



Doc#: 1136141069 Fee: \$80.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/27/2011 11:13 AM Pg: 1 of 21

This instrument prepared by

Elvin E. Charity
Charity & Associates, P.C.
20 N. Clark Street, Suite 1150
Chicago, Illinois 60602

212082

SUBORDINATION AGREEMENT
(Trust Fund)

THIS SUBORDINATION AGREEMENT (this "Agreement") is entered into this 22nd day of December, 2011 by and among (i) Bank of America, N.A. (the "Senior Lender"), whose address is 7800 Forsyth Boulevard, Suite 350, Mail Code: MO1-076-03-06, Clayton, St. Louis County, Missouri 63105, (ii) Chicago Low Income Housing Trust Fund, an Illinois not-for-profit corporation (the "Subordinate Grantor"), whose address is c/o Chicago Department of Housing & Economic Development, 121 N. La Salle St., Room 1006, Chicago, Illinois 60602, and (iii) North & Talman III Limited Partnership, an Illinois limited partnership (the "Borrower"), whose address is 325 N. Wells Street, 8th Floor, Chicago, Illinois 60654.

Recitals

A. Pursuant to that certain Construction Loan Agreement (the "Loan Agreement") between Borrower and the Senior Lender dated of even date herewith, the Senior Lender has made or is making a loan (the "First Mortgage Loan") to the Borrower in the original principal amount of \$7,251,640. The First Mortgage Loan is or will be secured by a first mortgage lien (the "First Mortgage") on a multifamily housing project located in the City of Chicago, Cook County, Illinois (the "Property"). The Property is more fully described in Exhibit A attached hereto. The Borrower's obligation to repay the First Mortgage Loan is evidenced by a Note dated December 22, 2011 (the "First Mortgage Note"), and is due in full on December 22, 2013, but which maturity date may be extended to June 22, 2014.

B. Pursuant to that certain Grant Agreement, dated as of December 22, 2011 (the "Grant Agreement"), between the Subordinate Grantor and Hispanic Housing Development Corporation, an Illinois not-for-profit corporation ("HHDC"), the Subordinate Grantor has agreed to make a grant (the "Project Grant") in the amount of \$327,653 to HHDC for the benefit of the Project (as defined in the Loan Agreement). In consideration of the making of the Project

Box 430

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INT. X

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Grant, the Subordinate Grantor requires that the Borrower enter into a Regulatory Agreement with the Subordinate Grantor (the "Regulatory Agreement"), which among other things, requires certain residential units in the Project financed in part with the proceeds of the Project Grant to be leased and occupied by Extremely Low-Income Households (as defined in the Regulatory Agreement) and Severely Low-Income Households (as defined in the Regulatory Agreement) and to cause the Regulatory Agreement to be recorded as a lien and encumbrance on the Property.

C. In addition, to secure the obligations (the "Obligations") of the Borrower under the Grant Agreement and the Regulatory Agreement, the Subordinate Grantor requires that the Borrower grant to the Subordinate Grantor a subordinate mortgage lien against the Property pursuant to a Junior Mortgage, Security Agreement and Financing Statement (the "Subordinate Mortgage") from Borrower to the Subordinate Grantor.

D. The Senior Lender has agreed to permit the Borrower and the Subordinate Grantor to enter into the Regulatory Agreement and the Subordinate Mortgage and to place the Regulatory Agreement and the Subordinate Mortgage as subordinate liens and encumbrances against the Property, subject to all of the conditions contained in this Agreement.

E. Upon satisfaction of all conditions set forth in Section 2.6 of the Loan Agreement, the First Mortgage Loan will convert to a Permanent Loan in the original principal amount not to exceed \$410,000, as defined in the Loan Agreement ("Conversion").

