

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Attention: _____

SUBORDINATION AND INTERCREDITOR AGREEMENT

THIS SUBORDINATION AND INTERCREDITOR AGREEMENT (this “Agreement”) dated as of [USE ACTUAL CLOSING DATE], is made by and between CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE, a public agency of the State of California (“Junior Lender”) and [BANK] (“Senior Lender”).

RECITALS:

A. The Borrower has applied to Senior Lender for a loan in the maximum principal amount of [\$_____] (the “Senior Loan”) for the acquisition, construction, rehabilitation, development, equipping and/or operation of the Property.

B. The Senior Loan is evidenced by the Senior Note (as defined below) is secured by, among other things, that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the “Senior Security Instrument”), dated as of the date hereof, encumbering the Property, and will be advanced to Borrower pursuant to the Loan Agreement (as defined herein).

C. Junior Lender is making a [loan] [grant] (the “Junior Loan”) to Borrower in the original principal amount of [\$_____], which Junior Loan is evidenced by a certain note dated as of the date hereof made by Borrower to Junior Lender (the “Junior Note”) and secured by, the Junior Security Instrument (as hereinafter defined) encumbering the Property, and will be advanced to Borrower pursuant to that certain [TCAP Loan Agreement] [Section 1602 Conditional Grant Agreement] (the “Junior Loan Agreement”) dated as of the date hereof between Borrower and Junior Lender. In connection therewith, Borrower is executing in favor of Junior Lender a Right of First Refusal Agreement (“ROFR Agreement”). In connection with the Junior Loan, Borrower and Junior Lender have exec”) which related to the Junior Loan and which is an “extended low income housing commitment” as defined in Section 42(h)(6)(B) of the Internal Revenue Code of 1986, as amended (the “Code”).

D. Executed and recorded against the Property a [Regulatory Agreement] (“Regulatory Agreement”)

E. As a condition to the making of the Senior Loan, Senior Lender requires that Junior Lender execute and deliver this Agreement prior to the making of the Junior Loan and the granting of the Junior Security Instrument by Borrower.

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce the making of the Senior Loan and to induce Senior Lender to consent to the Junior Loan and the Junior Security Instrument, Junior Lender hereby agrees as follows:

1. **Definitions.** Capitalized terms used but not defined in this Agreement shall have the meanings ascribed thereto in the Senior Security Instrument. As used in this Agreement, the terms set forth below shall have the respective meanings indicated:

“*Bankruptcy Proceeding*” means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

“*Casualty*” means the occurrence of damage to or loss of any of the Property by fire or other casualty.

“*Condemnation*” means any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Property, whether direct or indirect.

“*Enforcement Action*” means the acceleration of all or any part of the Junior Indebtedness, the advertising of or commencement of any foreclosure or trustee’s sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of Rents, the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Property, the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Junior Note or any other of the Junior Loan Documents, the exercising of any banker’s lien or rights of set-off or recoupment, or the taking of any other enforcement action against Borrower, any other party liable for any of the Junior Indebtedness or obligated under any of the Junior Loan Documents, or the Property.

“*Enforcement Action Notice*” means a written notice from Junior Lender to Senior Lender, given following a Junior Loan Default and the expiration of any notice or cure periods provided for such Junior Loan Default in the Junior Loan Documents, setting forth in reasonable detail the Enforcement Action proposed to be taken by Junior Lender.

“*Junior Indebtedness*” means all indebtedness of any kind at any time evidenced or secured by, or arising under, the Junior Loan Documents, whether incurred, arising or accruing before or after the filing of any Bankruptcy Proceeding.

“*Junior Loan Default*” means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of notice or the passage of time, or both, would

constitute, an “Event of Default” as defined in the Junior Security Instrument or Junior Loan Agreement.

