketing Plan within thirty (30) days of Lender's notice of disapproval. If the Lender does not approve the revised Marketing Plan, the Owner shall be in default under the terms of the Loan Agreement.

PROPERTY MANAGEMENT

30. **MANAGEMENT RESPONSIBILITIES.** The Owner is responsible for all management functions with respect to the Project, including without limitation the selection of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The Lender shall have no responsibility over management of the Project. The Owner shall submit to the Lender for its approval its proposed property manager. The Owner may only remove and/or replace the property manager with the prior written consent of the Lender.

31. **APPROVAL OF MANAGEMENT POLICIES.** The Owner shall submit its written management policies with respect to the Project and Program to the Lender for its review, and shall amend such policies in any way necessary to insure that such policies comply with the provisions of this Agreement, the requirements of the existing housing program under Section 8 of the United States Housing Act, or its successors, and the requirements of all lenders providing financing for the Development.

32. **INSPECTION AND RECORDS.** The Owner shall maintain records that clearly document the Owner's performance of its obligations to operate the Property under the terms of this Agreement. The Owner shall submit any 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 Project for compliance with obligations under this Agreement upon twenty-four (24) hours advance notice of such visit by the Lender to the Owner or the Owner's management agent and to tenants of any Units.

33. **ANNUAL REPORT.** The Owner shall submit to the Lender (i) not later than March 1st of each year, a report for the preceding period of February 1st through December 31st, showing the necessary information to allow the Lender to determine the 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 Lender in order to comply with reporting

requirements of the United States Department of Housing and Urban Development, or the Lender.

34. **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.

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

GENERAL PROVISIONS

36. **SUBORDINATION.** This Agreement shall be subordinated in priority only as provided in the Loan Agreement or to liens and encumbrances otherwise approved in writing by the Lender in its sole and absolute discretion.

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

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

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

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

(d) Pursue any other remedy provided under the Loan Agreement or allowed at law or in equity.

38. **NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** No officers, directors, employees and agents of the Lender shall be personally liable to the Owner for any obligation created under the terms of this Agreement.

39. **INDEMNITY.** The Owner shall indemnify and hold the Lender free and harmless against any losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including attorneys' fees) which the Lender may incur as a direct or indirect consequence of the Owner's failure to perform any obligations as and when required by this Agreement. This indemnity obligation shall not extend to any claim arising solely from the gross negligence or willful acts of the Lender, its agents, and its employees. The Owner's duty to indemnify the Lender shall survive the term of this Agreement.

40. **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.

41. **AGREEMENT CONTROLS.** In the event that any provisions of this Agreement and any Loan Document conflict, the terms of this Agreement shall control.

42. **ATTORNEYS' FEES AND COSTS.** In the event that any legal or administrative action is commenced to interpret or to enforce the terms of this Agreement, the prevailing party in any such action shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

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

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

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

Lender: County of Santa Barbara
105 E. Anapamu Street, Room 105
Santa Barbara, CA 93101
Attn: Housing Development and Grants Administration Division

Owner: Good Samaritan Shelters, Incorporated
731 South Lincoln Street
Santa Maria, CA 93458
Attn: Executive Director

46. **BINDING UPON SUCCESSORS.** All provisions of this Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferee, and assigns of the Owner, and the Lender, and shall run with the land for the full term of this Agreement, regardless of any assignment, payment, prepayment, expiration,

extinguishment of the Loan or Note, any reconveyance of the Deed of Trust, or any conveyance or transfer of the Property or portion thereof.

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

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

49. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this Agreement must be in writing, and shall be made only if executed by both the Owner and the Lender.

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

IN WITNESS WHEREOF, Lender and Borrower have caused this Regulatory Agreement to be executed by their duly authorized representatives.

COUNTY:

County of Santa Barbara,
Political subdivision of the State of California

APPROVED AS TO FORM:

DANIEL J. WALLACE
COUNTY COUNSEL

By: _____
Salud Carbajal
Chair, Board of Supervisors

By: y J. Wallace
Deputy County Counsel

APPROVED AS TO FORM:

BOB GEIS
AUDITOR CONTROLLER

OWNER:

Good Samaritan Shelters, Incorporated, a
California nonprofit public benefit corporation

By: _____
Mark Paul

By: _____
Name: _____
Its _____

SIGNATURE MUST BE NOTORIZED

Senior Financial Analyst

And

By: _____
Name: _____
Its: _____

SIGNATURE MUST BE NOTORIZED

Expenditure Accounting Information

Fund: 0066 Dept: 055
Line Item: 7650 Program: 6000

State of _____) ss

County of _____) ss

On _____, 2008 before me, _____, a Notary Public in and for said County and State, personally appeared

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

WITNESS my hand and official seal.

Signature

State of _____) ss