

**FREE RECORDING IN ACCORDANCE
WITH CALIFORNIA GOVERNMENT
CODE SECTION 27383 and 27388.1.**

RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

State of California
Department of Housing and
Community Development
P. O. Box 952052
Sacramento, CA 94252-2052
Attn: **Legal Affairs Division**
20-NPLH-14613

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION AGREEMENT (the "Agreement") is dated as of October 1, 2022, for reference purposes only, and is entered into by and among the County of Santa Barbara, a political subdivision of the State of California ("County" or the "Junior Lienholder"), and the Housing Authority of the County of Santa Barbara, a public body, corporate and politic ("Housing Authority"), and West Cox Cottages, L.P., a California limited partnership (the "Partnership"), and the Department of Housing and Community Development, a public agency of the State of California (the "Senior Lender").

RECITALS

A. Partnership is the owner of the fee simple interest in that real property described in Exhibit A attached hereto and made a part hereof (the "Property"). The Housing Authority and Partnership have developed a 30-unit multifamily residential rental development on the Property (the "Improvements"). The Property and the Improvements are sometimes referred to collectively as the "Development."

B. The Junior Lienholder has made a loan to the Housing Authority in the principal sum of One Million Three Hundred Fifty Thousand and no/100 Dollars (\$1,350,000.00) (the "Junior Lienholder Loan"). The Junior Lienholder Loan is evidenced by a certain County HEAP

Loan Agreement (the "Junior Lienholder Loan Agreement") and promissory note (the "Junior Lienholder Note"), secured by a certain deed of trust (the "Junior Lienholder Deed of Trust") recorded on January 2, 2020, as Instrument No. 2020-0000126 in the Official Records of Santa Barbara County, California (the "Official Records"). As a condition of making the Junior Lienholder Loan, Junior Lienholder also required that Housing Authority and the Development are subject to that certain County HEAP Loan Regulatory Agreement and Declaration of Restrictive Covenants recorded on January 2, 2020, as Instrument No. 2020-0000127 in the Official Records (the "Regulatory Agreement"). On April 30, 2020, the Housing Authority transferred ownership of the Development to West Cox Cottages, L.P., a California limited partnership, subject to the Junior Lienholder Deed of Trust and the obligations secured thereby, including the Junior Lienholder Loan Agreement, the Junior Lienholder Promissory Note, and the Regulatory Agreement. As a condition of the transfer of the Development, Junior Lienholder also required that Partnership and the Development are subject to that certain Amended and Restated County HEAP Loan Regulatory Agreement and Declaration of Restrictive Covenants recorded on June 12, 2020, as Instrument No. 2020-0029037 in the Official Records (the "Amended and Restated Regulatory Agreement"). The Junior Lienholder Loan Agreement, the Junior Lienholder Note, the Junior Lienholder Deed of Trust, the Regulatory Agreement, the Amended and Restated Regulatory Agreement, and all other documents evidencing or securing the Junior Lienholder Loan are collectively referred to herein as the "Junior Lienholder Documents."

C. In order to finance the development of the Improvements, the Senior Lender has agreed to loan the Partnership a sum not to exceed One Million Five Hundred Thousand and no/100 Dollars (\$1,500,000.00) (the "NPLH Loan"), subject to the terms and conditions of: (i) a regulatory agreement restricting the use and occupancy of the Development and the income derived therefrom which shall be dated as of even date herewith and recorded concurrently herewith as an encumbrance on the Property in the Official Records (the "NPLH Regulatory Agreement"), (ii) the Capitalized Operating Subsidy Reserve Agreement (the "COSRA") if applicable, and (iii) other loan documents. The NPLH Loan will be evidenced by a promissory note (the "NPLH Note"), the repayment of which will be secured by, among other things, a deed of trust by Partnership as trustor, to Senior Lender as beneficiary recorded concurrently herewith as an encumbrance on the Property in the Official Records (the "NPLH Deed of Trust") and by such other security as is identified in other loan documents. The NPLH Regulatory Agreement, the COSRA, the NPLH Note, the NPLH Deed of Trust and all other documents evidencing or securing the NPLH Loan are collectively referred to herein as the "Senior Lender Documents."

