

**CDBG PIGGYBACK PROGRAM
GAP FINANCING NOTE**

US \$ _____, 200_____

FOR VALUE RECEIVED, the undersigned (“**Borrower**”) jointly and severally and in solido (if more than one) promises to pay to the order of **THE STATE OF LOUISIANA, DIVISION OF ADMINISTRATION OFFICE OF COMMUNITY DEVELOPMENT (“OCD”)**, the principal sum of _____ Dollars (US \$ _____), with interest accruing at the Interest Rate on the unpaid principal balance from the Disbursement Date until fully paid. In evidence of the agreement between the parties, Borrower and OCD have executed this Gap Financing Note (this “**Note**”).

1. Defined Terms. In addition to the defined terms found elsewhere in this Note, as used herein, the following definitions shall apply. Capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Loan Agreement or the Mortgage.

(a) Business Day: Any day other than a Saturday, Sunday or any other day on which Lender is not open for business.

(b) CDBG Regulatory Agreement: a regulatory agreement in favor of OCD that shall (i) run with the land; (ii) have a term of thirty-five (35) years; (iii) survive (x) the expiration of any PBRA Contract, and (y) the repayment of any Gap Financing Loan; and (iv) contain the applicable terms, conditions, restrictions and regulations agreed to in the Application, and as required by the Piggyback Program Description.

(c) Debt Service Amounts: Amounts payable under the Loan Agreement, this Note, the Mortgage or any other Loan Document from Surplus Cash.

(d) Default Rate: A rate equal to the lesser of four (4) percentage points above the Interest Rate or the maximum interest rate which may be collected from Borrower under applicable law.

(e) Deferred Developer Fee: The lesser of (1) the amount of the deferred developer fee listed in the Application; or (2) the amount of the actual deferred developer fee for the Project, excluding interest paid on the Deferred Developer Fee.

(f) Disbursement Date: The date or dates of disbursement of Loan proceeds hereunder.

(g) Gap Financing Loan: Any Gap Financing Loan, as that term is defined in the Loan Agreement.

(h) Indebtedness: The principal of, interest on, or any other amounts due at any time under the Gap Financing Loan (including that evidenced by this Note), the Loan Agreement, the Mortgage or any other Loan Document, including prepayment premiums, late charges, default interest, and advances to protect the security of the Mortgage under the terms of the Mortgage, reasonable attorney’s fees and court costs, and other fees and costs due and payable under the Loan Documents.

- (i) **Interest Rate:** The annual rate of _____ percent (____%).
- (j) **Key Principal:** a person or entity acceptable to OCD, which may include the general partner of Borrower's limited partnership or the managing member of Borrower's limited liability company, or other Affiliate of Borrower, which has an economic interest in Borrower, or which will otherwise obtain a material financial benefit from the Gap Financing Loan and/or the PBRA Contract.
- (k) **Lender:** The holder of this Note, including without limitation OCD.
- (l) **Loan:** The loan evidenced by this Note.
- (m) **Loan Agreement:** The Gap Financing Loan Agreement between Borrower and OCD governing the terms and conditions of the Loan, as modified, amended, or supplemented from time to time in accordance with its terms.
- (n) **Loan Documents:** This Note; the Loan Agreement; the Mortgage; UCC-Financing Statements covering the fixtures and personal property located at the Project; the Regulatory Agreements; the Operating Deficit Guaranty; the Completion Guaranty; the PBRA Contract, if applicable; and such other documents, agreements, instruments or certificates as OCD and its counsel may require, including such documents as OCD in its sole discretion deems necessary or appropriate to evidence or secure the Indebtedness.
- (o) **Loan Term:** _____.
- (p) **Maturity Date:** The earliest to occur of (i) sale or refinancing of the Project; (ii) acceleration following an Event of Default under the Loan Documents that is not cured within any applicable grace or cure period; or (iii) _____ [insert outside Maturity Date].
- (q) **Mortgage:** The Mortgage, Assignment of Leases and Rents, and Security Agreement, which shall (a) constitute a _____ [insert first or second] lien upon the Project, and (b) constitute a _____ [insert first or second] lien upon and security interest in all fixtures and personal property relating to or located in the Project, and (c) secures Borrower's obligations to OCD under the Loan Documents, and the Regulatory Agreements.
- (r) **Project:** That certain multifamily apartment project located on certain immovable property (the "**Land**") as more fully described in the Loan Agreement.
- (s) **Property Jurisdiction:** The jurisdiction in which the Project is located.
- (t) **Regulatory Agreements:** The Tax Credit Regulatory Agreement and the CDBG Regulatory Agreement.
- (u) **Surplus Cash:** any cash (excluding tenant security deposits) remaining at the end of each fiscal year of the Borrower after: (A) payment of all operating expenses for the Project for such fiscal year; (B) payment of all sums due or currently required to be paid under the terms of any Permanent Loan Mortgage encumbering the Project and the promissory note secured by such Permanent Loan Mortgage; and (C) payment of all amounts required to be deposited into any reserve fund for the payment of operating expenses, any reserve for replacements to the Project, or any other special reserve funds required to be maintained by the Project under the Permanent Loan Mortgage or the Loan Documents.

