

## SUBORDINATION AND STANDSTILL AGREEMENT (SWAP)

THIS SUBORDINATION AND STANDSTILL AGREEMENT (SWAP) (this “Agreement”) is entered into this \_\_\_\_\_ day of September, 2024, by and among (i) GRANDBRIDGE REAL ESTATE CAPITAL LLC (the “**Senior Lender**”), (ii) COUNTY OF DURHAM, a North Carolina public body corporate and politic (the “**Subordinate Lender**”), and (iii) 500 EAST MAIN, LLC, a North Carolina limited liability company (the “**Borrower**”).

### RECITALS

- A. Borrower has a leasehold interest in certain real property located in the City of Durham, North Carolina, and legally described on Exhibit A hereto (the “**Property**”), on which Borrower intends to construct and develop a 195-unit low income residential rental housing project (the “**Project**”).
- B. The Housing Authority of the City of Durham (the “**Issuer**”) and Truist Bank, a North Carolina banking corporation (the “**Trustee**”), have entered into that certain Trust Indenture dated as of even date herewith (the “**Indenture**”) in connection with the issuance of certain Multifamily Housing Revenue Bonds (500 East Main), Series 2024 dated as of [\_\_\_\_], 2024, in the original principal amount of \$[ ] (the “**Bonds**”).
- C. The Bonds are being purchased by Truist Bank, a North Carolina banking corporation (“**Construction Lender**”) pursuant to that certain Loan Agreement dated as of even date herewith (the “**Bond Loan Agreement**”), by and among the Borrower, the Construction Lender and the Issuer.
- D. Pursuant to the Bond Loan Agreement, the Issuer has agreed to use the proceeds from the sale of the Bonds to make a loan to the Borrower in the maximum principal amount of the Bonds (the “**Loan**”) to finance a portion of the costs of ground leasing and construction of the Project.
- E. In connection with the Loan, Senior Lender and Borrower have entered into that certain ISDA Master Agreement dated as of [\_\_\_\_], 2024 (together with all applicable

schedules and any other documents executed in connection therewith (the “*Swap Documents*”).

- F. The Swap Documents are secured by that certain Swap Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of even date herewith (the “*Senior Deed of Trust*”), executed by Borrower in favor of Senior Lender.
- G. Subordinate Lender is making a loan to the Borrower in the original principal amount of \$10,618,417 (the “*Subordinate Loan*”).
- H. The Subordinate Loan will be made pursuant to that certain Loan Agreement (the “*Subordinate Loan Agreement*”) dated as of even date herewith between Borrower and Subordinate Lender. The Subordinate Loan is evidenced by, among other things, that certain Promissory Note dated as of even date herewith (the “*Subordinate Note*”), made by Borrower to the order of Subordinate Lender in the original principal amount of \$10,618,417.
- I. The Subordinate Note is secured by, among other things, that certain Leasehold Deed of Trust, Security Agreement and Financing Statement dated as of even date herewith by Borrower in favor of a trustee for the benefit Subordinate Lender (the “*Subordinate Deed of Trust*”) recorded at Book \_\_\_\_, Page \_\_\_\_, Durham County Registry.

NOW, THEREFORE, in order to induce Senior Lender to enter into the Swap Documents and in consideration thereof, the Senior Lender, the Subordinate Lender and the Borrower agree as follows:

In addition to the terms defined in the Recitals to this Agreement, for purposes of this Agreement the following terms have the respective meanings set forth below:

**1. Definitions.**

“Affiliate” means, when used with respect to a Person, any corporation, partnership, joint venture, limited liability company, limited liability partnership, trust or individual controlled by, under common control with, or which controls such Person (the term “control” for these purposes shall mean the ability, whether by the ownership of shares or other equity interests, by contract or otherwise, to elect a majority of the directors of a corporation, to make management decisions on behalf of, or independently to select the managing partner of, a partnership, or otherwise to have the power independently to remove and then select a majority of those individuals exercising managerial authority over an entity, and control shall be conclusively presumed in the case of the ownership of 50% or more of the equity interests).

“Borrower” means the Person named as such in the first paragraph of this Agreement and any other Person (other than the Senior Lender) who acquires title to the Property after the date of this Agreement.

“Business Day” means any day other than Saturday, Sunday or a day on which the Senior Lender is not open for business.

