

**CDBG PIGGYBACK PROGRAM
SUBORDINATION AGREEMENT**

THIS SUBORDINATION AGREEMENT (this “**Agreement**”) is entered into this ____ day of _____, _____ by and between: _____, a _____ (the “**Senior Lender**” or the “**Permanent Loan Lender**”), **THE STATE OF LOUISIANA, DIVISION OF ADMINISTRATION, OFFICE OF COMMUNITY DEVELOPMENT** (the “**Subordinate Lender**”); and _____ (the “**Borrower**”).

PRELIMINARY RECITALS:

A. WHEREAS, the Senior Lender has made or is making a loan (the “**Permanent Loan**”) to the Borrower in the original principal amount of \$ _____. The Permanent Loan is or will be secured by a first mortgage lien (the “**Permanent Loan Mortgage**”) on a multifamily residential rental project located in _____ Parish, Louisiana (the “**Land**”), as more fully described in **Exhibit A – Property Description**, attached hereto. The Borrower’s obligation to repay the Permanent Loan is evidenced by a Multifamily Note dated _____, _____ (the “**Permanent Loan Note**”), and is due in full on _____, _____; and

B. WHEREAS, the Borrower has requested the Senior Lender to permit the Subordinate Lender to make a subordinate loan to Borrower in the amount of \$ _____ (the “**Subordinate Loan**”) and to secure the Subordinate Loan by, among other things, placing a mortgage lien against the Land; and

C. WHEREAS, the Senior Lender has agreed to permit the Subordinate Lender to make the Subordinate Loan and to place a subordinate mortgage lien against the Land subject to all of the conditions contained in this Agreement; and

D. WHEREAS, the Senior Lender intends to sell, transfer and deliver the Permanent Loan Note and assign the Permanent Loan Mortgage to _____.

NOW, THEREFORE, in order to induce the Senior Lender to permit the Subordinate Lender to make the Subordinate Loan to the Borrower and to place a subordinate mortgage lien against the Land, and in consideration thereof, the Senior Lender, the Subordinate Lender and the Borrower agree as follows:

1. Recitals and Defined Terms. The recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement. Capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Mortgage, QAP, the Piggyback Program Description, or the Application entered into between the Subordinate Lender and the Borrower in connection with the award by Subordinate Lender of HUD Community Development Block Grant Program funds pursuant to the Louisiana Recovery Authority Action Plan known as The Road Home. Notwithstanding any definition to the contrary contained herein, the following additional terms shall have the following meanings:

(a) **Affiliate:** any corporation, partnership, joint venture, limited liability company, limited liability partnership, trust or individual controlled by, under common control with, or which has a controlling interest in Applicant; and (b) “**controlled by**”, “**under common control with**”, or which has a “**controlling interest**” means (i) the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of a

company (or other entity) and includes the definition of “control” in 24 CFR 401.310(a)(2); or (ii) the power to vote, directly or indirectly, 25 percent or more of any class of the voting stock of a company; or (iii) the ability to direct in any manner the election of a majority of a company (or other entity’s) directors, trustees or members; or (iv) the ability to exercise a controlling influence over the company or entity’s management and policies. For purposes of this definition, a general partner of a limited partnership is presumed to be in control of that partnership, and a managing member of a limited liability company is presumed to be in control of that limited liability company.

(b) Borrower: the Person named as such in the first paragraph of this Agreement and any other Person (other than the Senior Lender) who acquires title to the Land after the date of this Agreement.

(c) Business Day: any day other than Saturday, Sunday or a day on which the Senior Lender is not open for business.

(d) Default Notice: (i) a copy of the written notice from the Senior Lender to the Borrower stating that a Permanent Loan Default has occurred under the Permanent Loan; or (ii) a copy of the written notice from the Subordinate Lender to the Borrower stating that a Subordinate Loan Default has occurred under the Subordinate Loan. Each Default Notice shall specify the default upon which such Default Notice is based.

(e) Permanent Loan Default: the occurrence of a default, or an “Event of Default” as that term is defined in the Permanent Loan Documents, by the Borrower in performing or observing any of the terms, covenants or conditions in the Permanent Loan Documents, which default continues beyond any applicable period provided in the Permanent Loan Documents for curing the default.

(f) Permanent Loan Documents: the Permanent Loan Note and all other documents evidencing, securing or otherwise executed and delivered in connection with the Permanent Loan.

(g) Person: an individual, estate, trust, partnership, corporation, limited liability company, limited liability partnership, governmental department or agency or any other entity which has the legal capacity to own property.

