

## EXHIBIT B

RECORDING REQUESTED BY:

Escrow Order No.:

When Recorded Mail Document To:

Housing Authority of the City of Napa  
1115 Seminary Street  
Napa, CA 94559

APN/Parcel ID(s): 001-194-001-000

SPACE ABOVE THIS LINE FOR RECORDER'S USE

### SUBORDINATION AGREEMENT

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 (the "Agreement"), made December, 2019, by Napa Valley Community Housing, a **California non-profit benefit corporation**, owner of the land hereinafter described and hereinafter referred to as "Owner," **Housing Authority of the City of Napa**, a public body corporate and politic, present owner and holder of the Regulatory Agreement first hereinafter described and hereinafter referred to as "Secured Party," and Mechanics Bank hereinafter referred to as "Lender."

#### WITNESSETH

THAT WHEREAS, Owner did execute a HOME Regulatory Agreement, dated December 20, 1999, covering:  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

dated December 20, 1999, in favor of Secured Party, which Regulatory Agreement was recorded on December 21, 1999, as **Instrument No. 1999-0038509** ("Regulatory Agreement"), Official Records of said county; and

WHEREAS, Owner has executed, or is about to execute, a deed of trust and note in the sum of Four Hundred Twenty Five Thousand No/100 Dollars (**\$425,000.00**) dated \_\_\_\_\_ in favor of 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 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 Regulatory Agreement and provided that Secured Party will specifically and unconditionally subordinate the lien or charge of 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 Secured Party 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 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:

## SUBORDINATION AGREEMENT

(continued)

APN/Parcel ID(s): 001-194-001-0

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 Regulatory Agreement.
2. That Lender would not make its loan above described without this Agreement.
3. To the extent and in the manner set forth, Secured Party hereby subordinates, in right of payment and claim all Subordinated Debt Obligations. Subordinated Debt Obligations shall mean all debts, liabilities and obligations that Owner owes to Secured Party under the Regulatory Agreement above mentioned.
4. That this Agreement shall be the whole and only agreement with regard to the subordination of the lien or charge of 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 Regulatory Agreement and the deed of trust hereinbefore specifically described, any prior agreement as to such subordination including, but not limited, those provisions, if any, contained in 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.
5. In consideration of Secured Party's agreements contained in this Agreement, Lender agrees that in the event of any default by Owner under the Lender's loan documents, Secured Party will be entitled to receive a copy of any notice of default given by Lender to Owner under the Lender's loan documents. Neither the giving nor the failure to give a notice to Secured Party pursuant to this Section will affect the validity of any notice given by Lender to Owner.

Notwithstanding anything to the contrary set forth herein, Lender declares, agrees and acknowledges that:

(i) Lender shall not complete a foreclosure sale of the Property, or any portion thereof, or record a deed-in-lieu of foreclosure with respect to the Property, or any portion thereof, unless and until Secured Party has first been given written notice of the default(s) giving rise to Lender's right to complete a foreclosure sale or record a deed-in-lieu of foreclosure ("Default Notice"), and Secured Party has failed to cure such default within the greater of (a) sixty (60) calendar days following Secured Party's receipt of the Default Notice or (b) any period provided by California law ("Cure Period"); provided, however, that the Lender shall be entitled during the Cure Period to continue to pursue all of its rights and remedies under the Lender's loan documents, including but not limited to acceleration of the note (subject to the de-acceleration provisions set forth below) and commencement and pursuit of foreclosure (but not completion of the foreclosure sale). All such notices shall be sent to Secured Party at the following address:

Housing Authority of the City of Napa  
1115 Seminary Street  
Napa, CA 94559

(ii) Secured Party shall have the right, but not the obligation, to elect to cure the noticed default(s) within the Cure Period.

(iii) If Secured Party cures all of the noticed defaults within the Cure Period, the Lender will rescind any notice of default recorded and request dismissal of any receiver who has been appointed.

(iv) Following the timely cure of all noticed defaults by Secured Party, the Lender will not exercise its right to accelerate (or will de-accelerate) the amounts due under the Lender's loan documents by reason of the noticed defaults cured by Secured Party; provided, however, that nothing herein shall be construed to waive or limit any of Lender's rights or remedies as to any uncured noticed default, or any subsequent default by Owner."

Secured Party declares, agrees and acknowledges that:

## SUBORDINATION AGREEMENT

(continued)