“Default Notice” means: (a) a copy of the written notice from the Senior Lender to the Borrower stating that a Senior Deed of Trust Loan Default has occurred under the Senior Deed of Trust Loan; or (b) a copy of the written notice from the Subordinate Lender to the Borrower stating that a Subordinate Loan Default has occurred under the Subordinate Loan. Each Default Notice shall specify the default upon which such Default Notice is based.

“Person” means an individual, estate, trust, partnership, corporation, limited liability company, limited liability partnership, governmental department or agency or any other entity which has the legal capacity to own property.

“Senior Deed of Trust Loan Default” means the occurrence of an “Event of Default” as that term is defined in the Senior Deed of Trust Loan Documents.

“Senior Deed of Trust Loan Documents” means the Swap Documents, the Senior Deed of Trust, and all other documents evidencing, securing or otherwise executed and delivered in connection with the Swap Documents.

“Senior Lender” means the Person named as such in the first paragraph on page 1 of this Agreement. When any other Person becomes the legal holder of the Senior Note, such other Person shall automatically become the Senior Lender.

“Subordinate Lender” means the Person named as such in the first paragraph on page 1 of this Agreement and any other Person who becomes the legal holder of the Subordinate Note after the date of this Agreement.

“Subordinate Loan Default” means a default by the Borrower in performing or observing any of the terms, covenants or conditions in the Subordinate Loan Documents to be performed or observed by it, which continues beyond any applicable period provided in the Subordinate Loan Documents for curing the default.

“Subordinate Loan Documents” means the Subordinate Note, the Subordinate Deed of Trust, and all other documents evidencing, securing or otherwise executed and delivered in connection with the Subordinate Loan.

## **2. Permission to Encumber Property.**

The Senior Lender agrees, notwithstanding the prohibition against inferior liens on the Property contained in the Senior Deed of Trust Loan Documents and subject to the provisions of this Agreement, that Borrower may execute and deliver the Subordinate Deed of Trust and other recordable Subordinate Loan Documents (which are subordinate in all respects to the lien of the Senior Deed of Trust) to Subordinate Lender to secure the Borrower’s obligation to repay the Subordinate Note and all other obligations, indebtedness and liabilities of the Borrower to the Subordinate Lender under and in connection with the Subordinate Loan. Such permission is subject to the condition that each of the representations and warranties made by the Borrower and

the Subordinate Lender in Section 3 is true and correct on the date of this Agreement. If any of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 is not true and correct on the date of this Agreement, the provisions of the Senior Deed of Trust Loan Documents applicable to unpermitted liens on the Property shall apply.

**3. Borrower's and Subordinate Lender's Representations and Warranties.**

The Borrower and the Subordinate Lender each makes the following representations and warranties to the Senior Lender:

a. **Subordinate Note.** The Subordinate Note shall be deemed to contain the following provision:

The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness under the ISDA Master Agreement between 500 East Main, LLC, a North Carolina limited liability company, and Grandbridge Real Estate Capital LLC (the "Senior Lender"), to the extent and in the manner provided in that certain Subordination and Standstill Agreement of even date herewith between the payee of this Note, the Senior Lender and Lender (the "Subordination Agreement"). The Deed of Trust securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Deed of Trust securing the Note 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 Deed of Trust securing this Note 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.

**4. Terms of Subordination.**

a. **Agreement to Subordinate.** The Senior Lender and the Subordinate Lender agree that: (i) the indebtedness evidenced by the Subordinate Loan Documents is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement to the prior payment in full of the indebtedness evidenced by the Senior Deed of Trust Loan Documents, and (ii) the Subordinate Collateral Documents and the other Subordinate Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Collateral Documents and the other Senior Deed of Trust Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the Senior Collateral Documents and the other Senior Deed of Trust Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the Senior Collateral Documents, curing defaults by the Borrower under the Senior Deed of Trust Loan Documents or for

any other purpose expressly permitted by the Senior Collateral Documents, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Property).

b. **Subordination of Subrogation Rights.** The Subordinate Lender 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 Subordinate 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 Senior Deed of Trust, then, in that event, such lien shall be subject and subordinate to the lien of the Senior Deed of Trust.

c. **Payments Before Senior Deed of Trust Loan Default.** Until the Subordinate Lender receives a Default Notice of a Senior Deed of Trust Loan Default from the Senior Lender, the Subordinate Lender shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Loan Documents.

