

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF POMONA
HOUSING AUTHORITY
505 S. Garey Avenue
Pomona, CA 91766
Attn: Housing Services Manager

(Space above for Recorder's Use Only)
Exempt from filing fees per Gov. Code § 27383

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AFFECTING REAL PROPERTY
(RESALE AND OCCUPANCY RESTRICTIONS)

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS ("Declaration") is entered into this ____ day of _____, 201__, by and between the CITY OF POMONA HOUSING AUTHORITY ACTING AS THE HOUSING SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF POMONA, a public body corporate and politic (the "Agency"), and **Chudamani Adhikari and Maina Adhikari**. (collectively as the "Declarant"), with reference to the following:

1. PURPOSE

This Agreement is entered into with reference to the following facts and circumstances:

A. Declarant is the owner of certain real property consisting of a Victorian style single-family residence located at 246 Newman Street, Pomona, California 91768 and more particularly described in the "Legal Description of the Property" attached hereto as Exhibit A, and incorporated herein by this reference ("Property").

B. The Property was originally purchased by the Agency with former Low- and Moderate-Income Set-Aside Funds ("LOW-MOD") and subsequently rehabilitated and improved with sales proceeds generated from HOME Investment Partnership Program funds by a Community Housing Development Organization ("CHDO") according to the Development Agreement between Agency and Shield of Faith Economic Development Corporation dated December 1, 2014 in accordance with HOME Federal Regulations at Title 24 CFR 92.205.

C. Pursuant to Health and Safety Code Section 33334.3 (f)(1)(B), all new or substantially rehabilitated for-sale housing assisted with moneys from the Low and Moderate Income Housing Fund shall be restricted to low or moderate income owner-occupied units for a period not to less than forty-five (45) years.

D. This Declaration of covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them. The Property and all parts or parcels of the Property shall be subject to these restrictions

which are hereby declared to be for the benefit of all property within Agency's jurisdiction, and shall pass with the Property and shall bind the respective successors in interest of the Agency.

2. DEFINITIONS

A. "*CHDO Home Buyer Covenant Period*" shall mean the period of time beginning on the date this Declaration is recorded and ending on the fifteenth (15th) anniversary of this Declaration's recording date pursuant to 24 CFR 92.254(4), and during such period, the home buyer and any subsequent home buyers must be a Qualified Home Buyer according to Sections 2.C of this Declaration.

B. "*CHDO Lower Income Affordable Housing Cost*" is strictly determined as the percentage of gross monthly household income which is utilized toward the total cost of owning a home. Monthly Housing Cost (mortgage payment, property taxes, insurance, and utilities) shall not exceed 30 percent and shall not be less than 28% of the Gross Annual Household Income divided by 12.

C. "*CHDO Qualified Home Buyer*" means a home buyer whose annual total household income does not exceed eighty percent (80%) of the Los Angeles County area median income, adjusted by actual household size, pursuant to 24 CFR 92.254 (a)(3), as published annually by HUD. By way of example, 80% of the area median income for a low-income household of five (5) persons in Los Angeles County (based on year 2016 HOME Income Limits) is \$75,050. Thus, a Qualified Home Buyer with a household of five persons shall have a total household income of \$75,050 or less.

D. "*Low-Mod Affordability Period*" shall mean the period of time beginning on the date this Declaration is recorded and ending on the forty-fifth (45th) anniversary of this Declaration's recording date, and during such period, the home buyer and any subsequent home buyers must be a Qualified Home Buyer according to Sections 2.G of this Declaration.

E. "*Low-Mod Lower Income Affordable Housing Cost*" for purposes of this Declaration shall mean that purchase price which would result in a Monthly Housing cost that does not exceed the product of thirty percent (30%) times seventy percent (70%) of the area median income adjusted for family size appropriate for the unit. In addition, for any lower income household that has a gross income that equals or exceeds 70 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed thirty percent (30%) of the gross income of the household pursuant to Health and Safety Code Section 50052.5(b)(3).

F. "*Low-Mod Moderate Income Affordable Housing Cost*" for the purposes of this Declaration shall be that purchase price which would result in a Monthly Housing Cost which is not less than twenty-eight percent (28%) of the gross income of the Purchaser and does not exceed the greater of (a) the product of thirty-five percent (35%)

times one hundred and ten percent (110%) of Los Angeles County median income adjusted for family size appropriate for the Property, or (b) the product of thirty-five percent (35%) of the actual gross income of the household for Moderate Income purchasers earning greater than one hundred and ten percent (110%) of the Los Angeles County area median income adjusted for family size and not more than one hundred twenty percent (120%) of the Los Angeles County median income adjusted for family size pursuant to Health and Safety Code Section 50052.5(b)(4).