APN/Parcel ID(s): 001-194-001-0

1. The Secured Party 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;
2. 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;
3. The Secured Party intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of 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;
4. Lender shall have no liability to Secured Party with respect to, and Secured Party waives any claim or defense which Secured Party may now or hereafter have against Lender arising from (i) any and all actions which Lender takes or omits to take, including without limitation, actions with respect to the creation, perfection or continuation of Liens in any collateral securing any of the Subordinated Debt Obligations, actions with respect to the foreclosure upon, sale, release of, depreciation of or failure to realize upon any such collateral, and actions with respect to the collection of any claim for all or any part of the Subordinated Debt Obligations from any account debtor, guarantor or any other Person with respect to the Subordinated Debt Obligations or the valuation, use, protection or release of any collateral now or hereafter securing same, (ii) any right, now or hereafter existing, to require Lender to proceed against or exhaust any collateral at any time securing the Subordinated Debt Obligations or to marshal any assets in favor of either of the undersigned; (iii) any notice of the incurrence or increase of the Subordinated Debt Obligations, it being understood that Lender may make advances now or hereafter relating to the Subordinated Debt Obligations without notice to or authorization of either of the undersigned, in reliance upon these subordination provisions; (iv) any defense based upon or arising by reason of (a) any disability or other defense of the Owner or any other person or entity or (b) any lack of authority of any agent or any other person or entity acting or purporting to act on behalf of the Owner or Secured Party; or (c) any failure by Lender to properly perfect any Lien in any asset of the Owner, (v) Lender's election, in and proceeding instituted under Chapter 11 of Title 11 of the United States Code (11 U.S.C. §101 et seq.) (the "Bankruptcy Code");
5. Collateral. The security interest and other Liens as defined in the deed of trust and note in favor of Lender in and to the Collateral give to secure the Subordinated Debt Obligations shall have priority over any security interest or other Lien therein given or arising to secure the Subordinated Debt Obligations. Any security interest or other Lien of Secured Party in any assets or properties of the Owner shall be, and at all times remain, subject, inferior and subordinate to any security interest or other Lien of Lender therein given or arising to secure the Subordinated Debt Obligations. The priorities of the security interests established, altered, or specified hereinabove shall be applicable, irrespective of the time or order of attachment, recording or perfection thereof, the method of perfection, or the time or order of filing of financing statements or taking of possession. Secured Party agrees not to contest the validity, perfection, priority or enforceability of any Lien or security interest granted to Lender;
6. Subordinated Debt Obligations Owed Only to Secured Party: No Other Debt. Secured Party warrants and represents that Secured Party has not previously assigned any interest in the Subordinated Debt Obligations to any party, that no party owns an interest in the Subordinated Debt Obligations other than Secured Party and that the entire Subordinated Debt Obligations is owing to Secured Party, subject only to the rights of Lender hereunder. Secured Party represents, warrants, covenants and agrees that there is and will be no indebtedness or other obligations of the Owner to Secured Party other than the Subordinated Debt Obligations;
7. Priority on Distribution. Notwithstanding anything herein to the contrary, in the event of any distribution, division or application, partial or complete, voluntary or involuntary, by operation of law or otherwise, of all or any part

## SUBORDINATION AGREEMENT

(continued)

APN/Parcel ID(s): 001-194-001-0

of the assets of the Owner to the creditors of the Owner or readjustment of the Subordinated Debt Obligations and indebtedness of the Owner, whether by reason of liquidation, bankruptcy, arrangement, receivership, assignment for the benefit of creditors or any other action or proceedings involving the readjustment of all or any of the Subordinated Debt Obligations, or the application of the assets of the Owner to the payment or liquidation thereof, or the dissolution or other winding up of the Owner, or upon the sale of all or substantially all of the Owner's assets, then, and in any such event, Lender shall be entitled to receive payment in full of any and all of the Subordinated Debt Obligations then owing prior to the payment of all or any part of the Subordinated Debt Obligations, and any payment or distribution of any kind or character, either in cash, securities or other property, which shall be payable or deliverable upon or with respect to any or all of the Subordinated Debt Obligations shall be paid or delivered directly to Lender for application on any of the Subordinated Debt Obligations, due or not due, until such Subordinated Debt Obligations shall have first been fully paid and satisfied;

8. Payments Received by Secured Party. Should any payment or distribution be received by Secured Party upon or with respect to the Subordinated Debt Obligations in violation of or contrary to the terms of the Agreement, Secured Party shall receive and hold the same in trust, as trustee, for the benefit of Lender and shall forthwith deliver the same to Lender in precisely the form received (except for endorsement or assignment by Secured Party where necessary), for application on any of the Subordinated Debt Obligations, due or not due, and, until so delivered, the same shall be held in trust by Secured Party as the property of Lender. In the event of failure of Secured Party to make any such endorsement or assignment to Lender, Lender or any of its officers or employees, is hereby irrevocably authorized to make same as attorney-in-fact for Secured Party; and
9. Conflict. In the event of any conflict between any term, covenant, or condition of this Agreement and any term, covenant or condition of any junior lien agreement, the provisions of this Agreement shall control and govern,

NOTICE: THIS 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 THERETO.**

**[SIGNATURES APPEAR ON FOLLOWING PAGES]**

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

**SECURED PARTY:**

HOUSING AUTHORITY OF THE CITY OF NAPA,  
a public body, corporate and politic

## SUBORDINATION AGREEMENT

(continued)

APN/Parcel ID(s): 001-194-001-0

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Steve Potter, Executive Director

ATTEST:

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Tiffany Carranza  
Deputy Authority Secretary

COUNTERSIGNED:

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Desiree Brun, City Auditor

APPROVED AS TO FORM:

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Michael W. Barrett  
Authority General Counsel

**OWNER:**

**Napa Valley Community Housing**

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

[Name and title]

## SUBORDINATION AGREEMENT

(continued)

APN/Parcel ID(s): 001-194-001-0

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

[Name and title]

### LENDER:

**Mechanics Bank**

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

Its \_\_\_\_\_

**(ALL SIGNATURES MUST BE ACKNOWLEDGED)**

## EXHIBIT B

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 \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,

(here insert name and title of the officer)

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)

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 \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public (here insert name and title of the officer), 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