“*Junior Loan Documents*” means, collectively, the Junior Note, the Junior Security Instrument, the Junior Loan Agreement, the ROFR Agreement and all other documents evidencing, securing or delivered in connection with the Junior Loan, together with such modifications, amendments and supplements thereto as are approved in writing by Senior Lender prior to their execution.

“*Junior Security Instrument*” means that certain Subordinate Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date hereof, made by Borrower for the benefit of Junior Lender, as the same may from time to time be extended, consolidated, substituted for, modified, amended or supplemented upon receipt of the consent of Senior Lender.

“*Loan Agreement*” means that certain [Construction Loan Agreement] dated as of the date hereof by and between Borrower and Senior Lender relating to the Senior Loan.

“*Loss Proceeds*” means all monies received or to be received under any insurance policy, from any condemning authority, or from any other source, as a result of any Condemnation or Casualty.

“*Property*” means (i) the land and improvements known or to be known as [NAME OF PROJECT], located in [CITY], [COUNTY], State of California, which Property is more particularly described on Exhibit A attached hereto, and (ii) all furniture, fixtures and equipment located at such apartments and other property, accounts, deposits and rights and interests of Borrower encumbered by the Senior Security Instrument and/or the other Senior Loan Documents.

“*Senior Indebtedness*” means all indebtedness of any kind at any time evidenced or secured by, or arising under, the Senior Loan Documents, whether incurred, arising or accruing before or after the filing of any Bankruptcy Proceeding.

“*Senior Loan Default*” means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of notice or the passage of time, or both, would constitute, an “Event of Default” as defined in the Senior Loan Documents.

“*Senior Loan Documents*” means, collectively, the Senior Security Instrument, the Senior Note, the Loan Agreement and all of the other documents, instruments and agreements now or hereafter evidencing, securing or otherwise executed in connection with the Senior Loan, as the same may from time to time be extended, consolidated, substituted for, modified, increased, amended and supplemented in accordance with the provisions of this Agreement.

“*Senior Note*” means the Note, as defined by the Senior Security Instrument, as the same may from time to time be extended, consolidated, substituted for, modified, increased, amended and supplemented.

“*Senior Security Instrument*” means that certain [Deed of Trust, Assignment of Rents and Security Agreement and Fixture Filing] dated as of the date hereof, made by Borrower for the benefit of Senior Lender, as the same may from time to time be extended, consolidated, substituted for, modified, increased, amended and supplemented.

2. Junior Loan and Junior Loan Documents are Subordinate; Acts by Senior Lender do not Affect Subordination.

(a) Junior Lender hereby covenants and agrees on behalf of itself and its successors and permitted assigns that the Junior Indebtedness is and shall at all times continue to be, subordinate, subject and inferior (in payment and priority) to the prior payment in full of the Senior Indebtedness, and that the liens, rights, payment interests, priority interests and security interests granted to Junior Lender in connection with the Junior Loan and under the Junior Loan Documents are, and are hereby expressly acknowledged to be in all respects and at all times, subject, subordinate and inferior in all respects to the liens, rights, payment, priority and security interests granted to Senior Lender under the Senior Loan and the Senior Loan Documents and the terms, covenants, conditions, operations and effects thereof.

(b) Except as expressly set forth herein, repayment of the Junior Indebtedness, is and shall be postponed and subordinated to repayment in full of the Senior Loan. If (i) Junior Lender receives any payment, property, or asset of any kind or in any form on account of the Junior Indebtedness (including, without limitation, any proceeds from any Enforcement Action) after a Senior Loan Default of which Junior Lender has actual knowledge or has been given notice, or (ii) Junior Lender receives, voluntarily or involuntarily, by operation of law or otherwise, any payment, property, or asset in or in connection with any Bankruptcy Proceeding, such payment, property, or asset will be received and held in trust for Senior Lender. Junior Lender will promptly remit, in kind and properly endorsed as necessary, all such payments, properties, and assets to Senior Lender. Senior Lender shall apply any payment, asset, or property so received from Junior Lender to the Senior Indebtedness in such order, amount (with respect to any asset or property other than immediately available funds), and manner as Senior Lender shall determine in its sole and absolute discretion.

