

**FIRST AMENDMENT TO  
DISPOSITION, DEVELOPMENT AND LOAN AGREEMENT**

This FIRST AMENDMENT TO DISPOSITION, DEVELOPMENT AND LOAN AGREEMENT ("First Amendment") is dated September 21, 2021, and is entered into by and among the FAIRFIELD HOUSING AUTHORITY, a public entity (the "FHA"), and MP 1700 SANTA MONICA ASSOCIATES, L.P., a California limited partnership (the "Developer"). FHA and Developer are sometimes individually referred to herein as "Party" and collectively as "Parties."

**RECITALS**

A. The Parties entered into a Disposition, Development and Loan Agreement dated February 4, 2020 ("DDA"), in which the FHA agreed to sell certain real property ("Property") to Developer upon satisfaction of certain conditions, including closing of all financing for the project required by the DDA on the Property (the "Project").

B. In order to address possible tax/tax credits issues, the Parties desire to amend the DDA to provide for two closings: (i) a closing of the land conveyance and FHA loan described in the DDA; followed by (ii) a closing of other financing necessary for the Project, not more than ninety (90) days after the first closing, but in no event later than February 4, 2022 ("Second Closing").

C. The Parties desire to modify the FHA loan described in the DDA to provide: (i) no disbursements of FHA loan proceeds shall be made until the Second Closing; (ii) it shall be an uncurable event of default under the FHA loan, and the sums outstanding under the FHA loan shall immediately become due and payable, if the Second Closing does not occur by the earlier of (a) the date that is ninety (90) days after the first closing or (b) February 4, 2022, which shall not be subject to extension by the City Manager ("Deadline for Second Closing").

D. The Parties desire to confirm that in connection with the Second Closing, FHA shall execute and deliver to the escrow for the Second Closing a Subordination Agreement in the form attached hereto as Exhibit "A" subordinating the deed of trust securing the FHA loan to the deed of trust securing the primary construction financing for the Project.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual agreements/amendments herein, and other consideration, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows.

**AGREEMENT/AMENDMENTS**

1. Two Closings. The closing of the land conveyance by FHA to Developer shall no longer be conditioned upon the closing of all financing necessary for the Project. However, the FHA's loan shall close concurrently with such land conveyance (with no disbursement of additional FHA loan proceeds). The Second Closing shall occur on or before the Deadline for Second Closing.

2. FHA Loan Documents. The FHA loan documents shall provide that no FHA loan proceeds shall be disbursed until the Second Closing, and if the Second Closing does not occur by the Deadline for Second Closing, the sums outstanding under the FHA loan (including all sums

outstanding under the predevelopment loan being "rolled into" the new FHA loan) shall immediately become due and payable.

3. Subordination Agreement. In connection with the Second Closing, FHA shall execute and deliver to the escrow for the Second Closing an executed and acknowledged counterpart of a Subordination Agreement in the form attached hereto as Exhibit "A" (subordinating the deed of trust securing the FHA loan to the deed of trust securing the primary construction financing for the Project) with instructions to record the Subordination Agreement upon the Second Closing.

4. Time of Essence. Time is of the essence of every provision hereof in which time is a factor.

5. Effect on Agreement. All terms and conditions of the DDA that are not modified by this First Amendment shall remain unmodified, in full force and effect and binding on the Parties.

6. Conflict. In the event of a conflict between the terms and conditions of this First Amendment and the terms and conditions of the DDA, the terms and conditions of this First Amendment shall control.

7. Counterparts. This First Amendment may be signed in counterparts (including emailed electronic counterparts), each of which shall be deemed an original, and all such counterparts, when taken together, shall constitute one agreement.

8. Governing Law. The laws of the State of California shall govern the interpretation and enforcement of this First Amendment, without application of conflicts or choice of laws principles.

9. Interpretation. The terms, provisions, conditions, covenants, restrictions and agreements contained in this First Amendment shall not be construed in favor of or against any Party, but shall be construed as if each Party prepared this First Amendment.

10. Entire Agreement. The DDA, as amended by this First Amendment, represents the entire understanding between the Parties as to the subject matter of the DDA, as so amended.

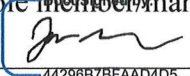
The Parties have signed and entered into this First Amendment as of the date first set forth above.