(h) Senior Lender: the Person named as such in the first paragraph of this Agreement. When _____ or any other Person becomes the legal holder of the Permanent Loan Note, _____ or such other Person shall automatically become the Senior Lender.

(i) Subordinate Lender: the Person named as such in the first paragraph of this Agreement and any other Person who becomes the legal holder of the Subordinate Note.

(j) Subordinate Loan Default: a default by the Borrower in performing or observing any of the terms, covenants or conditions in the Subordinate Loan Documents to be performed or observed by it, which continues beyond any applicable period provided in the Subordinate Loan Documents for curing the default.

(k) Subordinate Loan Documents: the Subordinate Note, the Subordinate Mortgage, and all other documents evidencing, securing or otherwise executed and delivered in connection with the Subordinate Loan.

(l) Subordinate Mortgage: the Multifamily Mortgage, Assignment of Rents and Security Agreement encumbering the Land as security for the Subordinate Loan, which the Subordinate Lender

will cause to be recorded immediately before this Agreement among the applicable land records.

(m) **Subordinate Note:** the promissory note of even date herewith issued by the Borrower to the Subordinate Lender, or to order, to evidence the Subordinate Loan.

2. **Permission to Place Mortgage Lien Against Land.** The Senior Lender agrees, notwithstanding the prohibition against inferior liens on the Land contained in the Permanent Loan Documents and subject to the provisions of this Agreement, to permit the Subordinate Lender to record the Subordinate Mortgage and other recordable Subordinate Loan Documents against the Land (which are subordinate in all respects to the lien of the Permanent Loan Mortgage) to secure the Borrower's obligation to repay the Subordinate Note and all other obligations, indebtedness and liabilities of the Borrower to the Subordinate Lender under and in connection with the Subordinate Loan. Such permission is subject to the condition that each of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 is true and correct on the date of this Agreement and on the date on which the proceeds of the Subordinate Loan are disbursed to the Borrower. If any of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 is not true and correct on both of those dates, the provisions of the Permanent Loan Documents applicable to unpermitted liens on the Land shall apply.

3. **Borrower's and Subordinate Lender's Representations and Warranties.** Unless otherwise qualified in this Section 3, the Borrower and the Subordinate Lender each makes the following representations and warranties to the Senior Lender:

(a) **Subordinate Note.** The Subordinate Note contains the following provision:

The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the Permanent Loan indebtedness evidenced by a promissory note, dated _____ (the "**Permanent Loan Note**") in the original principal amount of \$_____ issued by Borrower and payable to _____ ("**Permanent Loan Lender**"), or order, to the extent and in the manner provided in that certain Subordination Agreement of even date herewith between the Borrower, Lender, and the Permanent Loan Lender (the "**Subordination Agreement**"). The Mortgage securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the [Mortgage, Assignment of Leases and Rents, and Security Agreement] securing the Permanent Loan Note (the "**Permanent Loan Mortgage**") as more fully set forth in the Subordination Agreement. The rights and remedies of the payee and each subsequent holder of this Note under the Mortgage are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Subordinate Lender under the Subordination Agreement.

(b) **Relationship of Borrower to Subordinate Lender and Senior Lender.** The Subordinate Lender is not an Affiliate of the Borrower and is not in possession of any facts that would lead it to believe that the Senior Lender is an Affiliate of the Borrower.

(c) **Term.** The term of the Subordinate Note is _____.

(d) **Subordinate Loan Documents.** Borrower represents that the executed Subordinate Loan Documents are substantially in the same forms as those submitted to _____ 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.

(e) **Senior Loan Documents.** Borrower represents that the executed Senior Loan Documents are substantially in the same forms as those submitted to _____ prior to the date of this Agreement. Upon execution and delivery of the Senior Loan Documents, Borrower shall deliver to Subordinate Lender an executed copy of each of the Senior Loan Documents, certified to be true, correct and complete.

4. Terms of Subordination.

(a) **Agreement to Subordinate.** The Senior Lender and the Subordinate Lender agree that: (i) the indebtedness evidenced by the Subordinate Loan Documents is and shall be subordinated in right of payment of the installments of the indebtedness then due and owing under the Permanent Loan Documents, and (ii) the Subordinate Mortgage and the other Subordinate Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Permanent Loan Mortgage and the other Permanent Loan Documents and to all advances heretofore made or that may hereafter be made pursuant to the Permanent Loan Mortgage and the other Permanent Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the Permanent Loan Mortgage, curing defaults by the Borrower under the Permanent Loan Documents or for any other purpose expressly permitted by the Permanent Loan Mortgage, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Land).