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

1. Definitions.

In addition to the terms defined in the Recitals to this Agreement, for purposes of this Agreement the following terms have the respective meanings set forth below:

"Affiliate" means, when used with respect to a Person, any corporation, partnership, joint venture, limited liability company, limited liability partnership, trust or individual controlled by, under common control with, or which controls such Person (the term "control" for these purposes shall mean the ability, whether by the ownership of shares or other equity interests, by contract or otherwise, to elect a majority of the directors of a corporation, to make management decisions on behalf of, or independently to select the managing partner of, a partnership, or otherwise to have the power independently to remove and then select a majority of those individuals exercising managerial authority over an entity, and control shall be conclusively presumed in the case of the ownership of 50% or more of the equity interests).

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“Borrower” means 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 Property after the date of this Agreement.

“Business Day” means any day other than Saturday, Sunday or a day on which the Senior Lender is not open for business.

“Default Notice” means: (a) a copy of the written notice from the Senior Lender to the Borrower stating that a First Mortgage Loan Default has occurred under the First Mortgage Loan; or (b) a copy of the written notice from the Subordinate Grantor to the Borrower stating that a Subordinate Document Default has occurred under the Subordinate Documents. Each Default Notice shall specify the default upon which such Default Notice is based.

“First Mortgage Loan Default” means the occurrence of an “Event of Default” as that term is defined in the First Mortgage Loan Documents.

“First Mortgage Loan Documents” means (i) the First Mortgage Note, the First Mortgage and all other documents evidencing, securing or otherwise executed and delivered in connection with the First Mortgage Loan; and (ii) following Conversion of the First Mortgage Loan, the Permanent Loan Documents.

“Permanent Note” means that certain Promissory Note (Term Only) delivered by Borrower to the Senior Lender to evidence the Permanent Loan.

“Permanent Mortgage” means that certain Multifamily Mortgage Assignment of Rents, Security Agreement and Fixture Filing delivered by Borrower to the Senior Lender and encumbering the Property to secure the obligations of Borrower under the Permanent Note.

“Permanent Loan Documents” means the Permanent Note, the Permanent Mortgage and all other documents evidencing, security or otherwise executed and delivered in connection with the Permanent Loan.

“Person” means 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.

“Senior Lender” means the Person named as such in the first paragraph on page 1 of this Agreement. When any other Person becomes the legal holder of the First Mortgage Note or of the Permanent Loan Documents, such other Person shall automatically become the Senior Lender.

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“Subordinate Grantor” means the Person named as such in the first paragraph on page 1 of this Agreement and any other Person who becomes the legal holder of the Subordinate Documents after the date of this Agreement.

“Subordinate Document Default” means a default by the Borrower in performing or observing any of the terms, covenants or conditions in the Subordinate Documents to be performed or observed by it, which continues beyond any applicable period provided in the Subordinate Documents for curing the default.

“Subordinate Documents” means the Grant Agreement, the Regulatory Agreement, the Subordinate Mortgage and all other documents evidencing, securing or otherwise executed and delivered in connection with the Project Grant.

“Subordinate Mortgage” has the meaning assigned to such term in Recital C.

2. Permission to Place Mortgage Lien Against Property.

The Senior Lender agrees, notwithstanding the prohibition against inferior liens on the Property contained in the First Mortgage Loan Documents or the Permanent Loan Documents and subject to the provisions of this Agreement, to permit the Subordinate Grantor to record the Subordinate Mortgage and the Regulatory Agreement against the Property (which are subordinate in all respects to the lien of the First Mortgage and the Permanent Mortgage) to secure the Borrower’s Obligations. Such permission is subject to the condition that each of the representations and warranties made by the Borrower and the Subordinate Grantor in Section 3 is true and correct in all material respects on the date of this Agreement and on the date(s) on which the proceeds of the Project Grant are disbursed. If any of the representations and warranties made by the Borrower and the Subordinate Grantor in Section 3 is not true and correct in all material respects on each of those dates, the provisions of the First Mortgage Loan Documents and the Permanent Loan Documents applicable to unpermitted liens on the Property shall apply.