**DEVELOPER:**

MP 1700 SANTA MONICA ASSOCIATES, L.P.,  
a California limited partnership

By: MP 1700 Santa Monica LLC,  
a California limited liability company,  
its general partner

By: Mid-Peninsula Pickering, Inc.,  
a California nonprofit public benefit corporation,  
its sole member

By:   
4429687BFAD4D5  
Jan M. Lindenthal  
Assistant Secretary

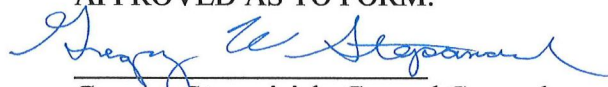
**FHA:**

FAIRFIELD HOUSING AUTHORITY

By: \_\_\_\_\_

\_\_\_\_\_  
Executive Director

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Gregory Stepanicich, General Counsel

**EXHIBIT "A"**

**FORM OF SUBORDINATION AGREEMENT**

(Attached.)



RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Wells Fargo Bank, National Association  
171 17th Street, Floor 4  
Atlanta, GA 30363-1032  
Attention: Dorsey Henry-Davidson  
Loan No. 1020427

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## SUBORDINATION AGREEMENT

### (Housing Authority Loan)

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN AND RESTRICTIVE COVENANTS ON 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 as of [\_\_\_\_], 2021, and executed by MP 1700 SANTA MONICA ASSOCIATES, L.P., a California limited partnership ("Borrower"), the FAIRFIELD HOUSING AUTHORITY ("Housing Authority"), and WELLS FARGO BANK, NATIONAL ASSOCIATION and any successors or assigns ("Senior Lender").

- A. Borrower acquired certain real property located in the City of Fairfield, California, as more specifically described on Exhibit A, attached hereto and incorporated herein by reference (the "Property") from Housing Authority, and proposes to construct on the Property certain improvements consisting of a 72-unit affordable multifamily rental development together with other appurtenances, fixtures, and tenant improvements now or hereafter located on the Property (collectively, the "Improvements" or the "Project").
- B. In order to govern Borrower's acquisition of the Property and the development of the Improvements, Borrower and Housing Authority entered into that certain Disposition, Development and Loan Agreement dated as of February 4, 2020, as amended by that certain First Amendment to Disposition, Development and Loan Agreement dated as of [September 21, 2021] (collectively, the "DDLA"), pursuant to which Housing Authority also agreed to make to Borrower a predevelopment and construction loan in the original principal amount of \$[2,200,000.00] (the "Subordinate Loan"). As used in this Agreement, Section 2.2 (FHA Loan; City Deferred Fees; City Fee Credits) (with the exception of the final paragraph thereof), Section 2.8.4 (Environmental Indemnity), Section 4.6 (Right of FHA to Cure), Section 5.2.2 (Remedies for Default After the Close of Escrow), Section 5.5 (Rights and Remedies Are Cumulative), Section 5.6 (Inaction Not a Waiver of Default), Section 6.2 (Indemnity) and Section 8.6 (Attorneys' Fees) are hereinafter collectively referred to as the "Subordinate DDLA Provisions," and all other provisions of the DDLA are hereinafter collectively referred to as the "Senior DDLA Provisions."
- C. The Subordinate Loan is evidenced by that certain Secured Promissory Note dated as of [\_\_\_\_], 2021, made by Borrower to the order of Housing Authority (the "Subordinate Note"), and secured by that certain Deed of Trust with Assignment of Rents (Short Form) dated as of [\_\_\_\_], 2021] (the "Subordinate Deed of Trust"), made by Borrower for the benefit of Housing Authority, and recorded in the Official Records of the County of Solano, California (the "Official Records") on [\_\_\_\_], 2021] as Instrument No. [\_\_\_\_]. In connection with the Subordinate Loan, Borrower has agreed to restrict the use of the Property pursuant to the terms of that certain Affordability Restrictions and Regulatory Agreement (Low-Mod Set Aside Funds), dated as of [\_\_\_\_], 2021] (the "Subordinate Regulatory Agreement"), executed by and between

