

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Contra Costa County
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553
Attn: Assistant Director

No fee document pursuant to
Government Code Section 27383 and 27388.1

(Space above this line for Recorder's use)

SUBORDINATION AGREEMENT
(Heritage Point)

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 ("Agreement") is dated June____, 2018 and is by and among Heritage Point A/G, L.P., a California limited partnership ("Owner"), Community Housing Development Corporation of North Richmond, a California nonprofit public benefit corporation ("CHDC"), in favor of the County of Contra Costa, a political subdivision of the State of California (the "County").

RECITALS

- A. CHDC made two loans to Owner, one in the principal amount of One Hundred Forty-Eight Thousand Two Hundred Twenty-One Dollars (\$1,148,221) (the "Sponsor Loan"), and one in the principal amount of One Million Four Hundred Thirty-Two Thousand Eight Hundred Thirty Dollars (\$1,432,830) (the "CHDC LC Loan"), for the construction of an affordable housing development (the "Development") on the real property described on the attached Exhibit A (the "Property").
- B. The Sponsor Loan is evidenced by a Promissory Note executed by Owner, dated December 1, 2017 (the "Sponsor Note"), and is secured by a Deed of Trust dated as of December 1, 2017, and recorded in the Official Records of the County of Contra Costa on December 22, 2017, as Instrument No. 2017-241181 (the "Sponsor Deed of Trust"). All documents executed by Owner and/or CHDC in connection with Sponsor Loan, including, but not limited to, the Sponsor Note, and Sponsor Deed of Trust, are collectively referred to as the "Sponsor Loan Documents".
- C. The CHDC LC Loan is evidenced by a Promissory Note executed by Owner, dated December 1, 2017 (the "CHDC LC Note"), and is secured by a Deed of Trust dated as of

December 1, 2017, and recorded in the Official Records of the County of Contra Costa on December 22, 2017, as Instrument No. 2017-241186 (the "CHDC LC Deed of Trust"). All documents executed by Owner and/or CHDC in connection with CHDC LC Loan, including, but not limited to, the CHDC LC Note, and CHDC LC Deed of Trust, are collectively referred to as the "CHDC LC Loan Documents".

- D. The County and Owner entered into a Disposition, Development and Loan Agreement dated as of December 1, 2017 (the "DDLA") pursuant to which the County agreed to provide a loan to Owner in the amount Five Million Eight Hundred Ninety Thousand Two Hundred Fifty-Four Dollars (\$5,890,254) (the "Original Loan"), to finance the construction of improvements on the Property.
- E. The Original Loan is evidenced by the following documents: (i) the DDLA; (ii) a Regulatory Agreement and Declaration of Restrictive Covenants dated December 1, 2017, by and between the County and Owner, recorded against the Property on December 22, 2017 as instrument number 2017-241177 (the "County Regulatory Agreement"); (iii) a Promissory Note dated December 1, 2017 and executed by Owner for the benefit of the County in the amount of the Original Loan (the "Original Note"); (iv) a Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing executed by Owner for the benefit of the County, dated December 1, 2017, recorded against the Property on December 22, 2017 as instrument number 2017-241178 and securing the Original Loan (the "Original Deed of Trust"); (v) a Notice of Affordability Restrictions on Transfer of Property dated December 1, 2017, by and between the County and Owner, recorded against the Property on December 22, 2017 as instrument number 2017-241179 (the "Notice of Affordability Restrictions"); (vi) a Memorandum of DDLA dated December 1, 2017, by and between the County and Owner, recorded against the Property on December 22, 2017 as instrument number 2017-241172 (the "Original Memorandum"); and (vii) a Grand Deed dated December 1, 2017, by and between the County and Owner, recorded against the Property on December 22, 2017 as instrument number 2017-241170 (the "Grant Deed").
- F. To address cost increases in the construction of the Development, Owner is borrowing from the County an additional Nine Hundred Ten Thousand Dollars (\$910,000) (the "Additional County Loan Funds") which, when combined with the Original Loan, results in a loan of Six Million Eight Hundred Thousand Two Hundred Fifty-Four Dollars (\$6,800,254) (the "County Loan").
- G. To evidence the loan of the Additional County Loan Funds the County and Owner are: (i) amending and restating the Original Note in its entirety (the "Amended and Restated Note"); (ii) executing an amendment to the Original Deed of Trust (the "Deed of Trust Amendment"); (iii) executing an amendment to the DDLA (the "DDLA Amendment"); and (iv) executing a Memorandum of the DDLA Amendment (the "Amendment Memorandum"). The Deed of Trust Amendment and Amendment Memorandum will be recorded against the Property concurrently with the recordation of this Agreement.
- H. All documents executed by Owner in connection with the County Loan, including, but not limited to, the DDLA, the DDLA Amendment, the Grant Deed, the Amended and

