

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.
Brownfields, Transactions, Due Diligence, Development, Permitting, Cleanups & Compliance

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August 23, 2019

Via Email and Federal Express

Dr. Wazir Ishmael, City Manager
City of Hollywood
2600 Hollywood Boulevard
Hollywood, FL 33020

Re: Request to Designate Properties Located on Adams Street, Hollywood, Broward County, FL 33020, Folio Nos. 514216011380 and 514216011460, a Green Reuse Area Pursuant to Florida's Brownfield Redevelopment Act

Dear Dr. Ishmael:

On behalf of Pinnacle at Peacefield, Ltd. ("Pinnacle"), we are pleased to submit this request to designate the above-referenced property (the "Subject Property") as a Green Reuse Area pursuant to section 376.80(2)(c), Florida Statutes, of Florida's Brownfields Redevelopment Act.

When fully developed as an affordable housing community, the Subject Property will consist of two (2) buildings with up to one hundred twenty (120) units. Amenities in each building will include a lounge/meeting space, computer center, outdoor patio, fitness facility and medical evaluation room. The completed development will have an estimated cost of approximately \$29.96 million. A legal description and property cards depicting the location of the Subject Property are enclosed herein at Exhibit A.

Pinnacle is applying for this designation to be able to utilize an important state economic and regulatory assistance program available to developers and local governments in situations where the risk and reality of contamination are demonstrated to overwhelm key opportunities for land revitalization, new housing, and job growth. In this instance, a history of actual contamination at the property adjoining the development site itself that could adversely impact the development site has significantly complicated redevelopment efforts and created a host of logistical, financing, design,

Dr. Wazir Ishmael, City Manager

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engineering, and construction concerns for Pinnacle, requiring the very assistance offered by Florida's Brownfields Program to stay on track. These resources come at no cost to the City.

In considering a request for designation as a Green Reuse Area under Florida's Brownfields Redevelopment Act, a local government must evaluate and apply the criteria set forth in section 376.80(2)(c), Florida Statutes. As reflected in the Statement of Eligibility incorporated herein at Exhibit B, Pinnacle meets such statutory criteria. Accordingly, based on the foregoing, we respectfully request that staff recommend approval. Of course, as you evaluate the application and supporting materials, please feel free to contact us with any questions or should further information be required. Thank you.

Very truly yours,

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.



Michael R. Goldstein

Encl.

/mrg

cc: Mr. Timothy P. Wheat, Pinnacle at Peacefield, Ltd.

Exhibit A



Site Address	ADAMS STREET HOLLYWOOD, 33020	ID#	514216011380
Property Owner	PINNACLE AT PEACEFIELD LTD	Millage	0513
Mailing Address	9400 S DADELAND BLVD STE 100 MIAMI, FL 33156	Use	00 - Vacant residential

Abbreviated Legal Description	HOLLYWOOD LITTLE RANCHES 1-26 B LOTS 13 THROUGH 17 BLK 1
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The just values displayed below were set in compliance with Sec. 193.011, Fla. Stat., and include a reduction for costs of sale and other adjustments required by Sec. 193.011(8).

Property Assessment Values						
Year	Land	Building	Agriculture Savings	Just / Market Value	Assessed / SOH Value	Tax
2019	\$615,040	0	0	\$615,040	\$615,040	
2018	\$123,010	0	0	\$123,010	\$123,010	0
2017	\$123,010	0	0	\$123,010	\$123,010	0

2019 Exemptions and Taxable Values by Taxing Authority				
	County	School Board	Municipal	Independent
Just Value	\$615,040	\$615,040	\$615,040	\$615,040
Portability	0	0	0	0
Assessed / SOH	\$615,040	\$615,040	\$615,040	\$615,040
Homestead	0	0	0	0
Add. Homestead	0	0	0	0
Wid/Vet/Dis	0	0	0	0
Senior	0	0	0	0
Exemption Type	0	0	0	0
Taxable	\$615,040	\$615,040	\$615,040	\$615,040

Sales History			
Date	Type	Price	Book/Page or CIN
12/13/2018	Multi Special Warranty Deed Disqualified Sale	\$1,575,000	115511650
04/24/2003	Warranty Deed	\$160,000	35078 / 634
10/11/2001	Warranty Deed	\$115,000	32377 / 182
12/01/1992	Warranty Deed	\$17,000	20240 / 333
08/01/1990	Certificate of Title	\$100	

Land Calculations /		
Price	Factor	Type
\$6.00	102,506 SqFt	Square Foot
Adj. Bldg. S.F.:	0	
Effective Year:	0	
Actual Year:		
Units/Beds/Baths:	0 / /	

Special Assessments								
Fire	Garb	Light	Drain	Impr	Safe	Storm	Clean	Misc
Hlwd Fire Rescue (05)								
Vacant Lots (L)								
1								



Site Address	2210 ADAMS STREET HOLLYWOOD, 33020	ID#	514216011460
Property Owner	PINNACLE AT PEACEFIELD LTD	Millage	0513
Mailing Address	9400 S DADELAND BLVD STE 100 MIAMI, FL 33156	Use	00 - Vacant residential

Abbreviated Legal Description	HOLLYWOOD LITTLE RANCHES 1-26 B LOTS 19 THROUGH 21 BLK 1
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The just values displayed below were set in compliance with Sec. 193.011, Fla. Stat., and include a reduction for costs of sale and other adjustments required by Sec. 193.011(8).

Property Assessment Values						
Year	Land	Building	Agriculture Savings	Just / Market Value	Assessed / SOH Value	Tax
2019	\$369,020	0	0	\$369,020	\$369,020	
2018	\$123,010	0	0	\$123,010	\$74,410	0
2017	\$123,010	0	0	\$123,010	\$67,650	0

2019 Exemptions and Taxable Values by Taxing Authority				
	County	School Board	Municipal	Independent
Just Value	\$369,020	\$369,020	\$369,020	\$369,020
Portability	0	0	0	0
Assessed / SOH	\$369,020	\$369,020	\$369,020	\$369,020
Homestead	0	0	0	0
Add. Homestead	0	0	0	0
Wid/Vet/Dis	0	0	0	0
Senior	0	0	0	0
Exemption Type	0	0	0	0
Taxable	\$369,020	\$369,020	\$369,020	\$369,020

Sales History				Land Calculations /		
Date	Type	Price	Book/Page or CIN	Price	Factor	Type
12/13/2018	Multi Special Warranty Deed Disqualified Sale	\$1,575,000	115511650	\$6.00	61,504 SqFt	Square Foot
12/02/2003	Multi Warranty Deed	\$1,380,000	36563 / 1851			
08/01/1994	Warranty Deed	\$146,500	22474 / 628			
08/01/1991	Warranty Deed	\$125,000				
05/01/1985	Warranty Deed	\$80,000				
				Adj. Bldg. S.F.:	0	
				Effective Year:	0	
				Actual Year:		
				Units/Beds/Baths:	0 / /	

Special Assessments								
Fire	Garb	Light	Drain	Impr	Safe	Storm	Clean	Misc
Hlwd Fire Rescue (05)								
Vacant Lots (L)								
1								

LEGAL DESCRIPTION

ALL OF LOTS 13 THROUGH 17 AND LOTS 19 THROUGH 21, BLOCK 1, AMENDED PLAT OF HOLLYWOOD LITTLE RANCHES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, ON PAGE 26 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

TOGETHER WITH:

ALL OF LOTS 9 THROUGH 19, W.B. SYMMES SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, ON PAGE 7 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

ALSO TOGETHER WITH:

THE WEST 330.00 FEET OF LOTS 4 AND 5, BLOCK M, AMENDED PLAT OF HOLLYWOOD LITTLE RANCHES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, ON PAGE 26 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF HOLLYWOOD, BROWARD COUNTY, FLORIDA CONTAINING 241,550 SQUARE FEET (5.54 ACRES) MORE OF LESS.

Exhibit B

Green Reuse Area Designation Eligibility Statement

Pinnacle at Peacefield Green Reuse Area Property Located on Adams Street, Hollywood, Broward County, FL 33020 Folio Nos. 514216011380 and 514216011460

Pinnacle at Peacefield, Ltd. (“Pinnacle”) proposes to redevelop and rehabilitate two (2) parcels of land located on Adams Street, Hollywood, Broward County, FL 33020, Folio Nos. 514216011380 and 514216011460, (the “Subject Property”), as an affordable multifamily residential rental community for seniors consisting of two (2) low-rise buildings. Once complete, the amenities in each building will include a lounge/meeting space, computer center, outdoor patio, fitness facility, and medical evaluation room (the “Project”). As demonstrated herein, the Project meets all five of the applicable designation criteria set forth at § 376.80(2)(c), Florida Statutes.¹ In addition, the Subject Property meets the definition of a “brownfield site” pursuant to § 376.79(3), Florida Statutes.

I. Subject Property Satisfies the Statutory Criteria for Designation

1. Agreement to Redevelop the Brownfield Site. As the first requirement for designation, Florida Statutes § 376.80(2)(c)(1) provides that “[a] person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.”

Pinnacle satisfies this criterion in that it controls the Subject Property by a Special Warranty Deed and has agreed to redevelop and rehabilitate it. See Special Warranty Deed, dated December 13, 2018, at Attachment B. Accordingly, Pinnacle meets this first criterion.

2. Economic Productivity. As the second requirement for designation, Florida Statutes § 376.80(2)(c)(2) provides that “[t]he rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement or an agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.”

Pinnacle satisfies this criterion in that, first, the Project will result in significant economic productivity of the area. The budget for rehabilitation and redevelopment is approximately \$29.96 million, which will be spent in part on local labor, contractors, consultants, construction materials, furnishings, infrastructure improvements, and impact fees. This work will support approximately 146 temporary construction jobs over the period of development. The construction workers will spend a percentage of their salaries with local merchants who, in turn, will reinvest locally in their respective businesses, as well as the businesses of other local merchants.

Additionally, the recognized literature regarding the local benefits produced by the construction of affordable housing developments shows that this type of development substantially contributes to the economic productivity of an area in the form of stimulation of the local economy by residents and transformation of vacant land into economically productive communities. For example, in The National Association of Home Builders’ (“NAHB”) landmark study, The Local Economic Impact of Typical Housing Tax Credit Developments,² NAHB published models that estimate the local economic benefits of family tax credit developments and

¹ A copy of § 376.80, Florida Statutes, can be found at [Attachment A](#) to this Eligibility Statement.

² A complete copy of the NAHB report may be accessed here:
https://www.novoco.com/sites/default/files/atoms/files/nahb_jobs-report_2010.pdf

elderly tax credit developments. These models capture the effect of the construction activity itself, the positive economic ripple effect that occurs when income earned from construction activity is spent and recycled in the local economy, and the ongoing beneficial impacts that result from the new apartments becoming occupied by residents. On a quantitative basis, the results are even more impressive.

According to the NAHB report, the estimated one-year impacts of building 100 affordable residential rental apartments for seniors include the following:

- \$7.32 million in local income
- 113 local jobs

According to the report, these one-year impacts include both the direct and indirect impact of the construction activity itself, and the impact of local residents who earn money from the construction activity spending part of it within the local area's economy. Moreover, on a recurring basis, the economic impacts of building 100 affordable residential rental apartments include the following:

- \$2.26 million in local income
- 32 local jobs

Extrapolating the NAHB model economic data to the redevelopment planned for the Subject Property, the "year of construction" and "annual recurring" impacts based on 120 units would be as follows:

Economic Productivity for Pinnacle at Peacefield Development – Year of Construction

*\$8.78 million in local income
135 local jobs*

Economic Productivity for Pinnacle at Peacefield Development – Annually Recurring

*\$2.71 million in local income
38 local jobs*

*Pinnacle further satisfies this criterion in that all of the units at the Subject Property will be rented to Income Eligible Households under the Low Income Housing Tax Credit Program, and rehabilitation and redevelopment of the Subject Property will "provide affordable housing as defined in s. 420.0004."*³ Accordingly, the employment creation threshold of at least 5 new permanent jobs is not applicable to the Project. For all the reasons discussed herein, Pinnacle meets this second criterion.

3. Consistency with Local Comprehensive Plan and Permittable Use under Local Land Development Regulations. As the third requirement for designation, Florida Statutes § 376.80(2)(c)(3) provides that "[t]he redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations."

Pinnacle satisfies this criterion in that the Subject Property is located within a Multiple Family Residence 18 (RM-18 and RMCRA-18) zoning district, which permits the Subject Property's redevelopment as described above.⁴ This consistency is also reflected in the Zoning Verification Form signed and certified by the Assistant City Manager for Sustainable Development of the City of Hollywood, enclosed as Attachment D.

³ See Attachment C for the Florida Housing Finance Corporation Carryover Allocation Agreement evidencing that the Project will create affordable housing.

⁴ See Hollywood, Fla., Zoning and Land Dev. Code, § 4.2 (2018).

4. Public Notice and Comment. Florida Statutes § 376.80(2)(c)(4) stipulates that “[n]otice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be posted in the affected area.” Additional notice requirements pertaining to applicants other than a governmental entity can be found at Florida Statutes § 376.80(1)(c)(4)(b) and consist of publication in a newspaper of general circulation in the area, publication in ethnic newspapers or local community bulletins, and announcement at a scheduled meeting of the local governing body before the actual public hearing.

Pinnacle satisfies all applicable notice and opportunity to comment requirements established by Florida Statutes §376.80(2)(c)(4) and § 376.80(1)(c)(4)(b) as follows:

- (i) notice was posted at the Subject Property;*
- (ii) notice was published in the Sun Sentinel;*
- (iii) notice was published in the Hollywood community bulletin section of Craig’s List; and*
- (iv) a community meeting was held at the Fred Lippman Multi-purpose Center.*

All notices will contain the following narrative:

Representatives for Pinnacle at Peacefield, Ltd., will hold a community meeting on July 8, 2019, from 5:30 p.m. to 7:00 p.m. for the purpose of affording interested parties the opportunity to provide comments and suggestions about the potential designation of land located on Adams Street, Hollywood, FL 33020, Folio Nos. 514216011380, 514216210070, and 514216011460, as a Green Reuse Area. The designation is being made pursuant to Section 376.80, Florida Statutes, of Florida’s Brownfield Redevelopment Act, and will involve two public hearings before the Hollywood City Commission. The community meeting will also address future development and rehabilitation activities planned for the site.

The community meeting will be held at the Fred Lippman Multi-purpose Center, located at 2030 Polk Street, Hollywood, FL 33020, and is free and open to all members of the public.

For more information regarding the community meeting, including directions, the dates of the two public hearings, or to provide comments and suggestions regarding designation, development, or rehabilitation at any time before or after the meeting date, please contact Michael R. Goldstein, who can be reached by telephone at (305) 777-1682, U.S. Mail at The Goldstein Environmental Law Firm, P.A., 2100 Ponce de Leon Boulevard, Suite 710, Coral Gables, FL 33134, and/or email at mgoldstein@goldsteinewlaw.com.

Proof of publication or posting will be provided to the City.

5. Reasonable Financial Assurance. As the fifth requirement for designation, Florida Statutes § 376.80(2)(c)(5) provides that “[t]he person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.”

The total capital budget of approximately \$29.96 million for the Project is fully funded through a combination of equity and debt. Specifically, the Project will be funded by tax credit equity in the amount of \$23,942,955, a \$3,500,000 permanent first mortgage from Citibank, N.A., (“Citibank”), an Affordable Housing Catalyst loan in the amount of \$700,000 from Citibank, mortgages in the amount of \$578,000 from the City, and \$1,239,654 of deferred developer fees.⁵

⁵ See Attachment E, Statement of Sources of Uses; see also Citibank Equity Terms Sheet at Attachment F; see also Citibank Construction and Permanent Loan Term Sheet at Attachment G; see also Citibank Affordable Housing

In addition, Pinnacle's principal, Pinnacle Housing Group, LLC ("Pinnacle Housing Group") has an extensive track record of success in financing, building, and managing major affordable and market-rate residential communities. Pinnacle Housing Group has over two decades of experience developing, building, and leasing affordably-priced, luxury-style apartment homes, resulting in a development portfolio of over 8,000 units and total financing secured in excess of \$1.5 billion. Pinnacle Housing Group also has extensive experience in the City of Hollywood, having overseen the redevelopment of the Crystal Lake public housing complex and having co-developed the Parc Station rental community. This proven history of leveraging assets with other capital sources, an impressive track record of success, and a staff of highly experienced and sophisticated development officials constitute reasonable assurance that Pinnacle has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan. Accordingly, it satisfies this fifth and last criterion.

II. Subject Property Meets the Definition of Brownfield Site

Section 376.79(4), Florida Statutes, defines "brownfield site" to mean ". . . real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination." The facts here evidence that the Subject Property falls within the definition of the term "brownfield site" in that actual contamination at multiple adjacent and proximately located properties has complicated its redevelopment and reuse. Specifically, historical soil and groundwater contamination has been extensively documented at the property located at 810 South Dixie Highway, which was formerly used as a gas station and for automotive repair and adjoins the Subject Property to the east.⁶ Potential sources of contamination from automotive and drycleaning facilities located to the north and south have also been revealed by site assessment activities.

The presence of actual contamination immediately adjacent to the Subject Property complicates redevelopment by raising the possibility that additional and undiscovered contamination has migrated to the Subject Property which may not be discovered until further assessment activities are conducted, or redevelopment commences. In addition, actual soil and groundwater contamination at adjacent properties has complicated redevelopment efforts by potentially imposing design⁷ and construction⁸ changes on the Project that would not be required but for the presence of contamination, therefore increasing Pinnacle's exposure to environmental and regulatory liability with respect to the Project and making it materially more

Catalyst Loan Commitment at [Attachment H](#); and [see](#) Funding Agreement Between the City of Hollywood and Pinnacle at [Attachment I](#).

⁶ In 2004, personnel from Broward County observed stained soils at property located immediately east of the Subject Property along South Dixie Highway and discovered petroleum concentrations that exceeded the Florida Department of Environmental Protection's ("FDEP") soil cleanup target levels ("SCTLs"). Groundwater samples collected in 2016 from the 810 South Dixie Highway property showed levels of petroleum constituents that exceeded FDEP groundwater cleanup target levels ("GCTLs"). The presence of petroleum contamination in groundwater also creates the potential for vapor encroachment if the property is developed above the area of contamination.

⁷ As it stands, and as just one example of the additional complexity posed by actual and perceived contamination, because of the location of the Subject Property within one-quarter mile of a contaminated site, Pinnacle is required to comply with an expensive and challenging protocol for dewatering that only applies to development projects within that certain radius. Enclosed as [Attachment J](#) is the Broward County dewatering protocol evidencing the many extra steps that will be triggered if and when dewatering is required.

⁸ If soil or groundwater contamination is documented once development occurs, one such design change that could bring the project to an immediate and expensive halt is the rethinking of how stormwater is managed at the property and how stormwater structures, such as dry detention ponds, swales, and exfiltration trenches are built and operated. FDEP, for example, will not allow stormwater to drain through contaminated soil or into groundwater in a way that spreads an existing groundwater plume. This concern has become so acute that FDEP issued detailed guidance written to address this issue and help overcome the complexity posed by actual and potential contamination impacting redevelopment. See [Attachment K](#).

expensive and time consuming to move forward with the Project. Furthermore, several properties are located to the north and south of the Subject Property that were historically, and are currently, in use as laundry facilities and automotive repair facilities. These uses are generally associated with highly mobile chlorinated solvents which may easily migrate if introduced into the groundwater.

If contamination is found to have migrated onto the Subject Property, the investigation and remediation of contamination itself adds one last major level of complexity as it will require close and constant oversight by the Environmental Engineering and Permitting Division of Broward County's Environmental Protection and Growth Management Department ("EPGMD"), including compliance with the County's Standard Operating Procedures for Dewatering of contaminated property. The regulatory process associated with remediation can be lengthy, complicated, uncertain, and without guaranteed end points. Accordingly, Pinnacle has no assurance that as it moves forward with the Project the total cost of cleanup will not in fact ultimately exceed what is currently projected. Such uncertainty constitutes an *acute* form of redevelopment complexity that goes to the heart of the Florida Brownfield Program and underscores why incentives are so important for sites and projects exactly like this one. Assessment, remediation, and closure will be an expensive and lengthy process that will require Pinnacle to carefully manage the contamination during redevelopment, imposing great legal and financial risk to incorporate design and construction changes on the Project that would not be required but for the presence of actual contamination.

Accordingly, this designation, if granted, will allow for Pinnacle to access limited but important state-based economic incentives to help underwrite the unanticipated and unbudgeted costs associated with managing the environmental risk as well as, generally, to put the Project to a more certain financial ground. In this sense, the designation will not only play a critical role in the successful redevelopment of the Subject Property, but also in the larger revitalization efforts for this area of the City of Hollywood.

Based on all the foregoing, the Subject Property clearly falls within the definition of "brownfield site" as set forth in § 376.79(3), Florida Statutes.

III. Conclusion

Pinnacle has demonstrated that the Subject Property meets the definition of a "brownfield site" and that it satisfies the five statutory criteria for designation. Accordingly, designation of the Subject Property as a Green Reuse Area pursuant to § 376.80(2)(c), Florida Statutes, of Florida's Brownfield Redevelopment Act is appropriate.

Attachment A

Select Year:

The 2019 Florida Statutes

[Title XXVIII](#)
NATURAL RESOURCES; CONSERVATION,
RECLAMATION, AND USE

[Chapter 376](#)
POLLUTANT DISCHARGE PREVENTION
AND REMOVAL

[View Entire
Chapter](#)

376.80 Brownfield program administration process.—

(1) The following general procedures apply to brownfield designations:

(a) The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, the designation criteria under paragraph (2)(a) apply, except if the local government proposes to designate as a brownfield area a specified redevelopment area as provided in paragraph (2)(b).

2. Any person, other than a governmental entity, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, or not-for-profit corporations, the designation criteria under paragraph (2)(c) apply.

(c) Except as otherwise provided, the following provisions apply to all proposed brownfield area designations:

1. Notification to department following adoption.—A local government with jurisdiction over the brownfield area must notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of its decision to designate a brownfield area for rehabilitation for the purposes of ss. [376.77-376.86](#). The notification must include a resolution adopted by the local government body. The local government shall notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of the designation within 30 days after adoption of the resolution.

2. Resolution adoption.—The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, which includes a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [166.041](#), except that the procedures for the public hearings on the proposed resolution must be in the form established in s. [166.041\(3\)\(c\)2](#). For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [125.66](#), except that the procedures for the public hearings on the proposed resolution shall be in the form established in s. [125.66\(4\)\(b\)](#).

3. Right to be removed from proposed brownfield area.—If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request.

4. Notice and public hearing requirements for designation of a proposed brownfield area outside a redevelopment area or by a nongovernmental entity. Compliance with the following provisions is required before designation of a proposed brownfield area under paragraph (2)(a) or paragraph (2)(c):

a. At least one of the required public hearings shall be conducted as closely as is reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.

b. Notice of a public hearing must be made in a newspaper of general circulation in the area, must be made in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.

(2)(a) *Local government-proposed brownfield area designation outside specified redevelopment areas.*—If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government shall provide notice, adopt the resolution, and conduct public hearings pursuant to paragraph (1)(c). At a public hearing to designate the proposed brownfield area, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in rehabilitation; and
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) *Local government-proposed brownfield area designation within specified redevelopment areas.*—Paragraph (a) does not apply to a proposed brownfield area if the local government proposes to designate the brownfield area inside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area and the local government complies with paragraph (1)(c).

(c) *Brownfield area designation proposed by persons other than a governmental entity.*—For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. [420.0004](#) or the creation of recreational areas, conservation areas, or parks.
3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.
4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.
5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

(d) *Negotiation of brownfield site rehabilitation agreement.*—The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination

changes during the approval process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review any proposed redevelopment agreements prepared pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement.

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must be signed and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department.

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules.

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. 376.81, including any applicable requirements for risk-based corrective action.

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents.

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation.

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. 376.77-376.86, and that will improve or enhance the brownfield site rehabilitation process.

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into

account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials.

(i) Certification that the person responsible for brownfield site rehabilitation has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. Certification shall be accomplished by referencing or providing a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects the local government's approval of proposed redevelopment of the brownfield site; providing a copy of the local government resolution designating the brownfield area that contains the proposed redevelopment of the brownfield site; or providing a letter from the local government that describes the proposed redevelopment of the brownfield site and expresses the local government's agreement with or approval of the proposed redevelopment.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

- (a) Meets all certification and license requirements imposed by law; and
- (b) Will conduct sample collection and analyses pursuant to department rules.

(7) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for "no further action," "monitoring only proposals," and feasibility studies, which must be approved prior to implementation.

(8) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. 376.82 are revoked.

(9) The department is specifically authorized and encouraged to enter into delegation agreements with local pollution control programs approved under s. 403.182 to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfield program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

- (a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfield program; and
- (b) Provide for the enforcement of the requirements of the delegated brownfield program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfield program as established by the act and the relevant rules and other criteria of the department.

(10) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and

environmental hazards, and to promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

(11)(a) The Legislature finds and declares that:

1. Brownfield site rehabilitation and redevelopment can improve the overall health of a community and the quality of life for communities, including for individuals living in such communities.
2. The community health benefits of brownfield site rehabilitation and redevelopment should be better measured in order to achieve the legislative intent as expressed in s. 376.78.
3. There is a need in this state to define and better measure the community health benefits of brownfield site rehabilitation and redevelopment.
4. Funding sources should be established to support efforts by the state and local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, to evaluate the community health benefits of brownfield site rehabilitation and redevelopment.

(b) Local governments may and are encouraged to evaluate the community health benefits and effects of brownfield site rehabilitation and redevelopment in connection with brownfield areas located within their jurisdictions. Factors that may be evaluated and monitored before and after brownfield site rehabilitation and redevelopment include, but are not limited to:

1. Health status, disease distribution, and quality of life measures regarding populations living in or around brownfield sites that have been rehabilitated and redeveloped.
2. Access to primary and other health care or health services for persons living in or around brownfield sites that have been rehabilitated and redeveloped.
3. Any new or increased access to open, green, park, or other recreational spaces that provide recreational opportunities for individuals living in or around brownfield sites that have been rehabilitated and redeveloped.
4. Other factors described in rules adopted by the Department of Environmental Protection or the Department of Health, as applicable.

(c) The Department of Health may and is encouraged to assist local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, in evaluating the community health benefits of brownfield site rehabilitation and redevelopment.

(12) A local government that designates a brownfield area pursuant to this section is not required to use the term “brownfield area” within the name of the brownfield area designated by the local government.

History.—s. 4, ch. 97-277; s. 3, ch. 98-75; s. 11, ch. 2000-317; s. 2, ch. 2004-40; s. 44, ch. 2005-2; s. 7, ch. 2006-291; s. 5, ch. 2008-239; s. 2, ch. 2014-114.

Attachment B

This Instrument Prepared by:

Alan Fallik, Esq.
City of Hollywood, Deputy City Attorney
2600 Hollywood Boulevard
Room 407
Hollywood, Florida 33020

Record and Return to:

Robert Cheng, Esq.
Shutts & Bowen LLP
200 S. Biscayne Blvd., Suite 4100
Miami, FL 33131

Tax Parcel No(s): 5142-16-01-1380, 5142-16-01-1381, 5142-16-01-1390, 5142-16-01-1400, 5142-16-01-1410, 5142-16-01-1430, 5142-16-01-1430, 5142-16-01-1440, 5142-16-01-1450, and 5142-16-01-1460

-----The Space Above This Line For Recording Office Use Only-----

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is made as of this 13th day of December, 2018, by the **CITY OF HOLLYWOOD, FLORIDA**, a political subdivision of the State of Florida (“**Grantor**”), whose address is 2600 Hollywood Boulevard, Hollywood, Florida 33020, to **PINNACLE AT PEACEFIELD, LTD.**, a Florida limited partnership (“**Grantee**”), whose address is 9400 S. Dadeland Blvd., Suite 100, Miami, Florida 33156.

Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid to Grantor by Grantee, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold and conveyed, and does hereby grant, bargain, sell and convey, to Grantee and Grantee’s heirs, successors and assigns forever, the following described land, situate, lying and being in Broward County, Florida (the “**Property**”):

ALL OF LOTS 13 THROUGH 17 AND LOTS 19 THROUGH 21, BLOCK 1, AMENDED PLAT OF HOLLYWOOD LITTLE RANCHES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, ON PAGE 26 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

TOGETHER WITH all easements, tenements, hereditaments and appurtenances belonging to the Property; and

TOGETHER WITH all buildings and other improvements now or hereafter located on the Property.

TO HAVE AND TO HOLD the same in fee simple forever.

This conveyance is made subject to those matters set forth on **Exhibit "A"** attached hereto, and made a part hereof (the "**Permitted Exceptions**"), which are not re-imposed by this deed.

Subject to the Permitted Exception, Grantor covenants that at the time of delivery of this deed, Grantor is lawfully seized of the Property in fee simple, and has good right and lawful authority to sell and convey the Property and the Property is free of any encumbrance made by Grantor, and Grantor specially warrants the title to the Property, and will defend it against the lawful claims and demands of all persons claiming by, through or under Grantor, but against none other.

[INTENTIONALLY LEFT BLANK]

EXHIBIT "A"

PERMITTED EXCEPTIONS

1. Restrictions, dedications, conditions, reservations, easements and other matters shown on the plat of AMENDED PLAT OF HOLLYWOOD LITTLE RANCHES, as recorded in Plat Book 1, at Page 26.
2. Reservations for utilities along the rear lot lines as set forth in Deeds recorded January 2, 1924 in Deed Book 16, at Page 276 (Lots 13 and 14); and recorded December 11, 1925 in Deed Book 96, at Page 37 (Lot 15), but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).
3. Dedication of Utility Easement, recorded September 22, 2005, in Official Records Book 40558, at Page 1734.
4. City of Hollywood Development Review Board Resolution No. 07-DPV-42, recorded July 28, 2008, in Official Records Book 45564, at Page 24.
5. Terms and conditions of any existing unrecorded lease(s), and all rights of lessee(s) and any parties claiming through the lessee(s) under the lease(s).
6. City of Hollywood Planning and Development Board Resolution No. 18-DP-01, recorded June 12, 2018, under Instrument No. 115134288.
7. Declaration of Restrictive Covenants (Age Restricted), recorded November 1, 2018 under Instrument No. 115422168.
8. Declaration of Restrictive Covenants (Affordable Housing), recorded November 1, 2018 under Instrument No. 115422487.
9. Unity of Title recorded _____, 2018 under Instrument No. _____. (Lots 13 thru 17) – to be recorded
10. Unity of Title recorded _____, 2018 under Instrument No. _____. (Lots 19 thru 21) – to be recorded

Attachment C

**FLORIDA HOUSING FINANCE CORPORATION
2017 CARRYOVER ALLOCATION AGREEMENT**

This 2017 Carryover Allocation Agreement (Agreement) by and between Florida Housing Finance Corporation (Florida Housing) and Pinnacle at Peacefield Ltd., (Owner) constitutes an allocation of the 2017 Housing Credit dollar amount meeting the requirements of Section 42(h)(1)(E) and (F) of the Internal Revenue Code of 1986 as amended (Code). Unless otherwise specifically provided, this Agreement and the terms used herein shall be interpreted in a manner consistent with the requirements of Section 42 of the Code.

In consideration of the conditions and obligations stated in this Agreement, Florida Housing and the Owner understand and agree as follows:

1. Florida Housing has reviewed Request for Applications RFA 2016-113 ("RFA") filed by the Owner of Pinnacle at Peacefield (Development). Based on the evaluation of the Development identified in the RFA, and the market study and credit underwriting analysis, Florida Housing and the Owner incorporate, by reference, the RFA into this Agreement.
2. The Owner acknowledges that all the terms, conditions, obligations, and deadlines set forth in this Agreement and the attached Exhibits, together with those that are incorporated by reference, constitute material and necessary conditions of this Agreement, and that the Owner's failure to comply with any of such terms and conditions shall entitle Florida Housing, at its sole discretion, to deem the credit allocation to be canceled. After any such cancellation, the Owner acknowledges that neither it, nor its successors in interest to the Development, shall have any right to claim Housing Credits pursuant to this allocation. Florida Housing reserves the right, at its sole discretion, to modify and/or waive any such failed condition precedent.
3. This 2017 Housing Credit allocation is not to exceed an annual amount of \$2,561,000.00 for the Development. Florida Housing Finance Corporation reserves the right to amend this Carryover Allocation Agreement when the final credit underwriting report is issued. If the final report recommends a lesser amount of housing credits, this agreement will be amended to reflect the lesser amount.

If the Development consists of more than one building, this Agreement constitutes an allocation of credit on a project basis to the Development in accordance with Section 42(h)(1)(F) of the Code. The address(es) of the building(s) in the Development should be listed on Exhibit A, the Building Information Breakdown.

This allocation is expressly conditioned upon satisfaction of the requirements of Section 42(h)(1)(E) of the Code and upon the terms and conditions of this Agreement.

4. The Owner certifies it is the legal owner of the Development and that the following information is true, accurate, and complete:

- a. Owner Name: Pinnacle at Peacefield Ltd.
- b. Taxpayer Federal ID#: 32-0543952
- c. Owner Address: 9400 S. Dadeland Blvd.
Suite 100
Miami, FL 33156
- d. Development Name: Pinnacle at Peacefield
- e. Development Address: On Adams St., SW of
intersection of Adams St.,
and South Dixie Highway
Hollywood, FL 33020
- f. Florida Housing Development Number: 2017-211C
- g. Total Number of Units in Development: 120
(Includes market rate units, set-aside units, and full-time employee units.)
- h. Total Number of Buildings: 3
- i. Total Number of Qualified Residential Buildings: 3
(as defined at Section 42(h)(1)(E)(ii) of the Code)
- j. Type of Construction: New Construction
- k. Demographic/Designation: Elderly/Large County
- l. Minimum Set-Aside: 40% of units at
60% of area median income
- m. Total Set-Aside: 10% of the residential units at
30% of area median income
90% of the residential units at
60% of area median income

50% of the ELI units will be set-aside for Persons with Special Needs.

- n. Extended Use Period: The Owner has irrevocably waived the "option to convert" to market rents after year 14 and FURTHER COMMITS to an additional compliance period of 35 years (fifteen years plus 35 additional years totaling 50 years).



_____ upon the initial submission of this Agreement

or

on or before June 30, 2018

In choosing this election, the Owner agrees to provide evidence of meeting the requirement as a supplemental to the original Carryover Allocation Agreement without amending the original document. If you are unable to meet the deadline, you may request a one-time extension to Florida Housing on or before 5:00 pm June 30, 2018. Provided that an extension is granted, there will be a \$5,000 non-refundable processing fee.

b. **Cost Basis and Certification:**

The Owner certifies that it shall incur at least 10 percent of the reasonably expected basis (10% test) of the Development on or before June 30, 2018. The Owner shall indicate below whether it chooses to provide evidence that the 10% test has been met upon the initial submission of this Agreement or by June 30, 2018.

The Owner represents that its reasonably expected basis in the development (land and depreciable basis) as of December 31, 2019 is \$ 27,679,777.00, such that for purposes of the 10% test, it must have a basis in the Development (land and depreciable basis) of at least \$ 2,767,977.70 on or before June 30, 2018.

Cost Basis and Certification Election:

Owner shall initial only one of the following:

I elect to meet the 10% test requirement,



_____ upon the initial submission of this Agreement

or

on or before June 30, 2018

In choosing this election, the Owner agrees to provide an updated Exhibit D as evidence of meeting the 10% requirement. This will be a supplement to the original Carryover Allocation Agreement without amending the original document. If you are unable to meet the deadline, you may request a one-time extension to Florida Housing on or before 5:00 pm June 30, 2018. Provided that an extension is granted, there will be a \$5,000 non-refundable processing fee.

The Owner shall submit the properly completed and executed Exhibit D as evidence that it has or has not met the 10% test requirement.

Florida Housing's acceptance of any certification with respect to meeting the 10% test requirement, does not constitute a representation as to the satisfaction of the requirements under Section 42(h)(1)(E) of the Code as binding on the part of the Internal Revenue Service.

6. The Owner acknowledges that all qualified buildings within the Development shall be placed in service on or before December 31, 2019. The final tax credit determination by Florida Housing cannot be made until such time as all buildings are placed in-service and the required Final Cost Certification has been submitted and approved by Florida Housing. Florida Housing shall not issue any partial final allocations.
7. The Owner acknowledges and agrees to submit to Florida Housing, in accordance with Rule Chapter 67-48, Florida Administrative Code: (i) the completed and required Progress Report Form Q/M Report evidencing the progress of the Development by the first Monday of the month following the end of each calendar quarter, and (ii) the completed and required Final Cost Certification documents by the date that is 75 calendar days after all the buildings in the Development have been placed in service, unless an extension is granted. If a Progress Report extension is granted by Florida Housing, a non-refundable processing fee of \$500 shall be charged to the Owner. If a Final Cost Certification extension is granted by Florida Housing, a non-refundable processing fee of \$1,000 shall be charged to the Owner.

In addition, the Owner acknowledges and agrees to commence construction on or before September 30, 2018. As proof thereof the Owner shall deliver to Florida Housing, on or before September 30, 2018, a copy of the recorded Notice of Commencement from the Official Records of the applicable jurisdiction(s) relative to the subject Development. If you are unable to meet this deadline, you may request an extension to Florida Housing. If an extension is granted, a non-refundable processing fee of \$10,000 shall be charged to the Owner.

The Credit Underwriting Report must be finalized no later than September 30, 2018. If you are unable to meet this deadline, you may request an extension to Florida Housing. If an extension is granted, a non-refundable processing fee of \$5,000 shall be charged to the Owner.

Florida Housing will require the Owner to acknowledge and agree to close its tax credit partnership on or before September 30, 2018. As proof thereof, the Owner shall deliver to Florida Housing, on or before September 30, 2018, a copy of its closed and executed partnership agreement. If you are unable to meet this deadline, you may request an extension to Florida Housing. If an extension is granted, a non-refundable processing fee of \$10,000 shall be charged to the Owner.

The Owner acknowledges and agrees to develop and execute a Memorandum of Understanding, with at least one designated Special Needs Referral Agency by June 30, 2018. As proof thereof, the Owner shall deliver to Florida Housing, on or before June 30, 2018 a copy of the fully executed Memorandum of Understanding. If you are unable to meet the deadline, you may request an extension to Florida Housing. If an extension is granted, a non-refundable processing fee of \$5,000 shall be charged to the Owner.

In the event the Owner fails to comply with the above requirements, the Housing Credits

allocated within this Agreement shall be deemed returned to Florida Housing pursuant to Section 42 (h)(3)(C) of the Code. Florida Housing, in its sole and absolute discretion, may extend the time for compliance with these requirements upon receipt of a written request from the Owner and if Florida Housing determines that the Owner is making a diligent effort to comply.

8. A non-refundable administrative fee that is stated in the Preliminary Allocation Certificate must be paid to Florida Housing Finance Corporation by December 8, 2017. In the event the Owner fails to pay the above-referenced administrative fee on or before **5:00 pm, December 8, 2017**, the Housing Credits allocated within this Agreement shall be deemed returned to Florida Housing pursuant to Section 42 (h)(3)(C) of the Code. .
9. Pursuant to Rule Chapter 67-53, the Owner shall coordinate with the Development's assigned servicer, First Housing Development Corporation to have at least four on-site construction inspections at the Owner's expense. The Owner shall insure that these inspections are conducted at different intervals during the construction period with one of the inspections conducted prior to the Development being 15% complete and one inspection conducted at construction completion.
10. The Owner acknowledges and agrees that Florida Housing shall further evaluate the Development, pursuant to Section 42(m)(2) of the Code for a final housing credit allocation determination upon Final Cost Certification, when all buildings in the Development are placed in service.

The Owner further acknowledges and agrees that, if the carryover housing credit allocation dollar amount, set forth in paragraph 3 of this Agreement, exceeds the amount for which the Development is determined by Florida Housing to be finally eligible, pursuant to Section 42(m)(2) of the Code, the amount of any such excess shall be returned to and recovered by Florida Housing pursuant to Section 42(h)(3)(C) of the Code for reallocation as per the 2016 Qualified Allocation Plan.

11. Upon the Owner's written notification to Florida Housing that the last building in the Development is placed in service, Florida Housing's receipt of evidence that all contingency items identified in the Credit Underwriting Report and this Agreement have been satisfied, and acceptance by Florida Housing of the Final Cost Certification documents which include but are not limited to:
 - the Final Cost Certification
 - the monitoring fee
 - copies of Certificates of Occupancy
 - a copy of the Syndication Agreement
 - an Independent Auditor's Report prepared by an independent Certified Public Accountant
 - photographs of the completed property
 - the original, executed Extended Low-Income Housing Agreement in accordance

with the deadlines imposed above

- IRS Forms 8821 for all Financial Beneficiaries

Florida Housing shall issue an Internal Revenue Service Form 8609 for each building, in accordance with the applicable federal law governing Housing Credit allocation under Section 42 of the Code and Florida Housing program rules. The Extended Low-Income Housing Agreement, with respect to the Development, shall, incorporate the terms, conditions, and obligations undertaken by the Owner pursuant to paragraph 4 of this Agreement.

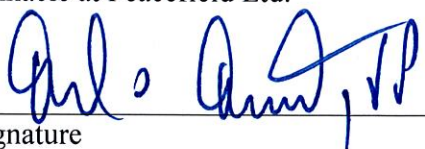
12. This Agreement does not in any way constitute a representation, warranty, guaranty, advice, or suggestion by Florida Housing as to the qualification of the Development for Housing Credits, or the financial feasibility, or viability of the Development. The Agreement shall not be relied on as such by any owner, developer, investor, tenant, lender or other person or entity for any reason.

If and to the extent that the allocation made pursuant to this Agreement is determined to be invalid, due to an error made by Florida Housing in determining its Housing Credit dollar amount for calendar year 2017, this Agreement shall be deemed to constitute a binding commitment on behalf of Florida Housing to allocate an equal amount of Housing Credits from its future Housing Credit Allocation Authority to the extent allowed by Section 42 of the Code. Such binding commitment shall, in all respects, be subject to the terms and conditions of this Agreement.

13. The Owner acknowledges and agrees to notify Florida Housing, in writing, in the event of a sale, transfer, or change in ownership of the Development in accordance with Rule Chapter 67-48, Florida Administrative Code.
14. Amendments to this document may be made by Florida Housing only upon written request from the Owner and as Florida Housing deems necessary.
15. The date of this Agreement is the date it is executed on behalf of Florida Housing as shown on the execution page hereto.

--OWNER--


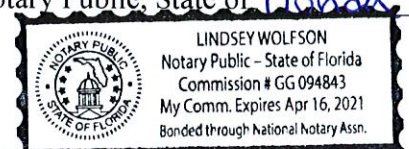
Acknowledged, agreed and accepted:

Owner: Pinnacle at Peacefield Ltd.
By: 
Signature
David O. Deutch
Typed or Printed Name
Title: Vice President
Address: 9400 S. Dadeland Blvd. Ste. 100
Miami, FL 33156
Date: December 7, 2017

STATE OF Florida
COUNTY OF Miami- Dade

The foregoing instrument was acknowledged before me this 7th day of December,
2017, by David O. Deutch as Vice President of PHG-Peacefield, LLC for
(Name) (Type of Authority)
Pinnacle at Peacefield, Ltd
(Name of party on behalf of whom instrument was executed)

Personally Known or Produced Identification _____.


Notary Public, State of Florida


Print, Type or Stamp Name
April 16, 2021
Date Commission Expires

EXHIBIT "B"
RFA 2016-113
(PINNACLE AT PEACEFIELD/2017-211C)
DESCRIPTION OF FEATURES AND AMENITIES

A. The Development will consist of:

120 apartment units located in 3 garden residential buildings

Unit Mix:

Seventy-two (72) one bedroom/one bath units containing a minimum of 700 square feet of heated and cooled living area; and

Forty-eight (48) two bedroom/two bath units containing a minimum of 932 square feet of heated and cooled living area; and

120 Total Units

The Development is to be constructed in accordance with the final plans and specifications approved by the appropriate city or county building or planning department or equivalent agency, and approved as reflected in the Pre-Construction Analysis prepared for Florida Housing or its Servicer, unless a change has been approved in writing by Florida Housing or its Servicer. The Development will conform to requirements of local, state & federal laws, rules, regulations, ordinances, orders and codes, the 2012 Florida Accessibility Code for Building Construction as adopted pursuant to Section 553.503, Florida Statutes, Federal Fair Housing Act as implemented by 24 CFR 100, Section 504 of the Rehabilitation Act of 1973, and Titles II and III of the Americans with Disabilities Act ("ADA") of 1990 as implemented by 28 CFR 35, incorporating the most recent amendments, regulations and rules, as applicable.

All units must meet accessibility standards of Section 504. Section 504 accessibility standards require a minimum of 5 percent of the total dwelling units, but not fewer than one unit, to be accessible for individuals with mobility impairments. An additional two percent of the total units, but not fewer than one unit, must be accessible for persons with hearing or vision impairments.

The Applicant commits to locate each feature and amenity that is non unit-specific on each of the Scattered Sites, or no more than 1/16 mile from the Scattered Site with the most units, or a combination of both.

B. The Development will provide the following General Features and Accessibility, Universal Design and Visitability Features in all units:

1. Termite prevention;
2. Pest control;
3. Window covering for each window and glass door inside each unit;
4. Cable or satellite TV hook-up in each unit and, if the Development offers cable or satellite TV service to the residents, the price cannot exceed the market rate for service of

EXHIBIT "B"
RFA 2016-113
(PINNACLE AT PEACEFIELD/2017-211C)
DESCRIPTION OF FEATURES AND AMENITIES

similar quality available to the Development's residents from a primary provider of cable or satellite TV;

5. Full-size range and oven in all units;
 6. At least two full bathrooms in all 3 bedroom or larger new construction units;
 7. Bathtub with shower in at least one bathroom in at least 90% of the new construction non-Elderly units; and
 8. Washer and dryer hook ups in each of the Development's units or an on-site laundry facility for resident use. If the proposed Development consists of an on-site laundry facility, there must be a minimum of one (1) Energy Star qualified washer and one (1) dryer per every 15 units. To determine the required number of washers and dryers for the on-site laundry facility; divide the total number of the Developments' units by 15, and then round the equation's total up to the nearest whole number.
- C.** All new construction units that are located on an accessible route will provide the following features:
1. Primary entrance door shall have a threshold with no more than a ½-inch rise;
 2. All door handles on primary entrance door and interior doors must have lever handles;
 3. Lever handles on all bathroom faucets and kitchen sink faucets
 4. Mid-point on light switches and thermostats shall not be more than 48 inches above finished floor level; and
 5. Cabinet drawer handles and cabinet door handles in bathroom and kitchen shall be lever or D-pull type that operate easily using a single closed fist.
- D.** All new construction units must include the following Accessibility Features and Green Building Features:
1. In addition to the required features outlined in A through C above, all Applications with the Elderly Demographic must also provide the following in all units:
 - a) At least 15 percent of the new construction units must have roll-in showers
 - b) Horizontal grab bars in place around each tub and/or shower, the installation of which meets or exceeds 2010 ADA Standards for Accessible Design, Section 609. In addition, the following standards for grab bars are required:
 - i. If a bathtub/shower combination with a permanent seat is provided, grab bars shall be installed to meet or exceed 2010 ADA Standards for Accessible Design, Section 607.4.1.
 - ii. If a bathtub/shower combination without a permanent seat is provided, grab bars shall be installed to meet or exceed 2010 ADA Standards for Accessible Design, Section 607.4.2.
 - iii. If a roll-in shower is provided, grab bars shall be installed to meet or exceed 2010 ADA Standards for Accessible Design, Section 608.3.2;

EXHIBIT "B"
RFA 2016-113
(PINNACLE AT PEACEFIELD/2017-211C)
DESCRIPTION OF FEATURES AND AMENITIES

- c) Reinforced walls for future installation of horizontal grab bars in place around each toilet, the installation of which meets or exceeds 2010 ADA Standards for Accessible Design, Section 604.5.1 (Side Wall);
 - d) Toilets that are 17 inches to 19 inches in height as measured from the finished floor to the top of the toilet seat;
 - e) Roll-out shelving or drawers in all bottom bathroom vanity cabinets;
 - f) Adjustable shelving in master bedroom closets (must be adjustable by resident); and
 - g) In at least one of the kitchen's bottom or base cabinets, there shall be a large drawer that has full extension drawer slides.
2. Green Building Features in all Family and Elderly Demographic Developments:
- a) Low or No-VOC paint for all interior walls (Low-VOC means 50 grams per liter or less for flat; 150 grams per liter or less for non-flat paint).
 - b) Low-flow water fixtures in bathrooms – WaterSense labeled products or the following specifications:
 - i. Faucets: 1.5 gallons/minute or less,
 - ii. Showerheads: 2.0 gallons/minute or less;
 - c) Energy Star qualified refrigerator;
 - d) Energy Star qualified dishwasher;
 - e) Energy Star qualified ventilation fan in all bathrooms;
 - f) Energy Star qualified ceiling fans with lighting fixtures in bedrooms;
 - g) Water Heater minimum efficiency specifications:
 - i. Residential Electric:
 - 1. ≤ 55 gallons = .95 EF; or
 - 2. > 55 gallons = Energy Star qualified; or
 - 3. Tankless = .97 EF;
 - ii. Residential Gas (storage or tankless/instantaneous): Energy Star qualified; or
 - iii. Commercial Gas Water Heater: Energy Star qualified
 - h) Air Conditioning minimum efficiency specifications (choose in-unit or commercial):
 - i. In-unit air conditioning: minimum 15 SEER; or
 - ii. Packaged units are allowed in zero bedroom units and one-bedroom units: minimum 13.8 EER; or
 - iii. Central chiller AC system – based on size:
 - 1. 0-65 KBtuh: Energy Star certified; or
 - 2. >65 -135 KBtuh: 11.9 EER; or
 - 3. >135 -240 KBtuh: 12.3 EER; or
 - 4. >240 KBtuh: 12.2 EER.
- E. This New Construction Development commits to provide the following Green Building Certification program:

EXHIBIT "B"
RFA 2016-113
(PINNACLE AT PEACEFIELD/2017-211C)
DESCRIPTION OF FEATURES AND AMENITIES

- _____ Leadership in Energy and Environmental Design (LEED); or
- _____ Florida Green Building Coalition (FGBC); or
- X ICC 700 National Green Building Standard (NGBS).