Borrower and Housing Authority, and recorded in the Official Records on [\_\_\_\_\_, 2021] as Instrument No. [\_\_\_\_\_]. The DDLA, the Subordinate Note, the Subordinate Deed of Trust, the Subordinate Regulatory Agreement and all other documents executed by Borrower with or in favor of Housing Authority in connection with the Subordinate Loan are collectively referred to herein as the "Subordinate Loan Documents"; provided that notwithstanding anything to the contrary contained herein, the Senior DDLA Provisions shall not be subordinated to the lien of the Senior Deed of Trust (as defined below) and the obligations thereunder shall survive any Senior Lender Foreclosure Event (as defined below) and shall remain in full force and effect thereafter. Further, for the avoidance of doubt, neither that certain Fee Deferral Agreement With Lien and Power of Sale dated on or about [\_\_\_\_\_, 2021] (the "Fee Deferral Agreement"), executed by the City of Fairfield, a municipal corporation (the "City"), the County of Solano, a political subdivision of the State of California, the Fairfield-Suisun Sewer District, a California special district, and Borrower and recorded in the Official Records on [\_\_\_\_\_, 2021] as Instrument No. [\_\_\_\_\_, nor that certain Affordability Restrictions and Regulatory Agreement (Density Bonus; Fee Deferral; Fee Credits) dated on or about [\_\_\_\_\_, 2021] (the "Density Bonus Agreement"), executed by the City and Borrower and recorded in the Official Records on [\_\_\_\_\_, 2021 as Instrument No. [\_\_\_\_\_, shall be subordinated to the lien of the Senior Deed of Trust (as defined below) or otherwise deemed to be Subordinate Loan Documents under the terms of this Agreement.

- D. Pursuant to that certain Construction/Permanent Loan Agreement dated as of the date hereof (the "Senior Loan Agreement"), executed by and between Borrower and Senior Lender, Senior Lender has agreed to make a loan to Borrower in the total principal amount of \$[\_\_\_\_\_.00] (the "Senior Loan"), in order to enable Borrower to finance a portion of the construction of the Project. The obligations of the Borrower in connection with the Senior Loan Agreement are evidenced by that certain Promissory Note Secured by Deed of Trust, dated as of [the date hereof] (the "Senior Note"), made by Borrower to the order of Senior Lender, and are secured by, among other things, that certain Construction and Permanent Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Senior Deed of Trust"), dated as of the date hereof, executed by Borrower as Trustor, naming TRSTE, Inc., a Virginia corporation, as Trustee and Senior Lender as Beneficiary, and recorded concurrently herewith in the Official Records. The Senior Loan Agreement, the Senior Note, the Senior Deed of Trust, and all other documents defined in the Senior Loan Agreement as "Loan Documents" are hereinafter referred to as the "Senior Loan Documents." Any capitalized terms used but not defined herein shall have the meaning set forth in the Senior Loan Agreement.
- E. Pursuant to that certain Loan Purchase Agreement dated as of even date herewith (the "Loan Purchase Agreement") by and among Senior Lender, Borrower and California Community Reinvestment Corporation, a California nonprofit public benefit corporation ("CCRC"), and upon the satisfaction of certain terms and conditions contained therein, CCRC has agreed to purchase the Senior Loan from Senior Lender on the Conversion Date (as defined in the Loan Purchase Agreement), at which time (i) Senior Lender shall assign to CCRC its rights under the Senior Loan Agreement, Senior Note, Senior Deed of Trust and certain of the other Senior Loan Documents, (ii) Borrower has agreed to execute certain additional documents in connection with such purchase and assignment, and (iii) CCRC shall succeed to the rights of Senior Lender under the Senior Loan Documents, including, without limitation, this Agreement.
- F. As a condition to Senior Lender making the Senior Loan secured by the Senior Deed of Trust, Senior Lender requires that the Senior Deed of Trust be unconditionally and at all times remain a lien or charge upon the Property, prior and superior to all the rights of the Housing Authority secured by the Subordinate Deed of Trust, the Subordinate Regulatory Agreement, the repayment of the Subordinate Loan and Housing Authority's rights under the Subordinate Loan Documents (notwithstanding any language to the contrary contained in the Subordinate Loan Documents), and, subject to the terms hereof, Senior Lender requires that Housing Authority specifically and unconditionally subordinate the Subordinate Deed of Trust, the Subordinate Regulatory Agreement, the repayment of the Subordinate Loan and Housing Authority's rights under the



Subordinate Loan Documents to the lien or charge of the Senior Deed of Trust, the repayment of the Senior Loan and the other Senior Loan Documents; provided, however, that notwithstanding anything to the contrary contained herein, the Senior DDLA Provisions shall not be subordinated, and the obligations thereunder shall survive any Senior Lender Foreclosure Event (as defined below) and shall remain in full force and effect thereafter.