G. “*Low-Mod Qualified Home Buyer*” means a homebuyer whose annual total household income does not exceed eighty percent (80%, “Lower Income Buyer”) or one hundred and twenty percent (120%, “Moderate Income Buyer”) of the Los Angeles County area median income, adjusted by family size, pursuant to State of California Health and Safety Code Section 50093, as published annually by the State of California Housing and Community Division, which are further defined as follows:

1. “*Lower Income Buyer*” means a buyer whose annual total household income does not exceed seventy percent (80%) of the Los Angeles County area median income, adjusted by household size. By way of example, 80% of the area median income for a low-income household of five (5) persons in Los Angeles County (based on year 2016 State Income Limits) is \$75,050. Thus, a Qualified Home Buyer with a household of five persons shall have a total household income of \$75,050 or less.

2. “*Moderate Income buyer*” means a buyer whose annual total household income does not exceed one hundred and twenty percent (120%) of the Los Angeles County area median income, adjusted by household size. By way of example, 120% of the area median income for a low-income household of five (5) persons in Los Angeles County (based on year 2016 State Income Limits) is \$83,950. Thus, a Qualified Home Buyer with a household of five persons shall have a total household income of \$83,950 or less.

H. “*Monthly Housing Cost*” shall include all of the following associated with the Property, estimated or known as of the date of the proposed sale of the Property:

1. Principal and interest payments on a mortgage loan including any rehabilitation loans and any loan insurance fees associated therewith.
2. Property taxes and assessments.
3. Fire and casualty insurance covering replacement value of property improvements.
4. Any homeowner association fees.
5. A reasonable utility allowance.

The Monthly Housing Cost of a Purchaser shall be calculated based on an average of estimated costs for the next twelve (12) months pursuant to 24 CFR 5.609

I. “*Property*” shall mean that certain real property located at 246 Newman St., Pomona, California 91768, County of Los Angeles, and more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference.

3. COVENANTS

A. Affordability, Resale, and Occupancy Covenants.

1. Restrictions During CHDO Home Buyer Covenant Period.

a. Resale Restriction. Buyer for itself, its heirs, successors and assigns, hereby covenants and agrees that during the CHDO Home Buyer Covenant Period (15 years), the Property shall only be sold or transferred at an affordable cost to a person or family that is a CHDO Qualified Home Buyer pursuant to Sections 2.C at an affordable housing cost pursuant to 2.B of this Declaration.

b. Use and Occupancy Restriction. Buyer also agrees and covenants for itself, its heirs, successors and assigns that during the CHDO Home Buyer Covenant Period, the Property shall only be used and occupied by a CHDO Qualified Home Buyer. The CHDO Home Buyer Covenant Period shall run concurrently with the Low-Mod Affordability Period. At the expiration of the CHDO Home Buyer Covenant Period, the Low Mod Affordability Period shall remain in full force and effect until its expiration.

c. Resale Price Limit. The price at resale must ensure that the housing will remain affordable to a reasonable range of low-income homebuyers who pay no more than 30% of the household income towards housing cost (Principal, Interest, Taxes and Insurance). The sale and subsequent resale price must be less than 95% of the median purchase price for the area published by HUD pursuant to 24CFR 92.254 (a)(2)(iii), currently at \$394,000 in year 2016.

DECLARANT covenants and agrees, for itself, its successors, its assigns and every successor in interest to the Property, that the Property shall be sold only to a Qualified Home Buyer during the period defined in Section 3A of this Declaration, which may result in selling the Property at a price lower than market value.

[DECLARANT INITIALS]

2. Restrictions During Low Mod Affordability Period

a. Resale Restriction. Except during CHDO Home Buyer Covenant Period, Buyer for itself, its heirs, successors and assigns, hereby covenants and agrees that during the Affordability Period, the Property shall only be sold or transferred to a Low-Mod Qualified Home Buyer pursuant to Section 2.G with at an affordable housing cost pursuant to Section 2.E or 2.F of this Declaration. During the CHDO Home Buyer Covenant Period, the more restrictive income requirements set forth in Section 3.A.1 shall apply. Upon the expiration of the CHDO Home Buyer Covenant Period, the restriction set forth under Section 3.A.2 shall apply.

b. Use and Occupancy Restrictions. Buyer for itself, its heirs, successors and assigns, hereby covenants and agrees that during the Affordability Period, the Property shall be used and occupied by as its principle residence, and that the Property shall be reserved for use and occupancy by the Buyer or another buyer qualified as a Low-Mod Qualified Home Buyer under this Declaration at an affordable cost as specified in this Declaration.

DECLARANT covenants and agrees, for itself, its successors, its assigns and every successor in interest to the Property, that the Property shall be sold only to a Qualified Home Buyer during the period defined in Section 2G of this Declaration, which may result in selling the Property at a price lower than market value. Should the Declarant or subsequent home buyer sell the Property during the period when both Low-Mod Affordability Period and CHDO Home Buyer Covenant Period are applicable, the most restricted rules shall apply.

