

FUNDING AGREEMENT

Between

CITY OF HOLLYWOOD

and

PINNACLE 441 PHASE 2, LLC

PROVIDING SUBORDINATE FINANCING FOR THE DEVELOPMENT OF A 100-UNIT
MULTI-FAMILY RENTAL DEVELOPMENT NAMED "PINNACLE 441 PHASE 2"

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AGREEMENT

Between

CITY OF HOLLYWOOD

and

PINNACLE 441 PHASE 2, LLC

This is an Agreement (the "Agreement" or "City Loan Agreement"), made and entered into by and between: CITY OF HOLLYWOOD, a municipal corporation organized and existing under the laws of the state of Florida ("CITY")

and

PINNACLE 441 PHASE 2, LLC, a Florida limited liability company ("PINNACLE," and together with CITY, the "Parties").

Recitals:

WHEREAS, on December 1, 2021, the City Commission of the City of Hollywood, Florida adopted Resolution R-2021-330, pledging \$1,000,000 of financial support for the development of Pinnacle 441 Phase 2;

WHEREAS, the Project will contain 100 multi-family units, all of which will be affordable multi-family rental units ("Affordable Units") and related amenities, generally located at 6028 Johnson Street, Hollywood, Florida;

WHEREAS, the CITY agrees to provide a loan in the original principal amount of \$1,000,000 ("CITY Loan Funds") to provide construction and permanent financing for the Project, as defined below;

WHEREAS, based upon the loan commitment for the Project, the Parties desire to enter into this Agreement to set forth the terms and conditions for the CITY Loan Funds for the Project.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements herein contained and other valuable consideration, the receipt of which is acknowledged, CITY and PINNACLE 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 **Agreement or City Loan Agreement** – This Agreement, which includes Articles 1 through 12, the exhibits and documents that are expressly incorporated herein by reference.
- 1.2 **Affordability Period** – 30 years from the issuance of a temporary certificate of occupancy for the Project.
- 1.3 **Affordability Restrictions** – For the duration of the Affordability Period, those certain rent and income restrictions set forth in the EUA (as defined below) with respect to the Affordable Units in connection with the allocation of Low Income Housing Tax Credits (“LIHTC”) from Florida Housing Finance Corporation.
- 1.4 **Approved Project Plans** – The plans and specifications for the Project that have been or will be approved by the City.
- 1.5 **Code** – The United States Internal Revenue Code of 1986, as amended, together with the regulations issued thereunder.
- 1.6 **Commencement of Construction** – The commencement of work (such as site development) in anticipation of construction of the Improvements in accordance with the Approved Project Plans to be performed in accordance with the construction of the Project.
- 1.7 **Contract Administrator** – The City Manager or designee. The primary responsibilities of the Contract Administrator or designee 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 that such instructions and determinations do not change the scope of the Project.
- 1.8 **Developer** – Pinnacle Communities, LLC, a Florida limited liability company.
- 1.9 **Developer Indemnified Party** – Defined collectively as Developer, including any directors, officers, shareholders, partners, members, employees and agents thereof.
- 1.10 **EUA** – the Extended Low-Income Housing Agreement to be entered into between PINNACLE and Florida Housing Finance Corporation following completion of the Project.
- 1.11 **Final Completion** – Lien-free completion of the Improvements, and the Project is in compliance with all applicable federal and state law requirements and this Agreement, including issuance of a final certificate of occupancy by the City.
- 1.12 **Improvements** – Defined collectively as the buildings and other improvements to be developed by PINNACLE on the Project Land.

- 1.13 **Loan** – Loan in the amount of \$1,000,000.
- 1.14 **Project** – The Project consists of the work, activities, and services described in Article 2 and the attached Exhibit “A”.
- 1.15 **Project Land** – The Project Land as legally described in the attached Exhibit “A”.
- 1.16 **Promissory Note** – means that certain \$1,000,000 promissory note made by or to be made by PINNACLE to CITY to evidence the Loan described in this Agreement.
- 1.17 **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.”
- 1.18 **Substantial Completion** or **Substantially Complete** – Defined as: (i) all Improvements have been substantially completed in accordance with the Approved Project Plans as evidenced by a certificate from the Project’s architect, engineer or general contractor; and (ii) all Improvements shall have been issued temporary or final certificates of occupancy and may be used for their intended purpose.
- 1.19 **Tax Credit Investor** – The investor member in PINNACLE to receive 99.99% of the Low-Income Housing Tax Credits allocated by Florida Housing Finance Corporation to PINNACLE pursuant to Section 42 of the Code, thereby providing investment equity for the development of the Project, together with its successors and assigns. The initial Tax Credit Investor shall be Bank of America, N.A.

ARTICLE 2 - PREAMBLE

- 2.1 CITY desires to support affordable housing through the disbursement of loan funding 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 State of Florida, and the CITY relating to the Project as a condition precedent to the release of such CITY Loan Funds to PINNACLE.
- 2.2 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 CITY Loan Funds under this Agreement.

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 shall include any building(s) located on the site. 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 in compliance with the terms of all financing, including this City Loan Agreement. By acceptance and execution of this Agreement, it is understood and agreed to by PINNACLE that the Project will be completed as expeditiously as possible and that PINNACLE will use commercially reasonable efforts to ensure that the Project will proceed and will not be unreasonably delayed.
- 3.3 PINNACLE shall use best efforts to comply with 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 CITY.
- 3.4 Commencement of Construction for the Project shall not occur prior to PINNACLE providing the Contract Administrator with a copy of the recorded notice of commencement for the Project. Construction of the Property under this Agreement shall meet or exceed all applicable 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, as applicable.
- 3.6 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.
- 3.7 The construction, maintenance and leasing of the Affordable Units through the Affordability Period shall meet or exceed all applicable federal, state, and local housing quality standards and code requirements and shall be in compliance with the terms of the EUA. 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.
- 3.8 Until Final Completion, PINNACLE shall provide the Contract Administrator with a Quarterly Progress Report, utilizing the form provided in Exhibit "D", indicating the status of all outstanding work including the planned versus actual progress of activities and related budgets under this Agreement. The first Quarterly Progress Report shall be due by the 15th day following the end of each calendar quarter after the full execution of this Agreement by the Parties.
- 3.9 CITY will carry out periodic monitoring and evaluation activities as determined necessary by the Contract Administrator or designee. The continuation of this

Agreement is dependent upon satisfactory evaluations by the CITY. 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 its designees, such records and information, including copies or transcriptions, as is determined necessary by the Contract Administrator.

- 3.10 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.
- 3.11 PINNACLE shall, upon reasonable notice provided by CITY, meet with CITY during regular CITY business hours to address issues with or provide general updates with respect to the Project, including such updates as may be requested before the City Commission.

ARTICLE 4 - TERM OF AGREEMENT

The term of this Agreement shall commence upon complete execution by the Parties ("Effective Date"), and shall end on the earlier of the Final Completion date or **December 31, 2026**, unless extended or terminated earlier as provided herein.

ARTICLE 5 - FUNDING AND METHOD OF PAYMENT AND PROVISIONS AS TO THE USE OF CITY LOAN FUNDS

- 5.1 The maximum amount of CITY Loan Funds payable by CITY under this Agreement shall be \$1,000,000 for eligible Project costs set forth in the attached Exhibit "B," Costs/Budget for Project.
- 5.2 The Funds provided by CITY to PINNACLE for the Project shall be in the form of a zero percent (0%) interest loan with payment in full due on the Maturity Date (as defined in the Promissory Note).
- 5.3 At closing of the Loan as evidenced by execution and delivery of the Promissory Note ("Closing"), PINNACLE shall execute and cause to be recorded, at PINNACLE's expense, in the Public Records of Broward County, Florida, a Declaration of Restrictive Covenants in substantially the form attached as Exhibit "E", and a subordinate Mortgage, in substantially the form attached as Exhibit "F". CITY acknowledges that PINNACLE intends to refinance the first priority construction loan with a permanent, tax-exempt first mortgage loan from the Housing Finance Authority of Broward County ("HFA"), to be funded with a funding loan from Citibank, N.A. ("Citibank") upon the Project's satisfaction of the conditions for conversion as set forth in that certain ("Conversion"). CITY agrees to execute and deliver to PINNACLE's first mortgage lender during the construction phase of the Project, and Citibank at Conversion, a subordination

agreement in substantially the form attached as Exhibit "F-1". CITY also agrees that, in connection with those certain loans from Florida Housing, CITY shall execute and deliver a subordination agreement in substantially the form attached as Exhibit "F-2", and with respect to that certain loan from Broward County to PINNACLE, CITY will execute and deliver a subordination agreement in substantially the same form attached at Exhibit "F-3".

- 5.4 The entirety of the City Loan Funds shall be disbursed at Closing to pay eligible Project costs incurred by PINNACLE in accordance with its activities prior to Closing, less a \$10,000 commitment fee which will be retained by CITY. Such eligible costs may include but not be limited to: a) soft costs such as architectural and engineering design fees, environmental assessment expenses, and green building certification fees, b) City and County building permit fees, impact fees and related fees, c) lender closing costs and lender commitment fees, d) HFA bond issuance costs, e) demolition and relocation expenses associated with PINNACLE'S acquisition of the property and closure of the prior trailer park which previously existed on the Property, and f) any other eligible direct Project expenses as indicated in Exhibit "B".
- 5.5 In the event this Agreement is terminated prior to CITY disbursing the CITY Loan Funds to PINNACLE, CITY shall have no obligation to provide the CITY Loan Funds under this Agreement and may reallocate the funds to other CITY projects approved for funding by the City Commission.
- 5.6 Any documentation required by PINNACLE under this Agreement shall be furnished to CITY at the following address:

Raelin Storey, Assistant City Manager
City of Hollywood, Florida
2600 Hollywood Boulevard
Room 419
Hollywood, Florida 33020

With a copy to:

Douglas R. Gonzales, City Attorney
City of Hollywood, Florida
2600 Hollywood Boulevard
Room 407
Hollywood, Florida 33020

- 5.7 In the event that this CITY Loan Agreement is terminated for cause, the CITY has the right to call in PINNACLE's outstanding indebtedness under the Promissory Note at such time by giving PINNACLE 30 days written notice.

ARTICLE 6 - ASSURANCES AND CERTIFICATIONS

- 6.1 PINNACLE shall comply with all applicable federal, state, and CITY laws, ordinances, codes, and regulations. Any conflict or inconsistency between any federal, state, or CITY regulations and this Agreement shall be resolved in favor of the more restrictive regulations.
- 6.2 In addition to the audit rights and retention of records requirements set forth in Section 12.4, PINNACLE shall provide CITY, 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 7 - FINANCIAL RESPONSIBILITY

- 7.1 PINNACLE shall maintain books and records in accordance with generally accepted accounting principles and properly reflect all expenditures of CITY Loan Funds provided by CITY under this Agreement.
- 7.2 PINNACLE shall use CITY Loan Funds only for eligible Project activities specifically outlined in this Agreement and the attached Exhibit "B".
- 7.3 PINNACLE shall disclose to CITY any and all third party funding, whether public or private, for the Project. No CITY Loan Funds shall be used to supplant existing third party funding.
- 7.4 PINNACLE shall submit, at its own expense, to the Contract Administrator within 180 days of Final Completion, a complete audited financial accounting of all Project activities. 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, encompassing all development costs for the Project, and 2) the Final General Contractor's Cost Certification audit prepared by an independent auditor and submitted as required by Florida Housing encompassing all construction-related costs for the Project.

ARTICLE 8 - INDEMNIFICATION

- 8.1 PINNACLE shall at all times hereafter indemnify, hold harmless and, at the CITY's Attorney option, defend or pay the reasonable fees of 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 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 Contract Administrator 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. 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 which is acknowledged by PINNACLE. If construction and/or design work is being funded with CITY Loan 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. Notwithstanding the foregoing, PINNACLE's liability for the Loan shall be limited as set forth in the Promissory Note and Mortgage.