- G. Accordingly, Housing Authority and Borrower agree to the above-referenced subordination in favor of Senior Lender.

THEREFORE, for valuable consideration and to induce Senior Lender to make the Senior Loan, Borrower and Housing Authority hereby agree for the benefit of Senior Lender as follows:

1. The Senior Deed of Trust securing the Senior Note in favor of Senior Lender, and any modifications, renewals, or extensions thereof, together with Senior Lender's right to repayment of the Senior Loan and Senior Lender's rights under any other Senior Loan Documents, shall unconditionally be and at all times remain a lien or charge on the Property prior and superior to the Subordinate Loan Documents, the repayment of the Subordinate Loan and Housing Authority's rights under the Subordinate Loan Documents (notwithstanding any language to the contrary contained in the Subordinate Loan Documents), subject to the terms of this Agreement, with the exception of the Senior DDLA Provisions, which shall not be subordinated, and the obligations thereunder shall survive any foreclosure under the Senior Deed of Trust or conveyance-in-lieu of foreclosure in connection with the Senior Loan (each, a "Senior Lender Foreclosure Event") and shall remain in full force and effect thereafter. For the avoidance of doubt, none of the foregoing subordinations, including, without limitation, Housing Authority's agreement to subordinate Section 5.2.2 of the DDLA, shall be deemed to subordinate the Fee Deferral Agreement or the Density Bonus Agreement to the lien of the Senior Deed of Trust, and Senior Lender acknowledges and agrees that such Fee Deferral Agreement and Density Bonus Agreement shall remain senior and prior to the lien of the Senior Deed of Trust until the termination and release thereof by the parties thereto.
2. This Agreement shall be the whole agreement with regard to the subordination of the Subordinate Loan Documents, the repayment of the Subordinate Loan, and Housing Authority's rights under the Subordinate Loan Documents as such relate specifically to the lien or charge of the Senior Deed of Trust, together with Senior Lender's right to repayment of the Senior Loan, and Senior Lender's rights under any other Senior Loan Documents, and shall supersede and cancel, but only insofar as would affect the priority of the Senior Deed of Trust, any prior agreements as to such subordination, including, without limitation, those provisions, if any, contained in the Subordinate Loan Documents which provide for the subordination of the Subordinate Deed of Trust, the Subordinate Regulatory Agreement or any other Subordinate Loan Documents to a deed or deeds of trust or to a mortgage or mortgages.
3. Borrower and Housing Authority each makes the following representations and warranties to Senior Lender:
  - a. The Subordinate Loan is evidenced by the Subordinate Note and is secured by the Subordinate Deed of Trust and other Subordinate Loan Documents;
  - b. Housing Authority is not an affiliate of Borrower and is not in possession of any facts which would lead it to believe that Senior Lender is an affiliate of Borrower;
  - c. The term of the Subordinate Note does not end before the stated term of the Senior Note;
  - d. As of the date hereof, all of the obligations set forth in the following provisions of the DDLA have been satisfied in full or waived by the Housing Authority or Borrower, as applicable, and no further obligations remain outstanding thereunder: (i) Section 2.3 (Opening and Closing of Escrow); (ii) Section 2.4 (Condition of Title; Title Insurance); (iii) Section 2.5 (FHA Conditions to Close of Escrow); (iv) Section 2.6 (Developer Conditions to Close of

Escrow); (v) Section 2.7 (Costs; Escrow Holder Settlement Statement); (vi) Section 2.8.1 ("As-Is" Sale); (vii) Section 2.8.2 (Delivery of Document by FHA; Inspections by Developer; Due Diligence Period); (viii) Section 2.8.3 (Releases and Waivers) (provided, however, that nothing contained herein shall affect the continuing validity or effectiveness of the releases and waivers given by Borrower to Housing Authority under such Section 2.8.3 of the DDLA); (ix) Section 2.9 (Deposits into Escrow by FHA); (x) Section 2.10 (Deposits into Escrow by Developer); (xi) Section 2.11 (Authorization to Record Documents and Disburse Funds); and (xii) Section 2.12 (Escrow's Closing Actions);