d. **Payments After Senior Deed of Trust Loan Default.** The Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a Senior Deed of Trust Loan Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Deed of Trust) without the Senior Lender's prior written consent. The Subordinate Lender agrees that, after it receives a Default Notice from the Senior Lender with written instructions directing the Subordinate Lender not to accept payments from the Borrower on account of the Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Deed of Trust) without the Senior Lender's prior written consent. If the Subordinate Lender receives written notice from the Senior Lender that the Senior Deed of Trust Loan Default which gave rise to the Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by the Senior Lender, the restrictions on payment to the Subordinate Lender in this Section 4 shall terminate, and the Senior Lender shall have no right to any subsequent payments made to the Subordinate Lender by the Borrower prior to the Subordinate Lender's receipt of a new Default Notice from the Senior Lender in accordance with the provisions of this Section 4(d).

e. **Remitting Subordinate Loan Payments to Senior Lender.** If, after the Subordinate Lender receives a Default Notice from the Senior Lender in accordance with subsection (d) above, the Subordinate Lender receives any payments under the Subordinate Loan Documents, the Subordinate Lender agrees that such payment or other distribution will be received and held in trust for the Senior Lender and unless the Senior Lender otherwise notifies the Subordinate Lender in writing, will be promptly remitted, in kind to the Senior Lender, properly endorsed to the Senior Lender, to be applied to the principal of, interest on and other amounts due under the Senior Deed of Trust Loan Documents in accordance with the provisions of the Senior Deed of Trust Loan Documents. By executing this Agreement, the Borrower specifically authorizes the Subordinate Lender to endorse

and remit any such payments to the Senior Lender, and specifically waives any and all rights to have such payments returned to the Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by the Subordinate Lender, and remitted to the Senior Lender under this Section 4, shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to the Senior Lender waive any Subordinate Loan Default which may arise from the inability of the Subordinate Lender to retain such payment or apply such payment to the Subordinate Loan.

f. **Agreement Not to Commence Bankruptcy Proceeding.** The Subordinate Lender agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing any bankruptcy reorganization, arrangement, insolvency or liquidation proceedings with respect to the Borrower, without the Senior Lender's prior written consent.

g. **Preservation of Rights.** Notwithstanding anything to the contrary herein, nothing in this Agreement shall have the effect of subordinating or limiting any right, title, or interest Subordinate Lender has in the Property by virtue of (i) Subordinate Lender being the fee owner of the Property; (ii) Subordinate Lender being the ground lessor of the Property; or (iii) the Property being located within the boundaries of Subordinate Lender, a municipal body.

#### 5. **Default Under Subordinate Loan Documents.**

a. **Notice of Default and Cure Rights.** The Subordinate Lender shall deliver to the Senior Lender a Default Notice within five (5) Business Days in each case where the Subordinate Lender has given a Default Notice to the Borrower (provided that Subordinate Lender shall have no liability to Borrower, Senior Lender, or to any other Person for failure to timely give such notice). Failure of the Subordinate Lender to send a Default Notice to the Senior Lender shall not prevent the exercise of the Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. The Senior Lender shall have the right, but not the obligation, to cure any Subordinate Loan Default within 60 days following the date of such notice; provided, however that the Subordinate Lender shall be entitled, during such 60-day period, to continue to pursue its rights and remedies under the Subordinate Loan Documents to the extent permitted under Section 5(b). All amounts paid by the Senior Lender in accordance with the Senior Deed of Trust Loan Documents to cure a Subordinate Loan Default shall be deemed to have been advanced by the Senior Lender pursuant to, and shall be secured by the lien of, the Senior Deed of Trust.

b. **Subordinate Lender's Agreement to Standstill.** If a Subordinate Loan Default occurs and is continuing, the Subordinate Lender agrees that, without the Senior Lender's prior written consent, it will not accelerate the Subordinate 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, except with respect to enforcing covenants and agreement of Borrower relating to income, rent or affordability restrictions contained in any land use restriction agreement.