3. Borrower’s and Subordinate Grantor’s Representations and Warranties.

The Borrower and the Subordinate Grantor each makes the following representations and warranties to the Senior Lender:

(a) **[Intentionally Omitted].**

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

(c) **[Intentionally Omitted].**

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

(e) **Senior Loan Documents.** The executed Senior Loan Documents are substantially in the same forms as, when applicable, those submitted to, and approved by, the Senior Lender prior to the date of this Agreement. Upon execution and delivery of the Senior Loan Documents, Borrower shall deliver to the Subordinate Grantor 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 Grantor agree that: (i) the Obligations evidenced by the Subordinate Documents are and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement to the prior payment in full of the indebtedness evidenced by the First Mortgage Loan Documents, and (ii) the Subordinate Mortgage and the other Subordinate Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Mortgage and the other First Mortgage Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the First Mortgage and the other First Mortgage Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the First Mortgage, curing defaults by the Borrower under the First Mortgage Loan Documents or for any other purpose expressly permitted by the First Mortgage, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Property).

(b) **Subordination of Subrogation Rights.** The Subordinate Grantor 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 Documents, it acquires by right of subrogation or otherwise a lien on the Property which (but for this subsection) would be senior to the lien of the First Mortgage, then, in that event, such lien shall be subject and subordinate to the lien of the First Mortgage.

(c) **Payments Before First Mortgage Loan Default.** Until the Subordinate Grantor receives a Default Notice of a First Mortgage Loan Default from the Senior Lender, the Subordinate Grantor shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Documents.

(d) **Payments After First Mortgage Loan Default.** The Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a First Mortgage Loan Default, it will not make any payments under or pursuant to the Subordinate Documents (including but not limited to principal, interest, additional interest, late payment charges, default

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interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) without the Senior Lender's prior written consent. The Subordinate Grantor agrees that, after it receives a Default Notice from the Senior Lender with written instructions directing the Subordinate Grantor not to accept payments from the Borrower on account of the Project Grant, it will not accept any payments under or pursuant to the Subordinate 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. If the Subordinate Grantor receives written notice from the Senior Lender that the First Mortgage Loan Default which gave rise to the Subordinate Grantor's obligation not to accept payments has been cured, waived, or otherwise suspended by the Senior Lender, the restrictions on payment to the Subordinate Grantor in this Section 4 shall terminate, and the Senior Lender shall have no right to any subsequent payments made to the Subordinate Grantor by the Borrower prior to the Subordinate Grantor's receipt of a new Default Notice from the Senior Lender in accordance with the provisions of this Section 4(d).

(e) Remitting Project Grant Payments to Senior Lender. If, after the Subordinate Grantor receives a Default Notice from the Senior Lender in accordance with subsection (d) above, the Subordinate Grantor receives any payments under the Subordinate Documents, the Subordinate Grantor 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 Grantor 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 First Mortgage Loan Documents in accordance with the provisions of the First Mortgage Loan Documents. By executing this Agreement, the Borrower specifically authorizes the Subordinate Grantor 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 Project Grant. Borrower and the Senior Lender acknowledge and agree that payments received by the Subordinate Grantor, and remitted to the Senior Lender under this Section 4, shall not be applied or otherwise credited against the Project Grant, nor shall the tender of such payment to the Senior Lender waive any Subordinate Document Default which may arise from the inability of the Subordinate Grantor to retain such payment or apply such payment to the Project Grant.

(f) Agreement Not to Commence Bankruptcy Proceeding. The Subordinate Grantor 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 Documents.

(a) Notice of Default and Cure Rights. The Subordinate Grantor shall deliver to the Senior Lender a Default Notice within five Business Days in each case where the

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Subordinate Grantor has given a Default Notice to the Borrower. Failure of the Subordinate Grantor to send a Default Notice to the Senior Lender shall not prevent the exercise of the Subordinate Grantor's rights and remedies under the Subordinate Documents, subject to the provisions of this Agreement. The Senior Lender shall have the right, but not the obligation, to cure any Subordinate Document Default within 60 days following the date of such notice; provided, however that the Subordinate Grantor shall be entitled, during such 60-day period, to continue to pursue its rights and remedies under the Subordinate Documents to the extent permitted under Section 5(b). All amounts paid by the Senior Lender in accordance with the First Mortgage Loan Documents to cure a Subordinate Document Default shall be deemed to have been advanced by the Senior Lender pursuant to, and shall be secured by the lien of, the First Mortgage.

