

THIS INSTRUMENT PREPARED
BY AND RETURN TO:
Jan Albanese Carpenter, Esq.
Latham, Shuker, Eden & Beaudine, LLP
P.O. Box 3353
Orlando, Florida 32802

ABOVE SPACE RESERVED FOR
RECORDING PURPOSES ONLY

SUBORDINATION AGREEMENT

(City of Orlando, HOME subordination to FHFC Multifamily Bonds)

(Timber Sound Apartments / Multifamily Bonds)

THIS SUBORDINATION AGREEMENT (this "Agreement") is made and entered into as of _____, 2017, by (i) FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic duly created and existing under the laws of the State of Florida, in its capacity as mortgage lender of Multifamily Bond funds (the "Senior Mortgagee") (which term as used in every instance shall include Senior Mortgagee's successors and assigns, including U.S. Bank National Association, as Trustee); (ii) CITY OF ORLANDO, FLORIDA, a Florida municipal corporation as lender of two HOME loans, (the "Subordinate Mortgagee"); and (iii) TIMBER SOUND PRESERVATION, L.P., a Florida limited partnership (the "Borrower").

RECITALS

Pursuant to an Assignment and Assumption of Mortgage and Other Loan Documents dated the date hereof and to be recorded in the public records of Orange County, Florida, by and between Timber Sound II, Ltd., a Florida limited partnership (the "Seller"), Borrower and the Subordinate Mortgagee, the Borrower has assumed the Subordinate Mortgagee's two HOME Loans, evidenced by the following documents:

1. HOME Program Agreement Between City of Orlando and Timber Sound II, Ltd., dated October 25, 2013, as amended by the First Amendment to HOME Program Agreement between the City of Orlando and Timber Sound II, Ltd., dated September 10, 2014 (the "Subordinate Loan Agreement");

2. Promissory Note dated October 25, 2013, in the principal amount of Six Hundred Eighty-One Thousand and 00/100 Dollars (\$681,000), executed by Seller and delivered to the City (the "2013 Note");
3. Promissory Note dated September 10, 2014, in the principal amount of Seven Hundred Ten Thousand Nine Hundred and 00/100 Dollars (\$710,900.00), executed by Seller and delivered to the City (the "2014 Note" and with the 2013 Note, collectively, the "Subordinate Note");
4. Mortgage and Security Agreement by the Seller, as mortgagor, in favor of the City, as Mortgagee, dated October 25, 2013, and recorded on October 30, 2013, in Official Records Book 10657, Page 3414, of the Public Records of Orange County, Florida, as modified by the First Note and Mortgage Modification Agreement, dated September 10, 2014 and recorded on September 16, 2014, in Official Records Book 10805 Page 5387, of the Public Records of Orange County, Florida (the "Subordinate Mortgage"); and
5. Declaration of Restrictive Covenant Containing Rent and Income Restrictions, dated October 25, 2013 and recorded on October 30, 2013 in OR Book 10657 Page 3410 of the Orange County Public Records, which was amended and restated by the Amended and Restated Declaration of Restrictive Covenant Containing Rent and Income Restrictions, dated September 10, 2014, and recorded on September 16, 2014 in OR Book 10805 Page 5382 and amended by that certain Amendment to Declaration of Restrictive Covenant Containing Rent and Income Restrictions dated _____, 2017 between the Borrower and Subordinate Mortgagee (the "Subordinate Restrictive Covenant").

The aforesaid Mortgage encumbers the real property described in Exhibit "A" attached hereto and made a part hereof, the improvements thereon, and certain personal property relating thereto (collectively, the "Property"). Hereinafter the aforesaid Subordinate Note, the Subordinate Mortgage in favor of the Subordinate Mortgagee, and all other loan documents executed in connection with the Subordinate Loan are collectively referred to as the "Subordinate Mortgage."

B. Borrower executed and delivered to the Senior Mortgagee a Promissory Note dated as of _____, 2017 in the original principal amount of \$16,500,000 (the "Note") evidencing a mortgage loan related to the issuance of Florida Housing Finance Corporation's Multifamily Bonds, secured by a Multifamily Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated the date hereof, to be recorded in the Public Records of Orange County, Florida entered into between Borrower and Senior Mortgagee in connection with the Senior Loan, and all other loan documents executed in connection with the Senior Loan are collectively referred to as the "Senior Mortgage."