c. **Cross Default.** The Borrower and the Subordinate Lender agree that a Subordinate Loan Default shall constitute a Senior Deed of Trust Loan Default under the Senior Deed of Trust Loan Documents and the Senior Lender shall have the right to exercise all rights or remedies under the Senior Deed of Trust Loan Documents in the same manner as in the case of any other Senior Deed of Trust Loan Default. If the Subordinate Lender notifies the Senior Lender in writing that any Subordinate Loan Default of which the Senior Lender has received a Default Notice has been cured or waived, as determined by the Subordinate Lender in its sole discretion, then provided that Senior Lender has not conducted a sale of the Property pursuant to its rights under the Senior Deed of Trust Loan Documents, any Senior Deed of Trust Loan Default under the Senior Deed of Trust Loan Documents arising solely from such Subordinate Loan Default shall be deemed cured, and the Senior Deed of Trust Loan shall be reinstated, provided, however, that the Senior Lender shall not be required to return or otherwise credit for the benefit of the Borrower any default rate interest or other default related charges or payments received by the Senior Lender during such Senior Deed of Trust Loan Default.

6. **Default Under Senior Deed of Trust Loan Documents.**

a. **Notice of Default and Cure Rights.** The Senior Lender shall deliver to the Subordinate Lender a Default Notice within five (5) Business Days in each case where the Senior Lender has given a Default Notice to the Borrower. Failure of the Senior Lender to send a Default Notice to the Subordinate Lender shall not prevent the exercise of the Senior Lender's rights and remedies under the Senior Deed of Trust Loan Documents, subject to the provisions of this Agreement. The Subordinate Lender shall have the right, but not the obligation, to cure any Senior Deed of Trust Loan Default within 30 days following the date of such notice; provided, however, that the Senior Lender shall be entitled during such 30-day period to continue to pursue its remedies with respect to the Property. In the event that such default creates an unacceptable level of risk relative to the Property, or Senior Lender's secured position relative to the Property, as determined by Senior Lender in its reasonable discretion, then Senior Lender may exercise during such 60-day period all available rights and remedies to protect and preserve the Property and the rents, revenues and other proceeds from the Property. All amounts paid by the Subordinate Lender to the Senior Lender to cure a Senior Deed of Trust Loan Default shall be deemed to have been advanced by the Subordinate Lender pursuant to, and shall be secured by the lien of, the Subordinate Deed of Trust.

b. **Cross Default.** The Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a Senior Deed of Trust Loan Default shall not constitute a default under the Subordinate Loan Documents if no other default occurred under the Subordinate Loan Documents until either (i) the Senior Lender has accelerated the maturity of the indebtedness under the Swap Documents, or (ii) the Senior Lender has taken affirmative action to exercise its rights under the Senior Deed of Trust to collect rent, to appoint (or seek the appointment of) a receiver or to foreclose on (or to exercise a power of sale contained in) the Senior Deed of Trust. At any time after a Senior Deed of Trust Loan Default is determined to constitute a default under the Subordinate Loan Documents, the Subordinate Lender shall be permitted to pursue its remedies for default under the Subordinate Loan Documents, subject to the restrictions and

limitations of this Agreement. If at any time the Borrower cures any Senior Deed of Trust Loan Default to the satisfaction of the Senior Lender, as evidenced by written notice from the Senior lender to the Subordinate Lender, any default under the Subordinate Loan Documents arising from such Senior Deed of Trust Loan Default shall be deemed cured and the Subordinate Loan shall be retroactively reinstated as if such Senior Deed of Trust Loan Default had never occurred.

**7. Conflict.**

The Borrower, the Senior Lender and the Subordinate Lender each agree that, in the event of any conflict or inconsistency between the terms of the Senior Deed of Trust Loan Documents, the Subordinate Loan Documents and the terms of this Agreement, the terms of this Agreement shall govern and control solely as to the following: (a) the relative priority of the security interests of the Senior Lender and the Subordinate Lender in the Property; (b) the timing of the exercise of remedies by the Senior Lender and the Subordinate Lender under the Senior Deed of Trust and the Subordinate Deed of Trust, respectively; and (c) solely as between the Senior Lender and the Subordinate Lender, the notice requirements, cure rights, and the other rights and obligations which the Senior Lender and the Subordinate Lender have agreed to as expressly provided in this Agreement. Borrower acknowledges that the terms and provisions of this Agreement shall not, and shall not be deemed to: extend Borrower's time to cure any Senior Deed of Trust Loan Default or Subordinate Loan Default, as the case may be; give the Borrower the right to notice of any Senior Deed of Trust Loan Default or Subordinate Loan Default, as the case may be other than that, if any, provided, respectively under the Senior Deed of Trust Loan Documents or the Subordinate Loan Documents; or create any other right or benefit for Borrower as against Senior Lender or Subordinate Lender.