(c) Without limiting the complete subordination of the Junior Indebtedness to the payment in full of the Senior Indebtedness, in any Bankruptcy Proceeding, upon any payment or distribution (whether in cash, property, securities, or otherwise) to creditors (i) the Senior Indebtedness shall first be paid in full in cash before Junior Lender shall be entitled to receive any payment or other distribution on account of or in respect of the Junior Indebtedness, and (ii) until all of the Senior Indebtedness is paid in full in cash, any payment or distribution to which Junior Lender would be entitled but for this Agreement (whether in cash, property, or other assets) shall be made to Senior Lender.

(d) Junior Lender hereby acknowledges and agrees that Senior Lender may, without the consent or approval of Junior Lender, agree with Borrower to extend, consolidate, modify, increase or amend any or all the Senior Loan Documents and otherwise act or fail to act with respect to any matter set forth in any Senior Loan

Document (including, without limitation, the exercise of any rights or remedies, waiver, forbearance or delay in enforcing any rights or remedies, the declaration of acceleration, the declaration of defaults or events of default, the release, in whole or in part, of any collateral or other property, and any consent, approval or waiver), and all such extensions, consolidations, modifications, amendments acts and omissions shall not release, impair or otherwise affect Junior Lender's obligations and agreements hereunder.

(e) Senior Lender, in permitting disbursements of the proceeds of the Senior Loan pursuant to the Loan Agreement, is under no obligation or duty to ensure, nor has Senior Lender represented that it will ensure, the proper application of such proceeds, and any application or use of such proceeds for purposes other than as provided in any such agreement shall not defeat or render invalid, in whole or in part, the subordination provided for in this Agreement.

(f) Senior Lender has not made any warranty or representation of any kind or nature whatsoever to Junior Lender with respect to (i) the application of the proceeds of any disbursement made by Senior Lender for the account of Borrower, (ii) the value of the Property, or the improvements to be constructed thereon, or the marketability or value thereof upon completion of such construction, or (iii) the ability of Borrower to honor its covenants and agreements with Senior Lender or Junior Lender.

(g) In addition, Junior Lender agrees to subordinate the lien of the Junior Security Instrument and the payment of the Junior Indebtedness to the lien and payment in full of any financing obtained by Borrower to refinance, in whole or in part, the Senior Indebtedness so long as the new loan ("Qualifying Loan") [insert terms of Permanent Loan if known] (i) is in a principal amount not greater than the original principal amount of the Senior Indebtedness, (ii) has an interest rate (or if a variable rate, has an initial rate) that is not greater than seven points in excess of the average "Prime Rate" announced by the three United States based banks with the greatest total assets and (iii) is from a lender not affiliated with Borrower. Promptly upon notice to Junior Lender that Borrower intends to enter into a Qualifying Loan, but not later than twenty (20) days thereafter, Junior Lender will execute a Subordination and Intercreditor Agreement in the form of this Agreement with the entity making the Qualifying Loan.

Senior Lender acknowledges and agrees that, in the event of a foreclosure of its respective interest under the Construction/Permanent Deed of Trust or the City Deed of Trust, as applicable, or delivery by Borrower of a deed in lieu thereof (collectively, a "**Senior Loan Foreclosure**"), the following rule contained in Section 42(h)(6(E)(ii) of the Code shall apply:

For a period of three (3) years from the date of the Senior Loan Foreclosure, with respect to any unit that had been regulated by the Regulatory Agreement, (i) none of the eligible tenants occupying those units at the time of Senior Loan Foreclosure may be evicted or their tenancy terminated (other than for good cause, including but not limited to, the tenants' ineligibility pursuant to regulations of the HOME Program or Section 42 of Code), (ii) nor may any rent be increased except as otherwise permitted under Section 42 of the Code.

