

Attachment A

Subordination Agreement

RECORDING REQUESTED BY:
First American Title Company

AND WHEN RECORDED MAIL DOCUMENT TO:

Space Above This Line for Recorder's Use Only

A.P.N.: 099-292-026

File No.: 4202-5881987 (AC)

**SUBORDINATION AGREEMENT
(EXISTING TO NEW)**

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 AGREEMENT, made this _____ day of June, 2019, by

Surf Development Group, a California Non-Profit Public Benefit Corporation

Owner of the land hereinafter described and hereinafter referred to as "Owner", and

County of Santa Barbara, a public body

present Owner and Holder of the Deed of Trust and Note first hereinafter described and hereinafter referred to as "Beneficiary";

WITNESSETH

THAT WHEREAS, Owner has executed a Deed of Trust dated October 31, 2007, to First American Title, as Trustee and a Regulatory Agreement and Declaration of Restrictive Covenants dated October 31, 2007 ("Regulatory Agreement"), covering:

LOT 1 OF PARCEL MAP NO. 31,047, IN THE CITY BUELLTON, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, PER THAT MAP RECORDED MAY 2, 2007 IN BOOK 60, OF PARCEL MAPS PAGES 75 AND 76, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ALL OIL, PETROLEUM AND OTHER HYDROCARBON SUBSTANCES, AS PROVIDED FOR IN THAT CERTAIN INDENTURE OF LEASE BY AND BETWEEN SANTA YNEZ DEVELOPMENT COMPANY, A

CORPORATION, AND HENRY JOSEPH CROCKE, RECORDED APRIL 8, 1907 IN BOOK H OF LEASES PAGE 351, ET SEQ., AND AS PROVIDED FOR IN THE DEED RECORDED OCTOBER 13, 1976 IN BOOK 2630, PAGE 824 AS INSTRUMENT NO. 43886 OF OFFICIAL RECORDS.

to secure a Note in the sum of \$180,000.00, dated October 31, 2007, in favor of County of Santa Barbara, which Deed of Trust was recorded November 9, 2007 in Book n/a, Page-n/a, or Instrument No. 2007-0078706, of said County; and

to secure certain obligations set forth in the Regulatory Agreement in favor of the County of Santa Barbara, which Regulatory Agreement was recorded on November 9, 2007, as Instrument No. 2007-0078707, of said County; and

WHEREAS, Owner has executed, or is about to execute, a Deed of Trust and Note in the sum of \$355,000.00, dated _____, in favor of Five Star Bank, hereinafter referred to as "Lender", payable with interest and upon the terms and conditions described therein, which Deed of Trust is to be recorded concurrently herewith; and

WHEREAS, it is a condition precedent to obtaining said loan that said Deed of Trust last above mentioned shall unconditionally be and remain at all times a lien or charge upon the land hereinbefore described, prior and superior to the lien or charge of the Deed of Trust first above mentioned and the Regulatory Agreement; and

WHEREAS, Lender is willing to make said loan provided the Deed of Trust securing the same is a lien or charge upon the above described property prior and superior to the lien or charge of the Deed of Trust first above mentioned and the Regulatory Agreement and provided that Beneficiary will specifically and unconditionally subordinate the lien or charge of the Deed of Trust first above mentioned and the Regulatory Agreement to the lien or charge of the Deed of Trust in favor of Lender; and

WHEREAS, it is to the mutual benefit of the parties hereto that Lender make such loan to Owner; and Beneficiary is willing that the Deed of Trust securing the same shall, when recorded, constitute a lien or charge upon said land which is unconditionally prior and superior to the lien or charge of the Deed of Trust first above mentioned and the Regulatory Agreement.

