

Recording Requested By: City of San José
Loan #X

And

WHEN RECORDED MAIL TO:
City of San José
Housing Department
200 East Santa Clara Street, 12th Floor
San José, CA 95113
Attn: Asset Mgmt
RE: Borrower/Address, SJ, 95X

(Space above this line is for Recorder's use)

}TO BE RECORDED WITHOUT FEE PER GOVERNMENT CODE SECTION 6103 AND 27383.

S U B O R D I N A T I O N A G R E E M E N T

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 X day of , 2015, by and among Borrower, owner of the land hereinafter described and hereinafter referred to as "Owner," (New Lender) ("Lender"), and the City of San José, a municipal corporation, present owner and holder of the deed of trust and note first hereinafter described and hereinafter referred to as "City",

WITNESSETH

THAT WHEREAS, Owner did execute a Deed of Trust, dated , 2015 to as Trustee, recorded , 2015, Series No. , Official Records of Santa Clara County ("City Deed of Trust"), covering:

FOR LEGAL DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE
A PART HEREOF BY REFERENCE ("PROPERTY")

to secure a Note in the sum of \$, dated , 2015, in favor of City of San José, a municipal corporation ("City Note"); and

WHEREAS, Owner has executed, or is about to execute, a deed of trust and note ("Lender Note") in the sum of \$X, dated (New PN date), 2015, in favor of Lender ("Lender Loan"), payable with interest and upon the terms and conditions described therein, which deed of trust is to be recorded concurrently herewith ("Lender Deed of Trust"); and

WHEREAS, it is a condition precedent to obtaining the Lender Loan that the Lender Deed of Trust 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 City Deed of Trust; and

WHEREAS, Lender is willing to make Lender Loan provided the Lender Deed of Trust securing the same is a lien or charge upon the Property prior and superior to the lien or charge of the City Deed of Trust and provided that City will specifically and unconditionally subordinate the lien or charge of the City Deed of Trust to the lien or charge of the Lender Deed of Trust, and

WHEREAS, it is to the mutual benefit of the parties hereto that Lender make the Lender Loan to Owner; and City is willing that the Lender 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 City Deed of Trust .

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 Lender Loan, it is hereby declared, understood and agreed as follows:

(1) That Lender Deed of Trust securing the Lender Loan, and any renewals or extensions thereof, shall unconditionally be and remain at all times a lien or charge on the Property, prior and superior to the lien or charge of the City Deed of Trust first above mentioned.

(2) That Lender would not make the Lender 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 City Deed of Trust to the lien or charge of the Lender Deed of Trust and shall supersede and cancel, but only insofar as would affect the priority between the Lender Deed of Trust and the City Deed of Trust, any prior agreements as to such subordination including, but not limited to those provisions, if any, contained in the City Deed of Trust first above mentioned, which provide for the subordination of the lien or charge thereof to another deed of trustor to another deed or deeds of trust or to another mortgage or mortgages.

City acknowledges that

(a) It acknowledges (i) all provisions of the Lender Note and Lender Deed of Trust in favor of Lender above referred to, and (i) all agreements, including but not limited to any loan or escrow agreements, between Owner and Lender for the disbursement of the proceeds of Lender 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 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) It intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of the City Deed of Trust in favor of the lien or charge upon said land of the Lender Deed of Trust and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination specific loans 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 City Note secured by the City Deed of Trust that said City Deed of Trust has by this instrument been subordinated to the lien or charge of the Lender Deed of Trust.

Lender declares, agrees and acknowledges that:

(a) It shall deliver to City any notice given to Borrower with respect to any default under any of the Lender Deed of Trust or other Lender Loan documents, and

(b) City shall have the right to cure any default occurring under the Lender Deed of Trust or other Lender Loan documents provided that cure is made within a reasonable period following any applicable cure periods contained in the Lender Deed of Trust or other Lender Loan documents; and

(c) If City should obtain title to the Property by foreclosure, deed in lieu of foreclosure or otherwise through the exercise of its rights under the City Deed of Trust, or by purchasing the Property from Borrower, the transfer of title in the Property to City shall not constitute a default under the Lender Deed of Trust or other Lender Loan documents.

(d) The Lender Loan shall not provide for Negative Amortization. Negative Amortization shall mean when payments made under the Lender Loan are insufficient to cover current interest charges and such interest charges are added to the outstanding principal of the Lender Loan. Lender shall be in breach of this Agreement in the event the Lender Loan contains a Negative Amortization provision.

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.

”City”

CITY OF SAN JOSE, A MUNICIPAL CORPORATION

BY: _____

Borrower (OWNER)

ITS: _____

(TITLE)

Borrower (OWNER)

“Lender”

X

BY: _____

ITS: _____

(ALL SIGNATURES MUST BE NOTARIZED)

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