

209841

UNOFFICIAL COPY



Doc#: 1027931061 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/06/2010 03:32 PM Pg: 1 of 9

Property of Cook County Clerk's Office

SUBORDINATION AGREEMENT

Document Prepared by ~~and Return to:~~

Jon M. Arntson
Arntson & Stewart, P.C.
51 Broadway, Suite 603
Fargo, ND 58102
(701) 280-0195

Box 430

UNOFFICIAL COPY

LOAN MODIFICATION AND SUBORDINATION AGREEMENT

THIS LOAN MODIFICATION AND SUBORDINATION AGREEMENT (this "Agreement") entered into as of the 5th day of **October, 2010**, by and among **MERCY PROPERTIES, INC.** (the "Junior Lender"); **LAVERGNE COURTS, LLC**, an Illinois limited liability company (the "Owner") and the **SECRETARY OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, D.C.** ("Secretary") for the benefit of the Secretary.

RECITALS:

A. Owner is the owner of **Lavergne Courts Apartments**, FHA Project No. **071-35738**, located at **Chicago, Cook County, Illinois** (the "Project"), located on the real property more particularly described and set forth on Exhibit A attached hereto and made a part hereof (the "Real Property");

B. Title XII of the American Recovery and Reinvestment Act of 2009, P.L. 111-5 (the "Recovery Act") authorizes the Secretary to create a program to make grants and loans for energy retrofit and green investments in certain multifamily rental apartment projects that received project-based assistance (the "Green Retrofit Program");

C. Owner received approval from the Secretary to participate in the Green Retrofit Program and has received a loan of recovery funds under the Recovery Act for such purpose in the amount of **Two Million Seven Hundred Ninety Thousand Six Hundred Thirty-seven and No/100 Dollars (\$2,790,637.00)** (the "GRP Loan") which is evidenced by that certain Green Retrofit Mortgage Note (the "GRP Note") dated **October 5th, 2010**, and has secured the repayment of, and obligations associated with, the GRP Loan to the Secretary by executing a Mortgage dated **October 5th, 2010** (the "GRP Mortgage") that encumbers the Real Property. As a condition to the GRP Loan, Owner and the Secretary executed a Use Agreement dated **October 5th, 2010** (the "GRP Use Agreement"). Hereafter, the GRP Note, GRP Mortgage and GRP Use Agreement are jointly referred to as the "GRP Loan Documents;"

D. The Project is now encumbered by that certain **Mortgage Restructuring Mortgage Note** made by the **LaSalle Bank National Association as Successor Trustee to American National Bank and Trust Company of Chicago**, as Trustee under Trust Agreement dated **may 4, 1988** and as amended on **December 1, 1988** and known as **Trust No. 105324-06** and **Lavergne Courts Limited Partnership**, an Illinois limited partnership (the "Prior Owner") to the Secretary in the original principal amount of **Five Million Three Hundred Thirty-seven Thousand Five Hundred Seventy-three and 17/100 Dollars (\$5,337,573.17)**, dated **August 27, 2003** (the "MR Note"). The MR Note is secured by that certain Mortgage Restructuring Mortgage encumbering the Real Property made by the Owner to the Secretary dated **August 27, 2003**, and recorded on **August 28, 2003**, among the land records of the jurisdiction in which the Real Property is located as Document No. **0324039087** (the "MR Mortgage"). The MR Note and MR Mortgage were assigned from the Secretary to the Owner by that certain **Agreement of Assignment of Mortgage Restructuring Mortgage Note and Mortgage Restructuring Mortgage** dated **August 27, 2003** and recorded on

UNOFFICIAL COPY

September 26, 2003, as Document No. **0326939154**; and was further assigned from the Owner to the Junior Lender by that certain **Agreement of Assignment of Mortgage Restructuring Mortgage Note and Mortgage Restructuring Mortgage** dated **August 27, 2003** and recorded on **September 26, 2003** as Document No. **0326939155**.

E. The Project is further encumbered by that certain **Contingent Repayment Mortgage Note** made by the **LaSalle Bank National Association as Successor Trustee to American national Bank and Trust company of Chicago, as Trustee under Trust Agreement dated May 4, 1988 and as amended on December 1, 1988 and known as Trust No. 105324-06 and Lavergne Courts Limited Partnership, an Illinois limited partnership** (the "Prior Owner") to the Secretary in the original principal amount of **Two Million Two Hundred Fifteen Thousand One Hundred Twenty and 19/100 Dollars (\$2,215,120.19)**, dated **August 27, 2003** (the "CR Note"). The CR Note is secured by that certain **Contingent Repayment Mortgage** encumbering the Real Property made by the Owner to the Secretary dated **August 27, 2003**, and recorded on **August 28, 2003**, among the land records of the jurisdiction in which the Real Property is located as Document No. **0324039091** (the "CR Mortgage"). The CR Note and CR Mortgage were assigned from the Secretary to the Owner by that certain **Agreement of Assignment of Contingent Repayment Mortgage Note and Contingent Repayment Mortgage** dated **August 27, 2003** and recorded on **September 26, 2003**, as Document No. **0326939156**; and was further assigned from the Owner to the Junior Lender by that certain **Agreement of Assignment of Contingent Repayment Mortgage Note and Contingent Repayment Mortgage** dated **August 27, 2003** and recorded on **September 26, 2003** as Document No. **0326939157**.