3. **Junior Lender Agreements.**

(a) Without the prior written consent of Senior Lender in each instance, Junior Lender shall not (i) amend, modify, waive, extend, renew or replace any provision of any of the Junior Loan Documents, or (ii) pledge, assign, transfer, convey, or sell any interest in the Junior Indebtedness or any of the Junior Loan Documents; or (iii) accept any payment on account of the Junior Indebtedness other than a regularly scheduled payment of interest or principal and interest made not earlier than ten (10) days prior to the due date thereof; or (iv) take any action which has the effect of increasing the Junior Indebtedness; or (v) appear in, defend or bring any action in connection with the Property; or (vi) take any action concerning environmental matters affecting the Property. Regardless of any contrary provision in the Junior Loan Documents, Junior Lender shall not collect payments for the purpose of escrowing for any cost or expense related to the Property or for any portion of the Junior Indebtedness.

(b) In the event and to the extent that each of Senior Lender and Junior Lender have under their respective loan documents certain approval or consent rights over the same subject matters (regardless of whether the obligations or rights are identical or substantially identical), Junior Lender agrees that Senior Lender shall exercise such approval rights on behalf of both Senior Lender and Junior Lender, and Junior Lender shall have no right to object to any such action or approval taken by Senior Lender and shall consent thereto and be bound thereby. Without limiting the generality of the foregoing, Senior Lender 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 Senior Lender and shall consent thereto and be bound thereby.

(c) Junior Lender shall not commence or join with any other creditor in commencing any Bankruptcy Proceeding involving Borrower, and Junior Lender shall not initiate and shall not be a party to any action, motion or request, in a Bankruptcy Proceeding involving any other person or entity, which seeks the consolidation of some or all of the assets of Borrower into such Bankruptcy Proceeding. In the event of any Bankruptcy Proceeding relating to Borrower or the Property or, in the event of any Bankruptcy Proceeding relating to any other person or entity into which (notwithstanding the covenant in the first sentence of this clause) the assets or interests of Borrower are consolidated, then in either event, the Senior Loan shall first be paid in full before Junior Lender shall be entitled to receive and retain any payment or distribution in respect to the Junior Loan. Junior Lender agrees that (i) Senior Lender shall receive all payments and distributions of every kind or character in respect of the Junior Loan to which Junior Lender would otherwise be entitled, but for the subordination provisions of this Agreement (including without limitation, any payments or distributions during the pendency of a Bankruptcy Proceeding involving Borrower or the Property), and (ii) the subordination of the Junior Loan and the Junior Loan Documents shall not be affected in

any way by Senior Lender electing, under Section 1111(b) of the federal bankruptcy code, to have its claim treated as being a fully secured claim.

(d) Junior Lender covenants and agrees that the effectiveness of this Agreement and the rights of Senior Lender hereunder shall be in no way impaired, affected, diminished or released by any renewal or extension of the time of payment of the Senior Loan, by any delay, forbearance, failure, neglect or refusal of Senior Lender in enforcing payment thereof or in enforcing the lien of or attempting to realize upon the Senior Loan Documents or any other security which may have been given or may hereafter be given for the Senior Loan, by any waiver or failure to exercise any right or remedy under the Senior Loan Documents, or by any other act or failure to act by Senior Lender. Junior Lender acknowledges that Senior Lender, at its sole option, may release all or any portion of the Property from the lien of the Senior Security Instrument, and may release or waive any guaranty, surety or indemnity providing additional collateral to Senior Lender, and Junior Lender hereby waives any legal or equitable right in respect of marshaling it might have, in connection with any release of all or any portion of the Property by Senior Lender, to require the separate sales of any portion of the Property or to require Senior Lender to exhaust its remedies against any portion of the Property or any other collateral before proceeding against any other portion of the Property or other collateral (including guarantees) for the Senior Loan. At any time or from time to time and any number of times, without notice to Junior Lender and without affecting the liability of Junior Lender, (a) the time for payment of the Senior Indebtedness may be extended or the Senior Indebtedness may be renewed in whole or in part; (b) the time for Borrower's performance of or compliance with any covenant or agreement contained in the Senior Loan Documents, whether presently existing or hereinafter entered into, may be extended or such performance or compliance may be waived; (c) the maturity of the Senior Indebtedness may be accelerated as provided in the Senior Loan Documents; (d) any Senior Loan Document may be modified or amended by Senior Lender and Borrower in any respect, including, but not limited to, an increase in the principal amount; and (e) any security for the Senior Indebtedness may be modified, exchanged, surrendered or otherwise dealt with or additional security may be pledged or mortgaged for the Senior Indebtedness. If, after the occurrence of a Senior Loan Default, Senior Lender acquires title to any of the Property pursuant to a mortgage foreclosure conducted in accordance with applicable law, the lien, operation, and effect of the Junior Security Instrument and other Junior Loan Documents automatically shall terminate with respect to such Property upon Senior Lender's acquisition of title.