F. This Elderly Development will provide the following resident programs:

1. 24 Hour Support to Assist Residents in Handling Urgent Issues – An important aging in place best practice is providing the residents access to property management support 24 hours per day, 7 days a week to assist them to appropriately and efficiently handle urgent issues or incidents that may arise. These issues may include, but are not limited to, an apartment maintenance emergency, security or safety concern, or a health risk incident in their apartment or on the property. The management's assistance will include a 24/7 approach to receiving residents' requests for assistance that will include a formal written process for relevant property management staff to effectively assess and provide assistance for each request.

This assistance may include staff:

- visiting or coordinating a visit to a resident's apartment to address an urgent maintenance issue;
- responding to a resident being locked out of their apartment;
- contacting on-site security or the police to address a concern;
- providing contact information to the resident and directing or making calls on a resident's behalf to appropriate community-based emergency services or related resources to address an urgent health risk incident;
- calling the resident's informal emergency contact; or
- addressing a resident's urgent concern about another resident.

Property management staff shall be on site at least 8 hours daily, but the 24 hour support approach may include contracted services or technology to assist the management meet this commitment, if these methods adequately address the intent of this service. The Development's owner and/or designated property management entity shall develop and implement policies and procedures for staff to immediately receive and handle a resident's call and assess the call based on a resident's request and/or need.

At a minimum, residents shall be informed by the property management, at move-in and via a written notice(s)/instructions provided to each resident and displayed in the Development's common or public areas, that staff are available to receive resident calls at all times. These notices shall also provide contact information and direction to first contact the community-based emergency services if they have health or safety risk concerns.

EXHIBIT "B"
RFA 2016-113
(PINNACLE AT PEACEFIELD/2017-211C)
DESCRIPTION OF FEATURES AND AMENITIES

2. Resident Assurance Check-In Program – The Applicant commits to provide and use an established system for checking in with each resident on a pre-determined basis not less than once per day, at no cost to the resident. Residents may opt out of this program with a written certification that they choose not to participate.
3. Daily Activities - The Applicant or its Management Company must provide on-site supervised, structured activities, at no cost to the resident, at least five days per week, which must be offered between the hours of 8:00 a.m. and 7:00 p.m. If the Development consists of Scattered Sites, this resident program must be provided on the Scattered Site with the most units.
4. Computer Training – The Applicant or its Management Company shall make available computer and internet training classes (basic and/or advanced level depending on the needs and requests of the residents). The training classes must be provided at least once a week, at no cost to the resident, in a dedicated space on site. Training must be held between the hours of 8:00 a.m. and 7:00 p.m., and electronic media, if used, must be used in conjunction with live instruction. If the Development consists of Scattered Sites, this resident program must be provided on the Scattered Site with the most units.

EXHIBIT C
LEGAL DESCRIPTION

(Please attach a legal description of the property)

Development Name: Pinnacle at Peacefield

Development Number: 2017-211C

10067.00 PINNACLE AT PEACEFIELD

LAND DESCRIPTION:

ALL OF LOTS 13 THROUGH 17 AND LOTS 19 THROUGH 21, BLOCK 1, AMENDED PLAT OF HOLLYWOOD LITTLE RANCHES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, ON PAGE 26 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

TOGETHER WITH:

ALL OF LOTS 9 THROUGH 19, W.B. SYMMES SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, ON PAGE 7 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

ALSO TOGETHER WITH:

THE WEST 350.00 FEET OF LOTS 4 AND 5, BLOCK M, AMENDED PLAT OF HOLLYWOOD LITTLE RANCHES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, ON PAGE 26 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF HOLLYWOOD, BROWARD COUNTY, FLORIDA CONTAINING 241,550 SQUARE FEET (5.54 ACRES) MORE OR LESS.


EXHIBIT D, Page 1

COST BASIS DOCUMENT

DEVELOPMENT NAME: Pinnacle at Peacefield
FILE NUMBER: 2017-211C

<i>(TO BE COMPLETED BY THE OWNER'S CPA OR ATTORNEY)</i>	TOTAL ESTIMATED DEVELOPMENT COST	REASONABLY EXPECTED BASIS*	CURRENT BASIS
SOURCES			
Investor's Capital Contribution (Syndication Proceeds)	24,327,067.00		
First Mortgage	2,300,000.00		
Second Mortgage	578,000.00		
Grants			
Owner's Contribution			
Other			
Deferred Developer Fee	2,594,075.00		
Total Sources:	29,799,142.00		
USES			
Building or Land Acquisition			
Land	2,100,000.00	2,100,000.00	150,000.00
Building			
Legal - Acquisition			
Building Rehab. or New Constr.			
Hard Costs	17,932,480.00	17,590,480.00	
Construction Period Interest	508,306.00	169,435.00	
Demolition			
Site Work			
Legal	300,000.00	150,000.00	70,878.17
Accounting	71,500.00	71,500.00	
Architectural & Engineering	756,250.00	756,250.00	39,868.66
Surveying	68,750.00	59,735.00	
Environmental	75,000.00	37,500.00	22,100.00
Appraisal	12,500.00	12,500.00	
Tax Credit Fees	458,214.00		
Development Fee	3,818,512.00	3,818,512.00	
Syndication Expenses			
Construction Loan Fees	121,000.00	121,000.00	
Other	3,576,630.00	2,792,865.00	
TAXES & INSURANCE			
Total Uses:	29,799,142.00	27,679,777.00	282,846.83

SUMMARY	
Current Basis:	282,846.83
Reasonably Expected Basis:	27,679,777.00
Percentage Complete:	1.02%
Date:	

To be certified by CPA upon re-submission 

CPA/ATTORNEY SIGNATURE

DATE **TELEPHONE**

This form may be signed by the Applicant or designee if submitting as evidence of NOT meeting the 10% test.

* These figures are estimates for computation purposes only. For purposes of the Carryover Allocation Agreement, "reasonably expected basis" pursuant to Section 42(h)(1)(E)(ii) need not be the same as eligible basis and is computed for an entire project, rather than building-by-building.

EXHIBIT D, Page 2
COST BASIS CERTIFICATION

I certify that I have examined all eligible costs incurred, as listed on the Cost Basis Document, with respect to Pinnacle at Peacefield. Based on this examination, it is my belief that Pinnacle at Peacefield Ltd., has incurred more than 10 percent of its reasonably expected basis in Pinnacle at Peacefield pursuant to Section 42(h)(1)(E)(ii) of the Internal Revenue Code.

Signature

Date

Print or Type Name of Certified Public Accountant or Attorney

Address

Telephone Number

EXHIBIT E

EXPLANATION OF CHANGES

Development Name: Pinnacle at Peacefield
File Number: 2017-211C

If there are any changes in the project information from that submitted with the application, provide a detailed explanation/justification for the changes. These changes MUST be reviewed and approved by the Agency prior to execution of this Agreement.

Check those items that have changed and explain changes in the spaces provided below. Attach supporting documentation as needed.

- Taxpayer Federal Identification Number
- Project Address
- Number of Units:
- Number of Buildings
- Set-Aside Elections
- Extended Use Period
- Project Amenities
- Tenant Programs
- Other: Change of legal description

Explanation of Changes: _____

1) We are requesting a Tenant Program swap, substituting the "Residence Assurance Check-In" in lieu of "Literacy Training";

2) We are amending the site for the development since the time of the Application. In Paragraph 29 of the purchase agreement for the land being purchased by the Applicant from the Hollywood Community Redevelopment Agency, the Applicant was to acquire more land that was needed for the Development as a "Future Development Parcel" and hold title to it until another suitable buyer could be located by the Seller. The First Amendment to this Purchase and Sale Agreement (dated 11/30/17) excludes this land from our purchase entirely. The Development Location Point is not located on this excluded parcel and an Affidavit from the surveyor is attached.

**AFFIDAVIT CERTIFYING SITE CONTROL AND
DEVELOPMENT LOCATION POINT
(Pinnacle at Peacefield/2017-211C)**

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

BEFORE ME, the undersigned authority, personally appeared David O. Deutch ("Affiant"), who being by me first duly sworn, on oath, says:

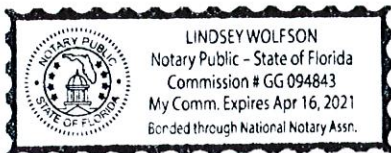
1. That this Affidavit is given on the personal knowledge of Affiant.
1. That Affiant is the Vice President of PHG- Peacefield, LLC a Florida limited liability company, the General Partner of Pinnacle at Peacefield Ltd., a Florida limited partnership (the "Applicant"), and is authorized to make this Affidavit on behalf of the applicant entity of Request for Applications RFA 2016-113/2017-211C (the "Application").
2. Affiant certifies that the site for the development has not changed from that as submitted in the Application, or if it has changed such change will not have affected the scoring of the affiant's original application.
3. Affiant further certifies that the Development Location Point as defined in Rule Chapter 67-48, F.A.C. and as stated on the Surveyor Certification Form provided with the Application remains the same.


Dated as of this 7th day of December 2017.



Name: David O. Deutch, individually,
Affiant

SUBSCRIBED AND SWORN TO before me this 7th day of December 2017, by David O. Deutch, who is personally known to me or has produced a valid driver's license as identification.




Notary Public
Printed Name: Lindsey Wolfson
My Commission Expires: April 16, 2021

Rick Scott, Governor

Board of Directors: Bernard "Barney" Smith, Chairman • Ray Dubuque, Vice Chairman
Natacha Bastian • Renier Diaz de la Portilla • LaTasha Green-Cobb • Creston Leifried • Ron Lieberman
Julie Dennis, Florida Department of Economic Opportunity

Harold "Trey" Price, Executive Director

TAXPAYER ELECTION OF APPLICABLE PERCENTAGE

Pursuant to Section 42(b)(2)(A)(ii) of the Internal Revenue Code (the “Code”), Pinnacle at Peacefield, Ltd. (the “Owner”) and the Florida Housing Finance Corporation (“Florida Housing”) hereby enter into an agreement as to the housing credit amount allocated to Pinnacle at Peacefield (the “Project”). This agreement represents an **irrevocable** election by the Owner to accept the credit rate chosen below and is dependent upon the issuance of a binding commitment for the allocation of housing credits from Florida Housing. The requirements of this action are set forth in Section 42(b)(A)(ii) of the Code and are not those of Florida Housing or the State of Florida.

 **CHOOSE EITHER OF THE FOLLOWING:**

If this box is checked, the Owner hereby **irrevocably** elects, pursuant to Section 42(b)(2)(A)(ii) of the Code, to fix the applicable credit percentage(s) for each building in the development as the percentage(s) prescribed by the Secretary of the Treasury for the month of December, 2017, which is the month of the Carryover Allocation Agreement. Florida Housing and the Owner acknowledge that this agreement constitutes an agreement binding upon Florida Housing, the Owner and all successors in interest to the Owner as owners of the Development as the allocation of 2017 Housing Credit authority to the building(s) in the Development, subject to compliance by the Owner with the requirements of Section 42 of the Code and the additional requirements, if any, of Florida Housing.

The undersigned hereby elects to accept the credit rate of 9 % (70% present value credit) or _____ % (30% present value credit) applicable only to the below identified development and building(s), as set forth in the Carryover Allocation Agreement of December, 2017.

-OR-

If this box is checked, the Owner makes no election pursuant to Section 42(b)(2)(A)(ii) of the Code, and accordingly, the applicable percentage for a building shall be that for the month in which the particular building is placed in service.

Rick Scott, Governor

Board of Directors: Bernard "Barney" Smith, Chairman • Ray Dubuque, Vice Chairman
Natacha Bastian • Renier Diaz de la Portilla • LaTasha Green-Cobb • Creston Leifred • Ron Lieberman
Julie Dennis, Florida Department of Economic Opportunity

Harold "Trey" Price, Executive Director

GROSS RENT FLOOR ELECTION

In accordance with Revenue Procedure 94-57, the Internal Revenue Service will treat the Gross Rent Floor in Section 42(g)(2)(A) as taking effect on the date the Corporation initially allocates* housing credits to the building. However, the IRS will treat the Gross Rent Floor as taking effect on the building's placed-in-service date **IF** the owner designates that date instead and **so informs the Corporation prior to the placed-in-service date of the building.**

THIS IS A ONE-TIME ONLY, IRREVOCABLE ELECTION.

The undersigned owner hereby makes the following election with respect to the Gross Rent Floor Effective Date for each building in the project designated below:

- On date of initial allocation (or determination)**
- On placed-in-service date**

* If the proposed project is tax-exempt bond financed (as defined by the IRC), the IRS will treat the gross rent floor as taking effect on the date the Corporation initially issues a determination letter unless the owner designates that the placed-in-service date should be used.

David O. Deutch, VP 12-6-17 Pinnacle at Peacefield
Owner Signature Date Project Name

David O. Deutch 2017-211C
Owner Name (Print or Type) Project Number

THIS ELECTION MUST BE RECEIVED BY THE CORPORATION PRIOR TO THE PLACED-IN-SERVICE DATE OF ANY BUILDING IN THE PROJECT.

RECEIVED BY THE FLORIDA HOUSING FINANCE CORPORATION
(Date Stamp):

RECEIVED
17 DEC 13 AM 11:45
FLORIDA HOUSING FINANCE CORPORATION

Attachment D

**FLORIDA HOUSING FINANCE CORPORATION
LOCAL GOVERNMENT VERIFICATION THAT DEVELOPMENT IS CONSISTENT WITH ZONING
AND LAND USE REGULATIONS**

FHFC Application Reference: RFA 2015-107

Indicate the name of the application process under which the proposed Development is applying/has applied for funding from the Corporation such as the Request for Proposal/Application number and/or the name of the Request for Proposal/Application.

Name of Development: Pinnacle at Peacefield

On Adams Street, southwest of the intersection of Adams Street and S. Dixie Highway,

Development Location: Hollywood

(At a minimum, provide the address number, street name and city, and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county).)


The undersigned service provider confirms that on or before the submission deadline for the above referenced FHFC Request for Proposal/Application:

- (1) The zoning designation for the above referenced Development location is RM-18 & RMCRA-18; and
- (2) The proposed number of units and intended use are consistent with current land use regulations and the referenced zoning designation or, if the Development consists of rehabilitation, the intended use is allowed as a legally non-conforming use. To the best of my knowledge, there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein. Assuming compliance with the applicable land use regulations, there are no known conditions which would preclude construction or rehabilitation (as the case may be) of the referenced Development on the proposed site.

CERTIFICATION

I certify that the City/County of Hollywood has vested in me the authority to verify
(Name of City/County)

consistency with local land use regulations and the zoning designation specified above or, if the Development consists of rehabilitation, the intended use is allowed as a "legally non-conforming use" and I further certify that the foregoing information is true and correct. In addition, if the proposed Development site is in the Florida Keys Area as defined in Rule Chapter 67-48, F.A.C., I further certify that the Applicant has obtained the necessary Rate of Growth Ordinance (ROGO) allocations from the Local Government.



Signature

Gus Zambrano

Print or Type Name

Asst. City Manager/Sustainable Development

Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to comprehensive planning and zoning, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If the certification is applicable to this Development and it is inappropriately signed, the certification will not be accepted.

Attachment E

PINNACLE AT PEACEFIELD, LTD.
DEVELOPMENT COST PROFORMA

<u>USES</u>	<u>ELDERLY PER UNIT COSTS</u>	<u>ELDERLY TOTAL COSTS</u>
Acquisition/Land (Fee Simple Purchase)	17,500	2,100,000
Demolition/Remediation	0	0
Accounting	625	75,000
Appraisal	93	11,200
Architect Fees - Design/Superv.	4,583	550,000
Building Permits	4,104	492,510
Engineering & Survey Fees	3,642	437,000
Environmental & Soils	417	50,000
Finance Fees	3,773	452,740
Green Fees	292	35,000
Net Impact Fees	1,875	225,000
Inspection Fees	395	47,400
Insurance - Bldrs Risk/GL/Excess & completed ops	1,402	168,194
Insurance - Perm	975	117,000
Legal Fees	3,488	418,500
Market Study	46	5,500
Property Taxes	1,405	168,659
Utility Connection Fees	3,729	447,452
Tax Credit Fees	4,059	487,031
Title Insurance & Recording	1,667	200,000
Marketing	1,042	125,000
Operating Reserves	0	0
Soft Cost Contingency	1,877	225,208
Construction Loan Interest	9,540	1,144,826
Construction Costs	145,263	17,431,606
Hard Cost Contingency	7,263	871,580
FFE	2,708	325,000
Washers/Dryers	1,200	144,000
Developer Fee	26,710	3,205,203
Total Uses	249,672	29,960,610
<u>SOURCES</u>		
TAX CREDIT EQUITY	199,525	23,942,955
1ST MORTGAGE-CONVENTIONAL	29,167	3,500,000
2ND MORTGAGE--CITY OF HOLLYWOOD HOME	700	84,000
3RD MORTGAGE--CITY OF HOLLYWOOD NSP-1	2,917	350,000
4TH MORTGAGE--CITY OF HOLLYWOOD	1,200	144,000
5TH MORTGAGE--CITIBANK CATALYST LOAN	5,833	700,000
DEFERRED DEVELOPER FEE	10,330	1,239,654
TOTAL SOURCES	249,672	29,960,610

Attachment F



October 18, 2018

Mr. David O. Deutch
Pinnacle at Peacefield, Ltd.
c/o Pinnacle Housing Group
9400 South Dadeland Boulevard, Suite 100
Miami, FL 33156

Re: Pinnacle at Peacefield (the “Project”)

Dear Mr. Deutch:

This letter of intent (this “Letter of Intent”) summarizes the principal business terms under which Citibank, N.A. (“Citi”) (sometimes referred to herein as the “Limited Partner”) will acquire an interest in Pinnacle at Peacefield, Ltd. (the “Partnership”) that will develop and operate the Project. The terms and conditions of the Limited Partner’s investment in the Project are subject to the execution of a mutually agreed upon limited partnership agreement (the “Partnership Agreement”) and the approval of Citi’s Capital Investment Approval Committee (“CIAC”).

1) Project Information and Assumptions

The Limited Partner’s willingness to acquire an interest in the Partnership is based upon the following information and assumptions provided by you. Citi reserves the right to update and adjust this Letter of Intent to reflect any changes in the following information and assumptions discovered during the due diligence and underwriting review.

- a) The Project, located in Hollywood, FL, County of Broward, will consist of three, three-story buildings totaling 120 apartment units for rent to seniors, and surface parking. Within the Project, 120 units will be occupied in compliance with LIHTC requirements of Section 42 of the Internal Revenue Code (the “Code”).

b) Participants

- | | |
|-----------------------------|--|
| 1) General Partner: | PHG-Peacefield, LLC which is owned by PHG GP Holdings, LLC |
| 2) Limited Partner: | Citibank, N.A. |
| 3) Special Limited Partner: | LP Purchaser LLC |
| 4) Developer: | Pinnacle Housing Group, LLC |
| 5) General Contractor: | PHG Builders, LLC |
| 6) Property Manager: | Professional Management Inc. |
| 7) Guarantors: | General Partner and Pinnacle Housing Group, LLC |

It is anticipated that upon Construction Completion, the Partnership will admit a to be identified non-profit entity (the “Non Profit General Partner”) into the Partnership in order for the Project to be eligible for ad valorem exemption permitted by Florida Statutes for properties used by nonprofit homes for the aged. The selection and terms of the admission of the Non Profit

General Partner will be subject to the ILP's review and consent. Additionally, upon the admission of the ILP approved Non Profit General Partner, the Partnership interest of the original General Partner will convert to that of a class b limited partner, thereafter to be referred to as the "Class B Limited Partner." The Class B Limited Partner shall have the identical economic and managerial rights, duties and obligations subsequent to such conversion that it had while it was the General Partner prior to Construction Completion, and the Non Profit General Partner shall not be construed as the General Partner. The ILP shall have the same rights against the Class B Limited Partner including, without limitation, the right to remove it from the Partnership, as it had against the General Partner prior to the admission of the Non Profit General Partner.

c) Partnership Tax Credits

NEW CONSTRUCTION

1) Annual Tax Credit Reservation	\$2,561,000
2) Annual Tax Credits Generated to L.P. (99.99%)	\$2,560,744
3) Assumed Tax Credit Rate	9%
4) Status of Tax Credit Rate Lock	Fixed
5) 130% Basis Increase	Yes
6) Total Qualified Basis	\$32,926,007

d) Project Timeframe

1) Closing Date:	December 1, 2018
2) Construction State Date:	December 1, 2018
3) Construction Completion Date:	February 15, 2020
4) Placed-in-Service Date:	September 30, 2020
5) Lease-Up Commencement:	January 1, 2020
6) Stabilization:	December 15, 2020

e) Tax Credit Pricing:

1) Limited Partner Interest:	99.99%
2) Credit Price:	0.9350
3) Total Federal LIHTC Equity:	\$23,942,955

f) Projected Tax Credits (to Limited Partner):

- 1) \$1,685,823 in 2020
- 2) \$2,560,744 in 2021 through 2029; and
- 3) \$874,921 in 2030

2) Limited Partner Capital Contributions

a) Assuming the foregoing material assumptions are accurate and subject to the terms and conditions set forth in this letter of intent and to the terms and conditions which would be included in the Partnership Agreement, Citi would agree to make capital contribution(s) to the Partnership payable in installments on an "as needed basis". The Total Federal LIHTC Equity would be based upon the Projected Tax Credits to be delivered to the Limited Partner multiplied by the Credit Price. Each installment would be due within ten (10) business days of: (i) Citi's receipt and approval of documentation evidencing the satisfaction of the conditions to such installment(s); (ii) satisfactory evidence that the Project's budget is in balance, (iii) evidence that the conditions of all prior capital installments have been satisfied, and (iv) the General Partner's certification that the representations and warranties contained in the Partnership Agreement are true and correct as of the date of the installment:

- 1) \$3,591,443 (15.00%) (the "First Installment"), will be funded upon the later to occur of the execution of the Partnership Agreement and satisfaction of the following conditions, as determined by the Limited Partner:

- 1) the Limited Partner's admission to the Partnership;
 - 2) closing of all Project sources and funding of those sources as required pursuant to the financial forecasts;
 - 3) receipt of fully executed construction loan documents;
 - 4) receipt of a fixed rate commitment for the permanent loan(s);
 - 5) receipt of any necessary building permits;
 - 6) acceptable owner's title insurance commitment and proforma of policy and endorsements;
 - 7) unqualified tax opinion from Citi's legal counsel and satisfactory local counsel opinion; and
 - 8) receipt by the Limited Partner of due diligence documentation customary to closing the Partnership Agreement.
- 2) \$12,000,000 (50.12%) (the "Second Installment"), will be funded upon the later to occur of February 15, 2020 and satisfaction of the following conditions, as determined by the Limited Partner:
- 1) lien-free construction completion of the Project sufficient for all residential rental units to be "placed in service" within the meaning of Section 42 of the Code;
 - 2) the issuance of all required temporary certificates of occupancy permitting immediate occupancy of all residential rental units;
 - 3) architect's substantial completion certification that the Project is completed in accordance with the plans and specifications;
 - 4) verification that the Company and project are properly covered by insurance;
 - 5) receipt by the Limited Partner of satisfactory evidence that all environmental requirements have been met (if applicable);
 - 6) satisfaction of all conditions precedent to the payment of this capital contribution;
 - 7) evidence that the 10% test has been met;
 - 8) copy of the lender's date-down endorsement along with a title search in a form reasonably acceptable to the Limited Partner; and
 - 9) receipt by the Investor Member of other due diligence items requested at is reasonable discretion.
- 3) \$8,051,512 (33.63%) (the "Third Installment"), will be funded upon the later to occur of December 15, 2020 and satisfaction of the following conditions, as determined by the Limited Partner:
- 1) Stabilization (as defined below);
 - 2) the issuance of all required permanent certificates of occupancy;
 - 3) receipt and approval of the Limited Partner's third-party review of all of the first year's tenant files for compliance with the Code and State requirements in accordance with Section 8(c) hereof;
 - 4) receipt of the Accountant's draft cost certification supporting the Projected Tax Credits;
 - 5) receipt of the Accountant's final Cost Certification as evidence of Eligible Basis to support the Projected Tax Credits;
 - 6) receipt of the final as-built ALTA survey of the Project;
 - 7) payment in full of the construction loan and closing and funding of the permanent loans (which may occur simultaneously with the payment of this Third Installment);
 - 8) verification that the Partnership and project are properly covered by insurance;
 - 9) satisfaction of all conditions precedent to the payment of this capital contribution;
 - 10) a copy of the lender's date down endorsement along with a title search in a form reasonably acceptable to the Investor Member; and

11) receipt by the Investor Member of other due diligence items requested at its reasonable discretion.

“Stabilization” means a 90 consecutive day period following construction completion upon which: (i) the Project has achieved Qualified Occupancy, (ii) the Project has achieved physical and economic occupancy of at least 90%, (iii) closing and full funding of all permanent loans has occurred, and (iv) the Project has satisfied the debt service coverage ratio requirement of at least 1.15:1.00 through the compliance period.

- 4) \$300,000 (1.25%) (the “Fourth Installment”), will be funded upon the later to occur of December 15, 2020 and satisfaction of the following conditions, as determined by the Limited Partner:
- 1) the IRS Form 8609 for all buildings;
 - 2) receipt of the approved and recorded Extended Use Agreement;
 - 3) satisfaction of all conditions precedent to the payment of this capital contribution;
 - 4) a copy of the lender’s date-down endorsement along with a title search in a form reasonably acceptable to the Limited Partner;
 - 5) receipt of the Accountant’s Cost Segregation Study acceptable to the Limited Partner;
 - 6) verification that the Partnership and project are properly covered by insurance; and
 - 7) receipt by the Limited Partner of other due diligence items requested at its reasonable discretion.

b) Upward Adjustments

- 1) Upward Capital Adjuster. In the event that the amount of actual tax credits that will be available, based upon the qualified basis as of the end of the first year of the credit period, the applicable percentage, and final allocation of tax credits, is greater than the Projected Tax Credits, the Limited Partner will increase its capital contribution once in an amount equal to the product of: (i) the amount by which the actual tax credits are greater than the Projected Tax Credits over the credit period; and (ii) \$0.9350, but adjusted to account for additional tax credits, profits and losses received by the General Partner. The Limited Partner will pay the amount of such increase at the time of the final Installment.
- 2) Upward Timing Adjuster. If in 2019 the project delivers more than \$0 in Tax Credits or in 2020 more than \$2,125,062 in Tax Credits (“Target Tax Credits”) can be claimed (as determined by the Accountants and acceptable to the Limited Partner) by the Limited Partner, then the Limited Partner shall make a capital contribution (the “Timing Increase”) in an amount equal to \$0.45 for each \$1.00 that the actual tax credits for such years claimed by the Limited Partner are more than the Target Tax Credits for such years. The Limited Partner shall pay the amount of such Timing Increase at the time of the final Installment.

Notwithstanding the foregoing, in no event will additional Capital Contributions paid pursuant to this Section 1(b) exceed 4% of the total Limited Partner capital contributions.

c) Downward Adjustments:

- 1) Permanent Reduction in Credit: If an event occurs which affects the delivery of the aggregate tax credits then the Limited Partner’s capital contribution will be reduced by an amount equal to the product of (i) the Permanent Credit Shortfall (as hereafter defined) and (ii) the Credit Price. The “Permanent Credit Shortfall” will mean the amount by which the actual tax credits are or will be less than the Projected Tax Credits over the credit period. This reduction will be applied by decreasing the amount of the Limited Partner’s capital contribution installment next due, and, if necessary, further installments (reducing the earliest ones first) by the amount of the Permanent Credit Shortfall. Any such amount not able to be offset will be immediately due and owing (without any right of reimbursement or capital contribution credit) from the Guarantors to the Limited Partner.
- 2) Downward Timing Adjuster: If the actual tax credits are less than Projected Tax Credits in the first year of the credit period then the Limited Partner’s capital contribution will be reduced by an amount equal to the product of (i) the Deferred Credit Amount (as hereafter defined) and (ii) \$0.50. The “Deferred Credit Amount” will mean the amount of credits that are due in the current year but delayed to a subsequent year. Such amounts not able to be offset will be immediately due and owing (without any right of reimbursement or Capital Contribution credit) from the Guarantors to the Limited Partner.

- 3) **Tax Credit Shortfall:** If, for any fiscal year, for any reason whatsoever except a change in law or a transfer of the Limited Partner's Partnership interest, (1) the actual tax credits are, on a cumulative basis, less than the Projected Tax Credits for such fiscal year, or (2) a Limited Partner is required to recapture (resulting from other than a transfer of part or all of the Limited Partner's Partnership interest) all or any part of the tax credits claimed by it in any prior fiscal year of the Partnership ("**Tax Credit Shortfall**"), then the General Partner and Guarantors will be obligated, subject to the limitations expressed in the Partnership Agreement, to pay to the Limited Partner the amount equal to the sum of (I) the Credit Price for each \$1.00 that the actual tax credits for such fiscal year is less than the Projected Tax Credits for the fiscal year, including any reduction as a result of a recapture event, (II) the amount of any interest and/or penalties paid or payable by the Limited Partner as a result of any recapture event affecting the foregoing calculation of the tax credits recaptured in such fiscal year and (III) 12% of the amounts in clauses (I) and (II) per annum commencing on the date of the Tax Credit Shortfall and continuing until the payment of the amount of such reduction in full ("**Credit Reduction Payment**"). This Credit Reduction Payment will be immediately due and owing (without any right of reimbursement or Capital Contribution credit) from the Guarantors to the Limited Partner.

3) Project Financing

- a) The General Partner(s) shall provide to Citi for its review and approval, copies of any grant agreements, loan commitments or financing documents for all financing sources. All of the financing sources listed below are assumed to be from qualified commercial lenders as well as a loan from the City of Hollywood. The first mortgage debt service coverage ratio will be at least 1.15:1.00 or such higher debt service coverage ratio as may be required by the permanent lender(s). All financing commitments would be required to provide the Limited Partner with notice and cure rights, unrestricted transferability of its interests to Citi affiliates, and the ability to remove the General Partner for cause without lender consent according to the terms of the Partnership Agreement. All interim financing sources shall be committed and closed prior to admission of Citi to the Partnership. Unless otherwise requested by the Limited Partner, all permanent financing will be non-recourse to the Partnership. The anticipated sources are as follows:

Construction Loan:

Lender	Amount	Rate	Fixed Rate	Term (months)
Citibank, N.A.	\$22,200,000	Approx. 5%	Variable	24

Permanent Loan:

Lender	Amount	Rate	Fixed Rate	Term (Years)	Amortization
Citibank, N.A.	\$3,500,000	Approx. 5.6%	Fixed	30	30
City of Hollywood Soft Debt (cash flow; funded at Closing)	\$578,000	0%	Fixed	30	0
Citibank, N.A. Subordinate Loan	\$500,000	1%	N/A	55	0

All loan financing described herein will be structured such that they will be characterized as "true debt" for tax purposes.

4) Developer Fee

The total development fee payable to the Developer is \$3,209,429 and is payable as noted below. Due to a gap between the total permanent sources and uses, a portion of the development fee equal to \$1,473,927 shall be deferred and dedicated as a permanent source of funds. The actual amount of deferred development fee, if any, will be determined upon Stabilization, and shall be repayable from available cash flow as set forth below. In the event that any portion of the deferred development fee (that was necessary to be included in the eligible basis calculation at the time of cost certification in order to generate the full amount of projected tax credits) remains after the 13th anniversary from completion, or date required by the IRS, the General Partner will make a special contribution to the Partnership to pay such amount necessary to cover any unpaid principal due on the deferred development fee. In all events, the deferred development fee shall be due and payable by the Partnership by the end of the 15th year from completion and the project must demonstrate that it can reasonably repay the deferred development fee by such time from projected available cash flow and/or a capital event.

The development fee shall be paid as follows:

\$0 upon payment of the First Installment.

\$1,000,000 upon payment of the Second Installment.

\$435,502 upon payment of the Third Installment.

\$300,000 upon payment of the Fourth Installment.

Consent for approval of the development fee draw would be withheld should any change orders or changes in timing occur which would have an adverse effect on the overall projected construction budget.

5) Distributions

Distributions noted below relate to all net cash flow distributions. Net cash flow will be distributed annually beginning after Stabilization in the following order of priority:

a) Cash flow will be distributed in the following order and priority:

- 1) To the Limited Partner, to make any tax credit shortfall, adjuster payment or guarantee payment not previously paid;
- 2) To repay any unpaid loans made by the Limited Partner;
- 3) To pay the LP Asset Management Fee;
- 4) To pay any then outstanding deferred development fee plus any accrued interest;
- 5) 75% of the remaining net cash flow as payment of amounts then and due and payable under the City of Hollywood loan and the Citibank, N.A. subordinate loan (subject to change during underwriting);
- 6) To the payment of any Cash Flow Loans;
- 7) To the payment of any General Partner loans;
- 8) To the payment of deferred property management fees to the extent the property manager is an Affiliate of the Developer;
90.00% of the balance, if any, to the General Partner as an Incentive Management Fee (but not in excess of the lesser of 7% of the gross revenues of the Partnership or \$40,000); provided, however, that in the event the payment of an Incentive Management Fee under this paragraph would exceed above stated limit for the year in question, such excess will be paid as a distribution to the General Partner; and
- 9) After making the payments described above, the remaining cash flow, if any, will be distributed in accordance with each of the General Partner's and Limited Partner's Partnership interest, but in no event will the Limited Partner receive less than 10.00% of the Cash Flow after the payment of items 1-8 above.

b) Net Cash from Sale and Refinance will be distributed in the following order and priority:

- 1) To repay any unpaid loans made by the Limited Partner;
- 2) To the Limited Partner for any tax credit adjusters;
- 3) To pay any current and accrued but unpaid LP Asset Management fee;
- 4) Payment to the Limited Partner to cover the Limited Partner's exit tax liability, if any;
- 5) To pay any deferred development fee plus any accrued interest (if any);
- 6) To fund reserves for contingent or unforeseen liabilities or obligations of the Partnership to the extent deemed reasonable by the Limited Partner;
- 7) To pay deferred property management fees to the extent the property manager is an Affiliate of the Developer;

- 8) To the payment of any other debts and liabilities (including any unpaid fees) owed to the partners or affiliates by the Partnership for Partnership obligations; provided, however, that the foregoing debts and liabilities owed to the partners and their affiliates; and
- 9) After making the payments specified above, the balance of Net Cash from Sale and Refinance, if any, will be distributed 90% to the General Partner and 10% to the Limited Partner.

6) Guaranties

- a) The General Partner and Guarantors would be required to perform or guarantee the customary duties and obligations of the General Partner, consistent with the representations and warranties, to ensure the successful development, maintenance, and operation of the property, including but not limited to maximizing tax credits and cash flow, maintaining insurance, setting up reserves, satisfying guarantees, prohibiting detrimental activities at the property, and working with the Limited Partner on issues impacting the property and Partnership, including seeking consent on material matters. The guarantees provided in connection with this investment will also be consistent with the guarantees set forth in the Amended and Restated Agreement of Limited Partnership and Agreement of Guaranty executed and delivered in connection with the investment in Caribbean Village except as set forth below or mutually agreed upon.
 - 1) Construction Completion. The General Partner will guarantee construction completion in accordance with approved plans and specifications and will pay for any construction costs, repayment of any construction financing, and costs necessary to fund reserves required to be funded at or before Stabilization.
 - 2) Pre-Stabilization Operating Deficits. The General Partner will guarantee funding of operating deficits until the Project achieves Stabilization.
 - 3) Post-Stabilization Operating Deficits. The payment of any operating deficits up to an aggregate amount of six months of operating expenses, mandatory debt service payment and replacement reserve deposits currently estimated to be \$[516,680] through non-interest bearing loans (the "Operating Deficit Loans") during the three (3) year period following the achievement of Stabilization (the "Operating Deficit Guaranty Period"); provided, however, that the Operating Deficit Guaranty Period will not expire prior to verification that the Project has achieved a debt coverage ratio of at least 1.15:1.00 on the first mortgage for the twelve (12) month period preceding the expiration of the Operating Deficit Guaranty Period. Notwithstanding the foregoing, the General Partner's obligation to guarantee the Operating Deficit Loans will be unlimited (in amount, duration, and otherwise) and such obligation will not be affected by any limitation applicable to the other Guarantors. While such an event will not constitute an event of default, the failure of the General Partner to fund such obligation(s) shall constitute an event of removal (at the discretion of the Limited Partner) of the General Partner.
 - 4) Tax Credit Shortfall, Downward Timing Adjuster, Deferred Credit Amount or Recapture Event. If the actual tax credits for any year is less than Projected Tax Credits, the General Partner will guarantee payment to Citi of an amount equal to the shortfall or recapture amount, plus related costs and expenses incurred by Citi.
 - 5) Repurchase. The General Partner will repurchase Citi's interest upon the occurrence of certain events described below.
 - 6) Environmental Indemnity. The General Partner will indemnify Citi against any losses due to environmental condition at the Project.
 - 7) Developer Fee. The General Partner will guarantee payment of any unpaid developer fee upon the 13th anniversary from completion. The foregoing requirement will not apply if it can be demonstrated that the project can reasonably repay the deferred fee by the end of the 15th year from completion and if the project has sufficient basis to generate projected tax credits without Deferred Developer Fee included in basis.
 - 8) Permanent Loan. The obligations of the Borrower to fund any permanent loan shortfall.
 - 9) Reserve Accounts. The funding any and all required reserve accounts through the Operating Deficit Guaranty period.

The Guarantors will guarantee all of the General Partner's obligations listed herein. The Guarantors will maintain a net worth and liquidity level as determined by Citi after review of the Guarantors' financial statements but in no event less than \$10,000,000, of which \$2,000,000 will be liquid (cash and cash equivalents). The Guarantors will provide Citi with annual financial statements evidencing compliance with the net worth and liquidity requirements.

7) Repurchase Obligations

In the event of a failure to satisfy certain requirements as set forth in the Partnership Agreement, the Limited Partner will not be required to advance any unpaid capital contribution and the General Partner and Guarantor may be required to repurchase the Limited Partner's interest for an amount equal to: (1) the sum of all Capital Contributions actually made to the Partnership by the Limited Partner, less tax credit benefits received, with interest at the rate of twelve percent (12%) per annum calculated from the date of such Capital Contributions, plus (2) all expenses incurred by the Limited Partner in connection with the closing of the Partnership and caused by such repurchase. Such repurchase events shall be set forth in the Partnership Agreement and are listed below, as follows:

- a) Construction-related work on the Project does not occur for more than a sixty (60) day consecutive period.
- b) Completion and placement in service of the Apartment Complex pursuant to Section 42 of the Code do not occur on or before the date required by the Code and the Agency to preserve the Housing Tax Credits and the tax exempt status of the Bonds with respect to the Project;
- c) For any reason whatsoever, the Project does not generate any Actual Housing Tax Credits prior to December 31, 2020;
- d) a casualty shall have occurred with respect to the Project and insurance proceeds are insufficient to fully restore the Project to its condition immediately prior to such casualty, or the Project is not fully restored to its condition immediately prior to such casualty within twenty-four (24) months of such casualty or such earlier date as may be required by the Code or the Agency to preserve the Housing Tax Credits;
- e) Stabilization has not occurred by December 15, 2021;
- f) at any time prior to Completion, an action is commenced to abandon or permanently enjoin the construction of the Project;
- g) Any acceleration of a Project Loan or the commencement of any action to foreclose any mortgage covering the Project prior to the expiration of the Operating Deficit Guaranty Period;
- h) Achievement of the 10% Test has not occurred by the date required by the State Housing Finance Agency;
- i) Failure to achieve conversion of any construction loan to its permanent phase;
- j) The Limited Partner is not allocated at least eighty percent (80.00%) of the projected tax credits in any given year;
- k) The Partnership does not receive the fully executed IRS Form(s) 8609 to comply with the requirements of the Code and the State Housing Finance Agency; or
- l) The Partnership or any related entity fails to comply with any material representations set forth in the Partnership's application to the Agency for the Tax Credits.

8) Fees and Reserves

- a) LP Asset Management Fee. The Partnership will pay, subject to the availability of cash flow, an annual Asset Management Fee ("LP Asset Management Fee") which shall be maintained as a segregated balance sheet item in a Partnership account established by the General Partner and to be held for the sole benefit of the ILP in the amount of \$11,500, payable on April 1st of each year, commencing the first April following the Limited Partner's admission to the Partnership. The LP Asset Management Fee will be adjusted annually by 3%. In the event there is insufficient cash flow to pay the LP Asset Management Fee, the LP Asset Management Fee shall accrue without interest until there is sufficient cash available to pay any accrued LP Asset Management Fee. The Limited Partner, at its sole discretion, may

engage a third-party asset manager to assist with the management and oversight of the Limited Partner's investment in the Partnership. The cost associated of such third-party asset manager shall be paid directly by the Partnership from the LP Asset Management Fee or a special capital contribution made by the Limited Partner if the LP Asset Management Fee is insufficient to cover the cost for the upcoming year. The reporting requirements of the Limited Partner are subject to internal review.

- b) Legal Fees and Third-Party Costs. The Partnership will pay Citi's ILP due diligence fees including legal fees and other third-party costs associated with underwriting of the Project in the amount of \$50,000. These fees will include expenses associated with drafting the Partnership Agreement, reviewing and negotiating all documents and ordering of a market study.
- c) Tenant File Review. The General Partner will conduct and the Partnership will pay for the initial tenant income certification audited by a qualified third party auditor satisfactory to the Limited Partner.
- d) Management Fee. The management agent will be entitled to a Property Management Fee not exceeding 5% of gross revenues per month. It is anticipated that the initial property manager will be Professional Management Inc. In the event the management agent is an affiliate of either the Developer, the management agent will be required to defer and accrue, without interest, its management fee in the event that the Project is not generating sufficient revenue to pay all of the Project's expenses and debt service, including Replacement Reserves.
- e) Replacement Reserve. The annual Replacement Reserve is the greater of \$300 per unit or what is required by the lender, paid on a monthly pro rata basis commencing at completion and shall be included as an expense by the Limited Partner for purposes of determining whether Stabilization has been achieved. On the sixth and eleventh anniversary of the completion of construction of the Project, the Limited Partner will have the right to require a physical needs assessment of the Project pursuant to which the amount reserved on a monthly basis may be increased.
- f) Stabilization Reserve. In the event that the Project is unable to achieve a debt service coverage ratio of at least 1.15:1.00 as required to achieve Stabilization, the Partnership agreement shall contain language giving the General Partner the option to fund a reserve (the "Stabilization Reserve") in order to achieve Stabilization (i.e. in lieu of paying down the Permanent Loan in the event the permanent loan does not allow for this). The amount of the Stabilization Reserve shall equal the amount the permanent loan would have to have been reduced to achieve Stabilization.
- g) Inspecting Representative. The Limited Partner will select an inspecting representative for the Project to perform inspections for the sole benefit of the Limited Partner (the "Inspecting Representative"). The Inspecting Representative will perform a site inspection for the funding of each Installment during the construction period. Furthermore, the Limited Partner will be invited by the General Partner to all monthly construction progress meetings and the Limited Partner may reasonably require the Inspecting Representative to attend such meetings.

9) Other Matters

- a) Allocations of income gain or loss will be in accordance with tax law.
- b) The Developer utilizes the Accrual Basis of accounting.
- c) For purposes of underwriting
 - 1) all assumed tenant portion of monthly rent levels will provide at least a 10% rental advantage to comparable market rate units;
 - 2) a vacancy rate of the higher of market or 6% will be utilized;
 - 3) Income and expenses will be trended at 2% and 3%, respectively, unless available HUD AMI or market information warrants different escalators; and
 - 4) Operating expenses, for purposes of debt service coverage ratio, shall be the higher of underwritten or actual except for taxes and insurance which shall be based on actuals.
- d) The General Partner shall cause the Partnership to make an election to be treated as an "electing real property trade or business" under Section 163(j)(7)(B) of the Code. Such election shall be made in the manner and at the time prescribed by the IRS. This election will require the real estate to be depreciated over a 30 year alternative depreciation schedule

and allow the Partnership to avoid the interest deduction cap. Additionally, the General Partner may not elect out of bonus depreciation with respect to the 15- and 5-year life assets in accordance with Section 168(k)(2) of the Code without the consent of the Limited Partner.

- e) The Partnership would be required to obtain an extended ALTA owner's title insurance policy in an amount not less than the sum of the permanent mortgage(s), the General Partner(s) and Limited Partner's capital contribution(s), the Deferred Developer Fee amount and any other permanent sources of funds such as grants, with all standard exceptions deleted or approved along with fairways, and any other requested endorsements.
- f) The Partnership's accountant would be required to have prior experience with low income housing tax credits and to be approved by Citi. The General Partner(s) would be required to provide or cause the Partnership's accountant to provide federal and state tax returns by February 28th of each year and audited Partnership financial statements by April 15th of each year. Any delays beyond the agreed upon report date(s) may result in a \$100 per day penalty to the General Partner(s).
- g) The Partnership Agreement shall contain provisions for the removal of the General Partner(s) with cause. Upon request by the Limited Partner, any amounts owed by the Partnership to the General Partner and/or its affiliates shall be repaid by a General Partner capital contribution or assigned to an affiliate of the Limited Partner upon removal.
- h) The General Partner will arrange for a fixed or guaranteed maximum price construction contract. The General Contractor will provide the Partnership (in form satisfactory to the Limited Partner) a: (1) Payment & Performance Bond in the amount of the Construction Contract; or (2) Letter of Credit in the amount of 15.00% (10% if approved by the lender) of the Construction Contract. The Project will establish a construction contingency in an amount not less than 5% of budgeted construction costs, or such greater amount as Citi may reasonably require following its review of construction documents. Citi, may, in its sole discretion, engage a construction consultant (i) to review plans and specifications and (ii) evaluate the construction progress by providing monthly reports to the Partnership.
- i) The fees paid to the General Partner, Developer and General Contractor and/or any affiliates will have been disclosed in the LIHTC Application if required by such application and will be within the applicable limits set forth in the applicable Qualified Allocation Plan.
- j) If applicable, any commercial space will be owned separately under a condominium structure and will not encumber the Project in any way.
- k) All property management agreements would be for a minimum one-year term and be required to include a termination clause allowing either the General Partner or the Property Manager to terminate the agreement by giving a 30-day advance written notice to the other party. Upon the occurrence of certain events, including any material violations, negligence or misconduct or inadequate reporting, the Limited Partner would have the option to replace the Property Manager. Notwithstanding the above, in the event that the General Partner is removed, the Limited Partner will have the option to replace the property manager with or without cause. If the Property Manager is an affiliate of the General Partner(s), the Developer(s), or the Guarantor(s), the Property Manager would also be required to agree to defer or accrue the management fee, if necessary, to prevent an operating deficit or a default under the permanent mortgage loan(s). If the general partner is a non-profit performing supportive services, it shall also agree to accrue any related overhead associated with performing such services, if necessary, to prevent an operating deficit or a default under the permanent mortgage loan(s).
- l) The Limited Partner will receive the form K-1 for the first fiscal year of tax credit occupancy by April 15, 2021.
- m) Cost Savings will be determined at the time of the final cost certification and may be applied as follows: (i) a reduction in the deferred development fee, (ii) a reduction in the permanent loan amount, (iii) to capital improvements.
- n) In any calendar year after the expiration of the credit period, the Limited Partner will have the exercisable right and option, but not obligation, to require the General Partner to purchase their respective Partnership Interest at a price equal to \$100 ("Put Option"). The terms and conditions of the mutually acceptable Put Option will be more fully described in the Partnership Agreement.
- o) Upon expiration of the compliance period as defined under Section 42 of the Code and provided that the Limited Partner has failed to exercise the Put Option, the General Partner will have the option (commencing on the day following the end of the Compliance Period and exercisable within five years (the "Option Period")) to acquire the interest of the Limited Partner for an amount equal to the greater of (i) the amount the limited partner would receive if the property was sold for fair market value with the proceeds being distributed in accordance with liquidation provisions and (ii) the sum of outstanding debt, tax credit adjusters, amounts owed to the Limited Partner and exit taxes.

- p) The General Partner shall be obligated to consider any reasonable offer by the Limited Partner to purchase the Project, or any reasonable third-party offer communicated by the Limited Partner to resyndicate the Limited Partner's interests in the Partnership. In addition, at any time after the end of the Option Period, the Limited Partner may, at its sole discretion, require the General Partner to commence marketing the Project with a broker selected by the Limited Partner.

10) Miscellaneous.

