

FIRST AMENDMENT TO SUBORDINATE TRUST INDENTURE

by and between

**HOUSING FINANCE AUTHORITY
OF HILLSBOROUGH COUNTY, FLORIDA**

and

U.S. BANK NATIONAL ASSOCIATION

as Subordinate Trustee

DATED AS OF _____, 2017

Relating to

**\$9,850,000
HOUSING FINANCE AUTHORITY OF HILLSBOROUGH COUNTY, FLORIDA
SUBORDINATE MULTIFAMILY HOUSING REVENUE BONDS
SERIES 2014B (THE TEMPO AT ENCORE)**

FIRST AMENDMENT TO SUBORDINATE TRUST INDENTURE

THIS FIRST AMENDMENT TO SUBORDINATE TRUST INDENTURE dated as of _____, 2017 (this "First Amendment"), is entered into by the HOUSING FINANCE AUTHORITY OF HILLSBOROUGH COUNTY, FLORIDA, a public body corporate and politic (the "Issuer"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association, as trustee (in such capacity, the "Subordinate Trustee"), and amends the Subordinate Trust Indenture dated as of October 1, 2014, by and between the Issuer and the Subordinate Trustee (the "Original Subordinate Indenture," and together with the First Amendment, the "Subordinate Indenture"). All capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Original Subordinate Indenture and the Subordinate Loan Agreement (as defined herein).

R E C I T A L S:

WHEREAS, the Issuer has been created and organized pursuant to and in accordance with the provisions of Chapter 159, Part IV, Florida Statutes, as amended, and Ordinance 85-33 enacted by the Board of County Commissioners of Hillsborough County, Florida on October 9, 1984, as amended and supplemented from time to time, and other applicable provisions of law (collectively, the "Legislation") for the purpose, inter alia, of financing and refinancing costs of residential developments that will provide decent, safe and sanitary housing for persons of low, moderate and middle income in the State of Florida;

WHEREAS, pursuant to the Legislation, resolutions of the Issuer adopted on June 14, 2013 and August 22, 2014, and other applicable provisions of law (collectively, the "Act"), and a Trust Indenture dated as of October 1, 2014 (the "Senior Indenture"), by and between the Issuer and U.S. Bank National Association, as trustee (in such capacity, the "Senior Trustee"), the Issuer issued its Housing Finance Authority of Hillsborough County, Florida Multifamily Housing Revenue Bonds, Series 2014A (The Tempo at Encore) in the principal amount of \$10,000,000 (the "Senior Bonds") to make a mortgage loan in the principal amount of \$10,000,000 (the "Senior Bond Mortgage Loan") to The Tempo at Encore, LP, a Florida limited partnership (the "Borrower"), to provide for a portion of the financing of a multifamily rental housing development located at 1102 Ray Charles Boulevard in Tampa, Hillsborough County, Florida known as The Tempo at Encore (the "Development"). The Senior Bonds were issued under and secured by, and their terms governed by, the Senior Indenture;

WHEREAS, the Issuer agreed to use the proceeds derived from the sale of its Housing Finance Authority of Hillsborough County, Florida Subordinate Multifamily Housing Revenue Bonds, Series 2014B (The Tempo at Encore) in the principal amount of \$9,850,000 (the "Subordinate Bonds") to make a subordinate loan in the aggregate principal amount of \$9,850,000 (the "Subordinate Loan") to the Borrower, to provide for the additional, subordinate financing of the Development;

WHEREAS, the Subordinate Loan was made to the Borrower on the terms specified in the Subordinate Loan Agreement dated as of October 1, 2014 (the "Subordinate Loan Agreement") among the Issuer, the Borrower, and the Subordinate Trustee;

WHEREAS, Bank of America, N.A., a national banking association (the “Bank”), is the sole owner of the Subordinate Bonds and the Majority Owner and Subordinate Loan Servicer under the Original Subordinate Indenture;

WHEREAS, certain delays have occurred in the construction of the Development as a result of the Contractor’s default under the Construction Contract and subsequent termination as general contractor thereunder;