F. In connection with, and as a condition to and in consideration for the Owner's participation in the Green Retrofit Program, the Owner and the Secretary have entered into that certain **Green Retrofit Commitment Plan** dated **September 8, 2010**, as amended through the date hereof (the "GRP Commitment"), pursuant to which the parties have agreed, among other things, that the current Existing Junior Loans, as defined in the GRP Commitment, are to be subordinated in all respects to the lien, payment and priority of the GRP Loan Documents; and that, the Existing Junior Loans shall not be payable during the term of the GRP Use Agreement except from the Owner's share of Surplus Cash, as defined by the Secretary, distributable and distributed to the Owner under and subject to all applicable Office of Affordable Housing ("OAH") and HUD rules, regulations, guidelines and/ or requirements;

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE UNDERSIGNED AGREES AS FOLLOWS:

1. **MODIFICATION OF MR NOTE.** The MR Note is hereby modified by the parties as follows:

(a) The maturity date is hereby extended from **September 1, 2033**, to **November 1, 2033**.

UNOFFICIAL COPY

(b) There shall be no payments during the term of the GRP Use Agreement, except that payments may be made solely from Owner's share of Surplus Case, as defined by the Secretary, distributable and distributed to the Owner under and subject to all applicable OAHF and HUD rules, regulations, guidelines and/or requirements; and

(c) The GRP Loan evidenced in part by the GRP Documents, shall not cause an acceleration of the Junior Note and Junior Lender hereby waives its right to so accelerate the Junior Note and declare the same immediately due and payable.

2. **MODIFICATION OF CR NOTE.** The CR Note is hereby modified by the parties as follows:

(a) The maturity date is hereby extended from **September 1, 2033**, to **November 1, 2033**.

(b) There shall be no payments during the term of the GRP Use Agreement, except that payments may be made solely from Owner's share of Surplus Case, as defined by the Secretary, distributable and distributed to the Owner under and subject to all applicable OAHF and HUD rules, regulations, guidelines and/or requirements; and

(c) The GRP Loan evidenced in part by the GRP Documents, shall not cause an acceleration of the Junior Note and Junior Lender hereby waives its right to so accelerate the Junior Note and declare the same immediately due and payable.

3. **SUBORDINATION.** The MR Note, MR Mortgage, CR Note and CR Mortgage shall be unconditionally subordinate, inferior and subject to the GRP Loan Documents, in the same manner and with like effect as though the GRP Loan Documents had been made, executed, delivered and recorded prior to the execution, delivery and recordation of said MR Note, MR Mortgage, CR Note and CR Mortgage.

4. **CONTINUANCE OF AGREEMENT.** This Agreement shall continue and remain in full force and effect until both the GRP Use Agreement and GRP Mortgage have been terminated and released of record.

5. **BINDING EFFECT.** This Agreement shall be binding on the parties hereto, their successors and assigns, and shall inure to the benefit of the Secretary.

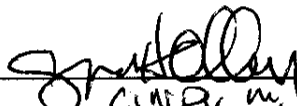
(The remainder of this page intentionally left blank.)

UNOFFICIAL COPY

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed and made effective as of the date first above written.

JUNIOR LENDER:

MERCY PROPERTIES, INC.

By: 
Name: CINDY M. HOKE
Title: VICE PRES

STATE OF IL
COUNTY OF COOK

)
) ss
)

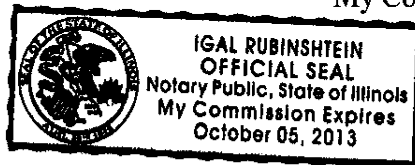
On October 6, 2010, before me personally appeared Cindy Hoke, personally known to me or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL)



Notary Public
My Commission Expires: _____



UNOFFICIAL COPY

OWNER:

LAVERGNE COURTS, LLC
an Illinois limited liability company

By: *Tom Mitracci*
Name: Tom Mitracci
Title: Treasurer of its Sole member

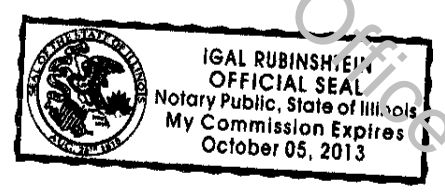
STATE OF IL)
) ss.
COUNTY OF COOK)