ARTICLE 9 - INSURANCE

- 9.1 PINNACLE shall maintain at its sole expense and at all times during the term of this Agreement (unless a different time period is otherwise stated), at least the minimum insurance coverage designated in Exhibit "G", Insurance Requirement, in accordance with the terms and conditions stated in this Article. Such coverage may be carried by PINNACLE directly or through Developer (as applicable and appropriate).
- 9.2 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 "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.
- 9.3 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 this 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.

- 9.4 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.

ARTICLE 10 - TERMINATION

10.1 Termination for Cause.

10.1.1 This Agreement may be terminated for cause by CITY 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, that 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.

10.1.2 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, failure to suitably perform the work, or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives under this Agreement. 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.

10.1.3 In the event this Agreement is terminated by CITY for cause, PINNACLE shall repay to CITY any and all remaining CITY Loan Funds determined by CITY to be due in accordance with the terms of this Agreement that have at such time been disbursed by CITY to PINNACLE.

- 10.2 Notice of suspension or termination of this Agreement shall be provided in accordance with Article 11 of this Agreement, except that notice of termination by the City Manager of the CITY, 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 Article 11 of this Agreement.

- 10.3 CITY shall give the Tax Credit Investor and any superior lender listed in any Rider

to the Mortgage or subordination agreement affecting this Agreement or the Mortgage, including but not limited to Bank of America, N.A., Florida Housing and Broward County, 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, but shall have no obligation, to cure such default, which cure period shall be a period of 15 calendar days longer than the cure period provided to PINNACLE.

ARTICLE 11 - 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:	Raelin Storey, Assistant City Manager City of Hollywood, Florida 2600 Hollywood Boulevard Room 419 Hollywood, Florida 33020 Email Address: rstorey@hollywoodfl.org
With copy to:	Douglas R. Gonzales, City Attorney City of Hollywood, Florida 2600 Hollywood Boulevard Room 407 Hollywood, Florida 33020 Email Address: dgonzales@hollywoodfl.org
As to PINNACLE:	Pinnacle 441 Phase 2, LLC 9400 S. Dadeland Blvd., Suite 100 Miami, Florida 33156 Attn: David O. Deutch Email address: david@pinnaclehousing.com
With copy to:	Shutts & Bowen LLP 200 South Biscayne Boulevard Suite 4100 Miami, Florida 33131 Attn: Robert Cheng, Esq. Email address: rcheng@shutts.com

Bank of America, N.A.
NC1-030-26-25
620 S. Tryon St.
Charlotte, NC 28255
Attention: Asset Manager for Pinnacle 441 Phase
2

Bank of America, N.A.
DC1-842-06-04
1800 K Street, NW, 6th Floor
Washington, DC 20006
Attention: CREB Loan Administration

Buchalter
1000 Wilshire Blvd., Suite 1500
Los Angeles, California 90017
Attention: Mercedes O. Martin, Esq.
Email address: mmartin@buchalter.com

Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301
Attn: Amanda Franklin

Weiss Serota Helfman Cole & Bierman, P.L.
2800 Ponce de Leon Blvd., Suite 1200
Coral Gables, Florida 33134
Attn: Maria Victoria Currais
Email address: mcurrais@wsh-law.com

Broward County
Broward County Administrator
115 South Andrews Avenue, Room 409
Fort Lauderdale, Florida 33301
Email address: mcepero@broward.org

With copy to:

Director of Housing Finance Division
Housing Finance Authority of Broward County
110 NE 3rd Street, Suite 300
Fort Lauderdale, Florida 33301
Email Address: rstone@broward.org

As to Tax Credit Investor: Bank of America, N.A.
MA5-100-04-11
100 Federal Street
Boston, Massachusetts 02110

Attn: Tax Credit Asset Management
(Pinnacle 441 Phase 2)

With copy to:

Holland & Knight LLP
10 St. James Avenue
Boston, MA 02116
Attn: Sara Heskett, Esq.
Email Address: sara.heskett@hklaw.com

ARTICLE 12 - MISCELLANEOUS

12.1 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. Upon Final Completion, copies of all of the above documentation and data shall be delivered to CITY upon written request.

12.2 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.

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 or otherwise engage in 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.

12.3 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 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 to CITY, at no cost, 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.

The failure of PINNACLE to comply with the provisions set forth in this Section 12.3 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 10.1.

12.4 AUDIT RIGHTS, RETENTION OF RECORDS, MONITORING

For the purposes of auditing and monitoring the CITY 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 to:

Raelin Storey, Assistant City Manager
City of Hollywood
2600 Hollywood Boulevard
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.

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 that the CITY reasonably determines to be material and adverse to the CITY's interests or otherwise intentionally misleading 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.

12.5 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 in any material respect.

12.6 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 12.6 is false in any material respect, CITY shall have the right to immediately terminate this Agreement and recover all sums paid to PINNACLE under this Agreement.

12.7 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. CITY and PINNACLE are not partners, joint venturers or affiliated entities.

12.8 THIRD PARTY BENEFICIARIES

Neither PINNACLE nor CITY intends to directly or substantially benefit a third party by this Agreement other than with respect Section 10.3 and Article 11 of 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, except as otherwise expressly set forth herein.

12.9 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 (excluding construction subcontracts), 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.

12.10 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 12.10 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.

12.11 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.

12.12 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.

12.13 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.

12.14 JOINT PREPARATION

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

12.15 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.

12.16 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 12 of this Agreement, the provisions contained in Articles 1 through 12 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.

12.17 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 Contract Administrator 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 CITY Loan Funds set forth in Section 5.1 of this Agreement, and Exhibit "B". The written document from the Contract Administrator approving such changes shall be deemed incorporated into this Agreement.

12.18 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 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.**

12.19 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.

12.20 DELEGATED AUTHORITY

Subject to the approval of the CITY Attorney, and excluding those matters requiring a five out of seven vote of the City Commission, the City Manager or designee shall have the power, authority and right, on behalf of CITY, as one of the parties to this City Loan Agreement, and without any further resolution or action of the City Commission, to:

- (a) Review, approve and execute the documents attached as Exhibits E, F, F-1, F-2 and F-3 to this Agreement;
- (b) Review, approve and execute applications, and requests required or allowed by Developer to be submitted to governmental authorities for the necessary governmental approvals pursuant to this Agreement;
- (c) Consent to actions, events, and undertakings by Developer for which consent is required by CITY under this Agreement;
- (d) Grant extensions of milestones and deadlines to the extent such authority is granted to CITY pursuant to this Agreement; and
- (e) Amend this Agreement to correct any typographical or non-material errors and revisions.

12.21 INCORPORATION BY REFERENCE

Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The attached Exhibits "A" through "G" are incorporated into and made a part of this Agreement.

12.22 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 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.

12.23 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 containing a restriction or requirement that extends beyond the date of termination or expiration set forth herein shall survive expiration or earlier termination of this Agreement and be enforceable.

12.24 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 thereto. 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. In addition, the Contract Administrator (or designee if approved by the Contract Administrator) shall have the authority to execute all documents and agreements required to carry out and satisfy the CITY's requirements under this Agreement.

12.25 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.

12.26 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.

12.27 FORCE MAJEURE

If the performance of this Agreement, if any obligation hereunder is prevented by reason of hurricane, earthquake, pandemic, 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 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.

12.28 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a party hereto 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 to bind that party.

12.29 DESIGNATED REPRESENTATIVE

PINNACLE's Designated Representative under this Agreement is David O. Deutch, President of PC 441 Phase 2, LLC, a Florida limited liability company, the Authorized Member of PINNACLE.

12.30 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.

[THIS SPACE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties 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 _____, authorized to execute same by City Commission action on the ____ day of _____, 2023, and PINNACLE 441 PHASE 2, LLC, signing by and through its Authorized Member duly authorized to execute same.

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

By: _____

Name: _____

Title: _____

ATTEST:

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

Douglas R. Gonzales
CITY ATTORNEY

PINNACLE

PINNACLE 441 PHASE 2, LLC, a Florida
limited liability company

By: PC 441 PHASE 2, LLC, a
Florida limited liability company,
its Authorized Member

David O. Deutch, President

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was subscribed and sworn to before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____ 2023, by David O. Deutch, President of PC 441 Phase 2, LLC, a Florida limited liability company, the Authorized Member of Pinnacle 441 Phase 2, LLC, a Florida limited liability company, who ☐ is personally known to me or ☐ has produced _____ as identification.

[NOTARY SEAL]

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

EXHIBIT "A"
PROJECT DESCRIPTION

Pinnacle 441 Phase 2 is part of a multi-phase, catalytic mixed-use development being developed by Pinnacle delivering a total of 213 total units of critically needed attainable housing on the State Road 7 corridor in Hollywood, Florida. Phase 1 is under construction at the intersection of Johnson Street and US 441/SR 7 and its 113 units plus 6,760 square feet of commercial space are scheduled to be completed in late 2023.

Pinnacle 441 Phase 2 is to be developed to the west of Phase 1 on a former dilapidated trailer park that Pinnacle closed in February of 2023. Phase 2 will contain 100 units of affordable rental units (60% AMI or less) in a single 8-story building, with one unit also serving as a ground-floor live/work unit with commercial frontage on Johnson Street. Phase 2 will offer controlled access entry as well as a community room, cyber lounge and package delivery room. It will also share amenities with Phase 1, such as a spacious covered open-air patio and fitness facility. These integrated developments will feature improvements encouraged by the City of Hollywood, such as a large public plaza at the intersection of SR 7 and Johnson Street, bike racks, and enhanced bus shelters offering connections to multiple routes, including Broward County Transit's "441 Breeze" express service. These improvements, access to services and employment in the immediate area, and the mixed-use nature of the development will ensure Pinnacle 441 thrives as an ideal destination to live, work and play.

Address:

6028 Johnson Street
Hollywood, Florida 33024

Legal Description of Land:

Parcel 1: (Fee Simple)

The West 220 feet of Lot 11, Block 2 of Pine Ridge Estates, according to the Plat thereof, as recorded in Plat Book 24, Page 10, of the Public Records of Broward County, Florida.

Parcel 2: (Easement)

Nonexclusive easements for the benefit of Parcel 1 hereinabove, as created by and pursuant to that certain Reciprocal Easement Agreement between Pinnacle 441, LLC, a Florida limited liability company and Pinnacle 441 Phase 2, LLC, a Florida limited liability company, dated _____, 2023, recorded on _____, 2023 in Instrument # _____, of the Public Records of Broward County, Florida, over and across the lands more particularly described in Article 3.2 (a) through (e) inclusive, (g) and (h) thereof and for the purposes therein expressed.

All of said lands situate, lying and being in Broward County, Florida.