(b) **Subordination of Subrogation Rights.** The Subordinate Lender agrees that if, by reason of its payment of real estate taxes or other monetary obligations of the Borrower, or by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, it acquires by right of subrogation or otherwise a lien on the Land which (but for this subsection) would be senior to the lien of the Permanent Loan Mortgage, then, in that event, such lien shall be subject and subordinate to the lien of the Permanent Loan Mortgage.

(c) **Payments Before Permanent Loan Default.** Notwithstanding subparagraph (a) of this Section, the Subordinate Lender shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Loan Documents until the Subordinate Lender receives a Default Notice of a Permanent Loan Default from the Senior Lender.

(d) **Payments After Permanent Loan Default.** The Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a Permanent 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, attorney's fees, or any other sums secured by the Subordinate Mortgage) without the Senior Lender's prior written consent. The Subordinate Lender agrees that, after it receives a Default Notice from the Senior Lender with written instructions directing the Subordinate Lender not to accept payments from the 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, attorney's fees, or any other sums secured by the Subordinate Mortgage) without the Senior Lender's prior written consent. The Subordinate Lender shall receive written notice from the Senior Lender of any Permanent Loan Default that gives rise to the Subordinate Lender's obligation not to accept payments, and whether such default has been cured, waived, or otherwise suspended by the Senior Lender. In the event of such cure,

waiver or suspension, the restrictions on payment to the Subordinate Lender in this Section 4 shall terminate, and the Senior Lender shall have no right to any subsequent payments made to the Subordinate Lender by the Borrower prior to the Subordinate Lender's receipt of a new Default Notice from the Senior Lender in accordance with the provisions of this Section 4(d).

(e) **Remitting Subordinate Loan Payments to Senior Lender.** If, after the Subordinate Lender receives a Default Notice from the Senior Lender in accordance with subsection (d) above, the Subordinate Lender receives any payments under the Subordinate Loan Documents, the Subordinate Lender agrees that such payment or other distribution will be received and held in trust for the Senior Lender and unless the Senior Lender otherwise notifies the Subordinate Lender in writing, will be promptly remitted, in kind to the Senior Lender, properly endorsed to the Senior Lender, to be applied to the principal of, interest on and other amounts due under the Permanent Loan Documents in accordance with the provisions of the Permanent Loan Documents. By executing this Agreement, the Borrower specifically authorizes the Subordinate Lender to endorse and remit any such payments to the Senior Lender, and specifically waives any and all rights to have such payments returned to the Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by the Subordinate Lender, and remitted to the Senior Lender under this Section 4, shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to the Senior Lender waive any Subordinate Loan Default which may arise from the inability of the Subordinate Lender to retain such payment or apply such payment to the Subordinate Loan.

(f) **Agreement Not to Commence Bankruptcy Proceeding.** The Subordinate Lender 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 with respect to the Borrower, without the Senior Lender's prior written consent.

5. Default Under Subordinate Loan Documents.

(a) **Notice of Default and Cure Rights.** The Subordinate Lender shall deliver to the Senior Lender a Default Notice within five Business Days in each case where the Subordinate Lender has given a Default Notice to the Borrower. Failure of the Subordinate Lender to send a Default Notice to the Senior Lender shall not prevent the exercise of the Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. The Senior Lender shall have the right, but not the obligation, to cure any Subordinate Loan Default within sixty (60) days following the date of such notice; provided, however that the Subordinate Lender shall be entitled, during such 60-day period, to continue to pursue its rights and remedies under the Subordinate Loan Documents. All amounts paid by the Senior Lender in accordance with the Permanent Loan Documents to cure a Subordinate Loan Default shall be deemed to have been advanced by the Senior Lender pursuant to, and shall be secured by the lien of, the Permanent Loan Mortgage.

(b) **Subordinate Lender's Exercise of Remedies After Notice to Senior Lender.** If a Subordinate Loan Default occurs and is continuing, the Subordinate Lender agrees that, without the Senior Lender's prior written consent, it will not commence foreclosure proceedings with respect to the Land under the Subordinate Loan 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, collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder unless and until it has given the Senior Lender at least sixty (60) days' prior written notice; during such 60-day period; provided, however, the Subordinate Lender shall be entitled to exercise and enforce all other rights and remedies available to the Subordinate Lender under the Subordinate Loan Documents and/or under applicable laws, including without limitation, rights to enforce covenants and agreements of the Borrower relating to income, rent, or affordability restrictions contained in the Tax

Credit Regulatory Agreement and the CDBG Regulatory Agreement.

