

SUBORDINATION AGREEMENT

STATE OF NORTH CAROLINA

COUNTY OF WAKE

THIS SUBORDINATION AGREEMENT is made and entered into this _____ day of _____, 2024, by **WAKE COUNTY, NORTH CAROLINA** ("**COUNTY**" or "**Subordinate Lender**"), whose mailing address is PO Box 550, Raleigh, NC 27602 in favor of **NORTH STATE BANK** ("**NSB**" or "**SENIOR LENDER**"), whose street address is 6204 Falls of Neuse Road, Raleigh, North Carolina 27609; Attn: Mr. Bobby Ross; and acknowledged and agreed to by **CASA**, a North Carolina non-profit corporation ("**Borrower**"), whose street address is 624 W. Jones Street, Raleigh, North Carolina 27603 and whose mailing address is P.O. Box 12545, Raleigh, North Carolina 27605.

RECITALS:

A. COUNTY has made to Borrower a loan in the original principal amount of \$4,000,000.00 (the "**COUNTY Loan**") in connection with the operation of an apartment facility to be located at 200 Michael J. Smith Lane, Raleigh, North Carolina, and commonly known as Kings Ridge Apartments.

B. The COUNTY Loan is evidenced by that certain November 30, 2022 Promissory Note executed by the Borrower (the "**COUNTY Note**") and secured by that certain Wake County Deed of Trust (North Carolina – Future Advance and Future Obligations – Collateral Includes Fixtures) (Also Includes a Security Agreement and an Assignment of Rents and Profits), dated November 30, 2022 and recorded December 1, 2022 in Book 19212, Page 2588, Wake County Registry (the "**COUNTY Deed of Trust**"), which encumbers certain real property described therein (the "**Property**"). The COUNTY Note, the COUNTY Deed of Trust, the Wake County Loan Agreement (the "**COUNTY Loan Agreement**") and any other documents evidencing, documenting or securing the COUNTY Loan are sometimes collectively referred to herein as the "**COUNTY Loan Documents**."

C. Pursuant to the terms of a *Construction Loan Agreement* between Borrower and NSB (the "**NSB Loan Agreement**"), NSB has made a construction loan to the borrower in the original principal amount of \$3,215,315.00 (the "**NSB Loan**"), as evidenced by a promissory note (the "**NSB Note**"), which shall be secured by a first priority deed of trust on the Property, recorded in Book _____, Page _____, Wake County Registry (the "**NSB Deed of Trust**"). The NSB Loan Agreement, the NSB Note, the NSB Deed of Trust, any assignment of architect's contract, construction contract or other contracts or subcontracts and any other documents evidencing, documenting or securing the NSB Loan and any modifications now or hereafter executed in connection therewith are sometimes collectively referred to herein as the "**NSB Loan Documents**."

D. the COUNTY has agreed to subordinate the lien of the COUNTY Loan Documents to the lien of the NSB Loan Documents.

AGREEMENT:

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other valuable consideration and the mutual covenants herein contained, the receipt of all of which is hereby acknowledged, the parties hereto agree as follows:

- 1. Subordination.** COUNTY, for itself and its successors and assigns (including, without limitation, all subsequent holders of the COUNTY Note and the COUNTY Deed of Trust) does hereby subordinate its lien of the COUNTY Deed of Trust and subordinates all other COUNTY Loan Documents, and the COUNTY's rights and interests thereunder to the lien of the NSB Deed of Trust and the right, title and interest of NSB in the Property and any other collateral held by NSB and to all other NSB Loan Documents and NSB's rights and interests thereunder.

