

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Ann J. McGill
Kutak Rock LLP
1650 Farnam Street
Omaha, Nebraska 68102

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this “Agreement”) is made effective as of June 17, 2021, by and between **PACIFIC WESTERN BANK**, a California state-chartered bank (together with its successors and assigns, the “Senior Lender”) and the **COUNTY OF SANTA BARBARA**, a political subdivision of the State of California (together with its successors and assigns, the “County”).

RECITALS

- A. Central Plaza Apartments Resyndication, L.P., a California limited partnership (“Borrower”) is the owner of certain real property located in Santa Maria, California, as more particularly described in Exhibit A attached hereto (the “Land”) upon which Borrower intends to acquire, construct, rehabilitate and operate a multifamily housing facility to be known as Central Plaza Apartments (the “Improvements” and together with the Land, the “Property”).
- B. In connection with such acquisition, Borrower is assuming certain obligations under the Regulatory Agreement dated March 31, 2005 (as amended, the “Regulatory Agreement”) between the County and Central Plaza Housing Partners, LP, a California limited partnership (“Prior Owner”) and recorded on title to the Property on March 31, 2005 as Document No. 2005-0029588 in the Official Records of the Santa Barbara County Recorder’s Office (“Official Records”), pursuant to which the Property was subjected to certain restrictions by the County in connection with the prior development or rehabilitation of the Property. Borrower’s obligations under the Regulatory Agreement are secured by that certain Permanent Deed of Trust, Assignment of Rents, and Security Agreement (“County Deed of Trust”) made as of March 31, 2005 by Central Plaza Housing Partners, LP in favor of the County and recorded on title to the Property on March 31, 2005 as Document No. 2005-0029589 in the Official Records.
- C. Pursuant to the terms of a Continuing Covenant Agreement dated as of June 1, 2021 (as amended, modified or supplemented from time to time, the “Continuing Covenant Agreement”), Borrower has requested that Bank make certain loans (collectively, the “Bank Loan”) to the Housing Authority of the County of Santa Barbara (the “Authority”), the proceeds of which will be used by the Authority to make certain loans to Borrower in

the aggregate amount of [_____] and No/100 Dollars (\$[_____] (collectively, the “Authority Loan” and together with the Bank Loan, collectively, the “Loan”), which Authority Loans will be evidenced by one or more promissory notes from Borrower to the Authority (as amended, modified or supplemented from time to time, collectively, the “Borrower Note”). The Borrower’s obligations under the Borrower Note and the Continuing Covenant Agreement will be secured by a Deed of Trust, Security Agreement, Absolute Assignment of Leases and Rents and Fixture Filing recorded against the Property dated as of the date hereof (as amended, modified or supplemented from time to time, the “Senior Deed of Trust”). The Borrower Note, the Continuing Covenant Agreement, the Senior Deed of Trust and any of the other documents evidencing or related to the Loan are collectively referred to as the “Loan Documents.” Other capitalized terms used but not defined in this Assignment will have the meanings given to those terms in the Continuing Covenant Agreement.

- D. In connection with the Loan, Borrower will also execute that certain Regulatory Agreement and Declaration of Restrictive Covenants (the “Bond Regulatory Agreement”) in favor of the Authority, dated on or about the date hereof, which will be recorded concurrently herewith in the Official Records.
- E. As a condition to making the Loan, the Bank requires that the Senior Deed of Trust and the Bond Regulatory Agreement be a lien on the Property superior to the lien of the County Deed of Trust and that the rights of Bank and the Authority under the Loan Documents (including, but not limited to, the Senior Deed of Trust) and the Bond Regulatory Agreement, be superior to the rights of the County under the County Deed of Trust. The Bank will not make the Loan unless the County agrees to subordinate its rights and obligations under the County Deed of Trust.
- F. The County hereby agree to subordinate the County Deed of Trust on and subject to the terms, conditions and requirements set forth in this Agreement.

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, the parties agree as follows:

1. **Recitals.** The foregoing Recitals are hereby incorporated into this Agreement as agreements among the parties.
2. **Subordination.** The County hereby covenants and agrees that the County Deed of Trust is and will at all times continue to be, subordinate, subject and inferior to the rights of the Bank and Authority under the Loan Documents and the Bond Regulatory Agreement and that the liens, rights (including approval and consent rights), remedies, payment interests, priority interests, and security interests granted to the County pursuant to or in connection with the County Deed of Trust are hereby expressly acknowledged to be in all respects and at all times, subject, subordinate and inferior in all respects to the liens, rights (including

approval and consent rights), remedies, payment, priority and security interests granted to the Bank and Authority pursuant to the Loan Documents and Bond Regulatory Agreement and the terms, covenants, conditions, operations and effects thereof. Notwithstanding the above, the County may exercise the remedies of specific performance or injunctive relief.