(v) **Tax Credit Regulatory Agreement:** The regulatory agreement in favor of LHFA in connection with the issuance of the GO Zone Credits for the Project.

2. **Address for Payment.** All payments due under this Note shall be payable at

or such other place as may be designated by written notice to Borrower from or on behalf of Lender.

3. **Payment of Principal and Interest.** Principal and interest shall be paid as follows:

(a) **Interest Computation.** Interest under this Note shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

(b) **Annual Installments:** The principal amount of the Gap Financing Loan is to be repaid in annual installments solely from Surplus Cash, to the extent Surplus Cash is generated from the operation of the Project, as follows:

(i) **Until the Borrower has received Surplus Cash in an amount equal to the Deferred Developer Fee:** the sum of \$_____ (the “Fixed Amount”) plus one-third (1/3) of the first \$1,000.00 per unit of Surplus Cash generated from the operation of the Project in excess of the Fixed Amount; and

(ii) **After the Borrower has received Surplus Cash in an amount equal to the Deferred Developer Fee:** the sum of (A) the Fixed Amount; plus (B) one-third (1/3) of the first \$1,000.00 per unit of Surplus Cash generated from the operation of the Project in excess of the Fixed Amount; plus (C) two-thirds (2/3) of Surplus Cash in excess of the sum of (A) and (B).

(c) **Payments Before Due Date.** Any regularly scheduled annual installment of principal and interest that is received by Lender before the date it is due shall be deemed to have been received on the due date solely for the purpose of calculating interest due.

(d) **Audit of Surplus Cash.** Annually, within one hundred twenty (120) days after the end of Borrower’s fiscal year, Borrower shall provide Lender with an audited schedule of Surplus Cash for the previous fiscal year, certified to be true and correct by Borrower’s chief financial officer.

(e) **Accrued Interest.** Any accrued but unpaid interest shall be added to and become part of the unpaid principal balance and shall bear interest at the rate or rates specified in this Note. Any reference herein to “accrued interest” shall refer to accrued interest that has not become part of the unpaid principal balance. Any amount added to principal pursuant to the Loan Documents shall bear interest at the applicable rate or rates specified in this Note and shall be payable with such interest upon demand by Lender and absent such demand, as provided in this Note for the payment of principal and interest.

(f) **Subordination.** The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the Permanent Loan indebtedness evidenced by a promissory note, dated _____ (the “Permanent Loan Note”) in the original principal amount of \$_____ issued by Borrower and payable to _____ (“Permanent Loan Lender”), or order, to the extent and in the manner provided in that certain

Subordination Agreement of even date herewith between the Borrower, Lender, and the Permanent Loan Lender (the “**Subordination Agreement**”). The Mortgage securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the [Mortgage, Assignment of Leases and Rents, and Security Agreement] securing the Permanent Loan Note (the “**Permanent Loan Mortgage**”) as more fully set forth in the Subordination Agreement. The rights and remedies of the payee and each subsequent holder of this Note under the Mortgage are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder’s acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Subordinate Lender under the Subordination Agreement.

(g) **Cost Certification.** Borrower acknowledges and agrees that the principal amounts of the Indebtedness were calculated based upon estimated costs for the development, restoration, replacement, rehabilitation, and/or construction of the Project provided by the Borrower. Borrower agrees to provide OCD with a cost certification audit acceptable to OCD (the “**Cost Certification Audit**”), prepared by an independent third party consulting or accounting firm acceptable to OCD, certifying the actual costs incurred and paid by Borrower in the development, restoration, rehabilitation, replacement and/or construction of the Project, and including such other information as OCD may require, within thirty (30) days of submitting a Cost Certification Audit to LHFA. Borrower agrees to cooperate with OCD and to provide any documentation deemed necessary by OCD for a complete audit. OCD agrees that any accounting firm providing the Low Income Housing Tax Credit Cost Certification acceptable to LHFA is an acceptable accounting firm under this Section 1.2(f).