**8. Rights and Obligations of the Subordinate Lender Under the Subordinate Loan Documents and of the Senior Lender under the Senior Deed of Trust Loan Documents.**

Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of the Subordinate Loan Documents covering the same subject matter:

a. **Protection of Security Interest.** The Subordinate Lender shall not, without the prior written consent of the Senior Lender in each instance, take any action which has the effect of increasing the principal indebtedness outstanding under, or secured by, the Subordinate Loan Documents in excess of \$10,618,417, except that the Subordinate Lender shall have the right to advance funds to cure Senior Deed of Trust Loan Defaults pursuant to Section 6(a) above and advance funds pursuant to the Subordinate Deed of Trust for the purpose of paying real estate taxes and insurance premiums, making necessary repairs to the Property and curing other defaults by the Borrower under the Subordinate Loan Documents.

b. **Condemnation or Casualty.** In the event of: a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Property (collectively, a "Taking"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Property (collectively, a "Casualty"), at any time or times when



the Senior Deed of Trust remains a lien on the Property the following provisions shall apply:

i. The Subordinate Lender hereby agrees that its rights (under the Subordinate Loan Documents) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking or a Casualty shall be and remain subordinate in all respects to the Senior Lender's rights under the Senior Deed of Trust Loan Documents with respect thereto, and the Subordinate Lender shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by the Senior Lender; provided, however, this subsection and/or anything contained in this Agreement shall not limit the rights of the Subordinate Lender to file any pleadings, documents, claims or notices with the appropriate court with jurisdiction over the proposed Taking and/or Casualty; and

ii. all proceeds received or to be received on account of a Taking or a Casualty, or both, shall be applied (either to payment of the costs and expenses of repair and restoration or to payment of the indebtedness under the Swap Documents) in the manner determined by the Senior Lender in its sole discretion; provided, however, that if the Senior Lender elects to apply such proceeds to payment of the principal of, interest on and other amounts payable under the Swap Documents, any proceeds remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the Swap Documents shall be paid to, and may be applied by, the Subordinate Lender in accordance with the applicable provisions of the Subordinate Loan Documents, provided however, the Senior Lender agrees to consult with the Subordinate Lender in determining the application of Casualty proceeds, provided further however that in the event of any disagreement between the Senior Lender and the Subordinate Lender over the application of Casualty proceeds, the decision of the Senior Lender, in its sole discretion, shall prevail.

c. **No Modification of Subordinate Loan Documents.** The Borrower and the Subordinate Lender each agrees that, until the principal of, interest on and all other amounts payable under the Senior Deed of Trust Loan Documents have been paid in full, it will not, without the prior written consent of the Senior Lender in each instance, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon the Senior Lender under the Senior Deed of Trust Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents or assignment of the Subordinate Lender's interest in the Subordinate Loan without the Senior Lender's consent shall be void ab initio and of no effect whatsoever and Subordinate Lender agrees that it shall not transfer or assign the Subordinate Loan or the Subordinate Loan Documents without the prior written consent of the Senior Lender.

9. **Stabilization, Modification or Refinancing of Indebtedness Under Swap Documents.**

The Subordinate Lender consents to any agreement or arrangement in which the Senior Lender waives, postpones, extends, reduces or modifies any provisions of the Senior Deed of Trust Loan Documents, including any provision requiring the payment of money. Subordinate Lender further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the indebtedness under the Swap Documents (including reasonable and necessary costs associated with the closing and/or the refinancing) and, in the event of new mortgage debt, Subordinate Lender shall execute and deliver to Senior Lender a new subordination agreement on the same terms and conditions as this Agreement.

**10. Default by the Subordinate Lender or Senior Lender.**

If the Subordinate Lender or Senior Lender defaults in performing or observing any of the terms, covenants or conditions to be performed or observed by it under this Agreement, the other, non-defaulting lender shall have the right to all available legal and equitable relief.