- a) The Developer, Guarantors and the General Partner hereby certify that there are no other executed equity proposals with respect to the Project. Should any signed proposals or agreements exist, the Developer, the Guarantors and General Partner will fully indemnify, defend and hold harmless the Partnership, the Limited Partner (and its affiliates) and Citi (and its affiliates) from any lawsuits or damages that may result from the termination of said proposals or agreements.
- b) The signatories will not solicit or entertain other offers by other parties to acquire an interest in the Partnership during the term of this Agreement. This Letter of Intent is delivered to you with the understanding that neither it nor its substance will be disclosed to any third party except those who are in a confidential relationship with you or as required by law.
- c) This proposal must be executed by the parties and received by Citi before the end of business on October 15, 2018 or this proposal is subject to renegotiation.
- d) The term of this Letter of Intent will be for a period of 200 days, with execution of the Partnership Agreement and closing of construction financing occurring prior to expiration of such period. Any delay in closing may result in an adjustment in the Limited Partner's contribution amount, terms and conditions as are set forth herein. If due diligence activities and negotiation of the Partnership and ancillary documents extend beyond such date, the parties will continue to negotiate the same in good faith, but will not be bound hereunder.
- e) While this Letter of Intent does contain a general understanding of the business terms between you and Citi, it does not contain all of the business terms that will be set forth in the Partnership Agreement. Therefore, Citi's obligations under this proposal are subject to the terms of the mutually acceptable Partnership Agreement.
- f) The General Partner(s) acknowledges that this letter of intent contains confidential information and agrees not to disclose either orally or in writing its contents to any third party other than the General Partner(s)'s accountant(s) and attorney(s), the applicable state tax credit agency, and the General Partner(s)'s financing sources with respect to the property, without the express prior written consent of Citi, and further agrees to advise its representatives that the representatives shall not disclose either orally or in writing the contents of this letter of intent.
- g) Citi will conduct a due diligence review and negotiate with the General Partner(s), in good faith, the terms and provisions of mutually acceptable legal documentation. The due diligence review will include, without limitation, the verification of factual representations made by the General Partner(s), a review of the property and Partnership documents, a site visit and an evaluation of the following: the experience and expertise of the General Partner, general contractor, architect and Property Manager; the financial condition of the Guarantors; property area market; an appraisal of the property; the construction schedule; the total development budget; the residual potential of the property; property title, title insurance and available endorsements; capital account analysis; Phase I environmental assessment and all subsequent reports; and other relevant factors. Citi may also commission consultants to perform market analysis, construction, insurance, and environmental review.
- h) The price and terms included in this letter of intent are premised upon the information provided by the General Partner(s) and the admission of Limited Partner and Special Limited Partner to the Partnership as a limited partners are subject to the completion of the due diligence review and approval of the transaction by CIAC. If, at any time, any event occurs and becomes known to the General Partner which causes the assumptions and statements contained herein to be untrue or misleading, the General Partner agrees to immediately notify Citi of the event(s) and will provide information which will correct the assumptions and/or statements. Citi reserves the right, at its option, to decline the proposed transaction or to propose new terms upon which a transaction could be approved at any time during its due diligence review.

[Signature Pages Follow]

If the above is acceptable, please return one (1) original or electronic copy of your signature to the undersigned. Upon receipt, Citi will begin processing the Partnership Agreement and related documents in accordance with the terms and conditions contained in this proposal.

Thank you for your consideration and we sincerely appreciate the opportunity to work with you.

Very truly yours,

CITIBANK, N.A.

By: _____

A handwritten signature in blue ink, appearing to be "Matthew Tesseyman", written over a horizontal line.

Name: Matthew Tesseyman
Title: Authorized Signatory

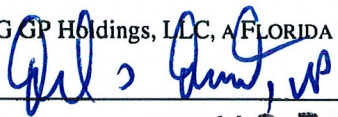
By executing this Letter of Intent and in consideration of Citi entering into this proposal, you agree on your own behalf and on behalf of your partners, affiliates, officers, directors and employees, and on behalf of any other partners or joint venturers who are or will be involved in the development of the Project, that Citi may undertake credit, background and similar checks on you, your principals and your affiliated companies.

The foregoing is hereby agreed to and confirmed:

GENERAL PARTNER

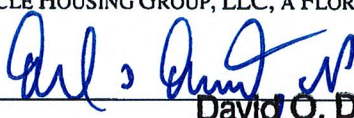
PHG-PEACEFIELD, LLC, A FLORIDA LIMITED LIABILITY COMPANY

By: PHG GP Holdings, LLC, A FLORIDA LIMITED LIABILITY COMPANY AS ITS SOLE MEMBER

By: 
Name: David O. Deutch
Title: Vice President

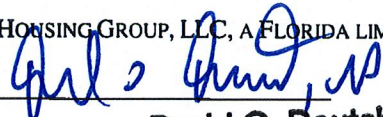
DEVELOPER

PINNACLE HOUSING GROUP, LLC, A FLORIDA LIMITED LIABILITY COMPANY

By: 
Name: David O. Deutch
Title: Vice President

GUARANTORS

PINNACLE HOUSING GROUP, LLC, A FLORIDA LIMITED LIABILITY COMPANY

By: 
Name: David O. Deutch
Title: Vice President

Attachment G

Community Capital



September 11, 2018

Pinnacle at Peacefield, Ltd.
c/o Pinnacle Housing Group, LLC
9400 South Dadeland Blvd., Suite 100
Miami, FL 33156
Attn: Mr. David O. Deutch

Re: Preliminary Application for Financing

Program: Multifamily Rental Developments with Rent Restrictions
New Construction

Property: Pinnacle at Peacefield, Hollywood, FL

Dear Mr. Deutch:

Thank you for your interest in Citi Community Capital's financing programs. This letter offers an opportunity to submit a preliminary application ("Preliminary Application") for financing to Citibank, N.A. ("CITI") under the Program referenced above.

Upon CITI's receipt of (1) a copy of this letter signed to acknowledge the terms and conditions of the proposed financing, including those terms and conditions set forth in the Term Sheet dated September 11, 2018, ("Term Sheet") attached hereto as Exhibit A; and (2) the Application Fee (as defined in the Term Sheet) in accordance with the instructions in the Check and Wire Instructions attached hereto as Exhibit B, this letter shall constitute a Preliminary Application ("Preliminary Application") by you (the "Applicant") to CITI to arrange for a construction and a permanent loan for the Property under the Program referenced above. The Preliminary Application and Complete Application (as defined below) are collectively referred to herein as the "Application."

The Preliminary Application shall be deemed a complete application ("Complete Application") upon receipt by CITI of all of the following:

- An original of this Preliminary Application, executed by Borrower, together with the Application Fee (as defined in the Term Sheet);
- All documentation and information requested in a "CITI Processing" package to be delivered by CITI to Applicant promptly after receipt by CITI of the Preliminary Application including, without limitation, financial statements for Borrower and Guarantor;
- A preliminary title report or title commitment acceptable to CITI;
- An appraisal report acceptable to CITI;
- An environmental report and plan and specification review acceptable to CITI; and
- All additional information or documentation reasonably requested by CITI.

Upon satisfaction of all of the conditions and requirements of the Program, including approval from the appropriate CITI credit committee, the loan applied for will be arranged by CITI (“Loan”).

In connection with this Application, CITI will be acting solely as a principal and not as your agent, advisor or fiduciary. CITI has not assumed a fiduciary responsibility with respect to this Application, and nothing in this Application or in any prior relationship between you and CITI will be deemed to create an advisory, fiduciary or agency relationship between us in respect of this Application. You should consider carefully whether you would like to engage an independent advisor to represent or otherwise advise you in connection with this Application, if you have not already done so.

Terms

The terms of the financing are described in the Term Sheet annexed hereto as Exhibit A and incorporated herein by this reference. All terms used as defined terms but not defined herein shall have the meaning set forth in the Term Sheet.

Exclusivity

CITI and Applicant herein represent and warrant to the other that neither has dealt with any mortgage broker in connection with this financing and agree to indemnify and hold the other harmless against claims brought by brokers with whom they or their representatives have dealt in connection with the financing contemplated hereby.

Applicant agrees that CITI shall have the exclusive right but not the obligation to arrange a Loan with respect to the Property in accordance with the terms of this Preliminary Application for a period (the “Exclusivity Period”) commencing on the date hereof and concluding on the forty-fifth (45th) day after the date of CITI’s receipt of the Complete Application. Applicant warrants that there is no other signed loan application regarding the Property now pending with any other lender (with the exception of subordinate lenders, if any).

In the event that all approvals necessary for CITI to provide the contemplated financing are not processed by CITI within the Exclusivity Period, Applicant may request that CITI terminate processing of the Application and return any remaining Application Fee unused by CITI. Applicant hereby agrees to send funds to CITI in a sufficient amount to cover any costs CITI has incurred in processing the Application that were not fully covered by the Application Fee. This Application shall thereafter immediately cease to be of any further effect and all obligations hereunder shall terminate without the need for any further action by either party.

Applicant understands and agrees that the Preliminary Application does not, in any manner, constitute a commitment or agreement to make a loan. Any documentation will be forthcoming only after approval of the underwriting by CITI’s credit committee. The financing will be documented separately and will contain terms and conditions that may be in addition to or in substitution of those set forth in the Preliminary Application.

If Applicant does not accept this Preliminary Application by signing it and returning it with the Application Fee, it shall automatically expire fifteen (15) days after the date hereof.

This Preliminary Application represents the entire understanding between Applicant and CITI and may only be changed in writing with signatures of both Applicant and CITI.

Thank you for the opportunity to be considered as a source of financing for the Property.

Sincerely,

CITIBANK, N.A.

By: 
Name: Barry Krinsky
Its: Authorized Signatory

Attachments

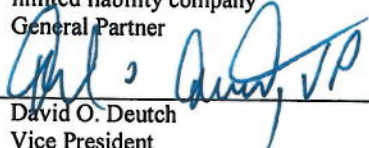
- Exhibit A: Term Sheet, dated September 11, 2018
- Exhibit B: Check and Wire Instructions

By signing below, the Applicant acknowledges and agrees to the foregoing terms and conditions of this Preliminary Application, including those in the attached Term Sheet.

Partnership:

Pinnacle at Peacefield, Ltd., a Florida limited partnership

By: PHG - Peacefield, LLC., a Florida limited liability company
Its: General Partner

By: 
Its: Vice President

In connection with any proposed transaction, CITI will be acting solely as a principal and not as your agent, advisor, account manager or fiduciary. CITI has not assumed a fiduciary responsibility with respect to the proposed transaction, and nothing in this or in any prior relationship between you and CITI will be deemed to create an advisory, fiduciary or agency relationship between us in respect of the proposed transaction. You should consider carefully whether you would like to engage an independent advisor to represent or otherwise advise you in connection with any proposed transaction, if you have not already done so.

Any terms set forth herein are intended for discussion purposes only and are subject to the final terms as set forth in separate definitive written agreements. This Preliminary Application is not a commitment to lend, syndicate a financing, underwrite or purchase securities, or commit capital nor does it obligate us to enter into such a commitment. By accepting this Preliminary Application, subject to applicable law or regulation, you agree to keep confidential the existence of and proposed terms for any contemplated transaction.

The provision of information in this Preliminary Application is not based on your individual circumstances and should not be relied upon as an assessment of suitability for you of a particular product or transaction. Even if CITI possesses information as to your objectives in relation to any transaction, series of transactions or trading strategy, this will not be deemed sufficient for any assessment of suitability for you of any transaction, series of transactions or trading strategy.

This Preliminary Application is provided for information purposes and is intended for your use only. Except in those jurisdictions where it is impermissible to make such a statement, CITI hereby informs you that this Preliminary Application should not be considered as a solicitation or offer to sell or purchase any securities or other financial products. This Preliminary Application does not constitute investment advice and does not purport to identify all risks or material considerations which should be considered when undertaking a transaction. CITI makes no recommendation as to the suitability of any of the products or transactions mentioned. Any trading or investment decisions you take are in reliance on your own analysis and judgment and/or that of your advisors and not in reliance on us.

CITI is required to obtain, verify and record certain information that identifies each entity that enters into a formal business relationship with CITI. CITI will ask for your complete name, street address, and taxpayer ID number. CITI may also request corporate formation documents, or other forms of identification, to verify information provided.

Although Citibank, N.A. (together with its subsidiaries and branches worldwide, "Citibank") is an affiliate of CITI, you should be aware that none of the financial instruments or other products mentioned in this Application (unless expressly stated otherwise) are (i) insured by the Federal Deposit Insurance Corporation or any other governmental authority, or (ii) deposits or other obligations of, or guaranteed by, Citibank or any other insured depository institution.

IRS Circular 230 Disclosure: CITI and its employees are not in the business of providing, and do not provide, tax or legal advice to any taxpayer outside of CITI. Any statements in this Preliminary Application regarding tax matters were not intended or written to be used, and cannot be used or relied upon, by any taxpayer for the purpose of avoiding tax penalties. Any such taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

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**EXHIBIT A
TERM SHEET**

**Multifamily Rental Developments with Rent Restrictions
New Construction and/or Substantial Rehabilitation and/or Term Mortgages
Taxable Loan Structure via CITI (Construction)
Taxable Loan Structure via Freddie Mac (Permanent)**

Pinnacle at Peacefield

October 5, 2018 (Updated from September 11, 2018)

NOTE: This Term Sheet constitutes a brief summary of certain, but not all, transaction terms and conditions for discussion purposes only. The summary that follows is subject to credit approval and does not constitute an offer or commitment.

In connection with this Term Sheet, CITI will be acting solely as a principal and not as your agent, advisor or fiduciary. CITI has not assumed a fiduciary responsibility with respect to this Term Sheet, and nothing in this transaction or in any prior relationship between you and CITI will be deemed to create an advisory, fiduciary or agency relationship between us in respect of this Term Sheet. You should consider carefully whether you would like to engage an independent advisor to represent or otherwise advise you in connection with this Term Sheet, if you have not already done so.

This Term Sheet is an integral part of, and establishes terms, conditions and requirements of, the Preliminary Application dated September 11, 2018 to which it is annexed.

PRELIMINARY LOAN TERMS

**Transaction
Summary:**

Citibank, N.A. (“CITI”) proposes to arrange a construction/permanent loan (“Loan”) to the Borrower (defined below) in connection with the acquisition and construction of the Property described below.

There will be two separate phases to the financing. Acquisition, construction and stabilization must be completed during the construction phase (the “Construction Phase”) as further described below. After the work has been completed and the Property has stabilized, the Borrower will submit a request to convert to the permanent phase (the “Permanent Phase”).

During the Construction Phase, the lender will be CITI (the “Construction Lender”) and during the Permanent Phase, the lender will be Freddie Mac (the “Permanent Lender”).

Prior to Construction Phase closing, CITI as Freddie Mac Seller/Service, will work with Freddie Mac to provide an unfunded forward commitment (“Forward Commitment”) to purchase a taxable Loan upon Conversion (see below) to the Permanent Phase.

In order to be eligible to convert to the Permanent Phase (the “Conversion”), the Property must meet the Conversion to Permanent Phase Requirements as discussed below.

The Borrower understands that CITI intends to sell the mortgage loan for which Borrower is applying (the "Mortgage") to Freddie Mac. If Freddie Mac purchases the Mortgage, the Borrower's signature below constitutes the Borrower's authorization for Freddie Mac to publicly use, at Freddie Mac's discretion, the name of the Property, photographs of the Property, and basic transaction information (for example, the number of units in the Property, the loan amount, etc.) relating to the Mortgage.

Property: A to-be-constructed multifamily project containing 120 units located in the city of Hollywood, Broward County, Florida. The property is commonly referred to as "Pinnacle at Peacefield." ("Property")

Set-Asides: 10% of the units are reserved for individuals or families whose income is no greater than 30% of Area Median Income ("AMI") and 90% of the units are reserved for individuals or families whose income is no greater than 60% of AMI.

Applicant: An affiliate of Pinnacle Housing Group.

Borrower: Pinnacle at Peacefield, Ltd., a single asset entity whose General Partner is the Applicant or an affiliate of Applicant. Borrower entity, its constituent entities and its operating agreement must be acceptable to CITI and Freddie Mac in all respects.

**LIHTC Investor/
Syndicator:** If applicable, the Low Income Housing Tax Credit ("LIHTC") Investor / Syndicator, the upper tier investor(s) and the terms and conditions of the partnership, or operating agreement must be acceptable to CITI and Freddie Mac in all respects including, particularly, the timing of and conditions to funding capital contributions.

Guarantor(s): From the Closing Date until Conversion to the Permanent Phase, the Guarantors will be David O. Deutch, Mitchell M. Friedman, Louis Wolfson III and Michael D. Wohl and/or other individual(s) or corporate entity acceptable to CITI. The Guarantor post-Conversion will be Pinnacle Housing Group, LLC. The Guarantor(s) financial condition(s) must be acceptable to CITI and Freddie Mac in all respects.

Subordinate Debt: If applicable, the sources of subordinate debt and the subordinate loan documents must be acceptable to CITI and Freddie Mac in all respects. All subordinate debt must fund prior to Loan funding unless CITI and Freddie Mac approve other arrangements. Subordinate Debt will be subject to CITI's and Freddie Mac's Subordination Agreement, which in addition to other provisions, requires that Subordinate Debt only be paid from 75% of available cash flow.

Loan Security: First lien on land and any improvements, UCC filings for fixtures; assignment of all leases and rents; and a first priority collateral assignment of all contracts, management agreements and other agreements and all permits relating to the Property. Ground leases must be subordinate to CITI's and Freddie Mac's lien position unless the fee is owned by a government agency to ensure long-term affordability. All income and rent restrictions will be subordinate to the CITI's and Freddie Mac's security instrument.

**Construction Phase
Recourse Guarantees:** Prior to Conversion of the Loan to the Permanent Phase (described below) and during the Construction Phase (described below), the Loan will be fully recourse to the Borrower and to the Guarantor(s) and Completion and Repayment Guarantees are required from the Borrower and the Guarantor(s).

**Guarantees,
Permanent Phase:** None, except for industry standard carve outs ("Carve Outs"). Carve Outs include guarantees against fraud, misrepresentation, bankruptcy and environmental issues.

Environmental Indemnity:	Borrower and Guarantor(s) will be liable for CITI's and Freddie Mac's standard environmental indemnity.
Closing:	Closing is subject to full satisfaction of CITI's and Freddie Mac's standard due diligence, underwriting and credit approval processes, and the execution and delivery of all required loan documents, delivery of opinions, payment of fees and other customary requirements.
Closing Date (est.):	November 2018

CONSTRUCTION PHASE

Construction Phase Loan Amount:	An amount, currently estimated to be \$22,200,000, but in any event, an amount not to exceed 80% of costs budgeted for the Construction Phase.
Term:	24 months, plus two 6-month extension(s). Fees for the extension(s) are indicated below under "Fees & Expenses."
Construction Phase Interest Rate:	Variable rate equal to one month LIBOR (which shall have a floor of 0.00%) plus a spread of 2.25% (" <u>Construction Phase Interest Rate</u> "). Rate adjusts monthly. Currently, one month LIBOR is approximately 2.26%, for an all-in rate of 4.51%. Pricing is based on current market conditions and is subject to change.
Interest Calc:	Act/360
Availability:	Loan proceeds will be advanced to Borrower on a "draw down" basis upon receipt of a written request from Borrower, supported by documentation acceptable to CITI. Borrower will be required to submit CITI's loan budget worksheet with each draw request tracking all Property sources and uses of funds. Draw requests limited to one per month.
Loan in Balance:	The Loan must remain "in balance" during the Construction Phase. "In balance" means that (1) the funds available during the Construction Phase (from the Loan and all other debt and equity sources) are sufficient to complete the construction or rehabilitation of the Property and all other expenses reasonably expected to be necessary to achieve the conditions for conversion of the Loan to the Permanent Phase; and (2) the sources available at Conversion are sufficient to pay down the Construction Phase Loan Amount to the Permanent Phase Loan Amount, along with any other funding requirements for Conversion.
Amortization:	None. Payments on the Loan during the Construction Phase will be interest only.
Prepayment and Yield Maintenance:	<p>Prepayment of Loan principal amounts including through the application of insurance proceeds or a condemnation award during the Construction Phase, and those as a result of a Borrower default, may be made without prepayment fee or penalty.</p> <p>However, the Freddie Mac Permanent Phase Loan has a mandatory delivery requirement (see below).</p>
Interest Reserve:	Calculated at the Construction Phase Interest Rate noted above, plus a cushion acceptable to CITI at time of final Credit approval. Currently, CITI is underwriting with a cushion

of 1.00%. The Interest Reserve will be sized based on an analysis of the projected draw schedule for the Loan during the Construction Phase.

**Budget and
Contingencies:**

The budget for the Construction Phase, including all budget line items, is subject to CITI approval. The budget shall include a hard cost contingency of no less than 5% of budgeted hard costs for new construction projects and no less than 10% of budgeted hard costs for rehabilitation projects. The budget shall include a soft cost contingency of no less than 5% of budgeted soft costs, excluding 1) soft costs incurred prior to or in connection with closing; 2) interest reserve and bank fees; 3) capitalized operating reserve deposits and other costs that may be due in connection with Conversion for which specific sources are identified; and 4) developer fees.

**General Contractor and
Bonding Requirements:**

The general contractor and the construction contract must be acceptable to CITI. PHG Builders, LLC is acceptable to CITI as a general contractor. CITI will require payment and performance bonds equal to 100% of the construction contract amount. Surety issuing bonds must have an A.M. Best rating of "A/VIII" or better and must be acceptable to CITI in all other respects. In lieu of bonds, CITI will accept a letter of credit ("LC") equal to 15% of the hard cost budget. LC provider must be rated "BBB" or better.

Retainage:

Construction contract will provide for a minimum retainage of 10% of each construction pay application until "substantial completion" (as defined in the Loan documents). Retainage percentage amounts can be revised, upon review and approval by CITI, at CITI's sole discretion, but only down to a minimum of 10% until 50% completion and then 0% retention withheld thereafter. No release of retainage is permitted for achieving 50% completion. All retained amounts will be released upon final, lien-free completion of construction, as approved by CITI.

PERMANENT PHASE

**Permanent Phase
Loan Amount –
(CITI/Freddie):**

The Permanent Phase Loan Amount is currently estimated to be in the maximum amount of \$3,500,000, or such other loan amount supported by CITI's and Freddie Mac's underwriting of the Property at the time of initial closing and at Conversion in accordance with CITI's and Freddie Mac's underwriting requirements including those listed below.

**Permanent Phase
Interest Rate –
(CITI/Freddie):**

Fixed rate equal to the 10-year Treasury yield plus a Freddie Mac spread including servicing of 2.38%. Currently, the 10-year Treasury is trading at approximately 3.23%, for an all-in rate of 5.61%. Pricing is based on current market conditions and is subject to change. The rate will be committed at the time of closing of the Construction Phase financing.

The Permanent Phase Interest Rate reflects a Freddie Mac Forward Commitment Term of 24 months. Freddie Mac's 9% Forward Commitment program includes one 6-month extension option only.

**Freddie Mac
Forward Commitment
Term:**

24 months. Any extension will require Freddie Mac approval and will be subject to a Freddie Mac Extension Fee (see below).

**Freddie Mac
Interest Calc:**

Act/360

Freddie Mac Prepayment:	14.5 years of yield maintenance. Thereafter, the loan is pre-payable at a 1% prepayment penalty based on the outstanding balance of the loan until 3 months prior to maturity at which point the loan is open to prepayment at par.
Debt Service Coverage	A minimum of 1.55x.
Loan to Value:	A maximum of 65%
Term/Amortization:	15/30 years
Conversion to Permanent Phase Requirements:	Conversion requirements include completion of construction and 90% physical occupancy of the Project for three consecutive calendar months. CITI and Freddie Mac will review the Property's net operating income to determine the maximum Permanent Phase Loan Amount based on the Debt Service Coverage and Loan-to-Value noted above.
Other Conversion Requirements:	As may be required by CITI and Freddie Mac.
Replacement Reserve:	Borrower will be required to fund a Replacement Reserve for each of the first ten years following Conversion in an amount determined by a Physical Needs Assessment ("PNA") acceptable to CITI and Freddie Mac, but in a minimum amount of \$300/unit/year. Thereafter and until Loan maturity, the Replacement Reserve level will be determined by a new PNA acceptable to CITI and Freddie Mac.
Repairs Escrow:	CITI/Freddie Mac may require immediate repairs following delivery of the post construction final PNA. All immediate repairs shall be funded at a rate of 125% of the estimated cost established by the PNA and reviewed and approved by CITI and Freddie Mac. Any amount remaining in the Repair Escrow after all repairs have been completed may be deposited into the Replacement Reserve or returned to Borrower, at Borrower's election.
Taxes and Insurance:	Commencing upon Conversion, real estate taxes and insurance premiums must be escrowed with the Loan servicer (" <u>Servicer</u> ") on a monthly prorated basis in an amount sufficient to enable the Servicer to pay (at least 30 days before due) all taxes, assessments, insurance premiums or other similar charges affecting the Property.
Freddie Mac Assumability:	Subject to CITI's / Freddie Mac's prior written approval and payment of an Assumption Fee of 1.00% of the unpaid principal balance of the Loan. Each request for approval must be accompanied by a \$15,000 non-refundable Review Fee. Notwithstanding the foregoing, no consent or assumption fee will be required in connection with the sale of tax credits (provided, however, Borrower shall provide the Review Fee).

OTHER

Appraisal, Environmental, Plan/Cost Reviews:	Appraisal, Environmental, and Plan/Cost Review reports will be commissioned and reviewed by CITI and Freddie Mac. Appraisal, Environmental and Plan/Cost Reviews must be acceptable to CITI and Freddie Mac in all respects.
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Property Tax

Abatements, Incentives: All documentation related to any tax abatement or tax incentives must be acceptable to CITI and Freddie Mac in all respects.

Developer Fee: Any developer fee paid prior to conversion to the Permanent Phase shall be acceptable to CITI and Freddie Mac in its sole discretion.

FEES & EXPENSES

Application Fee: \$25,000, which amount shall be non-refundable and due and payable upon acceptance of a Preliminary Application. This fee is applicable toward third party reports, loan underwriting and processing (in the minimum amount of \$5,000), and CITI's and Freddie Mac's initial legal fees. Applicant is responsible for the payment of all reasonable costs incurred in connection with the underwriting, processing and/or closing of the Loan (including CITI and Freddie Mac legal fees).

Third Party Reports: CITI will require third party reports to be shared by CITI and Freddie Mac as named users. Providers of 3rd party reports are subject to CITI's review and approval. Third Party Reports ordered by CITI will be billed at cost.

Origination Fee: A non-refundable Origination Fee equal to 0.80% of the Construction Phase Loan Amount and 1.00% of the Permanent Phase Loan Amount ("Origination Fee") shall be earned in full by CITI upon the closing of the Loan, and is due and payable at that time. The Origination Fee will be applied towards CITI's costs of providing this financing.

**CITI and Freddie Mac
Legal Fees (est):**

It is estimated that the fees of CITI's and Freddie Mac's outside counsel for the initial closing will be approximately \$55,000 plus expenses. A portion of the Application Fee will be applied to initial CITI and Freddie Mac counsel fees. Applicant agrees that it shall be responsible for the payment of all legal fees incurred whether or not the Forward Commitment is issued or the transaction closes. Applicant agrees to make a supplemental deposit to cover CITI's and Freddie Mac's counsel fees once the drafting of legal documentation commences, if requested.

Fees of CITI's and Freddie Mac's counsel for work associated with Conversion of the Loan to the Permanent Phase are estimated at approximately \$25,000 plus expenses.

**Course of Construction
Inspections (est):**

\$TBD

**CITI Construction Term
Extension Fee:**

There will be no fee for the first extension and a 0.25% for the second extension.

**Freddie Mac Application
Fee:**

Upon acceptance of this proposal, Applicant shall deliver to CITI a Freddie Mac Application Fee which is equal to the greater of \$3,000 or 0.10% of the Permanent Phase Loan Amount. This fee is non-refundable.

**Freddie Mac
Forward Commitment
Deposit Fee:**

A Forward Commitment Deposit Fee equal to 2.00% of the Permanent Phase Loan Amount is payable to Freddie Mac prior to closing. The Forward Commitment Deposit Fee will be returned no later than thirty (30) days after Permanent Phase Conversion or will be retained if the loan does not convert to the Permanent Phase.

Freddie Mac

Delivery Assurance Fee: At closing, the Borrower will be required to sign a non-recourse Delivery Assurance Note secured by a subordinate lien on the Property. The Delivery Assurance Note evidences the mandatory delivery nature of the Forward Commitment. The Delivery Assurance Fee obligations shall be released (i) in the event that the Permanent Phase Loan is delivered to Freddie Mac, or (ii) in the event that the Permanent Phase Loan is not delivered to Freddie Mac on account of (a) the failure of the Project to satisfy the minimum underwriting requirements for Conversion, (b) the failure of CITI to satisfy its Program obligations with respect to the Permanent Phase Loan, or (c) an act of God, including flood, fire, lightening or earthquake, or any explosion, act of a public enemy, war, revolution, governmental restraint, embargo or other cause which is not within the control of Borrower. The Delivery Assurance Note is equal to the greater of 3% of the unpaid principal balance of the maximum Permanent Phase Loan Amount or yield maintenance/loss of bargain, with a maximum of 2%.

Freddie Mac

Extension Fee: If Freddie Mac approves a six (6) month extension of the Forward Commitment Term, the Borrower will be permitted one, free 6-month extension, at Freddie Mac's discretion.

Conversion Fee and Expenses:

A Conversion fee equal to \$10,000 will be charged by CITI. Other expenses, including insurance review, site inspection and loan servicer set-up fees are estimated to be \$5,000.

Other Costs:

Applicant is responsible for costs of survey, title insurance policy, hazard insurance policy, tax escrow fee and all other normal and customary loan closing expenses.

Term Sheet

Expiration Date: Fifteen (15) days after the date hereof, unless attached to a Preliminary Application letter.

This Term Sheet is an indication of our proposal to finance the Property. It is understood and agreed that this Term Sheet does not, in any manner, constitute a commitment to lend. The financing documents evidencing the Loan will be documented separately and will contain terms and conditions that may be in addition to or in substitution of those set forth in this Term Sheet.

Any terms set forth herein are intended for discussion purposes only and are subject to the final terms as set forth in separate definitive written agreements. This Term Sheet is not a commitment to lend, syndicate a financing, underwrite or purchase securities, or commit capital. By accepting this Term Sheet, subject to applicable law or regulation, you agree to keep confidential the existence of and proposed terms for any transaction contemplated hereby (a "Transaction").

The provision of information in this Term Sheet is not based on your individual circumstances and should not be relied upon as an assessment of suitability for you of a particular product or transaction. Even if CITI possesses information as to your objectives in relation to any transaction, series of transactions or trading strategy, this will not be deemed sufficient for any assessment of suitability for you of any transaction, series of transactions or trading strategy.

This Term Sheet is provided for information purposes and is intended for your use only. Except in those jurisdictions where it is impermissible to make such a statement, CITI hereby informs you that this Term Sheet should not be considered as a solicitation or offer to sell or purchase any securities or other financial products. This Term Sheet does not constitute investment advice and does not purport to identify all risks or material considerations which should be considered when undertaking a transaction. CITI makes no recommendation as to the suitability of any of the products or transactions mentioned. Any trading or investment decisions you take are in reliance on your own analysis and judgment and/or that of your advisors and not in reliance on us.

CITI often acts as (i) a market maker; (ii) an issuer of financial instruments and other products; and (iii) trades as principal in many different financial instruments and other products, and can be expected to perform or seek to perform investment banking and other services for the issuer of such financial instruments or other products. The author of this Term Sheet may have discussed the information contained herein with others within or outside CITI and the author and/or such other Citi personnel may have already acted on the basis of this information (including by trading for CITI's proprietary accounts or communicating the information contained herein to other customers of CITI). CITI, CITI's personnel (including those with whom the author may have consulted in the preparation of this Term Sheet), and other customers of CITI may be long or short the financial instruments or other products referred to in this Term Sheet, may have acquired such positions at prices and market conditions that are no longer available, and may have interests different from or adverse to your interests.

CITI is required to obtain, verify and record certain information that identifies each entity that enters into a formal business relationship with CITI. CITI will ask for your complete name, street address, and taxpayer ID number. CITI may also request corporate formation documents, or other forms of identification, to verify information provided.

Although Citibank, N.A. (together with its subsidiaries and branches worldwide, "Citibank") is an affiliate of CITI, you should be aware that none of the financial instruments or other products mentioned in this term sheet (unless expressly stated otherwise) are (i) insured by the Federal Deposit Insurance Corporation or any other governmental authority, or (ii) deposits or other obligations of, or guaranteed by, Citibank or any other insured depository institution.

IRS Circular 230 Disclosure: CITI and its employees are not in the business of providing, and do not provide, tax or legal advice to any taxpayer outside of CITI. Any statements in this term sheet regarding tax matters were not intended or written to be used, and cannot be used or relied upon, by any taxpayer for the purpose of avoiding tax penalties. Any such taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

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Citi Community Capital



EXHIBIT B WIRE/CHECK DEPOSIT INSTRUCTIONS

Deal Name: Pinnacle at Peacefield
DAFI Number: 43AA6434

Wire Instructions:

Bank: Citibank
ABD: 021000089
Account Name: CGMI
Account Number: 384-93429
Reference: 091-32025-1-1 Pinnacle at Peacefield /43AA6434

Check Instructions:

Payee: _____
Incl in Memo: Deal Name

Mail checks to:
Citi Community Capital
Attn: Joe Smotherman
5500 Maryland Way, Suite 350
Brentwood, TN 37027

Tel: (615) 372-6134

Attachment H



**SUBORDINATE LOAN COMMITMENT
Affordable Housing Catalyst Loan Program**

**Multifamily Rental Developments with Rent Restrictions
New Construction and/or Substantial Rehabilitation and/or Term Mortgages**

Pinnacle at Peacefield

November 8, 2018 (Updated from October 5, 2018 and September 11, 2018)

NOTE: This Subordinate Loan Commitment (the "Commitment") constitutes a brief summary of transaction terms and conditions under which CITI is committing to provide a subordinate loan financing in connection with the Project described below.

In connection with this Commitment, CITI will be acting solely as a principal and not as your agent, advisor or fiduciary. CITI has not assumed a fiduciary responsibility with respect to this Commitment, and nothing in this transaction or in any prior relationship between you and CITI will be deemed to create an advisory, fiduciary or agency relationship between us in respect of this Commitment. You should consider carefully whether you would like to engage an independent advisor to represent or otherwise advise you in connection with this Commitment, if you have not already done so.

This Commitment is an integral part of, and establishes terms, conditions and requirements of, CITI's commitment to provide the subordinate loan financing and is based upon and subject to the preliminary loan terms and conditions outlined below including the details of the project otherwise identified in the Affordable Housing Loan Catalyst Worksheet provided as an Appendix to this Commitment.

COMMITMENT LOAN TERMS

Transaction

Summary:

Citibank, N.A. ("CITI") proposes to arrange a permanent loan (the "Subordinate Loan") to the Borrower (defined below) in connection with the acquisition and construction of the Property described below and otherwise identified in the Affordable Housing Loan Catalyst Worksheet.

**Affordable Housing
Loan Catalyst**

Worksheet:

A worksheet containing the basic property information and justification for inclusion in CITI's Subordinate Loan program is attached hereto as Appendix I. It includes additional details and requirements that CITI relied upon for purposes of this Commitment and as provided in the Appendix to this Commitment. CITI's Commitment is subject to the property being in conformance to the details provided in Appendix I. The Borrower provided CITI with the information set forth in the Worksheet and Borrower will provide any additional information that CITI deems necessary or appropriate for the documentation of Subordinate Loan.

Property:

A to-be-constructed multifamily project containing 120 units located in the city of Hollywood, Broward County, FL. The property is commonly referred to as "Pinnacle at Peacefield Apartments" ("Property"). The Property will utilize low income housing tax credits ("LIHTC") or is equivalent to affordable housing developed through LIHTC and meets FHA affirmative marketing standards (Title 24 of the Code of Federal Regulations, part 200.620).

Set-Asides: 10% of the units are reserved for individuals or families whose income is no greater than 30% of Area Median Income ("AMI") and 90% of the units are reserved for individuals or families whose income is no greater than 60% of AMI.

Applicant: Pinnacle Housing Group

Borrower: Pinnacle at Peacefield, Ltd., a single asset entity whose General Partner is Applicant or an affiliate of Applicant. Borrower entity, its constituent entities and its operating or partnership agreement must satisfy Agency standards in all respects.

Additional Property Details: As provided in the Affordable Housing Loan Catalyst Worksheet in Appendix I.

Agency: United States government sponsored enterprise and its successors or assigns.

Closing: Closing is subject to (i) full satisfaction of Agency standard due diligence and underwriting, including requisite FIRREA-compliant appraisal ("Appraisal"), Environmental, Plan/Cost Reviews, (ii) satisfactory completion of CITI's Know Your Customer and Anti-Money Laundering requirements and (iii) the execution and delivery of all required and customary loan documents, delivery of opinions, payment of fees and expenses, and other customary loan requirements.

Closing Date (est.): December 2018

SUBORDINATE LOAN DETAILS

Subordinate Loan Security: At closing, CITI will have a subordinate lien on land and any improvements, UCC filings for fixtures; assignment of all leases and rents; and, a subordinate priority collateral assignment of all contracts, management agreements, and other agreements and all permits relating to the Property subject to the receipt of the FIRREA-compliant Appraisal.

Subordinate Loan Funding: The Subordinate Loan will be funded in one installment at Closing and will be used to pay uses as represented in the Subordinate Loan Application.

Subordinate Loan Regulatory and Use Agreement: At Closing of the Subordinate Loan, Borrower shall execute a Subordinate Loan Regulatory and Use Agreement restricting the Project's tenant and rents to the Set-Asides listed above and requiring that Borrower must accept housing vouchers if and when offered by HUD. Such Subordinate Loan Regulatory and Use Agreement may be subordinated in the same manner as the mortgage securing the Subordinate Loan—See "Subordinate Loan Security" above.

Subordinate Loan Amount: An amount, currently \$700,000.

Term: 55 years.

Interest Rate: 1.00%, simple interest, non-compounding.

Payments: Payments of interest only shall be due annually on or before June 1, with the first payment due on or before June 1 of the year following funding of the Subordinate Loan. Subordinate Loan payments ("Payments") will be made from 75% of the Project Cash Flow. For purposes hereof "Project Cash Flow" means the Project's gross revenue minus the Project's expenses, including all developer fees and other asset management and partnership management fees payable pursuant to the partnership/operating agreement of Borrower, subject to CITI review and approval. If any other subordinate lenders to the Borrower share in Project Cash Flow for repayment of their loans by Borrower, CITI and such other subordinate lenders shall share 75% of Project Cash Flow ratably according to the original principal amount of such lenders' loans and CITI's Subordinate Loan. Payments shall be credited first, to any unpaid and past due interest and second, to any current due interest. Principal shall be due and payable upon Subordinate Loan maturity.

Prepayment Penalty: None

Transfer: Agency-standard due on sale and/or refinance provisions contained in the Senior Loan mortgage shall be included in the Subordinate Loan mortgage ("Subordinate Mortgage"), restricting transfers of the Property and transfers of interests in Borrower entity, similar to transfer provisions in senior mortgage loan.

OTHER

Appraisal, Environmental, Plan/Cost Reviews: Appraisal and Plan/Cost Review reports will be commissioned and reviewed by CITI. CITI may rely upon environmental reports commissioned by Borrower if report is current (within 12 months) and Citi has been provided evidence of acceptable E&O insurance coverage carried by Borrower's environmental consultant and a reliance letter. Appraisal, environmental condition and plan/cost reviews must be FIRREA-compliant and conforming to the details provided in the Affordable Housing Loan Catalyst Worksheet.

CITI Legal Fees (est): \$7,500 for this Subordinate Loan plus any expenses associated with the senior loan, if applicable.

Commitment Expiration Date: December 31, 2018, unless otherwise extended via mutual agreement of CITI and Applicant, provided however, that the final expiration date shall be no later than the expiration date of the Appraisal.

Miscellaneous: This Commitment Letter is governed by the laws of the State of New York and any action related hereto will be commenced solely in United States District Court, in the Southern District of New York. Borrower shall not transfer or assign this Commitment Letter to any other party without the prior written consent of CITI.

Exclusivity: The terms and provisions of this Commitment are intended for the sole and exclusive benefits of CITI and Borrower, and not for the benefit of, nor for the purpose of being relied upon, by any other party.

Survival: The covenants, terms and conditions set forth in this Commitment shall not survive the Closing Date (unless expressly provided to the contrary). In the event of any conflict between this Commitment and the loan documents, the loan documents shall prevail.

If you have any questions relating to this Commitment, or if we can be of any further assistance, please do not hesitate to let us know.

Very truly yours,

CITIBANK, N.A., a national banking association

By: _____

Name: Barry Krinsky

Title: Authorized Signatory

APPENDIX I

AFFORDABLE HOUSING LOAN CATALYST WORKSHEET

Property Overview:	
Project Name:	Pinnacle at Peacefield
Relationship Name:	Pinnacle Housing
DealTrax Deal ID:	25073
Construction Loan Amount:	\$22,200,000
Property Address:	2130 Adams Street
City:	Hollywood
County:	Broward County
State:	Florida
Zip Code:	33020
MSA:	FORT LAUDERDALE-POM PANNO BEACH-DEERFIELD BEACH, FL
Age restricted:	YES
LHHC Award:	YES
LHHC Type:	9%

Unit Mix							
No. of BRs	Set-Aside	Mix	Max LHHC, Net	Rent Roll	Underwriter	Market	% Below Market
1BR	30%	8	\$380		\$380	\$1,281	70.34%
1BR	60%	64	\$835		\$835	\$1,281	34.82%
2BR	30%	4	\$456		\$456	\$1,366	66.62%
2BR	60%	44	\$1,002		\$1,002	\$1,366	26.65%
TOTAL/AVG		120	\$853	\$0	\$853	\$1,315	35.25%

Total Number of Units:	120	
Number of 2 BR + Units:	48	40.0%
Number of 3 BR + Units:	0	0.0%

4A Priority Level	1A meets all 5 criteria (see checkboxes below)	FALSE
	1B meets criteria 1, 2, 3 & 4	FALSE
	2A meets criteria 1, 2, 3 & 5	FALSE
	2B meets criteria 1, 2 & 3	FALSE
	3A meets criteria 1, 2 & 5	FALSE
	3B meets criteria 1 & 2	FALSE
	4A meets criteria 5 only	TRUE
4B meets none of the 5 criteria	FALSE	

- NO** 1. The property is located in an SDDA. (Zip code - ZCTA - is included in list below-right)
- NO** 2. None of the units are age-restricted.
- YES** 3. At least 40% of the units 2BR+, **OR** at least 10% of the units 3BR+.
- NO** 4. At least 40% of the units 2BR+, **AND** at least 10% of the units 3BR+.
- YES** 5. The property is located in CA, NY, IL, MA, DE, FL or DC.

This Commitment Letter ("Letter") is an indication of our proposal to finance the Property and constitutes a commitment to lend under the terms outlined herein. The financing documents evidencing the Subordinate Loan will be documented separately and will contain terms and conditions that may be in addition to or in substitution of those set forth in this Letter.

Any terms set forth herein are intended to outline the conditions under which CITI is committing to lend and are subject to the execution of a final loan agreement. By accepting this Letter, subject to applicable law or regulation, you agree to keep confidential the existence of and proposed terms for any transaction contemplated hereby (a "Transaction").

The provision of information in this Letter is not based on your individual circumstances and should not be relied upon as an assessment of suitability for you of a particular product or transaction. Even if CITI possesses information as to your objectives in relation to any transaction, series of transactions or trading strategy, this will not be deemed sufficient for any assessment of suitability for you of any transaction, series of transactions or trading strategy.

This Letter is intended for your use only. This Letter does not constitute investment advice and does not purport to identify all risks or material considerations which should be considered when undertaking a transaction. CITI makes no recommendation as to the suitability of any of the products or transactions mentioned. Any trading or investment decisions you take are in reliance on your own analysis and judgment and/or that of your advisors and not in reliance on us.

CITI often acts as (i) a market maker; (ii) an issuer of financial instruments and other products; and (iii) trades as principal in many different financial instruments and other products, and can be expected to perform or seek to perform investment banking and other services for the issuer of such financial instruments or other products. CITI, CITI's personnel (including those with whom the author may have consulted in the preparation of this Letter), and other customers of CITI may be long or short the financial instruments or other products referred to in this Letter, may have acquired such positions at prices and market conditions that are no longer available, and may have interests different from or adverse to your interests.

CITI is required to obtain, verify and record certain information that identifies each entity that enters into a formal business relationship with CITI. CITI will ask for your complete name, street address, and taxpayer ID number. CITI may also request corporate formation documents, or other forms of identification, to verify information provided.

Although Citibank, N.A. (together with its subsidiaries and branches worldwide, "Citibank") is an affiliate of CITI, you should be aware that none of the financial instruments or other products mentioned in this Letter (unless expressly stated otherwise) are (i) insured by the Federal Deposit Insurance Corporation or any other governmental authority, or (ii) deposits or other obligations of, or guaranteed by, Citibank or any other insured depository institution.

Notwithstanding any other provision in this Letter, in connection with Section 1.6011-4 of the Treasury Regulations, the parties hereby agree that each party (and each Representative of such party or its Affiliates) may disclose to any and all persons, without limitation of any kind, the U.S. tax treatment and U.S. tax structure of the transaction and all materials of any kind (including opinions or other tax analyses) that are provided to such party relating to such U.S. tax treatment and U.S. tax structure, other than any information for which nondisclosure is reasonably necessary in order to comply with applicable securities laws.

Attachment I

FUNDING AGREEMENT

Between

CITY OF HOLLYWOOD

and

PINNACLE AT PEACEFIELD, LTD.

**FOR CONSTRUCTION OF AN 120-UNIT MULTI-FAMILY RENTAL DEVELOPMENT
FOR SENIORS NAMED "PINNACLE AT PEACEFIELD"**

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AGREEMENT

Between

CITY OF HOLLYWOOD

and

PINNACLE AT PEACEFIELD, LTD.

PROVIDING HOME AND NSP-1 PROGRAM FUNDS FOR CONSTRUCTION
OF AN 120-UNIT MULTI-FAMILY RENTAL DEVELOPMENT FOR SENIORS
NAMED "PINNACLE AT PEACEFIELD"

This is an Agreement ("Agreement"), made and entered into by and between: CITY OF HOLLYWOOD, a municipal corporation of the State of Florida, hereinafter referred to as "CITY,"

and

PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership, hereinafter referred to as "PINNACLE," collectively referred to as the "Parties."

Recitals:

WHEREAS, CITY has been designated by the United States Department of Housing and Urban Development ("HUD") as a participating jurisdiction for the receipt and use of funds as provided by the HOME Investment Partnership Program (HOME Program) as set forth in 24 CFR Part 92; and

WHEREAS, CITY has entered into an agreement with HUD for a grant for the execution and implementation of a HOME Investment Partnership Program pursuant to the Cranston-Gonzalez National Affordable Housing Act of 1990; and

WHEREAS, as a result of the enactment of House Resolution 3221, the U.S. Department of Housing and Urban Development (HUD) awarded more than \$3.9 billion of Neighborhood Stabilization Program (NSP-1) funds to states and communities across the country to address the nation's abandoned and foreclosed homes crisis; and

WHEREAS, the NSP-1 funding authorized under Title III of the Housing and Economic Recovery Act of 2008 allows for redevelopment of demolished or vacant properties under Section 2301(c)(3)(E); and

WHEREAS, the Unified Federal Register Notice for NSP-1 and NSP-3 dated 10/19/2010 Vol. 75 No. 201 allows for redevelopment of demolished or vacant properties, and

WHEREAS, CITY has entered into an Interlocal Agreement with the Downtown District of the Hollywood Community Redevelopment Agency (“CRA”) wherein the CRA will provide funding to the CITY to be allocated for this project; and

WHEREAS, CITY has a need for such services and does hereby enter into this Agreement with PINNACLE, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements herein contained and other valuable consideration, the receipt of which is hereby acknowledged, CITY and PINNACLE do hereby agree as follows:

ARTICLE 1 - DEFINITIONS

The following definitions apply unless the context in which the word or phrase is used requires a different definition:

- 1.1 **Affordability Period** - The 30 year period of time from Project Completion as determined by CITY for any Property under this Agreement to remain affordable consistent with the requirements set forth 24 CFR Section 92.252.
- 1.2 **Agreement** - This Agreement includes Articles 1 through 14, the exhibits and documents that are expressly incorporated herein by reference.
- 1.3 **CFR** - The Code of Federal Regulations is the codification of rules and regulations published in the Federal Register by the executive departments and agencies of the federal government of the United States.
- 1.4 **City Commission** - The City Commission of the City of Hollywood, Florida
- 1.5 **CITY** – The City of Hollywood, Florida.
- 1.6 **City Attorney** - The chief legal counsel for CITY appointed by the City Commission.
- 1.7 **City Manager** - The administrative head of CITY appointed by the City Commission.
- 1.8 **CITY Remaining Loan Funds** – The remaining funds in the amount of \$144,000.00 for the project as set forth in Exhibits “A ” and “B”.
- 1.9 **Consolidated Plan** - The plan submitted by CITY to HUD and approved by HUD in accordance with 24 CFR Part 91.
- 1.10 **Contract Administrator** - The Manager of the Community Development Division of the Department of Development Services, or his/her designee. The primary responsibilities of the Contract Administrator are to coordinate and communicate

with PINNACLE and to manage and supervise execution and completion of the Project and ensure that the terms and conditions of this Agreement are complied with as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, the parties may rely on the instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the scope of the Project.

- 1.11 **Developer** – Pinnacle Housing Group, LLC.
- 1.12 **Division** - The Community Development Division of the Department of Development Services.
- 1.13 **HOME or HOME Program** - The HOME Investment Partnerships Program pursuant to the HOME Investment Partnerships Act at Title II of the Cranston National Affordable Housing Act (42 U.S.C. 12701 et seq.), with implementing rules and regulations set forth in 24 CFR Part 92.
- 1.14 **HOME Funds** - The HOME Investment Partnerships Program grant funding provided to PINNACLE under this Agreement.
- 1.15 **HUD** - The United States Department of Housing and Urban Development.
- 1.16 **Income Eligible Household** - The term means a household(s) as defined in 24 CFR Section 92.2, consisting of a family, as defined in 24 CFR Part 5.403, with an annual anticipated gross income that does not exceed 60% of the median annual income for the area, as determined by HUD, with adjustments for family size for households within Broward County. A household that is eligible for one of the five designated Low-Home Rent Units shall have an anticipated gross income that does not exceed 50% of the median annual income for the area, as determined by HUD, with adjustments for family size for households within Broward County.
- 1.17 **NSP-1** - Neighborhood Stabilization Program authorized under Title III of the Housing and Economic Recovery Act of 2008.
- 1.18 **NSP-1 Funds** – The NSP-1 program funds provided to PINNACLE under this Agreement.
- 1.19 **PINNACLE** - Pinnacle at Peacefield, Ltd.
- 1.20 **Project** - The Project consists of the work, activities, and services described in Article 2 and Exhibit “A”.
- 1.21 **Project Completion** - The term means all necessary title transfer requirements (if applicable) and all construction work have been performed; the Project is in compliance with the requirements set forth in 24 CFR Part 92 including, but not limited to, the Property standards set forth in 24 CFR Section 92.251; the final drawdown of HOME and NSP-1 Funds have been disbursed for the Project; and

CITY has entered the Project completion information and beneficiary data from the completed Exhibit "H," Rental Setup and Completion Form, into the integrated disbursement and information system (IDIS) established by HUD.