(h) **Reduction of Gap Financing Loan.** Notwithstanding anything to the contrary contained herein or in the Award Agreement, OCD may reduce the principal amounts of the Indebtedness in the event the Cost Certification Audit or the final subsidy layering analysis of the Project completed by OCD discloses that the actual costs incurred by Borrower in the development, restoration, replacement, rehabilitation, and/or construction of the Project were less than the estimated costs for the development, restoration, replacements, rehabilitation, and/or construction of the Project upon which the calculation of the principal amount of the Indebtedness as set forth in the Award Agreement were based. The principal amounts of the Gap Financing Loan may be reduced based on the actual Project costs incurred by Borrower, the amount of GO Zone Tax Credits awarded to the Project, and the final amount, terms and conditions of the Borrower’s Permanent Loan, if any. If the amount of Gap Financing Loan proceeds advanced to Borrower prior to completion of the Cost Certification Audit and final subsidy layering analysis, exceeds the principal amount of the Gap Financing Loan supported by the Cost Certification Audit and final subsidy layering analysis (“**Excess Proceeds**”), OCD may reduce the amount of the final disbursement, and Borrower shall pay OCD the amount of any remaining Excess Proceeds in one lump sum payment within thirty (30) days of receiving written notice from OCD that the Excess Proceeds are due and payable.

(i) **Due on Sale or Transfer Restrictions.** Repayment in full of the Gap Financing Loan is due on sale and/or on refinancing of the Project, including without limitation payment of all principal and accrued and unpaid interest.

- (1) Subject to the terms of this Section 3(i), 100% of the Indebtedness is due upon sale or refinancing of the Project, absent OCD’s written waiver. OCD may, in its sole discretion, accept less than 100% of the amounts then due, but such waiver will not constitute forgiveness of any Indebtedness.

- (2) Notwithstanding the foregoing to the contrary, in the case of a transfer of the Project, The Owner hereby covenants and agrees not to sell, transfer or otherwise dispose of the Project, or any portion thereof, without obtaining the prior written consent of OCD, which consent shall be in OCD's sole discretion. OCD may, in its sole discretion, allow the transferee to assume the remaining Indebtedness.
- (3) Notwithstanding the foregoing,
- (A) the pledge to a limited partner by a general partner of the general partner's interest in a partnership agreement as security for the performance of all of the general partner's obligations under the partnership agreement shall not constitute a refinancing for purposes of this Note or the Loan Documents;
- (B) a sale, transfer, pledge, encumbrance or other disposition of any investor limited partner/investor member interests in Borrower shall not require OCD's consent nor constitute a sale of the Project for the purposes of this Section 3(i), unless such transaction results in a sale of more than 51% of the investor limited partner/investor member interests in Borrower; and
- (C) the change in the general partner/managing member of Borrower as general partner/managing member of Borrower in accordance with the terms of the limited partnership agreement/operating agreement of Borrower shall not require OCD consent nor constitute a sale of the Project for the purposes of this Section 3(i);

provided, however, that for purposes of subsections (2) and (3) of this Section 3(i) that (x) Borrower shall provide OCD with notice of any such change; and (y) any entity replacing the general partner/managing member of the Borrower is under direct or indirect common control or management, or has a Controlling Interest in, the investor limited partner/investor member.

4. Application of Payments. If at any time Lender receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, Lender may apply that payment to amounts then due and payable in any manner and in any order determined by Lender, in Lender's discretion. Borrower agrees that neither Lender's acceptance of a payment from Borrower in an amount that is less than all amounts then due and payable nor Lender's application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

5. Security. The Indebtedness is also evidenced by the Loan Agreement, and secured, among other things, by the Mortgage, and reference is made to the Mortgage for other rights of Lender concerning the collateral for the Indebtedness.

6. Acceleration. If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest and all other amounts payable under this Note and any other Loan Document shall at once become due and payable, at the option of Lender, without any prior notice to Borrower. Lender may exercise this option to accelerate regardless of any prior forbearance.

7. Late Charge. If any annual installment due hereunder is not received by Lender on or before the tenth (10th) day of each month or if any other amount payable under this Note or under the

Mortgage or any other Loan Document is not received by Lender within ten (10) days after the date such amount is due, counting from and including the date such amount is due, Borrower shall pay to Lender, immediately and without demand by Lender, a late charge equal to 5 percent (5%) of such annual installment or other amount due. Borrower acknowledges that its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Loan and that it is extremely difficult and impractical to determine those additional expenses. Borrower agrees that the late charge payable pursuant to this Paragraph represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional expenses Lender will incur by reason of such late payment. The late charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate pursuant to Paragraph 8.