(b) Subordinate Grantor's Agreement to Standstill. If a Subordinate Document Default occurs and is continuing, the Subordinate Grantor agrees that, without the Senior Lender's prior written consent, it will not accelerate the Project Grant, commence foreclosure proceedings with respect to the Property, collect rents, appoint (or seek the appointment of) a receiver or institute any other collection or enforcement action.

(c) Cross Default. The Borrower and the Subordinate Grantor agree that a Subordinate Document Default shall constitute a First Mortgage Loan Default under the First Mortgage Loan Documents and the Senior Lender shall have the right to exercise all rights or remedies under the First Mortgage Loan Documents in the same manner as in the case of any other First Mortgage Loan Default. If the Subordinate Grantor notifies the Senior Lender in writing that any Subordinate Document Default of which the Senior Lender has received a Default Notice has been cured or waived, as determined by the Subordinate Grantor in its sole discretion, then provided that the Senior Lender has not conducted a sale of the Property pursuant to its rights under the First Mortgage Loan Documents, any First Mortgage Loan Default under the First Mortgage Loan Documents arising solely from such Subordinate Document Default shall be deemed cured, and the First Mortgage 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 First Mortgage Loan Default.

6. Default Under First Mortgage Loan Documents.

(a) Notice of Default and Cure Rights. The Senior Lender shall deliver to the Subordinate Grantor 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 Grantor shall not prevent the exercise of the Senior Lender's rights and remedies under the First Mortgage Loan Documents, subject to the provisions of this Agreement. The Subordinate Grantor shall have the right, but not the obligation, to cure any such First Mortgage Loan Default as provided below. The Subordinate Grantor may have up to 30 days from the date of the Default Notice to cure any

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monetary default under the First Mortgage Loan Documents; provided, however, that the Senior Lender shall be entitled during such 30-day period to continue to pursue its remedies with respect to the Property. The Subordinate Grantor may have up to 60 days from the date of the Default Notice to cure a non-monetary default if during such 60-day period the Subordinate Grantor keeps current all payments required by the First Mortgage Loan Documents. In the event that such a non-monetary default creates an unacceptable level of risk relative to the Property, or the Senior Lender's secured position relative to the Property, as determined by the Senior Lender in its sole discretion, then the Senior Lender may exercise during such 60-day period all available rights and remedies to protect and preserve the Property and the rents, revenues and other proceeds from the Property. All amounts paid by the Subordinate Grantor to the Senior Lender to cure a First Mortgage Loan Default shall be deemed to have been advanced by the Subordinate Grantor pursuant to, and shall be secured by the lien of, the Subordinate Mortgage.

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

7. Conflict.

The Borrower, the Senior Lender and the Subordinate Grantor each agree that, in the event of any conflict or inconsistency between the terms of the First Mortgage Loan Documents, the Subordinate 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 Grantor in the Property; (b) the timing of the exercise of remedies by the Senior Lender and the Subordinate Grantor under the First Mortgage and the Subordinate Mortgage, respectively; and (c) solely as between the Senior Lender and the Subordinate Grantor, the notice requirements, cure rights, and the other rights and obligations which the Senior Lender and the Subordinate Grantor 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: extend Borrower's time to cure any First Mortgage Loan Default or Subordinate Document Default, as the case may be; give the Borrower the right to notice of any First Mortgage Loan Default or

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Subordinate Document Default, as the case may be other than that, if any, provided, respectively under the First Mortgage Loan Documents or the Subordinate Documents; or create any other right or benefit for Borrower as against the Senior Lender or the Subordinate Grantor.

8. Rights and Obligations of the Subordinate Grantor Under the Subordinate Documents and of the Senior Lender under the First Mortgage Loan Documents.

Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of the Subordinate Documents covering the same subject matter:

(a) Protection of Security Interest. The Subordinate Grantor shall not, without the prior written consent of the Senior Lender in each instance, take any action which has the effect of increasing the Obligations outstanding under, or secured by, the Subordinate Documents, except that the Subordinate Grantor shall have the right to advance funds to cure First Mortgage 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 Property and curing other defaults by the Borrower under the Subordinate 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 Property (collectively, a "Taking"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Property (collectively, a "Casualty"), at any time or times when the First Mortgage remains a lien on the Property the following provisions shall apply:

(1) The Subordinate Grantor hereby agrees that its rights (under the Subordinate Documents or otherwise) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking or a Casualty shall be and remain subordinate in all respects to the Senior Lender's rights under the First Mortgage Loan Documents with respect thereto, and the Subordinate Grantor shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by the Senior Lender; provided, however, this subsection and/or anything contained in this Agreement shall not limit the rights of the Subordinate Grantor to file any pleadings, documents, claims or notices with the appropriate court with jurisdiction over the proposed Taking and/or Casualty; and

(2) 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 First Mortgage 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 First Mortgage Loan, any proceeds remaining after the satisfaction in full of the principal of, interest on and other

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amounts payable under the First Mortgage Loan shall be paid to, and may be applied by, the Subordinate Grantor in accordance with the applicable provisions of the Subordinate Documents, provided however, the Senior Lender agrees to consult with the Subordinate Grantor in determining the application of Casualty proceeds, provided further however that in the event of any disagreement between the Senior Lender and the Subordinate Grantor over the application of Casualty proceeds, the decision of the Senior Lender, in its sole discretion, shall prevail.

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

9. Conversion, Modification or Refinancing of First Mortgage Loan.

The Subordinate Grantor consents to any agreement or arrangement in which the Senior Lender waives, postpones, extends, reduces or modifies any provisions of the First Mortgage Loan Documents, including any provision requiring the payment of money. The Subordinate Grantor further agrees that its agreement to subordinate hereunder shall extend to the Permanent Loan Documents, as well as to any new mortgage debt which is for the purpose of refinancing all or any part of the First Mortgage Loan (including reasonable and necessary costs associated with the closing and/or the refinancing) and, in the event of new mortgage debt, the Subordinate Grantor shall execute and deliver to the Senior Lender a new subordination agreement on the same terms and conditions as this Subordination Agreement. Following Conversion, all the terms and covenants of this Agreement shall inure to the benefit of any holder of the Permanent Loan; and all references to the First Mortgage Loan, the First Mortgage Note, the First Mortgage and the First Mortgage Loan Documents shall mean, respectively, the Permanent Loan, the Permanent Note, the Permanent Mortgage and the Permanent Loan Documents.

10. Default by the Subordinate Grantor or Senior Lender.

If the Subordinate Grantor or the 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.

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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") which the Senior Lender or the Subordinate Grantor 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); or (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:

Bank of America, N.A.
135 S. LaSalle Street, Suite 611
Chicago, Illinois 60603
Attention: Kristine L Jurmu

With a copy to:

Bank of America, N.A.
Loan Administration
Mail Code: M61-076-03-06
7800 Forsyth Blvd., Suite 350
Clayton, Missouri 63105
Attention: Loan Administration Manager

SUBORDINATE GRANTOR:

Chicago Low Income Housing Trust Fund
c/o Chicago Department of Housing and Economic
Development
121 N. LaSalle Street, Room 1006
Chicago, Illinois 60602
Attention: Cary Steinbuck, Executive Director

With a Copy to:

Neal, Gerber & Eisenberg LLP
2 North LaSalle Street, Suite 1700
Chicago, Illinois 60602
Attention: Anne E. Koday & Thomas J. McNulty

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BORROWER:

North & Talman III Limited Partnership
325 N. Wells Street, 8th Floor
Chicago, Illinois 60654
Attention: President

With a copy to:

Hispanic Housing Development Corporation
325 N. Wells Street, 8th Floor
Chicago, IL 60654
Attention: President

Any 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 Grantor and shall inure to the benefit of the respective legal successors and assigns of the Senior Lender and the Subordinate Grantor.