- 1.22 **Property** - The Property assisted with HOME Funds and NSP-1 Funds under this Agreement for the Project and legally described on Exhibit "A" attached hereto.
- 1.23 **Rules and Regulations of HUD** - The rules and regulations of HUD including, but not limited to, 24 CFR Part 92, "HOME Investment Partnerships Program"; Fair Housing Act, 42 U.S.C. 3601 et seq.; Section 301 of the Housing and Urban-Rural Recovery Act of 1983; Pub. Law No. 98-181, 97 Stat. 1155, CPD Notice 92-18, Procedures for the Cash and Management Information (CMI) System for the HOME Program; 24 CFR Part 91 "Consolidated Submissions for Community Planning and Development Programs" Division B, Title III of the Housing and Economic Recovery Act (HERA) of 2008 – Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes and any Executive Orders issued by the Federal Government impacting the HOME and/or NSP-1 Program(s); as amended from time to time, and which are incorporated herein by reference.
- 1.24 **Subconsultant or Subcontractor** - A firm, partnership, corporation, independent contractor (including 1099 individuals), or combination thereof providing services under this Agreement through PINNACLE for all or any portion of the work or activities. The term "Subconsultant" shall include all "Subcontractors" and the term "Subcontractor" shall include all "Subconsultants."
- 1.25 **Tax Credit Investor** – The entity purchasing the Low Income Housing Tax Credits allocated by Florida Housing Finance Corporation to PINNACLE pursuant to Section 42 of the Internal Revenue Service code (via Request for Applications 2016-113, application number 2017-211C), thereby providing investment equity for the development of the Project, together with its successors and assigns.

ARTICLE 2 - PREAMBLE

- 2.1 Pursuant to 24 CFR Section 92.50, HUD allocates HOME funds by formula among eligible State and local governments to strengthen public-private partnerships and to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income families. Pursuant to Title III of the Housing and Economic Recovery Act of 2008, the allocated NSP-1 funding is authorized for the redevelopment of vacant properties pursuant to Section 2301(c)(3)(E).
- 2.2 Pursuant to 24 CFR Section 92.105, CITY has been designated by HUD as a participating jurisdiction, and receives its HOME funding allocation pursuant to the Consolidated Plan. CITY may use HOME funding to carry out multi-year housing strategies through acquisition, rehabilitation, new housing construction, and tenant-based rental assistance. As a participating jurisdiction, CITY may provide

assistance in a number of eligible forms, including loans, advances, equity investments, interest subsidies, and other forms of investment that HUD approves. As a result of the enactment of House Resolution 3221, HUD awarded NSP-1 funds to CITY to address the abandoned and foreclosed homes crisis. Pursuant to Title III of the Housing and Economic Recovery Act of 2008, CITY received NSP-1 funding that is eligible to be used to fund the redevelopment of vacant properties under Section 2301(c)(3)(E).

- 2.3 Under the Rules and Regulations of HUD, CITY is the administrator for the Program and is mandated to comply with all applicable statutes, codes, rules, and regulations of the United States as to the allocation and expenditure of HOME and NSP-1 Funds as well as protecting the interests of certain classes of individuals who reside in CITY.
- 2.4 CITY desires to disburse HOME and NSP-1 Funds to PINNACLE and has obtained assurances from PINNACLE that it will comply with all applicable statutes, codes, rules, and regulations of the United States, the Rules and Regulations of HUD, the State of Florida, and CITY relating to the Project and the Program, as a condition precedent to the release of such HOME and NSP-1 Funds to PINNACLE.
- 2.5 CITY shall conduct all programs and activities relating to housing and community development in a manner that affirmatively furthers fair housing. CITY shall fund only subrecipients who have taken steps to promote fair housing.
- 2.6 In the event PINNACLE is found to be taking actions designed to discourage affordable housing for sale or rent within the boundaries of CITY, PINNACLE shall not be eligible to receive HOME, NSP-1 and City Remaining Loan Funds under this Agreement.
- 2.7 This Agreement is subject to the availability of funds as more specifically described in Section 7.13 and Article 12.

ARTICLE 3 - PROJECT

- 3.1 PINNACLE shall provide for the development, construction, and rental activities for a multi-family rental new construction housing project in accordance with the terms of this Agreement, and as outlined in Exhibit "A," Project Description. The Project is an eligible activity in accordance with the requirements set forth in 24 CFR Part 92, Subpart E, and shall include a site(s) together with any building(s), located on the site(s), that are under common ownership, management, and financing, and are assisted with HOME, NSP-1 and City Remaining Loan Funds provided by CITY. The term Project also includes all the activities associated with the site(s) and building(s).
- 3.2 PINNACLE shall be responsible for administering the Project as more specifically set forth in the attached Exhibit "A" and in accordance with the applicable HOME Investment Partnerships Act of 1990 regulations and as more specifically set forth

in 24 CFR Part 92 and NSP-1 requirements in Title III of the Housing and Economic Recovery Act of 2008. Further, PINNACLE shall use commercially reasonable efforts to meet the dates set forth in the Timetable/Schedule for the Project as more specifically set forth in the attached Exhibit "C"; provided, however, in no event shall Project Completion occur later than September 30, 2020. The Project set forth in Exhibit "A" shall meet all requirements applicable to rental units set forth in 24 CFR Sections 92.251 through 92.258. Timely completion of the Project by PINNACLE is an integral and essential part of performance. The expenditure of HOME funds is subject to Federal deadlines and could result in the loss of Federal funds. By acceptance and execution of this Agreement, it is understood and agreed to by PINNACLE, that the Project Activity will be completed as expeditiously as possible and that PINNACLE will use commercially reasonable efforts to ensure that the Project Activity will proceed and will not be unreasonably delayed.

Since it is mutually agreed that time is of the essence as regards to this Agreement, Pinnacle shall cause the appropriate provisions to be inserted in all contracts or subcontracts for work tasks in connection with the Project which are directly funded with HOME and/or NSP-1 or City Remaining Loan Funds pursuant to this Agreement, in order to ensure that the Project Activity will be completed according to the timetable set forth in Exhibit "C" in the time required by this Agreement. It is intended that such provisions inserted in any subcontracts be, to the fullest extent permitted by law and equity, binding for the benefit of the CITY and enforceable by the CITY against PINNACLE and its successors and assigns to the project or any part thereof or any interest therein.

- 3.3 PINNACLE shall also comply with the Project budget set forth in Exhibit "B," Costs/Budget for Project, and the Project schedule set forth in Exhibit "C," Timetable/Schedule for Project. Failure to maintain the implementation schedule within 60 days of the deadlines identified in Exhibit "C" may warrant a full review by the Division to meet HUD's required expenditure rates for the Program year. In the event PINNACLE fails to maintain the implementation schedule within 90 days of the deadlines identified in Exhibit "C," after giving effect to the notice and/or cure provisions set forth in Section 12.2.1 of this Agreement, CITY may terminate this Agreement in accordance with Article 12, and require PINNACLE to repay the HOME and NSP-1 Funds to CITY consistent with the requirements set forth in 24 CFR Section 92.503, and/or the NSP-1 Funds in accordance with the regulations governing such NSP-1 Funds.
- 3.4 PINNACLE shall not commence any construction work or activities for the Project prior to providing the Contract Administrator with a copy of the recorded notice of commencement for the Project. Construction of the Property assisted with HOME Funds or NSP-1 Funds under this Agreement shall meet or exceed all federal, state, and local housing quality standards and building code requirements.

- 3.5 PINNACLE shall review the scope of work for the Property to ensure compliance with the requirements under this Agreement prior to any third party contractor performing any work or activities for the Project.
- 3.6 The construction activities shall comply with the property standards set forth in 24 CFR Section 92.251(a).
- 3.7 In the event PINNACLE is unable to complete any of the Project activities due to delays resulting from untimely review and approval by CITY or other governmental authorities having jurisdiction over the Project, and such delays are not the sole fault of PINNACLE, PINNACLE may request in writing, and CITY may grant a reasonable time extension for completion of the activities.
- 3.8 The construction and maintenance of the HOME-assisted units through the Affordability Period shall meet or exceed all federal, state, and local housing quality standards and code requirements. PINNACLE shall ensure that any design and construction services performed under this Agreement shall be performed by State or locally licensed contractors, and PINNACLE receives industry standard warranties for such work or services performed.
- 3.9 Until Project Completion, PINNACLE shall provide the Contract Administrator with a Monthly Progress Report, utilizing the form provided in Exhibit "E," indicating the status of all outstanding work including the planned versus actual progress of activities and related budgets under this Agreement. The first Monthly Progress Report shall be due one month after the full execution of this Agreement by the parties.
- 3.10 CITY will carry out periodic monitoring and evaluation activities as determined necessary by the Division. The continuation of this Agreement is dependent upon satisfactory evaluations by the Division. Such evaluations will be based on the terms of this Agreement, comparisons of planned versus actual progress relating to the Project's scheduling, budgets, in-kind contributions, and output measures. Upon request, PINNACLE shall furnish to the Contract Administrator, CITY or their designees, such records and information, including copies or transcriptions, as is determined necessary by the Division Director or CITY. PINNACLE shall submit to the Division Director on a monthly and quarterly basis, and at other times upon the request of the Division, information and status reports on Project activities, to CITY, or HUD on forms approved by the Division Director.
- 3.11 PINNACLE shall notify the Contract Administrator at least forty-eight (48) hours in advance of the date that any work on the Property will be initiated in order for CITY, in its discretion, to conduct an on-site monitoring visit.
- 3.12 PINNACLE shall execute and CITY shall record, at PINNACLE's expense, separate Mortgages and Promissory Notes in an amount equal to the HOME and NSP-1 Funds respectively, provided by CITY to PINNACLE, for construction-related activities for the Project. The Mortgage and Promissory Note with respect

to the HOME Funds shall be executed in substantially the forms provided in Exhibit "D," Mortgage, and Attachment "A" to Exhibit "D," Promissory Note. Additionally, PINNACLE shall execute and CITY shall record, at PINNACLE's expense a Declaration of Restrictive Covenants ("HOME Declaration"), in substantially the form provided in Exhibit "D-1." The Mortgage and Promissory Note with respect to the NSP-1 Funds shall be executed in substantially the forms provided in Exhibit "D-2" Mortgage, and Attachment "A" to Exhibit "D-2," Promissory Note. PINNACLE shall also execute and CITY shall record, at PINNACLE's expense, a Declaration of Restrictive Covenants (the "NSP-1 Declaration," and together with the HOME Declaration, the "Declarations") in substantially the form provided in Exhibit D-3. The HOME Declaration and the NSP-1 Declaration are sometimes collectively referred to herein as the "Declarations". The Declarations shall be covenants running with the land for the Affordability Period and require PINNACLE to rent units in the Property to Income Eligible Households for the Affordability Period in accordance with the Declarations. The affordability restrictions may, in the sole discretion of CITY, terminate upon foreclosure of the Property, transfer of the Property in lieu of foreclosure to CITY, or upon repayment of any HOME or NSP-1 Funds provided by CITY to PINNACLE, unless otherwise provided by law. Further, PINNACLE shall execute and CITY shall record, at PINNACLE's expense a separate Mortgage and Promissory Note in an amount equal to the CITY's Remaining Loan Funds provided by CITY for PINNACLE for construction related activities for the Project. The Mortgage and Promissory Note with respect to the CITY's Remaining Loan Funds shall be executed in substantially the forms provided in Exhibit "D-4", CITY Mortgage and Attachment "A" to Exhibit "D-4", Promissory Note.

- 3.13 PINNACLE shall ensure that all Project activities comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations from acquisition to disposition of the Property. In addition, PINNACLE shall be responsible for securing the Property against theft, vandalism, and trespass from acquisition to disposition of the Property by PINNACLE.
- 3.14 PINNACLE shall not charge any servicing, origination, or other fees for the costs of administering the Project, except as permitted under 24 CFR Section 92.214(b)(1).
- 3.15 PINNACLE shall not be required to assume CITY's responsibilities for any environmental review requirements set forth in 24 CFR Section 92.352.
- 3.16 Any work performed by PINNACLE without CITY approval shall be PINNACLE's responsibility and not the responsibility of CITY.
- 3.17 PINNACLE shall, upon reasonable notice provided by CITY, meet with CITY during regular CITY business hours to address the Project.

- 3.18 PINNACLE shall display a sign identifying CITY and HUD as contributing lenders of HOME Funds and NSP-1 Funds for the encumbered Property, following acquisition of the Property, and during the construction and rental period.
- 3.19 No extension of time shall be granted for delays resulting from normal weather conditions prevailing in the area as defined by the average of the last 10 years of weather data recorded in the Fort Lauderdale/Hollywood International Airport Weather Station.

ARTICLE 4 - AFFORDABILITY

- 4.1 The Affordability Period for the Project shall be 30 years commencing upon Project Completion. PINNACLE shall ensure that five units of the total number of 120 units for the Project shall be designated as HOME-assisted units for the Affordability Period.
- 4.2 "HOME-assisted units" shall mean the units that can receive HOME Funds based on required subsidy limits set forth in 24 CFR Section 92.250, Subpart F. The Affordability Period shall begin on the date the HOME-assisted units have reached Project Completion, as defined in Section 1.16. The HOME-assisted units are deemed floating units, providing PINNACLE with the flexibility to designate different units in the Project at different times as HOME-assisted units; provided, however, that PINNACLE maintains the units with the same unit mix (i.e., number of bedrooms). The unit mix of HOME-assisted units shall be one one-bedroom unit and four two-bedroom units, all of which shall be classified as "Low-HOME units" rented to households below the Low-HOME income limit as defined by HUD (50% of area median income or less).
- 4.3 PINNACLE shall rent all the units in the Project to Income Eligible Households for the Affordability Period, and shall comply with the income targeting requirements set forth in 24 CFR Section 92.216. PINNACLE shall be responsible for obtaining initial income certification for Income Eligible Households at the time of lease.

ARTICLE 5 - MULTI-FAMILY HOUSING RENTAL UNITS

- 5.1 PINNACLE shall enter into a written lease with each Income Eligible Household for a period of one year. The maximum amount PINNACLE shall charge as rent for the HOME-assisted units shall be governed by the rent limitations set forth in 24 CFR Section 92.252(a). The annual rental amount limitations for the HOME-assisted units shall be set forth in Exhibit "I," Project Rents, and is based on the type and size of the unit, and such amount shall be amended and incorporated herein, without the necessity of the Parties amending Exhibit "I," for any periodic recalculations by HUD as set forth in 24 CFR Section 92.252.
- 5.2 In accordance with the requirements set forth in 24 CFR Section 92.252, PINNACLE shall ensure that an Income Eligible Household is a tenant in each HOME-assisted unit within six months following the date of Project Completion. In

the event PINNACLE does not comply with the occupancy requirement as set forth in this Agreement, CITY shall require PINNACLE to submit marketing information and, if appropriate, a plan for enhanced marketing of the HOME-assisted units. In the event PINNACLE does not have an Income Eligible Household as a tenant in each HOME-assisted unit within 18 months following the date of Project Completion, PINNACLE shall be in default under this Agreement, and shall be required to repay to CITY any HOME Funds invested in the HOME-assisted units not so occupied.

- 5.3 PINNACLE shall include a provision in the lease of a tenant in any HOME-assisted unit informing the tenant that Income Eligible Households who no longer qualify for a HOME-assisted unit shall be required to pay rent as provided in 24 CFR Section 92.252(i)(2).
- 5.4 PINNACLE shall ensure that its leases for HOME-assisted units shall not contain any lease terms prohibited under 24 CFR Section 92.253(b), Tenant protections and selection.
- 5.5 PINNACLE shall comply with 24 CFR Section 92.253(c) pertaining to termination of the lease or refusal to renew the lease of a tenant in the HOME-assisted unit. PINNACLE shall provide written notice to the tenant identifying the grounds for any action taken pursuant to 24 CFR Section 92.253(c), at least 30 days prior to the termination of the lease.
- 5.6 PINNACLE shall adopt written tenant selection policies and criteria consistent with the requirements set forth in 24 CFR Section 92.253(d). PINNACLE shall provide reasonable consideration to the housing needs of families that have a federal preference under Section 6(c)(4)(A) of the United States Housing Act of 1937, as amended, and provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and give prompt written notification to any applicant rejected identifying the grounds for such rejection.
- 5.7 CITY shall have the right, upon prior reasonable written notice, to perform on-site inspections of the HOME-assisted unit to determine compliance with the property standards set forth in 24 CFR Sections 92.251 through 92.258, and to verify information submitted to CITY by PINNACLE.
- 5.8 Within 30 days of Project Completion, PINNACLE shall complete and submit to the Contract Administrator, the Rental Setup and Completion Form utilizing the form provided in Exhibit "H," providing the socio-economic and demographic data on the occupants of the HOME-assisted units under this Agreement, subject to all applicable fair housing laws.

ARTICLE 6 - TERM OF AGREEMENT

The term of this Agreement shall commence upon complete execution of the Parties ("Effective Date"), and shall end on the earlier of the Project Completion date or December 31, 2020, unless extended or terminated earlier as provided herein. As a condition precedent to the effectiveness of this Agreement, funds for this Project Activity must be timely released to CITY pursuant to the United States HUD Home Investment Partnership Act Grant. If such condition precedent fails to occur, then this Agreement shall become null and void and the parties shall be discharged from their respective obligations thereunder. PINNACLE may submit a written request for an extension to the term of this Agreement to the Division Director no less than 90 days prior to the expiration date. In the event the Commission approves an extension to the term of this Agreement, the Parties shall enter into an amendment as provided in Section 14.18.

ARTICLE 7 - FUNDING AND METHOD OF PAYMENT AND PROVISIONS RELATING TO THE USE OF HOME AND NSP-1 FUNDS

- 7.1 The total funds payable under this Agreement by CITY to PINNACLE shall be the sum of \$578,000.00. CITY shall provide funding as follows: (a) the maximum amount of HOME Funds payable by CITY under this Agreement shall be \$84,000 for eligible Project costs set forth in Exhibit "B," Costs/Budget for Project; (b) the maximum amount of NSP-1 Funds payable by CITY under this Agreement shall be \$350,000 for eligible Project costs set forth in Exhibit "B," Costs/Budget for Project; and (c) the City's Remaining Loan Funds shall be in the amount of \$144,000 for eligible Project costs set forth in Exhibit "B" Costs/Budget for Project. The disbursement of the CITY's Remaining Loan Funds are contingent upon the disbursement of the HOME and NSP-1 Funds.
- 7.2 The HOME, NSP-1 and City Remaining Loan Funds provided by CITY to PINNACLE for the Project shall be in the form of a deferred payment loan issued at closing of construction financing for the development ("Closing") and due at the end of the Affordability Period as provided in the applicable Promissory Note and the applicable Declaration of Restrictive Covenants. Payment to PINNACLE from CITY shall be on a reimbursement basis either at Closing or as costs reimbursable under this Agreement are actually incurred and as provided in this Article and in accordance with Exhibit "B," Costs/Budget for Project, and requested by PINNACLE, subject to satisfactory documentation of costs in CITY's sole but reasonable discretion.
- 7.3 At Closing, PINNACLE shall execute and cause to be recorded, at PINNACLE's expense, in the Public Records of Broward County, Florida, subordinate Mortgages and Promissory Notes, in substantially the forms attached as Attachment "A" to Exhibits "D", "D-2 and "D-4", respectively. Additionally, PINNACLE shall execute and CITY shall record, at PINNACLE's expense, in the Public Records of Broward County, Florida, the Declarations to ensure that the Project remains affordable during the Affordability Period in accordance with the

term of the Declarations. CITY agrees to execute and deliver to PINNACLE's first mortgage lender, one or more subordination agreements in substantially the form attached hereto as Exhibit "D-5 ("Subordination Agreements"). CITY acknowledges that it is the intent of PINNACLE to refinance the first priority construction loan with a permanent first mortgage loan from the Federal Home Loan Mortgage Corporation ("Freddie Mac") upon the Project achieving stabilized operations ("Conversion"). Notwithstanding anything contained herein to the contrary, if Freddie Mac provides the permanent first mortgage loan at Conversion, CITY shall execute and deliver the Subordinations Agreements with such modifications as may be required by Freddie Mac to conform to Freddie Mac's then current form of subordination agreement at the time of Conversion.

- 7.4 Except for any funds paid at closing, PINNACLE shall invoice CITY at least 30 days prior to the date CITY will disburse the HOME, NSP-1 and City Remaining Loan Funds in accordance with Exhibit "C," Timetable/Schedule for Project, utilizing Exhibit "G," Request for Payment Form, for eligible Project costs described in Exhibit "B," Costs/Budget for Project. At no time shall CITY distribute HOME, NSP-1 or City Remaining Loan Funds to PINNACLE if it has not provided the required deliverables.
- 7.5 Following receipt of Exhibit "G," Request for Payment Form, as described in Section 7.4, the Division shall review to determine whether Exhibit "G" includes the documentation necessary for payment by CITY as provided in Section 7.2, and the Division has inspected the Project and determined that PINNACLE is in compliance with the terms of this Agreement.
- 7.6 CITY shall pay PINNACLE within 30 calendar days from receipt of Exhibit "G," Request for Payment Form for eligible Project expenses described in Section 7.4.
- 7.7 CITY may not make payment to PINNACLE under this Agreement for any of the following events:
 - 7.7.1 Failure to cure any default under the terms of this Agreement following notice provided by CITY as provided herein;
 - 7.7.2 Failure to submit reports as required;
 - 7.7.3 Submittal of incorrect or incomplete reports in any material respect; and
 - 7.7.4 Failure to comply with the indemnification obligations under this Agreement.
- 7.8 PINNACLE shall pay its Subcontractors and suppliers within 15 days following receipt of payment from CITY for such subcontracted work or supplies, as applicable. CITY shall have no responsibility nor be liable for PINNACLE's obligation with the Subcontractors and suppliers.

7.9 In the event this Agreement is terminated prior to CITY disbursing the HOME or NSP-1 Funds to PINNACLE, CITY may reallocate the HOME or NSP-1 Funds to other HOME or NSP-1 Program projects approved for funding by the City Commission. Notwithstanding any other provisions in this Agreement, the CITY may also reallocate the CITY'S Remaining Loan Funds.

7.10 Payment shall be made to PINNACLE at:

David O. Deutch, V.P. of General Partner
Pinnacle at Peacefield, Ltd.
c/o Pinnacle Housing Group, LLC
9400 S. Dadeland Boulevard, Suite 100
Miami, Florida 33156

7.11 Any documentation required by PINNACLE under this Agreement shall be furnished to CITY at the following address:

Clay Milan, Manager
Community Development Division
City of Hollywood
2600 Hollywood Boulevard #203
Hollywood, Florida 33020

7.12 Notwithstanding anything to the contrary in this Agreement, CITY shall not be required to reimburse PINNACLE any HOME Funds, NSP-1 Funds or City Remaining Loan Funds under this Agreement, if CITY is not able to obtain such funding from HUD for the payment of these costs, and CITY may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to the Contract Administrator or failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by CITY.

7.13 Notwithstanding any provision in this Agreement to the contrary, in the event CITY is required to repay HUD any HOME Funds or NSP-1 Funds received from HUD for the Project, pursuant to any repayment requirements set forth in 24 CFR Part 92, or any other applicable Rules and Regulations of HUD, PINNACLE may be required to repay CITY such HOME Funds and/or NSP-1 Funds in accordance with the repayment provisions set forth in Section 9.4 of this Agreement. CITY may determine whether PINNACLE will need to repay the CITY'S Remaining Loan Funds in the event HUD repayments are required.

ARTICLE 8 - ASSURANCES AND CERTIFICATIONS

8.1 PINNACLE shall comply with all applicable federal, state, and CITY laws, ordinances, codes, and regulations relating to the use of HOME Funds and/or

NSP-1 Funds including, but not limited to, the Rules and Regulations of HUD. Any conflict or inconsistency between any federal, state, or CITY regulations and this Agreement shall be resolved in favor of the more restrictive regulations.

- 8.2 PINNACLE shall establish safeguards to prohibit its employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have a family, business, or other association.
- 8.3 PINNACLE shall comply with the requirements set forth in the Division's "Procedures Manual for Subrecipients," as may be amended from time to time, and incorporated herein by reference. CITY will provide PINNACLE with a copy of the manual and any amendments thereto.
- 8.4 PINNACLE shall not use HOME or NSP-1 Funds to support or engage in any explicitly religious activities including, but not limited to, activities that involve overt religious content such as worship, religious instruction, or proselytization as further described in 24 CFR Section 92.257.
- 8.5 PINNACLE certifies, to the best of its knowledge and belief, that:
 - 8.5.1 No federal appropriated funds have been paid or will be paid, by or on behalf of PINNACLE, to any person for influencing or attempting to influence an officer or employee of an agency, a member, officer, or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant or loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - 8.5.2 If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member, officer, or employee of Congress, or an employee of a member of Congress in connection with this Agreement, PINNACLE shall complete and submit to CITY Standard Form - LLL, "Disclosure Form to Report Lobbying," set forth in Appendix B to 24 CFR Part 87, in accordance with its instructions.
 - 8.5.3 The language in this Section 8.5 shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all subgrantees shall be required to certify and disclose accordingly.
- 8.6 PINNACLE shall comply with the nondiscrimination and other federal requirements set forth 24 CFR Part 350 including, but not limited to, the following:

- 8.6.1 Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and implementing regulations at 24 CFR Part 146, which prohibit discrimination of persons on the basis of race, color, or national origin, including, but not limited to, exclusion from participation in, being denied the benefits of, or being otherwise subjected to discrimination under any program or activity for which PINNACLE receives federal financial assistance.
- 8.6.2 Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.), which prohibit discrimination of persons on the basis of race, color, religion, sex, and national origin in housing practices.
- 8.6.3 Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), and the implementing regulations set forth in 24 CFR Part 146, which prohibit discrimination of persons on the basis of age under any program, or activity for which PINNACLE receives federal financial assistance.
- 8.6.4 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations set forth in 24 CFR Part 8, which prohibit discrimination of qualified individuals with disabilities in participating in, or receiving benefits and services under any program or activity for which PINNACLE receives financial federal assistance.
- 8.6.5 Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), which prohibits discrimination of individuals on the basis of race, color, sex, national origin, religion, or age.
- 8.6.6 Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u, and the implementing regulations set forth in 24 CFR Part 135, as applicable), which provides for training, employment, contracting, and other economic opportunities for low and very low-income persons.
- 8.6.7 The disclosure requirements and prohibitions set forth in 31 U.S.C. 1352 and implementing regulations set forth in 24 CFR Part 87; and the requirements for funding competitions established by the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3531 et seq.).
- 8.6.8 The prohibitions set forth in 2 CFR Part 2424 relating to the use of debarred, suspended, or ineligible contractors and participants.
- 8.6.9 The Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.) and HUD's implementing regulations set forth in 2 CFR Part 2429.
- 8.7 PINNACLE shall comply with the recordkeeping and reporting requirements under this Agreement to assist CITY in complying with its recordkeeping and reporting

requirements set forth in 24 CFR Section 92.508 and 92.509 and 24 CFR Sections 85.42 and 85.43.

- 8.8 PINNACLE shall take all reasonable steps in accordance with the requirements set forth in 24 CFR Section 92.353 to minimize the displacement of persons as a result of any Project activities.
- 8.9 PINNACLE shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et. seq.), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.), and the implementing regulations set forth in 24 CFR Part 35, and as set forth in 24 CFR Section 92.355.
- 8.10 PINNACLE shall comply with 24 CFR Section 92.250 relating to the maximum per-unit subsidy amount for the HOME-assisted units. The maximum HOME-assisted units subsidy shall not be increased above 240% of the base limits authorized by Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)).
- 8.11 PINNACLE shall comply with 24 CFR Section 92.250 relating to subsidy layering and underwriting for the Project.
- 8.12 In the event the Project provides for 10 or more HOME-assisted units, CITY shall, pursuant to 24 CFR Section 92.504(d)(2), examine, at least annually during the Affordability Period, the financial condition of the Project to determine the financial viability of the housing, and if CITY determines problems exist, PINNACLE shall take such action necessary to correct the problems, to the extent feasible. In the event the Project provides for less than 10 HOME-assisted units, CITY reserves the right to perform such reviews periodically as deemed necessary by CITY, and PINNACLE shall take such action necessary to correct the problems, to the extent feasible.
- 8.13 PINNACLE shall annually certify to CITY in accordance with 24 CFR Section 92.504(d)(1)(C), that the Property assisted with HOME Funds under this Agreement and the HOME-assisted units in the Project are suitable for occupancy in accordance with all applicable state and local health, safety, and other applicable codes, ordinances, and requirements, and CITY's property standards established to meet the requirements set forth in 24 CFR Section 92.251.
- 8.14 To the extent applicable to the Project, PINNACLE shall comply with the Davis-Bacon Act (40 U.S.C. 276a-276a-7), as supplemented by the United States Department of Labor regulations set forth in 24 CFR Part 5, which require all laborers and mechanics working on the Project be paid not less than prevailing wage rates as determined by the Secretary of Labor. Additionally, if applicable, PINNACLE shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330), as supplemented by the United States Department of Labor regulations set forth in 29 CFR Part 5.

- 8.15 In addition to the audit rights, and retention of records requirements set forth in Section 14.4, PINNACLE shall provide CITY, HUD, and the United States Comptroller General, through any authorized representative, the right of access to any pertinent books, documents, papers, or other records relating to the Project in order to make audits, examinations, excerpts, and transcripts.

ARTICLE 9 - FINANCIAL RESPONSIBILITY

- 9.1 PINNACLE shall maintain books and records in accordance with generally accepted accounting principles and properly reflect all expenditures of HOME Funds, NSP-1 Funds and City Remaining Loan Funds provided by CITY under this Agreement.
- 9.2 PINNACLE shall use HOME, NSP-1 and City Remaining Loan Funds only for eligible Project activities specifically outlined in this Agreement.
- 9.3 PINNACLE shall disclose to CITY any and all third party funding, whether public or private, for the Project. No CITY funding shall be used to supplant existing third party funding.
- 9.4 In addition to CITY's right to terminate this Agreement in accordance with Article 12, PINNACLE shall be required to repay to CITY, in CITY's sole discretion, any HOME or NSP-1 Funds required to be repaid to HUD by CITY for the Project in accordance with any applicable Rules and Regulations of HUD regarding repayments including, but not limited to, in the following events:
- 9.4.1 Use of any HOME Funds or NSP-1 Funds for ineligible Project costs or activities.
- 9.4.2 Any HOME or NSP-1 Funds expended by PINNACLE, or any Subcontractor, in violation of this Agreement.

In the event PINNACLE is required to repay CITY any HOME or NSP-1 Funds pursuant to this Section 9.4, PINNACLE shall repay such funds from nonfederal resources within 30 days of written notice provided by CITY. This provision shall survive the expiration or earlier termination of this Agreement.

- 9.5 PINNACLE shall budget and expend all HOME, NSP-1 and City Remaining Loan Funds provided by CITY under this Agreement in accordance with the Division's "Procedures Manual for Subrecipients."
- 9.6 PINNACLE shall submit, at its own expense, to the Division within 180 days of Project Completion, a complete audited financial accounting of all Project activities, utilizing the form provided in Exhibit "F," Final Accounting for Project. These audits submitted to CITY shall include: 1) the Final Cost Certificate audit prepared by an independent auditor and submitted as required by Florida Housing Finance Corporation, encompassing all development costs for the Project, 2) the Final

General Contractor's Cost Certification audit prepared by an independent auditor and submitted as required by Florida Housing Finance Corporation, encompassing all construction-related costs for the Project.

In the event the audit report for either PINNACLE's or the General Contractor's final cost certification shows that the entire HOME, NSP-1 or City Remaining Loan Funds, or any portion thereof, was not expended in accordance with the conditions set forth in this Agreement and pursuant to any applicable law or regulation, PINNACLE shall be held liable for reimbursement to the CITY of all HOME, NSP-1 or City Remaining Loan Funds not expended in accordance with this Agreement or applicable laws or regulations. PINNACLE shall reimburse the CITY within 30 days after receipt of the written notice from the CITY of such non-compliance.

- 9.7 PINNACLE shall have an adequate financial system and internal fiscal controls in accordance with HUD and CITY requirements.
- 9.8 PINNACLE shall comply with the affirmative marketing requirements set forth in 24 CFR Section 92.351, and, Exhibit "J," Affirmative Marketing Policy, relating to marketing the Project to Income Eligible Households.

ARTICLE 10 - INDEMNIFICATION

- 10.1 PINNACLE shall at all times hereafter indemnify, hold harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend CITY, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including reasonable attorney's fees, court costs, and expenses caused or alleged to be caused by the intentional or negligent act of, or omission of, PINNACLE, its employees, agents, servants, subcontractors, or officers, accruing, resulting from, or related to the subject matter of this Agreement, including without limitation, any and all claims, losses, liabilities, expenditures, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property ("Claims"). In the event of a lawsuit or other proceeding is brought against CITY by reason of such claim, cause of action or demand, PINNACLE shall, upon written notice from CITY, resist and defend such lawsuit or proceeding by counsel satisfactory to CITY or, at CITY's option, pay the reasonable fees for an attorney selected by the City Attorney to defend CITY. To the extent considered necessary by the Director and City Attorney, any sums due PINNACLE under this Agreement may be retained by CITY until all of CITY's claims for indemnification under this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY. Such obligation to indemnify and hold harmless shall continue notwithstanding any negligence or comparative negligence on the part of the CITY relating to such loss or damage and shall include all costs, expenses and liabilities incurred by the CITY in connection with any such claim, suit, action or cause of action, including the investigation thereof and the defense of any action or

proceeding brought thereon and any order, judgment or decree which may be entered in any such action or proceeding or as a result thereof; provided however, any duty to defend, indemnify or hold CITY harmless shall not extend to any Claims resulting from or attributable to the gross negligence or willful misconduct of CITY, its employees, agents or contractors. Nothing in this Agreement shall be construed to affect in any way the CITY's rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in Section 768.28, Florida Statutes. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement. The CITY gives as independent and specific consideration the sum of \$10.00 for the granting of this indemnification/hold harmless. The receipt and sufficiency of this consideration is acknowledged by PINNACLE. City and PINNACLE acknowledge that no HOME or NSP-1 Funds shall be used to pay for construction and/or design work. However, if construction and/or design work is being funded with HOME and/or NSP-1 Funds pursuant to this Agreement, then these provisions will be interpreted to comply with the applicable provisions of Sections 725.06 and 725.8, Florida Statutes, as applicable.

- 10.2 In the event PINNACLE contracts with a Subcontractor to perform any work or activities for the Project which are or will be funded with the HOME or NSP-1 Funds, any contract with such Subcontractor shall include the following provisions in substantially the form provided below:

10.2.1 Indemnification: Subcontractor shall indemnify and hold harmless CITY, its officers and employees, from any and all claims, causes of action, demands, liabilities, damages, losses, expenditures and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Subcontractor and persons employed or utilized by Subcontractor in the performance of this Agreement. These indemnifications shall survive the term of this Agreement. To the extent permitted by law, in the event that any action or proceeding is brought against CITY by reason of any such claim, demand or cause of action, Subcontractor shall, upon written notice from CITY, resist and defend such action or proceeding by counsel satisfactory to the CITY. Such obligation to indemnify and hold harmless shall continue notwithstanding any negligence or comparative negligence on the part of the CITY relating to such loss or damage and shall include all costs, expenses and liabilities incurred by the CITY in connection with such claim, suit, action or cause of action, including the investigation thereof and the defense of any action or proceeding brought thereon and order, judgment or decree which may be entered in any such action or proceeding or as a result thereof. Nothing in this Agreement shall be construed to affect in any way the CITY's rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in Section 768.28, Florida Statutes.

10.2.2 To the extent permitted by law, the indemnification provided in 10.2.1 shall obligate Subcontractor to defend, at its own expense, to and through appellate, supplemental, or bankruptcy proceedings, or to provide for such defense, at CITY's option, any and all claims of liability and all suits and actions of every name and description covered by this Article, which may be brought against the CITY, whether services were performed by Subcontractor or persons employed or utilized by Subcontractor.

10.2.3 In order to insure the indemnification obligation noted above, Subcontractor shall, at a minimum, provide, pay for, and maintain in full force and effect at all times during the term of this Agreement (unless provide otherwise), the insurance requirements set forth in Exhibit "K".

ARTICLE 11 - INSURANCE

11.1 PINNACLE shall maintain at its sole expense, at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least the minimum insurance coverage designated in Exhibit "K," Insurance Requirement, in accordance with the terms and conditions stated in this Article. Such coverage may be carried by PINNACLE directly or through Pinnacle Housing Group, LLC as Developer (as applicable and appropriate).

11.2 Such policies shall be issued by companies authorized to do business in the State of Florida, with a minimum AM Best financial rating of A-. Coverage shall be provided on forms no more restrictive than the latest edition of the applicable form filed by the Insurance Services Office. PINNACLE shall name the City of Hollywood as an additional insured under the primary and non-contributory Commercial General Liability policy, Business Automobile Liability policy as well as on any Excess Liability policy. The official title of the Certificate Holder is the City of Hollywood. This official title shall be used in all insurance documentation.

11.3 Within 15 days of the Effective Date of this Agreement, PINNACLE shall provide to CITY proof of insurance in the form of Certificate(s) of Insurance and applicable endorsements, Declaration pages, or insurance policies evidencing all insurance required by this Article. CITY reserves the right to obtain a certified copy of any policies required by the Article upon request. Coverage is not to cease and is to remain in force until the CITY determines all performance required of PINNACLE is completed. CITY shall be notified of any restriction or cancellation of coverage within 30 days. If any of the insurance coverage will expire prior to the completion of the work, proof of insurance renewal shall be provided to CITY upon expiration.

11.4 CITY reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Agreement including, but not limited to, deductibles, limits, coverage, and endorsements.

11.5 If PINNACLE uses a Subcontractor, PINNACLE shall ensure that each Subcontractor names "City of Hollywood" as an additional insured under the

Subcontractor's Commercial General Liability, Business Automobile Liability, and Excess/Umbrella policies.

ARTICLE 12 - TERMINATION

12.1 This Agreement is subject to the availability of HOME and NSP-1 funding from HUD. In the event HUD terminates, suspends, discontinues, or substantially reduces the HOME or NSP-1 funding for the Project activity under this Agreement, CITY may terminate this Agreement upon PINNACLE's receipt from CITY of no less than 24 hours' notice. CITY shall be the final authority as to the availability of HOME Funds and NSP-1 Funds.

12.2 Termination for Cause.

12.2.1 This Agreement may be terminated for cause by CITY, at the discretion of and through the City Manager in accordance with Section 38.48 of CITY's Code of Ordinances, if PINNACLE fails to comply with any terms under this Agreement and has not corrected the breach within 30 days after receipt of written notice from CITY identifying the breach provided, however, if such breach cannot reasonably be cured within such 30 day period, PINNACLE shall not be in default hereunder provided PINNACLE has commenced cure within such 30 day period and thereafter diligently prosecutes same to completion. Any notice of termination provided by CITY pursuant to this Section 12.2 shall also provide PINNACLE with an opportunity to appeal the action in accordance with 24 CFR Section 85.43 and CITY's Adopted Housing Policies, and a copy of the appeal process shall be attached to the notice. Any appeal by PINNACLE shall be filed within five days of receipt of CITY's notice of termination.

12.2.2 Termination for cause by CITY may include, but is not limited to, PINNACLE's failure to commence work on the Project, as set forth in Exhibit "C," Timetable/Schedule for Project, within 90 days from the Effective Date of this Agreement by the Parties, repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, failure to continuously perform the work in a manner calculated to meet or accomplish the objectives under this Agreement, failure to repay CITY as provided in Section 9.4, or contracting with a Subcontractor to provide any Project services under this Agreement who has been debarred, suspended, or is otherwise excluded from, or ineligible for participation in, any federal assistance program subject to 2 CFR Part 2424. The Agreement may also be terminated for cause if PINNACLE is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes.

- 12.2.3 In the event this Agreement is terminated by CITY for cause, PINNACLE shall repay to CITY any HOME Funds, NSP-1 Funds and City Remaining Loan Funds determined by CITY to be due in accordance with the terms of this Agreement.
- 12.3 Termination for Convenience. At any time after the execution of this Agreement but before Closing and funding of the HOME. NSP-1 Funds or CITY Remaining Loan Funds, the CITY may, at its option for convenience, terminate this Agreement upon 30 days prior written notice to PINNACLE. If the CITY terminates this Agreement for convenience, the CITY shall pay PINNACLE for all eligible services and allowable expenditures pursuant to this Agreement and applicable laws and regulations until the effective date of said termination. In the event that the grant to the CITY under Title II, the Cranston-Gonzalez National Affordable Act of 1990 is suspended or terminated, then this Agreement shall be suspended or terminated effective on the date HUD specifies. The Division has the right under this Agreement to suspend or terminate payments until PINNACLE complies with any applicable additional legal requirements that may be imposed by the City, the State of Florida or HUD at any time during the term of this this Agreement.
- 12.4 In the event this Agreement is terminated for any reason, CITY will reimburse PINNACLE upon receipt of a Request for Payment Form as provided in Exhibit "G," for documented and committed eligible Project costs in accordance with the terms of this Agreement and Exhibit "B," Costs/Budget for Project, incurred by PINNACLE prior to the effective date of termination of this Agreement. For purposes of this Agreement, documented and committed eligible Project costs means any verifiable committed expense incurred for the payment of impact fees in accordance with Exhibit "B." However, PINNACLE shall not encumber any HOME Funds, NSP Funds or CITY remaining loan funds under this Agreement after either party provides written notice of termination to the other party. Any payment by CITY pursuant to this Section 12.4 is subject to the repayment provisions in Section 9.4.
- 12.5 Notice of suspension or termination of this Agreement shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the City Manager, which the City Manager deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.
- 12.6 In the event this Agreement is terminated for any reason, any amounts due PINNACLE shall be withheld by CITY until all documents are provided to CITY pursuant to Section 14.1 of Article 14.

12.7 CITY shall give the Tax Credit Investor listed in any Rider to the Mortgage to be executed in accordance with the terms of this Agreement, written notice of any alleged default by PINNACLE under the terms of any of the loan documents related to this Agreement, and the Tax Credit Investor shall be extended an opportunity to cure such default, which cure period shall be a period of 30 calendar days longer than the cure period provided to PINNACLE.

ARTICLE 13 - NOTICES

In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this Article.

As to CITY:

Clay Milan, Manager
Community Development Division
2600 Hollywood Boulevard #203
Hollywood, Florida 33020

With a Copy to:

Douglas R. Gonzales, City Attorney
Office of the City Attorney
Hollywood City Hall
2600 Hollywood Blvd. Room 407
Hollywood, Florida 33020

As to Pinnacle:

David O. Deutch, Vice President
PHG-Peacefield, LLC, General Partner
Pinnacle at Peacefield, Ltd.
c/o Pinnacle Housing Group, LLC
9400 S. Dadeland Boulevard, Suite 100
Miami, Florida 33156
Email address: david@pinnaclehousing.com

With copies to:

Shutts & Bowen LLP
200 South Biscayne Boulevard
41st Floor
Miami, Florida 33131
Attn: Robert Cheng, Esq.
Email address: rcheng@shutts.com

Citibank, N.A.
388 Greenwich St, 8th Floor
New York, NY 10013
Attention: Mark Sherman

Nixon Peabody LLP
779 9th Street, NW, Suite 500
Washington, DC 20001-4501
Attention: Matthew W. Mullen

TCAM
30 Federal Street, 6th Floor
Boston, MA 02110-2508
Attention: Jenny Netzer

ARTICLE 14 - MISCELLANEOUS

14.1 RIGHTS IN DOCUMENTS AND WORK

Subject to the rights of all priority lien mortgage holders, all reports, plans, surveys, information, documents, maps and other data procedures developed, prepared, assembled or completed by PINNACLE for the purposes of this Agreement shall, upon an event of default, become the property of CITY without restriction, reservation, or limitation on their use and shall be made available by PINNACLE at any time upon request by CITY or the Division. Upon Project Completion, copies of all of the above data shall be delivered to the Division Director upon written request including, but not limited to, any project set-up and completion reports requested by HUD.

14.2 EQUAL EMPLOYMENT OPPORTUNITY

No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement.

PINNACLE shall include the foregoing or similar language in its contracts with any Subcontractor, except that any project assisted by the U.S. Department of

Transportation funds shall comply with the non-discrimination requirements in 49 CFR Parts 23 and 26.

Failure by PINNACLE to carry out any of the requirements of this Section shall constitute a material breach of this Agreement, which shall permit CITY to terminate this Agreement or to exercise any other remedy provided under this Agreement, or under other applicable law, all such remedies being cumulative.

By execution of this Agreement, PINNACLE represents that it is not debarred, suspended or otherwise ineligible [to receive Federal Contracts] and has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. CITY hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle CITY to terminate this Agreement and recover from PINNACLE all monies paid by CITY pursuant to this Agreement, and may result in debarment from CITY's competitive procurement activities.

14.3 PUBLIC RECORDS

The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. PINNACLE shall keep and maintain public records required by CITY to perform the services required under this Agreement. Upon request from CITY'S custodian of public records, PINNACLE shall provide CITY with a copy of any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. PINNACLE shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following expiration or earlier termination of this Agreement if PINNACLE does not transfer the public records to CITY. Upon expiration or earlier termination of this Agreement, PINNACLE shall transfer, at no cost, to CITY all public records in possession of PINNACLE or keep and maintain public records required by CITY to perform the services required under this Agreement. If PINNACLE transfers all public records to CITY upon the expiration or earlier termination of this Agreement, PINNACLE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If PINNACLE keeps and maintains public records upon the expiration or earlier termination of this Agreement, PINNACLE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to CITY, upon request from CITY'S custodian of public records, in a format that is compatible with CITY's information technology systems.

IF A PARTY TO THIS AGREEMENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT

PAT CERNY, CITY CLERK, 2600 HOLLYWOOD BLVD., 33020 OR
PCERNY@HOLLYWOODFL.ORG WITH A COPY TO
CMILAN@HOLLYWOODFL.ORG, 2600 HOLLYWOOD BLVD., HOLLYWOOD,
FLORIDA 33020.

The failure of PINNACLE to comply with the provisions set forth in this Section 14.3 shall, subject to any applicable notice and/or cure period, constitute a default and breach of this Agreement, and City Shall enforce the default in accordance with the provisions set forth in Section 12.2.

14.4 AUDIT RIGHTS, RETENTION OF RECORDS, MONITORING

For the purposes of auditing and monitoring the HOME, NSP-1 and CITY remaining loan Funds awarded pursuant to this Agreement, PINNACLE shall provide CITY with annual independent audited financial statements for the Project. PINNACLE shall bear all costs and expenses for each audit. Each annual audit shall be submitted to the CITY no later than June 30 of each year for the immediately preceding calendar year, commencing the year following the date on which the first unit in the Project is placed in service. PINNACLE shall have all such audits completed by an independent public account (IPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Florida Statutes. The complete annual financial audit report shall be sent directly:

Director of Financial Services
City of Hollywood, Florida
2600 Hollywood Boulevard, Rm. 120
Hollywood, Florida 33020

PINNACLE shall retain all financial records, reports, supporting documents, statistical records, and any other documents pertinent to this Agreement for the period of affordability. However, if litigation or an audit has been initiated prior to the expiration of the period of affordability, the records shall be retained until the litigation or audit findings have been resolved.

CITY shall have the right to audit the books, records, and accounts of PINNACLE and its Subcontractor that are related to this Agreement. PINNACLE and its Subcontractor shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance thereunder. All books, records, and accounts of PINNACLE and its Subcontractor shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, PINNACLE, or its Subcontractor, as applicable, shall make same available at no cost to CITY in written form.

In accordance with the records retention period set forth in 24 CFR Part 92 and Part 85, PINNACLE and its Subcontractors shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum of five years after submission of the last or final expenditure report for the funding period associated with the term of this Agreement, or until resolution of any audit findings, whichever is longer. CITY audits and inspections pursuant to this Section may be performed by any CITY representative (including any outside representative engaged by CITY). CITY reserves the right to conduct such audit or review at PINNACLE's place of business, if deemed appropriate by CITY, with 72 hours' advance written notice.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this Section discloses overpricing or overcharges to CITY of any nature by PINNACLE, the reasonable actual cost of CITY's audit shall be reimbursed to CITY by PINNACLE in addition to making adjustments for the overcharges. Any adjustments and/or payments due as a result of such audit or inspection shall be made within 30 days from presentation of CITY's findings to PINNACLE.

Pursuant to 24 CFR 85.40, CITY is responsible to monitor grant funded activities to assure compliance with applicable Federal requirements.

To determine the appropriate level of monitoring to undertake, the CITY evaluated PINNACLE'S risk of noncompliance with federal or state statutes, regulations, and the terms and conditions of the subaward. In doing so, the CITY considered factors such as:

- (i) PINNACLE'S prior experience with the same or similar subawards;
- (ii) the results of previous audits; and
- (iii) whether PINNACLE has new personnel or new or substantially changed systems.

As a result of the Risk Assessment the CITY has determined PINNACLE to be Low-Risk.

Low Risk Monitoring Schedule – Desk reviews at each request for reimbursement and one on-site monitoring per year.

Monitoring for this Agreement falls into the following general compliance areas:

- Program monitoring assesses the overall performance and operation of the program and activities are carried out effectively and in compliance with HOME and NSP-1 regulations.