- 2. Subordinate Lender's Agreement to Standstill.** If a COUNTY Loan default has occurred and is continuing, the COUNTY agrees that, without NSB's prior written consent, which shall not be unreasonably withheld, and after written notice of such default to NSB indicating an Event of Default as defined under the COUNTY Loan Documents has occurred and Borrower has not cured such default within the cure period given under the COUNTY Loan Documents, it will not, for a period of sixty (60) days from the date of the default notice, accelerate the COUNTY Loan, commence foreclosure proceedings with respect to the Property, collect rents, appoint (or seek the appointment of) a receiver or institute any other collection or enforcement action or accept payment (whether a prepayment, an accelerated payment or otherwise).
- 3. Agreement to Subordinate as to Payments.** Until the payment and satisfaction in full of the NSB Loan, the priority of and payments on the COUNTY Loan is and shall be subordinate in all respects to the liens, terms, covenants and conditions of the NSB Loan and to all advances heretofore made or which may hereafter be made under or pursuant to the NSB Loan; provided however, that the NSB Loan amount shall not be increased by refinancing or otherwise, the maturity date extended or any material provisions of the NSB Loan changed, except with the COUNTY's prior written consent.
- 4. Subordination of Subrogation Rights.** The COUNTY agrees that if, by reason of its payment of real estate taxes or other monetary obligations of the Borrower, or by reason of its exercise of any other right or remedy under the COUNTY Loan documents, it acquires by right of subrogation or otherwise a lien on the Property which (but for this subsection) would be senior to the lien of the NSB Loan, then, in that event, such lien shall be subject and subordinate to the lien of the NSB Loan. Notwithstanding the foregoing, nothing in this SUBORDINATION AGREEMENT will have any effect on the separate rights of the COUNTY as a governmental and taxing authority, including but not limited to its rights to foreclose the Property for failure to pay property taxes.
- 5. Payments Before Senior Loan Default.** Until the COUNTY receives a written notice of a NSB Loan default from NSB, the COUNTY shall be entitled to retain for its own account all pre-default regularly scheduled monthly payments, if any, made under or pursuant to the COUNTY Loan documents.

Except for such subordinations, the COUNTY Loan Documents shall continue in full force and effect according to their terms.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE FOR WAKE COUNTY, NORTH CAROLINA]

IN **TESTIMONY WHEREOF**, the County has caused this instrument to be executed, as of the day and year first above written.

COUNTY:

WAKE COUNTY, a body politic and corporate

By: _____

Shinica Thomas

Chair, Wake County Board of Commissioners

Attested by:

Yvonne C. Gilyard
Deputy Clerk to the Board

(Municipal Seal)

Scott Warren, Wake County Attorney,
Trustee as recorded in Deed Book _____
Page _____, Wake County Registry

STATE OF NORTH CAROLINA)
)
COUNTY OF WAKE)

I, _____, a Notary Public in and for the said County and State, do hereby certify that Yvonne C. Gilyard personally appeared before me this day and acknowledged that she is the Deputy Clerk of the Wake County Board of Commissioners, and by authority duly given and as the act of said Board, the foregoing instrument was signed by its Chairman of the Wake County Board of Commissioners, sealed with its corporate seal and attested by Yvonne C. Gilyard as its Deputy Clerk.

WITNESS my hand and Notarial Seal or Stamp, this the ____ day of _____, 2024.

Notary Public

My Commission Expires:_____

[Notary Seal/Stamp]

STATE OF NORTH CAROLINA)
)
COUNTY OF WAKE)

I, _____, a Notary Public in and for the said County and State, do hereby certify that the following person personally appeared before me and acknowledged to me that he signed the foregoing instrument: Scott Warren, Wake County Attorney.

WITNESS my hand and Notarial Seal or Stamp, this the ____ day of _____, 2024.

Notary Public

My Commission Expires:_____

[Notary Seal/Stamp]

[SIGNATURE PAGE FOR BORROWER]

IN WITNESS WHEREOF, the parties have executed the Subordination Agreement on the day and year first above written.

Borrower:

CASA

By _____(Seal)

Name:

Title:

STATE OF NORTH CAROLINA

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

Date: _____, 2024

_____, Notary Public

(Print or Type Name of Notary Public)

My commission expire: _____

[affix notary seal]