- e. No condition or circumstance exists which would give Housing Authority or Borrower the right to terminate the DDLA, and neither Housing Authority nor Borrower has or shall have any further right to terminate the DDLA, under the following provisions of the DDLA: (i) Section 2.13 (Termination by the Developer); (ii) Section 3.1 (Environmental Review); or (iii) Section 5.2.1 (Remedies Prior to the Close of Escrow);
  - f. The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, Senior Lender prior to the date of this Agreement. Upon execution and delivery of the Subordinate Loan Documents, Borrower shall deliver to Senior Lender an executed copy of each of the Subordinate Loan Documents, certified to be true, correct and complete; and
  - g. Upon execution and delivery of the Senior Loan Documents, Borrower shall deliver to Housing Authority an executed copy of each of the Senior Loan Documents, certified to be true, correct and complete.
4. Subject to the provisions of Sections 2 and 6 hereof, Housing Authority and Borrower further declare, agree, and acknowledge, for the benefit of Senior Lender, that:
- a. Senior Lender, in making disbursements pursuant to the Senior Loan Agreement, is under no obligation or duty to, nor has Senior Lender represented that it will, see to the application of such proceeds by the person or persons to whom 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;
  - b. Housing Authority intentionally and unconditionally subordinates the liens and encumbrances of the Subordinate Deed of Trust and Subordinate Regulatory Agreement against the Property to the lien or charge of the Senior Deed of Trust 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 Senior Lender 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;
  - c. Subject to the terms of Section 7 hereof, Housing Authority consents to any agreement or arrangement in which Senior Lender waives, postpones, extends, reduces, or modifies any provisions of the Senior Loan Documents, including any provision requiring the payment of money. Notwithstanding anything to the contrary contained in the Subordinate Loan Documents, Housing Authority further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Loan (including reasonable and necessary costs associated with the closing and/or the refinancing) so long as the principal amount of such new mortgage debt does not exceed the sum of (i) the then-outstanding principal balance of the Senior Loan, plus (ii) all accrued and unpaid interest due and payable to Senior Lender thereon, plus (iii) any and all other outstanding fees and costs due and payable to Senior Lender under the terms of the Senior Loan Documents, plus (iv) reasonable and necessary costs associated



with the closing and refinancing. Subject to satisfaction of the foregoing condition, all the terms and covenants of this Agreement shall inure to the benefit of any holder of any such refinanced debt; and that all references to the Senior Loan, the Senior Note, the Senior Loan Agreement, the Senior Deed of Trust, the Senior Loan Documents, and Senior Lender shall mean, respectively, the refinance loan, the refinance note, the refinance loan agreement, the mortgage(s) securing the refinance note, all documents evidencing securing or otherwise pertaining to the refinance note and the holder of the refinance note;

- d. Borrower and Housing Authority each agree that, until the principal of, interest on, and all other amounts payable under the Senior Loan Documents have been paid in full, it will not, without the prior written consent of Senior Lender in each instance, increase the amount of the Subordinate Loan (except for increases to account for protective advances by Housing Authority), increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan (except in connection with acceleration of the Subordinate Loan in accordance with the terms of the Subordinate Loan Documents), increase the interest rate on the Subordinate Loan (except in connection with the application of any default rate of interest under the terms of the Subordinate Loan Documents), or otherwise amend the Subordinate Loan Document terms in a manner that creates an adverse effect upon Senior Lender under the Senior Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents or assignment of Housing Authority's interest in the Subordinate Loan without Senior Lender's consent shall be void ab initio and of no effect whatsoever;
- e. In an Event of Default or default of Borrower under the Subordinate Loan Documents (each, a "Subordinate Loan Default"), Housing Authority shall deliver to Senior Lender a copy of any notice of default delivered to Borrower in connection therewith (each, a "Subordinate Loan Default Notice"), concurrently with delivery to Borrower of the same. In such event, Senior Lender has the right, but not the obligation, to cure the noticed Subordinate Loan Default by thirty (30) days after the later of (i) expiration of any notice and cure period afforded Borrower pursuant to the Subordinate Loan Documents or (ii) the date Senior Lender receives a copy of the notice of default (the "Senior Lender Cure Period"). Borrower and Housing Authority agree that a Subordinate Loan Default shall constitute a Senior Loan Default (as defined in Section 6(a) below) under the Senior Loan Documents and Senior Lender shall have the right to exercise all rights or remedies under the Senior Loan Documents in the same manner as in the case of any other Senior Loan Default. If Housing Authority notifies Senior Lender in writing that any Subordinate Loan Default of which Senior Lender has received a Subordinate Loan Default Notice (as defined in Section 6(a) below) has been cured or waived, as determined by Housing Authority in its sole discretion, then provided that Senior Lender has not conducted a sale of the Property pursuant to its rights under the Senior Loan Documents, any Senior Loan Default under the Senior Loan Documents arising solely from such Subordinate Loan Default shall be deemed cured, and the Senior Loan shall be reinstated, provided, however, that Senior Lender shall not be required to return or otherwise credit for the benefit of Borrower any default rate interest or other default related charges or payments received by Senior Lender during such Senior Loan Default;
- f. Borrower agrees that, after it receives a Senior Loan Default Notice (or otherwise acquires knowledge) of a Senior Loan Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorneys' fees, or any other sums secured by the Subordinate Loan Documents) without Senior Lender's prior written consent. Housing Authority agrees that, after it receives a Senior Loan Default Notice from Senior Lender with written instructions directing Housing Authority not to accept payments from Borrower on account of the Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorneys' fees, or any