Unit Mix:

30 1 bedroom/1 bath units

48 2 bedroom/2 bath units (including one first floor live/work unit with a commercial ½ bath)

22 3 bedroom/2 bath units

Income Set-Asides:

5 units at 22% AMI or less (per FHFC NHTF requirements)

10 units at 30% AMI (per FHFC SAIL ELI requirements)

85 units at 60% AMI (per BCHFA Bond, FHFC SAIL, 4% Housing Credit and Broward County gap loan requirements)

EXHIBIT "B"

COSTS/BUDGET FOR PROJECT

6028 Johnson Street, Hollywood, FL
folio: 5141-1304-0080

100 TOTAL UNITS
100 AFFORDABLE UNITS
0 MARKET UNITS

USES	PER UNIT	TOTAL	ELIGIBLE
			BASIS
Acquisition Land	35,000	3,500,000	0
Demo	1,283	128,348	0
Relocation	2,591	259,137	0
Accounting	750	75,000	75,000
Appraisal	65	6,500	6,500
Architect Fees - Design	4,600	460,000	460,000
Architect Fees - Supervision	600	60,000	60,000
Broker Fee	350	35,000	0
Building Permits	5,697	569,702	569,702
Engineering Fees	3,600	360,000	
Survey Fees	400	40,000	40,000
Environmental	250	25,000	25,000
Soils	150	15,000	15,000
Green Certification	300	30,000	30,000
Impact Fees	0	0	0
Inspection Fees	489	48,900	48,900
PCA Fee	36	3,600	3,600
Builder's Risk, GL/Excess & Completed Ops	4,691	469,136	469,136
Insurance-Perm	2,000	200,000	0
Legal Fees-Borrower	4,000	400,000	240,000
Market Study	55	5,500	0
Marketing/Advertising	1,000	100,000	0
Property Taxes	2,709	270,883	135,442
Operating Deficit Reserve	2,069	206,859	
Utility Connection Fees	3,969	396,900	396,900
Tax Credit Fees	4,728	472,801	0
Title Insurance/Recording	2,000	200,000	200,000
Bond Issuance Costs	12,740	1,273,997	220,500
Soft Cost Contingency	2,047	204,736	0
Construction Loan Interest	26,499	2,649,921	1,589,953
Construction Bond Interest Expense	19,800	1,980,000	1,188,000
Land Loan Interest	2,440	243,992	0
Construction Costs	234,568	23,456,789	23,306,789
Hard Cost Contingency	16,420	1,641,975	1,641,975
FFE	2,500	250,000	250,000
Washers/Dryers	1,200	120,000	0
Developer Fee	65,290	6,528,993	6,528,993
Total Uses	466,887	46,688,669	37,501,389
SOURCES			
TAX CREDIT EQUITY	192,939	19,293,920	
TAX EXEMPT BONDS	220,000	22,000,000	
BOND REDEMPTION	(175,000)	(17,500,000)	
SECOND MORTGAGE - SAIL	40,000	4,000,000	
THIRD MORTGAGE - SAIL ELI	7,500	750,000	
FOURTH MORTGAGE - NHTF	18,500	1,850,000	
FIFTH MORTGAGE - BROWARD COUNTY GENERAL REVENUE	100,000	10,000,000	
SIXTH MORTGAGE - CITY OF HOLLYWOOD	10,000	1,000,000	
GIC INTEREST INCOME	21,450	2,145,000	
B OF A EQUITY FEE REIMBURSEMENT	990	99,045	
DEFERRED DEVELOPER FEE	30,507	3,050,704	
TOTAL SOURCES	466,887	46,688,669	

EXHIBIT "C"

TIMETABLE/SCHEDULE FOR PROJECT

<u>Date</u>	<u>Task</u>
September 22, 2021	BCHFA for Tax Exempt Bond application deemed compete
December 1, 2021	City adoption of R-2021-330 pledging financial support
February 22, 2022	Broward County BOCC awards gap financing
October 5, 2022	Closing on property acquisition
February 28, 2023	Closure of trailer park on property per Chapter 723, F.S.
March 2, 2023	City PDB approval of site plan (Res. #22-DP-48)
April 10, 2023	FHFC SAIL/ELI/NHTF Invitation to credit underwriting
August 30, 2023*	Closing on Debt & Equity (including City funds)
September 15, 2023*	Construction Commencement
November 15, 2024*	Initiate Leasing
January 7, 2025*	Construction Complete
April 7, 2025*	Lease-Up Complete
November 30, 2025*	Stabilized Operations
December 31, 2025*	Conversion to Permanent Debt

**Future dates reflect best estimates*

EXHIBIT "D"

FORM OF QUALTERLY PROGRESS REPORT

QUARTERLY PROGRESS REPORT

Period Covered: to _____ Date of Report: _____

A. Project Information.

Pinnacle 441 Phase 2, LLC
Pinnacle 441 Phase 2 development, City of Hollywood
Person Preparing the Report:

Signature and Title: _____

Project Start-up Date:

Final Completion Date:

Amended Completion Date:

B.1 Project Cost.

	<u>Budget</u>	<u>Funds Expended</u>	<u>Percentage</u>
Total Project	\$ _____	\$ _____	_____ %
CITY Funding	\$ _____	\$ _____	_____ %
Other Funding	\$ _____	\$ _____	_____ %

B.2 Other Funding Awards (if any) Since Project Commencement

Date(s): _____ Dollar Amount _____

Funding Source _____

B.3 Percent of Project Construction Completed to date. _____

C. 1 Describe specific work tasks and qualified accomplishments completed this month:

Task

Qualified
Accomplishments
This Month

C.2 Describe success or problems encountered with the Project:

C.3 Anticipated problems or concerns with the Project: Please identify technical assistance support needed and/or requested.

D. Leasing:

Has leasing commenced? _____

If so, how many units have been leased to date? _____

Have any live/work spaces been leased? _____ If so how many? _____

When is the move-in commencement date for each building (if not already occurred)? _____

What is the current occupancy percentage? _____

What is the projected lease-up completion date? _____

EXHIBIT "E"

FORM OF DECLARATION OF RESTRICTIVE COVENANTS

This instrument prepared by
and after recording, return to:

Douglas R. Gonzales _____
City Attorney
2600 Hollywood Blvd., Room 407
Hollywood, FL 33020

DECLARATION OF RESTRICTIVE COVENANTS FOR MULTI-FAMILY RENTAL UNITS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made this ____ day of August, 2023, by PINNACLE 441 PHASE 2, LLC, a Florida limited liability company ("Declarant"), in favor of THE CITY OF HOLLYWOOD, FLORIDA, a municipal corporation organized and existing under the laws of the state of Florida ("CITY").

RECITALS

WHEREAS, Declarant acknowledges that the CITY has made a loan to Declarant in the original principal amount of \$1,000,000 ("Loan") pursuant to that certain Funding Agreement ("Funding Agreement") between CITY and Declarant dated _____, 2023, and incorporated herein by reference, for construction of an affordable multi-family residential rental community on the property referenced herein ("Property") consisting of 100 residential units, together with facilities and amenities appurtenant thereto ("Project"), said Property located at 6028 Johnson Street, Hollywood, Florida, and more specifically described in the legal description attached 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. Recitals. 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. The proceeds of the Loan 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, which for purposes of this Declaration shall mean that all 100 units to be constructed on the Property shall be set aside for rental to persons or households with annual gross incomes at or below 60% of the area medium income (determined at the time of initial occupancy) as determined by the United States Department of Housing and Community Development, with adjustments for family size. This Declaration shall remain in effect following Project Completion, until the 30th

anniversary thereof. Project Completion means issuance of a temporary certificate of occupancy for the Project.

3. 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 to restrain such violations. This Declaration is made for the benefit of CITY, and confers upon the CITY and its successors and assigns the right, without limitation, to enforce the provisions of this Declaration. Any failure by CITY to insist upon a strict performance of any covenants, restrictions, 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 upon the expiration of the Affordability Period or as otherwise provided in accordance with the terms of the Funding Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Declarant has executed this Declaration of Restrictive Covenants for Multi-Family Rental Units, the day and year first above written.

WITNESSES:

PINNACLE 441 PHASE 2, LLC, a Florida
limited liability company

Signature

By: PC 441 Phase 2, LLC, a Florida
limited liability company, its Authorized
Member

Print Name

By: _____
David O. Deutch, President

Signature

Print Name

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2023, by David O. Deutch, the President of PC 441 Phase 2, LLC, a Florida limited liability company, which is the Authorized Member of PINNACLE 441 PHASE 2, LLC, a Florida limited liability company, on behalf of both companies. He is ☐ personally known to me or ☐ has produced _____ as identification.

Printed Name: _____
Notary Public
Serial Number (if any): _____

My Commission Expires:

(NOTARY SEAL)

EXHIBIT "A"

Legal Description

Parcel 1: (Fee Simple)

The West 220 feet of Lot 11, Block 2 of Pine Ridge Estates, according to the Plat thereof, as recorded in Plat Book 24, Page 10, of the Public Records of Broward County, Florida.

Parcel 2: (Easement)

Nonexclusive easements for the benefit of Parcel 1 hereinabove, as created by and pursuant to that certain Reciprocal Easement Agreement between Pinnacle 441, LLC, a Florida limited liability company and Pinnacle 441 Phase 2, LLC, a Florida limited liability company, dated _____, 2023, recorded on _____, 2023 in Instrument # _____, of the Public Records of Broward County, Florida, over and across the lands more particularly described in Article 3.2 (a) through (e) inclusive, (g) and (h) thereof and for the purposes therein expressed.

All of said lands situate, lying and being in Broward County, Florida.

Exhibit "F"
FORM OF NEW MORTGAGE

This instrument prepared by, and after recording |
return to:
Douglas R. Gonzales
City Attorney
2600 Hollywood Blvd., Rm. 407
Hollywood, FL 33020

CITY MORTGAGE

CITY COMMISSION OF CITY OF HOLLYWOOD
BROWARD COUNTY, FLORIDA

This Mortgage ("Mortgage") is made this ____ day of August, 2023, by PINNACLE 441 PHASE 2, LLC, a Florida limited liability company ("Mortgagor"), in favor of THE CITY OF HOLLYWOOD, a municipal corporation organized and existing under the laws of the state of Florida ("Mortgagee"), collectively referred to as the "Parties."

WHEREAS, Mortgagor is indebted to Mortgagee in the principal sum of \$1,000,000.00 which indebtedness is evidenced by Mortgagor's Promissory Note dated of even date herewith ("Promissory Note") providing a deferred payment loan, referred to as the "Loan", due and payable at the end of the 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 as Attachment "A," (c) compliance with the terms of the Funding Agreement executed by CITY and Mortgagor on the ____ day of August, 2023, incorporated hereto by reference ("Funding Agreement"), and all other documents evidencing and/or securing the Loan being referred to as the "Loan Documents"). Mortgagor mortgages, grants, and conveys to Mortgagee the property described in Attachment "B," 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 be referred to as 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.

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, required 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 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 that 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 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 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 Mortgagor (also referred to as "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 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.** If the Mortgagor consists of two or more parties, 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 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 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 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 but is not required to 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 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 defined below). As a result, Mortgagor agrees to construct and use the Property in a manner to ensure that all occupants of units of the Property are qualified as Income Eligible Households and to comply with the terms of all Deed Restrictions on the use of the Property. The term Income Eligible Households shall refer to a household 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 the metropolitan statistical area for the City of Hollywood, 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 or state law.

If Mortgagee exercises this option, Mortgagee shall give Mortgagor notice of acceleration. The notice shall provide a period of not less than 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 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 Promissory 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 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 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 32 years, consistent with the long-term affordability period of 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 copy of the executed Promissory Note and this Mortgage.

30. **Right of Way Dedications.** Mortgagee acknowledges that Mortgagor will be required to dedicate that certain portion of the Property to the City of Hollywood, Florida, for right of way purposes (the "ROW Dedication"). The proposed legal description of the ROW Dedication, which remains subject to adjustment by the City of Hollywood, Florida, is more particularly described on Attachment "C" attached to this Mortgage. Any adjustment to the legal description as acknowledged in the preceding sentence shall not alter the obligations of Mortgagee set forth in this section, provided that such adjustment does not materially and adversely affect the value of Mortgagee's collateral hereunder. By acceptance of this Mortgage, and with no additional consideration to be required, Mortgagee hereby agrees to execute documentation required to release from the lien of this Mortgage the portion of the Property to be dedicated pursuant to the ROW Dedication ("ROW Release"). Upon notice from Mortgagor, Mortgagee shall deliver the ROW Release at the time that the ROW Dedication is being conveyed by Mortgagor. Nothing in this section shall alter, in any way, Mortgagor's obligations in this Mortgage.

31. **Non-Recourse.** Notwithstanding any contrary provision contained herein, payment and performance of the obligations set forth in this Mortgage, the Promissory Note and the Funding Agreement executed by Mortgagee and Mortgagor on August __, 2023 (collectively, the "Loan Documents"), shall be non-recourse to Mortgagor and Mortgagor's successors and assigns, and Mortgagee's sole recourse with respect to the Loan shall be the right to foreclose under the Loan Documents and other collateral forming part of the Loan Documents, as well as any other rights granted under such Loan Documents.

(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 441 PHASE 2, LLC, a Florida limited liability company

Signature

By: PC 441 Phase 2, LLC, a Florida limited liability company, its Authorized Member

Print Name

By: _____
David O. Deutch, President

Signature

Print Name

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2023, by David O. Deutch, the President of PC 441 Phase 2, LLC, a Florida limited liability company, the Authorized Member of PINNACLE 441 PHASE 2, LLC, a Florida limited liability company, on behalf of the companies, who ☐ is personally known to me or ☐ has produced _____ as identification.