- Administrative and financial monitoring assesses the fiscal and administrative management of the HOME and NSP-1 Funds.
- Project monitoring assesses compliance with requirements related to the specific HOME and NSP-1 activity.

The CITY shall conduct two forms of monitoring:

1. **Desk Reviews** – Desk reviews shall involve reviewing reports as required in this Agreement to determine how well the project is being managed, and whether it is achieving its goals and compliance obligations.

2. **On-site Monitoring** - Onsite monitoring involves a visit to the funded entity's office to review documents and source information, observe actual project operations, and discuss programs and projects with the staff carrying them out. Onsite monitoring will take place at least annually or whenever the desk review suggests that there may be complications to project completion. Once scheduled, a formal notification letter shall be sent to PINNACLE at least 10 days prior to the planned visit. The formal notification letter shall include:

- Confirmation of the date and time for the review;
- Name of the CITY staff performing the review;
- Elements of the project to be monitored;
- Information needed for review during the visit (files and records);
- Staff needed for interviews or other assistance during the review.

Follow-up – At completion of each On-site Monitoring staff shall prepare and distribute a report summarizing the results of the review and describing any required follow-up.

PINNACLE shall ensure to CITY's reasonable satisfaction that the requirements of this Section 14.4 are included in all agreements with its Subcontractors performing services for the Project which are funded in whole or in part with the HOME or NSP-1 Funds.

14.5 TRUTH-IN-NEGOTIATION REPRESENTATION

PINNACLE's compensation under this Agreement is based upon representations supplied to CITY by PINNACLE, and PINNACLE certifies that the information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current in all material respects at the time of contracting. CITY shall be entitled to recover any damages it incurs to the extent such representation is untrue.

14.6 PUBLIC ENTITY CRIME ACT

PINNACLE represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, PINNACLE further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether PINNACLE has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this Section 14.6 is false, CITY shall have the right to immediately terminate this Agreement and recover all sums paid to PINNACLE under this Agreement.

14.7 INDEPENDENT CONTRACTOR

PINNACLE is and shall be an independent contractor under this Agreement. In providing services under this Agreement, neither PINNACLE nor its agents shall act as officers, employees, agents or subcontractors of CITY. PINNACLE shall not have the right to bind CITY to any obligation not expressly undertaken by CITY under this Agreement. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to the performance of PINNACLE's obligations under this Agreement shall be those of PINNACLE, which policies of PINNACLE shall not conflict with CITY, H.U.D., or Federal policies, rules or regulations relating to the use of HOME funds provided for herein. CITY and PINNACLE are not partners, joint venturers or affiliated entities.

14.8 THIRD PARTY BENEFICIARIES

Neither PINNACLE nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and no third party shall be entitled to assert a claim against either of them based upon this Agreement.

14.9 ASSIGNMENT AND PERFORMANCE

Except for subcontracting approved in writing by CITY at the time of its execution of this Agreement or any written amendment hereto, neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by PINNACLE without the prior written consent of CITY. If PINNACLE violates this provision, CITY shall have the right to immediately terminate this Agreement. PINNACLE represents that each person and entity that will provide services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render services. PINNACLE agrees that all services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all

such services shall equal or exceed prevailing industry standards for the provision of such services.

14.10 CONFLICT OF INTEREST

PINNACLE shall comply with the requirements set forth in 24 CFR Section 92.356 relating to the Conflict of Interest provisions. Any possible conflicting interest on the part of PINNACLE, its officers, employees, agents or subcontractors, shall be disclosed in writing to the Division.

14.11 CONFLICTS

Neither PINNACLE nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with PINNACLE's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. None of PINNACLE's officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her opinion, which is adverse or prejudicial to the interests of CITY in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this Section 14.11 shall not preclude PINNACLE or any person in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding. In the event PINNACLE is permitted pursuant to this Agreement to utilize a Subcontractor to perform any services required by this Agreement, PINNACLE shall require such Subcontractor, by written contract, to comply with the provisions of this Section to the same extent as PINNACLE

14.12 MATERIALITY AND WAIVER OF BREACH

Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof. CITY's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

14.13 COMPLIANCE WITH APPLICABLE LAWS

PINNACLE shall keep fully informed of and shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

14.14 SEVERABILITY

In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

14.15 JOINT PREPARATION

This Agreement has been jointly prepared by the Parties hereto, and shall not be construed more strictly against either party.

14.16 INTERPRETATION

The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

14.17 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached hereto or referenced or incorporated herein and any provision of Articles 1 through 14 of this Agreement, the provisions contained in Articles 1 through 14 shall prevail and be given effect. In the event there is a conflict between any provisions set forth in this Agreement and a more stringent state or federal provision which is applicable to any services performed under this Agreement, the more stringent state or federal provision shall prevail.

14.18 AMENDMENTS

The Parties may amend this Agreement to conform to changes in federal, state, or local laws, regulations, directives, and objectives. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed on behalf of and approved by the City Commission and PINNACLE or others delegated authority to or otherwise authorized to execute same on their behalf. The Division Director shall be authorized to approve, in writing, line item budget changes to the information set forth in Exhibit "B," Costs/Budget for Project, during the term of this Agreement provided such changes do not result in an increase in the HOME or NSP-1 Funds set forth in

Section 7.1 of this Agreement, and Exhibit "B." The written document from the Division Director approving such changes shall be deemed incorporated into this Agreement.

14.19 LAW, JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida, and any and all legal action between the parties arising out of this Agreement will be brought in Broward County. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or the United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, PINNACLE AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

14.20 PRIOR AGREEMENTS

This Agreement represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

14.21 PAYABLE INTEREST

14.21.1 Payment of Interest. CITY shall not be liable to pay any interest to PINNACLE for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof PINNACLE waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

14.21.2 Rate of Interest. If, for whatever reason, the preceding subsection is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by CITY under this Agreement, whether as prejudgment interest or for any other purpose,

shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).

14.22 INCORPORATION BY REFERENCE

Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The attached Exhibits "A" - "K" are incorporated into and made a part of this Agreement. The Rules and Regulations of HUD and any other HUD regulations addressed in this Agreement which are not specifically identified in the definition contained in Section 1.17 shall be deemed incorporated herein by reference.

14.23 LEGAL PROVISIONS DEEMED INCLUDED

Each and every provision of any law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein, and this Agreement shall be read and enforced as though it were included herein and if, through mistake or otherwise, any such provision is not inserted or is not correctly inserted, then upon application of either party this Agreement shall forthwith be amended to make such insertion.

14.24 SURVIVAL

Either party's right to monitor, evaluate, enforce, audit and review, any obligations to indemnify and insure, any assurances and certifications, and items of financial responsibility shall survive the expiration or earlier termination of this Agreement. Any provision of this Agreement which contains a restriction or requirement which extends beyond the date of termination or expiration set forth herein shall survive expiration or earlier termination of this Agreement and be enforceable.

14.25 FURTHER ASSURANCE

The Parties shall execute, acknowledge, deliver, and cause to be done, executed, acknowledged, and delivered all such further documents and perform such acts as shall reasonably be requested of it to carry out this Agreement and give effect hereto. Accordingly, without in any manner limiting the specific rights and obligations set forth in this Agreement, the Parties intend to cooperate with each other in effecting the terms of this Agreement.

14.26 TIME IS OF THE ESSENCE

Time shall be deemed to be of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

14.27 SPECIFIC PERFORMANCE

In addition to all other remedies, PINNACLE's obligations contained herein shall be subject to the remedy of specific performance by appropriate action commenced in a court of competent jurisdiction.

14.28 FORCE MAJEURE

If the performance of this Agreement, or any obligation hereunder is prevented by reason of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, ordinance of any governmental agency, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, provided that the party so affected shall first have taken reasonable steps to avoid and remove such cause of non-performance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other party in writing and resume performance hereunder whenever such causes are removed; provided, however, that if such non-performance exceeds 60 days, the party that is not prevented from performance by the force majeure event shall have the right to terminate this Agreement upon written notice to the party so affected. This Section shall not supersede or prevent the exercise of any right the Parties may otherwise have to terminate this Agreement.

14.29 CITY BUSINESS ENTERPRISE PROGRAM

Although this Agreement does NOT have assigned CBE goals, PINNACLE shall take all necessary affirmative steps to utilize minority-business enterprises, and women's business enterprises, whenever possible, in the procurement of property and services consistent with the provisions set forth in 24 CFR Section 92.351(b).

14.30 USE OF CITY LOGO

PINNACLE shall not use CITY's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of CITY.

14.31 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

14.32 DESIGNATED REPRESENTATIVE

PINNACLE's Designated Representative under this Agreement is PINNACLE's Vice President of the General Partner, David O. Deutch.

14.33 COUNTERPARTS AND MULTIPLE ORIGINALS

This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

14.34 NON-DISCRIMINATION

PINNACLE shall not discriminate against any person or family on the grounds of race, color, national origin, age, sex, religion, sexual orientation, family status, handicap, nor against persons or families on the basis of their having minor children; except when units are specifically being held for the elderly as contemplated by the Declarations. PINNACLE further agrees to meet the equal opportunity and fair housing requirements as set forth in 24 CFR Section 92.350.

[Remainder of Page Intentionally Left Blank]

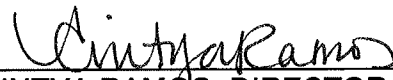
IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the day and year first above written: CITY OF HOLLYWOOD through its CITY COMMISSION, signing by and through its Mayor, authorized to execute same by commission action on the 7 day of November, 2018, and PINNACLE AT PEACEFIELD, LTD. signing by and through its V.P. of General Partner duly authorized to execute same.

CITY OF HOLLYWOOD, a municipal corporation of the State of Florida

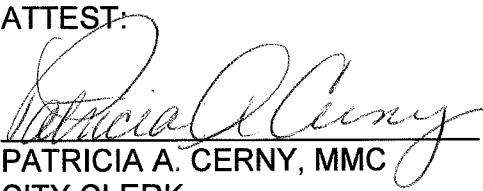
BY:  _____
JOSH LEVY, MAYOR

DATE: 11/28/18

APPROVED BY:

 _____
CINTYA RAMOS, DIRECTOR
DEPARTMENT OF FINANCIAL SERVICES

ATTEST:

 _____
PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE CITY OF HOLLYWOOD, FLORIDA, ONLY.

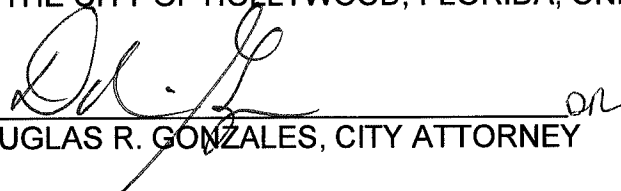
 _____
DOUGLAS R. GONZALES, CITY ATTORNEY

EXHIBIT "A"
PROJECT DESCRIPTION AND SCOPE OF SERVICES

The overall project will consist of 120 Senior Affordable Housing Rental Units. Five of these units shall be HOME-assisted units.

The total NSP-1 project funding is \$350,000.00. The total HOME project funding is \$84,000.00 from Fiscal Year 2016/2017. The total CITY Remaining Loan Funding for the project is \$144,000.00.

The total amount of \$ 578,000.00 shall be used by PINNACLE for allowable expenditures, subject to the terms and conditions of the agreement and applicable laws, rules, and regulates. In accordance with 24 CFR 92.503(c) recaptured funds shall be returned to the City.

Impact/Target Area: The south side of Adams Street in Census Tract 918.01 Block Group 1. Legally described as:

All of Lots 13 Through 17 and Lots 19 Through 21, Block 1, Amended Plat of Hollywood Little Ranches, according to the Plat thereof, as recorded In Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Together with:

All of Lots 9 through 19, W.B. Symmes Subdivision, according to the plat thereof, as Recorded In Plat Book 7, on page 7 of the Public Records Of Broward County, Florida.

Also together with:

The West 330.00 feet of Lots 4 and 5, Block M, amended plat of Hollywood Little Ranches, according to the Plat thereof, as recorded in Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Said lands situate, lying and being in The City of Hollywood, Broward County, Florida containing 241,550 Square Feet (5.54 Acres) more or less.

Target Group: The NSP-1-assisted units target seniors whose income does not exceed 60% of the Area Median Income. The HOME-assisted units shall be targeted to seniors whose income does not exceed 50% of the Area Median Income. The remainder of the units shall be targeted towards seniors with incomes that do not exceed 60% of the Area Median Income.

Program Description:

“Pinnacle at Peacefield” – Pinnacle at Peacefield is a 120 unit, multi-family development, providing affordable rental housing for seniors. The project consists of three separate parcels (Site-1, Site-2, and Site-3), each parcel will feature a three-story multi-family building, associated parking, landscaping and common recreational and activity elements. Each building will feature two unit types with either 686 square foot one-bedroom floor plans or 922 square foot two-bedroom floor plans. The unit breakdown is as follows:

- One-Bedroom Units – 72
- Two-Bedroom Units – 48

The development is financed utilizing Low-Income Housing Tax Credits allocated by the Florida Housing Finance Corporation, together with HOME funds and NSP-1 funds allocated by the City of Hollywood. The development shall be income- and use-restricted for a period of 50 years under an extended low-income housing agreement in connection with the allocation of the Tax Credits. The Affordability Period under the Declarations to be entered into under this Agreement shall be 30 years from Project Completion. The income restriction breakdown is as follows:

Income Limitation	One Bedroom	Two Bedroom
Very-Low Income	8	4
Low-Income	64	44

The development will include five HOME-assisted rental units that shall be limited to renters at or below 50% of the Area Median Income. The HOME-assisted unit breakdown is as follows:

Income Limitation	One Bedroom	Two Bedroom
Very-Low Income	1	4

Project amenities include an open space area for active and passive recreation, parking and green space. Each site will feature a two-way internal road around the building with surface parking.

Recapture (NSP Funds): The NSP Funds are provided at zero percent interest as a deferred payment loan. The loan is a recourse loan and non-amortizing with a term of 32 years. At maturity, PINNACLE shall repay the loan balance in full; however, the City at its sole discretion, and pursuant to 24 CFR Section 92.201(a), may forgive the loan, as allowed and specified in Section 4 of the Promissory Note. The units must meet the affordability requirements for Household Incomes that do not exceed 60% AMI. To ensure adherence, PINNACLE shall execute the NSP Declaration securing the NSP Funds until the end of the Affordability Period of no less than 20 years under 24 CFR Section 92.252(e)(4) “*New Construction or acquisition of newly constructed housing*”.

Recapture (HOME Funds): The HOME Funds are provided at zero percent interest as a deferred payment loan. The loan is a recourse loan and non-amortizing with a term that is 32 years. At maturity, PINNACLE shall repay the loan balance in full; however, the City at its sole discretion, and pursuant to 24 CFR Section 92.201(a), may forgive the loan, as allowed and specified in Section 4 of the Promissory Note. The HOME-assisted units must meet the affordability requirements for “Low HOME Rents” at 24 CFR 92.252(b) (1). To ensure adherence to this regulation, PINNACLE shall execute the HOME Declaration securing the HOME Funds until the end of the Affordability Period of no less than 20 years under 24 CFR 92.252 (e)(4) *“New Construction or acquisition of newly constructed housing”*.

Recapture of CITY Remaining Loan Funds: The City’s Remaining Loan Funds are provided at a zero percent interest as a deferred payment loan. The loan is a recourse loan and non-amortizing with a term that is 32 years. At maturity, PINNACLE shall repay the loan balance in full; however, the CITY at its sole discretion may forgive the loan, as allowed and specified in Section 4 of the Promissory Note.

Program Evaluation: Program evaluation and success will be based on the construction of (i) 120 Senior Housing Rental Units affordable to households at 60% AMI or less (as to NSP-1), and (ii) 5 HOME-assisted units affordable to households at 50 AMI or less (as to HOME).

Project Work Tasks

- Site Planning
- Site Preparation
- Obtain Architectural Plans & Drawings
- Prepare Construction Bid (Optional)
- Advertise for Bids (Optional)
- Identify Potential Renters
- Manage Construction Contract
- Pull Permits
- Start Construction
- Monitor Construction
- Complete Construction
- Obtain Final Inspections
- Conduct Walk-through

PINNACLE’s general contractor will cooperate with and forward any referrals from the City’s designated CHDO job training program to the appropriate subcontractors for possible employment opportunities during the course of the Project.

Within 90 days after the recording of the notice of commencement of construction, PINNACLE will conduct a “job fair” on the development site or at an alternate suitable location, where representatives of the general contractor’s major trades will accept applicants for employment from participants in the city’s sponsored job training programs

(via the City's CHDO) or any other prospective applicants. Not less than 15 days' notice of the job fair will be provided to the City and outlets as suggested by the City.

Legal Description

All of Lots 13 Through 17 and Lots 19 Through 21, Block 1, Amended Plat of Hollywood Little Ranches, according to the Plat thereof, as recorded In Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Together with:

All of Lots 9 through 19, W.B. Symmes Subdivision, according to the plat thereof, as Recorded In Plat Book 7, on page 7 of the Public Records Of Broward County, Florida.

Also together with:

The West 330.00 feet of Lots 4 and 5, Block M, amended plat of Hollywood Little Ranches, according to the Plat thereof, as recorded in Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Said lands situate, lying and being in The City of Hollywood, Broward County, Florida containing 241,550 Square Feet (5.54 Acres) more or less.

EXHIBIT "B"
COSTS/BUDGET FOR PROJECT

PINNACLE AT PEACEFIELD

Itemized Costs	Total Cost	HOME NSP-1	City Remaining Loan Funds	Source A Loan	Source B Tax Credit	Source D Def. Fees	Source E Other
A. Acquisition Cost							
1. Land	2,100,000				2,100,000		
2. Existing Structures							
3. Other							
B. Site Work							
1. Site Work (not included in construction contract costs)							
2. Other							
C. Construction/Rehabilitation (Construction contract costs)							
1. Site Work	950,000				950,000		
2. New Building	17,822,185			3,500,000	14,322,185		
3. Rehabilitation							
D. Architectural and Engineering Fees							
1. Architect Fee-Design	500,000				125,000		375,000
2. Architect Fee-Supervision	50,000				50,000		
3. Consultant or Processing Agent	0				0		
4. Engineering Fees	437,000				312,000		125,000
5. Other (inspection fees, soft cost contingency, green cert fees)	307,133				307,133		
E. Other Owner Costs							
1. Appraisal	15,500				15,500		
2. Building Permits	492,510	73,503			419,007		
3. Tap Fees	447,452	135,497	144,000		167,955		
4. Soil Borings/Environmental Survey	50,000				50,000		
5. Real Estate Attorney (incl. in title)							
6. Construction Loan Legal	292,950				292,950		
7. Title and Recording	140,000				140,000		
8. Impact Fees	225,000	225,000			0		
9. Accounting Fees	75,000				75,000		
10. LIHTC Fees	505,946				505,946		
F. Interim Costs							
1. Construction Insurance	210,600				210,600		
2. Construction Interest	1,136,831				1,136,831		
3. Const. Loan Origination Fee	239,300				239,300		
G. Permanent Financing Fees/Expen.							
1. Credit Report							
2. Perm Loan Origination Fee	239,300				239,300		
3. Title and Recording	60,000				60,000		
4. Counsel's Fee	125,550				125,550		
H. Developer's Fees	3,209,429			0	1,733,038	1,476,391	
I. Project Reserves							
1. Rent-Up Reserves							
2. Operating Reserve & Repl. Reserve Capitaliz	0				0		
J. Tenant Relocation	0				0		
K. Project Administration/Management							
1. Marketing /Management	62,500				62,500		
2. Operating Expenses	62,500				62,500		
3. Taxes	168,660				168,660		
4. Insurance -- permanent	72,000				72,000		
L. TOTAL	29,997,346	434,000	144,000	3,500,000	23,942,955	1,476,391	500,000

EXHIBIT "C"

TIMETABLE/SCHEDULE FOR PROJECT

Pinnacle at Peacefield Critical Path Schedule

<i>Event</i>	<i>Date</i>
Housing Tax Credit Award Notice	9/27/2017
Housing Credit Carryover Agreement	12/13/2017
City of Hollywood TAC submittal	2/5/2018
100% Design Development plans	4/17/2018
PDB Final Site Plan Approval	5/10/2018
Drainage and Utility Permit Submittal	6/1/2018
90% Construction Documents Complete	7/6/2018
Building Permit Submittal	7/23/2018
GC Contract Negotiation and Bidding Complete	10/8/2018
Development "Permit-Ready"	10/30/2018
FHFC Credit Underwriting Approved	11/9/2018
100% Construction Plans	11/9/2018
Closing on Land	11/29/2018
Closing on Debt and Equity	11/29/2018
Closing on HOME and Other City Loan funds	11/29/2018
Notice of Commencement Issued	12/4/2018
Construction Commencement	1/7/2019
Lease-Up Commencement	8/1/2019
First Building Delivered (C of O or TCO issued)	12/15/2019
Second Building Delivered (C of O or TCO issued)	2/28/2020
Third Building Delivered (C of O or TCO issued)	2/28/2020
Substantial Completion	2/28/2020
Lease-Up Complete	9/1/2020
Conversion to Permanent Debt	4/1/2021

This instrument prepared by, and after recording
return to:

EXHIBIT "D"

[delete before recordation]

HOME MORTGAGE

**CITY COMMISSION OF CITY OF HOLLYWOOD
BROWARD COUNTY, FLORIDA**

This Mortgage to secure HOME Investment Partnership ("HOME") Program financing, ("Mortgage") is made this ____ day of _____, 20__, by PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership ("Mortgagor"), in favor of THE CITY OF HOLLYWOOD, a municipal corporation of the State of Florida ("Mortgagee"), collectively referred to as the "Parties."

WHEREAS, Mortgagor is indebted to Mortgagee in the principal sum of Eighty-Four Thousand and 00/100 Dollars (\$84,000.00) in HOME Funds; which indebtedness is evidenced by Mortgagor's Promissory Note dated of even date herewith ("Promissory Note"), providing a deferred payment loan, hereinafter referred to as the ("Loan"), due and payable at the end of the thirty-two (32) year term of the Loan; NOW, THEREFORE,

To secure to Mortgagee (a) the payment of the Loan, and all extensions and modifications of the Promissory Note, (b) the performance of Mortgagor's covenants under this Mortgage and the Promissory Note, attached hereto as Attachment "A," (c) compliance with the terms of the Agreement executed by CITY and Mortgagor on ____ day of _____, 20__, incorporated herein by reference (" Funding Agreement"), and the execution of a Declaration of Restrictive Covenants ("Declaration"), in the form attached to the Funding Agreement as Exhibit "D-1"; (the Declaration, the Promissory Note, this Mortgage, the Funding Agreement, and all other documents evidencing and/or securing the Loan being hereinafter referred to as the "Loan Documents"). Mortgagor mortgages, grants, and conveys to Mortgagee the Mortgagor's leasehold interest in the property described in Attachment "A," located in Broward County, Florida, together with all improvements now or later erected on the property, and all easements, rights, appurtenances, rents, and all fixtures now or later attached to the property, all of which, including replacements and additions, shall be deemed to be and remain a part of the property covered by this Mortgage, and all of the foregoing shall constitute and refer to the "Property."

Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed and has the right to mortgage, grant, and convey the Property and that the Property is unencumbered, except for encumbrances of record. Mortgagor warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

This Mortgage is expressly made subject and subordinate to the terms and conditions specified in that certain Mortgage, Assignment of Rents and Leases, Security Agreement, and Fixture Filing from Mortgagor to _____ ("First Mortgagee"), dated _____, recorded _____, in the Official Records Book _____, Page _____ of the Public Records of Broward CITY, Florida ("First Mortgage"), securing that certain Promissory Note having an original principal face amount of _____ and 00/100 Dollars (\$00,000), dated _____ ("First Note"), made by Mortgagor payable to the First Mortgagee.

UNIFORM COVENANTS. The Parties covenant and agree as follows:

1. **Payment of Promissory Note.** Mortgagor shall pay when due all amounts evidenced by the Promissory Note. Payment due under the Promissory Note and this Mortgage shall be made in U.S. currency. However, if any check or other instrument received by Mortgagee as payment under the Note or this Mortgage is returned to Mortgagee unpaid, Mortgagee may require that any or all subsequent payments due under the Promissory Note and this Mortgage be made in one or more of the following forms, as selected by Mortgagee: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check, or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) electronic funds transfer.

Payments are deemed received by Mortgagee when received at the location designated in the Promissory Note or at such other location as may be designated by Mortgagee in accordance with the notice provision. Mortgagee may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Mortgagee may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights or prejudice to its rights to refuse such payment or partial payments in the future, but Mortgagee is not obligated to apply such payments at the time such payments are accepted.

2. **Charges; Liens.** Mortgagor shall pay all taxes, assessments, and other charges, fines, and impositions attributable to the Property which may attain a priority over this Mortgage. Mortgagor shall promptly furnish to Mortgagee receipts, or other such documents acceptable to Mortgagee, evidencing such payments.

Mortgagor shall not voluntarily create, or permit or suffer to be created or to exist, on or against the mortgaged property, or any part, any lien superior to the lien of this Mortgage, exclusive of the lien or liens, if any to which this Mortgage is expressly subject as set forth above.

3. **Hazard Insurance.** Mortgagor shall keep the improvements now existing or later erected on the Property insured against loss by fire and such other hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes, floods, for which insurance is required and as Mortgagee may require, in such amounts and for such periods as Mortgagee may require; provided, that Mortgagee shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage.

Unless otherwise required by Mortgagee, all such insurance shall be affected by Standard Fire and Extended Coverage Insurance policies, in amounts not less than necessary to comply with the coinsurance clause percentage of the value applicable to the location and character of the Property to be covered. All such insurance shall be provided by companies approved by Mortgagee, and all policies therefore shall be in such form and shall have attached loss payable clauses in favor of Mortgagee and any other party as shall be satisfactory to Mortgagee. The insurance carrier providing the insurance shall be chosen by Mortgagor, subject to Mortgagee's approval; provided that such approval shall not be unreasonably withheld.

All insurance policies, endorsements and renewals shall be in a form acceptable to Mortgagee and shall include a standard mortgage clause in favor of and in a form acceptable to Mortgagee. Mortgagor shall promptly furnish to Mortgagee all renewal notices and all receipts of paid premiums. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and Mortgagee, and Mortgagee may make proof of loss if not made promptly by Mortgagor.

Unless the Parties otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor or if Mortgagor fails to respond to Mortgagee within thirty (30) days after notice by Mortgagee to Mortgagor

that the insurance carrier offers to settle a claim for insurance benefits, Mortgagee is authorized to collect and apply insurance proceeds at Mortgagee's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

During such repair and restoration period, Mortgagee shall have the right to hold such insurance proceeds until Mortgagee has had an opportunity to inspect such Property to ensure the work has been completed to Mortgagee's satisfaction, provided that such inspection shall be undertaken promptly.

If the Property is acquired by Mortgagee, all right, title, and interest of Mortgagor in and to any insurance policies and in and to the proceeds (to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition) resulting from damage to the Property prior to the sale or acquisition shall pass to Mortgagee.

4. Preservation and Maintenance of Property. Mortgagor shall keep the Property in good repair and shall not permit or commit waste, impairment, or deterioration of the Property, and will promptly comply with all the requirements of federal, state, and local governments pertaining to such Property or any part thereof. No building or other structure or improvement, fixture, or personal property mortgaged shall be removed or demolished without the written consent of Mortgagee. Mortgagor shall not make, permit, or suffer any alteration or addition to any building or other structure or improvement now or which may later be erected or installed upon the Property, or any portion thereof, nor will Mortgagor use or permit the use of, any portion of the Property for any purpose other than the purpose(s) for which the same is now intended to be used, without the prior written consent of Mortgagee.

Mortgagee, or its agent, may reasonably enter upon and inspect the Property. If it has reasonable cause, Mortgagee may inspect the interior of the Property, including improvements, if applicable. Mortgagee shall give Mortgagor notice at the time of or prior to such an interior inspection specifying such reasonable cause.

5. Protection of Mortgagee's Security. Mortgagee may, at its option, upon notice to Mortgagor, make such appearances, disburse such sums, and take such action as is necessary to protect Mortgagee's interest, if Mortgagor fails to perform the covenants or agreements contained in this Mortgage or the Funding Agreement, or if any action or proceeding is commenced which materially affects Mortgagee's interests in the Property including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy.

6. Promissory Note Due. The total amount of the Promissory Note shall become due at the sole option of Mortgagee: (a) if Mortgagor fails to pay any principal, interest or other amount due as and when required under the Note; or (b) after Mortgagor's failure to demonstrate to Mortgagee, within ten (10) calendar days after demand, receipts showing payment of all taxes, water rates, sewer rates, and assessments; or (c) after the actual or threatened alteration, demolition, or removal of any building on the Property without the written consent of Mortgagee; or (d) after the transfer or assignment of the Property or, any part thereof, without the written consent of Mortgagee; or (e) if the buildings on the Property are not maintained in reasonably good repair after Mortgagor is given notice and demand to cure within a reasonable time as determined by Mortgagee under the circumstances; or (f) after failure to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental entity with jurisdiction over the Property upon notice of said failure by Mortgagee and failure to comply with thirty (30) calendar days of notice by Mortgagee; or (g) in the event of the removal, demolition, or destruction, in whole or in part, of any of the fixtures, chattels, or articles of personal property covered, unless the same are promptly replaced by similar fixtures, chattels, and articles of personal property at least equal in quality and condition to those replaced, free from chattel mortgages or other encumbrances and free from any reservation of title; or (h) the commencement by Borrower of a voluntary case under the United States Bankruptcy Code or any federal or state law relating to bankruptcy, insolvency, reorganization, readjustment of debt liquidation or similar proceeding ("Insolvency Laws"), the acknowledgement in writing by Borrower that it is unable to pay its debts generally as they mature, the making by Borrower of a general assignment for the benefit of creditors, the commencement of an involuntary case against Borrower under any Insolvency Laws which is not dismissed within 90 days of filing or the appointment of a receiver,

liquidator, custodian or trustee or similar officer who exercises control over Borrower or substantially all of Borrower's assets who is not discharged or dismissed within 90 days of such appointment; or (i) failure of the Mortgagor to perform, after giving effect to any applicable notice and/or cure period, any covenant, term or condition in any instrument creating a lien upon the Property or any part thereof, which shall have priority over the lien of this Mortgage; or (j) if Mortgagor fails to maintain, observe, and perform any of the other covenants, conditions, or agreements contained in this Mortgage or the Funding Agreement after Mortgagor is given notice and a demand to cure as provided in Paragraph 16.

7. **Actions or Proceedings Commenced.** If any action or proceeding is commenced (except an action to foreclose this Mortgage or to collect the debt secured by this Mortgage), to which action or proceeding Mortgagee is made a party, or in which it becomes necessary to defend or uphold the lien of this Mortgage, all sums paid by Mortgagee for the expense of any litigation to prosecute or defend the rights and lien created by this Mortgage (including reasonable attorneys' fees), shall be paid by Mortgagor, together with interest at the statutory rate per annum, and any such sum including the related interest shall be a lien on the Property, prior to any right, or title to, interest in or claim upon the Property attaching or accruing subsequent to the lien of this Mortgage, and shall be deemed to be secured by this Mortgage. In any action or proceeding to foreclose this Mortgage, or to recover or collect the debt secured by this Mortgage, the provisions of law relating to the recovery of costs, disbursements, and allowances shall prevail unaffected by this covenant.

8. **Mortgagor's Applications.** Mortgagor shall be in default if, during the Loan application process, Mortgagor or any persons or entities acting at the direction of Mortgagor or with Mortgagor's knowledge or consent, gives materially false, misleading, or inaccurate information or statements to Mortgagee (or failed to provide Mortgagee with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning occupancy of the Property by Income Eligible Households as set forth in the Funding Agreement.

9. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or any part thereof, or for conveyance in lieu of condemnation, are assigned and shall be paid to Mortgagee. The proceeds referred to in this paragraph shall be applied to the sums secured by this Mortgage with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor, or if, after notice by Mortgagee to Mortgagor that the condemnor offers to make an award or settle a claim for damages, Mortgagor fails to respond to Mortgagee within thirty (30) days after the date the notice is mailed, Mortgagee is authorized to collect and apply the proceeds, at Mortgagee's option, either to restoration or repair of the Property, to the sums secured by this Mortgage.

10. **Mortgagor Not Released; Forbearance by Mortgagee Not a Waiver.** Extension of time for payment, modification, or amortization of the sums secured by this Mortgage granted by Mortgagee to any successor in interest of Mortgagor shall not operate to release, in any manner, the liability of the original Mortgagor and Mortgagor's successor in interest. Mortgagee shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Mortgagor and Mortgagor's successors in interest. Any forbearance by Mortgagee for exercising any right or remedy, including, without limitation, Mortgagee's acceptance of payments from third persons, entities, or successors in interest or in amounts less than the amount then due, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy.

11. **Remedies Cumulative.** All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently, or successively.

12. **Joint and Several Liability; Successors and Assigns Bound; Captions.** Mortgagor covenants and agrees that Mortgagor's obligations and liability shall be joint and several. Any successor in interest of Mortgagor who assumes Mortgagor's obligations under this Mortgage in writing, and is approved by Mortgagee, shall obtain all of Mortgagor's rights and benefits under this Mortgage. Mortgagor

shall not be released from Mortgagor's obligations and liability under this Mortgage, unless Mortgagee agrees to such release in writing. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Mortgagee. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define any specific provision.

13. **Notice.** All notices given by Mortgagor or Mortgagee in connection with this Mortgage must be in writing. Any notice to Mortgagor in connection with this Mortgage shall be deemed to have been given to Mortgagor when mailed by first class mail or when actually delivered to Mortgagor's notice address if sent by other means. The notice address shall be the Property address unless Mortgagor has designated a substitute notice address by notice to Mortgagee. Mortgagor shall promptly notify Mortgagee of Mortgagor's change of address. If Mortgagee specifies a procedure for reporting Mortgagor's change of address, then Mortgagor shall only report a change of address through that specified procedure. There may be only one designated notice address under this Mortgage at any one time. Any notice to Mortgagee shall be given by delivering it or by mailing it by first class mail to Mortgagee's address unless Mortgagee has designated another address by notice to Mortgagor. Any notice in connection with this Mortgage shall not be deemed to have been given to Mortgagee until actually received by Mortgagee. If any notice required by this Mortgage is also required under Florida law, the Florida law requirement will satisfy the corresponding requirement under this Mortgage.

14. **Governing Law; Severability; Rules of Construction.** This Mortgage shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Mortgage are subject to any requirements and limitations of Florida law. Florida law might explicitly or implicitly allow the Parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Mortgage or the Promissory Note conflicts with Florida law, such conflict shall not affect other provisions of this Mortgage or the Promissory Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Promissory Note are declared to be severable.

As used in this Mortgage: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

15. **Transfer of the Property; Assumption.** No part of the Property or any interest in the Property shall be sold or transferred by Mortgagor without Mortgagee's consent consistent with Paragraph 21. If Mortgagor sells or transfers any interest or part in the Property without Mortgagee's consent, the sums secured by this Mortgage shall become immediately due and payable. If the amount becomes due and payable, Mortgagee shall mail Mortgagor notice of acceleration. Such Notice shall provide a period of not less than thirty (30) days from the date the notice is received by Mortgagor, for Mortgagor to pay the sums declared due. If Mortgagor fails to pay such sums prior to the expiration of such period, Mortgagee may without further notice or demand on Mortgagor, invoke any available legal remedies.

NONUNIFORM COVENANTS. Mortgagor and Mortgagee further covenant and agree as follows:

16. **Acceleration; Remedies.** Upon Mortgagor's breach of any covenant in this Mortgage, the HOME Funding Agreement referenced above or the Promissory Note, including the covenants to pay, when due, any sums secured by this Mortgage shall be accelerated. Mortgagee shall, prior to acceleration, mail notice to Mortgagor as provided in Paragraph 13 identifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than thirty (30) days from the date the notice is received by Mortgagor, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in any action in law or equity, as Mortgagee determines to be most effectual to enforce Mortgagor's obligations, including an action for specific performance, acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding, and sale of the Property. If the breach is not cured on or before the date specified in the notice, Mortgagee at its option may declare all the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Mortgagee shall be entitled to collect in such proceeding all expenses of

foreclosure including, but not limited to, reasonable attorney's fees, court costs, costs of documentary evidence, abstracts, and title reports.

17. **Mortgagor's Right to Reinstate.** Notwithstanding Mortgagee's right to acceleration of the sums secured by this Mortgage, Mortgagor shall have the right to have any proceedings begun by Mortgagee to enforce this Mortgage discontinued at any time prior to an entry of a judgment enforcing this Mortgage if: (a) Mortgagor pays Mortgagee all sums which would be then due under this Mortgage had no acceleration occurred; (b) Mortgagor cures all breaches under this Mortgage including the Funding Agreement; (c) Mortgagor pays all reasonable expenses incurred by Mortgagee in enforcing the covenants and agreements of Mortgagor contained in this Mortgage and the Funding Agreement including, but not limited to, attorney's fees; and (d) Mortgagor takes such action as Mortgagee may reasonably require to ensure that the lien of this Mortgage, Mortgagee's interest in the Property, and Mortgagor's obligation to pay the sums secured by this Mortgage and comply with the terms of the Funding Agreement shall remain in full force and effect.

18. **Default.** After the happening of any default, Mortgagor shall, upon demand of Mortgagee, surrender possession of the Property to Mortgagee, and Mortgagee may enter such property, and let the same, and collect all rents which are due or to become due, and apply the same, after payment of all charges and expenses on account of indebtedness secured by this Mortgage, and all such rents and all leases existing at the time of such default are assigned to Mortgagee as further security for the payment of the indebtedness secured, and Mortgagee may also dispossess, by the usual summary proceedings, any tenant defaulting in the payment of any rent to Mortgagee.

19. **Appointment of a Receiver.** In any action to foreclose this Mortgage, Mortgagee shall be entitled to the appointment of a receiver without notice, as a matter of right and without regard to the value of the Property, or the solvency or insolvency of Mortgagor or other party liable for the payment of the Promissory Note and other indebtedness secured by this Mortgage.

20. **Occupancy.** Mortgagor agrees and understands that the HOME funding is being loaned by Mortgagee to increase the availability of affordable multi-family residential rental units by complementing and expanding existing low income housing initiatives to reduce the cost of housing for Income Eligible Households. As a result, Mortgagor agrees to construct and use the Property as required by the rules and regulations of the United States Department of Housing and Urban Development for the HOME Investment Partnerships ("HOME") Program, and to ensure that all occupants of the HOME-assisted units are qualified as Income Eligible Households. HOME-assisted units shall mean the unit(s) that can receive HOME Funds based on required subsidy limits as set forth in 24 CFR Section 92.250, Subpart F. The term Income Eligible Households shall refer to a household, as defined in 24 CFR Section 92.2, consisting of a family, as defined in 24 CFR Section 5.403, with an annual anticipated gross income that does not exceed fifty percent (50%) of the median annual income for the area, as determined by HUD, with adjustments for family size for households within the metropolitan statistical area for CITY, or the non-metropolitan median for the State, whichever is greater.

21. **Transfer of the Property or a Beneficial Interest in Mortgagor.** "Interest in the Property" means any legal or beneficial interest in the Property including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Mortgagor at a future date to a purchaser.

If all or any part of the Property or any interest in the Property is sold or transferred without Mortgagee's prior written consent, Mortgagee shall require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Mortgagee if such exercise is prohibited by federal and state law.

If Mortgagee exercises this option, Mortgagee shall give Mortgagor notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is given in accordance with Paragraph 13 within which Mortgagor must pay all sums secured by this Mortgage. If Mortgagor fails

to pay these sums prior to the expiration of this period, Mortgagee may invoke any remedies permitted by this Mortgage without further notice or demand on Mortgagor.

This Mortgage and all the covenants, terms and conditions herein contained shall be binding upon and inure to the benefit of the Mortgagor and the heirs, legal representatives and assigns of the Mortgagor, and to the extent permitted by law, every subsequent owner of the Mortgaged Property, and shall be binding and inure to the benefit of the Mortgagee and its assigns. If the Mortgagor, as defined herein, consists of two or more parties, this Mortgage shall constitute a grant and mortgage by all of them jointly and severally, and they shall be obligated jointly and severally under all the provisions hereof and under the Note. The word "Mortgagee" shall include any person, corporation, or other party who may from time to time be the holder of this Mortgage. Wherever used herein, the singular number shall include the plural, the plural number shall include the singular, and the use of any gender shall be applicable to all genders wherever the sense requires.

22. Mortgagor's Right to Reinstate After Acceleration. If Mortgagor meets certain conditions set forth below, Mortgagor shall have the right to have enforcement of this Mortgage discontinued at any time prior to the earliest of (a) five (5) days before sale of the Property pursuant to any power of sale contained in this Mortgage; (b) such other period as federal and state law might specify for the termination of Mortgagor's right to reinstate; or (c) entry of a judgment enforcing this Mortgage. Such conditions require that Mortgagor (a) pays Mortgagee all sums due under this Mortgage and the Promissory Note as if no acceleration had occurred (b) cures any default of any other covenants of agreements; (c) pays all expenses incurred in enforcing this Mortgage including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Mortgagee's interest in the Property and rights under this Mortgage; and (d) takes such action as Mortgagee may reasonably require to assure that Mortgagee's interest in the Property and rights under this Mortgage, and Mortgagor's obligation to pay the sums secured by this Mortgage, shall continue unchanged. Mortgagee may require that Mortgagor pay such reinstatement sums and expenses in one or more of the following forms, as selected by Mortgagee: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check, or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, secured instrument, and obligations shall remain fully effective as if no acceleration had occurred.

Neither Mortgagor nor Mortgagee may commence, join, or be joined in any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Mortgage, or that alleges that the other party has breached any provision of, or any duty owed, by reason of this Mortgage, until such Mortgagor or Mortgagee has notified the other party of such alleged breach and afforded the other party a reasonable period after providing such notice to take corrective action. If Florida law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph.

23. Hazardous Substances. As used in this Section: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety, or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Mortgagor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Mortgagor shall not, nor permit anyone else to do anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two (2) sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal

residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Mortgagor shall promptly give Mortgagee written notice of (a) any investigation, claim, demand, lawsuit, or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Mortgagor has actual knowledge, (b) any Environmental Condition including, but not limited to, any spilling, leaking, discharge, release, or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use, or release of a Hazardous Substance which adversely affects the value of the Property. If Mortgagor learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Mortgagor shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing in this Mortgage shall create any obligation on Mortgagee for an Environmental Cleanup.

24. **Satisfaction.** Upon payment or reduction of all sums secured by this Mortgage and performance of all requirements under the Funding Agreement, Mortgagee shall prepare and execute a Satisfaction of Mortgage. Mortgagor shall pay all costs of recordation, if any.

25. **Attorneys' Fees.** As used in this Mortgage and the Promissory Note, attorneys' fees shall include attorneys' fees awarded by a trial court, an appellate court, and incurred in a bankruptcy proceeding.

26. **Jury Trial Waiver.** Mortgagor waives any right to a trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of, or in any way related to, this Mortgage, the Funding Agreement, or the Promissory Note.

27. **Term of Mortgage.** The term of this Mortgage shall be thirty-two (32) years, consistent with the long-term affordability period of thirty (30) years following completion, as provided in the Promissory Note.

28. **Recordation.** This Mortgage shall be recorded in the Public Records of Broward County, Florida, immediately following execution, at Mortgagor's expense.

29. **Mortgagor's Copy.** Mortgagor shall be provided one (1) copy of the executed Promissory Note and this Mortgage.

(Remainder of Page Intentionally Left Blank)

RIDER TO MORTGAGE DATED _____, 20__, BETWEEN CITY OF HOLLYWOOD (the "Lender") AND PINNACLE AT PEACEFIELD, LTD., A FLORIDA LIMITED PARTNERSHIP (the "Borrower"), CONCERNING PROPERTY LOCATED IN THE CITY OF HOLLYWOOD, FLORIDA, COMMONLY KNOWN AS PINNACLE AT PEACEFIELD (the "Project")

The Lender agrees to the following terms set forth in this Rider with respect to the \$84,000 HOME Loan to the Borrower (the "Loan").

The Lender will give Citibank, N.A., together with its successors and assigns, (the "Investor Limited Partner") a copy of any written notice it gives to the Borrower under the Loan Documents, at the following address:

Citibank, N.A.
388 Greenwich St, 8th Floor
New York, NY 10013
Attention: Mark Sherman

Nixon Peabody LLP
779 9th Street, NW, Suite 500
Washington, DC 20001-4501
Attention: Matthew W. Mullen

TCAM
30 Federal Street, 6th Floor
Boston, MA 02110-2508
Attention: Jenny Netzer

The Lender will give the Investor Limited Partner ten (10) days after the Investor Limited Partner's receipt of such notice to cure a non-payment of any sum due under the Loan Documents.

The Lender will give the Investor Limited Partner thirty (30) days after the Investor Limited Partner's receipt of such notice to cure any other default under the Loan Documents.

If a default is incapable of being cured within thirty (30) days, the Lender will give the Investor Limited Partner such additional time as is reasonably necessary to cure such default provided it has commenced to cure such default within thirty (30) days and diligently proceeds to cure such default.

If the Investor Limited Partner makes any such payment or otherwise cures such default, the Lender will accept such action as curing the respective default under the Loan Documents.

The Lender will permit the Investor Limited Partner to transfer its limited partnership interest in Borrower to any person or entity at any time provided that, if at such the Investor Limited Partner has not made 100% of the capital contributions it is required to make to the Borrower, the Investor Limited Partner shall only have the ability to transfer its investor interest to an organization that has experience investing in low-income housing tax credits within the State of Florida. Investor Limited Partner shall provide the Lender with prompt written notice of such transfer.

With written notice provided to the Lender, the Lender will permit the Investor Limited Partner to remove the general partner of the Borrower in accordance with the Borrower's amended and restated agreement of limited partnership, provided that the substitute general partner shall be acceptable to the Lender in its reasonable discretion. An affiliate of the Investor Limited Partner shall be an acceptable substitute general partner.

Investor Limited Partner is intended to be a direct beneficiary of the covenants set forth in this Rider and shall be entitled to bring an action to enforce the same independent of any rights of the Borrower.

This Rider may be executed in multiple counterparts, each of which shall be deemed to be an original.

CITY OF HOLLYWOOD, a municipal
corporation of the State of Florida

BY: _____
JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED BY:

CINTYA RAMOS, DIRECTOR
DEPARTMENT OF FINANCIAL
SERVICES

APPROVED AS TO FORM & LEGAL
SUFFICIENCY FOR THE USE AND RELIANCE
OF THE CITY OF HOLLYWOOD, FLORIDA, ONLY.

DOUGLAS R. GONZALES, CITY ATTORNEY

**PINNACLE AT PEACEFIELD, LTD., a
Florida limited partnership**

**By: PHG-Peacefield, LLC, a Florida
limited liability company, its general
partner**

**By: _____
David O. Deutch, Vice President**

ATTACHMENT "A" TO EXHIBIT "D" - PROMISSORY NOTE

HOME PROMISSORY NOTE

CITY OF HOLLYWOOD, FLORIDA

FOR VALUE RECEIVED the undersigned, PINNACLE AT PEACEFIELD, LTD, a Florida limited partnership ("MAKER"), promises to pay to the order of THE CITY OF HOLLYWOOD, a municipal corporation of the State of Florida, together with any other holder ("HOLDER") at 2600 Hollywood Blvd., Hollywood, FL 33020, or such other place as HOLDER may from time to time designate in writing, an amount up to Eighty-Four Thousand and 00/100 Dollars (\$84,000.00) in HOME Funds, to be paid in lawful money of the United States of America, as follows:

1. The Property securing such transaction is legally described as: See Exhibit "A" attached.
2. HOLDER is a recipient of HOME Investment Partnership grant funds from the United States Department of Housing and Urban Development ("HUD") for eligible activities set forth in 24 CFR Part 92.
3. The Loan being provided by HOLDER to MAKER under this Promissory Note is a non-interest bearing deferred payment Loan, which amounts shall be paid by HOLDER to MAKER on a reimbursement basis for Eligible Costs as defined in and in such a manner as provided in the Agreement entered into by HOLDER and MAKER dated _____, 20__, ("Funding Agreement"), incorporated herein by reference.
4. No payments shall be due under this Promissory Note and the Loan shall be deferred until the thirty-second (32nd) anniversary date of the execution of this Promissory Note by MAKER (the "Maturity Date"), which Maturity Date may be extended in the Mortgagee's sole and absolute discretion as set forth in this Section 4 unless an Acceleration Event (as hereinafter defined) occurs. Upon the earlier of (i) the Maturity Date, or (ii) an Acceleration Event, the total amount of HOME Funds provided to MAKER by HOLDER shall be due and payable to HOLDER under this Promissory Note. Notwithstanding anything contained herein to the contrary, any and all amounts due on the Maturity Date may be forgiven in the sole and absolute discretion of HOLDER.
5. If MAKER fails to utilize the Property for the purpose stated in the Mortgage or the Funding Agreement, or fails to comply with the terms and conditions of the Mortgage or the Funding Agreement (each deemed an "Acceleration Event"), including the thirty (30) year Affordability Period relative to all the HOME-assisted units in the Project (as defined in the Funding Agreement), which commences on Project Completion, or where any HOME-assisted unit, is no longer occupied by an Income Eligible Household as described in the Funding Agreement, such Acceleration Event shall constitute an event of default under this Promissory Note. For purposes of this Promissory Note, an income Eligible Household is a household, as defined in 24 CFR Section 92.2, consisting of a family, as defined in 24 CFR Section 5.403, with an annual anticipated gross income that does not exceed fifty percent (50%) of the median annual income for the area, as determined by HUD, with adjustments for family size for households within the metropolitan statistical area for CITY, or the non-metropolitan median for the State, whichever is greater. Project Completion means all necessary title transfer requirements (if applicable) and all construction work have been performed; the Project is in compliance with the requirements set forth in 24 CFR Section 92 including, but not limited to, the Property standards set forth in 24 CFR Section 92.251; the final drawdown of HOME Funds has been disbursed for the Project; and CITY has entered the Project completion information and beneficiary data into the integrated disbursement and information system (IDIS) established by HUD. HOME-assisted unit shall mean the unit(s) that can receive HOME Funds based on required subsidy limits as specified in 24 CFR Section 92.250, Subpart F. In such event, the total amount of HOME Funds previously provided to MAKER under this Promissory Note shall become due and payable to HOLDER at the address specified in the Funding Agreement after MAKER is given notice and a demand to cure as provided in Paragraph 16 of the Mortgage.