other sums secured by the Subordinate Loan Documents) without Senior Lender's prior written consent. If Housing Authority receives written notice from Senior Lender that the Senior Loan Default which gave rise to Housing Authority's obligation not to accept payments has been cured, waived, or otherwise suspended by Senior Lender, the restrictions on payment to Housing Authority in this Section 4(f) shall terminate, and Senior Lender shall have no right to any subsequent payments made to Housing Authority by Borrower prior to Housing Authority's receipt of a new Senior Loan Default Notice from Senior Lender in accordance with the provisions of this Section 4(f);

- g. If, after Housing Authority receives a Senior Loan Default Notice from Senior Lender in accordance with Section 6(a) below, Housing Authority receives any payments under the Subordinate Loan Documents, Housing Authority agrees that such payment or other distribution will be received and held in trust for Senior Lender and, unless Senior Lender otherwise notifies Housing Authority in writing, will be promptly remitted in kind to Senior Lender and properly endorsed to Senior Lender to be applied to the principal of, interest on and other amounts due under the Senior Loan Documents in accordance with the provisions of the Senior Loan Documents. By executing this Agreement, Borrower specifically authorizes Housing Authority to endorse and remit any such payments to Senior Lender, and specifically waives any and all rights to have such payments returned to Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by Housing Authority and remitted to Senior Lender under this Section 4(g) shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to Senior Lender waive any Event of Default or other default under the Subordinate Loan Documents which may arise from the inability of Housing Authority to retain such payment or apply such payment to the Subordinate Loan;
- h. Housing Authority shall not, without first delivering notice to and obtaining the prior written consent of Senior Lender, exercise its right, if any, to stop or otherwise delay construction of the Improvements or require the replacement of unsatisfactory work incorporated in such Improvements. If a Subordinate Loan Default occurs and is continuing, Housing Authority agrees that, without Senior Lender's prior written consent, Housing Authority will not commence foreclosure proceedings with respect to the Property under the Housing Authority Documents or exercise any other rights or remedies it may have under the Subordinate Loan Documents, including, but not limited to, accelerating the Subordinate Loan (and enforcing any "due on sale" provision included in the Subordinate Loan Documents), collecting rents, appointing (or seeking the appointment of) a receiver, or exercising any other rights or remedies thereunder unless and until it has delivered a Subordinate Loan Default Notice to Senior Lender and the Senior Lender Cure Period has expired;
- i. From and after the date of the issuance of a Certificate of Completion (as defined the DDLA) for the Property, no further obligations shall be owed by Borrower under, and to the extent that any such obligations remain outstanding, Housing Authority fully and forever waives all such obligations under, the following provisions of the DDLA: (i) Section 3.2 (Development of the Project); (ii) Section 3.3 (FHA's Right to Review Plans and Specifications); (iii) Section 3.4 (Construction Contract); (iv) Section 3.5 (Costs of Entitlement, Development and Construction; Prevailing Wages) (provided, however, that nothing contained herein shall affect Borrower's continuing obligation to (i) pay prevailing wages in accordance with applicable law, and (ii) defend and indemnify Housing Authority against and in connection with any applicable claims and actions arising out of Borrower's failure to pay prevailing wages in accordance with applicable law under the terms of Section 6.2 of the DDLA); (v) Section 3.6 (Rights of Access and Inspection); (vi) Section 3.7 (Local, State and Federal Laws); (vii) Section 3.8 (Governmental Permits and Approvals); (viii) Section 3.9 (No Discrimination During Construction); (ix) Section 3.10 (Taxes Assessments, Encumbrances and Liens); (x) Section 3.11 (No Agency Created);