D. The Senior Lender is willing to make the NPLH Loan provided the Senior Lender Documents are liens, claims or charges upon the Development prior and superior to the Junior Lienholder Documents, and provided that the Junior Lienholder specifically and unconditionally subordinates and subjects the Junior Lienholder Documents to the liens, claims or charges of

the Senior Lender Documents.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to induce the Senior Lender to make its NPLH Loan, it is hereby declared, understood and agreed as follows:

1. The Senior Lender Documents and any and all renewals, modifications, extensions or advances thereunder or secured thereby (including interest thereon) shall unconditionally be and remain at all times liens, claims, or charges on the Development prior and superior to the Junior Lienholder Documents, and to all rights and privileges of the Junior Lienholder thereunder; and the Junior Lienholder Documents, together with all rights and privileges of the Junior Lienholder thereunder are hereby irrevocably and unconditionally subject and made subordinate to the liens, claims or charges of the Senior Lender Documents.

2. This Agreement shall be the whole and only agreement with regard to the subordination of the Junior Lienholder Documents, together with all rights and privileges of the Junior Lienholder thereunder, to the liens, claims or charges of the Senior Lender Documents, and this Agreement shall supersede and cancel any prior agreements to subordinate the claims, liens or charges of, but only insofar as would affect the priority between the claims, liens or charges of the Junior Lienholder Documents to the Senior Lender Documents including, but not limited to, those provisions, if any, contained in the Junior Lienholder Documents, which provide for the subordination of the lien or charge thereof to another lien or charge on the Property or the Improvements.

3. The Junior Lienholder declares, agrees and acknowledges that:

(a) The Junior Lienholder consents to and approves the subordination of: (i) all provisions of the Senior Lender Documents, and (ii) all agreements among the Junior Lienholder, Housing Authority, Partnership, and Senior Lender for the disbursement of the proceeds of the NPLH Loan, including without limitation any loan escrow agreements which have been provided to the Junior Lienholder for review;

(b) The Senior Lender, in making disbursements of the NPLH Loan pursuant to the NPLH Note, the NPLH COSRA if applicable, or any other agreement, is under no obligation or duty to, nor has the Senior Lender represented that it will, see to the application of such proceeds by the person or persons to whom the Senior Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the

subordination herein made in whole or in part;

(c) That none of the execution, delivery or recordation of any of the Senior Lender Documents, or the performance of any provision, condition, covenant or other term thereof, will conflict with or result in a breach of the Junior Lienholder Documents or the Junior Lienholder Note; and

(d) The Junior Lienholder intentionally and unconditionally subjects and subordinates the claims, liens or charges upon the Development of the Junior Lienholder Documents, all present and future indebtedness and obligations secured thereby, in favor of the claims, liens or charges upon the Development of the Senior Lender Documents, and understands that in reliance upon, and in consideration of, this subjection and subordination, the NPLH Loan and advances thereof are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this subjection and subordination.

4. Senior Lender hereby agrees, but only as a separate and independent covenant of the Senior Lender and not as a condition to the continued effectiveness of the covenants and agreements of the Housing Authority, Partnership, and the Junior Lienholder as set forth herein, as follows:

- (a) Following a notice from the Senior Lender to the Partnership that a default or breach exists under the terms of the Senior Lender Documents and each of them, the Senior Lender shall promptly (but in no event later than the following business day) send a copy of such notice to the Junior Lienholder and the Junior Lienholder shall have the right, but not the obligation, to cure the default as follows:
 - (i) If the default is reasonably capable of being cured within thirty (30) days, as determined by the Senior Lender in its sole discretion, the Junior Lienholder shall have such period to effect a cure prior to exercise of remedies by Senior Lender under the Senior Lender Documents, or such longer period of time as may be specified in the Senior Lender Documents.
 - (ii) If the default is such that it is not reasonably capable of being cured within thirty (30) days, as determined by the Senior Lender in its sole discretion, or such longer period if so specified, and if the Junior Lienholder (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then the Junior Lienholder shall have such additional time

as is determined by the Senior Lender, in its sole discretion, to be reasonably necessary to cure the default prior to exercise of any remedies by Senior Lender.

In no event shall Senior Lender be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the first notice of default is given, or such longer period of time as may be specified in the Senior Lender Documents.