(c) **Cross Default.** The Borrower and the Subordinate Lender agree that a Subordinate Loan Default shall constitute a Permanent Loan Default under the Permanent Loan Documents and the Senior Lender shall have the right to exercise all rights or remedies under the Permanent Loan Documents in the same manner as in the case of any other Permanent Loan Default. If the Subordinate Lender notifies the Senior Lender in writing that any Subordinate Loan Default of which the Senior Lender has received a Default Notice has been cured or waived, as determined by the Subordinate Lender in its sole discretion, then provided that Senior Lender has not conducted a sale of the Land pursuant to its rights under the Permanent Loan Documents, any Permanent Loan Default under the Permanent Loan Documents arising solely from such Subordinate Loan Default shall be deemed cured, and the Permanent Loan shall be reinstated, provided, however, that the Senior Lender shall not be required to return or otherwise credit for the benefit of the Borrower any default rate interest or other default related charges or payments received by the Senior Lender during such Permanent Loan Default.

6. Default Under Permanent Loan Documents.

(a) **Notice of Default and Cure Rights.** The Senior Lender shall deliver to the Subordinate Lender a Default Notice within five Business Days in each case where the Senior Lender has given a Default Notice to the Borrower. Failure of the Senior Lender to send a Default Notice to the Subordinate Lender shall not prevent the exercise of the Senior Lender's rights and remedies under the Senior Loan Documents, subject to the provisions of this Agreement. The Subordinate Lender shall have the right, but not the obligation, to cure any such Permanent Loan Default within sixty (60) days following the date of such notice; provided, however, that the Senior Lender shall be entitled during such 60-day period to continue to pursue its remedies under the Permanent Loan Documents. Subordinate Lender may have up to sixty (60) days from the date of the Default Notice to cure a non-monetary default if during such 60-day period Subordinate Lender keeps current all payments required by the Permanent Loan Documents. In the event that such a non-monetary default creates an unacceptable level of risk relative to the Land, or Senior Lender's secured position relative to the Land, as determined by Senior Lender in its sole discretion, then Senior Lender may exercise during such 60-day period all available rights and remedies to protect and preserve the Land and the rents, revenues and other proceeds from the Land. All amounts paid by the Subordinate Lender to the Senior Lender to cure a Permanent Loan Default shall be deemed to have been advanced by the Subordinate Lender pursuant to, and shall be secured by the lien of, the Subordinate Mortgage.

(b) **Cross Default.** The Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a Permanent Loan Default shall not constitute a default under the Subordinate Loan Documents if no other default occurred under the Subordinate Loan Documents until either (i) the Senior Lender has accelerated the maturity of the Permanent Loan, or (ii) the Senior Lender has taken affirmative action to exercise its rights under the Permanent Loan Mortgage to collect rent, to appoint (or seek the appointment of) a receiver or to foreclose on (or to exercise a power of sale contained in) the Permanent Loan Mortgage. At any time after a Permanent Loan Default is determined to constitute a default under the Subordinate Loan Documents, the Subordinate Lender shall be permitted to pursue its remedies for default under the Subordinate Loan Documents, subject to the restrictions and limitations of this Agreement. If at any time the Borrower cures any Permanent Loan Default to the satisfaction of the Senior Lender, as evidenced by written notice from the Senior lender to the Subordinate Lender, any default under the Subordinate Loan Documents arising from such Permanent Loan Default shall be deemed cured and the Subordinate Loan shall be retroactively reinstated as if such Permanent Loan Default had never occurred.

7. Conflict. The Borrower, the Senior Lender and the Subordinate Lender each agrees that,

in the event of any conflict or inconsistency between the terms of the Permanent Loan Documents, the Subordinate Loan Documents and the terms of this Agreement, the terms of this Agreement shall govern and control solely as to the following: (a) the relative priority of the security interests of the Senior Lender and the Subordinate Lender in the Land; (b) the timing of the exercise of remedies by the Senior Lender and the Subordinate Lender under the Permanent Loan Mortgage and the Subordinate Mortgage, respectively; and (c) solely as between the Senior Lender and the Subordinate Lender, the notice requirements, cure rights, and the other rights and obligations which the Senior Lender and the Subordinate Lender have agreed to as expressly provided in this Agreement. Borrower acknowledges that the terms and provisions of this Agreement shall not, and shall not be deemed to: (x) extend Borrower's time to cure any Permanent Loan Default or Subordinate Loan Default, as the case may be; (y) give the Borrower the right to notice of any Permanent Loan Default or Subordinate Loan Default, as the case may be other than that, if any, provided, respectively under the Permanent Loan Documents or the Subordinate Loan Documents; or (z) create any other right or benefit for Borrower as against Senior Lender or Subordinate Lender.