- (xi) Section 3.12 (Certificate of Completion); and (xii) Section 4.1 (Restrictions on Transfer of Developer's Rights and Obligations);
- j. From and after a Senior Lender Foreclosure Event, Section 4.1 (Restrictions on Transfer of Developer's Rights and Obligations) and Section 6.1 (Insurance) of the DDLA shall be binding on and obligate Senior Lender or any other then-owner of the Property (as applicable, the "Successor Owner") only if and to the extent such Successor Owner has expressly assumed Borrower's obligations under the DDLA pursuant to Section 4.3 (Rights of Holders) thereof in writing;
  - k. From and after a Senior Lender Foreclosure Event, so long as the Successor Owner has assumed Borrower's obligations under the DDLA pursuant to Section 4.3 (Rights of Holders) thereof, Housing Authority shall meet and confer with such Successor Owner in good faith to determine whether any of the performance milestones or schedule thereof set forth in the Schedule of Performance attached as Exhibit E to the DDLA should be amended, extended or otherwise modified in the best interests of the Project in order to advance and promote the successful completion and/or operation of the Project;
  - l. Housing Authority agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing, any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceedings (any of the foregoing, an "Insolvency Proceeding") against or with respect to Borrower, without Senior Lender's prior written consent. Housing Authority hereby assigns to Senior Lender any and all claims that Housing Authority may now or hereafter have as a secured or unsecured creditor in any Insolvency Proceeding with respect to the Subordinate Loan or otherwise relating to Borrower or the Property or Improvements (except to the extent arising directly out of the Senior DDLA Provisions), and authorizes Senior Lender to take or forego any and all actions deemed necessary by Senior Lender in its sole discretion with respect to any such claim or claims;
  - m. To the extent that Borrower makes a payment to Senior Lender or Senior Lender receives any payment or proceeds of the collateral securing the Senior Loan for Borrower's benefit, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, and/or required to be repaid to a trustee, receiver, or any other party under any bankruptcy law, state or federal law, common law, or equitable doctrine, then, to the extent of such payment or proceeds received and not retained by Senior Lender, Housing Authority's obligations intended to be satisfied thereby and this Agreement shall be reinstated and continue in full force and effect until full and final payment shall have been made to Senior Lender. Housing Authority agrees to hold in trust for Senior Lender and promptly remit to Senior Lender any payments received by Housing Authority after such invalidated, rescinded, or returned payment was originally made; and
  - n. Notwithstanding anything to the contrary contained in the Subordinate Loan Documents, Housing Authority recognizes each of Senior Lender and CCRC as an "Institutional Lender" and "Holder" under the terms of Section 4.2 of the DDLA (Holders of Deeds of Trust).
5. Housing Authority hereby consents to the Senior Loan, the terms and provisions of the Senior Loan Documents, and the execution and delivery by Borrower to Senior Lender of the Senior Loan Documents. Housing Authority specifically acknowledges that subject to completion of certain improvements on the Property and the satisfaction by Borrower of certain other conditions within the time set forth in the Loan Purchase Agreement, CCRC shall purchase the Senior Loan from Senior Lender. Upon such purchase, the Senior Loan will become nonrecourse with certain exceptions and will automatically convert from an interest only construction loan into an amortizing term loan, all as more particularly set forth in the Senior Note. Housing Authority acknowledges that upon the purchase of the Senior Loan by CCRC, the following Senior Loan Documents shall terminate:

- a. Pledge and Security Agreement;
- b. UCC-1 Financing Statement (Tax Credits);
- c. Any Security Agreement (Rights to Payment)
- d. Completion Guaranty; and
- e. Repayment Guaranty.

Housing Authority acknowledges that if CCRC should become the owner and holder of the Senior Loan and the Senior Note, then CCRC shall become the "Senior Lender" hereunder and this Agreement shall continue to inure to the benefit of CCRC and its successors and assigns.