8. Default Rate. So long as any annual installment or any other payment due under this Note remains past due for thirty (30) days or more, interest under this Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid annual installment or other payment due, as applicable, at the Default Rate. If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate. Borrower also acknowledges that its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Loan, and that during the time that any annual installment or payment under this Note is delinquent for more than thirty (30) days, Lender will incur additional costs and expenses arising from its loss of the use of the money due and from the adverse impact on Lender's ability to meet its other obligations and to take advantage of other investment opportunities, and that it is extremely difficult and impractical to determine those additional costs and expenses. Borrower also acknowledges that, during the time that any annual installment or other payment due under this Note is delinquent for more than thirty (30) days, Lender's risk of nonpayment of this Note will be materially increased and Lender is entitled to be compensated for such increased risk. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional costs and expenses Lender will incur by reason of the Borrower's delinquent payment and the additional compensation Lender is entitled to receive for the increased risks of nonpayment associated with a delinquent loan.

Notwithstanding the foregoing to the contrary, if Surplus Cash is negative in any year during the Term of the Gap Financing Loan, no annual payment of principal hereunder shall be due for that year, but interest shall continue to accrue; the Default Rate shall not apply to failure to pay principal in any one year if the failure is due to negative Surplus Cash in that year.

9. Limits on Personal Liability.

(a) Except as otherwise provided in this Paragraph 9, Borrower shall have no personal liability under this Note, the Mortgage or any other Loan Document for the repayment of the Indebtedness or for the performance of any other obligations of Borrower under the Loan Documents, and Lender's only recourse for the satisfaction of the Indebtedness and the performance of such obligations shall be Lender's exercise of its rights and remedies with respect to the Project, the Mortgaged Property and any other collateral held by Lender as security for the Indebtedness. This limitation on Borrower's liability shall not limit or impair Lender's enforcement of its rights against any Key Principal guaranteeing any indebtedness or any obligations of Borrower.

(b) Borrower shall be personally liable to Lender for the repayment of a portion of the Indebtedness equal to any loss or damage suffered by Lender as a result of:

- (i) failure of Borrower to pay to Lender upon demand after an Event of Default, all rents, revenues and profits from the operation of the Project to which Lender is entitled under the Mortgage, and the amount of all security deposits collected by Borrower from tenants then in residence;
- (ii) failure of Borrower to apply all insurance proceeds and condemnation proceeds as required by the Mortgage;
- (iii) failure of Borrower to comply with the requirements in the Mortgage relating to the delivery of books and records, statements, schedules and reports;
- (iv) fraud or any written material misrepresentation by Borrower or any officer, agent, director, partner, member or employee of Borrower in connection with the Application, the Loan Documents, or any request by Lender;
- (v) failure to apply rents, revenues and profits, first, to the payment of reasonable operating expenses (other than Property management fees that are not currently payable) and then to Debt Service Amounts due, except that Borrower will not be personally liable (i) to the extent that Borrower lacks the legal right to direct the disbursement of such sums because of a Permanent Loan Mortgage encumbering the Project, or bankruptcy, receivership or similar judicial proceedings, or (ii) with respect to Surplus Cash distributed in any calendar year if Borrower has paid all operating expenses and Debt Service Amounts due for that calendar year; or
- (vi) failure of Borrower to pay all deductibles required under any of the insurance policies required to be maintained under Section 6.3 of the Loan Agreement.

(c) Borrower shall become personally liable to Lender for the repayment of all of the Indebtedness due upon the occurrence of any of the following Events of Default:

- (i) Borrower's acquisition of any property or operation of any business not permitted by the Mortgage; or
- (ii) a Transfer that is an Event of Default under the Mortgage.

(d) To the extent that Borrower has personal liability under this Paragraph 9, OCD may exercise its rights against Borrower personally without regard to whether Lender has exercised any rights against the Mortgaged Property or any other security, or pursued any rights against any Key Principal, or pursued any other rights available to Lender under the Loan Documents or applicable law.

