

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

FisherBroyles, LLP
3777 Long Beach Blvd.
Suite 280
Long Beach, CA 90807
Attention: Karen Michail Shah

THIS SPACE FOR RECORDER'S USE ONLY

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER INSTRUMENT.

THIS SUBORDINATION AND INTERCREDITOR AGREEMENT (this "**Agreement**") dated as of [____], 2023, is made by and between **LAKE COUNTY HOUSING COMMISSION**, a public body, corporate and politic ("**Junior Lender**") and **JPMORGAN CHASE BANK, N.A.**, a national banking association ("**Chase**" or "**Bank**") and acknowledged by **COLLIER AVENUE ASSOCIATES LP**, a California limited partnership ("**Borrower**"). The date of this Agreement as set forth above is for reference purposes only, and this Agreement will not be effective and binding until the Closing Date (as defined in the Construction Loan Agreement). The parties to this Agreement are referred to as the "Parties." Chase and Junior Lender are referred to as the "Lenders."

RECITALS

A. Chase has agreed to make a loan to Borrower in the original principal amount of \$[15,269,522] (the "Senior Loan"). In connection therewith, Borrower has executed or is about to execute a Construction Deed Of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing (the "Senior Deed of Trust") for the benefit of Chase to secure that certain Promissory Note evidencing the Senior Loan (the "Senior Note"), and a UCC-1 Financing Statement in favor of Chase (the "Chase UCC") to be recorded concurrently herewith in connection with the Senior Deed of Trust. The Senior Note, the Senior Deed of Trust and all other documents executed in connection with the Senior Loan shall be referred to herein as the "Senior Loan Documents." The Senior Deed of Trust encumbers, among other things, the Borrower's fee simple interest in the real property more particularly described in Exhibit A attached to this Agreement (the "Land") and is to be recorded concurrently herewith in the Official Records of Lake County, California ("Official Records"). The Land, together with all improvements now or hereafter located on the Land and all fixtures and personal property located on the Land and encumbered by any of the Recorded Items (as defined below) are referred to, collectively, as the "Property".

B. Junior Lender has made or is making the following two loans to Borrower (collectively, the “Junior Loan”):

- a. A loan (the “County Loan”) in the maximum principal amount of \$[1,449,144.13], which County Loan is being advanced pursuant to a certain Construction Loan Agreement by and between the County and Borrower, the “County Agreement”), is evidenced by a certain Promissory Note (the “County Note”) and is secured by a certain Short Form Deed of Trust and Assignment of Rents (Collier Avenue – MHSA-HHAP Loan) (the “County Deed of Trust”).
- b. A loan (the “PLHA Loan”) in the maximum principal amount of \$[602,469], which PLHA Loan is being advanced pursuant to a certain Construction Loan Agreement (the “PLHA Agreement” effective on or around the Closing Date, is evidenced by a certain Promissory Note (the “PLHA Note”) and is secured by a certain Short Form Deed of Trust and Assignment of Rents (the “PLHA Deed of Trust”).
- c. In connection with the Junior Loan, Borrower shall execute a certain Regulatory Agreement and Declaration of Restrictive Covenants (the “Junior Regulatory Agreement”) to be recorded concurrently herewith in the Official Records.

C. The Chase Deed of Trust, the Chase UCC, the PLHA Deed of Trust, the County Deed of Trust and the Junior Regulatory Agreement are referred to as the “Recorded Items.”

D. The County Deed of Trust and the PLHA Deed of Trust are collectively referred to herein as the “Junior Deed of Trust.”

E. It is the intent of the Parties that the order of priority of the Recorded Items as liens on or charges against the Property be as follows:

1. Chase Deed of Trust
2. Chase UCC
3. Junior Regulatory Agreement
4. County Deed of Trust
5. PLHA Deed of Trust

F. It is a condition precedent to the respective obligations of each Party under the Recorded Items to which it is a party that such Recorded Item unconditionally be and remain at all times a lien or charge on the Property, having priority with respect to the other Recorded Items in the order set forth above, and that each Party specifically and unconditionally subordinate the lien or charge of each of the Recorded Items to which it is a party as necessary in order that the Recorded Items have the relative priority set forth above.

In consideration of the mutual benefits accruing to the Parties and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce each Party to enter the Recorded Items to which it is a party, the Parties agree as follows:

AGREEMENT

1. Priority and Subordination.

(a) Each Recorded Item, and any and all renewals and extensions thereof, shall unconditionally be and remain at all times a lien or charge on the Property, having the relative priority with respect to the other Recorded Items as set forth above. Each Party intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of the Recorded Items to which it is a party in favor of the lien or charge upon the Property of the other Recorded Items to the extent necessary so that the Recorded Items shall have the relative priority set forth above.