4. Standstill Agreement; Right to Cure Senior Loan Default.

(a) Until such time as any of the Senior Indebtedness has been repaid in full and the Senior Security Instrument has been released and discharged, Junior Lender shall not without the prior written consent of Senior Lender, which may be withheld in Senior Lender's sole and absolute discretion, (i) accelerate the Junior Loan, (ii) exercise any of Junior Lender's remedies under the Junior Security Instrument or any of the other Junior Loan Documents (including, without limitation, the commencement of any judicial or non-judicial action of proceeding (a) to enforce any obligation of Borrower under any of the Junior Loan Documents, (b) to collect any monies payable to Borrower, (c) to have a

receiver appointed to collect any monies payable to Borrower; or (d) to foreclose the lien(s) created by the Junior Security Instrument) or (iii) file or join in the filing of any involuntary Bankruptcy Proceeding against Borrower or any person or entity which owns a direct or indirect interest in Borrower; provided, however, that such limitation on the remedies of Junior Lender shall not derogate or otherwise limit Junior Lender's rights, following an event of default under the Junior Loan Documents to (a) compute interest on all amounts due and payable under the Junior Loan at the default rate described in the Junior Loan Documents, (b) compute prepayment premiums and late charges, (c) enforce against any person, other than Borrower and any guarantors or indemnitors under the Senior Loan Documents, any guaranty of the obligations of Borrower under the Junior Loan and (d) specifically enforce the obligations of Borrower to comply with its non-monetary obligations under the Regulatory Agreement.

(b) Senior Lender shall, simultaneously with the sending of any notice of a Senior Loan Default to Borrower, send to Junior Lender a copy of said notice under the Senior Loan Documents; provided, however, failure to do so shall not affect the validity of such notice or any obligation of Borrower to Senior Lender and shall not affect the relative priorities between the Senior Loan and the Junior Loan as set forth herein. Borrower covenants and agrees to forward to Junior Lender, within three (3) business days of Borrower's receipt thereof, a copy of any notice of a Senior Loan Default Borrower receives from Senior Lender.