(NOTARY SEAL)

Notary public, State of Florida

Name: _____

My commission expires: _____

Serial No.: _____

RIDER TO MORTGAGE DATED AUGUST __, 2023, BETWEEN CITY OF HOLLYWOOD ("Lender") AND PINNACLE 441 PHASE 2, LLC, A FLORIDA LIMITED LIABILITY COMPANY ("Borrower"), CONCERNING PROPERTY LOCATED IN THE CITY OF HOLLYWOOD, FLORIDA, COMMONLY KNOWN AS PINNACLE 441 PHASE 2 ("Project")

The Lender agrees to the following terms set forth in this Rider with respect to the \$1,000,000.00 loan from the Lender to the Borrower ("Loan").

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

Bank of America, N.A.
MA5-100-04-11
100 Federal Street
Boston, Massachusetts 02110
Attn: Tax Credit Asset Management
(Pinnacle 441 Phase 2)

Holland & Knight LLP
10 St. James Avenue
Boston, MA 02116

Attention: Sara Heskett

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

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

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

If the Investor Member 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 Member to transfer its membership interest in Borrower to any person or entity at any time provided that, if at such the Investor Member has not made 100% of the capital contributions it is required to make to the Borrower, the Investor Member 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 Member shall provide the Lender with prompt written notice of such transfer.

With written notice provided to the Lender, the Lender will permit the Investor Member to remove the authorized member of the Borrower in accordance with the Borrower's amended and restated operating agreement, provided that the substitute authorized

member shall be acceptable to the Lender in its reasonable discretion. An affiliate of the Investor Member shall be an acceptable substitute authorized member.

Investor Member 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: _____
Name: _____
Title: _____

ATTEST:

Patricia A. Cerny
CITY CLERK

APPROVED BY:

David Keller, DIRECTOR
DEPARTMENT OF FINANCIAL SERVICES

APPROVED AS TO FORM:

Douglas R. Gonzales
CITY ATTORNEY

PINNACLE 441 PHASE 2, LLC., a Florida
limited liability company

By: PC 441 Phase 2, LLC, a Florida limited
liability company, its Authorized Member

By: _____
David O. Deutch, President

ATTACHMENT "A"

CITY PROMISSORY NOTE

CITY OF HOLLYWOOD, FLORIDA

FOR VALUE RECEIVED, the undersigned, PINNACLE 441 PHASE 2, LLC, a Florida limited liability company ("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 Million Dollars and 00/100 Cents (\$1,000,000.00) in City loan funds ("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 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 Funding Agreement entered into by HOLDER and MAKER dated August __, 2023 ("Funding Agreement"), incorporated herein by reference.
3. No payments shall be due under this Promissory Note and the Loan shall be deferred until the 32nd anniversary date of the execution of this Promissory Note by MAKER ("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 Loan 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.
4. 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 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 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 Promissory 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.

5. 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 Loan

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.

6. 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.

7. 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.

8. 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.

9. The indebtedness evidenced by this Promissory Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by the following ("Superior Debt"):

(i) that certain loan to Maker in the approximate original principal amount of \$22,000,000 to be made by Bank of America, N.A. ("Construction Loan"), which, upon satisfaction of certain conditions set forth in the documents evidencing and securing the Construction Loan ("Conversion"), will be refinanced by the proceeds of a loan from the Broward County Housing Finance Authority, a public body, corporate and politic duly organized and existing under the laws of State of Florida, to be secured by, among other things, a first mortgage encumbering the Property ("Permanent First Priority Loan") in an amount not to exceed \$4,500,000, and the Permanent First Priority Loan note will be assigned to Citibank, N.A.; (ii) that certain loan to Maker in the approximate original principal amount of \$4,000,000 to be made by Florida Housing Finance Corporation, a public corporation and a public body corporate and politic duly created and existing under the laws of the State of Florida ("Florida Housing"), to be secured by, among other things, a second mortgage encumbering the Property; (iii) that certain loan to Maker in the approximate original principal amount of \$750,000 to be made by Florida Housing, to be secured by, among other things, a third mortgage encumbering the Premises; (iv) that certain loan to Maker in the approximate original principal amount of \$1,850,000 to be made by Florida Housing, to be secured by, among other things, a fourth mortgage encumbering the Property; and (v) that certain loan to Maker in the approximate original principal amount of \$10,000,000 to be made by Broward County, to be secured by, among other things, a fifth mortgage encumbering the Property.

Subordination of the indebtedness evidence in this Promissory Note to the Superior Debt shall be to the extent and in the manner provided in the following subordination agreements (collectively, the "Subordination Agreements"): (a) between Maker, Holder, and Bank of America, N.A. in connection with the Construction Loan, (b) between Maker, Holder, and Florida Housing in connection with the loans referenced above in (ii) through (iv), and (c) upon Conversion, between Maker, Holder, and Citibank, N.A. The Mortgage and other documents securing this Promissory Note are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions as more fully set forth in the Subordination Agreements. The rights and remedies of the payee and each subsequent holder of this Promissory Note under the Mortgage securing this Promissory Note are subject to the restrictions and limitations set forth in the Subordination Agreements. Each subsequent holder of this Promissory Note shall be deemed, by virtue of such holder's acquisition of this Promissory Note, to have agreed to perform and observe all of the

terms, covenants and conditions to be performed or observed by the Holder, as subordinate lender under the Subordination Agreements. Further the foregoing agreement to subordinate to the Superior Debt shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Superior Debt upon maturity of such Superior Debt.

10. This Promissory Note shall be a non-recourse Promissory Note and neither the Maker, nor any of its members shall have any personal liability for the payment of any portion of the indebtedness evidenced by this Promissory Note, and in the event of a default by the Maker under this Promissory Note, the Holder's sole remedy shall be limited to exercising its rights under the Loan Documents, including foreclosure or other rights granted under such Loan Documents, but shall not include a right to proceed directly against the Maker, or any of its members, or the right to obtain a deficiency judgment after foreclosure against the Maker or any of its members.

11. This Promissory Note may be prepaid in whole or in part at any time, without premium or penalty.

[Signature lines on following page]

IN WITNESS WHEREOF, MAKER executed this Promissory Note this ____ day of August, 2023.

WITNESSES:

PINNACLE 441 PHASE 2, LTD., a Florida limited liability company

Signature

By: PC 441 Phase 2, LLC, a Florida limited liability company, its Authorized Member

Print Name

By: _____
David O. Deutch, President

Signature

Print Name

STATE OF _____)
COUNTY OF _____) SS.

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2023, by David O. Deutch, the President of PC 441 Phase 2, LLC, a Florida limited liability company, the Authorized Member of PINNACLE 441 PHASE 2, LLC, a Florida limited liability company, on behalf of the companies, who ☐ is personally known to me or ☐ has produced _____ as identification.

(NOTARY SEAL)

Notary public, State of Florida

Name: _____

My commission expires: _____

Serial No.: _____

Attachment "B"

Legal Description

Parcel 1: (Fee Simple)

The West 220 feet of Lot 11, Block 2 of Pine Ridge Estates, according to the Plat thereof, as recorded in Plat Book 24, Page 10, of the Public Records of Broward County, Florida.

Parcel 2: (Easement)

Nonexclusive easements for the benefit of Parcel 1 hereinabove, as created by and pursuant to that certain Reciprocal Easement Agreement between Pinnacle 441, LLC, a Florida limited liability company and Pinnacle 441 Phase 2, LLC, a Florida limited liability company, dated _____, 2023, recorded on _____, 2023 in Instrument # _____, of the Public Records of Broward County, Florida, over and across the lands more particularly described in Article 3.2 (a) through (e) inclusive, (g) and (h) thereof and for the purposes therein expressed.

All of said lands situate, lying and being in Broward County, Florida.

Attachment "C"

Proposed ROW Dedication

EXHIBIT "F-1"

FORM OF BANK OF AMERICA AND CITIBANK SUBORDINATION

Prepared By/Return To:

Buchalter, APC
1000 Wilshire Blvd, Suite 1500
Los Angeles, CA 90017
Attention: Mercedes Martin, Esq.

[Reserved]

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT ("Agreement") dated as of [_____, 2023], is executed by and among (i) **BANK OF AMERICA, N.A.**, a national banking association ("BOA"), (ii) **CITY OF HOLLYWOOD**, a municipal corporation organized and existing under the laws of the State of Florida ("City"), and (iii) **PINNACLE 441 PHASE 2, LLC**, a Florida limited liability company ("Borrower").

RECITALS:

A. Borrower is the fee owner of certain real property located at [6028 Johnson Street], Hollywood, Florida 33024, as more particularly described on the attached **Exhibit A** ("Land") and related improvements. Borrower intends to construct certain improvements on the Land comprising of a 100 unit multifamily rental housing development project, to be commonly known as "Pinnacle 441 Phase 2" (the "Project", and together with the Land, the "Mortgaged Property").

B. Borrower has requested that BOA make a taxable construction loan ("BOA Loan") to Borrower on the terms and conditions set forth in that certain Construction Loan Agreement dated as of even date herewith (as amended, modified or supplemented, the "Senior Loan Agreement") between BOA and Borrower. The obligations of the Borrower to repay the BOA Loan are evidenced by a Promissory Note (as amended, modified or supplemented, the "Senior Note") in the original principal amount of \$[_____] made by the Borrower to the order of BOA. The obligations of the Borrower under the Senior Loan Agreement and the Senior Note are secured by a first-priority Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated as of even date herewith from the Borrower to BOA (as amended, modified and supplemented from time to time, the "Security Instrument"), to be recorded in the land records of Broward County, Florida ("Land Records") substantially concurrently herewith, and other security instruments. The Senior Loan Agreement, the Senior Note, the Security Instrument, and all other documents evidencing, securing or relating to the BOA Loan are collectively referred to as the "BOA Loan Documents". The obligations created under and pursuant to the BOA Loan Documents are referred to collectively as the "Senior Loan Obligations".

C. The City has made or is making a loan to Borrower in the original principal amount of [One Million and No/100 Dollars (\$1,000,000)] ("City Loan"), to be secured by the City Loan Mortgage (as defined below).

Error! Unknown document property name.

Subordination Agreement –
BOA/City of Hollywood (Pinnacle 441 Phase 2)

**DRAFT SUBJECT TO CREDIT APPROVAL AND FURTHER CHANGE.
THIS DOES NOT CONSTITUTE A COMMITMENT TO LEND.**

D. Citibank, N.A. ("Citi"), has entered into a forward commitment with the Borrower dated [_____] , 2023 ("Citi Forward Commitment"), whereby Citi has committed, subject to the satisfaction on or before the [Forward Commitment Maturity Date] (as such term is defined in the Citi Forward Commitment) of the Conditions to Conversion set forth in the Citi Forward Commitment, to facilitate the permanent financing of the Project ("Permanent Loan"). If the Conditions to Conversion are satisfied on or before the Forward Commitment Maturity Date, (i) [the Funding Loan Agreement attached as Appendix C and the Borrower Loan Agreement attached as Appendix D] shall be delivered by the respective parties and become effective, and (ii) the BOA Loan shall be paid in full and the Security Instrument shall be assigned to Citi]. The [Funding Loan Agreement, Borrower Loan Agreement, Security Instrument, and all other documents evidencing, securing or relating to the Permanent Loan are collectively referred to herein as the "Permanent Loan Documents". Effective as of the Conversion Date, (i) the term "Senior Loan Obligations" shall refer to the obligations created under and pursuant to the Permanent Loan Documents, and (ii) the term "Senior Note" shall refer to [Citi perm note].

E. BOA has agreed to permit the City Loan and to allow the subordinate mortgage lien against the Mortgaged Property subject to all of the conditions contained in this Agreement.