(e) Notwithstanding the foregoing provisions, one or more Key Principals shall be personally liable to Lender upon the occurrence of an Event of Default by Borrower, and shall agree to pay to Lender, or its assigns, on demand, all amounts for which Borrower is personally liable under the Loan Documents, including without limitation Paragraph 9(b) and (c) hereunder. The obligations of each Key Principal shall survive any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of the Mortgage. Lender may pursue its remedies against any Key Principal without first exhausting its remedies against the Borrower or the Project; provided, however, with respect to a Key Principal's obligation under the Operating Deficit Guaranty; if a Key

Principal is an organization exempt from payment of federal income tax under Section 501(a) of the Internal Revenue Code of 1986, as amended (“Code”), as an entity organized under Section 501(c)(3) of the Code, the Key Principal’s obligations under any Operating Deficit Guaranty shall (i) not extend more than five (5) years from the date that the Project first achieves “break-even operations”, and (ii) be capped at an amount equal to “six (6) months” of operating expenses. For purposes of this section, “break-even operations” mean the date upon which (i) the Project achieves 95 percent occupancy, and (ii) the revenues received from the normal operation of the Project equal all accumulated operational costs of the Project for a period of three (3) consecutive months after completion of construction computed on a cash basis and in accordance with the Project and Loan Documents.

10. Prepayments. Borrower may prepay this Note in whole or in part with or without notice to Lender and without prepayment penalty.

11. Costs and Expenses. Borrower shall pay on demand all expenses and costs, including fees and out-of-pocket expenses of attorneys and expert witnesses and costs of investigation, incurred by Lender as a result of any default under this Note or in connection with efforts to collect any amount due under this Note, or to enforce the provisions of any of the other Loan Documents, including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or non-judicial foreclosure proceeding.

12. Forbearance. Any forbearance by Lender in exercising any right or remedy under this Note, the Mortgage, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender’s right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by Lender of any security for Borrower’s obligations under this Note shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right or remedy available to Lender.

13. Waivers. Presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace, and diligence in collecting the Indebtedness are waived by Borrower, Key Principal, and all endorsers and guarantors of this Note and all other third party obligors.

14. Loan Charges. Borrower agrees to pay an effective rate of interest equal to the sum of the Interest Rate provided for in this Note and any additional rate of interest resulting from any other charges of interest or in the nature of interest paid or to be paid in connection with the loan evidenced by this Note and any other fees or amounts to be paid by Borrower pursuant to any of the other Loan Documents. Neither this Note nor any of the other Loan Documents shall be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate greater than the maximum interest rate permitted to be charged under applicable law. If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower in connection with the Loan is interpreted so that any interest or other charge provided for in any Loan Document, whether considered separately or together with other charges provided for in any other Loan Document, violates that law, and Borrower is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Lender in excess of the permitted amounts shall be applied by Lender to reduce the unpaid principal balance of this Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges

permitted to be collected from Borrower has been violated, all Indebtedness that constitutes interest, as well as all other charges made in connection with the Indebtedness that constitute interest, shall be deemed to be allocated and spread ratably over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of the Note.

15. Commercial Purpose. Borrower represents that the Indebtedness is being incurred by Borrower solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family or household purposes.

16. Counting of Days. Except where otherwise specifically provided, any reference in this Note to a period of “days” means calendar days, not Business Days.

17. Governing Law. This Note shall be governed by the law of the Property Jurisdiction.

18. Captions. The captions of the paragraphs of this Note are for convenience only and shall be disregarded in construing this Note.

19. Notices. All notices, demands and other communications required or permitted to be given by Lender to Borrower pursuant to this Note shall be given in accordance with Section 31 of the Mortgage.

20. Consent to Jurisdiction and Venue. Borrower and Key Principal each agree that any controversy arising under or in relation to this Note shall be litigated exclusively in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Note. Borrower and Key Principal each irrevocably consent to service, jurisdiction, and venue of such courts for any such litigation and waive any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

21. WAIVER OF TRIAL BY JURY. BORROWER, KEY PRINCIPAL AND LENDER EACH (A) AGREE NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS NOTE OR THE RELATIONSHIP BETWEEN THE PARTIES AS LENDER, KEY PRINCIPAL AND BORROWER THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

IN WITNESS WHEREOF, Borrower has signed and delivered this Note or has caused this Note to be signed and delivered by its duly authorized representative.