6. In consideration of Housing Authority's covenants and agreements contained in this Agreement, Senior Lender hereby agrees for the benefit of Housing Authority as follows:

- a. In the event of any default of Borrower under the Senior Loan Documents (each, a "Senior Loan Default"), Senior Lender shall deliver to Housing Authority a copy of any notice of default delivered to Borrower in connection therewith (each, a "Senior Loan Default Notice"), concurrently with delivery to Borrower of the same. Notwithstanding the terms of Section 4.6 (Right of FHA to Cure) of the DDLA, in such event, Housing Authority has the right, but not the obligation, to:
  - (i) Cure the noticed default by thirty (30) days after the later of: (i) expiration of any notice and cure period afforded Borrower pursuant to the Senior Loan Documents, or (ii) the date Housing Authority receives a copy of the Senior Loan Default Notice (the "Housing Authority Cure Period"), provided that Senior Lender shall have the continuing right to enforce any and all of its rights and remedies under the Senior Loan Documents during the Housing Authority Cure Period; and
  - (ii) Following the Conversion Date, purchase or otherwise acquire title to or possession of the Property from Borrower (a "Housing Authority Acquisition") without acceleration of the Senior Loan by Senior Lender. Upon a Housing Authority Acquisition, Housing Authority shall be entitled to assume and succeed to Borrower's obligations under the Senior Loan on the terms and conditions set forth in the Senior Loan Documents, and Senior Lender shall recognize Housing Authority as "Borrower" on the condition that Housing Authority assumes, in writing, and agrees to perform, all of Borrower's obligations under the Senior Loan Documents and timely cures all outstanding defaults of Borrower under the Senior Loan, including, without limitation, payment of all outstanding principal and interest due and owing under the Senior Note. As a condition of such assumption, Housing Authority shall pay or reimburse Senior Lender the reasonable administrative and/or legal costs actually incurred by Senior Lender in connection with such assumption.

7. Except to the extent already contemplated or otherwise set forth in the Senior Loan Documents (including, without limitation, in connection with CCRC's anticipated purchase and conversion of the Senior Loan on the Conversion Date), Borrower and Senior Lender each agree that so long as the DDLA or other Subordinate Loan Documents remain in effect, it will not, without the prior written consent of Housing Authority in each instance, increase the amount of the Senior Loan (except for increases to account for protective advances by Senior Lender), increase the required payments due under the Senior Loan, decrease the term of the Senior Loan (except in connection with any acceleration of the Senior Loan in accordance with the terms of the Senior Loan Documents or if CCRC fails to purchase the Senior Loan in accordance with the terms of the Loan Purchase Agreement), increase the interest rate on the Senior Loan (except in connection with the application of any default rate of interest under the terms of the Senior Loan Documents), or otherwise amend the Senior Loan Document terms in a manner that creates an adverse effect upon Housing Authority under the Subordinate Loan Documents. Any unauthorized amendment of the Senior



Loan Documents without Housing Authority's consent shall be void ab initio and of no effect whatsoever.

8. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute and be construed as one and the same instrument.

**NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON 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.**

**IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT HERETO.**

[Signature Pages to Follow]

IN WITNESS WHEREOF, Borrower, Housing Authority and Senior Lender have executed this Agreement as of the date appearing on the first page of this Agreement.

**"BORROWER"**

**MP 1700 SANTA MONICA ASSOCIATES, L.P.,**  
a California limited partnership

By: MP 1700 Santa Monica LLC,  
a California limited liability company,  
its general partner

By: Mid-Peninsula Pickering, Inc.,  
a California nonprofit public benefit corporation,  
its sole member/manager

By: \_\_\_\_\_  
Jan M. Lindenthal  
Assistant Secretary



**"HOUSING AUTHORITY"**

**FAIRFIELD HOUSING AUTHORITY,**  
a public body corporate and politic

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Executive Director

APPROVED AS TO FORM:

\_\_\_\_\_  
Gregory Stepanicich  
General Counsel

**"SENIOR LENDER"**

**WELLS FARGO BANK, NATIONAL ASSOCIATION**

By:

\_\_\_\_\_  
Patricia B. Parina  
Vice President

Signature Page to Subordination Agreement (Housing Authority Loan)

## ACKNOWLEDGMENT

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 \_\_\_\_\_, 2021, 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.

Signature \_\_\_\_\_

(Seal)

## ACKNOWLEDGMENT

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WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)