Upon default by Maker of any provisions of this obligation or any other obligations encumbering the subject property, terms and conditions of which are set forth in the Mortgage securing this Note, the City may accelerate the balance due and owing by Mortgagor and may avail itself of any and all remedies provided in the Mortgage, including but not limited to acceptance of any payments on the accelerated balance in the amount determined by the City, and Maker recognizes that the City's claim for the accelerated balance is a secured claim for the entire sum then and owing.

6. Notwithstanding Section 4 hereof, if MAKER transfers title to the Property without HOLDER's written consent as provided in Paragraph 21 of the Mortgage, the total amount of HOME Funds previously provided to MAKER under this Promissory Note shall immediately become due and payable to HOLDER as provided in Paragraph 15 of the Mortgage, at the address specified in the Funding Agreement.

7. If a lawsuit is instituted by HOLDER to recover under this Promissory Note, MAKER agrees to pay all costs of such collection including, but not limited to, reasonable attorney's fees and court costs. If this Promissory Note is reduced to judgment, such judgment shall bear the statutory interest rate on judgments set forth in Section 55.03, Florida Statutes.

8. This Promissory Note is secured by the Mortgage executed by MAKER to Holder, of even date herewith, and recorded in the Official Public Records of Broward County, Florida.

9. Demand, protest, and notice of demand and protest are waived and the undersigned waives, to the extent authorized by law, any and all homestead and other exemption rights which otherwise would apply to the debt evidenced by this Promissory Note.

IN WITNESS WHEREOF, MAKER executed this Promissory Note this ____ day of _____ 2018.

WITNESSES:

PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership

Signature

By: PHG - Peacefield, LLC, a Florida limited liability company, its general partner

Print Name

By: _____
David O. Deutch, Vice President

Signature

Print Name

EXHIBIT "A"

Legal Description

All of Lots 13 Through 17 and Lots 19 Through 21, Block 1, Amended Plat of Hollywood Little Ranches, according to the Plat thereof, as recorded in Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Together with:

All of Lots 9 through 19, W.B. Symmes Subdivision, according to the plat thereof, as Recorded In Plat Book 7, on page 7 of the Public Records Of Broward County, Florida.

Also together with:

The West 330.00 feet of Lots 4 and 5, Block M, amended plat of Hollywood Little Ranches, according to the Plat thereof, as recorded in Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Said lands situate, lying and being in The City of Hollywood, Broward County, Florida containing 241,550 Square Feet (5.54 Acres) more or less.

EXHIBIT "D-1"

[delete before recordation as this is a separate document NOT incorporated into the Mortgage]

**DECLARATION OF RESTRICTIVE COVENANTS FOR
HOME MULTI-FAMILY RENTAL UNITS**

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this day of _____, 20__, by PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership ("Declarant"), in favor of THE CITY OF HOLLYWOOD, FLORIDA, a municipal corporation ("CITY").

RECITALS

WHEREAS, CITY has been designated by the United States Department of Housing and Urban Development ("HUD") as a participating jurisdiction for the receipt and use of funds as provided by the HOME Investment Partnership Program (HOME Program) as set forth in 24 CFR Part 92; and

WHEREAS, Declarant acknowledges that HOME Funds were provided to Declarant pursuant to that certain Agreement (Funding Agreement") between CITY and PINNACLE AT PEACEFIELD, LTD. dated _____, 2018; incorporated herein by reference, for construction of affordable multi-family residential rental units on the property referenced herein ("Property"); said Property located at _____ and more specifically described in the legal description attached hereto as Exhibit "A"; NOW, THEREFORE,

Declarant voluntarily covenants and agrees that the Property shall be subject to the following restrictions that are intended and shall be deemed covenants running with the land and binding upon the Declarant, Declarant's assigns, successors, and successors in title to the Property, until expiration of the long-term affordability period set forth in Section 2 hereof:

1. The above recitals are true and correct and are incorporated herein as if fully set forth in full hereunder.
2. Restrictions on Use of the Property. Under the Program, the above-referenced HOME Funds have been provided as a deferred payment loan with no payments due prior to maturity. However, as a condition of the loan, Declarant shall use the Property only for development and operation of affordable multi-family residential rental units. This Declaration of Restrictive Covenants shall remain in effect following Project Completion, until the Affordability Period of thirty (30) years expires. Project Completion means all necessary title transfer requirements (if applicable) and all construction work have been performed.
3. HOME-assisted unit. Declarant shall rent units located on the Property only to Income Eligible Households as defined in and as required by the HOME and NSP-1 Funding Agreement for the Affordability Period. The term Income Eligible Household shall refer to a household(s) as defined in 24 CFR Section 92.2, consisting of a family, as defined in 24 CFR Part 5.403, that is eligible for one of the five designated Low-Home Rent Units and shall have an anticipated gross income that does not exceed 50% of the median annual income for the area, as determined by HUD, with adjustments for family size for households within Broward County.

4. Severability. If a court of competent jurisdiction determines that any of the provisions of this Declaration are void or unenforceable, the remainder of the provisions of this Declaration shall continue in full force and effect.
5. Recordation. This Declaration shall be recorded in the Official Public Records of Broward County, Florida, immediately following its execution, at Declarant's expense.
6. Right to Inspect Property. It is understood and agreed that any official of CITY has the right at any time during normal CITY business hours to enter upon and investigate the use of the Property, to determine whether Declarant is in compliance with the terms and conditions of this Declaration.
7. Enforcement. An action to enforce the terms and conditions of this Declaration may be brought by CITY and may be, at law or in equity, against any person(s) violating or attempting to violate any provision of this Declaration either to restrain violations or to recover HOME funds under the Promissory Note. This Declaration is made for the benefit of CITY and HUD, and confers upon the CITY, HUD, and their respective successors and assigns the right, without limitation, to enforce the provisions of this Declaration. Any failure by CITY or HUD to insist upon a strict performance of any covenants, restriction, or requirement of this Declaration, or to exercise any option, right, or remedy contained or created in this Declaration, shall not be construed as a waiver or relinquishment for the future of such covenant, restriction, or requirement; rather, the same shall continue and remain in full force and effect.
8. Attorneys' Fees. Any person who successfully brings an action for enforcement of this Declaration shall be entitled to recover reasonable attorneys' fees and costs for such action, including any successful appellate proceedings.
9. Release of Restrictions. This Declaration shall be extinguished and released by CITY in whole, or in part, in accordance with the terms contained herein and in the Funding Agreement.

[Remainder of Page Intentionally Left Blank]

EXHIBIT "A"

Legal Description

All of Lots 13 Through 17 and Lots 19 Through 21, Block 1, Amended Plat of Hollywood Little Ranches, according to the Plat thereof, as recorded In Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Together with:

All of Lots 9 through 19, W.B. Symmes Subdivision, according to the plat thereof, as Recorded In Plat Book 7, on page 7 of the Public Records Of Broward County, Florida.

Also together with:

The West 330.00 feet of Lots 4 and 5, Block M, amended plat of Hollywood Little Ranches, according to the Plat thereof, as recorded in Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Said lands situate, lying and being in The City of Hollywood, Broward County, Florida containing 241,550 Square Feet (5.54 Acres) more or less.

EXHIBIT "D-2"
[delete before recordation]

NSP-1 MORTGAGE

CITY COMMISSION OF CITY OF HOLLYWOOD
BROWARD COUNTY, FLORIDA

This Mortgage to secure Neighborhood Stabilization Program ("NSP-1") financing ("Mortgage") is made this ____ day of _____, 20__, by PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership ("Mortgagor"), in favor of THE CITY OF HOLLYWOOD, a municipal corporation of the State of Florida ("Mortgagee"), collectively referred to as the "Parties."

WHEREAS, Mortgagor is indebted to Mortgagee in the principal sum of Three Hundred Fifty Thousand and 00/100 Dollars (\$350,000.00) in NSP-1 Funds; which indebtedness is evidenced by Mortgagor's Promissory Note dated of even date herewith ("Promissory Note"), providing a deferred payment loan, hereinafter referred to as the ("Loan"), due and payable at the end of the thirty-two (32) year term of the Loan; NOW, THEREFORE,

To secure to Mortgagee (a) the payment of the Loan, and all extensions and modifications of the Promissory Note, (b) the performance of Mortgagor's covenants under this Mortgage and the Promissory Note, attached hereto as Attachment "A," (c) compliance with the terms of the Agreement executed by CITY and Mortgagor on ____ day of _____, 20__, incorporated herein by reference ("Funding Agreement"), and the execution of a Declaration of Restrictive Covenants ("Declaration"), in the form attached to the Funding Agreement as Exhibit "D-3"; (the Declaration, the Promissory Note, this Mortgage, the Funding Agreement, and all other documents evidencing and/or securing the Loan being hereinafter referred to as the "Loan Documents"). Mortgagor mortgages, grants, and conveys to Mortgagee the Mortgagor's leasehold interest in the property described in Attachment "A," located in Broward County, Florida, together with all improvements now or later erected on the property, and all easements, rights, appurtenances, rents, and all fixtures now or later attached to the property, all of which, including replacements and additions, shall be deemed to be and remain a part of the property covered by this Mortgage, and all of the foregoing shall constitute and refer to the "Property."

Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed and has the right to mortgage, grant, and convey the Property and that the Property is unencumbered, except for encumbrances of record. Mortgagor warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

This Mortgage is expressly made subject and subordinate to the terms and conditions specified in that certain Mortgage, Assignment of Rents and Leases, Security Agreement, and Fixture Filing from Mortgagor to _____ ("First Mortgagee"), dated _____, recorded _____, in the Official Records Book _____, Page _____ of the Public Records of Broward CITY, Florida ("First Mortgage"), securing that certain Promissory Note having an original principal face amount of _____ and 00/100 Dollars (\$00,000), dated _____ ("First Note"), made by Mortgagor payable to the First Mortgagee.

UNIFORM COVENANTS. The Parties covenant and agree as follows:

1. **Payment of Promissory Note.** Mortgagor shall pay when due all amounts evidenced by the Promissory Note. Payment due under the Promissory Note and this Mortgage shall be made in U.S. currency. However, if any check or other instrument received by Mortgagee as payment under the Note or this Mortgage is returned to Mortgagee unpaid, Mortgagee may require that any or all subsequent payments due under the Promissory Note and this Mortgage be made in one or more of the following forms, as selected by Mortgagee: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check, or

cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) electronic funds transfer.

Payments are deemed received by Mortgagee when received at the location designated in the Promissory Note or at such other location as may be designated by Mortgagee in accordance with the notice provision. Mortgagee may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Mortgagee may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights or prejudice to its rights to refuse such payment or partial payments in the future, but Mortgagee is not obligated to apply such payments at the time such payments are accepted.

2. **Charges; Liens.** Mortgagor shall pay all taxes, assessments, and other charges, fines, and impositions attributable to the Property which may attain a priority over this Mortgage. Mortgagor shall promptly furnish to Mortgagee receipts, or other such documents acceptable to Mortgagee, evidencing such payments.

Mortgagor shall not voluntarily create, or permit or suffer to be created or to exist, on or against the mortgaged property, or any part, any lien superior to the lien of this Mortgage, exclusive of the lien or liens, if any to which this Mortgage is expressly subject as set forth above.

3. **Hazard Insurance.** Mortgagor shall keep the improvements now existing or later erected on the Property insured against loss by fire and such other hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes, floods, for which insurance is required and as Mortgagee may require, in such amounts and for such periods as Mortgagee may require; provided, that Mortgagee shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage.

Unless otherwise required by Mortgagee, all such insurance shall be affected by Standard Fire and Extended Coverage Insurance policies, in amounts not less than necessary to comply with the coinsurance clause percentage of the value applicable to the location and character of the Property to be covered. All such insurance shall be provided by companies approved by Mortgagee, and all policies therefore shall be in such form and shall have attached loss payable clauses in favor of Mortgagee and any other party as shall be satisfactory to Mortgagee. The insurance carrier providing the insurance shall be chosen by Mortgagor, subject to Mortgagee's approval; provided that such approval shall not be unreasonably withheld.

All insurance policies, endorsements and renewals shall be in a form acceptable to Mortgagee and shall include a standard mortgage clause in favor of and in a form acceptable to Mortgagee. Mortgagor shall promptly furnish to Mortgagee all renewal notices and all receipts of paid premiums. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and Mortgagee, and Mortgagee may make proof of loss if not made promptly by Mortgagor.

Unless the Parties otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor or if Mortgagor fails to respond to Mortgagee within thirty (30) days after notice by Mortgagee to Mortgagor that the insurance carrier offers to settle a claim for insurance benefits, Mortgagee is authorized to collect and apply insurance proceeds at Mortgagee's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

During such repair and restoration period, Mortgagee shall have the right to hold such insurance proceeds until Mortgagee has had an opportunity to inspect such Property to ensure the work has been completed to Mortgagee's satisfaction, provided that such inspection shall be undertaken promptly.

If the Property is acquired by Mortgagee, all right, title, and interest of Mortgagor in and to any insurance policies and in and to the proceeds (to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition) resulting from damage to the Property prior to the sale or acquisition shall pass to Mortgagee.

4. **Preservation and Maintenance of Property.** Mortgagor shall keep the Property in good repair and shall not permit or commit waste, impairment, or deterioration of the Property, and will promptly comply with all the requirements of federal, state, and local governments pertaining to such Property or any part thereof. No building or other structure or improvement, fixture, or personal property mortgaged shall be removed or demolished without the written consent of Mortgagee. Mortgagor shall not make, permit, or suffer any alteration or addition to any building or other structure or improvement now or which may later be erected or installed upon the Property, or any portion thereof, nor will Mortgagor use or permit the use of, any portion of the Property for any purpose other than the purpose(s) for which the same is now intended to be used, without the prior written consent of Mortgagee.

Mortgagee, or its agent, may reasonably enter upon and inspect the Property. If it has reasonable cause, Mortgagee may inspect the interior of the Property, including improvements, if applicable. Mortgagee shall give Mortgagor notice at the time of or prior to such an interior inspection specifying such reasonable cause.

5. **Protection of Mortgagee's Security.** Mortgagee may, at its option, upon notice to Mortgagor, make such appearances, disburse such sums, and take such action as is necessary to protect Mortgagee's interest, if Mortgagor fails to perform the covenants or agreements contained in this Mortgage or the Funding Agreement, or if any action or proceeding is commenced which materially affects Mortgagee's interests in the Property including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy.

6. **Promissory Note Due.** The total amount of the Promissory Note shall become due at the sole option of Mortgagee: (a) if Mortgagor fails to pay any principal, interest or other amount due as and when required under the Note; or (b) after Mortgagor's failure to demonstrate to Mortgagee, within ten (10) calendar days after demand, receipts showing payment of all taxes, water rates, sewer rates, and assessments; or (c) after the actual or threatened alteration, demolition, or removal of any building on the Property without the written consent of Mortgagee; or (d) after the transfer or assignment of the Property or, any part thereof, without the written consent of Mortgagee; or (e) if the buildings on the Property are not maintained in reasonably good repair after Mortgagor is given notice and demand to cure within a reasonable time as determined by Mortgagee under the circumstances; or (f) after failure to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental entity with jurisdiction over the Property upon notice of said failure by Mortgagee and failure to comply with thirty (30) calendar days of notice by Mortgagee; or (g) in the event of the removal, demolition, or destruction, in whole or in part, of any of the fixtures, chattels, or articles of personal property covered, unless the same are promptly replaced by similar fixtures, chattels, and articles of personal property at least equal in quality and condition to those replaced, free from chattel mortgages or other encumbrances and free from any reservation of title; or (h) the commencement by Borrower of a voluntary case under the United States Bankruptcy Code or any federal or state law relating to bankruptcy, insolvency, reorganization, readjustment of debt liquidation or similar proceeding ("Insolvency Laws"), the acknowledgement in writing by Borrower that it is unable to pay its debts generally as they mature, the making by Borrower of a general assignment for the benefit of creditors, the commencement of an involuntary case against Borrower under any Insolvency Laws which is not dismissed within 90 days of filing or the appointment of a receiver, liquidator, custodian or trustee or similar officer who exercises control over Borrower or substantially all of Borrower's assets who is not discharged or dismissed within 90 days of such appointment; or (i) failure of Mortgagor to perform, after giving effect to any applicable notice and/or cure period, any covenant, term or condition in any instrument creating a lien upon the Property, or any portion thereof, which shall have priority over this Mortgage; or (j) if Mortgagor fails to maintain, observe, and perform any of the other covenants, conditions, or agreements contained in this Mortgage or the Funding Agreement after Mortgagor is given notice and a demand to cure as provided in Paragraph 16.

7. **Actions or Proceedings Commenced.** If any action or proceeding is commenced (except an action to foreclose this Mortgage or to collect the debt secured by this Mortgage), to which action or proceeding Mortgagee is made a party, or in which it becomes necessary to defend or uphold the lien of this Mortgage, all sums paid by Mortgagee for the expense of any litigation to prosecute or defend the rights and lien created by this Mortgage (including reasonable attorneys' fees), shall be paid by Mortgagor, together with interest at the statutory rate per annum, and any such sum including the related interest shall be a lien on the Property, prior to any right, or title to, interest in or claim upon the Property attaching or accruing subsequent to the lien of this Mortgage, and shall be deemed to be secured by this Mortgage. In any action or proceeding to foreclose this Mortgage, or to recover or collect the debt secured by this Mortgage, the provisions of law relating to the recovery of costs, disbursements, and allowances shall prevail unaffected by this covenant.

8. **Mortgagor's Applications.** Mortgagor shall be in default if, during the Loan application process, Mortgagor or any persons or entities acting at the direction of Mortgagor or with Mortgagor's knowledge or consent, gives materially false, misleading, or inaccurate information or statements to Mortgagee (or failed to provide Mortgagee with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning occupancy of the Property by Income Eligible Households as set forth in the Funding Agreement.

9. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or any part thereof, or for conveyance in lieu of condemnation, are assigned and shall be paid to Mortgagee. The proceeds referred to in this paragraph shall be applied to the sums secured by this Mortgage with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor, or if, after notice by Mortgagee to Mortgagor that the condemnor offers to make an award or settle a claim for damages, Mortgagor fails to respond to Mortgagee within thirty (30) days after the date the notice is mailed, Mortgagee is authorized to collect and apply the proceeds, at Mortgagee's option, either to restoration or repair of the Property, to the sums secured by this Mortgage.

10. **Mortgagor Not Released; Forbearance by Mortgagee Not a Waiver.** Extension of time for payment, modification, or amortization of the sums secured by this Mortgage granted by Mortgagee to any successor in interest of Mortgagor shall not operate to release, in any manner, the liability of the original Mortgagor and Mortgagor's successor in interest. Mortgagee shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Mortgagor and Mortgagor's successors in interest. Any forbearance by Mortgagee for exercising any right or remedy, including, without limitation, Mortgagee's acceptance of payments from third persons, entities, or successors in interest or in amounts less than the amount then due, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy.

11. **Remedies Cumulative.** All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently, or successively.

12. **Joint and Several Liability; Successors and Assigns Bound; Captions.** Mortgagor covenants and agrees that Mortgagor's obligations and liability shall be joint and several. Any successor in interest of Mortgagor who assumes Mortgagor's obligations under this Mortgage in writing, and is approved by Mortgagee, shall obtain all of Mortgagor's rights and benefits under this Mortgage. Mortgagor shall not be released from Mortgagor's obligations and liability under this Mortgage, unless Mortgagee agrees to such release in writing. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Mortgagee. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define any specific provision.

13. **Notice.** All notices given by Mortgagor or Mortgagee in connection with this Mortgage must be in writing. Any notice to Mortgagor in connection with this Mortgage shall be deemed to have been given to Mortgagor when mailed by first class mail or when actually delivered to Mortgagor's notice address

if sent by other means. The notice address shall be the Property address unless Mortgagor has designated a substitute notice address by notice to Mortgagee. Mortgagor shall promptly notify Mortgagee of Mortgagor's change of address. If Mortgagee specifies a procedure for reporting Mortgagor's change of address, then Mortgagor shall only report a change of address through that specified procedure. There may be only one designated notice address under this Mortgage at any one time. Any notice to Mortgagee shall be given by delivering it or by mailing it by first class mail to Mortgagee's address unless Mortgagee has designated another address by notice to Mortgagor. Any notice in connection with this Mortgage shall not be deemed to have been given to Mortgagee until actually received by Mortgagee. If any notice required by this Mortgage is also required under Florida law, the Florida law requirement will satisfy the corresponding requirement under this Mortgage.

14. Governing Law; Severability; Rules of Construction. This Mortgage shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Mortgage are subject to any requirements and limitations of Florida law. Florida law might explicitly or implicitly allow the Parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Mortgage or the Promissory Note conflicts with Florida law, such conflict shall not affect other provisions of this Mortgage or the Promissory Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Promissory Note are declared to be severable.

As used in this Mortgage: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

15. Transfer of the Property; Assumption. No part of the Property or any interest in the Property shall be sold or transferred by Mortgagor without Mortgagee's consent consistent with paragraph 21. If Mortgagor sells or transfers any interest or part in the Property without Mortgagee's consent, the sums secured by this Mortgage shall become immediately due and payable. If the amount becomes due and payable, Mortgagee shall mail Mortgagor notice of acceleration. Such Notice shall provide a period of not less than thirty (30) days from the date the notice is received by Mortgagor, for Mortgagor to pay the sums declared due. If Mortgagor fails to pay such sums prior to the expiration of such period, Mortgagee may without further notice or demand on Mortgagor, invoke any available legal remedies.

NONUNIFORM COVENANTS. Mortgagor and Mortgagee further covenant and agree as follows:

16. Acceleration; Remedies. Upon Mortgagor's breach of any covenant in this Mortgage, the HOME Funding Agreement referenced above or the Promissory Note, including the covenants to pay, when due, any sums secured by this Mortgage shall be accelerated. Mortgagee shall, prior to acceleration, mail notice to Mortgagor as provided in Paragraph 13 identifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than thirty (30) days from the date the notice is received by Mortgagor, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in any action in law or equity, as Mortgagee determines to be most effectual to enforce Mortgagor's obligations, including an action for specific performance, acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding, and sale of the Property. If the breach is not cured on or before the date specified in the notice, Mortgagee at its option may declare all the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Mortgagee shall be entitled to collect in such proceeding all expenses of foreclosure including, but not limited to, reasonable attorney's fees, court costs, costs of documentary evidence, abstracts, and title reports.

17. Mortgagor's Right to Reinstate. Notwithstanding Mortgagee's right to acceleration of the sums secured by this Mortgage, Mortgagor shall have the right to have any proceedings begun by Mortgagee to enforce this Mortgage discontinued at any time prior to an entry of a judgment enforcing this Mortgage if: (a) Mortgagor pays Mortgagee all sums which would be then due under this Mortgage had no acceleration occurred; (b) Mortgagor cures all breaches under this Mortgage including the Funding Agreement; (c) Mortgagor pays all reasonable expenses incurred by Mortgagee in enforcing the covenants

and agreements of Mortgager contained in this Mortgage and the Funding Agreement including, but not limited to, attorney's fees; and (d) Mortgagor takes such action as Mortgagee may reasonably require to ensure that the lien of this Mortgage, Mortgagee's interest in the Property, and Mortgagor's obligation to pay the sums secured by this Mortgage and comply with the terms of the Funding Agreement shall remain in full force and effect.

18. **Default.** After the happening of any default, Mortgagor shall, upon demand of Mortgagee, surrender possession of the Property to Mortgagee, and Mortgagee may enter such property, and let the same, and collect all rents which are due or to become due, and apply the same, after payment of all charges and expenses on account of indebtedness secured by this Mortgage, and all such rents and all leases existing at the time of such default are assigned to Mortgagee as further security for the payment of the indebtedness secured, and Mortgagee may also dispossess, by the usual summary proceedings, any tenant defaulting in the payment of any rent to Mortgagee.

19. **Appointment of a Receiver.** In any action to foreclose this Mortgage, Mortgagee shall be entitled to the appointment of a receiver without notice, as a matter of right and without regard to the value of the Property, or the solvency or insolvency of Mortgagor or other party liable for the payment of the Promissory Note and other indebtedness secured by this Mortgage.

20. **Occupancy.** Mortgagor agrees and understands that the NSP-1 funding is being loaned by Mortgagee to increase the availability of affordable multi-family residential rental units by complementing and expanding existing low income housing initiatives to reduce the cost of housing for Income Eligible Households. As a result, Mortgagor agrees to construct and use the Property as required by the rules and regulations of the United States Department of Housing and Urban Development for the NSP-1 Program, and to ensure that all occupants of the units are qualified as Income Eligible Households. The term Income Eligible Households shall refer to a household, as defined in 24 CFR Section 92.2, consisting of a family, as defined in 24 CFR Section 5.403, with an annual anticipated gross income at the time of initial occupancy that does not exceed sixty percent (60%) of the median annual income for the area, as determined by HUD, with adjustments for family size for households within the metropolitan statistical area for CITY, or the non-metropolitan median for the State, whichever is greater.

21. **Transfer of the Property or a Beneficial Interest in Mortgagor.** "Interest in the Property" means any legal or beneficial interest in the Property including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Mortgagor at a future date to a purchaser.

If all or any part of the Property or any interest in the Property is sold or transferred without Mortgagee's prior written consent, Mortgagee shall require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Mortgagee if such exercise is prohibited by federal and state law.

If Mortgagee exercises this option, Mortgagee shall give Mortgagor notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is given in accordance with Paragraph 13 within which Mortgagor must pay all sums secured by this Mortgage. If Mortgagor fails to pay these sums prior to the expiration of this period, Mortgagee may invoke any remedies permitted by this Mortgage without further notice or demand on Mortgagor.

This Mortgage and all the covenants, terms and conditions herein contained shall be binding upon and inure to the benefit of the Mortgagor and the heirs, legal representatives and assigns of the Mortgagor, and to the extent permitted by law, every subsequent owner of the Mortgaged Property, and shall be binding and inure to the benefit of the Mortgagee and its assigns. If the Mortgagor, as defined herein, consists of two or more parties, this Mortgage shall constitute a grant and mortgage by all of them jointly and severally, and they shall be obligated jointly and severally under all the provisions hereof and under the Note. The word "Mortgagee" shall include any person, corporation, or other party who may from time to time be the holder of this Mortgage. Wherever used herein, the singular number shall include the plural, the plural

number shall include the singular, and the use of any gender shall be applicable to all genders wherever the sense requires.

22. Mortgagor's Right to Reinstate After Acceleration. If Mortgagor meets certain conditions set forth below, Mortgagor shall have the right to have enforcement of this Mortgage discontinued at any time prior to the earliest of (a) five (5) days before sale of the Property pursuant to any power of sale contained in this Mortgage; (b) such other period as federal and state law might specify for the termination of Mortgagor's right to reinstate; or (c) entry of a judgment enforcing this Mortgage. Such conditions require that Mortgagor (a) pays Mortgagee all sums due under this Mortgage and the Promissory Note as if no acceleration had occurred (b) cures any default of any other covenants of agreements; (c) pays all expenses incurred in enforcing this Mortgage including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Mortgagee's interest in the Property and rights under this Mortgage; and (d) takes such action as Mortgagee may reasonably require to assure that Mortgagee's interest in the Property and rights under this Mortgage, and Mortgagor's obligation to pay the sums secured by this Mortgage, shall continue unchanged. Mortgagee may require that Mortgagor pay such reinstatement sums and expenses in one or more of the following forms, as selected by Mortgagee: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check, or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, secured instrument, and obligations shall remain fully effective as if no acceleration had occurred.

Neither Mortgagor nor Mortgagee may commence, join, or be joined in any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Mortgage, or that alleges that the other party has breached any provision of, or any duty owed, by reason of this Mortgage, until such Mortgagor or Mortgagee has notified the other party of such alleged breach and afforded the other party a reasonable period after providing such notice to take corrective action. If Florida law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph.

23. Hazardous Substances. As used in this Section: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety, or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Mortgagor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Mortgagor shall not, nor permit anyone else to do anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two (2) sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Mortgagor shall promptly give Mortgagee written notice of (a) any investigation, claim, demand, lawsuit, or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Mortgagor has actual knowledge, (b) any Environmental Condition including, but not limited to, any spilling, leaking, discharge, release, or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use, or release of a Hazardous Substance which adversely affects the value of the Property. If Mortgagor learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Mortgagor shall promptly take all necessary

remedial actions in accordance with Environmental Law. Nothing in this Mortgage shall create any obligation on Mortgagee for an Environmental Cleanup.

24. **Satisfaction.** Upon payment or reduction of all sums secured by this Mortgage and performance of all requirements under the Funding Agreement, Mortgagee shall prepare and execute a Satisfaction of Mortgage. Mortgagor shall pay all costs of recordation, if any.

25. **Attorneys' Fees.** As used in this Mortgage and the Promissory Note, attorneys' fees shall include attorneys' fees awarded by a trial court, an appellate court, and incurred in a bankruptcy proceeding.

26. **Jury Trial Waiver.** Mortgagor waives any right to a trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of, or in any way related to, this Mortgage, the HOME and NSP-1 Funding Agreement, or the Promissory Note.

27. **Term of Mortgage.** The term of this Mortgage shall be thirty-two (32) years, consistent with the long-term affordability period of thirty (30) years following completion, as provided in the Promissory Note.

28. **Recordation.** This Mortgage shall be recorded in the Public Records of Broward County, Florida, immediately following execution, at Mortgagor's expense.

29. **Mortgagor's Copy.** Mortgagor shall be provided one (1) copy of the executed Promissory Note and this Mortgage.

(Remainder of Page Intentionally Left Blank)

RIDER TO MORTGAGE DATED _____, 20__, BETWEEN CITY OF HOLLYWOOD (the "Lender") AND PINNACLE AT PEACEFIELD, LTD., A FLORIDA LIMITED PARTNERSHIP (the "Borrower"), CONCERNING PROPERTY LOCATED IN THE CITY OF HOLLYWOOD, FLORIDA, COMMONLY KNOWN AS PINNACLE AT PEACEFIELD (the "Project")

The Lender agrees to the following terms set forth in this Rider with respect to the \$350,000 NSP-1 Loan to the Borrower (the "Loan").

The Lender will give Citibank, N.A, together with its successors and assigns, (the "Investor Limited Partner") a copy of any written notice it gives to the Borrower under the Loan Documents, at the following addresses:

Citibank, N.A.
388 Greenwich St, 8th Floor
New York, NY 10013
Attention: Mark Sherman

Nixon Peabody LLP
779 9th Street, NW, Suite 500
Washington, DC 20001-4501
Attention: Matthew W. Mullen

TCAM
30 Federal Street, 6th Floor
Boston, MA 02110-2508
Attention: Jenny Netzer

The Lender will give the Investor Limited Partner ten (10) days after the Investor Limited Partner's receipt of such notice to cure a non-payment of any sum due under the Loan Documents.

The Lender will give the Investor Limited Partner thirty (30) days after the Investor Limited Partner's receipt of such notice to cure any other default under the Loan Documents.

If a default is incapable of being cured within thirty (30) days, the Lender will give the Investor Limited Partner such additional time as is reasonably necessary to cure such default provided it has commenced to cure such default within thirty (30) days and diligently proceeds to cure such default.

If the Investor Limited Partner makes any such payment or otherwise cures such default, the Lender will accept such action as curing the respective default under the Loan Documents.

The Lender will permit the Investor Limited Partner to transfer its limited partnership interest in Borrower to any person or entity at any time provided that, if at such the Investor Limited Partner has not made 100% of the capital contributions it is required to make to the Borrower, the Investor Limited Partner shall only have the ability to transfer its investor interest to an organization that has experience investing in low-income housing tax credits within the State of Florida. Investor Limited Partner shall provide the Lender with prompt written notice of such transfer.

With written notice provided to the Lender, the Lender will permit the Investor Limited Partner to remove the general partner of the Borrower in accordance with the Borrower's amended and restated agreement of limited partnership, provided that the substitute general partner shall be acceptable to the Lender in its reasonable discretion. An affiliate of the Investor Limited Partner shall be an acceptable substitute general partner.

Investor Limited Partner is intended to be a direct beneficiary of the covenants set forth in this Rider and shall be entitled to bring an action to enforce the same independent of any rights of the Borrower.

This Rider may be executed in multiple counterparts, each of which shall be deemed to be an original.

CITY OF HOLLYWOOD, a municipal corporation of the State of Florida

BY: _____
JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED BY:

CINTYA RAMOS, DIRECTOR
DEPARTMENT OF FINANCIAL
SERVICES

APPROVED AS TO FORM & LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE CITY OF HOLLYWOOD, FLORIDA, ONLY.

DOUGLAS R. GONZALES, CITY ATTORNEY

PINNACLE AT PEACEFIELD, LTD., a
Florida limited partnership

By: PHG-Peacefield, LLC, a Florida
limited liability company, its general
partner

By: _____
David O. Deutch, Vice President

ATTACHMENT "A" TO EXHIBIT "D-2" - PROMISSORY NOTE

NSP-1 PROMISSORY NOTE

CITY OF HOLLYWOOD, FLORIDA

FOR VALUE RECEIVED the undersigned, PINNACLE AT PEACEFIELD, LTD, a Florida limited partnership ("MAKER"), promises to pay to the order of THE CITY OF HOLLYWOOD, FLORIDA, a municipal corporation, together with any other holder ("HOLDER") at 2600 Hollywood Blvd., Hollywood, FL 33020, or such other place as HOLDER may from time to time designate in writing, an amount up to Three Hundred Fifty Thousand and 00/100 Dollars (\$350,000.00) in NSP-1 Funds, to be paid in lawful money of the United States of America, as follows:

1. The Property securing such transaction is legally described as: See Exhibit "A" attached.
2. HOLDER is a recipient of Neighborhood Stabilization Program funds from the United States Department of Housing and Urban Development ("HUD").
3. The Loan being provided by HOLDER to MAKER under this Promissory Note is a non-interest bearing deferred payment recourse Loan, which amounts shall be paid by HOLDER to MAKER on a reimbursement basis for Eligible Costs as defined in and in such a manner as provided in the Agreement entered into by HOLDER and MAKER dated _____, 20__, ("Funding Agreement"), incorporated herein by reference.
4. No payments shall be due under this Promissory Note and the Loan shall be deferred until the thirty-second (32nd) anniversary date of the execution of this Promissory Note by MAKER (the "Maturity Date"), which Maturity Date may be extended in the Mortgagee's sole and absolute discretion as set forth in this Section 4 unless an Acceleration Event (as hereinafter defined) occurs. Upon the earlier of (i) the Maturity Date, or (ii) an Acceleration Event, the total amount of HOME Funds provided to MAKER by HOLDER shall be due and payable to HOLDER under this Promissory Note. Notwithstanding anything contained herein to the contrary, any and all amounts due on the Maturity Date may be forgiven in the sole and absolute discretion of HOLDER.
5. If MAKER fails to utilize the Property for the purpose stated in the Mortgage or the Funding Agreement, or fails to comply with the terms and conditions of the Mortgage or the Funding Agreement (each deemed an "Acceleration Event"), including the thirty (30) year Affordability Period relative to the Project (as defined in the Funding Agreement), which commences on Project Completion, such Acceleration Event shall constitute an event of default under this Promissory Note. Project Completion means all necessary title transfer requirements (if applicable) and all construction work have been performed. In such event, the total amount of NSP-1 Funds previously provided to MAKER under this Promissory Note shall become due and payable to HOLDER at the address specified in the Funding Agreement after MAKER is given notice and a demand to cure as provided in Paragraph 16 of the Mortgage.

Upon default by Maker of any provisions of this obligation or any other obligations encumbering the subject property, terms and conditions of which are set forth in the Mortgage securing this Note, the City may accelerate the balance due and owing by Mortgagor and may avail itself of any and all remedies provided in the Mortgage, including but not limited to acceptance of any payments on the accelerated balance in the amount determined by the City, and Maker recognizes that the City's claim for the accelerated balance is a secured claim for the entire sum then and owing.

6. Notwithstanding Section 4 hereof, if MAKER transfers title to the Property without HOLDER's written consent as provided in Paragraph 21 of the Mortgage, the total amount of NSP-1 Funds previously provided to MAKER under this Promissory Note shall immediately become due and payable to HOLDER as provided in Paragraph 15 of the Mortgage, at the address specified in the Funding Agreement.

7. If a lawsuit is instituted by HOLDER to recover under this Promissory Note, MAKER agrees to pay all costs of such collection including, but not limited to, reasonable attorney's fees and court costs. If this Promissory Note is reduced to judgment, such judgment shall bear the statutory interest rate on judgments set forth in Section 55.03, Florida Statutes.

8. This Promissory Note is secured by the Mortgage executed by MAKER to Holder, of even date herewith, and recorded in the Official Public Records of Broward County, Florida.

9. Demand, protest, and notice of demand and protest are waived and the undersigned waives, to the extent authorized by law, any and all homestead and other exemption rights which otherwise would apply to the debt evidenced by this Promissory Note.

IN WITNESS WHEREOF, MAKER executed this Promissory Note this ____ day of _____ 2018.

WITNESSES:

PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership

Signature

By: PHG - Peacefield, LLC, a Florida limited liability company, its general partner

Print Name

By: _____
David O. Deutch, Vice President

Signature

Print Name

STATE OF _____)
) SS.
COUNTY OF _____)

I, the undersigned, a Notary Public, in and for said county in said state, hereby certify that David O. Deutch, the Vice President of PHG - Peacefield, LLC, a Florida limited liability company, which is the general partner of PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership, personally appeared before me and is known to me to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as the act of said limited liability company and limited partnership.

IN TESTIMONY WHEREOF, on this _____ day of _____, 2018, I have hereunto set my hand and affixed my official seal in the County and State aforesaid.

[NOTARIAL SEAL]

Notary Public

My commission expires:

EXHIBIT "A"

Legal Description

All of Lots 13 Through 17 and Lots 19 Through 21, Block 1, Amended Plat of Hollywood Little Ranches, according to the Plat thereof, as recorded in Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Together with:

All of Lots 9 through 19, W.B. Symmes Subdivision, according to the plat thereof, as Recorded In Plat Book 7, on page 7 of the Public Records Of Broward County, Florida.

Also together with:

The West 330.00 feet of Lots 4 and 5, Block M, amended plat of Hollywood Little Ranches, according to the Plat thereof, as recorded in Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Said lands situate, lying and being in The City of Hollywood, Broward County, Florida containing 241,550 Square Feet (5.54 Acres) more or less.

EXHIBIT "D-3"

[delete before recordation as this is a separate document NOT incorporated into the Mortgage]

**DECLARATION OF RESTRICTIVE COVENANTS FOR
NSP-1 MULTI-FAMILY RENTAL UNITS**

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this day of _____, 20___, by PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership ("Declarant"), in favor of THE CITY OF HOLLYWOOD, FLORIDA, a municipal corporation ("CITY").

RECITALS

WHEREAS, CITY is a recipient of Neighborhood Stabilization Program (the "Program") funds ("NSP-1 Funds") from the United States Department of Housing and Urban Development ("HUD"); and

WHEREAS, Declarant acknowledges that NSP-1 Funds were provided to Declarant pursuant to that certain Agreement ("Funding Agreement") between CITY and PINNACLE AT PEACEFIELD, LTD. dated _____, 2018; incorporated herein by reference, for construction of affordable multi-family residential rental units on the property referenced herein ("Property"); said Property located at _____ and more specifically described in the legal description attached hereto as Exhibit "A"; NOW, THEREFORE,

Declarant voluntarily covenants and agrees that the Property shall be subject to the following restrictions that are intended and shall be deemed covenants running with the land and binding upon the Declarant, Declarant's assigns, successors, and successors in title to the Property, until expiration of the long-term affordability period set forth in Section 2 hereof:

1. The above recitals are true and correct and are incorporated herein as if fully set forth in full hereunder.
2. Restrictions on Use of the Property. Under the Program, the above-referenced NSP-1 Funds have been provided as a deferred payment loan with no payments due prior to maturity. However, as a condition of the loan, Declarant shall use the Property only for development and operation of affordable multi-family residential rental units. This Declaration of Restrictive Covenants shall remain in effect following Project Completion, until the Affordability Period of thirty (30) years expires. Project Completion means all necessary title transfer requirements (if applicable) and all construction work have been performed.
3. HOME-assisted unit. Declarant shall rent units located on the Property only to Income Eligible Households as defined in and as required by the Funding Agreement for the Affordability Period. The term Income Eligible Household shall refer to a household, as defined in 24 CFR Section 92.2, consisting of a family, as defined in 24 CFR Section 5.403, with an annual anticipated gross income at the time of initial occupancy that does not exceed [sixty percent (60%)] of the median annual income for the area, as determined by HUD, with adjustments for family size for households within the metropolitan statistical

area for Broward County, Florida or the non-metropolitan median for the State, whichever is greater.

4. Severability. If a court of competent jurisdiction determines that any of the provisions of this Declaration are void or unenforceable, the remainder of the provisions of this Declaration shall continue in full force and effect.
5. Recordation. This Declaration shall be recorded in the Official Public Records of Broward County, Florida, immediately following its execution, at Declarant's expense.
6. Right to Inspect Property. It is understood and agreed that any official of CITY has the right at any time during normal CITY business hours to enter upon and investigate the use of the Property, to determine whether Declarant is in compliance with the terms and conditions of this Declaration.
7. Enforcement. An action to enforce the terms and conditions of this Declaration may be brought by CITY and may be, at law or in equity, against any person(s) violating or attempting to violate any provision of this Declaration either to restrain violations or to recover HOME funds under the Promissory Note. This Declaration is made for the benefit of CITY and HUD, and confers upon the CITY, HUD, and their respective successors and assigns the right, without limitation, to enforce the provisions of this Declaration. Any failure by CITY or HUD to insist upon a strict performance of any covenants, restriction, or requirement of this Declaration, or to exercise any option, right, or remedy contained or created in this Declaration, shall not be construed as a waiver or relinquishment for the future of such covenant, restriction, or requirement; rather, the same shall continue and remain in full force and effect.
8. Attorneys' Fees. Any person who successfully brings an action for enforcement of this Declaration shall be entitled to recover reasonable attorneys' fees and costs for such action, including any successful appellate proceedings.
9. Release of Restrictions. This Declaration shall be extinguished and released by CITY in whole, or in part, in accordance with the terms contained herein and in the Funding Agreement.

[Remainder of Page Intentionally Left Blank]

EXHIBIT "A"

Legal Description

All of Lots 13 Through 17 and Lots 19 Through 21, Block 1, Amended Plat of Hollywood Little Ranches, according to the Plat thereof, as recorded In Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Together with:

All of Lots 9 through 19, W.B. Symmes Subdivision, according to the plat thereof, as Recorded In Plat Book 7, on page 7 of the Public Records Of Broward County, Florida.

Also together with:

The West 330.00 feet of Lots 4 and 5, Block M, amended plat of Hollywood Little Ranches, according to the Plat thereof, as recorded in Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Said lands situate, lying and being in The City of Hollywood, Broward County, Florida containing 241,550 Square Feet (5.54 Acres) more or less.

EXHIBIT "D-4"
[delete before recordation]

CITY MORTGAGE

CITY COMMISSION OF CITY OF HOLLYWOOD
BROWARD COUNTY, FLORIDA

This Mortgage ("Mortgage") is made this ____ day of _____, 20__, by PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership ("Mortgagor"), in favor of THE CITY OF HOLLYWOOD, a municipal corporation of the State of Florida ("Mortgagee"), collectively referred to as the "Parties."

WHEREAS, Mortgagor is indebted to Mortgagee in the principal sum of One Hundred Forty-Four Thousand and 00/100 Dollars (\$144,000.00) which indebtedness is evidenced by Mortgagor's Promissory Note dated of even date herewith ("Promissory Note"), providing a deferred payment loan, hereinafter referred to as the ("Loan"), due and payable at the end of the thirty-two (32) year term of the Loan; NOW, THEREFORE,

To secure to Mortgagee (a) the payment of the Loan, and all extensions and modifications of the Promissory Note, (b) the performance of Mortgagor's covenants under this Mortgage and the Promissory Note, attached hereto as Attachment "A," (c) compliance with the terms of the Agreement executed by CITY and Mortgagor on ____ day of _____, 20__, incorporated herein by reference ("Funding Agreement"), and all other documents evidencing and/or securing the Loan being hereinafter referred to as the "Loan Documents"). Mortgagor mortgages, grants, and conveys to Mortgagee the Mortgagor's leasehold interest in the property described in Attachment "A," located in Broward County, Florida, together with all improvements now or later erected on the property, and all easements, rights, appurtenances, rents, and all fixtures now or later attached to the property, all of which, including replacements and additions, shall be deemed to be and remain a part of the property covered by this Mortgage, and all of the foregoing shall constitute and refer to the "Property."

Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed and has the right to mortgage, grant, and convey the Property and that the Property is unencumbered, except for encumbrances of record. Mortgagor warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

This Mortgage is expressly made subject and subordinate to the terms and conditions specified in that certain Mortgage, Assignment of Rents and Leases, Security Agreement, and Fixture Filing from Mortgagor to _____ ("First Mortgagee"), dated _____, recorded _____, in the Official Records Book _____, Page _____ of the Public Records of Broward CITY, Florida ("First Mortgage"), securing that certain Promissory Note having an original principal face amount of _____ and 00/100 Dollars (\$00,000), dated _____ ("First Note"), made by Mortgagor payable to the First Mortgagee.

UNIFORM COVENANTS. The Parties covenant and agree as follows:

1. **Payment of Promissory Note.** Mortgagor shall pay when due all amounts evidenced by the Promissory Note. Payment due under the Promissory Note and this Mortgage shall be made in U.S. currency. However, if any check or other instrument received by Mortgagee as payment under the Note or this Mortgage is returned to Mortgagee unpaid, Mortgagee may require that any or all subsequent payments due under the Promissory Note and this Mortgage be made in one or more of the following forms, as selected by Mortgagee: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check, or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) electronic funds transfer.

Payments are deemed received by Mortgagee when received at the location designated in the Promissory Note or at such other location as may be designated by Mortgagee in accordance with the notice provision. Mortgagee may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Mortgagee may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights or prejudice to its rights to refuse such payment or partial payments in the future, but Mortgagee is not obligated to apply such payments at the time such payments are accepted.

2. **Charges; Liens.** Mortgagor shall pay all taxes, assessments, and other charges, fines, and impositions attributable to the Property which may attain a priority over this Mortgage. Mortgagor shall promptly furnish to Mortgagee receipts, or other such documents acceptable to Mortgagee, evidencing such payments.

Mortgagor shall not voluntarily create, or permit or suffer to be created or to exist, on or against the mortgaged property, or any part, any lien superior to the lien of this Mortgage, exclusive of the lien or liens, if any to which this Mortgage is expressly subject as set forth above.

3. **Hazard Insurance.** Mortgagor shall keep the improvements now existing or later erected on the Property insured against loss by fire and such other hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes, floods, for which insurance is required and as Mortgagee may require, in such amounts and for such periods as Mortgagee may require; provided, that Mortgagee shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage.

Unless otherwise required by Mortgagee, all such insurance shall be affected by Standard Fire and Extended Coverage Insurance policies, in amounts not less than necessary to comply with the coinsurance clause percentage of the value applicable to the location and character of the Property to be covered. All such insurance shall be provided by companies approved by Mortgagee, and all policies therefore shall be in such form and shall have attached loss payable clauses in favor of Mortgagee and any other party as shall be satisfactory to Mortgagee. The insurance carrier providing the insurance shall be chosen by Mortgagor, subject to Mortgagee's approval; provided that such approval shall not be unreasonably withheld.

All insurance policies, endorsements and renewals shall be in a form acceptable to Mortgagee and shall include a standard mortgage clause in favor of and in a form acceptable to Mortgagee. Mortgagor shall promptly furnish to Mortgagee all renewal notices and all receipts of paid premiums. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and Mortgagee, and Mortgagee may make proof of loss if not made promptly by Mortgagor.

Unless the Parties otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor or if Mortgagor fails to respond to Mortgagee within thirty (30) days after notice by Mortgagee to Mortgagor that the insurance carrier offers to settle a claim for insurance benefits, Mortgagee is authorized to collect and apply insurance proceeds at Mortgagee's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

During such repair and restoration period, Mortgagee shall have the right to hold such insurance proceeds until Mortgagee has had an opportunity to inspect such Property to ensure the work has been completed to Mortgagee's satisfaction, provided that such inspection shall be undertaken promptly.

If the Property is acquired by Mortgagee, all right, title, and interest of Mortgagor in and to any insurance policies and in and to the proceeds (to the extent of the sums secured by this Mortgage

immediately prior to such sale or acquisition) resulting from damage to the Property prior to the sale or acquisition shall pass to Mortgagee.

4. **Preservation and Maintenance of Property.** Mortgagor shall keep the Property in good repair and shall not permit or commit waste, impairment, or deterioration of the Property, and will promptly comply with all the requirements of federal, state, and local governments pertaining to such Property or any part thereof. No building or other structure or improvement, fixture, or personal property mortgaged shall be removed or demolished without the written consent of Mortgagee. Mortgagor shall not make, permit, or suffer any alteration or addition to any building or other structure or improvement now or which may later be erected or installed upon the Property, or any portion thereof, nor will Mortgagor use or permit the use of, any portion of the Property for any purpose other than the purpose(s) for which the same is now intended to be used, without the prior written consent of Mortgagee.

Mortgagee, or its agent, may reasonably enter upon and inspect the Property. If it has reasonable cause, Mortgagee may inspect the interior of the Property, including improvements, if applicable. Mortgagee shall give Mortgagor notice at the time of or prior to such an interior inspection specifying such reasonable cause.