C. The Senior Loan is subordinate in priority only to that certain Multifamily Mortgage, Assignment of Leases and Rents and Security Agreement and Fixture Filing (Florida) (the "First Mortgage") in favor of SunTrust Bank, (the "First Mortgagee") dated the date hereof, to be recorded in the Public Records of Orange County, Florida in the original principal amount

of \$21,600,000 (the “First Mortgage Loan”) and which is evidenced and secured by separate first mortgage loan documents.

D. To induce the Senior Mortgagee to make the Senior Loan, the Subordinate Mortgagee is willing to subordinate the Subordinate Mortgage to the Senior Mortgage.

AGREEMENT

NOW, THEREFORE, in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, from one to the other paid, the receipt and sufficiency whereof is hereby acknowledged, and to induce Senior Mortgagee to make the Senior Loan, the parties do hereby agree:

1. **Recitals.** The Recitals are true and correct and are made a part hereof.

2. **Subordination.**

(a) The Subordinate Mortgage is now and forever hereafter made subordinate and inferior to the Senior Mortgage and to all debt evidenced or secured thereby including principal, interest, costs and expenses, and to any and all extensions, modifications, amendments, enlargements or renewals thereof or future advances made thereunder. Further, the terms of the Subordinate Mortgage and all rights and remedies of the Subordinate Mortgagee available to the Subordinate Mortgagee pursuant to the Subordinate Mortgage, including but not limited to the right to claim or receive any insurance or condemnation awards or proceeds, are hereby expressly subordinate to the terms of the Senior Mortgage and the rights and remedies of Senior Mortgagee under the Senior Mortgage.

(b) The indebtedness of Borrower, and any other obligor pursuant to the Subordinate Note, and any and all other indebtedness and other obligations of Borrower to Subordinate Mortgagee, and the Subordinate Mortgage and all other liens, encumbrances and security interests given to secure the payment of the Subordinate Note and any other obligations of payment or performance of Borrower to Subordinate Mortgagee, whether now existing or hereafter created or acquired, shall be and hereby are subordinated in lien, priority and payment of principal and interest and all other charges and fees, including, without limitation, taxes and insurance premiums paid by Senior Mortgagee and interest accruing after any default or petition in bankruptcy, to the indebtedness of Borrower pursuant to the Senior Note, and all liens, encumbrances and security interests given to secure the payment thereof, whether now existing or hereafter created or acquired, including, without limitation, the Senior Mortgage and to any and all other loans, advances, extensions of credit, or other accommodations to or for the account of Borrower as Senior Mortgagee may elect to make from time to time, and any and all other indebtedness of Borrower to Senior Mortgagee, whether now existing or hereafter created or acquired, and any and all liens, encumbrances, and security interests given to secure the repayment or payment thereof, whether now existing or hereafter created or acquired, and to such renewals and extensions thereof as Senior Mortgagee may elect to make from time to time.

3. Conditions Precedent to Remedial Action. If a default occurs under the Subordinate Mortgage (a "Subordinate Loan Default") and is continuing, the Subordinate Mortgagee agrees that, without the Senior Mortgagee's prior written consent, it will not commence foreclosure proceedings with respect to the Property under the Subordinate Mortgage or exercise any other rights or remedies it may have under the Subordinate Mortgage, including, but not limited to accelerating the Subordinate Loan (and enforcing any "due on sale" provision included in the Subordinate Mortgage), collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder unless and until it has given the Senior Mortgagee at least thirty (30) days' prior written notice. The Senior Mortgagee shall have the right, but not the obligation, to cure any Subordinate Loan Default within the same time period for curing a default which is given to the Borrower under the Subordinate Loan Documents, except that the Senior Mortgagee's time period for cure shall begin on the date on which it receives notice of the Subordinate Loan Default. All amounts advanced or expended by the Senior Mortgagee to cure a Subordinate Loan Default shall be deemed to have been advanced by the Senior Mortgagee pursuant to, and shall be secured by the lien of, the Senior Mortgage.

4. Insurance, Condemnation. In the event of partial or total destruction of the Property which results in the payment of insurance proceeds, or in the event of a condemnation or similar proceeding which results in the payment of an award, the proceeds or award shall be applied in accordance with the relevant provisions of the Senior Mortgage.