3. **Financing, Encumbrance and Transfer Approval.** The County hereby approves the transfer of the Property to the Borrower and the financing evidenced by the Senior Deed of Trust. The County further agrees that any transfer of the Property in connection with foreclosure or deed in lieu thereof pursuant to the Senior Deed of Trust will not require the County's consent.
4. **Bank Notice of Default.** In consideration of the County's agreements contained in this Agreement, the Bank agrees that in the event of any default by Borrower under the Loan Documents, the County will be entitled to receive a copy of any notice of default given by the Bank to Borrower under the Loan Documents. Neither the giving nor the failure to give a notice to the County pursuant to this Section 4 will affect the validity of any notice given by the Bank to the Borrower.
5. **County Notice of Default.** The County must give the Bank a concurrent copy of each material notice (including without limitation each notice of default) given by the County under or with respect to the Regulatory Agreement and/or County Deed of Trust, and agrees that the Bank, at the Bank's sole election, will have the right (but not the obligation) to cure any default by Borrower under the Regulatory Agreement and/or County Deed of Trust on its and/or Borrower's behalf. The County hereby represents and warrants that, to the best of its knowledge, there is no current default under the Regulatory Agreement or County Deed of Trust.
6. **County's Rights.** Except as set forth in Sections 2 and 7 of this Agreement, nothing in this Agreement is intended to abridge or adversely affect any right or obligation of Borrower and/or the County, respectively, under the Regulatory Agreement or County Deed of Trust; provided that, (A) neither the Regulatory Agreement nor the County Deed of Trust may be modified, amended, changed or altered without the prior written consent of the Bank so long as the Loan is secured by the Property and (B) for so long as the Loan is secured by the Property, notwithstanding the terms of the Regulatory Agreement or County Deed of Trust to the contrary, neither Borrower nor the County will, without the Bank's prior written consent, exercise or seek any right or remedy under the Regulatory Agreement or County Deed of Trust or available at law or in equity which will or could result in (i) the advertising of or commencement of any foreclosure or trustee's sale proceedings, the exercise of any power of sale, or the acceptance of a deed or assignment in lieu of foreclosure or sale; (ii) a transfer of possession of the Property or the control, operations or management thereof; (iii) collection or possession of rents or revenues from or with respect to the Property by any party other than Borrower or the Bank; (iv) appointment of a receiver for the Property; (v) the taking of possession or control of any of the Property; (vi) application of insurance or condemnation proceeds other than as approved by the Bank pursuant to the Loan Documents; (vii) removal or replacement of the existing property

manager of the Property; or (viii) a material adverse effect on the Bank's security for the Loan.

7. **Foreclosure.** In the event of foreclosure, deed in lieu of foreclosure, or similar disposition of the Property by the Bank, no consent will be required from the County and the Bank will have no indemnification obligations to the County for any period during which the Bank does not own or is not in possession of the Property.

8. **Miscellaneous Provisions.**

- (a) This Agreement represents the entire understanding and agreement between the parties with regard to the matters addressed herein, and will supersede and cancel any prior agreements with regard to such matters.
- (b) If there is any conflict or inconsistency between the terms of the County Deed of Trust and the terms of this Agreement, then the terms of this Agreement will control.
- (c) This Agreement will be binding upon and will inure to the benefit of the respective legal successors and permitted assigns of the parties to this Agreement, which will include with regard to the County any permitted successor or assign of the County under or pursuant to the terms of the Regulatory Agreement or County Deed of Trust and, with regard to the Bank and Authority, any subsequent holder of the Borrower Note. No other party will be entitled to any benefits hereunder, whether as a third-party beneficiary or otherwise.
- (d) If any one or more of the provisions contained in this Agreement, or any application of any such provisions, is invalid, illegal, or unenforceable in any respect, the validity, legality, enforceability, and application of the remaining provisions contained in this Agreement will not in any way be affected or impaired.
- (e) Each notice, request, demand, consent, approval or other communication (collectively, "Notices," and singly, a "Notice") which is required or permitted to be given pursuant to this Agreement will be in writing and will be deemed to have been duly and sufficiently given if (i) personally delivered with proof of delivery (any Notice so delivered will be deemed to have been received at the time so delivered), or (ii) sent by a national overnight courier service (such as FedEx) designating earliest available delivery (any Notice so delivered will be deemed to have been received on the next Business Day following receipt by the courier), or (iii) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any Notice so sent will be deemed to have been received on the date of delivery as confirmed by the return receipt), addressed to the respective parties as follows:

If to the County:

County of Santa Barbara
105 E. Anapamu Street, Room 105
Santa Barbara, CA 93101
Attention: Housing and Community Development

If to Bank:

Pacific Western Bank
1001 Marsh Street
San Luis Obispo, CA 93401
Attention: Nathan Roddick
Telephone: (805) 548-8210

With a copy to:

Pacific Western Bank
818 West 7th Street, Suite #450
Los Angeles, CA 90017
Attention: Holly A. Hayes
Telephone (213) 330-2073

If to Authority:

Housing Authority of the County of Santa Barbara
815 West Ocean Avenue
Lompoc, California 93436
Attention: Executive Director
Email: bobhavlicek@hasbarco.org
Telephone: (805) 736-3423

If to Borrower:

Central Plaza Apartments Resyndication, L.P.
815 West Ocean Avenue
Lompoc, California 93436
Attention: Executive Director

Any party, by Notice given pursuant to this Section, may change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses, for its Notices, but Notice of a change of address will only be effective upon receipt. Neither party will refuse or reject delivery of any Notice given in accordance with this Section.

- (f) Each of the parties will, whenever and as often as they are requested to do so by the other, execute, acknowledge and deliver, or cause to be executed, acknowledged or delivered, any and all such further instruments and documents as may be reasonably necessary to carry out the intent and purpose of this Agreement, and to do any and all further acts reasonably necessary to carry out the intent and purpose of this Agreement.
- (g) This Agreement will be governed by the laws of the State in which the Property is located.
- (h) Each person executing this Agreement on behalf of a party hereto represents and warrants that such person is duly and validly authorized to do so on behalf of such party with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations under this Agreement.
- (i) No failure or delay on the part of any party to this Agreement in exercising any right, power, or remedy under this Agreement will operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power or remedy under this Agreement.
- (j) Each party to this Agreement acknowledges that if any party fails to comply with its obligations under this Agreement, the other parties will have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.
- (k) This Agreement may be amended, changed, modified, altered or terminated only by a written instrument signed by the parties to this Agreement or their successors or assigns.
- (L) This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.
- (m) Nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by the County of its governmental powers (including police, regulatory and taxing powers) with respect to Borrower or the Property to the same extent as if it were not a party to this Agreement or the transactions contemplated by this Agreement.

[SIGNATURE AND ACKNOWLEDGMENT PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the day and year above written.

COUNTY

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

By: _____

Name: _____

Title: _____

NOTARY ACKNOWLEDGMENT STATEMENT

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

County of _____)

On _____, before me, _____, a 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.

Signature _____

[SEAL]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year above written.

BORROWER

**CENTRAL PLAZA APARTMENTS
RESYNDICATION, L.P.**, a California limited partnership

By: Surf Central Plaza LLC, a California limited liability company, its Managing General Partner

By: Surf Development Company, a California nonprofit public benefit corporation, its Sole Member

By: _____
Name: Raymond F. Down
Title: President

By: HASBARCO Central Plaza LLC, a California limited liability company, its Administrative General Partner

By: Housing Authority of the County of Santa Barbara, a public body corporate and politic, its Sole Member

By: _____
Name: Robert P. Havlicek Jr.
Title: Executive Director

NOTARY ACKNOWLEDGMENT STATEMENT

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

County of _____)

On _____, before me, _____, a 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.

Signature _____

[SEAL]

LENDER

PACIFIC WESTERN BANK, a California state-chartered bank

By: _____

Name: Nathan Roddick

Title: Vice President

NOTARY ACKNOWLEDGMENT STATEMENT

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

County of _____)

On _____, before me, _____, a 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.

Signature _____

[SEAL]

EXHIBIT A

LEGAL DESCRIPTION

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

PARCELS 3 AND 5 OF CENTRAL PLAZA NEIGHBORHOOD DEVELOPMENT SUBDIVISION, TRACT NO. 5077, IN THE CITY OF SANTA MARIA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON MAP FILED IN BOOK 79, PAGES 55 TO 60, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 121-224-022 (Parcel 3) and 121-224-025 (Parcel 5)