[DECLARANT INITIALS]

3. Buyer for itself, its heirs, successors and assigns, hereby covenants and agrees that the Property shall not be leased, subleased, or rented to any third party, except for a temporary period (not to exceed 12 months) in the event of an emergency or other unforeseen circumstance as may be expressly approved in writing by the Agency. The owner shall submit a written request to the Agency prior to the commencement of the temporary occupancy, as practicable, but in any event not more than (60) days following the commencement of a temporary rental occupancy of the Property by a third party.

4. Buyer for itself, its heirs, successors and assigns, hereby covenants and agrees that during the Affordability Period, the Agency shall have the right to verify the Buyer's continued occupancy of the Property as its principle place of residence and compliance with this Declaration.

5. If, at the commencement of the occupancy of the Property, the Buyer qualifies as a lower income or moderate-income household, the Property shall be treated as occupied by a lower income or moderate-income household whichever the case may be, even if, during the residency, such individual or family ceases to be so classified due to increased household income, family size increases or decreases.

C. Maintenance and Management Covenants.

1. Owner shall not knowingly cause or permit any of the following conditions to occur on the Property:

a. Permitting lumber, junk, trash, debris or salvaged materials to be on the Property in such a manner as to be visible at ground level from a public street, alley or adjoining property;

b. Permitting weeds or dead, diseased, damaged or overgrown vegetation of any type to remain on the Property;

c. Permitting trash, garbage or refuse cans, bins, boxes or other such containers to be stored on the Property in the public right-of-way or within any yard abutting the street;

d. Permitting abandoned, discarded or unused furniture, stoves, refrigerators, freezers, sinks, toilets, cabinets, or other household fixtures or equipment to be stored on the Property in such a manner as to be visible at ground level from a public street or alley, or from adjoining property;

e. Permitting construction equipment or machinery of any type or description, to be parked or stored on the Property when it is readily visible to the general public, except while excavation, construction or demolition operations covered by a an active building permit are in progress on the Property or on an adjoining property;

f. Maintaining buildings, structures, walls, fences or landscaping on the Property which are in need of correction, proper repair or adequate and proper maintenance, including but not limited to the existence of broken windows, surfaces in need of repainting, physical damage or general dilapidation, improperly or unprofessionally etched windows, graffiti, and conditions of improper graffiti abatement;

g. Permitting damaged, dilapidated, inadequately or improperly maintained signs or other identification to exist on the Property; or

h. Failing to secure the Property from vandalism, dumping, graffiti, loitering, or other illegal activity.

2. Within twenty-four (24) hours of knowing or otherwise receiving notice that any of the foregoing conditions exist on the Property, the Developer, or any successor or assign then owning the Property, shall cause such conditions to be abated.

3. Owner shall not permit any illegal activity, street gang activity, or public or private nuisance to exist on the Property. Owner shall evict or eject from the Property any individual whom such party knows or otherwise has notice of engaging in

any illegal activity, street gang activity, or activity which contributes to any public or private nuisance.

4. Owner shall be maintained in a manner consistent with community standards, the Pomona City Code, the Pomona Zoning Ordinance, this Declaration and all other legal requirements.

5. The Maintenance and Management Covenants in this Section shall run with the land in perpetuity.

D. Non-Discrimination Covenants.

1. The Buyer covenants by and for itself, its successors and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, religion, sex, disability, age, marital status, national origin or ancestry in the sale, transfer, use, occupancy or enjoyment of the Project Property.

Buyer, its successors and assigns, shall refrain from restricting the sale or transfer of the Project Property on the basis of race, color, religion, sex, disability, age, marital status, national origin or ancestry of any person. All such deeds or contracts shall contain or be subject to substantially the following non-discrimination or non-segregation clauses:

In deeds: "The Declarant herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, religion, sex, disability, age, marital status, national origin or ancestry in the sale, transfer, use, occupancy or enjoyment of the land herein conveyed. The foregoing covenants shall run with the land."

In contracts: "There shall be no discrimination against or segregation or, any person or group of person on account of race, color, religion, sex, sexual orientation, creed, ancestry, national or ethnic origin, age, family or marital status, handicap or disability, in the sale, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferor himself or herself of any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use of occupancy of tenants, subtenants, or vendees of the premises."

2. The covenants in Section 3.D.1 shall run with the land in perpetuity.

4. RESALE RESTRICTIONS

A. If the owner of the Property fails to sell the Property to a buyer qualified to purchase the Property under this Declaration at an Affordable Price, the selling owner shall pay to the Agency a sum equal to the difference between (i) the actual sales price and (ii) the price of the Property had it been sold to a Qualified Buyer at an Affordable Housing Cost. For purposes of this Section, Qualified Buyer shall mean either a CHDO Qualified Home Buyer or Low-Mod Qualified Home Buyer, during applicable Affordability Period.