AGREEMENTS:

NOW, THEREFORE, in order to induce Senior Lender (as defined herein) to permit the Subordinate Loan (as defined herein) to Borrower and to allow a subordinate mortgage lien against the Mortgaged Property, and in consideration thereof, Senior Lender, Subordinate Lender (as defined herein) and Borrower agree as follows:

1. Recitals.

The recitals set forth above are incorporated herein by reference.

2. Definitions.

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

"Affiliate" means, when used with respect to a Person, any corporation, partnership, joint venture, limited liability company, limited liability partnership, trust or individual Controlled by, under common Control with, or which Controls such Person, and in all cases any other Person that holds fifty percent (50%) or more of the ownership interests in such Person.

"Borrower" means the Person named as such in the first paragraph on page 1 of this Agreement, any successor or assign of Borrower, including without limitation, a receiver, trustee or debtor-in-possession and any other Person (other than Senior Lender) who acquires title to the Mortgaged Property after the date of this Agreement.

"Business Day" means any day other than (a) a Saturday, (b) a Sunday, (c) a day on which Senior Lender is not open for business, or (d) a day on which the Federal Reserve Bank of New York is not open for business.

"Condemnation Action" means any action or proceeding, however characterized or named, relating to any condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirect.

"Control" (including with correlative meanings, the terms "Controlling," "Controlled by" and "under common Control with"), as applied to any entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or operations of such entity, whether through the ownership of voting securities, ownership interests or by contract or otherwise.

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“City Loan Documents” means all documents which evidence, guarantee, secure or otherwise pertain to the City Loan, including but not limited to the City Loan Mortgage and any regulatory agreement, development agreement or use restriction related to the City Loan.

“City Loan Mortgage” means any deed of trust, mortgage or other security instrument securing the City Loan.

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

“Person” means an individual, an estate, a trust, a corporation, a partnership, a limited liability company or any other organization or entity (whether governmental or private).

“Senior Lender” shall be determined in accordance with Section 3, together with its successors and assigns and any other Person who becomes the legal holder of the Senior Loan after the date of this Agreement. Effective as of the Conversion Date, the term “Senior Lender” shall mean Citibank and its successors and assigns.

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

“Subordinate Lender” shall be determined in accordance with Section 3, together with any successor or assign of Subordinate Lender, including without limitation, a receiver, trustee or debtor-in-possession and any other Person who becomes the legal holder of the Subordinate Note after the date of this Agreement.

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

“Subordinate Loan Documents” means the Subordinate Note, the Subordinate Mortgage (as defined and determined in Section 3), any loan agreement securing a Subordinate Loan, and all other documents evidencing, securing or otherwise executed and delivered in connection with a Subordinate Loan.

“Subordinate Note” means the promissory notes of even date herewith issued by Borrower to a Subordinate Lender, or order, to evidence a Subordinate Loan.

3. Priorities.

For the purposes of this Agreement, the following terms shall apply:

(a) As between the BOA Loan and the City Loan, the BOA Loan shall be deemed a “Senior Loan” and the City Loan shall be deemed a “Subordinate Loan”. Effective as of the Conversion Date, as between the Permanent Loan and the City Loan, the Permanent Loan shall be deemed a “Senior Loan” and the City Loan shall be deemed a “Subordinate Loan”.

(b) As between BOA and the City, BOA shall be deemed a “Senior Lender” and the City shall be deemed a “Subordinate Lender”. Effective as of the Conversion Date, as between Citi and the City, Citi shall be deemed a “Senior Lender” and the City shall be deemed a “Subordinate Lender”.

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(c) As between the Security Instrument and the City Loan Mortgage, the Security Instrument shall be deemed the "Senior Mortgage" and the City Loan Mortgage shall be deemed a "Subordinate Mortgage".

(d) As among the BOA Loan Documents and the City Loan Documents, the BOA Loan Documents shall be deemed the "Senior Loan Documents" and the City Loan Documents shall be deemed the "Subordinate Loan Documents". Effective as of the Conversion Date, as among the Permanent Loan Documents and the City Loan Documents, the Permanent Loan Documents shall be deemed the "Senior Loan Documents" and the City Loan Documents shall be deemed the "Subordinate Loan Documents".

4. Permission to Place Mortgage Lien Against Mortgaged Property.

Senior Lender agrees, notwithstanding the prohibition against inferior liens on the Mortgaged Property contained in the Senior Loan Documents and subject to the provisions of this Agreement, to permit Subordinate Lender to record the Subordinate Mortgage and other recordable Subordinate Loan Documents against the Mortgaged Property to secure Borrower's obligation to repay the Subordinate Note and all other obligations, indebtedness and liabilities of Borrower to Subordinate Lender under and in connection with the Subordinate Loan.

5. Borrower's and Subordinate Lender's Representations and Warranties.

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

(a) Subordinate Loan Documents.

The Subordinate Loan is evidenced by the Subordinate Note and is secured by the Subordinate Mortgage and the Subordinate Loan Documents.

(b) Subordinate Note.

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

"The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a [Promissory Note] (and any schedules) dated as of even date herewith in the original principal amount of \$[] (the "BOA Loan Note"), executed by Borrower, and payable to the order of Bank of America, N.A., a national banking association ("BOA"), to the extent and in the manner provided in that certain Subordination Agreement dated [], 2023] between the payee of this Note, BOA and the other parties thereto (the "Subordination Agreement"). The Mortgage (and any exhibits) securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of any mortgage securing the BOA Loan Note and the terms, covenants and conditions of the loan documents evidencing the terms of the BOA Loan Note, as more fully set forth in the Subordination Agreement. The rights and remedies of the payee and each subsequent holder of this Note under the Mortgage (and any exhibits) securing this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by Subordinate Lender under the Subordination Agreement."

(c) Relationship of Borrower to Subordinate Lender and Senior Lender.

Subordinate Lender is not an Affiliate of Borrower and is not in possession of any facts which would lead it to believe that Senior Lender is an Affiliate of Borrower.

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(d) Term.

The term of the Subordinate Note does not end before the stated term of the Senior Note.

(e) Subordinate Loan Documents.

The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, Senior Lender prior to the date of this Agreement.

6. Deliveries.

Borrower shall submit the following items to Senior Lender the later of (a) ten (10) Business Days after the date on which the proceeds of the Subordinate Loan are disbursed to Borrower, and (b) the effective date of the Senior Loan Documents:

(1) Title Policy Endorsement.

An endorsement to the policy of title insurance insuring the lien of the Senior Mortgage that insures that (A) there are no liens or other encumbrances affecting the Mortgaged Property, other than "Permitted Encumbrances" (as defined in the Senior Mortgage), the Subordinate Mortgage, and other Subordinate Loan Documents filed or recorded against the Mortgaged Property, (B) the lien of the Subordinate Mortgage is subordinate to the lien of the Senior Mortgage, and (C) this Agreement has been recorded among the applicable land records.

(2) Reserved.

(3) Subordinate Loan Documents.

A complete set of the fully executed Subordinate Loan Documents, certified by Borrower to be true, correct and complete.

(4) Senior Loan Documents.

An executed copy of each of the Senior Loan Documents, certified by Borrower to be true, correct and complete.

7. Terms of Subordination.

(a) Agreement to Subordinate.

Senior Lender and Subordinate Lender agree that (1) the indebtedness evidenced by the Subordinate Loan Documents is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement, to the prior payment in full of the indebtedness evidenced by the Senior Loan Documents, and (2) the liens, terms, covenants and conditions of the Subordinate Mortgage and the other Subordinate Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Mortgage and the other Senior Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the Senior Mortgage and the other Senior Loan Documents (but only to, all sums advanced for the purposes of (A) protecting the security or lien priority of Senior Lender under the Senior Loan Documents, (B) curing defaults under the Subordinate Loan Documents, or (C) constructing, renovating, repairing, furnishing, fixturing or equipping the Mortgaged Property).

(b) Subordination of Subrogation Rights.

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Subordinate Lender agrees that if, by reason of its payment of real estate taxes or other monetary obligations of Borrower, or by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, it acquires by right of subrogation or otherwise a lien on the Mortgaged Property that (but for this subsection) would be senior to the lien of the Senior Mortgage, then, in that event, such lien shall be subject and subordinate to the lien of the Senior Mortgage.

(c) Payments Before Senior Loan Default.

Until Subordinate Lender receives a Default Notice (or otherwise acquires actual knowledge) of a Senior Loan Default, Subordinate Lender shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Loan Documents.

(d) Payments After Senior Loan Default.

Borrower agrees that, after it receives a Default Notice (or otherwise acquires knowledge) of a Senior Loan Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorneys' fees, or any other sums secured by the Subordinate Loan Documents) without Senior Lender's prior written consent. Subordinate Lender agrees that, after it receives a Default Notice from Senior Lender with written instructions directing Subordinate Lender not to accept payments from Borrower on account of the Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorneys' fees, or any other sums secured by the Subordinate Loan Documents) without Senior Lender's prior written consent. If Subordinate Lender receives written notice from Senior Lender that the Senior Loan Default which gave rise to Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by Senior Lender, the restrictions on payment to Subordinate Lender in this Section 7 shall terminate, and Senior Lender shall have no right to any subsequent payments made to Subordinate Lender by Borrower prior to Subordinate Lender's receipt of a new Default Notice from Senior Lender in accordance with the provisions of this Section 70. Notwithstanding the foregoing, this provision shall not apply to liens for taxes, special assessments, code enforcement, utility service, and other liens with priority as a matter of law which accrue to Subordinate Lender in its governmental authority as a political subdivision of the State of Florida and not in its capacity as Subordinate Lender.

(e) Remitting Subordinate Loan Payments to Senior Lender.

If, after Subordinate Lender receives a Default Notice from Senior Lender in accordance with Section 70, Subordinate Lender receives any payments under the Subordinate Loan Documents, Subordinate Lender agrees that such payment or other distribution will be received and held in trust for Senior Lender and unless Senior Lender otherwise notifies Subordinate Lender in writing, will be promptly remitted, in kind to Senior Lender, properly endorsed to Senior Lender, to be applied to the principal of, interest on and other amounts due under the Senior Loan Documents in accordance with the provisions of the Senior Loan Documents. By executing this Agreement, Borrower specifically authorizes Subordinate Lender to endorse and remit any such payments to Senior Lender, and specifically waives any and all rights to have such payments returned to Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by Subordinate Lender, and remitted to Senior Lender under this Section 7, shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to Senior Lender waive any Subordinate Loan Default which may arise from the inability of Subordinate Lender to retain such payment or apply such payment to the Subordinate Loan.

(f) Notice of Payment from Other Persons.

Subordinate Lender agrees to notify (telephonically or via email, followed by written notice) Senior Lender of Subordinate Lender's receipt from any Person other than Borrower of a payment with respect to

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Borrower's obligations under the Subordinate Loan Documents, promptly after Subordinate Lender obtains knowledge of such payment.

(g) Agreement Not to Commence Bankruptcy Proceeding.

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

8. Default Under Subordinate Loan Documents.

(a) Notice of Subordinate Loan Default and Cure Rights.

Subordinate Lender shall deliver to Senior Lender a Default Notice within five Business Days in each case where Subordinate Lender has given a Default Notice to Borrower. Failure of Subordinate Lender to send a Default Notice to Senior Lender shall not prevent the exercise of Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement, nor shall such failure constitute a default by Subordinate Lender under this Agreement. Senior Lender shall have the right, but not the obligation, to cure any Subordinate Loan Default within 60 days following the date of such notice; provided, however that Subordinate Lender shall be entitled, during such 60 day period, to continue to pursue its rights and remedies under the Subordinate Loan Documents. All amounts paid by Senior Lender in accordance with the Senior Loan Documents to cure a Subordinate Loan Default shall be deemed to have been advanced by Senior Lender pursuant to, and shall be secured by, the Senior Loan Agreement and the Senior Mortgage.

(b) Subordinate Lender's Exercise of Remedies After Notice to Senior Lender.