5. **Protection of Mortgagee's Security.** Mortgagee may, at its option, upon notice to Mortgagor, make such appearances, disburse such sums, and take such action as is necessary to protect Mortgagee's interest, if Mortgagor fails to perform the covenants or agreements contained in this Mortgage or the Funding Agreement, or if any action or proceeding is commenced which materially affects Mortgagee's interests in the Property including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy.

6. **Promissory Note Due.** The total amount of the Promissory Note shall become due at the sole option of Mortgagee: (a) if Mortgagor fails to pay any principal, interest or other amount due as and when required under the Note; or (b) after Mortgagor's failure to demonstrate to Mortgagee, within ten (10) calendar days after demand, receipts showing payment of all taxes, water rates, sewer rates, and assessments; or (c) after the actual or threatened alteration, demolition, or removal of any building on the Property without the written consent of Mortgagee; or (d) after the transfer or assignment of the Property or, any part thereof, without the written consent of Mortgagee; or (e) if the buildings on the Property are not maintained in reasonably good repair after Mortgagor is given notice and demand to cure within a reasonable time as determined by Mortgagee under the circumstances; or (f) after failure to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental entity with jurisdiction over the Property upon notice of said failure by Mortgagee and failure to comply with thirty (30) calendar days of notice by Mortgagee; or (g) in the event of the removal, demolition, or destruction, in whole or in part, of any of the fixtures, chattels, or articles of personal property covered, unless the same are promptly replaced by similar fixtures, chattels, and articles of personal property at least equal in quality and condition to those replaced, free from chattel mortgages or other encumbrances and free from any reservation of title; or (h) the commencement by Borrower of a voluntary case under the United States Bankruptcy Code or any federal or state law relating to bankruptcy, insolvency, reorganization, readjustment of debt liquidation or similar proceeding ("Insolvency Laws"), the acknowledgement in writing by Borrower that it is unable to pay its debts generally as they mature, the making by Borrower of a general assignment for the benefit of creditors, the commencement of an involuntary case against Borrower under any Insolvency Laws which is not dismissed within 90 days of filing or the appointment of a receiver, liquidator, custodian or trustee or similar officer who exercises control over Borrower or substantially all of Borrower's assets who is not discharged or dismissed within 90 days of such appointment; or (i) failure of the Mortgagor to perform, after giving effect to any applicable notice and/or cure period, any covenant, term or condition in any instrument creating a lien upon the Property or any part thereof, which shall have priority over the lien of this Mortgage; or (j) if Mortgagor fails to maintain, observe, and perform any of the other covenants, conditions, or agreements contained in this Mortgage or the Funding Agreement after Mortgagor is given notice and a demand to cure as provided in Paragraph 16.

7. **Actions or Proceedings Commenced.** If any action or proceeding is commenced (except an action to foreclose this Mortgage or to collect the debt secured by this Mortgage), to which action or

proceeding Mortgagee is made a party, or in which it becomes necessary to defend or uphold the lien of this Mortgage, all sums paid by Mortgagee for the expense of any litigation to prosecute or defend the rights and lien created by this Mortgage (including reasonable attorneys' fees), shall be paid by Mortgagor, together with interest at the statutory rate per annum, and any such sum including the related interest shall be a lien on the Property, prior to any right, or title to, interest in or claim upon the Property attaching or accruing subsequent to the lien of this Mortgage, and shall be deemed to be secured by this Mortgage. In any action or proceeding to foreclose this Mortgage, or to recover or collect the debt secured by this Mortgage, the provisions of law relating to the recovery of costs, disbursements, and allowances shall prevail unaffected by this covenant.

8. **Mortgagor's Applications.** Mortgagor shall be in default if, during the Loan application process, Mortgagor or any persons or entities acting at the direction of Mortgagor or with Mortgagor's knowledge or consent, gives materially false, misleading, or inaccurate information or statements to Mortgagee (or failed to provide Mortgagee with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning occupancy of the Property by Income Eligible Households as set forth in the Funding Agreement.

9. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or any part thereof, or for conveyance in lieu of condemnation, are assigned and shall be paid to Mortgagee. The proceeds referred to in this paragraph shall be applied to the sums secured by this Mortgage with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor, or if, after notice by Mortgagee to Mortgagor that the condemnor offers to make an award or settle a claim for damages, Mortgagor fails to respond to Mortgagee within thirty (30) days after the date the notice is mailed, Mortgagee is authorized to collect and apply the proceeds, at Mortgagee's option, either to restoration or repair of the Property, to the sums secured by this Mortgage.

10. **Mortgagor Not Released; Forbearance by Mortgagee Not a Waiver.** Extension of time for payment, modification, or amortization of the sums secured by this Mortgage granted by Mortgagee to any successor in interest of Mortgagor shall not operate to release, in any manner, the liability of the original Mortgagor and Mortgagor's successor in interest. Mortgagee shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Mortgagor and Mortgagor's successors in interest. Any forbearance by Mortgagee for exercising any right or remedy, including, without limitation, Mortgagee's acceptance of payments from third persons, entities, or successors in interest or in amounts less than the amount then due, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy.

11. **Remedies Cumulative.** All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently, or successively.

12. **Joint and Several Liability; Successors and Assigns Bound; Captions.** Mortgagor covenants and agrees that Mortgagor's obligations and liability shall be joint and several. Any successor in interest of Mortgagor who assumes Mortgagor's obligations under this Mortgage in writing, and is approved by Mortgagee, shall obtain all of Mortgagor's rights and benefits under this Mortgage. Mortgagor shall not be released from Mortgagor's obligations and liability under this Mortgage, unless Mortgagee agrees to such release in writing. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Mortgagee. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define any specific provision.

13. **Notice.** All notices given by Mortgagor or Mortgagee in connection with this Mortgage must be in writing. Any notice to Mortgagor in connection with this Mortgage shall be deemed to have been given to Mortgagor when mailed by first class mail or when actually delivered to Mortgagor's notice address if sent by other means. The notice address shall be the Property address unless Mortgagor has designated a substitute notice address by notice to Mortgagee. Mortgagor shall promptly notify Mortgagee of

Mortgagor's change of address. If Mortgagee specifies a procedure for reporting Mortgagor's change of address, then Mortgagor shall only report a change of address through that specified procedure. There may be only one designated notice address under this Mortgage at any one time. Any notice to Mortgagee shall be given by delivering it or by mailing it by first class mail to Mortgagee's address unless Mortgagee has designated another address by notice to Mortgagor. Any notice in connection with this Mortgage shall not be deemed to have been given to Mortgagee until actually received by Mortgagee. If any notice required by this Mortgage is also required under Florida law, the Florida law requirement will satisfy the corresponding requirement under this Mortgage.

14. **Governing Law; Severability; Rules of Construction.** This Mortgage shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Mortgage are subject to any requirements and limitations of Florida law. Florida law might explicitly or implicitly allow the Parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Mortgage or the Promissory Note conflicts with Florida law, such conflict shall not affect other provisions of this Mortgage or the Promissory Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Promissory Note are declared to be severable.

As used in this Mortgage: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

15. **Transfer of the Property; Assumption.** No part of the Property or any interest in the Property shall be sold or transferred by Mortgagor without Mortgagee's consent consistent with Paragraph 21. If Mortgagor sells or transfers any interest or part in the Property without Mortgagee's consent, the sums secured by this Mortgage shall become immediately due and payable. If the amount becomes due and payable, Mortgagee shall mail Mortgagor notice of acceleration. Such Notice shall provide a period of not less than thirty (30) days from the date the notice is received by Mortgagor, for Mortgagor to pay the sums declared due. If Mortgagor fails to pay such sums prior to the expiration of such period, Mortgagee may without further notice or demand on Mortgagor, invoke any available legal remedies.

NONUNIFORM COVENANTS. Mortgagor and Mortgagee further covenant and agree as follows:

16. **Acceleration; Remedies.** Upon Mortgagor's breach of any covenant in this Mortgage, the HOME Funding Agreement referenced above or the Promissory Note, including the covenants to pay, when due, any sums secured by this Mortgage shall be accelerated. Mortgagee shall, prior to acceleration, mail notice to Mortgagor as provided in Paragraph 13 identifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than thirty (30) days from the date the notice is received by Mortgagor, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in any action in law or equity, as Mortgagee determines to be most effectual to enforce Mortgagor's obligations, including an action for specific performance, acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding, and sale of the Property. If the breach is not cured on or before the date specified in the notice, Mortgagee at its option may declare all the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Mortgagee shall be entitled to collect in such proceeding all expenses of foreclosure including, but not limited to, reasonable attorney's fees, court costs, costs of documentary evidence, abstracts, and title reports.

17. **Mortgagor's Right to Reinstate.** Notwithstanding Mortgagee's right to acceleration of the sums secured by this Mortgage, Mortgagor shall have the right to have any proceedings begun by Mortgagee to enforce this Mortgage discontinued at any time prior to an entry of a judgment enforcing this Mortgage if: (a) Mortgagor pays Mortgagee all sums which would be then due under this Mortgage had no acceleration occurred; (b) Mortgagor cures all breaches under this Mortgage including the Funding Agreement; (c) Mortgagor pays all reasonable expenses incurred by Mortgagee in enforcing the covenants and agreements of Mortgagor contained in this Mortgage and the Funding Agreement including, but not limited to, attorney's fees; and (d) Mortgagor takes such action as Mortgagee may reasonably require to

ensure that the lien of this Mortgage, Mortgagee's interest in the Property, and Mortgagor's obligation to pay the sums secured by this Mortgage and comply with the terms of the Funding Agreement shall remain in full force and effect.

18. **Default.** After the happening of any default, Mortgagor shall, upon demand of Mortgagee, surrender possession of the Property to Mortgagee, and Mortgagee may enter such property, and let the same, and collect all rents which are due or to become due, and apply the same, after payment of all charges and expenses on account of indebtedness secured by this Mortgage, and all such rents and all leases existing at the time of such default are assigned to Mortgagee as further security for the payment of the indebtedness secured, and Mortgagee may also dispossess, by the usual summary proceedings, any tenant defaulting in the payment of any rent to Mortgagee.

19. **Appointment of a Receiver.** In any action to foreclose this Mortgage, Mortgagee shall be entitled to the appointment of a receiver without notice, as a matter of right and without regard to the value of the Property, or the solvency or insolvency of Mortgagor or other party liable for the payment of the Promissory Note and other indebtedness secured by this Mortgage.

20. **Occupancy.** Mortgagor agrees and understands that the HOME funding is being loaned by Mortgagee to increase the availability of affordable multi-family residential rental units by complementing and expanding existing low income housing initiatives to reduce the cost of housing for Income Eligible Households. As a result, Mortgagor agrees to construct and use the Property as required by the rules and regulations of the United States Department of Housing and Urban Development for the HOME Investment Partnerships ("HOME") Program, and to ensure that all occupants of the HOME-assisted units are qualified as Income Eligible Households. HOME-assisted units shall mean the unit(s) that can receive HOME Funds based on required subsidy limits as set forth in 24 CFR Section 92.250, Subpart F. The term Income Eligible Households shall refer to a household, as defined in 24 CFR Section 92.2, consisting of a family, as defined in 24 CFR Section 5.403, with an annual anticipated gross income that does not exceed fifty percent (50%) of the median annual income for the area, as determined by HUD, with adjustments for family size for households within the metropolitan statistical area for CITY, or the non-metropolitan median for the State, whichever is greater.

21. **Transfer of the Property or a Beneficial Interest in Mortgagor.** "Interest in the Property" means any legal or beneficial interest in the Property including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Mortgagor at a future date to a purchaser.

If all or any part of the Property or any interest in the Property is sold or transferred without Mortgagee's prior written consent, Mortgagee shall require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Mortgagee if such exercise is prohibited by federal and state law.

If Mortgagee exercises this option, Mortgagee shall give Mortgagor notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is given in accordance with Paragraph 13 within which Mortgagor must pay all sums secured by this Mortgage. If Mortgagor fails to pay these sums prior to the expiration of this period, Mortgagee may invoke any remedies permitted by this Mortgage without further notice or demand on Mortgagor.

This Mortgage and all the covenants, terms and conditions herein contained shall be binding upon and inure to the benefit of the Mortgagor and the heirs, legal representatives and assigns of the Mortgagor, and to the extent permitted by law, every subsequent owner of the Mortgaged Property, and shall be binding and inure to the benefit of the Mortgagee and its assigns. If the Mortgagor, as defined herein, consists of two or more parties, this Mortgage shall constitute a grant and mortgage by all of them jointly and severally, and they shall be obligated jointly and severally under all the provisions hereof and under the Note. The word "Mortgagee" shall include any person, corporation, or other party who may from time to time be the holder of this Mortgage. Wherever used herein, the singular number shall include the plural, the plural

number shall include the singular, and the use of any gender shall be applicable to all genders wherever the sense requires.

22. **Mortgagor's Right to Reinstate After Acceleration.** If Mortgagor meets certain conditions set forth below, Mortgagor shall have the right to have enforcement of this Mortgage discontinued at any time prior to the earliest of (a) five (5) days before sale of the Property pursuant to any power of sale contained in this Mortgage; (b) such other period as federal and state law might specify for the termination of Mortgagor's right to reinstate; or (c) entry of a judgment enforcing this Mortgage. Such conditions require that Mortgagor (a) pays Mortgagee all sums due under this Mortgage and the Promissory Note as if no acceleration had occurred (b) cures any default of any other covenants of agreements; (c) pays all expenses incurred in enforcing this Mortgage including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Mortgagee's interest in the Property and rights under this Mortgage; and (d) takes such action as Mortgagee may reasonably require to assure that Mortgagee's interest in the Property and rights under this Mortgage, and Mortgagor's obligation to pay the sums secured by this Mortgage, shall continue unchanged. Mortgagee may require that Mortgagor pay such reinstatement sums and expenses in one or more of the following forms, as selected by Mortgagee: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check, or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, secured instrument, and obligations shall remain fully effective as if no acceleration had occurred.

Neither Mortgagor nor Mortgagee may commence, join, or be joined in any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Mortgage, or that alleges that the other party has breached any provision of, or any duty owed, by reason of this Mortgage, until such Mortgagor or Mortgagee has notified the other party of such alleged breach and afforded the other party a reasonable period after providing such notice to take corrective action. If Florida law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph.

23. **Hazardous Substances.** As used in this Section: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety, or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Mortgagor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Mortgagor shall not, nor permit anyone else to do anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two (2) sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Mortgagor shall promptly give Mortgagee written notice of (a) any investigation, claim, demand, lawsuit, or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Mortgagor has actual knowledge, (b) any Environmental Condition including, but not limited to, any spilling, leaking, discharge, release, or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use, or release of a Hazardous Substance which adversely affects the value of the Property. If Mortgagor learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Mortgagor shall promptly take all necessary

remedial actions in accordance with Environmental Law. Nothing in this Mortgage shall create any obligation on Mortgagee for an Environmental Cleanup.

24. **Satisfaction.** Upon payment or reduction of all sums secured by this Mortgage and performance of all requirements under the Funding Agreement, Mortgagee shall prepare and execute a Satisfaction of Mortgage. Mortgagor shall pay all costs of recordation, if any.

25. **Attorneys' Fees.** As used in this Mortgage and the Promissory Note, attorneys' fees shall include attorneys' fees awarded by a trial court, an appellate court, and incurred in a bankruptcy proceeding.

26. **Jury Trial Waiver.** Mortgagor waives any right to a trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of, or in any way related to, this Mortgage, the Funding Agreement, or the Promissory Note.

27. **Term of Mortgage.** The term of this Mortgage shall be thirty-two (32) years, consistent with the long-term affordability period of thirty (30) years following completion, as provided in the Promissory Note.

28. **Recordation.** This Mortgage shall be recorded in the Public Records of Broward County, Florida, immediately following execution, at Mortgagor's expense.

29. **Mortgagor's Copy.** Mortgagor shall be provided one (1) copy of the executed Promissory Note and this Mortgage.

(Remainder of Page Intentionally Left Blank)

BY SIGNING BELOW, Mortgagor accepts and agrees to the terms and covenants contained in this Mortgage and in any Rider executed by Mortgagor and recorded with it.

IN WITNESS WHEREOF, MORTGAGOR has executed this Mortgage.

WITNESSES:

PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership

Signature

By: PHG - Peacefield, LLC, a Florida limited liability company, its general partner

Print Name

By: _____
David O. Deutch, Vice President

Signature

Print Name

STATE OF _____)
) SS.
COUNTY OF _____)

I, the undersigned, a Notary Public, in and for said county in said state, hereby certify that David O. Deutch, the Vice President of PHG - Peacefield, LLC, a Florida limited liability company, which is the general partner of PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership, personally appeared before me and is known to me to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as the act of said limited liability company and limited partnership.

IN TESTIMONY WHEREOF, on this _____ day of _____, 2018, I have hereunto set my hand and affixed my official seal in the County and State aforesaid.

[NOTARIAL SEAL]

Notary Public

My commission expires:

RIDER TO MORTGAGE DATED _____, 20__, BETWEEN CITY OF HOLLYWOOD (the "Lender") AND PINNACLE AT PEACEFIELD, LTD., A FLORIDA LIMITED PARTNERSHIP (the "Borrower"), CONCERNING PROPERTY LOCATED IN THE CITY OF HOLLYWOOD, FLORIDA, COMMONLY KNOWN AS PINNACLE AT PEACEFIELD (the "Project")

The Lender agrees to the following terms set forth in this Rider with respect to the \$144,000 CITY's Remaining Loan Funds to the Borrower (the "Loan").

The Lender will give Citibank, N.A., together with its successors and assigns, (the "Investor Limited Partner") a copy of any written notice it gives to the Borrower under the Loan Documents, at the following address:

Citibank, N.A.
388 Greenwich St, 8th Floor
New York, NY 10013
Attention: Mark Sherman

Nixon Peabody LLP
779 9th Street, NW, Suite 500
Washington, DC 20001-4501
Attention: Matthew W. Mullen

TCAM
30 Federal Street, 6th Floor
Boston, MA 02110-2508
Attention: Jenny Netzer

The Lender will give the Investor Limited Partner ten (10) days after the Investor Limited Partner's receipt of such notice to cure a non-payment of any sum due under the Loan Documents.

The Lender will give the Investor Limited Partner thirty (30) days after the Investor Limited Partner's receipt of such notice to cure any other default under the Loan Documents.

If a default is incapable of being cured within thirty (30) days, the Lender will give the Investor Limited Partner such additional time as is reasonably necessary to cure such default provided it has commenced to cure such default within thirty (30) days and diligently proceeds to cure such default.

If the Investor Limited Partner makes any such payment or otherwise cures such default, the Lender will accept such action as curing the respective default under the Loan Documents.

The Lender will permit the Investor Limited Partner to transfer its limited partnership interest in Borrower to any person or entity at any time provided that, if at such the Investor Limited Partner has not made 100% of the capital contributions it is required to make to the Borrower, the Investor Limited Partner shall only have the ability to transfer its investor interest to an organization that has experience investing in low-income housing tax credits within the State of Florida. Investor Limited Partner shall provide the Lender with prompt written notice of such transfer.

With written notice provided to the Lender, the Lender will permit the Investor Limited Partner to remove the general partner of the Borrower in accordance with the Borrower's amended and restated agreement of limited partnership, provided that the substitute general partner shall be acceptable to the Lender in its reasonable discretion. An affiliate of the Investor Limited Partner shall be an acceptable substitute general partner.

Investor Limited Partner is intended to be a direct beneficiary of the covenants set forth in this Rider and shall be entitled to bring an action to enforce the same independent of any rights of the Borrower.

This Rider may be executed in multiple counterparts, each of which shall be deemed to be an original.

CITY OF HOLLYWOOD, a municipal
corporation of the State of Florida

BY: _____
JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED BY:

CINTYA RAMOS, DIRECTOR
DEPARTMENT OF FINANCIAL
SERVICES

APPROVED AS TO FORM & LEGAL
SUFFICIENCY FOR THE USE AND RELIANCE
OF THE CITY OF HOLLYWOOD, FLORIDA, ONLY.

DOUGLAS R. GONZALES, CITY ATTORNEY

**PINNACLE AT PEACEFIELD, LTD., a
Florida limited partnership**

**By: PHG-Peacefield, LLC, a Florida
limited liability company, its general
partner**

**By: _____
David O. Deutch, Vice President**

ATTACHMENT "A" TO EXHIBIT "D-4" - PROMISSORY NOTE

CITY PROMISSORY NOTE

CITY OF HOLLYWOOD, FLORIDA

FOR VALUE RECEIVED the undersigned, PINNACLE AT PEACEFIELD, LTD, a Florida limited partnership ("MAKER"), promises to pay to the order of THE CITY OF HOLLYWOOD, FLORIDA, a municipal corporation, together with any other holder ("HOLDER") at 2600 Hollywood Blvd., Hollywood, FL 33020, or such other place as HOLDER may from time to time designate in writing, an amount up to One Hundred Forty-Four Dollars and 00/100 Cents (\$144,000.00) in City remaining loan funds, to be paid in lawful money of the United States of America, as follows:

1. The Property securing such transaction is legally described as: See Exhibit "A" attached.
2. The Loan being provided by HOLDER to MAKER under this Promissory Note is a non-interest bearing deferred payment recourse Loan, which amounts shall be paid by HOLDER to MAKER on a reimbursement basis for Eligible Costs as defined in and in such a manner as provided in the Agreement entered into by HOLDER and MAKER dated _____, 20__, ("Funding Agreement"), incorporated herein by reference.
4. No payments shall be due under this Promissory Note and the Loan shall be deferred until the thirty-second (32nd) anniversary date of the execution of this Promissory Note by MAKER (the "Maturity Date"), which Maturity Date may be extended in the Mortgagee's sole and absolute discretion as set forth in this Section 4 unless an Acceleration Event (as hereinafter defined) occurs. Upon the earlier of (i) the Maturity Date, or (ii) an Acceleration Event, the total amount of CITY Funds provided to MAKER by HOLDER shall be due and payable to HOLDER under this Promissory Note. Notwithstanding anything contained herein to the contrary, any and all amounts due on the Maturity Date may be forgiven in the sole and absolute discretion of HOLDER.
5. If MAKER fails to utilize the Property for the purpose stated in the Mortgage or the Funding Agreement, or fails to comply with the terms and conditions of the Mortgage or the Funding Agreement (each deemed an "Acceleration Event"), including the thirty (30) year Affordability Period relative to the Project (as defined in the Funding Agreement), which commences on Project Completion, such Acceleration Event shall constitute an event of default under this Promissory Note. Project Completion means all necessary title transfer requirements (if applicable) and all construction work have been performed. In such event, the total amount of CITY Remaining Loan Funds previously provided to MAKER under this Promissory Note shall become due and payable to HOLDER at the address specified in the Funding Agreement after MAKER is given notice and a demand to cure as provided in Paragraph 16 of the Mortgage.

Upon default by Maker of any provisions of this obligation or any other obligations encumbering the subject property, terms and conditions of which are set forth in the Mortgage securing this Note, the City may accelerate the balance due and owing by Mortgagor and may avail itself of any and all remedies provided in the Mortgage, including but not limited to acceptance of any payments on the accelerated balance in the amount determined by the City, and Maker recognizes that the City's claim for the accelerated balance is a secured claim for the entire sum then and owing.

6. Notwithstanding Section 4 hereof, if MAKER transfers title to the Property without HOLDER's written consent as provided in Paragraph 21 of the Mortgage, the total amount of CITY Funds previously provided to MAKER under this Promissory Note shall immediately become due and payable to HOLDER as provided in Paragraph 15 of the Mortgage, at the address specified in the Funding Agreement.

7. If a lawsuit is instituted by HOLDER to recover under this Promissory Note, MAKER agrees to pay all costs of such collection including, but not limited to, reasonable attorney's fees and court costs. If this

Promissory Note is reduced to judgment, such judgment shall bear the statutory interest rate on judgments set forth in Section 55.03, Florida Statutes.

8. This Promissory Note is secured by the Mortgage executed by MAKER to Holder, of even date herewith, and recorded in the Official Public Records of Broward County, Florida.

9. Demand, protest, and notice of demand and protest are waived and the undersigned waives, to the extent authorized by law, any and all homestead and other exemption rights which otherwise would apply to the debt evidenced by this Promissory Note.

IN WITNESS WHEREOF, MAKER executed this Promissory Note this ____ day of _____ 2018.

WITNESSES:

PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership

Signature

By: PHG - Peacefield, LLC, a Florida limited liability company, its general partner

Print Name

By: _____
David O. Deutch, Vice President

Signature

Print Name

STATE OF _____)
) SS.
COUNTY OF _____)

I, the undersigned, a Notary Public, in and for said county in said state, hereby certify that David O. Deutch, the Vice President of PHG - Peacefield, LLC, a Florida limited liability company, which is the general partner of PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership, personally appeared before me and is known to me to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as the act of said limited liability company and limited partnership.

IN TESTIMONY WHEREOF, on this _____ day of _____, 2018, I have hereunto set my hand and affixed my official seal in the County and State aforesaid.

[NOTARIAL SEAL]

Notary Public

My commission expires:

EXHIBIT "A"

Legal Description

All of Lots 13 Through 17 and Lots 19 Through 21, Block 1, Amended Plat of Hollywood Little Ranches, according to the Plat thereof, as recorded in Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Together with:

All of Lots 9 through 19, W.B. Symmes Subdivision, according to the plat thereof, as Recorded In Plat Book 7, on page 7 of the Public Records Of Broward County, Florida.

Also together with:

The West 330.00 feet of Lots 4 and 5, Block M, amended plat of Hollywood Little Ranches, according to the Plat thereof, as recorded in Plat Book 1, on Page 26 of the Public Records of Broward County, Florida.

Said lands situate, lying and being in The City of Hollywood, Broward County, Florida containing 241,550 Square Feet (5.54 Acres) more or less.

EXHIBIT "D-5"

Prepared by, and after recording
return to:

SUBORDINATION AGREEMENT

GOVERNMENTAL ENTITY

(Revised 10-1-2018)

Freddie Mac Loan Number: _____
Property Name: _____

SUBORDINATION AGREEMENT

GOVERNMENTAL ENTITY

(Revised 10-30-2018)

THIS SUBORDINATION AGREEMENT (“**Agreement**”) is entered into this ____ day of _____, 20 __, by and between (i) **CITIBANK, N.A.**, a national banking association (“**Senior Lender**”) and (ii) **THE CITY OF HOLLYWOOD**, a municipal corporation organized and existing under the laws of the State of Florida (“**Subordinate Lender**”).

RECITALS

- A. Pinnacle at Peacefield, Ltd., a limited partnership organized under the laws of the State of Florida (“**Borrower**”) is the owner of certain land located in Broward County, Florida, described in Exhibit A (“**Land**”). The Land is improved with a multifamily rental housing project (“**Improvements**”).
- B. Senior Lender has made or is making a loan to Borrower in the original principal amount of [**\$22,200,000 as to construction loan and \$3,500,000 as to the permanent loan**] (“**Senior Loan**”) upon the terms and conditions of a [**Construction Loan Agreement (as to the construction loan) and Multifamily Loan and Security Agreement (as to the permanent loan)**] dated as of _____ between Senior Lender and Borrower (“**Senior Loan Agreement**”) in connection with the Mortgaged Property. The Senior Loan is secured by a Multifamily Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date of the Senior Loan Agreement (“**Senior Mortgage**”) encumbering the Land, the Improvements and related personal and other property described and defined in the Senior Mortgage as the “**Mortgaged Property**.”
- C. Pursuant to an Agreement Providing HOME, NSP-1 Program Funds and CITY funds dated [as of] _____ between Subordinate Lender and Borrower (“**Subordinate Loan Agreement**”), Subordinate Lender has made or is making a loan to Borrower in the original principal amount of [**\$84,000 as to HOME, \$350,000 as to NSP-1, and \$144,000 as to CITY Remaining Loan Funds**] (“**Subordinate Loan**”). The Subordinate Loan is or will be evidenced a Promissory Note in the original principal amount of [**\$84,000 as to HOME, \$350,000 as to NSP-1, and \$144,000 CITY Remaining Loan Funds**] payable to the order of Subordinate Lender and secured by a [**HOME Mortgage (as to HOME Loan) and NSP-1 Mortgage (as to NSP-1 Loan) and CITY Mortgage (as to City Remaining Loan Funds)**] dated [as of] _____ (“**Subordinate Mortgage**”) encumbering all or a portion of the Mortgaged Property.

- D. The Senior Mortgage [is] [will be] recorded in the Public Records of Broward County, Florida (“**Recording Office**”) at [INSERT RECORDING INFORMATION IF KNOWN]. The Subordinate Mortgage [is] [will be] recorded in the Recording Office at [INSERT RECORDING INFORMATION IF KNOWN] [INCLUDE IF SUBORDINATE MORTGAGE IS NOT ALREADY OF RECORD: following the recording of the Senior Mortgage].
- E. The execution and delivery of this Agreement is a condition of Senior Lender’s making of the Senior Loan.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **Definitions.** The following terms, when used in this Agreement (including, as appropriate, when used in the above recitals), will have the following meanings:

The terms “**Condemnation**,” “**Imposition Deposits**,” “**Impositions**,” “**Leases**,” “**Rents**” and “**Restoration**,” as well as any term used in this Agreement and not otherwise defined in this Agreement, will have the meanings given to those terms in the Senior Loan Agreement.

“**Bankruptcy Proceeding**” means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

“**Borrower**” means all persons or entities identified as “Borrower” in the first Recital of this Agreement, together with their successors and assigns, and any other person or entity who acquires title to the Mortgaged Property after the date of this Agreement; provided that the term “Borrower” will not include Senior Lender if Senior Lender acquires title to the Mortgaged Property.

“**Casualty**” means the occurrence of damage to or loss of all or any portion of the Mortgaged Property by fire or other casualty.

“**Enforcement Action**” means any of the following actions taken by or at the direction of Subordinate Lender: the acceleration of all or any part of the Subordinate Indebtedness, the advertising of or commencement of any foreclosure or trustee’s sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of Rents, the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Mortgaged

Property, the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Subordinate Note or any other of the Subordinate Loan Documents, the exercising of any banker's lien or rights of set-off or recoupment, or the exercise of any other remedial action against Borrower, any other party liable for any of the Subordinate Indebtedness or obligated under any of the Subordinate Loan Documents, or the Mortgaged Property.

"Enforcement Action Notice" means a Notice given from Subordinate Lender to Senior Lender following one or more Subordinate Mortgage Default(s) and the expiration of any applicable notice or cure periods, setting forth in reasonable detail the Subordinate Mortgage Default(s) and the Enforcement Actions proposed to be taken by Subordinate Lender.

"Lien" means any lien, encumbrance, estate or other interest, recorded against or secured by the Mortgaged Property.

"Loss Proceeds" means all monies received or to be received under any insurance policy, from any condemning authority, or from any other source, as a result of any Condemnation or Casualty.

"Notice" means all notices, requests, demands, consents, approvals or other communication pursuant to this Agreement provided in accordance with the provisions of Section 10.

"Regulatory Agreement" means the Declaration of Restrictive Covenants for Multifamily Units between Borrower and Subordinate Lender dated [as of] _____, _____ and [recorded] [to be recorded] [at] [INSERT RECORDING INFORMATION IF AVAILABLE] in the Recording Office of Broward, County, Florida.

"Senior Indebtedness" means the "Indebtedness" as defined in the Senior Loan Agreement.

"Senior Lender" means the "Lender" as defined in the Senior Mortgage. When any other person or entity becomes the legal holder of the Senior Note, such other person or entity will automatically become Senior Lender.

"Senior Loan Documents" means the "Loan Documents" as defined in the Senior Loan Agreement, as such documents may be amended.

"Senior Mortgage Default" means any act, failure to act, event, condition, or occurrence which constitutes, or which with the giving of Notice or the passage of time, or both, would constitute, an "Event of Default" as defined in the Senior Loan Agreement.

"Senior Note" means the promissory note or other evidence of the Senior Indebtedness and any replacement of the Senior Note.

“Subordinate Indebtedness” means all sums evidenced or secured or guaranteed by, or otherwise due and payable to Subordinate Lender pursuant to, the Subordinate Loan Documents.

“Subordinate Lender” means the person or entity named as such in the first paragraph of this Agreement and any other person or entity who becomes the legal holder of the Subordinate Note after the date of this Agreement.

“Subordinate Loan Documents” means the Subordinate Mortgage, the Subordinate Note, the Subordinate Loan Agreement, the Regulatory Agreement and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Subordinate Indebtedness, as such documents may be amended.

“Subordinate Mortgage Default” means any act, failure to act, event, condition, or occurrence which allows (but for any contrary provision of this Agreement), Subordinate Lender to take an Enforcement Action.

“Subordinate Note” means the promissory note or other evidence of the Subordinate Indebtedness and any replacement of the Subordinate Note.

“Surplus Cash” means, with respect to any period, any revenues of Borrower remaining after paying, or setting aside funds for paying, all the following:

- (a) All sums due or currently required to be paid under the Senior Loan Documents, including any reserves and Imposition Deposits.
- (b) All reasonable operating expenses of the Mortgaged Property, including real estate taxes, insurance premiums, utilities, building maintenance, painting and repairs, management fees, payroll, administrative expenses, legal expenses and audit expenses (excluding any developer fees payable with respect to the Mortgaged Property).

2. Subordinate Lender’s Representations and Warranties.

- (a) Subordinate Lender represents and warrants that each of the following is true as of the date of this Agreement:
 - (i) Subordinate Lender is now the owner and holder of the Subordinate Loan Documents.
 - (ii) No Subordinate Mortgage Default has occurred and is continuing.
 - (iii) The current unpaid principal balance of the Subordinate Indebtedness is \$_____.
 - (iv) No scheduled payments under the Subordinate Note have been prepaid.

- (b) Without the prior written consent of Senior Lender, Subordinate Lender will not do any of the following:
 - (i) Pledge, assign, transfer, convey, or sell any interest in the Subordinate Indebtedness or any of the Subordinate Loan Documents.
 - (ii) Take any action which has the effect of increasing the Subordinate Indebtedness, except to cure a Senior Mortgage Default as contemplated under Section 5(a) of this Agreement.
 - (iii) Accept any prepayment of the Subordinate Indebtedness.

3. Terms of Subordination.

- (a) Agreement to Subordinate. The Subordinate Indebtedness is and will at all times continue to be subject and subordinate in right of payment to the prior payment in full of the Senior Indebtedness. Each of the Subordinate Loan Documents is, and will at all times remain, subject and subordinate in all respects to the liens, terms, covenants, conditions, operations, and effects of each of the Senior Loan Documents.
- (b) Subordination of Subrogation Rights. If Subordinate Lender, by indemnification, subrogation or otherwise, acquires any Lien on any of the Mortgaged Property, then that Lien will be fully subject and subordinate to the receipt by Senior Lender of payment in full of the Senior Indebtedness, and to the Senior Loan Documents, to the same extent as the Subordinate Indebtedness and the Subordinate Loan Documents are subordinate pursuant to this Agreement.
- (c) Payments Before Senior Loan Default. Until the occurrence of a Senior Mortgage Default, Subordinate Lender will be entitled to retain for its own account all payments of the principal of and interest on the Subordinate Indebtedness pursuant to the Subordinate Loan Documents; provided that Subordinate Lender expressly agrees that it will not accept any such payment that is made more than 10 days in advance of its due date and provided further that Subordinate Lender will not accept any payment in an amount that exceeds 75% of then available Surplus Cash.
- (d) Payments After Senior Loan Default or Bankruptcy.
 - (i) Immediately upon Subordinate Lender's receipt of Notice or actual knowledge of a Senior Mortgage Default, Subordinate Lender will not accept any payments of the Subordinate Indebtedness, and the provisions of Section 3(d) of this Agreement will apply.
 - (ii) If Subordinate Lender receives any of the following, whether voluntarily or by action of law, after a Senior Mortgage Default of which Subordinate

Lender has actual knowledge (or is deemed to have actual knowledge as provided in Section 4(c)) or has been given Notice, such will be received and held in trust for Senior Lender:

- (A) Any payment, property, or asset of any kind or in any form in connection with the Subordinate Indebtedness.
 - (B) Any proceeds from any Enforcement Action.
 - (C) Any payment, property, or asset in or in connection with any Bankruptcy Proceeding.
- (iii) Subordinate Lender will promptly remit, in kind and properly endorsed as necessary, all such payments, properties, and assets described in Section 3(d)(ii) to Senior Lender. Senior Lender will apply any payment, asset, or property so received from Subordinate Lender to the Senior Indebtedness in such order, amount (with respect to any asset or property other than immediately available funds), and manner as Senior Lender determines in its sole and absolute discretion.
- (e) Bankruptcy. Without the prior written consent of Senior Lender, Subordinate Lender will not commence, or join with any other creditor in commencing, any Bankruptcy Proceeding. In the event of a Bankruptcy Proceeding, Subordinate Lender will not vote affirmatively in favor of any plan of reorganization or liquidation unless Senior Lender has also voted affirmatively in favor of such plan.

4. Default Under Subordinate Loan Documents.

- (a) Notice of Subordinate Loan Default and Cure Rights.
- (i) Subordinate Lender will deliver to Senior Lender a copy of each Notice delivered by Subordinate Lender pursuant to the Subordinate Loan Documents within 5 Business Days of sending such Notice to Borrower. Neither giving nor failing to give a Notice to Senior Lender pursuant to this Section 4(a) will affect the validity of any Notice given by Subordinate Lender to Borrower.
 - (ii) For a period of 90 days following delivery to Senior Lender of an Enforcement Action Notice, Senior Lender will have the right, but not the obligation, to cure any Subordinate Mortgage Default. However, if such Subordinate Mortgage Default is a non-monetary default and is not capable of being cured within such 90-day period and Senior Lender has commenced and is diligently pursuing such cure to completion, Senior Lender will have such additional period of time as may be required to cure such Subordinate Mortgage Default or until such time, if ever, as Senior Lender takes either of the following actions:

- (A) Discontinues its pursuit of any cure.
 - (B) Delivers to Subordinate Lender Senior Lender's written consent to the Enforcement Action described in the Enforcement Action Notice.
- (iii) Senior Lender will not be subrogated to the rights of Subordinate Lender under the Subordinate Loan Documents as a result of Senior Lender having cured any Subordinate Mortgage Default.
- (iv) Subordinate Lender acknowledges that all amounts advanced or expended by Senior Lender in accordance with the Senior Loan Documents or to cure a Subordinate Mortgage Default will be added to and become a part of the Senior Indebtedness and will be secured by the lien of the Senior Mortgage.
- (b) Subordinate Lender's Exercise of Remedies After Notice to Senior Lender.
- (i) In the event of a Subordinate Mortgage Default, Subordinate Lender will not commence any Enforcement Action until 90 days after Subordinate Lender has delivered to Senior Lender an Enforcement Action Notice. During such 90-day period or such longer period as provided in Section 4(a), Subordinate Lender will be entitled to seek specific performance to enforce covenants and agreements of Borrower relating to income, rent, or affordability restrictions contained in the Regulatory Agreement, subject to Senior Lender's right to cure a Subordinate Mortgage Default set forth in Section 4(a).
 - (ii) Subordinate Lender may not commence any other Enforcement Action, including any foreclosure action under the Subordinate Loan Documents, until the earlier of:
 - (A) The expiration of such 90-day period or such longer period as provided in Section 4(a).
 - (B) The delivery by Senior Lender to Subordinate Lender of Senior Lender's written consent to such Enforcement Action by Subordinate Lender.
 - (iii) Subordinate Lender acknowledges that Senior Lender may grant or refuse consent to Subordinate Lender's Enforcement Action in Senior Lender's sole and absolute discretion. At the expiration of such 90-day period or such longer period as provided in Section 4(a) and, subject to Senior Lender's right to cure set forth in Section 4(a), Subordinate Lender may commence any Enforcement Action.

- (iv) Senior Lender may pursue all rights and remedies available to it under the Senior Loan Documents, at law, or in equity, regardless of any Enforcement Action Notice or Enforcement Action by Subordinate Lender. No action or failure to act on the part of Senior Lender in the event of a Subordinate Mortgage Default or commencement of an Enforcement Action will constitute a waiver on the part of Senior Lender of any provision of the Senior Loan Documents or this Agreement.

- (c) Cross Default. Subordinate Lender acknowledges that a Subordinate Mortgage Default constitutes a Senior Mortgage Default. Accordingly, upon the occurrence of a Subordinate Mortgage Default, Subordinate Lender will be deemed to have actual knowledge of a Senior Mortgage Default. If Subordinate Lender notifies Senior Lender in writing that any Subordinate Loan Default of which Senior Lender has received Notice has been cured or waived, as determined by Subordinate Lender in its sole discretion, then provided that Senior Lender has not conducted a sale of the Mortgaged Property pursuant to its rights under the Senior Loan Documents, any Senior Loan Default under the Senior Loan Documents arising solely from such Subordinate Loan Default will be deemed cured, and the Senior Loan will be reinstated.

5. Default Under Senior Loan Documents.

- (a) Notice of Senior Loan Default and Cure Rights.
 - (i) Senior Lender will deliver to Subordinate Lender a copy of any Notice sent by Senior Lender to Borrower of a Senior Mortgage Default within 5 Business Days of sending such Notice to Borrower. Failure of Senior Lender to send Notice to Subordinate Lender will not prevent the exercise of Senior Lender's rights and remedies under the Senior Loan Documents.
 - (ii) Subordinate Lender will have the right, but not the obligation, to cure any monetary Senior Mortgage Default within 30 days following the date of such Notice. During such 30-day period Senior Lender will be entitled to continue to pursue its remedies under the Senior Loan Documents.
 - (iii) Subordinate Lender may, within 90 days after the date of the Notice, cure a non-monetary Senior Mortgage Default if during such 90-day period, Subordinate Lender keeps current all payments required under the Senior Loan Documents. If such a non-monetary Senior Mortgage Default creates an unacceptable level of risk relative to the Mortgaged Property, or Senior Lender's secured position relative to the Mortgaged Property, as determined by Senior Lender in its sole discretion, then during such 90-day period Senior Lender may exercise all available rights and remedies to protect and preserve the Mortgaged Property and the Rents, revenues and other proceeds from the Mortgaged Property.

- (iv) All amounts paid by Subordinate Lender to Senior Lender to cure a Senior Mortgage Default will be deemed to have been advanced by Subordinate Lender pursuant to, and will be secured by the lien of, the Subordinate Mortgage. Notwithstanding anything in this Section 5(a) to the contrary, Subordinate Lender's right to cure any Senior Mortgage Default will terminate immediately upon the occurrence of any Bankruptcy Proceeding.

(b) Release of Mortgaged Property.

- (i) Subordinate Lender consents to and authorizes any future release by Senior Lender of all or any portion of the Mortgaged Property from the lien, operation, and effect of the Senior Loan Documents. Subordinate Lender waives to the fullest extent permitted by law, all equitable or other rights it may have in connection with the release of all or any portion of the Mortgaged Property, including any right to require Senior Lender to do any of the following:
 - (A) To conduct a separate sale of any portion of the Mortgaged Property.
 - (B) To exhaust its remedies against all or any portion of the Mortgaged Property or any combination of portions of the Mortgaged Property or any other collateral for the Senior Indebtedness.
 - (C) To proceed against Borrower, any other party that may be liable for any of the Senior Indebtedness (including any general partner of Borrower if Borrower is a partnership), all or any portion of the Mortgaged Property or combination of portions of the Mortgaged Property or any other collateral, before proceeding against all or such portions or combination of portions of the Mortgaged Property as Senior Lender determines.
- (ii) Subordinate Lender consents to and authorizes, at the option of Senior Lender, the sale, either separately or together, of all or any portion of the Mortgaged Property. Subordinate Lender acknowledges that without Notice to Subordinate Lender and without affecting any of the provisions of this Agreement, Senior Lender may do any of the following:
 - (A) Extend the time for or waive any payment or performance under the Senior Loan Documents.
 - (B) Modify or amend in any respect any provision of the Senior Loan Documents.
 - (C) Modify, exchange, surrender, release, and otherwise deal with any additional collateral for the Senior Indebtedness.

6. **Conflicts.** If there is any conflict or inconsistency between the terms of the Subordinate Loan Documents and the terms of this Agreement, then the terms of this Agreement will control. Borrower acknowledges that the terms and provisions of this Agreement will not, and will not be deemed to do any of the following:
- (a) Extend Borrower's time to cure any Senior Loan Default or Subordinate Loan Default.
 - (b) Give Borrower the right to receive notice of any Senior Loan Default or Subordinate Loan Default, other than that, if any, provided, respectively under the Senior Loan Documents of the Subordinate Loan Documents.
 - (c) Create any other right or benefit for Borrower as against Senior Lender or Subordinate Lender.

7. **Rights and Obligations of Subordinate Lender Under the Subordinate Loan Documents and of Senior Lender under the Senior Loan Documents.**

- (a) Insurance.
 - (i) All requirements pertaining to insurance under the Subordinate Loan Documents (including requirements relating to amounts and types of coverages, deductibles and special endorsements) will be deemed satisfied if Borrower complies with the insurance requirements under the Senior Loan Documents and of Senior Lender.
 - (ii) All original policies of insurance required pursuant to the Senior Loan Documents will be held by Senior Lender.
 - (iii) Nothing in this Section 7(a) will preclude Subordinate Lender from requiring that it be named as a mortgagee and loss payee, as its interest may appear, under all policies of property damage insurance maintained by Borrower with respect to the Mortgaged Property, provided such action does not affect the priority of payment of Loss Proceeds, or that Subordinate Lender be named as an additional insured under all policies of liability insurance maintained by Borrower with respect to the Mortgaged Property.

- (b) Condemnation or Casualty.

In the event of a Condemnation or a Casualty, the following provisions will apply:

- (i) The rights of Subordinate Lender (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Condemnation or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Condemnation or a Casualty, will be and remain subordinate in all respects to Senior Lender's rights under

the Senior Loan Documents, and Subordinate Lender will be bound by any settlement or adjustment of a claim resulting from a Condemnation or a Casualty made by Senior Lender.

- (ii) All Loss Proceeds will be applied either to payment of the costs and expenses of Restoration or to payment on account of the Senior Indebtedness, as and in the manner determined by Senior Lender in its sole discretion; provided however, Senior Lender agrees to consult with Subordinate Lender in determining the application of Casualty proceeds. In the event of any disagreement between Senior Lender and Subordinate Lender over the application of Casualty proceeds, the decision of Senior Lender, in its sole discretion, will prevail.
 - (iii) If Senior Lender holds Loss Proceeds, or monitors the disbursement of Loss Proceeds, Subordinate Lender will not do so. Nothing contained in this Agreement will be deemed to require Senior Lender to act for or on behalf of Subordinate Lender in connection with any Restoration or to hold or monitor any Loss Proceeds in trust for or otherwise on behalf of Subordinate Lender, and all or any Loss Proceeds may be commingled with any funds of Senior Lender.
 - (iv) If Senior Lender elects to apply Loss Proceeds to payment on account of the Senior Indebtedness, and if the application of such Loss Proceeds results in the payment in full of the entire Senior Indebtedness, any remaining Loss Proceeds held by Senior Lender will be paid to Subordinate Lender unless another party has asserted a claim to the remaining Loss Proceeds.
- (c) Modification of Subordinate Loan Documents. Subordinate Lender agrees that, until the principal of, interest on and all other amounts payable under the Senior Loan Documents have been paid in full, it will not, without the prior written consent of Senior Lender, 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 Senior Lender under the Senior Loan Documents. If Subordinate Lender either (i) amends the Subordinate Loan Documents in the manner set forth above or (ii) assigns the Subordinate Loan without Senior Lender's consent then such amendment or assignment will be void ab initio and of no effect whatsoever.
- (d) Modification of Senior Loan Documents. Senior Lender may amend, waive, postpone, extend, renew, replace, reduce or otherwise modify any provisions of the Senior Loan Documents without the necessity of obtaining the consent of or providing Notice to Subordinate Lender, and without affecting any of the provisions of this Agreement. Notwithstanding the foregoing, Senior Lender may not modify any provision of the Senior Loan Documents that increases the Senior Indebtedness, except for increases in the Senior Indebtedness that result from

advances made by Senior Lender to protect the security or lien priority of Senior Lender under the Senior Loan Documents or to cure defaults under the Subordinate Loan Documents.

- (e) Commercial or Retail Leases. If requested, Subordinate Lender will enter into attornment and non-disturbance agreements with all tenants under commercial or retail Leases, if any, to whom Senior Lender has granted attornment and non-disturbance, on the same terms and conditions given by Senior Lender.
 - (f) Consent Rights. Whenever the Subordinate Loan Documents give Subordinate Lender approval or consent rights with respect to any matter, and a right of approval or consent for the same or substantially the same matter is also granted to Senior Lender pursuant to the Senior Loan Documents or otherwise, Senior Lender's approval or consent or failure to approve or consent will be binding on Subordinate Lender. None of the other provisions of Section 7 are intended to be in any way in limitation of the provisions of this Section 7(f).
 - (g) Escrows. Except as provided in this Section 7(g), and regardless of any contrary provision in the Subordinate Loan Documents, Subordinate Lender will not collect any escrows for any cost or expense related to the Mortgaged Property or for any portion of the Subordinate Indebtedness. However, if Senior Lender is not collecting escrow payments for one or more Impositions, Subordinate Lender may collect escrow payments for such Impositions; provided that all payments so collected by Subordinate Lender will be held in trust by Subordinate Lender to be applied only to the payment of such Impositions.
 - (h) Certification. Within 10 days after request by Senior Lender, Subordinate Lender will furnish Senior Lender with a statement, duly acknowledged and certified setting forth the then-current amount and terms of the Subordinate Indebtedness, confirming that there exists no default under the Subordinate Loan Documents (or describing any default that does exist), and certifying to such other information with respect to the Subordinate Indebtedness as Senior Lender may request.
8. **Refinancing**. Subordinate Lender agrees that its agreement to subordinate under this Agreement will extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Indebtedness (including reasonable and necessary costs associated with the closing and/or the refinancing, and any reasonable increase in proceeds for rehabilitation in the context of a preservation transaction). All terms and covenants of this Agreement will inure to the benefit of any holder of any such refinanced debt, and all references to the Senior Loan Documents and Senior Lender will mean, respectively, the refinance loan documents and the holder of such refinanced debt.
9. **Governmental Powers**. Nothing in this Agreement is intended, nor will it be construed, to in any way limit the exercise by Subordinate Lender of its governmental powers (including police, regulatory and taxing powers) with respect to Borrower or the Mortgaged

Property to the same extent as if it were not a party to this Agreement or the transactions contemplated by this Agreement.