5. Modifications to Subordinate Mortgage. Borrower agrees that it will not modify the Subordinate Mortgage without the prior written consent of the Senior Mortgagee. Borrower and Subordinate Mortgagee agree that no future advances may be made under the Subordinate Loan without the prior written consent of Senior Mortgagee.

6. Notices. 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 Mortgagee or the Subordinate Mortgagee 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 (2) days after mailing in the United States), addressed to the respective parties as follows:

Senior Mortgagee: Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329
Attention: Executive Director
Phone: (850) 488-4197

with a copy to: Latham, Shuker, Eden & Beaudine, LLP
111 North Magnolia Ave., Suite 1400
Orlando, Florida 32801
Attention: Jan Albanese Carpenter, Esq.
Phone: (407) 481-5800
Email: jcarpenter@lseblaw.com

Subordinate
Mortgagee: City of Orlando, Florida
400 S. Orange Avenue
Orlando, FL 32801
Attention: City Attorney
Phone: (407) ____ - ____
Email: _____

Borrower: Timber Sound Preservation, LP
595 Madison Avenue, Suite 1601
New York, New York 10022
Attention: Yoni Gruskin
Telephone: (212) 554-2319
Email: yonil@lincolnavcap.com

with a copy to: Levitt & Boccio, LLP
423 West 55th Street, 8th Floor
New York, New York 10019
Attention: David Boccio, Esq.
Telephone: (212) 801-3769
Email: dboccio@levittboccio.com

with a copy to: Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
150 W. Flagler Street
Miami, Florida 33130
Attention: Brian McDonough, Esq.
Telephone: (305) 789-3350
Email: bmcdonough@stearnsweaver.com

Either 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. Email or telephonic notice shall not be effective to provide notice under this Section 6.

7. No Waiver. The giving of consent by Senior Mortgagee to the giving of the Subordinate Mortgage is not and shall not be deemed a waiver of the Senior Mortgagee's rights to prohibit any other junior mortgage of the Property. No delay on the part of Senior Mortgagee or Subordinate Mortgagee in the exercise of any right or remedy hereunder or under the Senior Mortgage or Subordinate Mortgage, respectively, shall operate as a waiver of any right hereunder.

8. **Counterparts.** The parties hereto agree that this Subordination Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

9. **Costs of Enforcement.** Should suit be brought to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees incurred both at trial and on appeal.

10. **Paragraph Headings.** The headings of the various paragraphs of this Subordination Agreement have been inserted only for the purposes of convenience, and are not part of this Subordination Agreement and shall not be deemed in any manner to modify, explain or restrict any of the provisions of this Subordination Agreement.

11. **Choice of Law.** This Agreement shall be construed, interpreted, enforced and governed by and in accordance with the laws of the State of Florida, excluding the principles thereof governing conflicts of law. If any provision shall be held prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating any other provision of this Agreement.

12. **Binding Effect.** This Agreement shall be binding upon the Borrower and the Subordinate Mortgagee and their respective successors and assigns and shall inure to the benefit of the Senior Mortgagee, its successors and assigns.

[COUNTERPART SIGNATURE PAGES TO FOLLOW]

**COUNTERPART SIGNATURE PAGE TO
SUBORDINATION AGREEMENT**

(City of Orlando, HOME subordination to FHFC Multifamily Bonds)

(Timber Sound Apartments / Multifamily Bonds)

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

SENIOR MORTGAGEE:

ATTEST:

FLORIDA HOUSING FINANCE
CORPORATION

By: _____
Brantley Henderson
Assistant Secretary

By: _____
Harold L. Price
Executive Director

Address: 227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by HAROLD L. PRICE, as Executive Director, and by BRANTLEY HENDERSON, as Assistant Secretary, of the FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic duly created and existing under the laws of the State of Florida, on behalf of Florida Housing. They are personally known to me or have each produced a valid driver's license as identification.

Notary Public; State of Florida
Print Name: _____
My Commission Expires: _____
My Commission No.: _____

**COUNTERPART SIGNATURE PAGE TO
SUBORDINATION AGREEMENT**

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(Timber Sound Apartments / Multifamily Bonds)

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

SUBORDINATE MORTGAGEE:

CITY OF ORLANDO, FLORIDA, a municipal
corporation

ATTEST:

By: _____
Denise Aldridge, City Clerk

By: _____
Mayor, Mayor Pro Tem

Date: _____

Address: 400 South Orange Avenue
Orlando, Florida 32801

STATE OF FLORIDA)
) ss:
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, Mayor/ Pro Tem and _____ City Clerk, who are personally known to me who did (did not) take an oath.