WHEREAS, the Borrower has requested the Issuer and the Subordinate Trustee, at the direction of the Majority Owner, to enter into this First Amendment in order to amend the Original Subordinate Indenture to extend the Maturity Date of the Subordinate Bonds, extend the period for disbursement of the proceeds of the Subordinate Bonds and to make certain related changes necessitated by the delays in construction of the Development;

WHEREAS, as evidenced by their execution hereof, the Bank, as the registered owner of all of the outstanding Subordinate Bonds and as Majority Owner and Subordinate Loan Servicer, and the Borrower have consented to this First Amendment, and the Issuer and Subordinate Trustee have received the opinion of Bond Counsel required under Section 8.03 of the Original Subordinate Indenture, and other conditions in the Original Subordinate Indenture to the execution and delivery of this First Amendment have been satisfied.

NOW, THEREFORE, in consideration of the premises and for other valuable consideration the receipt of which is hereby acknowledged, the parties hereto agree as follows:

[Remainder of page intentionally left blank]

ARTICLE I

AMENDMENTS TO THE ORIGINAL SUBORDINATE INDENTURE

SECTION 1.01. The Recitals set forth above are incorporated herein by reference as if fully set forth herein.

SECTION 1.02. (a) Section 1.01 of the Original Subordinate Indenture is amended by amending and restating in their entirety the following definitions as indicated below:

“**Construction Disbursement Agreement**’ means the Construction Disbursement and Letter of Credit Reimbursement Agreement dated as of October 1, 2014, by and between the Borrower and the Bank, as amended, supplemented or restated from time to time.”

“**Freddie Mac Servicer**’ means Jones Lang LaSalle Incorporated d/b/a JLL Capital Markets, successor to Oak Grove Commercial Mortgage, LLC.”

“**Maturity Date**’ means April 1, 2018, or (i) if the First Extension is exercised, October 1, 2018, (ii) if the Second Extension is exercised, April 1, 2019 or (iii) if the Third Extension is exercised, October 1, 2019.”

(b) Section 1.01 of the Original Subordinate Indenture is further amended by adding the following definitions:

“**First Extension**’ has the meaning given to such term in Section 3.05(d)(i).”

“**Second Extension**’ has the meaning given to such term in Section 3.05(d)(ii).”

“**Third Extension**’ has the meaning given to such term in Section 3.05(d)(iii).”

SECTION 1.03. The last three (3) sentences of Section 3.01(c) of the Original Subordinate Indenture are deleted in their entirety and replaced with the following:

“Drawings may be made on any Business Day not later than December 29, 2017, upon delivery of written notice to the Issuer, the Subordinate Trustee and the Bank not less than two Business Days prior to the date of such Drawing, which notice shall provide the following: (i) the cumulative principal amount of any prior Drawings, (ii) the principal amount of the requested Drawing, (iii) the date of the requested Drawing, which date shall be a Business Day not later than December 29, 2017, and not less than two Business Days subsequent to the date of the notice, and (iv) a statement to the effect that no Event of Default exists with respect to the Subordinate Bonds. Upon receipt of such notice the Owner shall advance the purchase price of the Subordinate Bonds in an amount equal to the principal amount of the requested Drawing. The entire par amount of the Subordinate Bonds (\$9,850,000) must be drawn down not later than December 29, 2017.”

SECTION 1.04. Section 3.05 of the Original Subordinate Indenture is amended to add a new clause (d) as follows:

“(d) So long as no Event of Default shall have occurred and be continuing under this Subordinate Indenture or under the Subordinate Loan Agreement, the Maturity Date may be extended as follows:

- (i) From April 1, 2018 to October 1, 2018 (the “First Extension”) upon the Majority Owner’s confirmation to the Subordinate Trustee that the Borrower has complied with all conditions to such extension set forth in the Construction Disbursement Agreement and the Owners of all of the Outstanding Subordinate Bonds have consented thereto.
- (ii) If the First Extension is exercised, from October 1, 2018 to April 1, 2019 (the “Second Extension”) upon the Majority Owner’s confirmation to the Subordinate Trustee that the Borrower has complied with all conditions to such extension set forth in the Construction Disbursement Agreement and the Owners of all of the Outstanding Subordinate Bonds have consented thereto.
- (iii) If the First and Second Extensions are exercised, from April 1, 2019 to October 1, 2019 (the “Third Extension”) upon the Majority Owner’s confirmation to the Subordinate Trustee that the Borrower has complied with all conditions to such extension set forth in the Construction Disbursement Agreement and the Owners of all of the Outstanding Subordinate Bonds have consented thereto.”