Nothing in this subparagraph (a) is intended to modify any covenant, term or condition contained in the Senior Lender Documents, including, without limitation, the covenant against creating or recording any liens or encumbrances against the Property without the prior written approval of the Senior Lender.

(b) The provisions of this paragraph 4 are intended to supplement, and not to limit, waive, modify or replace, those provisions of law pertaining to notice and cure rights of junior lenders including, without limitation, those set forth in California Civil Code sections 2924b and 2924c.

5. The Senior Lender would not make the NPLH Loan without this Agreement.

6. This Agreement shall be binding on and inure to the benefit of the legal representatives, heirs, successors and assigns of the parties.

7. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

8. In the event that any party to this Agreement brings an action to interpret or enforce its rights under this Agreement, the prevailing party in such action shall be entitled to recover its costs and reasonable attorney's fees as awarded by the court in such action.

9. This Agreement may be signed by different parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts shall be deemed an original of this Agreement.

[Signatures follow on page 7 of this Subordination Agreement. The remainder of this page is blank.]

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON (OR ENTITY) OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above and agree to be bound hereby:

[All signatures must be acknowledged.]

[Signatures continue on page 7. The remainder of this page is intentionally left blank.]

JUNIOR LIENHOLDER:

ATTEST:

MONA MIYASATO
Clerk of the Board

By: _____
Deputy Clerk of the Board

LENDER:


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

By: _____
Joan Hartmann, Chair
Board of Supervisors

**APPROVED AS TO ACCOUNTING
FORM:**

BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

By:  _____
Deputy


By:  _____
George Chapjian
Director, Community Services Dept.

**APPROVED AS TO FORM
RACHEL VAN MULLEM
COUNTY COUNSEL**

By:  _____
Deputy County Counsel

APPROVED AS TO FORM:

RISK MANAGEMENT

By:  _____
Greg Milligan, ARM, AIC
Risk Manager

PARTNERSHIP:

West Cox Cottages, L.P.,
a California limited partnership

By: WCC MGP, LLC,
a California limited liability company

Its: Managing General Partner

By: SURF DEVELOPMENT COMPANY,
a California nonprofit public benefit corporation

Its: Sole Member

By:

Robert P. Havlicek Jr
Chief Executive Officer

[All signatures must be acknowledged.]

[Signatures continue on page 9. The remainder of this page is intentionally left blank.]

HOUSING AUTHORITY:
HOUSING AUTHORITY OF THE COUNTY OF SANTA BARBARA
A public body, corporate and politic

By: _____
Robert P. Havlicek, Jr.
Executive Director

[All signatures must be acknowledged.]

[The remainder of this page is intentionally left blank.]

SENIOR LENDER:

**The Department of Housing and Community
Development**, a public agency of the State of California

By: _____
Harnack S. Soomal, Closing Manager

[All signatures must be acknowledged.]

[The remainder of this page is intentionally left blank.]

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Real property in the City of Santa Maria, County of Santa Barbara, State of California, described as follows:

ALL THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 10 NORTH, RANGE 34 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT A 3/4 INCH IRON PIPE SET AT THE COMMON CORNER TO SECTIONS 3, 4, 9 AND 10 OF SAID TOWNSHIP AND RANGE; THENCE SOUTH 89° 16' 20" EAST 25 FEET TO A POINT; THENCE NORTH 0° 44' 50" EAST 551.93 FEET TO A 3/4 INCH IRON PIPE SET IN THE EAST LINE OF BLOSSER ROAD, AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST LINE OF BLOSSER ROAD NORTH 0° 44' 50" EAST, 261.36 FEET TO A 3/4 INCH IRON PIPE; THENCE SOUTH 89° 16' 20" EAST 250 FEET TO A 3/4 INCH IRON PIPE; THENCE SOUTH 0° 44' 50" WEST 261.36 FEET TO A 3/4 INCH IRON PIPE; THENCE NORTH 89° 16' 20" WEST 250 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THOSE PORTIONS CONVEYED TO ANN ARBOR ESTATES OF SANTA MARIA CALIFORNIA, A LIMITED PARTNERSHIP BY DEED RECORDED NOVEMBER 20, 1962, AS INSTRUMENT NO. 49185, IN BOOK 1963, PAGE 722 OF OFFICIAL RECORDS.

APN: 117-451-015