BORROWER

By: _____

Name: _____

Title: _____

Borrower's Social Security/Employer ID Number

**ACKNOWLEDGMENT AND AGREEMENT OF KEY PRINCIPAL TO
PERSONAL LIABILITY FOR EXCEPTIONS TO NON-RECOURSE LIABILITY**

Key Principal, who has an economic interest in Borrower or who will otherwise obtain a material financial benefit from the Loan, hereby absolutely, unconditionally and irrevocably agrees to pay to Lender, or its assigns, on demand, all amounts for which Borrower is personally liable under Paragraph 9 of the Note to which this Acknowledgment is attached (the “**Note**”). The obligations of Key Principal shall survive any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of the Mortgage. Lender may pursue its remedies against Key Principal without first exhausting its remedies against the Borrower or the Project. All capitalized terms used but not defined in this Acknowledgment shall have the meanings given to such terms in the Mortgage. As used in this Acknowledgment, the term “Key Principal” (each if more than one) shall mean only those individuals or entities that execute this Acknowledgment.

The obligations of Key Principal shall be performed without demand by Lender and shall be unconditional irrespective of the genuineness, validity, or enforceability of the Note, or any other Loan Document, and without regard to any other circumstance which might otherwise constitute a legal or equitable discharge of a surety or a guarantor. Key Principal hereby waives the benefit of all principles or provisions of law, which are or might be in conflict with the terms of this Acknowledgment, and agrees that Key Principal’s obligations shall not be affected by any circumstances which might otherwise constitute a legal or equitable discharge of a surety or a guarantor. Key Principal hereby waives the benefits of any right of discharge and all other rights under any and all statutes or other laws relating to guarantors or sureties, to the fullest extent permitted by law, diligence in collecting the Indebtedness, presentment, demand for payment, protest, all notices with respect to the Note including this Acknowledgment, which may be required by statute, rule of law or otherwise to preserve Lender’s rights against Key Principal under this Acknowledgment, including notice of acceptance, notice of any amendment of the Loan Documents, notice of the occurrence of any default or Event of Default, notice of intent to accelerate, notice of acceleration, notice of dishonor, notice of foreclosure, notice of protest, notice of the incurring by Borrower of any obligation or indebtedness and all rights to require Lender to: (a) proceed against Borrower; (b) proceed against any general partner of Borrower; (c) proceed against or exhaust any collateral held by Lender to secure the repayment of the Indebtedness; (d) if Borrower is a partnership, pursue any other remedy it may have against Borrower, or any general partner of Borrower; or (e) demand or require collateral security from Borrower or any other Person as provided by applicable law or otherwise.

At any time without notice to Key Principal, and without affecting the liability of Key Principal hereunder: (a) the time for payment of the principal of or interest on the Indebtedness may be extended or the 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 Note, or any other Loan Document, whether presently existing or hereinafter entered into, may be extended or such performance or compliance may be waived; (c) the maturity of the Indebtedness may be accelerated as provided in the Note or any other Loan Document; (d) the Note or any other Loan Document may be modified or amended by Lender and Borrower in any respect, including an increase in the principal amount; and (e) any security for the Indebtedness may be modified, exchanged, surrendered or otherwise dealt with or additional security may be pledged or mortgaged for the Indebtedness; (f) the payment of the Indebtedness or any security for the Indebtedness, or both, may be subordinated to the right to payment or the security, or both, of any other present or future creditor of Borrower; and (g) any payments made by Borrower to Lender may be applied to the Indebtedness in such priority as Lender may determine in its discretion.

Key Principal acknowledges that Key Principal has received a copy of the Note and all other Loan Documents. Neither this Acknowledgment nor any of its provisions may be waived, modified, amended, discharged, or terminated except by an agreement in writing signed by the party against which the enforcement of the waiver, modification, amendment, discharge, or termination is sought, and then only to the extent set forth in that agreement. Key Principal agrees to notify Lender (in the manner for giving notices provided in Section 31 of the Mortgage) of any change of Key Principal's address within 10 Business Days after such change of address occurs. Any notices to Key Principal shall be given in the manner provided in Section 31 of the Mortgage. Key Principal agrees to be bound by Paragraphs 20 and 21 of the Note.

THIS ACKNOWLEDGMENT IS AN INSTRUMENT SEPARATE FROM, AND NOT A PART OF, THE NOTE. BY SIGNING THIS ACKNOWLEDGMENT, KEY PRINCIPAL DOES NOT INTEND TO BECOME AN ACCOMMODATION PARTY TO, OR AN ENDORSER OF, THE NOTE.

IN WITNESS WHEREOF, Key Principal has signed and delivered this Acknowledgment or has caused this Acknowledgment to be signed and delivered by its duly authorized representative.

KEY PRINCIPAL

Name: _____
Address _____

Social Security/Employer ID Number

Name: _____
Address _____

Social Security/Employer ID Number