SECTION 1.05. Section 4.08 of the Original Subordinate Indenture is deleted in its entirety and replaced with the following:

“Section 4.08 [Reserved.]”

SECTION 1.07. Section 5.03 of the Original Subordinate Indenture is deleted in its entirety and replaced with the following:

“Section 5.03 **Use of Moneys by December 1, 2017.** Moneys (including investment proceeds but net of amounts that the Subordinate Trustee is directed by a written instruction from the Subordinate Loan Servicer to retain to pay Qualified Costs of the Project (a) incurred but not then due and payable or (b) allocated to construction contingency, marketing or operating expenses) held in this Subordinate Indenture on December 1, 2017 shall be transferred immediately to the Redemption Account for application to the redemption of Bonds pursuant to Section 4.01(e) of this Subordinate Indenture.”

[End of Article I]

ARTICLE II

MISCELLANEOUS

SECTION 2.01. In all respects not inconsistent with the terms and provisions of this First Amendment, the Original Subordinate Indenture is hereby ratified, approved and confirmed, and shall remain in full force and effect.

SECTION 2.02. If any provision of this First Amendment shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein or in the Loan Agreement contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or Sections in this First Amendment contained shall not affect the remaining portions of this First Amendment, or any part thereof.

SECTION 2.03. This First Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 2.04. This First Amendment shall be governed exclusively by the applicable laws of the State without regard to conflicts of laws principles, except to the extent that the laws of the United States of America may prevail.

SECTION 2.05. Notwithstanding any provision to the contrary herein, or in any of the Loan Documents, this First Amendment shall become effective as of the effective date of the First Amendment to Subordinate Loan Agreement of even date herewith among the Issuer, the Subordinate Trustee and the Borrower.

[Remainder of page intentionally left blank]

[FIRST AMENDMENT – SERIES 2014B BONDS]

IN WITNESS WHEREOF, the Issuer has caused this First Amendment to be executed, sealed and attested in its name and on its behalf by its duly authorized officers, and the Subordinate Trustee has caused this First Amendment to be executed in its name by its duly authorized officer, all as of the date set forth above.

**HOUSING FINANCE AUTHORITY OF
HILLSBOROUGH COUNTY, FLORIDA**

[SEAL]

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

**U.S. BANK NATIONAL ASSOCIATION, as
Subordinate Trustee**

By: _____
Name: _____
Title: _____

[FIRST AMENDMENT – SERIES 2014B BONDS]

The Borrower hereby consents to this First Amendment to be executed as of the date set forth above in accordance with Section 8.04 of the Original Subordinate Indenture and waives receipt of the notice required by such section.

THE TEMPO AT ENCORE, LP, a Florida limited partnership

By: THA Tempo, LLC, a Florida limited liability company, its general partner

By: TAMPA HOUSING AUTHORITY DEVELOPMENT CORP., a Florida not-for-profit corporation, its managing member

By: _____
Jerome D. Ryans, Secretary

[FIRST AMENDMENT – SERIES 2014B BONDS]

Bank of America, N.A. (the “Bank”), as sole owner of the Subordinate Bonds and as Majority Owner and Subordinate Loan Servicer, hereby consents to the execution of this First Amendment as of the date set forth above in accordance with Sections 8.02 and 8.04 of the Original Subordinate Indenture and waives receipt of the notice required by such sections. Furthermore, the Bank, as Majority Owner under the Original Subordinate Indenture, authorizes and directs U.S. Bank National Association, as Subordinate Trustee under the Original Subordinate Indenture, to enter into this First Amendment.

BANK OF AMERICA, N.A., a national banking association

By: _____
Name: _____
Its: _____