(b) Each Party acknowledges that it has been offered a satisfactory opportunity to review each of the Recorded Items and related documents to the extent that it wishes to review them.

(c) Each Party will enter into a subordination agreement substantially similar to this Agreement with any lender which refinances the loan secured by the Chase Deed of Trust.

(d) Each Party acknowledges that its payment interests pursuant to the Recorded Items and any related documents shall have the relative priority with respect to payment interests pursuant to the other Recorded Items as set forth above. In addition, Junior Lender agrees that repayment of the indebtedness secured by the Junior Deed of Trust is and shall be postponed and subordinated to repayment in full of the indebtedness secured by the Senior Deed of Trust.

(e) Junior Lender shall not, without the prior written consent of Bank (which consent may be granted or withheld in Bank's sole and absolute discretion) pursue any remedy including, without limitation, the acceleration and/or demand of all or any part of the obligations secured by the Junior Deed of Trust, any foreclosure proceeding, exercise of power of sale, exercise of any rights as a secured party under the Uniform Commercial Code, any other public or private sale, acceptance of a tender of title to all or any portion of the Property in full or partial satisfaction of the Junior Deed of Trust, obtaining of a receiver, obtaining of a restraining order, protective order or injunction, seeking of default interest, taking possession or control of all or any portion of the Property, applying any funds pledged to Junior Lender or to any other obligation, exercising of any right of setoff against Borrower, initiating or voluntarily participating in any action or proceeding against Borrower or any of Borrower's assets, to enforce collection or payment of all or any portion of the obligations to Junior Lender or to enforce rights against all or any portion of the Property.

(f) Junior Lender agrees that Bank shall have all approval, consent and oversight rights in connection with any insurance claims relating to the Property, any decisions regarding the use of insurance proceeds after a casualty loss or condemnation awards, the hiring or firing of property managers, or otherwise related in any way to the Property, and Junior Lender shall have no right to object to any such action or approval taken by Bank and shall consent thereto and be bound thereby.

(g) Notwithstanding anything to the contrary in the Junior Regulatory Agreement or any of the other documents executed in connection with the Junior Loan, the prior written consent of Junior Lender shall not be required for (i) any foreclosure, deed-in-lieu of foreclosure or other realization on the security for Chase Loan or (ii) in connection with a subsequent sale of the Property following such foreclosure, deed-in-lieu of foreclosure or other realization; provided, however, that any such transferee, as owner, shall remain subject to all of the conditions, limitations and restrictions provided for in the such regulatory agreements.

2. **Reliance.** The Parties would not enter into the Recorded Items to which they are parties without this Agreement.

3. **Recording.** Each Party consents to the recording of each of the Recorded Items and this Agreement.

4. **No Obligation.** No Lender is under any obligation to any other Lender to, nor has any Lender represented that it will, see to the application of any proceeds of any loan secured by any of the Recorded Items except as may otherwise be set forth in a written agreement (other than this Agreement) executed by the Lender sought to be charged with such an obligation.

5. **Notice of Default; Opportunity to Cure.**

(a) Each Party shall give each of the other Parties notice of default under each Recorded Item in favor of such Party prior to enforcing remedies for such default against Borrower or the Property and each of the other Parties shall have the right to cure such default at any time that Borrower would have a right to cure it.

(b) If, prior to a foreclosure sale under a Recorded Item, a Lender or an entity wholly owned by a Lender takes title to the Property and cures the default on that Recorded Item, the beneficiary of that Recorded Item will not exercise any right it may have to accelerate the indebtedness secured by that Recorded Item solely by reason of that transfer (or will accept reinstatement if acceleration has already occurred).

(c) In the event a Lender acquires title to the Property, that Lender shall have the right to assume and succeed to Borrower's obligations under that Recorded Item and the documents secured by that Recorded Item, under the terms and conditions existing prior to the default, upon compliance with the reasonable requirements of the Lender which is the beneficiary of that Recorded Item as to assumptions.

6. **Actions by Chase; Certain Waivers.** Chase, without the consent of or notice to any other Lender, may enter into amendments of the Chase Deed of Trust and the documents and obligations secured thereby (collectively, the "Chase Loan Documents") in any manner, may release any or all persons or entities liable for any obligation secured by the Chase Loan Documents, and may release any or all security for the obligations secured by the Chase Loan Documents, all without affecting the subordination under this Agreement. Each Party waives any right to require marshaling of assets or to require Chase to proceed against or exhaust any specific security for the

obligations secured by the Chase Loan Documents, and waives any and all defenses arising out of the loss or impairment of any right of subrogation to the lien of the Chase Loan Documents.