(c) Senior Lender agrees that it shall not complete a foreclosure sale of the Property or record a deed-in-lieu of foreclosure with respect to the Property (each, a "Foreclosure Remedy") unless Junior Lender has first been given thirty (30) days written notice of the event(s) of default giving Senior Lender the right to complete such Foreclosure Remedy, and unless Junior Lender has failed, within such thirty (30) day period, to cure such event(s) of default; provided, however, that Senior Lender shall be entitled during such thirty (30) day period to continue to pursue all of its rights and remedies under the Senior Loan Documents, including, but not limited to, acceleration of the Senior Loan (subject to any de-acceleration provisions specifically set forth in the Senior Loan Documents), commencement and pursuit of a judicial or non-judicial foreclosure (but not completion of the foreclosure sale), appointment of a receiver, enforcement of any guaranty (subject to any notice and cure provisions contained therein), and/or enforcement of any other Senior Loan Document. In the event Senior Lender has accelerated the Senior Loan and Junior Lender cures all events of default giving rise to such acceleration within the thirty (30) day cure period described above, such cure shall have the effect of de-accelerating the Senior Loan; provided, however, that such de-acceleration shall not waive or limit any of Senior Lender's rights to accelerate the Senior Loan or exercise any other remedies under the Senior Loan Documents as to any future or continuing events of default. It is the express intent of the parties hereunder that Senior Lender shall have the right to pursue all rights and remedies except completion of a Foreclosure Remedy without liability to Junior Lender for failure to provide timely notice to Junior Lender required hereunder, and that Senior Lender's liability hereunder shall be expressly limited to actual and consequential damages to Junior Lender directly caused by Senior Lender's completion of a Foreclosure Remedy without Junior Lender receiving the notice and opportunity to cure described above.

(d) Junior Lender shall not be subrogated to the rights of Senior Lender under the Senior Loan Documents by reason of Junior Lender having cured any Senior Loan Default. However, Senior Lender acknowledges that, to the extent so provided in the Junior Loan Documents, amounts advanced or expended by Junior Lender to cure a Senior Loan Default may be added to and become a part of the Junior Indebtedness.

5. **Insurance.** Junior Lender agrees that all original policies of insurance required pursuant to the Senior Security Instrument shall be held by Senior Lender. The preceding sentence shall not preclude Junior Lender from requiring that it be named as a loss payee, as its interest may appear, under all policies of property damage insurance maintained by Borrower with respect to the Property, provided such action does not affect the priority of payment of the proceeds of property damage insurance under the Senior Security Instrument, or that it be named as an additional insured under all policies of liability insurance maintained by Borrower with respect to the Property.

6. **Default.** Junior Lender and Borrower acknowledge and agree that a default by either such party under this Agreement shall, at the sole option of Senior Lender, constitute a default under the Senior Loan Documents. Each party hereto acknowledges that in the event any party fails to comply with its obligations hereunder, the other parties shall have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief. No failure or delay on the part of any party hereto in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder.

7. **Enforcement Costs.** Borrower and Junior Lender agree to reimburse Senior Lender for any and all costs and expenses (including reasonable attorneys' fees) incurred by Senior Lender in connection with enforcing its rights against Junior Lender under this Agreement.

8. **Notices.** Any notice which any party hereto may be required or may desire to give hereunder shall be deemed to have been given and shall be effective only if it is in writing and (i) delivered personally, (ii) mailed, postage prepaid, by United State registered or certified mail, return receipts requested, (iii) delivered by overnight express courier or (iv) sent by telecopier, in each instance addressed as follows:

To Junior Lender: California Tax Credit Allocation Committee
915 Capitol Mall, Room 485
Sacramento, CA 95814
Attn: Executive Director
Fax: _____

If to Senior Lender: _____

Attention: _____
Facsimile: _____

AND

Attention: _____
Facsimile: _____

with copies to:

Attention: _____
Facsimile: _____

AND

Attention: _____
Facsimile: _____

AND

Attention: _____
Facsimile: _____

or at such other addresses or to the attention of such other persons as may from time to time be designated by the party to be addressed by written notice to the other in the manner herein provided. Notices, demands and requests given in the manner aforesaid shall be deemed sufficiently served or given for all purposes hereunder when received or when delivery is refused or when the same are returned to sender for failure to be called for.

9. **JURY TRIAL WAIVER.** TO THE EXTENT PERMITTED BY LAW, THE PARTIES HERETO HEREBY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT.

10. **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 Senior Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Junior Loan Documents, other than by reason of payments which Junior Lender is obligated to remit to Senior Lender pursuant to the terms hereof; (iii) the acquisition by 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 Senior Security Instrument; or (iv) the acquisition by Junior 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 Junior Security Instrument, but only if such acquisition of title does not violate any of the terms of this Agreement.