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

- (1) That said Deed of Trust securing said Note in favor of Lender, and any renewals or extensions thereof, shall unconditionally be and remain at all times a lien or charge on the property therein described, prior and superior to the lien or charge of the Deed of Trust first above mentioned and the Regulatory Agreement.
- (2) That Lender would not make its loan above described without this subordination agreement.
- (3) That this agreement shall be the whole and only agreement with regard to the subordination of the lien or charge of the Deed of Trust first above mentioned and the Regulatory Agreement to the lien or charge of the Deed of Trust in favor of Lender above referred to and shall supersede and cancel, but only insofar as would affect the priority between the Deeds of Trust and Regulatory Agreement hereinbefore specifically described, any prior agreement as to such subordination including, but not limited to, those provisions, if any, contained in the Deed of Trust first above mentioned and the Regulatory Agreement, which provide for the subordination of the lien or charge thereof to another Deed or Deeds of Trust or to another Mortgage or Mortgages.

Beneficiary declares, agrees and acknowledges that

- (a) Beneficiary consents to and approves (i) all provisions of the Note and Deed of Trust in favor of Lender above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements, between Owner and Lender for the disbursement of the proceeds of Lender's loan;
- (b) Lender in making disbursements pursuant to any such agreement is under no obligation or duty to, nor has Lender represented that it will see to the application of such proceeds by the person or persons to whom 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) Beneficiary intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of the Deed of Trust first above mentioned and the Regulatory Agreement in favor of the lien or charge upon said land of the Deed of Trust in favor of Lender above referred to and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination specific loans and advances 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 and subordination; and
- (d) An endorsement has been placed upon the Note secured by Deed of Trust first above mentioned that said Deed of Trust has by this instrument been subordinated to the lien or charge of the Deed of Trust in favor of Lender above referred to.

(Signature pages follow)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

BENEFICIARY:

ATTEST:

MONA MIYASATO
Clerk of the Board


COUNTY OF SANTA BARBARA,
a political subdivision of the State of
California

By: _____
Deputy Clerk of the Board

By: _____
Steve Lavagnino, Chair
Board of Supervisors

APPROVED AS TO ACCOUNTING FORM:

BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

By: 
Deputy

APPROVED AS TO FORM:

Michael C. Ghizzoni
COUNTY COUNSEL

By: 
Deputy County Counsel

APPROVED AS TO FORM:

RISK MANAGEMENT

By: 
Ray Aromatorio, ARM, AIC
Risk Manager

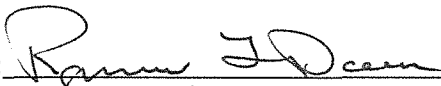
A.P.N.: **099-292-026**

Subordination Agreement - continued.

File No.: **4202-5881987 (AC)**

OWNER:

Surf Development Group, a California Non-Profit
Public Benefit Corporation

By: 
Name: Raymond F. Down
Title: President

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)SS
COUNTY OF Santa Barbara)

On May 23, 2019, before me, Jackie D. Bordon, Notary Public, personally appeared Raymond F. Dawn

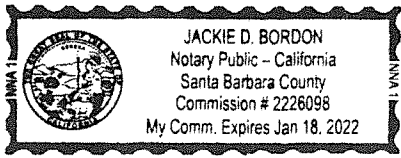
_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the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

This area for official notarial seal

Jackie D. Bordon
Notary Signature



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STATE OF _____)SS
 COUNTY OF _____)

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.

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WHEREAS, Lender is willing to make said loan provided the Deed of Trust securing the same is a lien or charge upon the above described property prior and superior to the lien or charge of the Deed of Trust first above mentioned and the Regulatory Agreement and provided that Beneficiary will specifically and unconditionally subordinate the lien or charge of the Deed of Trust first above mentioned and the Regulatory Agreement to the lien or charge of the Deed of Trust in favor of Lender; and

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- (3) That this agreement shall be the whole and only agreement with regard to the subordination of the lien or charge of the Deed of Trust first above mentioned and the Regulatory Agreement to the lien or charge of the Deed of Trust in favor of Lender above referred to and shall supersede and cancel, but only insofar as would affect the priority between the Deeds of Trust and Regulatory Agreement hereinbefore specifically described, any prior agreement as to such subordination including, but not limited to, those provisions, if any, contained in the Deed of Trust first above mentioned and the Regulatory Agreement, which provide for the subordination of the lien or charge thereof to another Deed or Deeds of Trust or to another Mortgage or Mortgages.