If a Subordinate Loan Default occurs and is continuing, Subordinate Lender agrees that, without Senior Lender's prior written consent, it will not commence foreclosure proceedings with respect to the Mortgaged Property under the Subordinate Loan Documents or exercise any other rights or remedies it may have under the Subordinate Loan Documents, including, but not limited to accelerating the Subordinate Loan (and enforcing any "due on sale" provision included in the Subordinate Loan Documents), collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder unless and until it has given Senior Lender at least sixty (60) days prior written notice; during such sixty (60) day period, however, Subordinate Lender shall be entitled to exercise and enforce all other rights and remedies available to Subordinate Lender under the Subordinate Loan Documents and/or under applicable laws, including without limitation, rights to enforce covenants and agreements of Borrower relating to income, rent, or affordability restrictions contained in any land use restriction agreement.

(c) Cross Default.

Borrower and Subordinate Lender agree that a Subordinate Loan Default shall constitute a Senior Loan Default under the Senior Loan Documents and Senior Lender shall have the right to exercise all rights or remedies under the Senior Loan Documents in the same manner as in the case of any other Senior Loan Default. If Subordinate Lender notifies Senior Lender in writing that any Subordinate Loan Default of which Senior Lender has received a Default 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 shall be deemed cured, and the Senior Loan shall be reinstated, provided, however, that Senior Lender shall not be required to return or otherwise credit for the benefit of Borrower any default rate interest or other default related charges or payments received by Senior Lender during such Senior Loan Default.

9. Default Under Senior Loan Documents.

(a) Notice of Senior Loan Default and Cure Rights.

Senior Lender shall deliver to Subordinate Lender a Default Notice within five Business Days in each case where Senior Lender has given a Default Notice to Borrower. Failure of Senior Lender to send a Default Notice to Subordinate Lender shall not prevent the exercise of Senior Lender's rights and remedies under the Senior Loan Documents, subject to the provisions of this Section 90, nor shall such failure constitute a default by Senior Lender under this Agreement. Subordinate Lender shall have the right, but not the obligation, to cure any such Senior Loan Default within 60 days following the date of such Default Notice or the date on which Subordinate Lender otherwise acquires actual knowledge of Senior Loan Default; provided, however, that Senior Lender shall be entitled during such 60 day period to continue to pursue its remedies under the Senior Loan Documents. Subordinate Lender may have up to 90 days from the date of the Default Notice to cure a non-monetary default if during such 90 day period Subordinate Lender keeps current all payments required by the Senior Loan Documents. In the event that such a non-monetary 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 Senior Lender may exercise during such 90 day period all available rights and remedies to protect and preserve the Mortgaged Property and the rents, revenues and other proceeds from the Mortgaged Property. All amounts paid by Subordinate Lender to Senior Lender to cure a Senior Loan Default shall be deemed to have been advanced by Subordinate Lender pursuant to, and shall be secured by the Subordinate Mortgage.

(b) Cross Default.

Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a Senior Loan Default shall not constitute a default under the Subordinate Loan Documents (if no other default has occurred under the Subordinate Loan Documents) until either (1) Senior Lender has accelerated the maturity of the Senior Loan, or (2) Senior Lender has taken affirmative action to exercise its rights under the Senior Loan Documents to collect rent, to appoint (or seek the appointment of) a receiver or to foreclose on (or to exercise a power of sale contained in) the Senior Loan Documents. At any time after a Senior Loan Default is determined to constitute a default under the Subordinate Loan Documents, Subordinate Lender shall be permitted to pursue its remedies for default under the Subordinate Loan Documents, subject to the restrictions and limitations of this Agreement. If at any time Borrower cures any Senior Loan Default to the satisfaction of Senior Lender, as evidenced by written notice from Senior Lender to Subordinate Lender, any default under the Subordinate Loan Documents arising from such Senior Loan Default shall be deemed cured and the Subordinate Loan shall be retroactively reinstated as if such Senior Loan Default had never occurred.

10. Conflict.

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

11. Rights and Obligations of Subordinate Lender Under the Subordinate Loan Documents and of Senior Lender under the Senior Loan Documents.

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

(a) Protection of Security Interest.

Subordinate Lender shall not, without the prior written consent of Senior Lender in each instance, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the Subordinate Loan Documents, except that Subordinate Lender shall have the right to advance funds to cure Senior Loan Defaults pursuant to Section 90 and advance funds pursuant to the Subordinate Loan Documents for the purpose of paying real estate taxes and insurance premiums, making necessary repairs to the Mortgaged Property and curing other defaults by Borrower under the Subordinate Loan Documents.

(b) Condemnation or Casualty.

Following the occurrence of (1) a Condemnation Action, or (2) a fire or other casualty resulting in damage to all or a portion of the Mortgaged Property (collectively, a "Casualty"), at any time or times when the Senior Mortgage remains a lien on the Mortgaged Property the following provisions shall apply:

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

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

(c) Insurance.

Subordinate Lender agrees that all original policies of insurance required pursuant to the Senior Mortgage shall be held by Senior Lender. The preceding sentence shall not preclude Subordinate Lender from requiring that it be named as a 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 the proceeds of property damage insurance under the Senior Mortgage, or that it be named as an additional insured under all policies of liability insurance maintained by Borrower with respect to the Mortgaged Property.

(d) No Modification of Subordinate Loan Documents.

Borrower and Subordinate Lender each agree 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 in each instance, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon Senior Lender under the Senior Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents or assignment of Subordinate Lender's interest in the Subordinate Loan without Senior Lender's consent shall be void ab initio and of no effect whatsoever.

12. Modification or Refinancing of Senior Loan.

Except as otherwise set forth in this Section 12, Subordinate Lender consents to any agreement or arrangement in which Senior Lender waives, postpones, extends, reduces or modifies any provisions of the Senior Loan Documents, including any provision requiring the payment of money. Notwithstanding the foregoing, Senior Lender may not modify any provisions of the Senior Loan Documents that increases the interest rate, extends the term or increases the principal amount of the Senior Loan, except as permitted in connection with a default under the Senior Loan as set forth in Section 9(a) and except for increases in the interest rate, extensions of the term or increases in the principal amount of the Senior Loan that results 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. Subordinate Lender further agrees that its agreement to subordinate hereunder shall not extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Loan (including reasonable and necessary costs associated with the closing and/or the refinancing) that has not been previously approved by Subordinate Lender, which approval shall not be unreasonably withheld, conditioned or delayed; and that, after such approval, all the terms and covenants of this Agreement shall inure to the benefit of any holder of any such refinanced debt; and that all references to the Senior Loan, the Senior Note, the Senior Loan Agreement, the Senior Mortgage, the Senior Loan Documents and Senior Lender shall mean, respectively, the refinance loan, the refinance note loan agreement, the mortgage securing the refinance note, all documents evidencing securing or otherwise pertaining to the refinance note and the holder of the refinance note. Subordinate Lender further agrees that Borrower will have the right to refinance the Senior Loan prior to maturity of the Senior Loan with the prior written consent of the Subordinate Lender which consent shall not be unreasonably withheld, conditioned or delayed.

13. Default by Subordinate Lender or Senior Lender.

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

14. Reinstatement.

To the extent that Borrower makes a payment to Senior Lender or Senior Lender receives any payment or proceeds of the collateral securing the Senior Loan for Borrower's benefit, which payment or proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable doctrine, then to the extent of such payment or proceeds received and not retained by Senior Lender, this Agreement shall be reinstated and continue in full force and effect until full and final payment shall have been made to Senior Lender. Subordinate Lender agrees to hold in trust for Senior Lender and promptly remit to Senior Lender any payments received by Subordinate Lender after such invalidated, rescinded or returned payment was originally made, provided that Senior Lender provides notice to Subordinate Lender promptly of such invalidation, rescission or returned payment.

15. Notices.

(a) Process of Serving Notice.

All notices under this Agreement shall be:

- (1) in writing and shall be:
 - (A) delivered, in person;
 - (B) mailed, postage prepaid, either by registered or certified delivery, return receipt requested;
 - (C) sent by overnight courier; or
 - (D) sent by electronic mail with originals to follow by overnight courier;
- (2) addressed to the intended recipient at the address(es) below the signature block, as applicable; and
- (3) deemed given on the earlier to occur of:
 - (A) the date when the notice is received by the addressee; or
 - (B) if the recipient refuses or rejects delivery, the date on which the notice is so refused or rejected, as conclusively established by the records of the United States Postal Service or any express courier service.

(b) Change of Address.

Any party to Agreement may change the address to which notices intended for it are to be directed by means of notice given to the other parties identified in this Agreement.

(c) Receipt of Notices.

Senior Lender, Subordinate Lender or Borrower shall not refuse or reject delivery of any notice given in accordance with this Agreement. Each party is required to acknowledge, in writing, the receipt of any notice upon request by the other party.

16. General.

(a) Assignment/Successors.

This Agreement shall be binding upon Borrower, Senior Lender and Subordinate Lender and shall inure to the benefit of the respective legal successors, transferees and assigns of Borrower, Senior Lender and Subordinate Lender. Borrower shall not assign any of its rights and obligations under this Agreement without the prior written consent of Senior Lender.

(b) No Partnership or Joint Venture.

Senior Lender's permission for the placement of the Subordinate Loan does not constitute Senior Lender as a joint venturer or partner of Subordinate Lender. Neither party shall hold itself out as a partner, agent or Affiliate of the other party.

**DRAFT SUBJECT TO CREDIT APPROVAL AND FURTHER CHANGE.
THIS DOES NOT CONSTITUTE A COMMITMENT TO LEND.**

(c) Senior Lender's and Subordinate Lender's Consent.

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

(d) Further Assurances.

Subordinate Lender, Senior Lender and Borrower each agrees, at Borrower's expense, to execute and deliver all additional instruments and/or documents reasonably required by any other party to this Agreement in order to evidence that the Subordinate Mortgage is subordinate to the lien, covenants and conditions of the Senior Loan Documents, or to further evidence the intent of this Agreement.

(e) Amendment.

This Agreement shall not be amended except by written instrument signed by all parties.

(f) Governing Law.

This Agreement shall be governed by the laws of the jurisdiction in which the Mortgaged Property is located without giving effect to any choice of law provisions thereof that would result in the application of the laws of another jurisdiction. Senior Lender, Subordinate Lender and Borrower agree that any controversy arising under or in relation to this Security Instrument shall be litigated exclusively in the jurisdiction in which the Mortgaged Property is located. The state and federal courts and authorities with jurisdiction in such locale shall have exclusive jurisdiction over all controversies that arise under or in relation to this Agreement. The parties irrevocably consent to service, jurisdiction, and venue of such courts for any such litigation and waive any other venue to which any might be entitled by virtue of domicile, habitual residence or otherwise.

(g) Severable Provisions.

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

(h) Term.

The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (1) the payment in full of the principal of, interest on and other amounts payable under the Senior Loan Documents; (2) the payment in full of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which Subordinate Lender is obligated to remit to Senior Lender pursuant to Section 7; (3) the acquisition by Senior Lender of title to the Mortgaged Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Senior Loan Documents; or (4) the acquisition by Subordinate Lender of title to the Mortgaged Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Subordinate Loan Documents, but only if such acquisition of title does not violate any of the terms of this Agreement.

**DRAFT SUBJECT TO CREDIT APPROVAL AND FURTHER CHANGE.
THIS DOES NOT CONSTITUTE A COMMITMENT TO LEND.**

(i) Counterparts.

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

(j) Sale of Senior Loan.

Nothing in this Agreement shall limit Senior Lender's (including any assignee or transferee of Senior Lender) right to sell or transfer the Senior Loan, or any interest in the Senior Loan. The Senior Loan or a partial interest in the Senior Loan (together with this Agreement and the other Loan Documents) may be sold one or more times without prior notice to Borrower.

17. [Reserved]

18. [Reserved]

19. [Reserved]

20. Payment and Performance Bonds.

The Creditors acknowledge and agree that each of them may have been named as a dual obligee under the payment and performance bonds issued in connection with the Project, as their respective interests may appear. The liens and claims of the Creditors on the proceeds of the bonds shall be in the same order and manner as the lien priorities governing the Project. The other Creditors agree that until such time as the Senior Loan has been paid in full, Senior Lender is authorized and empowered to take any and all actions and exercise any and all rights relating to such bonds. Senior Lender agrees to consult with the other Creditors in good faith with respect to all proposed actions relating to the bonds, but if the Creditors are unable to reach a mutually acceptable agreement as to any proposed action, Senior Lender shall determine the action to be taken and shall notify the other Creditors of any such action to be taken.