11. **Miscellaneous.**

(a) Junior Lender shall, within ten (10) business days following a request from Senior Lender, provide Senior Lender with a written statement setting forth the then current outstanding principal balance of the Junior Loan, the aggregate accrued and unpaid interest under the Junior Loan, and stating whether, to the knowledge of Junior Lender, any default or event of default exists under the Junior Loan, and containing such other information with respect to the Junior Indebtedness as Senior Lender may require. Upon notice from Senior Lender from time to time, Junior Lender shall execute and deliver such additional instruments and documents, and shall take such actions, as are required by Senior Lender in order to further evidence or effectuate the provisions and intent of this Agreement.

(b) Junior Lender shall give Senior Lender a concurrent copy of each notice of a Junior Loan Default or other material notice given by Junior Lender under the Junior Loan Documents.

(c) This Agreement shall bind and inure to the benefit of all successors and assigns of Junior Lender and Senior Lender. Senior Lender may assign its interest in the Senior Loan Documents without notice to or consent of Junior Lender. Junior Lender may only assign its rights and interests hereunder following the prior written consent of Senior Lender, which consent may be withheld or conditioned in its sole and absolute discretion.

(d) Senior Lender hereby consents to the Junior Loan and the Junior Loan Documents; provided, however, that this Agreement does not constitute an approval by Senior Lender of the terms of the Junior Loan Documents. Junior Lender hereby consents to the Senior Loan and the Senior Loan Documents; provided, however, that this Agreement does not constitute an approval by Junior Lender of the terms of the Senior Loan Documents.

(e) This Agreement may be executed in counterpart originals, each of which shall constitute an original and all of which, when taken together, shall constitute one and the same instrument.

(f) IN ALL RESPECTS, INCLUDING, WITHOUT LIMITATION, MATTERS OF CONSTRUCTION AND PERFORMANCE OF THIS AGREEMENT AND THE OBLIGATIONS ARISING HEREUNDER, THIS AGREEMENT HAS BEEN ENTERED INTO AND DELIVERED IN, AND SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY, THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT GIVING EFFECT TO ANY PRINCIPLES OF CONFLICTS OF LAW.

(g) Time is of the essence in the performance of every covenant and agreement contained in this Agreement.

(h) If any provision or remedy set forth in this Agreement for any reason shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or remedy of this Agreement and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or remedy had never been set forth herein, but only to the extent of such invalidity, illegality or unenforceability.

(i) Each party hereto hereby represents and warrants that this Agreement has been duly authorized, executed and delivered by it and constitutes a legal, valid and binding agreement enforceable in all material respects in accordance with its terms.

(j) No amendment, supplement, modification, waiver or termination of this Agreement shall be effective against any party unless such amendment, supplement, modification, waiver or termination is contained in a writing signed by such party.

(k) No party other than Senior Lender and Junior Lender shall have any rights under, or be deemed a beneficiary of any of the provisions of, this Agreement.

(l) Nothing herein or in any of the Senior Loan Documents or Junior Loan Documents shall be deemed to constitute Senior Lender as a joint venturer or partner of Junior Lender.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Subordination and Intercreditor Agreement or caused this Subordination and Intercreditor Agreement to be duly executed and delivered by their respective authorized representatives as of the date first set forth above. The undersigned intend that this instrument shall be deemed to be signed and delivered as a sealed instrument.

JUNIOR LENDER:

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

By: _____
Name: _____
Title: _____

(signatures follow on subsequent page)

SENIOR LENDER:

[SENIOR LENDER SIGNATURE BLOCK]

(signatures follow on subsequent page)

ACKNOWLEDGED AND AGREED AS OF THE DATE FIRST SET FORTH ABOVE:

BORROWER:

[BORROWER SIGNATURE BLOCK]

EXHIBIT A

LEGAL DESCRIPTION

[Attached hereto]