On October 6, 2010, before me personally appeared Tom Mitracci personally known to me or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

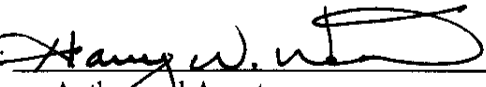
(SEAL)

IGAL RUBINSHEIN
Notary Public
My Commission Expires: _____



UNOFFICIAL COPY

**SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
WASHINGTON, D.C.**

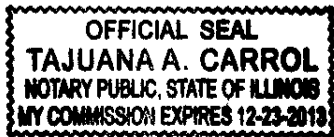
By: 
Authorized Agent
Chicago Production Office

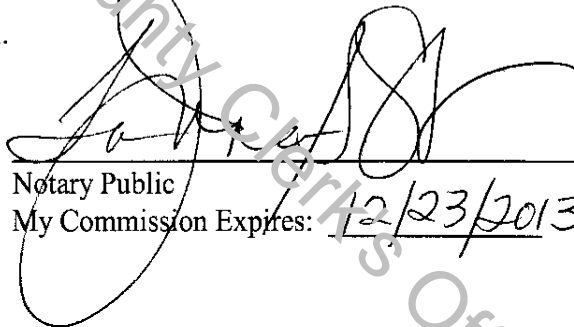
STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

On **October 5**, 2010, before me personally appeared **Harry W. West**, personally known to me or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL)




Notary Public
My Commission Expires: 12/23/2013

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

THE WEST 50 FEET OF THE EAST 150 FEET OF LOT 27 (EXCEPT THE NORTH 8 FEET FOR ALLEY AND EXCEPT STREET) IN SCHOOL TRUSTEES SUBDIVISION OF THE NORTH PART OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT THREE (3) IN KEMPSTONS RESUBDIVISION OF LOT TWENTY-SEVEN (27) EXCEPT THE EAST TWO HUNDRED (200) FEET THEREOF) IN SCHOOL TRUSTEES SUBDIVISION OF THE NORTH PART OF SECTION SIXTEEN (16), TOWNSHIP THIRTY-NINE (39) NORTH, RANGE THIRTEEN (13), EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT PART TAKEN FOR STREET AND ALLEY) IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 2 IN KEMPSTON'S RESUBDIVISION OF LOT 27 (EXCEPT THE EAST 200 FEET THEREOF) IN SCHOOL TRUSTEES SUBDIVISION OF NORTH PART OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT PART TAKEN FOR STREET AND ALLEY) PLAT RECORDED MARCH 21, 1944 AS DOCUMENT 13249984, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOT ONE (1) IN KEMPSTON'S RESUBDIVISION OF LOT TWENTY SEVEN (27) (EXCEPT THE EAST 200 FEET THEREOF) IN SCHOOL TRUSTEE'S SUBDIVISION OF THE NORTH PART OF SECTION SIXTEEN (16), TOWNSHIP THIRTY NINE (39) NORTH, RANGE THIRTEEN (13), EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS (EXCEPT PART TAKEN FOR STREET AND ALLEY); ALSO KNOWN AS:

THE WEST ONE HUNDRED FIVE (105) FEET OF LOT TWENTY SEVEN (27) (EXCEPT THE NORTH 8 FEET TAKEN FOR ALLEY) IN SCHOOL TRUSTEES' SUBDIVISION OF THE NORTH PART OF SECTION SIXTEEN (16), TOWNSHIP THIRTY NINE (39) NORTH, RANGE THIRTEEN (13), EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT STREETS) IN COOK COUNTY, ILLINOIS.

PARCEL 5:

GRP Mortgage Modification Agreement

11/2009

UNOFFICIAL COPY

LOT 28 (EXCEPT THE EAST 428 FEET THEREOF AND EXCEPT THE SOUTH 8 FEET HERETOFORE DEDICATED AS A PUBLIC ALLEY AND EXCEPT STREETS) IN THE SCHOOL TRUSTEE'S SUBDIVISION OF THE NORTH PART OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 6:

THE WEST 77 FEET OF THE EAST 321 FEET OF LOT 28 (EXCEPT THE NORTH 33 FEET THEREOF TAKEN FOR WEST ADAMS STREET AND EXCEPT THE SOUTH 8 FEET THEREOF RESERVED FOR ALLEY) IN SCHOOL TRUSTEES' SUBDIVISION OF THE NORTH PART OF SECTION 16 TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property Address: 4908-10 West Quincy
 4920-26 West Quincy
 4922-38 West Quincy
 4940-50 West Quincy
 4941-51 West Adams
 4923-29 West Adams, Chicago, IL 60644

PIN#s: 16-16-208-001
 16-16-208-004
 16-16-208-029
 16-16-208-037
 16-16-208-038
 16-16-208-039