[Remainder of Page Intentionally Blank]

**DRAFT SUBJECT TO CREDIT APPROVAL AND FURTHER CHANGE.
THIS DOES NOT CONSTITUTE A COMMITMENT TO LEND.**

IN WITNESS WHEREOF, the parties have signed and delivered this Agreement under seal (where applicable) or have caused this Agreement to be signed and delivered under seal (where applicable) by a duly authorized representative. Where applicable law so provides, the parties intend that this Agreement shall be deemed to be signed and delivered as a sealed instrument.

WITNESS OR ATTEST

SENIOR LENDER:

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

By: _____ (SEAL)

Name: Thomas Cleveland

Title: Vice President

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2023, by Thomas Cleveland, the Vice President, of **BANK OF AMERICA, N.A.**, a national banking association. Such individual is ☐ personally known to me or has ☐ produced identification.

Printed Name: _____

Notary Public

Serial Number (if any): _____

My Commission Expires:

(NOTARY SEAL)

Address
(prior to Conversion):

Bank of America, N.A.
101 East Kennedy Blvd., 6th Floor
P.O. Box 31590
Tampa, FL 33602
Mail Stop: FL1-400-06-13
Attention: CREB Loan Administration

Address
(from and after Conversion):

Citibank, N.A.

**DRAFT SUBJECT TO CREDIT APPROVAL AND FURTHER CHANGE.
THIS DOES NOT CONSTITUTE A COMMITMENT TO LEND.**

ATTEST:

Patricia A. Cerny
City Clerk

CITY:

CITY OF HOLLYWOOD, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida

George R. Keller, Jr., CPPT
City Manager

APPROVED AS TO FORM:

Douglas R. Gonzales
City Attorney

STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me by means of () physical presence or () online notarization this _____ day of _____, 202__, by _____, as _____ of **CITY OF HOLLYWOOD, FLORIDA**, a municipal corporation organized and existing under the laws of the State of Florida, on behalf of such municipal corporation. He/She () is personally known to me or () has produced a Florida driver's license as identification.

Signature of Notary Public
State of Florida

Print, Type or Stamp Commissioned Name
of Notary Public

[City notice addresses follow]

**DRAFT SUBJECT TO CREDIT APPROVAL AND FURTHER CHANGE.
THIS DOES NOT CONSTITUTE A COMMITMENT TO LEND.**

Address: City of Hollywood
Raelin Storey, Assistant City Manager
2600 Hollywood Boulevard, Room 419
Hollywood, Florida 33020

With copy to: City of Hollywood
Douglas R. Gonzales, City Attorney
2600 Hollywood Boulevard, Room 407
Hollywood, Florida 33020

**DRAFT SUBJECT TO CREDIT APPROVAL AND FURTHER CHANGE.
THIS DOES NOT CONSTITUTE A COMMITMENT TO LEND.**

BORROWER:

PINNACLE 441 PHASE 2, LLC,
a Florida limited liability company

By: PC 441 Phase 2, LLC,
a Florida limited liability company,
its Managing Member

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

STATE OF FLORIDA)

COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2023, by _____, the _____ of _____, a _____. Such individual is ☐ personally known to me or has ☐ produced identification.

Printed Name: _____
Notary Public

Serial Number (if any): _____

My Commission Expires:

(NOTARY SEAL)

Address: Pinnacle 441 Phase 2, LLC
c/o Pinnacle Communities, LLC
9400 S. Dadeland Blvd., Suite 100
Miami, FL 33156
Attention: David O. Deutch

With copies to:

Shutts & Bowen LLP
200 South Biscayne Boulevard, Suite 4100
Miami, Florida 33131
Attention: Robert Cheng, Esq.

EXHIBIT A
LEGAL DESCRIPTION

[To be attached]

EXHIBIT "F-2"

FORM OF FLORIDA HOUSING SUBORDINATION

THIS INSTRUMENT PREPARED
BY AND RETURN TO:

Maria V. Currais., Esq.
Weiss Serota Helfman Cole & Bierman, P. L.
2800 Ponce de Leon Blvd., Suite 1200
Coral Gables, Florida 33134

ABOVE SPACE RESERVED FOR
RECORDING PURPOSES ONLY

SUBORDINATION AGREEMENT TO CITY MORTGAGE

(PINNACLE 441, PHASE 2 / SAIL / ELI / NHTF / RFA 2022-205 / 2023-119SN)

THIS SUBORDINATION AGREEMENT TO CITY MORTGAGE (this "Agreement") is effective as of _____, 2023 by and among (i) **FLORIDA HOUSING FINANCE CORPORATION**, a public corporation and a public body corporate and politic duly created and existing under the laws of the State of Florida ("**Florida Housing**" and/or the "**Senior Lender**") (wherever term is respectively applied), (ii) CITY OF HOLLYWOOD, FLORIDA, a a municipal corporation organized and existing under the laws of the state of Florida(the "**Subordinate Lender**") (which term as used in every instance shall include Subordinate Lender's successors and assigns), and (iii) **PINNACLE 441 PHASE 2, LLC**, a Florida limited liability company ("**Borrower**").

RECITALS

A. The Senior Lender, issued a loan to Borrower of State Apartment Incentive Loan ("SAIL") Program funds under the Florida Housing Finance Corporation Request for Applications 2022-205, in effect as of November 10, 2022 ("RFA"), and the SAIL Program, Section 420.5087, Fla. Stat., and governed by the rules of Florida Housing, as codified at Chapter 67-48, Fla. Admin. Code, in effect as of July 6, 2022, and Chapter 67-53, Fla. Admin. Code, in effect as of August 20, 2009 (collectively, including the RFA, the "Rule") in the original principal amount of FOUR MILLION AND NO/100 DOLLARS (\$4,000,000) (the "**SAIL Loan**"). The SAIL Loan has been secured by a Mortgage and Security Agreement (the "**SAIL Security Instrument**") on an 84-unit multifamily residential development located on certain real property in Broward County, Florida, known as PINNACLE 441, PHASE 2 (the "**Property**"). The Property is more fully described in Exhibit "A" attached hereto. The Borrower's obligation to repay the SAIL Loan is evidenced by a Promissory Note, dated _____, 2023 (the "**SAIL Note**") and due in full on _____, 2044.

B. Senior Lender has also made a loan to Borrower of Extremely Low Income ("**ELI**") Program funds under the Rule in the original principal amount of SEVEN HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$750,000) (the "**ELI Loan**"). The ELI Loan has been secured by

a Mortgage and Security Agreement (the “**ELI Security Instrument**”) on the Property. The Borrower's obligation to repay the ELI Loan is evidenced by a Promissory Note, dated as of _____, 2023 (the “**ELI Note**”) and due in full on _____, 2044.

C. Senior Lender has also made a loan to Borrower of National Housing Trust Fund (“**NHTF**”) Program governed by Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110-289); 12 U.S.C. Section 4501 et seq., Chapter 420, Fla. Stat. and 24 C.F.R. Part 93 under the Rule in the original principal amount of ONE MILLION EIGHT HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$1,850,800) (the “**NHTF Loan**” and, together with the SAIL Loan and the ELI Loan, the “**Senior Loan**”). The NHTF Loan has been secured by a Mortgage and Security Agreement (the “**NHTF Security Instrument**” and, together with the SAIL Security Instrument and the ELI Security Instrument, the “**Senior Security Instrument**”) on the Property. The Borrower's obligation to repay the NHTF Loan is evidenced by a Promissory Note, dated _____, 2023 and is due in full on _____, 2043 (the “**NHTF Note**” and, together with the SAIL Note and the ELI Note, the “**Subordinate Note**”).

D. The Borrower has requested that the Senior Lender permit the Subordinate Lender to make a fifth subordinate loan to Borrower evidenced by a promissory note in the original principal amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) dated _____, 2023 and due in full on _____, 2053 (the “**Subordinate Loan**”) and secure the Subordinate Loan by placing a sixth subordinate mortgage lien against the Property.

E. The Senior Lender has agreed to permit the Subordinate Lender to make the Subordinate Loan and to place subordinate mortgage lien against the Property subject to all of the conditions contained in this Agreement.

NOW, THEREFORE, in order to induce the Senior Lender to permit the Subordinate Lender to make the Subordinate Loan to Borrower and to place a subordinate mortgage lien against the Property, and in consideration thereof, the Senior Lender, the Subordinate Lender, and the Borrower agree as follows:

1. Definitions.

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

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

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

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

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

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

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

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

“Senior Loan Documents” means the Senior Note, the Senior Security Instrument and all other documents, evidencing, securing or otherwise executed and delivered in connection with the Senior Loan.

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

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

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

“Subordinate Note” means the promissory note in the original principal amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) made by Borrower to Subordinate Lender, or order, to evidence the Subordinate Loan.

“Subordinate Security Instrument” collectively means the Mortgage, and any subordinate Financing Statement filed in connection therewith, encumbering the Property as security for the Subordinate Loan, which the Subordinate Lender will cause to be recorded among the applicable land records.

2. Permission to Place Mortgage Lien Against Property.

The Senior Lender agrees, notwithstanding the prohibition against inferior liens on the Property contained in the Senior Loan Documents and subject to the provisions of this Agreement, to permit the Subordinate Lender to record the Subordinate Security Instrument and other recordable Subordinate Loan Documents against the Property (which are subordinate in all respects to the lien of the Senior Security

Instrument, other than as set forth herein) to secure the Borrower's obligation to repay the Subordinate Note and all other obligations, indebtedness and liabilities of the Borrower to the Subordinate Lender under and in connection with the Subordinate Loan. Such permission is subject to the condition that each of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 is true and correct on the date of this Agreement and on the date on which the proceeds of the Subordinate Loan are disbursed to the Borrower. If any of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 are not true and correct on both of those dates, the provisions of the Senior Loan Documents applicable to unpermitted liens on the Property shall apply with respect to the Subordinate Loan.

3. Borrower and Subordinate Lender Representations and Warranties.

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

(a) The Borrower makes the following representations and warranties to the Senior Lender:

(1) **Subordinate Note.** The Subordinate Note shall be deemed to contain and incorporate the following provision as if the same had been included in the original Subordinate Note:

“The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a (i) Promissory Note in the original principal amount of \$4,000,000 (the “SAIL Note”), (ii) Promissory Note in the original principal amount of \$750,000 (the “ELI Note”) and (iii) Promissory Note in the original principal amount of \$1,850,000 (the “NHTF Note” and together with the SAIL Note and the ELI Note, the “Senior Note”) issued by PINNACLE 441 PHASE 2, LLC, a Florida limited liability company (the “Borrower”) and payable to Florida Housing Finance Corporation (the “Senior Lender”), as their respective interests may appear, or order, to the extent and in the manner provided in that certain Subordination Agreement dated as of _____, 2023, between and among the Senior Lender, Borrower, and Broward County (the “Subordination Agreement”). The Mortgage, Assignment of Rents and Security Agreement (Florida) securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the separate Senior Security Instrument, securing the Senior Note, as more fully set forth in the Subordination Agreement. The rights and remedies of the Subordinate Lender and each subsequent holder of this Note under the Mortgage, Assignment of Rents and Security Agreement (Florida) securing this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of this Note, to have agreed to perform and observe all of the terms, covenants, and conditions to be performed or observed by the “Subordinate Lender” under the Subordination Agreement.”

(2) **Relationship of Borrower to Subordinate Lender and Senior Lender.** The Subordinate Lender is not an Affiliate of the Borrower.

(3) **Subordinate Loan Terms.** The term of the Subordinate Note does not end before the term of the Senior Note.

(4) **Subordinate Loan Documents.** The final and executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, Senior Lender prior to the date of this Agreement. Upon execution and delivery of the Subordinate Loan Documents, Borrower shall deliver to Senior Lender an executed copy of each of the Subordinate Loan Document, certified to be true, correct, and complete.