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

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

(d) **Further Assurances.** The Subordinate Grantor, 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 First Mortgage, or to further evidence the intent of this Agreement.

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(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 Property 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 First Mortgage Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Documents, other than by reason of payments which the Subordinate Grantor is obligated to remit to the Senior Lender pursuant to Section 4 hereof; (iii) the acquisition by the Senior Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the First Mortgage; or (iv) the acquisition by the Subordinate Grantor of title to the Property 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.

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[SIGNATURE PAGE TO SUBORDINATION AGREEMENT (TRUST FUND)]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

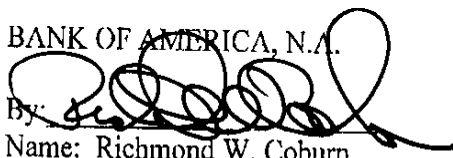
SUBORDINATE GRANTOR:

CHICAGO LOW INCOME HOUSING TRUST FUND, an Illinois not-for-profit corporation

By: _____
Name: Thomas J. McNulty
Title: President

SENIOR LENDER:

BANK OF AMERICA, N.A.

By: 
Name: Richmond W. Coburn
Title: Senior Vice President

BORROWER:

NORTH & TALMAN III LIMITED PARTNERSHIP, an Illinois limited partnership

By: North and Talman III Corporation, an Illinois corporation, its sole general partner

By: _____
Name: Hipolito Roldan
Title: President

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[SIGNATURE PAGE TO SUBORDINATION AGREEMENT (TRUST FUND)]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

SUBORDINATE GRANTOR:

CHICAGO LOW INCOME HOUSING TRUST FUND, an Illinois not-for-profit corporation

By: _____
Name: Thomas J. McNulty
Title: President

SENIOR LENDER:

BANK OF AMERICA, N.A.

By: _____
Name: Richmond W. Coburn
Title: Senior Vice President

BORROWER:

NORTH & TALMAN III LIMITED PARTNERSHIP, an Illinois limited partnership

By: North and Talman III Corporation, an Illinois corporation, its sole general partner

By: Hipolito Roldan
Name: Hipolito Roldan
Title: President

Property of Cook County Clerk's Office

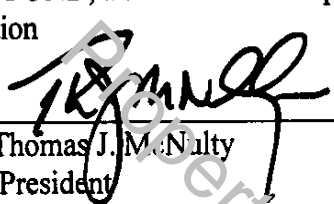
UNOFFICIAL COPY

[SIGNATURE PAGE TO SUBORDINATION AGREEMENT (TRUST FUND)]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

SUBORDINATE GRANTOR:

CHICAGO LOW INCOME HOUSING TRUST FUND, an Illinois not-for-profit corporation

By: 
Name: Thomas J. McNulty
Title: President

SENIOR LENDER:

BANK OF AMERICA, N.A.

By: _____
Name: Richmond W. Coburn
Title: Senior Vice President

BORROWER:

NORTH & TALMAN III LIMITED PARTNERSHIP, an Illinois limited partnership

By: North and Talman III Corporation, an Illinois corporation, its sole general partner

By: _____
Name: Hipolito Roldan
Title: President

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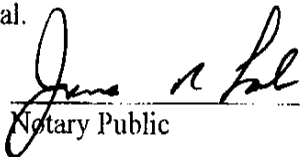
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Missouri *St. Louis*

STATE OF ~~ILLINOIS~~, COUNTY OF ~~COOK~~, TO WIT:

I HEREBY CERTIFY, that on this 16th day of December, 2011, before me, the undersigned Notary Public of said State, personally appeared Richmond W. Coburn, who acknowledged herself to be a Senior Vice President of Bank of America, N.A., a national banking association, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Subordination Agreement, and acknowledged that she executed the same for the purposes therein contained as the duly authorized Senior Vice President of said bank.

WITNESS my hand and Notarial Seal.