7. **TCAC Regulatory Agreement.** The Parties acknowledge that Borrower will be required to enter into a regulatory agreement (the "**TCAC Regulatory Agreement**") with the California Tax Credit Allocation Committee ("**TCAC**"), which TCAC Regulatory Agreement will be on TCAC's standard form. If requested to do so, each Lender will consent to, and subordinate the lien or charge of the Recorded Items in its favor to, the TCAC Regulatory Agreement, on condition that the TCAC Regulatory Agreement includes provisions for termination thereof not later than three years after foreclosure (or deed in lieu of foreclosure) with respect to any Recorded Item which encumbers the Property, and is otherwise reasonably acceptable to each Lender.

8. **Miscellaneous.**

(a) **Entire Agreement.** This Agreement constitutes the entire agreement among the Parties with respect to the priority of the lien and charge of the Recorded Items against the Property and all prior understandings and agreements on that subject, if any, are superseded and replaced by this Agreement.

(b) **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the state where the Land is located.

(c) **Successors; Assignment.** This Agreement is for the benefit of the Lenders and their respective successors and assigns, and any provision hereof may be waived or modified by agreement of Lenders without the consent of Borrower, and without affecting the priority of the liens and charges of the Recorded Items as provided in this Agreement. The heirs, administrators, assigns and successors-in-interest of the Parties shall be bound by this Agreement. This Agreement may be assigned by a Party only as a part of an assignment of such Party's interest in the Property.

(d) **Notices.** All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when hand-delivered, or two business days after deposit in the U.S. mail, postage prepaid, to the Parties at the addresses set forth below, or to such other place as a Party may from time to time designate for itself by notice to the other Parties. No successor or assign of a Party shall be entitled to notices or opportunity to cure defaults hereunder unless notice of the transfer is given in accordance with this subsection.

(e) **Amendment.** This Agreement may be amended only by a writing signed by the Parties, but this clause shall not impair the validity of any further agreements among fewer than all of the Parties as among themselves.

(f) **Legal Costs.** In the event of any litigation, arbitration or other legal proceeding in which any Party seeks to enforce its rights under this Agreement or to recover damages for the breach thereof, the prevailing Party or Parties shall be entitled to recover its legal costs and expenses, including but not limited to attorneys' fees, from the non-prevailing Party or Parties, whether such costs and expenses are incurred in connection with trial court proceedings, on

appeal, in bankruptcy or other insolvency proceedings, in post-judgment collection proceedings, or otherwise.

(g) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and whether or not all Parties execute each counterpart.

(h) **Completion of Recording Information.** If this Agreement is signed without completion of certain recording information called for above, any Party or any escrow agent or title insurance company acting on the instructions of any Party is hereby authorized to insert such information prior to recording this Agreement.

(Remainder of page intentionally left blank)

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BORROWER:

COLLIER AVENUE ASSOCIATES LP,
a California limited partnership

By: Collier Avenue Associates LLC,
a California limited liability company,
its general partner

By: Rural Communities Housing Development Corporation,
a California nonprofit public benefit corporation,
its sole member and manager

By: _____
Ryan LaRue
Chief Executive Officer

Address:

Collier Avenue Associates LP
c/o Rural Communities Housing Development Corporation
499 Leslie Street
Ukiah, California 95482
Attention: Director of Development

With a copy to:

Goldfarb & Lipman LLP
1300 Clay Street, 11th Floor
Oakland, CA 94612
Attention: William DiCamillo

(Signature Page to Subordination Agreement)

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Chase:

JPMORGAN CHASE BANK, N.A.,
a national banking association

By: _____
Name: James Vossoughi
Its: Authorized Officer

Address:

JPMorgan Chase Bank, N.A.
Community Development Banking
560 Mission St, 4TH Floor
San Francisco, CA 94105
Attention: James S. Vossoughi, Vice President

And:

JPMorgan Chase Bank, N.A.
4 New York Plaza, 19th Floor
Mail Code: NY1-E092
New York, New York 10004
Attention: CDRE Counsel

(Signature Page to Subordination Agreement)

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JUNIOR LENDER:

LAKE COUNTY HOUSING COMMISSION,
a public body, corporate and politic

By: _____
Name: _____
Its: _____

Address:

PO Box 1024, Lucerne
California 95458-1024
Attn: County Administrator

(Signature Page to Subordination Agreement)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, a notary public in and for said state, personally appeared _____, who 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 capacities, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A
LEGAL DESCRIPTION

[to be inserted]