10. Notices.

- (a) Any Notice required or permitted to be given pursuant to this Agreement will be in writing and will be deemed to have been duly and sufficiently given if (i) personally delivered with proof of delivery (any Notice so delivered will be deemed to have been received at the time so delivered), or (ii) sent by a national overnight courier service (such as FedEx) designating earliest available delivery (any Notice so delivered will be deemed to have been received on the next Business Day following receipt by the courier), or (iii) 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 will be deemed to have been received on the date of delivery as confirmed by the return receipt), addressed to the respective parties as follows:

Notices intended for Senior Lender will be addressed to:

[Name]
[Address]
Attention:

Notices intended for Subordinate Lender will be addressed to:

[Name]
[Address]
Attention:

Copies of any notices given by or to either Senior Lender or Subordinate Lender shall be simultaneously given to Borrower and Citibank, N.A., as Borrower's Investor Limited Partner addressed to:

Pinnacle at Peacefield, Ltd.
9400 S. Dadeland Blvd., Suite 100
Miami, FL 33156
Attention: David O. Deutch

Citibank, N.A.
388 Greenwich St, 8th Floor
New York, NY 10013
Attention: Mark Sherman

Nixon Peabody LLP
779 9th Street, NW, Suite 500
Washington, DC 20001-4501

Attention: Matthew W. Mullen

TCAM
30 Federal Street, 6th Floor
Boston, MA 02110-2508
Attention: Jenny Netzer

- (b) Any party, by Notice given pursuant to this Section 10, may 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 will only be effective upon receipt. Neither party will refuse or reject delivery of any Notice given in accordance with this Section 10.

11. Miscellaneous Provisions.

- (a) Assignments/Successors. This Agreement will be binding upon and will inure to the benefit of the respective legal successors and permitted assigns of the parties to this Agreement. No other party will be entitled to any benefits under this Agreement, whether as a third-party beneficiary or otherwise. This Agreement may be assigned at any time by Senior Lender to any subsequent holder of the Senior Note.
- (b) No Partnership or Joint Venture. Nothing in this Agreement or in any of the Senior Loan Documents or Subordinate Loan Documents will be deemed to constitute Senior Lender as a joint venturer or partner of Subordinate Lender.
- (c) Further Assurances. Upon Notice from Senior Lender, Subordinate Lender will execute and deliver such additional instruments and documents, and will take such actions, as are required by Senior Lender to further evidence or implement the provisions and intent of this Agreement.
- (d) Amendment. This Agreement may be amended, changed, modified, altered or terminated only by a written instrument signed by the parties to this Agreement or their successors or assigns.
- (e) Governing Law. This Agreement will be governed by the laws of the State in which the Land is located.
- (f) Severable Provisions. If any one or more of the provisions contained in this Agreement, or any application of any such provisions, is invalid, illegal, or unenforceable in any respect, the validity, legality, enforceability, and application of the remaining provisions contained in this Agreement will not in any way be affected or impaired.
- (g) Term. The term of this Agreement will commence on the date of this Agreement and will continue until the earliest to occur of the following events:

- (i) The payment of all the Senior Indebtedness; provided that this Agreement will be reinstated in the event any payment on account of the Senior Indebtedness is avoided, set aside, rescinded or repaid by Senior Lender as described in Section 2(e) of this Agreement.
 - (ii) The payment of all the Subordinate Indebtedness other than by reason of payments which Subordinate Lender is obligated to remit to Senior Lender pursuant to this Agreement.
 - (iii) The acquisition by Senior Lender or by a third-party purchaser of title to the Mortgaged Property pursuant to a foreclosure of, deed in lieu of foreclosure, or trustee's sale or other exercise of a power of sale or similar disposition under the Senior Mortgage.
 - (iv) With the prior written consent of Senior Lender, without limiting the provisions of Section 5(d), the acquisition by Subordinate Lender of title to the Mortgaged Property subject to the Senior Mortgage pursuant to a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale under) the Subordinate Mortgage.
- (h) Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.
- (i) Entire Agreement. This Agreement represents the entire understanding and agreement between the parties regarding the matters addressed in this Agreement, and will supersede and cancel any prior agreements regarding such matters.
- (j) Authority. Each person executing this Agreement on behalf of a party to this Agreement represents and warrants that such person is duly and validly authorized to do so on behalf of such party with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations under this Agreement.
- (k) No Waiver. No failure or delay on the part of any party to this Agreement in exercising any right, power, or remedy under this Agreement will operate as a waiver of such right, power, or remedy, nor will any single or partial exercise of any such right, power or remedy preclude any other or further exercise of such right, power, or remedy or the exercise of any other right, power or remedy under this Agreement.
- (l) Remedies. Each party to this Agreement acknowledges that if any party fails to comply with its obligations under this Agreement, the other parties will have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.

[SIGNATURE AND ACKNOWLEDGMENT PAGES FOLLOW]

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

SENIOR LENDER:

CITIBANK, N.A., a national banking association

By: _____
Name: _____
Title: _____

[Notary Block for recordation]

SUBORDINATE LENDER:

THE CITY OF HOLLYWOOD

By: _____
Name: _____
Title: _____

[Notary Block for recordation]

CONSENT OF BORROWER

Borrower acknowledges receipt of a copy of this Subordination Agreement, dated _____, 20__, by and between CITIBANK, N.A. and THE CITY OF HOLLYWOOD and consents to the agreement of the parties set forth in this Agreement.

PINNACLE AT PEACEFIELD, LTD., a Florida limited partnership

By: PHG-Peacefield, LLC, a Florida limited liability company, its general partner

By: _____

Name: _____

Title: _____

Date: _____

[Notary Block for recordation]

EXHIBIT A

LEGAL DESCRIPTION

EXHIBIT "E"

MONTHLY PROGRESS REPORT

Period Covered: to _____ Date of Report: _____

A. Project Information.

Agency:
Person Preparing the Report:
Signature and Title:
Project Title:
Project Start-up Date:
Project Completion Date:
Amended Completion Date:

B.1 Project Cost.

	<u>Budget</u>	<u>Funds Expended</u>	<u>Percentage</u>
Total Project	\$ _____	\$ _____	_____ %
HOME Funding	\$ _____	\$ _____	_____ %
Other CITY Funding	\$ _____	\$ _____	_____ %

B.2 Declaration of Agency Budget Changes.

Program Income/Recapture:
Source of Program Income/Recapture:

B.3 Other Grant Awards.

Date(s): _____ Dollar Amount _____

Funding Source _____

B.4 Percent of Project Completed to date. _____

EXHIBIT "E"
MONTHLY PROGRESS REPORT
(Continued)

C. 1 Describe specific work tasks and qualified accomplishments completed this month:

<u>Task</u>	<u>Qualified Accomplishments This Month</u>
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C.2 Describe success or problems encountered with the Project:

C.3 Anticipated problems or concerns with the Project: Please identify technical assistance needed and/or requested from the Housing Finance and Community Redevelopment Division staff.

C.4 Anticipated advertisements and/or other contractual services: If applicable, has the Housing Finance and Community Redevelopment Division staff been advised and appropriate steps taken to assure compliance?

D. Program Objectives:

<u>Work Tasks</u>	<u>Projected Yearly/ Total Performance</u>	<u>Monthly Progress</u>	<u>Progress YTD</u>	<u>Supporting Documentation</u>
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EXHIBIT "E"

MONTHLY PROGRESS REPORT

(Continued)

DIRECT BENEFIT REPORT FORM

Please specify total number of persons or households (as applicable) assisted/served since execution of the Agreement.

Households	Persons	Low to Moderate Income	Low Income	White-Not Hispanic Origin	Black-Not Hispanic Origin	American Indian or Alaskan Native	Hispanic	Asian or Pacific Islander	Female Headed Household

EXHIBIT "F"

FINAL ACCOUNTING FOR PROJECT

Project Name _____

Initial HOME Funding Amount _____

Initial NSP-1 Funding Amount _____

Initial CITY Funding Amount _____

Amended HOME Funding Amount _____

Amended NSP-1 Funding Amount _____

Total Amounts Expended _____

Total Amounts Unexpended _____

For each HOME-assisted unit, furnish the following:

- Household size
- Race
- Rental or homeowner
- Number of bedrooms
- Percent of median income
- Female head of household - Answer Y/N

Other sources of Project funding:

- Type
- Interest rate
- Loan term
- Amount

For all rental units constructed with HOME Funds provided under the Agreement for the Project, include the following information for each unit:

- Rent
- Amount of Utility allowance
- Tenant contribution
- Rental subsidy

Attach the Final Cost Certificate audit prepared by an independent auditor and submitted as required by Florida Housing Finance Corporation, encompassing all development costs for the Project, 2) the Final General Contractors Cost Certification Audit prepared by an

independent auditor and submitted as required by Florida Housing Finance Corporation, encompassing all construction-related costs for the Project.

EXHIBIT "G"

REQUEST FOR PAYMENT FORM

PROJECT NO.: _____ APPLICATION NO.: _____
 PERIOD FROM: _____
 PERIOD TO: _____

CONTRACT DATE: _____

Application is made for Payment, as shown below, in connection with the Contract.

1. ORIGINAL CONTRACT SUM \$ _____
2. Net change by Change Orders \$ _____
3. CONTRACT SUM TO DATE (Line 1 + 2) \$ _____
4. TOTAL COMPLETED & STORED TO DATE \$ _____
 (Column G)
5. RETAINAGE \$ _____
 - a. 10% of Completed Work (Column D + E) \$ _____
 - b. _____ % of Stored Material (Column F) \$ _____
6. TOTAL EARNED LESS RETAINAGE \$ _____
 (Line 4 less Line 5 Total)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) \$ _____
8. CURRENT PAYMENT DUE \$ _____
9. BALANCE TO FINISH, PLUS RETAINAGE (Line 3 less Line 6) \$ _____

State of Florida _____ County of Broward

Subscribed and sworn to before me this _____ day of _____ 20____
 Notary Public: _____
 My Commission Expires: _____

AMOUNT CERTIFIED \$ _____
 (Attach explanation if amount certified differs from the amount applied for.)

By: _____ Date: _____
 This certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment, and acceptance of payment are without prejudice to any rights of the Owner under the Contract.

TO (OWNER)

FROM (CONTRACTOR):

CONTRACT FOR:

CONTRACTOR'S APPLICATION FOR PAYMENT

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Change Orders Approved in previous months by Owner		
TOTAL		
Approved this Month Number _____ Date Approved _____		
TOTALS		
Net change by Change Orders		

The undersigned Contractor certifies to the Owner that the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:
 By: _____
 Date: _____

EXHIBIT "H"
RENTAL SETUP AND COMPLETION FORM
(CHART and INSTRUCTIONS)

NAME	No. of Bedrooms	Race	Size of Household	Type of Household: (single, non-elderly, elderly (62), single parent, two parents, other)	Payment Made to: (O= Owner, T= Tenant)	New Contract: (Y=Yes, tenant newly assisted, N= No, tenant assistance has been renewed)	\$Amount of Security Deposit	\$ Amount of HOME Assistance	\$ Amount Tenant Contributed
TOTALS									\$0.00

• The information requested on the chart shall be submitted in the space provided.

EXHIBIT "I"

PROJECT RENTS

**FORT LAUDERDALE, FL HMFA*
(March 2016)**

Number of Bedrooms	Fair Market Rent	Low HOME	High HOME
Efficiency	\$773	\$635	\$773
1	980	680	915
2	1253	816	1101
3	1790	942	1262
4	2188	1051	1389
5	2516	1160	1514
6	2844	1268	1639

*Source: U.S. Department of Housing and Urban Development.

EXHIBIT "J"

AFFIRMATIVE MARKETING POLICY

A. AFFIRMATIVE MARKETING

Rental and homebuyer projects containing five (5) or more HOME-assisted units must comply with the Affirmative Marketing Policy described herein, or an affirmative marketing policy approved by HUD or adopted by a local government if such policy is more restrictive than that which is set forth herein or approved by HUD. If a HOME-assisted unit is advertised for rental, it must be done in a manner to inform persons who would otherwise not be likely to apply for a unit. Tenants holding Section 8 Housing certificates shall not be refused rental, except for cause, including, but not limited to, tenants who previously failed to pay their rent, maintain their units, or who otherwise were in violation of the terms and conditions of their tenancy. Within thirty (30) days after the Effective Date of this Agreement, PINNACLE shall submit an Affirmative Fair Housing Marketing Plan to the City, complying with these requirements, utilizing HUD Form HUD-935-2(A). This AFHMP will not prescribe a residency preference.

1. DISSEMINATION OF INFORMATION

The following methods shall be used to inform the public, owners and potential tenants about Federal Fair Housing Laws and the marketing policy of the Housing and Community Development Division.

From time to time, developer or owner shall canvass the eligible areas disseminating program and fair housing information flyers to tenant associations, civic associations, public service agencies, tenant groups, civic and fraternal organizations, churches, housing counseling, consumer affairs, business and non-profit groups.

Public service announcements will be made on radio and television stations. Press releases will be placed in newspapers and other publications circulated widely in target areas.

PINNACLE will confer with the Division to receive input regarding its efforts to conduct outreach to community groups, civil associations and community-based organizations which may refer prospective eligible senior applicants within the City of Hollywood. To the greatest extent feasible, and consistent with any requirements of the Division, PINNACLE will also conduct advertising, promotions and other activities within the City of Hollywood in order to attract local residents who may be eligible to apply, and shall update the Division and the City Commission when requested on these marketing efforts on an ongoing basis.

The Equal Housing Opportunity logo will be used on all printed materials.

2. OWNER PRACTICES AND PROCEDURES

Each owner must adhere to the following requirements and practices in order to carry out the affirmative marketing policies of the Housing Finance and Community Redevelopment Program.

Advertising will be placed in circulars and periodicals having wide distribution in target areas. Leaflets, brochures, and other printed materials will be displayed containing the equal housing logo in conspicuous locations at places frequented by potential tenants and persons least likely to apply for the rental housing.

3. SPECIAL OUTREACH

Special contact will be made by owners with programs providing services to legal aliens and refugees, at churches frequented by legal aliens and refugees and other groups least likely to apply without these special efforts.

4. FAILURE TO COMPLY WITH REQUIREMENTS

Failure on the part of an owner to comply with the affirmative marketing requirements provided herein, or to cure or remedy identified violations within thirty (30) days of notification of violations shall result in the loan becoming immediately due and payable.

B. CIVIL RIGHTS

No person shall be discriminated upon based on race, color, sex, age, marital status, handicap, religion or national origin in the rental, lease, sale or use of the property to be constructed with HOME Investment Partnerships Program (HOME) Funds obtained through the HOME Program in accordance with Title 8 of the Civil Right Act of 1968 42 USC 3601-3619 and the HUD Fair Housing Code set forth in 24 CFR Parts 14, 100, 103-106, 109,110, 115, and 121.

C. INTEREST OF PUBLIC BODY

No member of the governing body of CITY or any employee of the Housing and Community Development Division may have any interest, direct or indirect in the proceeds of any loan or in any contract entered into by the borrower for the performance of work financed, in whole or in part, with the proceeds of the loan.

EXHIBIT "K"

INSURANCE REQUIREMENTS

PINNACLE shall provide, at its sole expense, and maintain in full force and effect for the term of this Agreement and any extensions thereof, the insurance coverage set forth below. PINNACLE shall provide the Director, at the time of execution of this Agreement, with Certificates of Insurance, reflecting evidence of the required insurance, along with the Insurance Agent's certification document which certifies that the insurance requirements have been met and there are no exclusions. These Certificates shall contain a provision that coverage afforded under these policies will not be cancelled, will not expire and will not be materially modified until at least thirty (30) days prior written notice has been given to the City. Policies shall be issued by companies authorized to do business under the laws of the State of Florida and shall have adequate Policyholders and Financial ratings in the latest ratings of A.M. Best and be part of the Florida Insurance Guarantee Association Act. Insurance shall be in force until all work and services required to be performed under the terms of this Agreement are satisfactorily completed as evidenced by the formal acceptance by the City. In the event the Insurance Certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, PINNACLE shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed Certificate of Insurance as proof that equal and like coverage for the balance of the period of this Agreement and extension thereunder is in effect. All Certificates of Insurance shall include the City of Hollywood, Florida as an additional insured.

Insurance Coverage is as follows:

- A. Comprehensive General Liability. Commercial Liability Insurance with not less than the following limits:

General Aggregate	\$1,000,000
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- B. Professional Liability. Professional Liability with not less than the following limits:

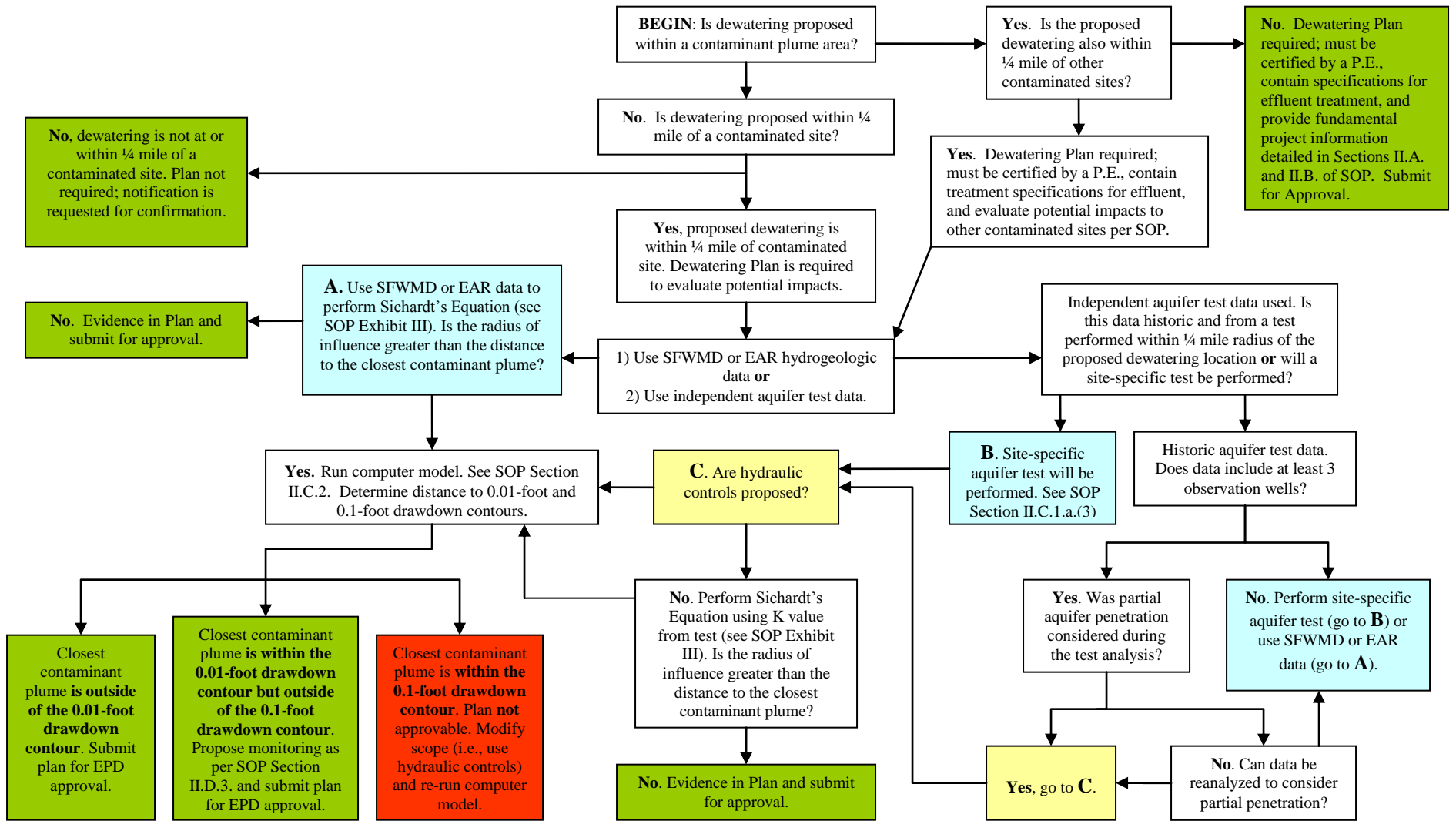
Aggregate	\$2,000,000
Each claim	\$1,000,000.

- C. Worker's Compensation. Worker's compensation insurance shall be provided and shall cover the PINNACLE'S contractor and contractor's employees not less than the following limits:

Each accident	\$100,000
Disease Policy Limit	\$500,000
Disease Each Employee	\$100,000

Attachment J

EXHIBIT I: Decision Flow Chart for SOP





Environmental Protection and Growth Management Department

ENVIRONMENTAL ENGINEERING AND PERMITTING DIVISION

1 North University Drive, Mailbox 201, Plantation, Florida 33324 • 954-519-1483 • FAX 954-519-1412

**STANDARD OPERATING PROCEDURE FOR DEWATERING
(Revision 3, Effective December 1, 2009)**

INTRODUCTION

As required by Broward County Code (Code), any person(s) wishing to conduct dewatering activities at or within a one-quarter-mile radius of a contaminated¹ site must notify and receive approval from the Broward County Environmental Protection and Growth Management Department (Department) prior to implementation. The County's notification requirements for these dewatering activities are outlined in Section 27-355(4) of the Code, which states:

"Prior to any persons conducting dewatering operations at or within a one-quarter-mile radius of a contaminated site, written notification shall be given to [the Department] and shall include, at a minimum:

- Justification for the need for dewatering;
- Water treatment and disposal plans;
- Effect of the dewatering and disposal procedures on the contaminant plume;
- Monitoring program; and
- Where required and authorized by Chapter 471, F.S. [Florida Statutes] or Chapter 492, F.S., applicable portions of dewatering plans shall be signed and sealed by a registered professional engineer or a registered professional geologist."

Approval of such activities is required by Section 27-353(i) of the Code, which states:

"Dewatering operations at or within a one-quarter-mile radius of a contaminated site shall not be conducted without [Department] approval."

APPLICABILITY

This Standard Operating Procedure (SOP) and the requirements detailed herein are applicable to dewatering operations within Broward County. "Dewatering" refers to any technique that is employed to lower groundwater level. These requirements apply solely to reviews that are conducted by Broward County Cleanup and Waste Regulation (CWR) Staff for the purpose of ensuring that dewatering operations at or within one-quarter mile of contaminated sites will not result in the exacerbation, migration, or improper treatment of contamination. Please note that additional requirements for dewatering have been established by other agencies and may be established by other Sections within the Department.

Tank Upgrade Exemption

Dewatering operations conducted to facilitate underground storage tank upgrades and replacements necessary to meet the Performance Standards for Category-A and Category-B Storage Tanks of Section 27-307(b), Broward County Code, and Section 62-761.510, Florida Administrative Code (F.A.C.), are exempt from the CWR Section Dewatering Plan review and approval process. To qualify for this exemption, a **Notice of Intent to Dewater** must be provided to CWR Section staff at least five (5) business days prior to dewatering. The Notice of Intent to Dewater must agree to the following conditions:

1. Dewatering duration must not exceed a total of three (3) calendar days (72 hours). If intermittent dewatering

¹ "Contaminant" is defined in Section 27-352, Broward County Code

is performed, this duration is be considered to be the sum of all actual pumping periods, however clarification should be provided in the Notice of Intent to Dewatering with respect to the overall period that dewatering will be performed;

2. Sheetpile must be installed to a depth not less than 8 feet below the bottom of wellpoint screens;
3. Effluent must be monitored to ensure compliance with turbidity standards, as applicable; and
4. If conducted within a tank farm area known to be contaminated, dewatering effluent must be properly treated and monitored to comply with water quality standards or applicable Cleanup Target Levels of Chapter 62-777, Florida Administrative Code, prior to discharge. Treatment system specifications, laboratory analytics, field notes, and other relevant documentation should be maintained by the party responsible for performing the dewatering.

Any exceptions to conditional items 1 and 2 of this exemption will require the Department's approval of a Dewatering Plan submitted per this SOP. If contamination is encountered during the tank upgrade which has not been previously reported to the Department, dewatering must cease and the Department must be notified in accordance with the requirements of Code Section 27-355.

PROCEDURE

A flow chart which demonstrates this SOP is depicted in Exhibit I, attached. Please note that Exhibit I does not address the tank upgrade exemption as detailed in the previous section.

I. Need for CWR Section Approval of Dewatering Operations

- A. For sites located beyond one-quarter mile of a contaminated site in Broward County, the Department does not include a "No Dewatering Permitted" clause in construction plan approvals. Dewatering may proceed at such sites; however, it is recommended that CWR Section staff be notified for confirmation.
- B. In instances where dewatering is proposed within a contaminated area (i.e., where it is known that groundwater contains contaminants above applicable standards) but where no other contaminated sites are located within one-quarter mile, a Dewatering Plan must be submitted to the CWR Section of the Department for review and approval prior to implementation of dewatering activities; however, the Dewatering Plan should only contain the following:
 1. The contaminated site information outlined in Section II.A. of this SOP for the dewatering location,
 2. The information outlined in Section II.B. of this SOP, and
 3. Proper certification as required by Section II.E. of this SOP.A Dewatering Report to document the dewatering is also required by Section IV of this SOP.
- C. For sites that are located within one-quarter mile of a contaminated site, a Dewatering Plan in accordance with Section II of this SOP must be submitted to the CWR Section of the Department for review and approval prior to implementation of dewatering activities. Dewatering will not be approved under any conditions for operations that may create a drawdown greater than 0.1 foot at a contaminant plume boundary. The Dewatering Plan must meet the requirements established in Section II of this SOP.

II. Dewatering Plan Requirements

- A. **Contaminated locations at and/or within one-quarter mile of the proposed dewatering project must be identified.** At the time of this writing, the Broward County contaminated sites database and corresponding interactive map are available on the internet at <http://www.broward.org/environment/contaminatedsites/Pages/Default.aspx>.

The following items should be included in the Dewatering Plan:

1. Site Number and address for each contaminated site,

2. Contaminant type for each contaminated site,
3. Most recent contaminant plume maps for all groundwater-contaminated sites located within a quarter-mile radius from the proposed dewatering location (if available),
4. Tables of the most recent groundwater analytical data for the nearest groundwater-contaminated site (if available), and
5. A map, drawn to scale, that depicts the particular dewatering location on the site (designation of the site boundaries in general is not adequate) and the locations of identified contaminant plumes.

If contaminant plume maps and data are not available through hardcopy file review with the Department, the Florida Department of Environmental Protection, or the OCULUS petroleum document website (at the time of this writing, located at <https://depedms.dep.state.fl.us/Oculus/servlet/login>), then document this fact in the Dewatering Plan and assume that the contaminant plume is confined to the property boundary of the particular contaminated site.

B. The following information must be provided regarding the scope of the proposed dewatering activities:

1. Purpose of dewatering (i.e., an explanation of why dewatering is necessary),
2. Dewatering technique (i.e., wellpoint, deep well, open hole, etc.),
3. Anticipated dewatering flow rate,
4. Total dewatering duration,
5. Method of effluent discharge,
6. Controls (i.e., settling tank, turbidity curtain, etc.) and a monitoring program employed to ensure that effluent will comply with applicable water quality standards, including turbidity.
7. If conducted in a contaminated area, engineering specifications for dewatering effluent treatment (i.e. air-stripper, carbon filtration, etc.) and details for an analytical monitoring program to ensure that effluent will meet water quality standards established by Section 27-195, Broward County Code. Please note that Certification by a Florida-registered Professional Engineer, specifically, is required for treatment specifications by Section II.E. of this SOP.
8. A description of any proposed controls, including engineering specifications for sheetpile or recharge system. Certification by a Florida-registered Professional Engineer is required for applicable sheetpile specifications by Section II.E. of this SOP.

C. Dewatering plans must contain a technical justification that is adequate to demonstrate the proposed scope of dewatering (as required in Section II.B.) will not affect contaminant plumes. There are two (2) acceptable methods for providing this technical justification:

1. Manual estimations of the dewatering radius of influence by utilizing SFWMD data or approved aquifer test data to calculate Sichardt's equation. As a "first pass" of technical justification, Sichardt's equation may be used to determine the radius of influence associated with the dewatering project as discussed in Section II.C.1.b. of this SOP. Details of Sichardt's equation, including an example calculation, are also included as **Exhibit III** to this SOP. The calculation must utilize 1) data from South Florida Management Water District's (SFWMD) Technical Publication 92-05 entitled "A Three Dimensional Finite Difference Groundwater Flow Model of the Surficial Aquifer System, Broward County, Florida" (1992), or 2) data provided by an aquifer test conducted in accordance with Section II.C.1.a. of this SOP.

- a. Aquifer test performance and data collection must be consistent with the following guidance: Freeze and Cherry (1979), Fetter (1980), Kruseman and Derrider (1990), or Driscoll (1986). CWR Staff will use AQTESOLV (for Windows) to verify aquifer parameters that are generated from hand calculations and/or computer modeling analysis of aquifer tests. Aquifer Test Data may be collected in one of three (3) ways:
 - (1) Historical aquifer test data from the CWR Section's in-house database may be obtained by contacting David Vanlandingham, P.E., at (954) 519-1478 or dvanlandingham@broward.org. The information contained in the CWR Aquifer Test database has been reviewed by CWR Section staff

- for quality assurance.
- (2) Other historical aquifer test data may be submitted if the test was performed within one-quarter mile of the proposed dewatering location and:
 - (a) Groundwater elevations were measured in at least three (3) observation wells (not including the test well) with varying distances from the recovery well,
 - (b) Data is collected from the beginning of the test until near steady-state conditions are achieved, and
 - (c) Unconfined aquifer conditions and partially penetrating wells were considered in analysis of the aquifer test data².
 - (3) Perform an aquifer test at the proposed dewatering location. Notification must be provided using Exhibit II and written approval must be obtained from CWR staff prior to implementation of the aquifer test. Approvals may be granted through email or facsimile. The test data will be acceptable if the conditions of Section II.C.1.a.(2) are met; in addition,
 - (a) observation wells are to be installed in a line between the dewatering locations and the nearest identified contaminant plume³, and
 - (b) one of the observation wells is located at the edge of the proposed dewatered area.
- b. Utilizing Sichardt's equation, a manual (hand) calculation may be performed to determine the projected radius of influence associated with the proposed dewatering activity and the flow rate necessary to produce the required drawdown. This calculation is detailed in Exhibit III accompanying this SOP.
- (1) If the estimated value of radius of influence is less than the distance to the edge of the nearest contaminant plume, the Dewatering Plan may be approved (an example approval letter is provided in Exhibit IV).
 - (2) **If the estimated radius of influence is greater than the distance to the edge of the nearest contaminant plume, then groundwater modeling is required pursuant to Section II.C.2. of this SOP.** The dewatering scope of work may also be revised or hydraulic controls (for instance, sheetpile or artificial groundwater mounding via recharge trenches or wells) may be proposed; however, any hydraulic controls proposed must still be justified through the use of computer modeling in accordance with Section II.C.2. of this SOP, as manual calculations which consider hydraulic controls are not available⁴.
2. **Groundwater modeling within a three-dimensional computer model utilizing SFWMD data or approved aquifer test data.** The model framework must utilize 1) data from South Florida Water Management District's (SFWMD) Technical Publication 92-05 entitled, "A Three Dimensional Finite Difference Groundwater Flow Model of the Surficial Aquifer System, Broward County, Florida" (1992), or 2) aquifer test data obtained in accordance with in Section II.C.1.a. of this SOP.

All models, regardless of the software used to construct them, are to be properly documented. The Division will use Visual MODFLOW Pro to verify all modeling analyses. Any Dewatering Plan that includes computer modeling must also contain the following information, as applicable:

- a. A compact disc with a copy of all model data including all necessary input, support, and output files.
- b. Map file used as base coverage in .dxf or .bmp format.

² If these conditions are not met, the test data may be reanalyzed by the applicant via a method that will consider unconfined aquifer and partially penetrating well scenarios.

³ These observation points may also be used to meet the requirements of groundwater monitoring, as outlined in Section II.D. of this SOP.

⁴ The manual calculation method cannot be used for sites where artificial groundwater mounding is proposed as a hydraulic control. Artificial groundwater mounding as a means of hydraulic control may only be justified through computer modeling as outlined in Section II.C.2. of this SOP.

- c. Model domain including the number of columns, rows, and layers. Grid spacing must also be documented for areas of the model with increased cell resolution.
- d. Model extent including X-axis, Y-axis, and Z-axis minimum and maximum. Also include coordinates (Lat/Lon, UTM, State Plane) if the model extent are referenced to specific geographic locations. The model should cover a sufficient area as to allow for a true representation of ground water flow during dewatering without undue influence from boundary conditions.
- e. Model units for length, time, conductivity, pumping rate, mass, and concentration as applicable.
- f. Surface elevation and bottom elevation of all layers. If layer elevation is not a constant, then submit a spreadsheet containing x, y, z data in either .txt or .xls format or as a Surfer[®] .grd file.
- g. Conductivity values of all layers including Kx, Ky, and Kz. If conductivity data vary within a layer then submit a file in .txt, .xls, or .shp format. Also include all data interpolation information as applicable. If layer elevation is not a constant, then submit a spreadsheet containing x, y, z data in either .txt or .xls format or as a Surfer[®] .grd file.
- h. Specific Storage (Ss) and Specific Yield (Sy) values of all layers. If Ss and/or Sy data vary within a layer, then submit a file in .txt, .xls, or .shp format. Also include all data interpolation information as applicable.
- i. Porosity and effective porosity values of all layers. If porosity and/or effective porosity data vary within a layer, then submit a file in .txt, .xls, or .shp format. Also include all data interpolation information as applicable.
- j. Pumping well specifications including exact map coordinates, screened interval, pump rate, and pumping duration.
- k. Head observation well specifications including exact map coordinates, screened interval, observation point elevation, and all water table elevation measurements.
- l. Concentration well specifications including exact map coordinates, screened interval, contaminant being monitored, observation point elevation, and all concentration measurements.
- m. The type (constant head, rivers, general head, drains, walls, etc.) and model-grid location for all boundary conditions including an explanation of their selection and description of their input parameters. Boundary conditions should be defined as to not artificially influence ground water flow in the dewatering area or nearby contaminated sites.
- n. Acknowledgment that the model ignores recharge to maintain a conservative estimate of dewatering influence.
- o. Particle tracking information including number of particles, initial particle locations, and release times if applicable. All particles are to be tracked in the forward direction.
- p. If Zone Budget is used to estimate a dewatering flow rate, then the number and model-grid location of zones and output information must be included, as applicable. The type of model run (Steady State Flow or Transient Flow) must also be specified. The Division recommends running the model using only documented boundary conditions under Steady State Flow to determine initial heads. Transient Flow should be used for the duration of proposed dewatering.
- q. The time steps utilized during Transient Flow model runs.
- r. Figures showing model output as both Head Equipotentials and Drawdown at the end of the proposed dewatering period for each modeled layer.
- s. A figure identifying the 0.1-foot and 0.01-foot drawdown contours at the end of dewatering.

D. The Dewatering Plan must propose a groundwater monitoring program subject to the following:

1. Should a manual estimation of the radius of influence performed in accordance with Section II.C.1. of this SOP indicate that the radius of influence is less than the distance to the nearest contaminant plume, no monitoring program is required (an example approval letter is provided in Exhibit IV).
2. Should modeling performed in accordance with Section II.C.2. of this SOP indicate that the closest groundwater contaminant plume is outside of the 0.01-foot drawdown contour, no monitoring program is required (an example approval letter is provided in Exhibit IV).
3. Should modeling performed in accordance with Section II.C.2. of this SOP indicate the closest groundwater contaminant plume lies between the 0.01-foot and 0.1-foot drawdown contours, a monitoring program is

required (Exhibit IV will be modified by the Division to reflect specific requirements). The monitoring program must include:

- a. A table of groundwater elevation data collected from a minimum of three observation points, placed on a line between the dewatering location and the nearest contaminant plume. Data shall be collected:
 - (1) Prior to initiating dewatering activities to establish baseline elevations. Locations that are tidally influenced may require more than one baseline monitoring event.
 - (2) Daily during the first week of dewatering activities, and weekly thereafter until dewatering operations cease. The applicant should make every effort to collect data at the same time of day to reduce the influence of daily fluctuations.
 - b. A map, drawn to scale, detailing the observation point locations relative to the dewatering project, and
 - c. A map, drawn to scale, including water table elevations from observation points and an indication of ground water flow direction.
4. Should a manual estimation of the radius of influence performed in accordance with Section II.C.1. of this SOP indicate that the radius of influence is greater than the distance to the nearest contaminant plume, or should modeling performed in accordance with Sections II.C.2. of this SOP indicate that the closest contaminated plume lies within the 0.1-foot drawdown contour, dewatering will **not** be approved by the Division. The Dewatering Plan may be revised or hydraulic controls (i.e., sheetpile cofferdam or artificial groundwater mounding via recharge) must be proposed and justified. If, in this event, hydraulic controls are proposed, computer modeling must be performed in accordance with Section II.C.2. of this SOP, as manual calculations that consider hydraulic controls are not available⁵.

E. All applicable portions of Dewatering Plans must be certified by a registered Professional Engineer or a registered Professional Geologist, as provided in Chapter 471, F.S., or Chapter 492, F.S.

F. The Dewatering Plan must contain the contact information for the entity that is assuming responsibility for the specified conditions of the Department's approval. The company name, a representative name, address, and phone number should be included, as applicable.

G. There is no review fee or "application" for the Dewatering Approval. Simply submit one (1) certified original of the Dewatering Plan to the Department, to the attention of David Vanlandingham, P.E., at this letterhead address.

III. CWR staff shall have a period of ten (10) business days to review Dewatering Plans submitted pursuant to this SOP and to provide comment and/or approval.

IV. A Dewatering Report must be submitted within thirty (30) days of completion of approved dewatering activities to document actual flow rates and field monitoring data, including any monitoring conducted pursuant to Sections II.B.6., II.B.7, and II.D. of this SOP.

⁵ The manual calculation method cannot be used for sites where artificial groundwater mounding is proposed as a hydraulic control. Artificial groundwater mounding as a means of hydraulic control may only be justified through computer modeling as outlined in Section II.C.2. of this SOP.

References

Chapter 27 of the Code of Ordinances of Broward County, Florida. Tallahassee, Florida: Municipal Code Corporation, 2001.

Driscoll, Fletcher G. *Groundwater and Wells* (Second Edition). St. Paul, Minnesota: Johnson Filtration Systems, Inc., 1986

Fetter, C.W. *Applied Hydrogeology* (Third Edition). New York, New York: Macmillan College Publishing Co., 1994.

Geraghty & Miller, Inc. AQTESOLV. Reston, Virginia: James O. Rumbaugh, III, developer.

Freeze, R. Allan, and Cherry, John A. *Groundwater*. Englewood Cliffs, New Jersey: Prentice Hall, 1979.

Kruseman, G.P., and De Ridder, N.A., Analysis and Evaluation of Pumping Test Data. Wageningen, The Netherlands: International Institute for Land Reclamation and Improvement/ILRI, 1990.

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South Florida Water Management District (SFWMD). *A Three Dimensional Finite Difference Groundwater Flow Model of the Surficial Aquifer System, Broward County, Florida*. West Palm Beach, Florida: Technical Publication 92-05, 1992.

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Attachment K

FINAL DRAFT

**Considerations for Stormwater Features within
Contaminated Sites**

**Florida Department of Environmental Protection
Division of Waste Management
District & Business Support Program
Tallahassee, FL**

Problem Statement:

Conditional Site Rehabilitation Completion Orders (CSRCOs) under Rule 62-780.680(2) or (3), F.A.C. may restrict construction of new and/or alteration of existing stormwater management systems (SWMS). The State supports reuse of contaminated sites and recognizes that new construction requires placement of SWMS to appropriately manage runoff from impervious surfaces. Contaminated sites may require expansion of the impervious areas (new building foundations, parking, pavement, access roads, etc.) and may trigger modification of the existing SWMS.

In the case of contaminated sites that qualify for a conditional site rehabilitation completion order (CSRCO), the planning for potential areas on the site for future SWMS is important so as not to violate the possible engineering control, or otherwise cause contamination to circumvent the control and spread contamination to either previously uncontaminated areas or offsite. If such a spread or impact occurred, it would render the CSRCO void.

Goal:

The construction or modification of SWMS should not affect contamination at the site (cause leaching from soil or mobilize the groundwater contaminant plume). In some cases, the construction of SWMS may be addressed prior to closure and the restriction removed from the CSRCO. Please note that adequate demonstration must be provided that neither the currently proposed or any future modification of the SWMS will exacerbate the contamination at the site. Potential future development including the type and location of the SWMS should be evaluated. Guidance on addressing SWMS construction prior to closure is provided below.

For situations where prior SWMS evaluation is not possible, this guidance can also assist in obtaining approval for the construction of a new or modification of an existing SWMS on a contaminated site following closure.

SWMS - Design & Best Practices at Contaminated Soil and/or Groundwater Sites in Relation to CSRCOs

The placement, design and use of stormwater structures, ponds, and pathways is a critical part of a plan to prevent the spread of pollution at known contaminated sites due to the potential to cause leaching from soils or to create a hydraulic head to spread contamination in groundwater across the site or off site to previously uncontaminated areas.

In general, stormwater structures, ponds and pathways are to be placed in previously non-contaminated areas of a site to prevent and/or reduce the possibility of causing the contamination to spread or increase due to leaching or hydraulic head conditions.

Dry Pond vs Wet Pond. Subject to comments and requirements of the SWMS reviewing agencies, as appropriate, dry ponds should be designed to recover within 72 hours of a rain event. Dry ponds with underdrains should recover within 36 hours. It is recommended that the bottom of the dry pond be at least 2 ft above the Seasonal High-Water Table (SHWT). Wet ponds have to recover to their static elevation within a certain timeframe (usually noted in the construction application) and the pond bottom is below the SHWT.

SWMS must be designed with site groundwater elevation data in mind to not adversely affect the contaminated areas of the site. A sufficient number of wells or piezometers must be used, and groundwater elevation contour maps developed to accurately demonstrate the direction of

groundwater flow at the site. The stormwater design may only be placed in specific areas in such a way to not impact or cause movement of contamination.

Further consideration is needed to evaluate the placement of engineering controls, to clearly define the appropriate or available locations for the construction of SWMS.

The following questions should be considered during the planning stages of the SWMS

- What will be the type of the future development, residential or commercial?
- Because of the land use and size as well as the underlying lithology, what type of stormwater system will work better:
 - a. Wet detention system
 - b. Detention with effluent filtration
 - c. Lined detention pond or vault
 - d. Dry system (retention pond)
 - e. Underground exfiltration (subterranean gallery)
 - f. Sand chimney
- What is the extent and depth of the groundwater plume in the restrictive area?
- Is the restriction for the use of groundwater and/or irrigation wells?
- Is soil contamination under an engineering control (EC) and will the EC be breached?
- Will dewatering during construction of the SWMS affect plume migration?
- How will the water from the dewatering operations be disposed (e.g., onsite management, sanitary sewer, generic permit, NPDES)?

Groundwater:

A mounding model can be used to support that a SWMS installed some distance or location away from the plume will not cause the plume to migrate. Approved models and design requirements must be consistent with the agencies responsible for reviewing the SWMS application.

Prior to Closure

- a. Depth to contaminant if a demonstration is provided that groundwater is at a depth that the infiltration from the SWMS will not cause the plume to migrate, then it may be possible to remove the stormwater restriction from the CSRCO. The demonstration or modeling should be based upon the appropriate design storm event usually 100-yr/24-hour or 25-year/24-hour depending on the type of system (open or closed) and the reviewing agency requirements. The SWMS should be engineered to impact only the upper surficial aquifer.
- b. Plume in relationship to confining layer – If groundwater contamination is below a competent confining layer, stormwater restrictions should not be necessary. However, language may need to be included in the CSRCO that the confining unit cannot be breached in the construction of the SWMS.
- c. If construction of the SWMS will occur on top of the plume and cannot be addressed by a. or b. above, then the CSRCO can specify that any SWMS construction will require use of a liner thereby eliminating the need for subsequent Department (Waste Management) approval. Please note that lined ponds are for storage/evaporation and need to have outflow structures. The outflow should direct runoff to areas away from the contamination.

Subsequent to Closure

SWMS constructed on top of the groundwater plume will require a liner unless a. and b. from “Prior Closure Section” above can be demonstrated.

SWMS constructed upgradient, cross-gradient or downgradient, and within 500 feet of the plume will require a mounding analysis be submitted to determine if the mound intersects the plume.

Soil:

If soil contamination is present, the impact of the proposed SWMS on potential leaching or direct exposure must be addressed.

If soils exceed the Leachability Soil Cleanup Target Level (L-SCTL), Synthetic Precipitation Leachate Procedure (SPLP, EPA Method SW-846-1312) testing can be conducted prior to closure to demonstrate that the contamination will not leach and the restriction on SWMS can be removed. An appropriate number of samples should be collected from different lithologies and the highest concentrations within those lithologic units used in the SPLP analysis. A minimum of three samples per lithologic unit is recommended, but additional samples may be required depending on the size of the impacted area.

If a dry pond is to be constructed on top of soil that exceeds the direct exposure soil cleanup target level, the pond bottom must have an engineering control in place to mitigate the exposure risk. This could be in the form of a 2-foot clean fill barrier, impermeable liner, or the use of an alternative soil cleanup target level for an appropriate exposure scenario. The control would be included in the Institutional Control Registry and documented in the CSRCO.

Dewatering

Pursuant to Rule 62-621.300(2), F.A.C., coverage under this generic permit constitutes authorization to discharge groundwater from dewatering operations through a point source to surface waters of the State. Please ensure that the parameters of concern in the groundwater restricted area are below the surface water criteria. See Chart 1 below.

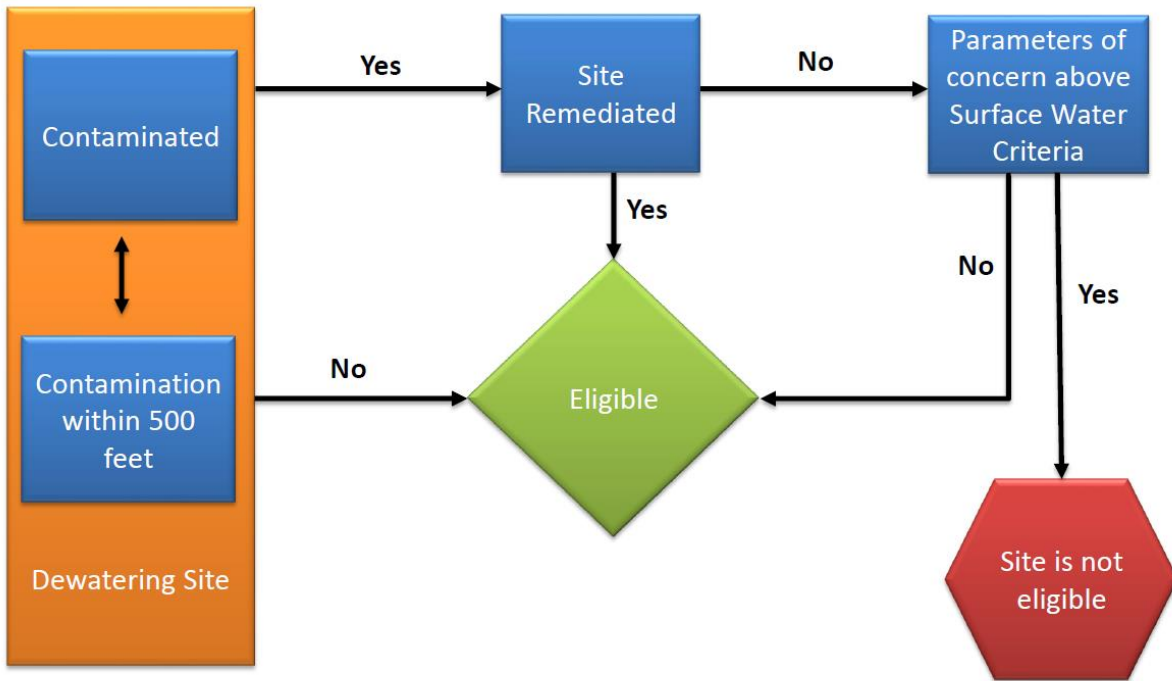


Chart 1. Decision tree for dewatering at contaminated sites. Provided by the Southwest District.

If the site does not qualify for a non-contaminated site permit, then an option is to contact the appropriate lead government agency for approvals to discharge to the sanitary sewer. The Dewatering permit is processed by DEP District Offices.

Further Consideration

It may be prudent to label areas acceptable and non-acceptable to stormwater structures, ponds, and pathways as part of the draft CSRCO Process. This in effect would be a secondary restrictive area(s) for non-acceptable future stormwater structure construction zones. The primary restrictive area would be the contaminated area(s) itself. Each CSRCO site would have specific maps which specifically designates these areas and defines the extent of contamination and the restricted area(s). The secondary restrictive area map would create a future stormwater use map for each site.

For additional information please contact Lynn Walker at Lynn.Walker@floridadep.gov or 850-245-7502. You may also contact the contributors listed below.

References:

- a. *Operating Agreement Concerning Regulations under Part IV, Chapter 373 F.S. between SWFWMD and DEP*
- b. *SWFWMD Environmental Resource Permit Applicant Handbook Volume II, effective June 1, 2018*
- c. *DEP-NWFWMD ERP References and Design Aids*

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