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Doc#: 0824140151 Fee: \$56.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 08/28/2008 04:29 PM Pg: 1 of 11

SUBORDINATION AGREEMENT (IHDA)

THIS SUBORDINATION AGREEMENT ("Subordination Agreement") is made as of August 26, 2008, by SENIOR SUITES CHICAGO KELVYN PARK, LLC, an Illinois limited liability company ("Borrower"), with a mailing address of, 111 E. Wacker Drive, Suite 2200, Chicago, Illinois 60601 is the owner of fee simple title to the real property hereinafter described, ILLINOIS HOUSING DEVELOPMENT AUTHORITY, a body politic and corporate ("Junior Lender"), party to the Subordinated Documents (as hereinafter defined), with a mailing address of 401 North Michigan Avenue, Suite 700, Chicago, Illinois 60611 and HARRIS N.A., a national banking association ("Bank"), with a mailing address of 111 West Monroe Street, P.O. Box 755, Chicago, Illinois 60690-0755.

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL)
TO:)
Charity & Associates)
20 North Clark, Suite 1150)
Chicago, Illinois 60602)
Attn: Elvin E. Charity, Esq.)

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RECITALS

- A. Contemporaneously herewith, Borrower and Junior Lender are entering into a Regulatory and Land Use Restriction Agreement ("**Regulatory Agreement**"), which agreement, among other things, regulates the use and occupancy of certain residential units at the Property. Borrower is also executing contemporaneously herewith a Junior Mortgage, Security Agreement and Assignment of Rents and Leases ("**Subordinate Mortgage**") to secure a promissory note ("**Subordinated Note**" and, which, together with the Regulatory Agreement and the Subordinate Mortgage, are collectively referred to as the "**Subordinated Documents**") in the principal amount of One Million Two Hundred and Fifty Thousand and No/100 Dollars (\$1,250,000), in favor of Junior Lender evidencing a loan made by the Junior Lender to Borrower (the "**Subordinate Loan**"). The Subordinated Documents encumber certain real property located in the City of Chicago, County of Cook, State of Illinois, as more particularly described in Exhibit A attached hereto and made a part hereof ("**Property**").
- B. Junior Lender and Borrower desire that Bank make a construction/term loan to the Borrower in the principal amount not to exceed Two Million Two Hundred Thirty-Two Thousand and No/100 Dollars (\$2,232,000.00) ("**Loan**"), evidenced by a promissory note of even date herewith ("**Note**"), executed by Borrower to the order of Bank in the principal amount of the Loan wherein Borrower promises to pay to the order of Bank the maximum aggregate principal amount of the Loan, or so much thereof as may now or hereafter be disbursed by Bank under the Note, together with interest thereon, in installments as set forth in the Note executed by Borrower to the order of Bank in the principal amount of the Loan. As security for the Note, Borrower has executed or will execute a Construction Mortgage, Personal Property Security Agreement, Assignment of Leases and Rentals and Financing Statement, dated as of the date hereof ("**Senior Mortgage**"); which Senior Mortgage is being recorded concurrently herewith.
- C. It is a condition to Bank's making the Loan to Borrower that the Senior Mortgage unconditionally be and remain at all times a lien, claim and charge upon the Property prior and superior to the liens, claims and charges of the Subordinated Documents.
- D. It is to the mutual benefit of the parties that Bank make the Loan to Borrower, and Junior Lender is willing that the Senior Mortgage constitute a lien, claim and charge upon the Property unconditionally prior and superior to the liens, claims and charges of the Subordinated Documents.
- E. Bank would not make the Loan without this Subordination Agreement.

AGREEMENTS

1. **Subordination.** The Senior Mortgage, and any and all modifications (which do not increase the principal amount of the Loan or shorten or extend the maturity) or advances thereunder or secured thereby (including interest thereon), are unconditionally and will remain at all times, a lien, claim, or charge on the Property prior and superior to the Subordinate Mortgage. The Subordinated Documents shall, at all times and in all respects, be wholly subordinate and inferior in claim and right to the Senior Mortgage, and all claims, rights and remedies therefor are hereby subordinated and made subsequent and inferior to the Senior Mortgage and any claims, rights, and remedies arising out of, or in connection therewith. So long as the Senior Mortgage is in full

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force and effect, in the event of any conflict between the provisions of the Subordinated Documents and those of the Senior Mortgage, which purport to cover the same obligation of the Borrower thereunder (e.g. the use of insurance and condemnation proceeds), the provisions of the Senior Mortgage shall control. Any waiver or forbearance by the Bank of any right or remedy under the Senior Mortgage shall not impair the priority of its respective lien under the Senior Mortgage.

2. **Acknowledgements and Agreements of Junior Lender.** Junior Lender declares, acknowledges, and agrees that:

2.1 [Intentionally Omitted]

2.2 In making disbursements, Bank is under no obligation or duty to, nor has Bank represented that it will, set to the application of the proceeds of the Loan; and

2.3 Junior Lender intentionally and unconditionally subjects and subordinates the liens, claims, and charges of the Subordinated Documents, and all present and future indebtedness and obligations secured thereby, in favor of the Senior Mortgage and the lien, claim, and charge upon the Property of the Senior Mortgage, and understands that in reliance upon, and in consideration of, this subjection 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, that would not be made or entered into but for Bank's reliance upon this subjection and subordination.