Name
Notary Public
Serial Number: _____
My Commission Expires: _____

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SUBORDINATION AGREEMENT**

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

BORROWER:

WITNESSES:

TIMBER SOUND PRESERVATION, L.P.,
a Florida limited partnership

By: Timber Sound Preservation GP LLC,
a Florida limited liability company,
its sole general partner

Print: _____

By: _____

Jonathan A. Gruskin
Vice President

Print: _____

*Address: 595 Madison Avenue, Suite 1601
New York, New York 10022*

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Jonathan A. Gruskin, as Vice President of Timber Sound Preservation GP LLC, a Florida limited liability company, sole general partner of Timber Sound Preservation, L.P., a Florida limited partnership, on behalf of the limited liability company and limited partnership. Said person is personally known to me or has produced a valid driver's license as identification.

Notary Public; State of _____

Print Name: _____

My Commission Expires: _____

My Commission No.: _____

EXHIBIT "A"

LEGAL DESCRIPTION (Timber Sound Apartments)

BEGINNING AT THE SOUTHEAST CORNER OF LOT 10, THE VILLAGES OF TIMBERLEAF, AS RECORDED IN PLAT BOOK 23, PAGES 22-24, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA: RUN S89°32'37"W, ALONG THE SOUTH LINE OF SAID LOT 10, A DISTANCE OF 739.17 FEET; THENCE DEPARTING SAID SOUTH LINE RUN N01°13'58"W, A DISTANCE OF 391.26 FEET; THENCE N89°48'18"E, A DISTANCE OF 11.13 FEET; THENCE N58°21'59"E, A DISTANCE OF 432.74 FEET; THENCE N22°52'00"E, A DISTANCE OF 37.30 FEET; THENCE N28°51'05"W, A DISTANCE OF 11.56 FEET; THENCE N67°08'00"W, A DISTANCE OF 8.17 FEET; THENCE N22°52'00"E, A DISTANCE OF 54.95 FEET; THENCE N01°57'22"W, A DISTANCE OF 16.38 FEET; THENCE N15°10'43"W, A DISTANCE OF 42.11 FEET; THENCE N01°03'33"E, A DISTANCE OF 336.65 FEET; THENCE S88°56'27"E, A DISTANCE OF 328.17 FEET TO A POINT ON THE EASTERLY LINE OF LOT 9 OF SAID PLAT OF THE VILLAGES; THENCE S01°03'33"W, ALONG SAID EASTERLY LINE A DISTANCE OF 145.00 FEET; THENCE S01°30'48"E, ALONG SAID EASTERLY LINE AND THE EASTERLY LINE OF SAID LOT 10 A DISTANCE OF 953.48 FEET TO THE POINT OF BEGINNING.

AND ALSO:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 10, THE VILLAGES OF TIMBERLEAF, AS RECORDED IN PLAT BOOK 23, PAGES 22-24, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA: RUN N01°13'58"W ALONG THE WEST LINE OF SAID LOT 10 AND THE WEST LINE OF LOT 9, OF SAID PLAT OF THE VILLAGES OF TIMBERLEAF, A DISTANCE OF 683.27 FEET; THENCE DEPARTING THE WEST LINE OF SAID LOT 9, RUN N88°46'02"E, A DISTANCE OF 50.00 FEET FOR A POINT OF BEGINNING; THENCE N01°13'58"W, A DISTANCE OF 13.52 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE EASTERLY, HAVING A CENTRAL ANGLE OF 11°14'50" AND A RADIUS OF 185.00 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 36.32 FEET TO THE POINT OF TANGENCY; THENCE N10°00'52"E, A DISTANCE OF 59.31 FEET; THENCE N88°46'02"E, A DISTANCE OF 66.52 FEET; THENCE S42°22'44"E A DISTANCE OF 57.97 FEET; THENCE S33°34'41"W, A DISTANCE OF 78.10 FEET; THENCE S88°46'02"W A DISTANCE OF 75.20 FEET TO THE POINT OF BEGINNING.