

# UNOFFICIAL COPY



AFTER RECORDING RETURN TO:

Benjamin Clark  
Illinois Housing Development Authority  
401 N. Michigan Ave., Ste. 700  
Chicago, Illinois 60611

Doc#: 1135331110 Fee: \$42.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 12/19/2011 04:49 PM Pg: 1 of 4

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15/20

## SUBORDINATION AGREEMENT

**THIS SUBORDINATION AGREEMENT** (this "Agreement") is made as of this 19<sup>th</sup> day of December, 2011, by **U.S. BANK NATIONAL ASSOCIATION**, a national banking association, its successors and/or assigns ("**Lender**"), whose address is 1 South Pinckney Street, Madison, Wisconsin 53703.

### RECITALS

**A.** The Illinois Housing Development Authority (the "Authority"), a body politic and corporate of the State of Illinois (the "Authority") established pursuant to the Illinois Housing Development Act, 20 ILCS 3805/1 *et seq.*, as amended from time to time (the "Act"), has issued a Low Income Housing Tax Credit Extended Use Agreement dated as of December 19, 2011, which was recorded with the Recorder's Office of Cook County, Illinois (the "Recorder's Office") on December 19, 2011 as Document No. 11365331078 (the "EUA"), which was executed by **VICEROY HOTEL LIMITED PARTNERSHIP**, an Illinois limited partnership (the "Owner") and which encumbers certain property (the "Real Estate") commonly known as Viceroy Apartments, located at 1517-1521 W. Warren Boulevard & 28 N. Ogden Avenue, Chicago, Illinois, and legally described on **Exhibit A** attached to and made a part of this Agreement (the Real Estate and the improvements constructed are referred to in this Agreement as the "Development").

**B.** Lender is the owner and holder of the following: (i) a certain Promissory Note (the "Note") dated as of December 19, 2011, in the original principal amount of Six Million One Hundred Twenty-Two Thousand Eight Hundred Seventy-Seven and no/100 Dollars (\$6,122,877.00) (the "Loan") made by Owner payable to the order of Lender; (ii) that certain Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing granted by Owner in favor of Lender dated as of December 19, 2011, and recorded concurrently herewith in the Recorder's Office, which is a lien against the Development (the "Mortgage"); (iii) that certain Assignment of Rents and Leases ("Assignment") granted by Owner in favor of Lender dated as of December 19, 2011 and recorded concurrently herewith in the Recorder's Office, encumbers the Development; (iv) that certain Construction Loan Agreement ("Loan Agreement") by and between Owner and Lender dated as of December 19, 2011 concerning the Loan (collectively, the Note, Mortgage, Assignment and Loan Agreement and all other documents that evidence and secure the Loan are the "Loan Documents");

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C. All obligations of the Owner to Lender now existing or hereafter arising, due or to become due, under the Loan Documents are referred to in this Agreement as the “Subordinated Liabilities;” and

D. The EUA, in order to be in compliance with applicable tax laws, must be superior to any other liens on the Development. Therefore, Lender is executing this Agreement in order to subordinate the Subordinated Liabilities to the EUA.

**NOW, THEREFORE**, in consideration of the foregoing Recitals and as an inducement to IHDA to issue the EUA, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Lender hereby agrees as follows:

1. **Subordination of Liens.** Lender agrees that (i) the Subordinated Liabilities are and shall be subordinate to the EUA to the extent set forth in the EUA, and (ii) the liens and security interests created by the Loan Documents are and shall be subordinate to the liens and security interests created by the EUA and to any and all amendments, modifications, extensions, replacements or renewals of the EUA to the extent set forth in the EUA. This agreement to subordinate the Loan Documents to the EUA is made notwithstanding that the Mortgage and Assignment have been recorded prior to or concurrently with the EUA.

2. **Successors and Assigns.** This Agreement shall be binding upon Lender and its respective successors and assigns, whether immediate or remote.

3. **Amendment of Agreement.** This Agreement shall not be altered or amended without the prior written approval of IHDA.

4. **Construction and Interpretation of this Agreement.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Wherever possible each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

5. **Counterparts.** This Agreement may be signed in counterparts.

[the balance of the page has been left blank intentionally; signature page follows]

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IN WITNESS WHEREOF, this Agreement has been executed and delivered by the authorized representative of Lender.

**LENDER:**

**U.S. BANK NATIONAL ASSOCIATION,**  
a national banking association

By: Karyn Knaak  
Name: Karyn Knaak  
Title: Vice President

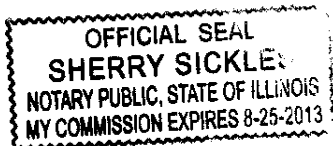
Property of Cook County Clerk's Office

**ACKNOWLEDGMENT**

STATE OF Illinois )  
 ) :ss  
COUNTY OF Cook )

On this 19th day of December, 2011, before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared Karyn Knaak, personally known to me and known to me to be the Vice President of U.S. BANK NATIONAL ASSOCIATION, a national banking association, and the same person who executed the foregoing instrument, and duly acknowledged said execution to be for and on behalf of and as the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal on the day and year last above written.



[Notarial Seal]

Sherry Sickles  
Notary Public

My commission expires: \_\_\_\_\_

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## EXHIBIT A

### LEGAL DESCRIPTION

LOTS 6 THROUGH 13 IN LAFLIN AND MATHER'S SUBDIVISION OF THE NORTH PART OF BLOCK 'D' IN THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, SOMETIMES CALLED BLOCK 'D' IN WRIGHT'S ADDITION TO CHICAGO AND BEING IN THE SOUTH PART OF LOT 4 IN THE CIRCUIT COURT PARTITION OF THE SOUTHWEST 1/4 OF SECTION 8 AFORESAID, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 1517-1521 W. Warren Boulevard & 28 N. Ogden Avenue  
Chicago, IL

P.I.N.s: 17-08-332-005-0000; 17-08-332-006-0000; 27-08-332-006-0000;  
17-08-332-007-0000; and 27-08-332-007-0000