3. **Notices.**

3.1 Bank and Junior Lender agree to give to each other copies of all notices of events of Default under (and as defined in) their respective loan documents.

3.2 All notices given under this Subordination Agreement must be in writing and will be served effectively upon delivery, or if mailed, upon the first to occur of receipt or the expiration of forty-eight (48) hours after deposit in certified United States mail, postage prepaid, sent to the party at its address appearing below. Any party may change those addresses by notice to all other parties.

4. **Integration; No Waiver.** This Subordination Agreement is the whole and only agreement with regard to the subordination of the liens, claims, and charges of the Subordinated Documents to the Senior Mortgage and Note. This Subordination Agreement may not be modified or amended except by a written agreement signed by the parties. No waiver shall be deemed to be made by Bank of any of its rights hereunder unless the same shall be in writing signed on behalf of the Bank, and each such waiver, if any, shall be a waiver only with respect to the specific matter or matters to which the waiver relates and shall in no way impair the rights of the Bank or the obligations of Borrower to Bank in any other respect at any other time.

5. **Successors and Assigns.** This Subordination Agreement is binding on and inures to the benefit of the legal representatives, successors, and assigns of the parties. Bank's successors and assigns include any financial institution which may now, or hereafter, participate in the Loan and the Senior Mortgage. Notice of acceptance of this Subordination Agreement is hereby waived and this Subordination Agreement shall be binding upon the Junior Lender, its legal representatives, successors, and assigns, as the case may be.

6. **Creditor's Rights.** Junior Lender agrees not to commence or join with any other creditor of Borrower in commencing any bankruptcy, reorganization, or insolvency proceedings against the Borrower without prior written notice to the Bank.

7. **Attorneys' Fees and Costs.** If any party to this Subordination Agreement brings an action to interpret

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or enforce its rights under this Subordination Agreement, the prevailing party will be entitled to recover its costs and reasonable attorneys' fees as awarded in the action.

8. **Governing Law.** This Subordination Agreement is governed by the laws of the State of Illinois, without regard to the choice of law rules of that state.

9. **Counterparts.** This Subordination Agreement may be executed in counterparts, and all counterparts constitute but one and the same document.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR PURPOSES OTHER THAN IMPROVEMENT OF THE PROPERTY.

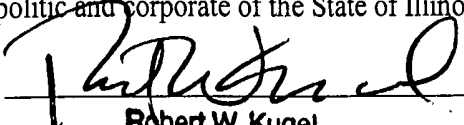
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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IN WITNESS WHEREOF, this Subordination Agreement is executed as of the day and year above written.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY,
a body politic and corporate of the State of Illinois

By: 
Name: Robert W. Kugel
Title: Assistant Executive Director

Address:
Illinois Housing Development Authority
401 North Michigan Avenue, Suite 700
Chicago, Illinois 60611
Attn: Legal Department

SENIOR SUITES CHICAGO KELVYN PARK, LLC,
an Illinois limited liability company

By: Senior Suites Chicago Corporation, an Illinois corporation,
its Managing Member

By: _____
Name: Robert Gawronski
Title: Assistant Treasurer

Address:
111 E. Wacker Drive, Suite 2200
Chicago, Illinois 60601

HARRIS N.A., a national banking association

By: _____
Name: Ailisa Herrera
Title: Vice President

Address:
111 West Monroe Street
P.O. Box 755
Chicago, Illinois 60690-0755
Attn: Ailisa Herrera

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a body politic and corporate of the State of Illinois

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By: Senior Suites Chicago Corporation, an Illinois corporation,
its Managing Member

By: _____
Name: Robert Gawronski
Title: Assistant Treasurer

Address:
111 E. Wacker Drive, Suite 2200
Chicago, Illinois 60601

HARRIS N.A., a national banking association

By: _____
Name: Ailisa Herrera
Title: Vice President

Address:
111 West Monroe Street
P.O. Box 755
Chicago, Illinois 60690-0755
Attn: Ailisa Herrera

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its Managing Member

By: _____
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HARRIS N.A., a national banking association

By: Ailisa Herrera
Name: Ailisa Herrera
Title: Vice President

Address:
111 West Monroe Street
P.O. Box 755
Chicago, Illinois 60690-0755
Attn: Ailisa Herrera

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EXHIBIT A LEGAL DESCRIPTION

LOTS 1 TO 11, BOTH INCLUSIVE, IN VOGNILD AND JENISCH'S RESUBDIVISION OF BLOCK 5 IN SAMUEL S. HAY'S KELVIN GROVE ADDITION, SAID ADDITION BEING A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT RECORDED JULY 28, 1913 AS DOCUMENT NUMBER 5234635, IN COOK COUNTY, ILLINOIS.