Beneficiary declares, agrees and acknowledges that

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- (b) Lender in making disbursements pursuant to any such agreement is under no obligation or duty to, nor has Lender represented that it will see to the application of such proceeds by the person or persons to whom 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) Beneficiary intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of the Deed of Trust first above mentioned and the Regulatory Agreement in favor of the lien or charge upon said land of the Deed of Trust in favor of Lender above referred to and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination specific loans and advances 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 and subordination; and
- (d) An endorsement has been placed upon the Note secured by Deed of Trust first above mentioned that said Deed of Trust has by this instrument been subordinated to the lien or charge of the Deed of Trust in favor of Lender above referred to.

(Signature pages follow)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

BENEFICIARY:

ATTEST:

MONA MIYASATO
Clerk of the Board


COUNTY OF SANTA BARBARA,
a political subdivision of the State of
California

By: _____
Deputy Clerk of the Board

By: _____
Steve Lavagnino, Chair
Board of Supervisors

APPROVED AS TO ACCOUNTING FORM:

 **BETSY M. SCHAFFER, CPA**
AUDITOR-CONTROLLER

By: 
Deputy

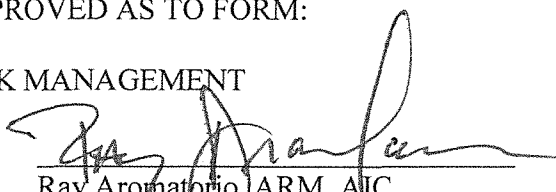
APPROVED AS TO FORM:

Michael C. Ghizzoni
COUNTY COUNSEL

By: 
Deputy County Counsel

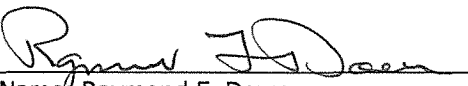
APPROVED AS TO FORM:

RISK MANAGEMENT

By: 
Ray Aromatorio, ARM, AIC
Risk Manager

OWNER:

Surf Development Group, a California Non-Profit
Public Benefit Corporation

By: 
Name: Raymond F. Down
Title: President

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STATE OF California)SS
COUNTY OF Santa Barbara)

On May 23, 2019, before me, Jackie D. Bordon, Notary Public, personally appeared Raymond F. Down

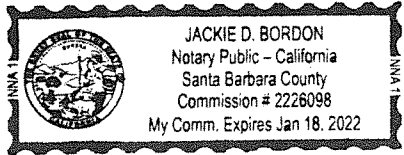
_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the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

This area for official notarial seal

Jackie D. Bordon
Notary Signature



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STATE OF _____)SS
 COUNTY OF _____)

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.

This area for official notarial seal

 Notary Signature

Attachment B

Addendum to Subordination Agreement

SUBORDINATION AGREEMENT ADDENDUM

The following terms and conditions of this Subordination Agreement Addendum (“Addendum”) are hereby incorporated in and made a part of that certain Subordination Agreement (“Agreement”), dated June __, 2019, by and between Surf Development Company (“Owner”) and the County of Santa Barbara (“Beneficiary”). The definitions in the Agreement are applicable to this Addendum. If there is any conflict between the terms of the Agreement and this Addendum the terms of this Addendum shall control.