Restated Note, the Original Deed of Trust, the Deed of Trust Amendment, the County Regulatory Agreement, the Notice of Affordability Restrictions, the Original Memorandum, and the Amendment Memorandum, are collectively referred to as the "County Loan Documents".

- I. As a condition to making the loan of the Additional County Loan Funds, the County requires that the County Loan Documents be unconditionally and at all times remain a lien or charge upon the Property, prior and superior to all the rights of CHDC under the CHDC LC Loan Documents and the Sponsor Loan Documents, and that CHDC specifically and unconditionally subordinate the CHDC LC Deed of Trust and the Sponsor Deed of Trust to the lien or charge of the County Loan Documents.
- G. It is to the mutual benefit of the parties that the County make the County Loan and CHDC and Owner agree to the subordination in favor of the County.

THEREFORE, for valuable consideration and to induce the County to make the County Loan, Owner, CHDC and the County agree as follows:

- 1.1 The County Loan Documents will unconditionally be and at all times remain a lien or charge on the Property prior and superior to the CHDC LC Loan Documents and the Sponsor Loan Documents.
- 1.2 This Agreement is the whole agreement with regard to the subordination of the CHDC LC Loan Documents and the Sponsor Loan Documents to the lien or charge of the County Loan Documents.
- 1.3 The parties agree to cooperate with each other and perform any acts and execute, acknowledge and deliver any additional agreements, documents, or instruments that may be reasonably necessary or desirable to carry out the provisions or to effectuate the purpose of this Agreement, including, without limitation, execution, acknowledgment, delivery and recordation of any document necessary to clear title to the Property after a foreclosure under the Original Deed of Trust and the Deed of Trust Amendment, or a transfer of the Property by an assignment or a deed in lieu of foreclosure under the Original Deed of Trust and the Deed of Trust Amendment.
- 1.4 CHDC further declares, agrees and acknowledges for the benefit of the County, that:

1.4.1 The County, in making disbursements of the proceeds of the County Loan, is under no obligation or duty to, nor has County represented that it will, see to the application of such proceeds by the person or persons to whom the County disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in the County Loan Documents will not defeat the subordination made in this Agreement in whole or in part;

1.4.2 CHDC intentionally and unconditionally subordinates all of its rights, titles and interests in and to the Property that result from the CHDC LC

Loan Documents and the Sponsor Loan Documents, including CHDC LC Deed of Trust and the Sponsor Deed of Trust, to the lien or charge of the County Loan Documents upon the Property and understands that in reliance upon, and in consideration of, this subordination, specific loans and advances are being and will be made by the County 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 subordination; and

1.4.3 CHDC consents to the County Loan and the execution and delivery by Owner to the County of the County Loan Documents.

- 1.5 If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions will continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.
- 1.6 No alteration or variation of the terms of this Agreement is valid unless made in writing by the parties.
- 1.7 This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

[Signature Pages to Follow]

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

CHDC:

Community Housing Development Corporation
of North Richmond, a California nonprofit
public benefit corporation

By: _____
Donald Gilmore, Executive Director

COUNTY:

COUNTY OF CONTRA COSTA, a political
subdivision of the State of California

Approved as to form:

SHARON L. ANDERSON
County Counsel

By: _____
John Kopchik
Director, Department of Conservation
and Development

By: _____
Kathleen Andrus
Deputy County Counsel

OWNER:

Heritage Point A/G, L.P.,
a California limited partnership

By: Heritage Point A/G LLC,
a California limited liability company,
its general partner

By: Community Housing Development Corporation
of North Richmond, a California nonprofit
public benefit corporation, its sole member/manager

By: _____
Donald Gilmore, Executive Director

A notary public or other officer

STATE OF CALIFORNIA)
)
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.

Name: _____
Notary Public

A notary public or other officer

STATE OF CALIFORNIA)
)
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.

Name: _____
Notary Public

EXHIBIT A

DESCRIPTION OF PROPERTY