**11. 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 Lender or the Subordinate Lender 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 days after mailing in the United States), addressed to the respective parties as follows:

SENIOR LENDER:

Grandbridge Real Estate Capital LLC

[ ]

Attention: [ ]

SUBORDINATE LENDER:

County of Durham

Office of the County Manager

200 East Main Street, 2nd Floor, Old Courthouse

Durham, North Carolina 27701

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.

12. **General.**

a. **Assignment/Successors.** This Agreement shall be binding upon the Borrower, the Senior Lender and the Subordinate Lender and shall inure to the benefit of the respective legal successors and assigns of the Senior Lender and the Subordinate Lender.

b. **No Partnership or Joint Venture.** The Senior Lender's permission for the continuation of the Subordinate Loan Documents does not constitute the Senior Lender as a joint venturer or partner of the Subordinate Lender. Neither party hereto shall hold itself out as a partner, agent or Affiliate of the other party hereto.

c. **Senior Lender's and Subordinate Lender's Consent.** Wherever the Senior Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Senior Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement. Wherever the Subordinate Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Subordinate Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement.

d. **Further Assurances.** The Subordinate Lender, the Senior Lender and the Borrower each agree, at the Borrower's expense, to execute and deliver all additional instruments and/or documents reasonably required by any other party to this Agreement in order to evidence that the Subordinate Deed of Trust is subordinate to the lien, covenants and conditions of the Senior Deed of Trust, or to further evidence the intent of this Agreement.

e. **Amendment.** This Agreement shall not be amended except by written instrument signed by all parties hereto.

f. **Governing Law.** This Agreement shall be governed by the laws of the State in which the Property is located.

g. **Severable Provisions.** If any provision of this Agreement shall be invalid or unenforceable to any extent, then the other provisions of this Agreement, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

h. **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 Deed of Trust Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which the Subordinate Lender is obligated to remit to the Senior Lender pursuant to Section 4 hereof; (iii) the acquisition by the 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 Deed of Trust; or (iv) the acquisition by the Subordinate 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 Subordinate Deed of Trust, but only if such acquisition of title does not violate any of the terms of this Agreement.

i. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

j. **Limitation of Liability.** If it is determined in any proceedings that the Subordinate Lender has received payments from Borrower in violation of this Agreement, Senior Lender's sole remedy shall be disgorgement of such payments, and for itself and its partners, members, managers, shareholders or officers, Senior Lender hereby waives all claims for damages or set-off against the Subordinate Lender resulting therefrom, except as set forth herein.

**[REMAINDER OF PAGE IS INTENTIONALLY LEFT BLANK]**

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

**SENIOR LENDER:**

**GRANDBRIDGE REAL ESTATE  
CAPITAL LLC, a [ ]**

By: \_\_\_\_\_

[ ]

[ ]

STATE OF \_\_\_\_\_ )

)

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, the \_\_\_\_\_ of Grandbridge Real Estate Capital LLC, a \_\_\_\_\_, for and on behalf of said banking corporation.

\_\_\_\_\_  
Notary Public

**SUBORDINATE LENDER:**

**COUNTY OF DURHAM**, a  
North Carolina public body corporate and  
politic

By: \_\_\_\_\_  
Kimberly J. Sowell  
County Manager

STATE OF NORTH CAROLINA    )  
  )  
COUNTY OF DURHAM            )

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: Kimberly J. Sowell.

Date: \_\_\_\_\_, 2024

\_\_\_\_\_  
Notary Public  
Printed or Typed Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**BORROWER:**

**500 EAST MAIN, LLC**, a  
North Carolina limited liability company

By: LSR 500 East Main, LLC, a  
North Carolina limited liability company, its  
Managing Member

By: LSR Manager, LLC, a  
North Carolina limited liability company, its  
Managing Member

By: \_\_\_\_\_  
Lee M. Cochran  
Vice President

STATE OF NORTH CAROLINA    )  
  )  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, Notary Public of the County of \_\_\_\_\_ and  
State of North Carolina, certify that Lee M. Cochran, either being personally known to me or  
proven by satisfactory evidence, personally came before me this day and acknowledged that he is  
Vice President of LSR Manager, LLC, a North Carolina limited liability company, which is the  
Managing Member of LSR 500 East Main, LLC, a North Carolina limited liability company, which  
is the Managing Member of 500 East Main, LLC, and that she, being authorized to do so, executed  
the foregoing instrument on behalf of the said companies.

WITNESS my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**  
**LEGAL DESCRIPTION**

[to be inserted]