

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

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

Department of Housing and  
Community Development  
P. O. Box 952052  
Sacramento, CA 94252-2052  
Attn: **Legal Affairs Division**  
**22-MFSN-17637**

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**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 November 15, 2023, for reference purposes only, and is entered into by and among the County of Santa Barbara, a political subdivision of the State of California, (the “**Junior Lienholder**”), Buellton Garden Apartments, L.P., a California limited partnership (the “**Borrower**”), and the Department of Housing and Community Development, a public agency of the State of California (the “**Senior Lender**”).

**RECITALS**

A. Borrower is the owner of the fee simple estate in that real property described in Exhibit A attached hereto and made a part hereof (the “**Property**”). The Borrower has acquired and/or is developing or has developed a 89-unit multifamily residential rental development on the Property (the “**Improvements**”). All of Borrower’s right, title, and interest in and to the Property and the Improvements is sometimes referred to collectively as the “**Development**.”

B. The Junior Lienholder has made a loan to the Borrower in the principal sum of One Million Five Hundred Thousand Dollars and No/100 (\$1,500,000.00) (the “**Junior Lienholder Loan**”). The Junior Lienholder Loan is evidenced by: that certain promissory note (the “**Junior Lienholder Note**”), which is secured by that certain deed of trust (the “**Junior Lienholder Deed of Trust**”) recorded concurrently herewithin the Official Records of Santa Barbara County, California (the “**Official Records**”). The Junior Lienholder and Borrower have also entered into a regulatory agreement affecting the use of the Development, to be recorded

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concurrently herewith in the Official Records (the “**Junior Lienholder Regulatory Agreement**”). The Junior Lienholder Note, the Junior Lienholder Deed of Trust, the Junior Lienholder 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 make the following program loan(s) to the Borrower (individually, the “**Senior Loan**,” and collectively, the “**Senior Loans**,” as applicable):

- (i) A loan from Senior Lender’s Joe Serna, Jr. Farmworker Housing Grant Program (“**Serna**”) in a principal amount not to exceed Five Million Two Hundred Sixty Thousand Seven Hundred Seventy Dollars and No/100 (\$5,260,770.00) (the “**Serna Loan**”), subject to the terms and conditions of:
  - a. that certain Serna regulatory agreement between Senior Lender and Borrower restricting the use and occupancy of the Development and the income derived therefrom which shall be dated as of even date herewith and recorded in the Official Records concurrently herewith as an encumbrance on the Development (the “**Serna Regulatory Agreement**”); and
  - b. that certain Serna Senior Regulatory Agreement (Affordability Provisions) between Senior Lender and Borrower which shall be dated as of even date herewith and recorded in the Official Records concurrently herewith as an encumbrance on the Development (the “**Serna Senior Regulatory Agreement**”); and
  - c. Other loan documents evidencing and/or securing the Serna Loan, including, without limitation: (1) that certain Promissory Note Secured by Deed of Trust of even date herewith in the original principal amount of \$5,260,770.00 from Borrower to the order of Senior Lender (the “**Serna Note**”); and (2) that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Permanent Financing) of even date herewith from Borrower as trustor to Senior Lender as beneficiary securing the Serna Loan recorded concurrently herewith in the Official Records as an encumbrance on the Development (the “**Serna Deed of Trust**”).



The Serna Regulatory Agreement, the Serna Senior Regulatory Agreement, the Serna Note, the Serna Deed of Trust, and all other documents evidencing and/or securing the Serna Loan are collectively referred to herein as the “**Serna Loan Documents.**”

The term “**Senior Regulatory Agreement**” shall hereinafter refer to the following: the Serna Regulatory Agreement and the Serna Senior Regulatory Agreement. The term “**Senior Note**” shall hereinafter refer to the following: the Serna Note. The term “**Senior Deed of Trust**” shall hereinafter refer to the following: the Serna Deed of Trust]. The term “**Senior Loan Documents**” shall hereinafter refer to the following: the Serna Loan Documents.

D. The Senior Lender is willing to make the Senior Loan provided the Senior Loan and the Senior Loan Documents are liens, claims, and charges upon the Development prior and superior to the Junior Lienholder Loan and the Junior Lienholder Documents, and provided that the Junior Lienholder specifically and unconditionally subordinates and subjects the Junior Lienholder Loan and the Junior Lienholder Documents to the liens, claims, and charges of the Senior Loan and the Senior Loan 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 Senior Loan, it is hereby declared, understood, and agreed as follows:

1. The Senior Regulatory Agreement and the Senior Deed of Trust securing the Senior Note in favor of the Senior Lender, 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, and 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 and charges of the Senior Deed of Trust and the Senior Regulatory Agreement.

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, and charges of the Senior Deed of Trust and the Senior Regulatory Agreement, and this Agreement shall supersede and cancel any prior agreements to subordinate the liens, claims, and charges of, but only insofar as would affect the priority between the liens, claims, and charges of the Junior Lienholder Documents to the Senior Deed of Trust and the Senior Regulatory Agreement including, but not limited to, those provisions, if any, contained in the Junior Lienholder Documents, which provide for the

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subordination of the lien or charge thereof to another lien or charge on the Property or the Improvements. This Agreement shall not limit, waive, modify, or replace the requirement that the Senior Lender comply with IRC Section 42(h)(6)(E)(ii) as stated in the Senior Regulatory Agreement.