Notary Public

My Commission Expires: 2-16-2013

JENA R. LAUB
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Louis County
My Commission Expires: Feb. 16, 2013
09408382

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STATE OF ILLINOIS, COUNTY OF COOK, TO WIT:

I HEREBY CERTIFY, that on this 22nd day of December, 2011, before me, the undersigned Notary Public of said State, personally appeared Hipolito Roldan, who acknowledged himself to be the President of North and Talman III Corporation, an Illinois corporation (the "Corporation"), the sole general partner of North & Talman III Limited Partnership, an Illinois limited partnership (the "Borrower") , known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Subordination Agreement, and acknowledged that he/she executed the same for the purposes therein contained as the duly authorized President of said Corporation, as sole general partner of the Borrower.

WITNESS my hand and Notarial Seal.

Sherry Sickles
Notary Public



My Commission Expires:

County Clerk's Office

)

UNOFFICIAL COPY

STATE OF ILLINOIS, COUNTY OF COOK, TO WIT:

I HEREBY CERTIFY, that on this 21st day of December, 2011, before me, the undersigned Notary Public of said State, personally appeared Thomas J. McNulty, who acknowledged himself/herself to be the President of the Chicago Low Income Housing Trust Fund, an Illinois not-for-profit corporation, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Subordination Agreement, and acknowledged that he/she executed the same for the purposes therein contained as the duly authorized President of said corporation.

WITNESS my hand and Notarial Seal.

Teresa D. Kirby
Notary Public

My Commission Expires: 1/10/15



)

UNOFFICIAL COPY

EXHIBIT A

DESCRIPTION OF THE LAND

***PARCEL 1A:

LOTS 27 AND 28, (EXCEPT THE NORTH 8 FEET OF EACH OF SAID LOTS TAKEN OR USED FOR ALLEY) IN CHARLES PROEBSTING'S SUBDIVISION OF LOTS 4, 5, 6 AND THE SOUTH 60 FEET OF LOT 7 IN BLOCK 8 IN BORDEN'S SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 1B:

THE SOUTH 21.00 FEET OF LOT 9 IN C. BOETTCHER'S SUBDIVISION OF LOTS 8 AND 10 AND THAT PART NORTH OF THE SOUTH 60 FEET OF LOT 7 IN BLOCK 8 IN BORDEN'S SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 1C:

THE SOUTH 18.50 FEET OF LOT 8 (EXCEPT THE EAST 104.00 FEET THEREOF) IN C. BOETTCHER'S SUBDIVISION OF LOTS 8 AND 10 AND THAT PART NORTH OF THE SOUTH 60 FEET OF LOT 7 IN BLOCK 8 IN BORDEN'S SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS 9 AND 10 (EXCEPT THE SOUTH 21.00 FEET OF SAID LOT 9) IN C. BOETTCHER'S SUBDIVISION OF LOTS 8 AND 10 AND THAT PART NORTH OF THE SOUTH 60 FEET OF LOT 7 IN BLOCK 8 IN BORDEN'S SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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PARCEL 3:

LOT 6 AND THE NORTH 3.27 FEET OF LOT 7 IN C. BOETTCHER'S SUBDIVISION OF LOTS 8 AND 10 AND THAT PART NORTH OF THE SOUTH 60 FEET OF LOT 7 IN BLOCK 8 IN BORDEN'S SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4.

LOT 7 (EXCEPT THE NORTH 3.27 FEET THEREOF) AND LOT 8 (EXCEPT THE SOUTH 18.50 FEET THEREOF) IN C. BOETTCHER'S SUBDIVISION OF LOTS 8 AND 10 AND THAT PART NORTH OF THE SOUTH 60 FEET OF LOT 7 IN BLOCK 8 IN BORDEN'S SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.***

Street Addresses: 2656-2658 W. North Avenue, 1616-20 N. Talman Avenue and 1601-19 N Washtenaw Avenue, Chicago, Illinois

P.I.N.s: 13-36-427-014
13-36-427-030
13-36-427-031
13-36-427-032
13-36-427-040