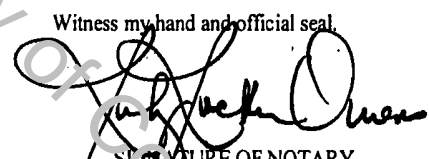
COMMONLY KNOWN AS: 2715 North Cicero Avenue, Chicago, Illinois 60639

PIN: 13-27-304-001, -002, -003, -004, -005, -006, -007, -008, -009 and -010

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ALL-PURPOSE ACKNOWLEDGEMENT

| | |
|---|---|
| State of Illinois) County of Cook) On _____ before me, Ruby Rucker Owens, Notary Public <small>DATE NAME, TITLE OF OFFICER, E.G., "JANE DOE, NOTARY PUBLIC"</small> | CAPACITY CLAIMED BY SIGNER |
| personally appeared Robert W. Kugel <small>NAMES OF SIGNER(S)</small> | <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> CORPORATE OFFICER(S) <input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL <input type="checkbox"/> ATTORNEY-IN-FACT <input type="checkbox"/> TRUSTEE(S) <input type="checkbox"/> GUARDIAN/CONSERVATOR <input checked="" type="checkbox"/> OTHER: |
| <input checked="" type="checkbox"/> personally known to me - OR - <input type="checkbox"/> proved to me on the basis of satisfactory evidence | <input type="checkbox"/> ASSISTANT EXECUTIVE DIRECTOR SIGNER IS REPRESENTING: NAME OF PERSON(S) OR ENTITY(IES) Illinois Housing Development Authority |
| <div style="border: 1px dashed black; padding: 5px; width: fit-content;"> OFFICIAL SEAL RUBY RUCKER OWENS NOTARY PUBLIC - STATE OF ILLINOIS MY COMMISSION EXPIRES: 09/29/16 </div> <p>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), as the entity upon behalf of which the persons acted, executed the instrument.</p> <p>Witness my hand and official seal.</p>  <small>SIGNATURE OF NOTARY</small> | |

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to an unauthorized document.

THIS CERTIFICATE Title or Type of Document
MUST BE ATTACHED
TO THE DOCUMENT Number of Pages _____ Date of Document _____
DESCRIBED AT RIGHT:
 Signer(s) Other than Named Above _____

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ALL-PURPOSE ACKNOWLEDGEMENT

| | |
|--|--|
| <p>State of _____) County of _____)</p> <p>On <u>August 26, 2008</u> before me, <u>Evelyn Turner</u> <small>DATE NAME, TITLE OF OFFICER, E.G., "JANE DOE, NOTARY PUBLIC"</small></p> <p>personally appeared <u>Robert Gavronski</u> <small>NAME(S) OF SIGNER(S)</small></p> <p><input type="checkbox"/> personally known to me - OR - <input checked="" type="checkbox"/> proved to me on the basis of satisfactory evidence</p> <p>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 persons acted, executed the instrument.</p> <p>Witness my hand and official seal.</p> <div style="border: 1px solid black; padding: 5px; width: fit-content;"> <p>OFFICIAL SEAL EVELYN D TURNER NOTARY PUBLIC - STATE OF ILLINOIS MY COMMISSION EXPIRES: 10/31/10</p> </div> <p><u>[Signature]</u> SIGNATURE OF NOTARY</p> | <p>CAPACITY CLAIMED BY SIGNER</p> <p><input type="checkbox"/> INDIVIDUAL</p> <p><input checked="" type="checkbox"/> CORPORATE OFFICER(S) <small>TITLE(S)</small></p> <p><input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL</p> <p><input type="checkbox"/> ATTORNEY-IN-FACT</p> <p><input type="checkbox"/> TRUSTEE(S)</p> <p><input type="checkbox"/> GUARDIAN/CONSERVATOR</p> <p><input type="checkbox"/> OTHER:</p> <p>SIGNER IS REPRESENTING: NAME OF PERSON(S) OR ENTITY(IES)</p> |
|--|--|

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to a notarized document.

THIS CERTIFICATE Title or Type of Document Subordination Agreement
MUST BE ATTACHED TO THE DOCUMENT Number of Pages _____ Date of Document August 26, 2008
DESCRIBED AT RIGHT: Signer(s) Other than Named Above _____

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All-Purpose Acknowledgement

State of Illinois)
)
County of Cook)

On August 26, 2008 before me, Evelyn D. Turner, personally appeared Ailisa Herrera,

CAPACITY CLAIMED BY SIGNER

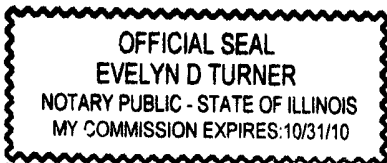
- INDIVIDUAL
- CORPORATE OFFICER(S) VP
TITLES(S)
- PARTNER(S)
 - LIMITED
 - GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

personally known to me -OR-

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 persons acted, executed the instrument.

Witness my hand and official seal.

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)



Evelyn D. Turner
SIGNATURE OF NOTARY

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to an unauthorized document.

THIS CERTIFICATE
MUST BE ATTACHED
TO THE DOCUMENT
DESCRIBED AT RIGHT:

Title or Type of Document Subordination Agreement
Number of Pages _____ Date of Document August, 2008
Signer(s) Other than Named Above _____