1. Lender Agreements. Five Star Bank, N.A. (“Lender”) agrees that it shall not complete a foreclosure sale of the Property or record a deed-in-lieu of foreclosure with respect to the Property (each, a “**Foreclosure Remedy**”) unless Beneficiary has first been given ninety (90) days written notice of the Event(s) of Default giving Lender the right to complete such Foreclosure Remedy, and unless Beneficiary has failed, within such ninety (90)-day period, to cure such Event(s) of Default; provided, however, that Lender shall be entitled during such ninety (90)-day period to continue to pursue all of its rights and remedies under the Lender’s loan agreement, promissory note and deed of trust (collectively “Senior Loan Documents”), including, but not limited to, acceleration of the Lender’s loan (subject to any de-acceleration provisions specifically set forth in the Senior Loan Documents), commencement and pursuit of a judicial or non-judicial foreclosure (but not completion of the foreclosure sale), appointment of a receiver, enforcement of any guaranty (subject to any notice and cure provisions contained therein), and/or enforcement of any other Senior Loan Document. In the event Lender has accelerated the Lender’s loan and Beneficiary cures all Events of Default giving rise to such acceleration within the ninety (90)-day cure period described above, such cure shall have the effect of de-accelerating the Lender’s loan; provided, however, that such de-acceleration shall not waive or limit any of Lender’s rights to accelerate the Lender’s loan or exercise any other remedies under the Senior Loan Documents as to any future or continuing Events of Default. It is the express intent of the parties hereunder that Lender shall have the right to pursue all rights and remedies, except completion of a Foreclosure Remedy, without liability to Beneficiary for failure to provide timely notice to Beneficiary required hereunder, and that Lender’s liability hereunder shall be expressly limited to actual and consequential damages to Beneficiary directly caused by Lender’s completion of a Foreclosure Remedy without Beneficiary receiving the notice and opportunity to cure described above. Lender shall give Beneficiary notice at the address set forth below or such other address as Beneficiary may instruct Lender in writing from time to time:

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

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

(signatures appear on next page)

"BENEFICIARY"

COUNTY OF SANTA BARBARA,
a political subdivision of the State of California

By: _____
Steve Lavagnino, Chair
Board of Supervisors


ATTEST:

MONA MIYASATO
Clerk of the Board

By: _____
Deputy Clerk of the Board

APPROVED AS TO ACCOUNTING FORM:

 **BETSY M. SCHAFFER, CPA**
AUDITOR-CONTROLLER

By:  _____
Deputy

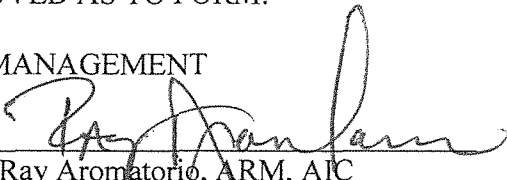
APPROVED AS TO FORM:

Michael C. Ghizzoni
COUNTY COUNSEL

By:  _____
Deputy County Counsel


APPROVED AS TO FORM:

RISK MANAGEMENT

By:  _____
Ray Aromatorio, ARM, AIC
Risk Manager


"OWNER"

SURF DEVELOPMENT COMPANY, a
California nonprofit public benefit
corporation

By:  _____
Name: Raymond Downs
Title: President

"LENDER"

FIVE STAR BANK, N.A.

By:  _____
Name: Erik Kapeller
Title: SVP / Sr. Loan Officer

**SUBORDINATION AGREEMENT
ADDENDUM**

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123 East Anapamu Street, 2nd Floor
Santa Barbara, California 93101
Attention: Deputy Director

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

(signatures appear on next page)

“BENEFICIARY”

COUNTY OF SANTA BARBARA,
a political subdivision of the State of California

By: _____
Steve Lavagnino, Chair
Board of Supervisors


ATTEST:

MONA MIYASATO
Clerk of the Board

By: _____
Deputy Clerk of the Board

APPROVED AS TO ACCOUNTING FORM:

 **BETSY M. SCHAFFER, CPA**
AUDITOR-CONTROLLER

By:  _____
Deputy

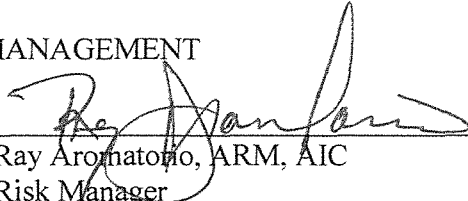
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COUNTY COUNSEL

By:  _____
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By:  _____
Ray Aromatario, ARM, AIC
Risk Manager

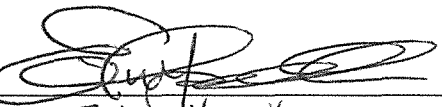
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California nonprofit public benefit
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Title: President

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