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

(a) The Junior Lienholder consents and approves (i) all provisions of the Senior Note, the Senior Deed of Trust, and the Senior Regulatory Agreement, and (ii) all agreements among the Junior Lienholder, the Borrower, and the Senior Lender for the disbursement of the proceeds of the Senior 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 Senior Loan pursuant to the Senior Note 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 Note, the Senior Deed of Trust, or the Senior Regulatory Agreement, 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 waives, relinquishes, subjects and subordinates the liens, claims, and charges upon the Development of the Junior Lienholder Documents, all present and future indebtedness and obligations secured thereby, in favor of the liens, claims, and charges upon the Development of the Senior Deed of Trust and the Senior Regulatory Agreement, and understands that in reliance upon, and in consideration of, this waiver, relinquishment, subjection, and subordination, the Senior 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 waiver, relinquishment, 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 Borrower and the Junior Lienholder as set forth herein, as follows:

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(a) Following a notice from the Senior Lender to the Borrower 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.

(b) Notwithstanding the foregoing, 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.

(c) Nothing in 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 Development without the prior written approval of the Senior Lender.

(d) 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 Senior 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. In all respects, including, without limitation, matters of construction and performance of this Agreement and the obligations arising hereunder, this Agreement has been entered into and delivered in, and shall be construed in accordance with and governed by, the laws of the State of California, without giving effect to any principles of conflicts of law. All code references herein refer to the California Codes, unless specifically indicated otherwise.

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 attorneys' 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.

#### 10. Miscellaneous

a. The term “**shall**” as used in this Agreement means that the matter or obligation to be performed in conjunction with the use thereof is in all cases mandatory and obligatory.

b. If any provision or remedy set forth in this Agreement for any reason shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or remedy of this Agreement and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or remedy had never been set forth herein, but only to the extent of such invalidity, illegality or unenforceability.

c. Each party hereto hereby represents and warrants that this Agreement has been duly authorized, executed and delivered by it and constitutes a legal, valid and binding agreement enforceable in all material respects in accordance with its terms.

d. No amendment, supplement, modification, waiver or termination of this Agreement shall be effective against any party unless such amendment, supplement, modification, waiver or termination is contained in a writing signed by such party.

e. Time is of the essence in the performance of every covenant and agreement contained in this Agreement.

f. Each party hereto acknowledges and agrees that it has had independent counsel review and participate in the drafting of this Agreement, and it hereby fully waives the application of any law, statute or rule of construction or interpretation, including without

limitation Civil Code section 1654, to the effect that any ambiguities are to be construed against the drafting party.

**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:

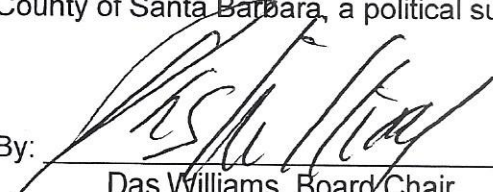
**[Signatures follow on Page [X] of this Agreement. The remainder of this page has been intentionally left blank.]**



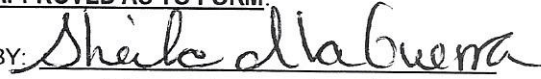
**JUNIOR LIENHOLDER:**

**COUNTY:**

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

By:   
\_\_\_\_\_  
Das Williams, Board Chair

**APPROVED AS TO FORM:**

BY:   
NAME: Sheila de la Guerra

ITS: \_\_\_\_\_

**[Signatures must be acknowledged.]**

**[Signatures continue on Page [X] of this Agreement. The remainder of this page has been intentionally left blank.]**



**BORROWER:**

Buellton Garden Apartments, L.P.,  
a California limited partnership

By: Buellton Garden Apartments LLC,  
a California limited liability company,  
its managing general partner

By: People's Self-Help Housing Corporation,  
a California nonprofit public benefit corporation,  
its sole member/manager

By: \_\_\_\_\_  
Veronica Garcia,  
Chief Real Estate Development Officer

**[Signatures must be acknowledged.]**

**[Signatures continue on Page [X] of this Agreement. The remainder of this page has  
been intentionally left blank.]**

**SENIOR LENDER:**

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

By: \_\_\_\_\_  
Harnack Singh Soomal, Closings Manager

**[Signatures must be acknowledged.]**

**[The remainder of this page has been intentionally left blank.]**

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

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

LOT 1 OF TRACT 31009 IN THE CITY OF BUELLTON, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 182, PAGES 9 THROUGH 13 INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ALL OIL, PETROLEUM AND OTHER HYDROCARBON SUBSTANCES, INCLUDING NATURAL GAS, IN, ON AND UNDER THAT PORTION OF SAID LAND, AS EXCEPTED IN THE DEED FROM PAUL NIELSEN, ET UX. TO HAROLD A. MATHIESEN, ET UX., RECORDED SEPTEMBER 19, 1958 AS INSTRUMENT NO. 22849 IN BOOK 1556, PAGE 152 OF OFFICIAL RECORDS.

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