8. Rights and Obligations of the Subordinate Lender Under the Subordinate Loan Documents and of the Senior Lender under the Permanent Loan Documents. Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of the Subordinate Loan Documents covering the same subject matter:

(a) Protection of Security Interest. The Subordinate Lender shall not, without the prior written consent of the Senior Lender in each instance, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the Subordinate Loan Documents, except that the Subordinate Lender shall have the right to advance funds to cure Permanent Loan Defaults pursuant to Section 6(a) above and advance funds pursuant to the Subordinate Mortgage for the purpose of paying real estate taxes and insurance premiums, making necessary repairs to the Land and curing other defaults by the Borrower under the Subordinate Loan Documents.

(b) Condemnation or Casualty. In the event of: a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Land (collectively, a "**Taking**"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Land (collectively, a "**Casualty**"), at any time or times when the Permanent Loan Mortgage remains a lien on the Land the following provisions shall apply:

- (i) The Borrower hereby agrees to provide Subordinate Lender with notice of any proceeding or action relating to a Taking and/or Casualty and Senior Lender agrees that Subordinate Lender may participate in any proceeding or action relating to a Taking and/or a Casualty, or participate or join in any settlement of any claims resulting from a Taking or a Casualty. Subordinate Lender otherwise shall be and remain subordinate in all respects to the Senior Lender's rights under the Permanent Loan Documents with respect thereto, and the Subordinate Lender shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by the Senior Lender and Subordinate Lender. Nothing contained in this subsection and/or anything contained in this Agreement shall limit the rights of the Subordinate Lender to file any pleadings, documents, claims or notices with the appropriate court with jurisdiction over the proposed Taking and/or Casualty; and
- (ii) all proceeds received or to be received on account of a Taking or a Casualty, or both, shall be applied (either to payment of the costs and expenses of repair and restoration or to payment of the Permanent Loan) in the manner determined by the

Senior Lender in its sole discretion; provided, however, that if the Senior Lender elects to apply such proceeds to payment of the principal of, interest on and other amounts payable under the Permanent Loan, any proceeds remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the Permanent Loan shall be paid to, and may be applied by, the Subordinate Lender in accordance with the applicable provisions of the Subordinate Loan Documents; provided, however, the Senior Lender agrees to consult with the Subordinate Lender in determining the application of Casualty proceeds; and provided further, however, that in the event of any disagreement between the Senior Lender and the Subordinate Lender over the application of Casualty proceeds, the decision of the Senior Lender, in its sole discretion, shall prevail.

(c) **No Modification of Subordinate Loan Documents.** The Borrower and the Subordinate Lender each agrees that, until the principal of, interest on and all other amounts payable under the Permanent Loan Documents have been paid in full, it will not, without the prior written consent of the Senior Lender in each instance, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon the Senior Lender under the Permanent Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents or assignment of the Subordinate Lender's interest in the Subordinate Loan without the Senior Lender's consent shall be void *ab initio* and of no effect whatsoever.

9. **Modification or Refinancing of Permanent Loan.** The Subordinate Lender consents to any agreement or arrangement in which the Senior Lender waives, postpones, extends, reduces or modifies any provisions of the Permanent Loan Documents, including any provision requiring the payment of money. Subordinate Lender further agrees that: (a) its agreement to subordinate hereunder shall extend to any new mortgage debt for the purpose of refinancing all or any part of the Permanent Loan (including reasonable and necessary costs associated with the closing and/or the refinancing); (b) all the terms and covenants of this Agreement shall inure to the benefit of any holder of any such refinanced debt; (c) such holder shall assume the obligations of the Senior Lender hereunder; and (d) all references to the Permanent Loan, the Permanent Loan Note, the Permanent Loan Mortgage, the Permanent Loan Documents and Senior Lender shall mean, respectively, the refinance loan, the refinance note, the mortgage securing the refinance note, all documents evidencing securing or otherwise pertaining to the refinance note and the holder of the refinance note. It is intended that: (x) the refinancing of all or any part of the Permanent Loan shall not require Subordinate Lender to modify the terms of its Subordinate Loan Documents or otherwise extend the terms of the term of the Subordinate Loan; and (y) the aggregate principal amount of the Permanent Loan(s) may not increase beyond the amount necessary to cover reasonable and necessary costs associated with the closing and/or refinancing.