The selling owner shall pay to Agency an amount calculated by Agency as being the difference between (i) the Property's actual sales price and (ii) the price of the Property had it been sold to a Qualified Buyer at an Affordable Housing Cost minus the sum of (1) the value of capital improvements made by the selling owner, with documentation acceptable by Agency, if any; and (2) customary closing costs paid by the selling owner in connection with the sale of the Property.

B. In order to verify the Buyer's status as a Qualified Buyer, the owner or its agent, shall submit to Agency the identity of the proposed Buyer and adequate information evidencing the income of the proposed Buyer. Such income information shall be submitted together with the notice of proposed sale not less than fifteen (15) days prior to the proposed sale and shall include original or true copies of pay stubs, income tax records or other financial documents so that the Agency may determine and verify whether the Buyer is an Qualified Buyer and whether the Property is being sold to proposed buyer at an Affordable Housing Cost during applicable covenant periods. Agency may request additional information reasonably required to verify the proposed buyer is a Qualified Buyer. If Agency is unable to verify the proposed buyer's income as provided herein prior to the proposed sale, then the proposed buyer's income shall be deemed to exceed the maximum allowable income limit and the sale prohibited.

5. ENFORCEMENT

A. Remedies. Breach of the covenants contained in this Declaration may be abated or remedied by the appropriate legal proceeding as determined by the Agency available under this Declaration or under the law.

B. Rights of the Agency. As a party to this Declaration, the Agency is entitled to the following rights:

1. The Agency has the right, but not the obligation, to enforce this Declaration in its entirety.

2. Any amendment to the Declaration shall be evidenced in writing and signed by the Agency.

C. The Agency is deemed a beneficiary of the terms and provisions of this Declaration and the covenants herein, both for and in its own right and for the purposes

of protecting the interests of the community and other parties, public or private, for whose benefit this Declaration and the covenants running with the land have been provided. The Agency shall have the right if the covenants are breached, to exercise all rights and remedies, and to maintain any action or suits at law or in equity or other property proceedings to enforce the curing of such breaches.

D. Cumulative Remedies. The remedies herein provided for breach of the covenants contained in this Declaration shall be deemed cumulative, and none of such remedies shall be deemed exclusive. In the event of any breach of the covenants, conditions and restrictions contained in this Declaration, the Agency, in addition to any other remedies available to the Agency, may institute or prosecute any suit which such Agency may consider advisable in order to compel and obtain a decree for specific performance of any obligation under this Declaration.

E. Failure to Enforce. The failure to enforce any of the covenants contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter.

6. GENERAL PROVISIONS

A. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in all force and effect.

B. Construction. The provisions of this Declaration shall be liberally construed for the purpose of maintaining the Property. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

C. Amendments. This Declaration may only be amended by the written instrument signed by the Agency and shall be recorded.

D. Notice. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by first-class or registered mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States Mail, postage prepaid, addressed as following:

To the Agency:	City of Pomona Planning and Housing Department 505 So. Garey Avenue Pomona, CA 91766 Attention: Housing Services Manager
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To Property Owner:	Current Property Owner 246 Newman Street Pomona, CA 91768
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E. In the event of a conveyance of the Property, by foreclosure or deed in lieu of foreclosure, to a superior lienholder, or to such lienholder's proper assignee; or in the event of an assignment of the mortgage to the United States Secretary of Housing and Urban Development, said covenants, conditions and restrictions shall terminate and shall have no further force and effect.

[Signatures on the following page]

The Agency and Buyer have caused this instrument to be duly authorized, this
_____ day of _____, 201__.

**BUYER HEREBY ACCEPTS THE PROVISIONS IN THE DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS**

DECLARANT:

By: _____

Name (Print): **Chudamani Adhikari**

Date: _____

By: _____

Name (Print): **Maina Adhikari**

Date: _____

**HOUSING SUCCESSOR TO THE
FORMER POMONA COMMUNITY
REDEVELOPMENT AGENCY**, a public
body corporate and politic (the
“AGENCY”)

By: _____
Linda Lowry, Executive Director

Date: _____

[Signature(s) to be notarized]

EXHIBIT A

LEGAL DESCRIPTION

**LOT 18 OF NEWMAN'S SUBDIVISION OF THE SOUTHEAST QUARTER OF
BLOCK 220 OF THE POMONA TRACT, IN THE CITY OF POMONA, COUNTY
OF LOS ANGELES, STATE OF CALIFORNIA. AS PER MAP RECORDED IN
BOOK 25, PAGE 42 OF MISCELLANEOUS RECORDS OF SAID COUNTY.**

APN 8348-010-901