10. **Default by the Subordinate Lender or Senior Lender.** If the Subordinate Lender or Senior Lender defaults in performing or observing any of the terms, covenants or conditions to be performed or observed by it under this Agreement, the other, non-defaulting lender shall have the right to all available legal and equitable relief.

11. **Notices.** Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as “**notices**” and referred to singly as a “**notice**”) that the Senior Lender or the Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); (b) sent by Federal Express (or other similar national overnight courier)

designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) 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 shall be deemed to have been received two days after mailing in the United States), addressed to the respective parties as follows:

SENIOR LENDER:

Attention: _____

With a copy to:

Attention: _____

SUBORDINATE LENDER:

Office of Community Development, Division of Administration, State of Louisiana

Attention: _____

Either party may, by notice given pursuant to this Section, 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 shall only be effective upon receipt.

13. General.

(a) **Assignment/Successors.** This Agreement shall be binding upon the Borrower, the Senior Lender and the Subordinate Lender and shall inure to the benefit of the respective legal successors and assigns of the Senior Lender and the Subordinate Lender.

(b) **No Partnership or Joint Venture.** The Senior Lender's permission for the placement of the Subordinate Loan Documents does not constitute the Senior Lender as a joint venturer or partner of the Subordinate Lender. Neither party hereto shall hold itself out as a partner, agent or Affiliate of the other party hereto.

(c) **Senior Lender's and Subordinate Lender's Consent.** Wherever the Senior Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Senior Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement. Wherever the Subordinate Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Subordinate Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement.

(d) **Further Assurances.** The Subordinate Lender, the Senior Lender and the Borrower each agree, at the Borrower's expense, to execute and deliver all additional instruments and/or documents reasonably required by any other party to this Agreement in order to evidence that the Subordinate Mortgage is subordinate to the lien, covenants and conditions of the Permanent Loan Mortgage, or to

further evidence the intent of this Agreement.

(e) **Amendment.** This Agreement shall not be amended except by written instrument signed by all parties hereto.

(f) **Governing Law.** This Agreement shall be governed by the laws of the State in which the Land is located.

(g) **Severable Provisions.** If any provision of this Agreement shall be invalid or unenforceable to any extent, then the other provisions of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

(h) **Term.** The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the Permanent Loan Documents, except in the case of a refinancing pursuant to Section 9 hereof; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which the Subordinate Lender is obligated to remit to the Senior Lender pursuant to Section 4 hereof; (iii) the acquisition by the Senior Lender of title to the Land pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Permanent Loan Mortgage; or (iv) the acquisition by the Subordinate Lender of title to the Land pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Subordinate Mortgage, but only if such acquisition of title does not violate any of the terms of this Agreement.

(i) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

**[REMAINDER OF THE PAGE INTENTIONALLY BLANK –
SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, Borrower has executed this Subordination Agreement on this ____ day of _____, _____, at _____, Louisiana, in the presence of the undersigned competent witnesses and Notary Public, after due reading of the whole.

WITNESSES:

Print Name:_____

Print Name:_____

Notary Public
Print Name:_____
Bar Roll/Notary No._____
My Commission Expires:_____

BORROWER:

By:_____

Its:_____

IN WITNESS WHEREOF, Senior Lender has executed this Subordination Agreement on this _____ day of _____, _____, at _____, Louisiana, in the presence of the undersigned competent witnesses and Notary Public, after due reading of the whole.

WITNESSES:

Print Name:_____

Print Name:_____

Notary Public
Print Name:_____
Bar Roll/Notary No._____
My Commission Expires:_____

SENIOR LENDER:

By:_____

Its:_____

IN WITNESS WHEREOF, Subordinate Lender has executed this Subordination Agreement on this ____ day of _____, _____, at _____, Louisiana, in the presence of the undersigned competent witnesses and Notary Public, after due reading of the whole.

WITNESSES:

SUBORDINATE LENDER:

**State of Louisiana, Division of Administration,
Office of Community Development**

Print Name:_____

By:_____

Print Name:_____

Its:_____

Notary Public
Print Name:_____
Bar Roll/Notary No._____
My Commission Expires:_____

EXHIBIT A
PROPERTY DESCRIPTION