(b) The Subordinate Lender makes the following representations and warranties to the Senior Lender with respect to the Subordinate Note and Subordinate Loan Documents:

(1) **Subordinate Note.** The Subordinate Note shall be deemed to contain and incorporate the following provision as if the same had been included in the original Subordinate Note:

“The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a (i) Promissory Note in the original principal amount of \$4,000,000 (the “SAIL Note”), (ii) Promissory Note in the original principal amount of \$750,000 (the “ELI Note”) and (iii) Promissory Note in the original principal amount of \$1,850,000 (the “NHTF Note” and together with the SAIL Note and the ELI Note, the “Senior Note”) issued by PINNACLE 441 PHASE 2, LLC, a Florida limited liability company (the “Borrower”) and payable to Florida Housing Finance Corporation (the “Senior Lender”), as their respective interests may appear, or order, to the extent and in the manner provided in that certain Subordination Agreement dated as of _____, 2023, between and among the Senior Lender, Borrower, and Broward County (the “Subordination Agreement”). The Mortgage, Assignment of Rents and Security Agreement (Florida) securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the separate Senior Security Instrument, securing the Senior Note, as more fully set forth in the Subordination Agreement. The rights and remedies of the Subordinate Lender and each subsequent holder of this Note under the Mortgage, Assignment of Rents and Security Agreement (Florida) securing this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of this Note, to have agreed to perform and observe all of the terms, covenants, and conditions to be performed or observed by the “Subordinate Lender” under the Subordination Agreement.”

(2) **Subordinate Loan Terms.** The term of the Subordinate Note does not end before the term of the Senior Note.

(3) **Subordinate Loan Documents.** The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, Senior Lender prior to the date of this Agreement.

4. Terms of Subordination.

(a) **Agreement to Subordinate.** The Senior Lender and the Subordinate Lender agree that: (i) the indebtedness evidenced by the Subordinate Loan Documents is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement to the prior payment in full of

the indebtedness evidenced by the Senior Loan Documents, and (ii) the Subordinate Security Instrument and the other Subordinate Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Security Instrument and the other Senior Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the Senior Security Instrument and the other Senior Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the Senior Security Instrument, curing defaults by the Borrower under the Senior Loan Documents or for any other purpose expressly permitted by the Senior Security Instrument, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Property).

(b) Subordination of Subrogation Rights. The Subordinate Lender agrees that if, by reason of the advance payment by Subordinate Lender of real estate taxes, casualty insurance premiums or other monetary obligations of the Borrower to protect the Property, the Subordinate Lender, by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, acquires by right of subrogation or otherwise a lien on the Property which would (but for this subsection) be senior to the lien of the Senior Security Instrument, then, in that event, such lien shall be subject and subordinate to the lien of the Senior Security Instrument, only to the extent of the amount advanced, provided that Subordinate Lender gives Senior Lender prior written notice of its intent to advance sums for real property taxes and/or casualty insurance.

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

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

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

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

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

5. Default Under Subordinate Loan Documents.

(a) Notice of Default and Cure Rights. The Subordinate Lender shall deliver to the Senior Lender a Default Notice within five (5) Business Days in each case where the Subordinate Lender has given a Default Notice to the Borrower. Failure of the Subordinate Lender to send a Default Notice to the Senior Lender shall not prevent the exercise of the Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. The Senior Lender shall have the right, but not the obligation, to cure any Subordinate Loan Default within 60 days following the date of such notice provided, however that the Subordinate Lender shall be entitled, during such 60-day period, to continue to pursue its rights and remedies under the Subordinate Loan Documents. All amounts paid by the Senior Lender in accordance with the Senior Loan Documents to cure a Subordinate Loan Default shall be deemed to have been advanced by the Senior Lender pursuant to, and shall be secured by the lien of, the Senior Security Instrument.

(b) Subordinate Lender's Exercise of Remedies After Notice to Senior Lender. If a Subordinate Default occurs and is continuing, the Subordinate Lender agrees that, without the Senior Lender's prior written consent, it will not commence foreclosure proceedings with respect to the Property under the Subordinate Loan Documents or exercise any other rights or remedies it may have under the Subordinate Loan Documents, including but not limited to accelerating the Subordinate Loan, collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder unless and until it has given the Senior Lender at least 60 days' prior written notice; during such 60-day period, however, the Subordinate Lender shall be entitled to exercise and enforce all other rights and remedies available to the Subordinate Lender under the Subordinate Loan Documents and/or under applicable laws. Notwithstanding anything to the contrary in this Section 5(b), during such 60 day period, Subordinate Lender shall be entitled to exercise its rights to enforce covenants and agreements of the Borrower relating to income, rent or affordability restrictions.

(c) Cross Default. The Borrower and the Subordinate Lender agree that a Subordinate Loan Default shall constitute a Senior Loan Default under the Senior Loan Documents and the Senior Lender shall have the right to exercise all rights or remedies under the Senior Loan Documents in the same manner as in the case of any other Senior Loan Default. If the Subordinate Lender notifies the Senior Lender in writing that any Subordinate Loan Default of which the Senior Lender has received a Default Notice has been cured or waived, as determined by the Subordinate Lender in its sole discretion, then provided that Senior Lender has not conducted a sale of the Property pursuant to its rights under the Senior Loan Documents, any Senior Loan Default under the Senior Loan Documents arising solely from such Subordinate Loan Default shall be deemed cured, and the Senior Loan shall be reinstated, provided,

however, that the Senior Lender shall not be required to return or otherwise credit for the benefit of the Borrower any default rate interest or other default related charges or payments received by the Senior Lender during such Senior Loan Default.

6. Default Under Senior Loan Documents.

(a) **Notice of Default and Cure Rights.** The Senior Lender shall deliver to the Subordinate Lender a Default Notice within five (5) Business Days in each case where the Senior Lender has given a Default Notice to the Borrower. Failure of the Senior Lender to send a Default Notice to the Subordinate Lender shall not prevent the exercise of the Senior Lender's rights and remedies under the Senior Loan Documents, subject to the provisions of this Agreement. The Subordinate Lender shall have the right, but not the obligation, to cure any such Senior Loan Default within 60 days following the date of such notice; provided, however, that the Senior Lender shall be entitled during such 60-day period to continue to pursue its remedies under the Senior Loan Documents. Subordinate Lender may have up to 90 days from the date of the Default Notice to cure a non-monetary default if during such 90-day period Subordinate Lender keeps current all payments required by the Senior Loan Documents. In the event that such a non-monetary default creates an unacceptable level of risk relative to the Property, or Senior Lender's secured position relative to the Property, as determined by Senior Lender in its sole discretion, then Senior Lender may exercise during such 90-day period all available rights and remedies to protect and preserve the Property and the rents, revenues and other proceeds from the Property. All amounts paid by the Subordinate Lender to the Senior Lender to cure a Senior Loan Default shall be deemed to have been advanced by the Subordinate Lender pursuant to, and shall be secured by the lien of, the Subordinate Security Instrument.

(b) **Cross Default.** The Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a Senior Loan Default shall not constitute a default under the Subordinate Loan Documents if no other default occurred under the Subordinate Loan Documents until either (i) the Senior Lender has accelerated the maturity of the Senior Loan, or (ii) the Senior Lender has taken affirmative action to exercise its rights under the Senior Security Instrument to collect rent, to appoint (or seek the appointment of) a receiver or to foreclose on (or to exercise a power of sale contained in) the Senior Security Instrument. At any time after a Senior Loan Default is determined to constitute a default under the Subordinate Loan Documents, the Subordinate Lender shall be permitted to pursue its remedies for default under the Subordinate Loan Documents, subject to the restrictions and limitations of this Agreement. If at any time the Borrower cures any Senior Loan Default to the satisfaction of the Senior Lender, as evidenced by written notice from the Senior Lender to the Subordinate Lender, any default under the Subordinate Loan Documents arising from such Senior Loan Default shall be deemed cured and the Subordinate Loan shall be retroactively reinstated as if such Senior Loan Default had never occurred.

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

provided, respectively under the Senior Loan Documents or the Subordinate Loan Documents; or create any other right or benefit for Borrower as against Senior Lender or Subordinate Lender.

8. Rights and Obligations of the Subordinate Lender under the Subordinate Loan Documents and of the Senior Lender under the Senior Loan Documents.

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

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

(b) Condemnation or Casualty. In the event of a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Property by an entity other than the Subordinate Lender in its governmental capacity (collectively, a "Taking"), or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Property (collectively, a "Casualty"), at any time or times when the Senior Security Instruments remain a lien on the Property, the following provisions shall apply:

- (1) The Subordinate Lender, in its sole capacity as lender, hereby agrees that its rights (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking or a Casualty shall be and remain subordinate in all respects to the Senior Lender's rights under the Senior Loan Documents with respect thereto, and the Subordinate Lender shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by the Senior Lender; provided, however, this subsection and/or anything contained in this Agreement shall not limit the rights of the Subordinate Lender to file any pleadings, documents, claims or notices with the appropriate court with jurisdiction over the proposed Taking and/or Casualty; and
- (2) All proceeds received or to be received on account of a Taking or a Casualty, or both, shall be applied (either to payment of the costs and expenses of repair and restoration or to payment of the Senior Loan) in the manner set forth in the Senior Security Instrument; provided, however, that if the Senior Lender elects to apply such proceeds to payment of the principal of, interest on and other amounts payable under the Senior Loan, any proceeds remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the Senior Loan shall be paid to, and may be applied by, the Subordinate Lender in accordance with the applicable provisions of the Subordinate Loan Documents, provided however, the Senior Lender agrees to consult with the Subordinate Lender in determining the application of Casualty proceeds, provided further however that in the event of any disagreement between the Senior Lender and the Subordinate Lender over the application of Casualty proceeds, the decision of the Senior Lender, in its sole discretion, shall prevail.

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

9. Modification or Refinancing of Senior Loan.

In an Event of Default or threatened, imminent default, under the Senior Loan Documents, the Subordinate Lender consents to any agreement or arrangement in which the Senior Lender waives, postpones, extends, reduces or modifies any provisions of the Senior Loan Documents, including any provision requiring the payment of money, without the prior approval of Subordinate Lender. Subordinate Lender further agrees that its agreement to subordinate hereunder shall not extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Loan (including reasonable and necessary costs associated with the closing and/or the refinancing) that has not been previously approved by Subordinate Lender; and that all, after approval, the terms and covenants of this Agreement shall inure to the benefit of any holder of any such refinanced debt; and that all references to the Senior Loan, the Senior Note, the Senior Security Instrument, the Senior Loan Documents and Senior Lender shall mean, respectively, the refinance loan, the refinance note, the mortgage securing the refinance note, all documents evidencing securing or otherwise pertaining to the refinance note and the holder of the refinance note.

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

11. Notices. Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which the Senior Lender or the Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by FedEx (or other similar national overnight courier) designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two (2) days after mailing in the United States), addressed to the respective parties as follows:

Florida Housing/
Senior Lender:

Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

Attention: Executive Director
Telephone: (850) 488-4197

with a copy to: Weiss Serota Helfman Cole & Bierman, P.L.
2800 Ponce de Leon Blvd, Suite 1200
Coral Gables, Florida 33134
Attention: Maria V. Currais, Esq.
Telephone: (305) 854-0800

Borrower: Pinnacle 441 Phase 2, LLC
9400 South Dadeland Boulevard
Suite 100
Miami, FL 33156
Attention: David Deutch
Telephone: (305) 859-9858
Email: david@pinnaclehousing.com

with a copy to: Shutts & Bowen LLP P.A.
200 South Biscayne Boulevard
Suite 4100
Miami, Florida 33131
Attention: Robert Cheng, Esq.
Telephone: (305) 415-9083
Email: rcheng@shutts.com

Subordinate Lender: City of Hollywood, Florida
2600 Hollywood Boulevard
Room 419
Hollywood, Florida 33020
Attention: Raelin Storey, Assistant City Manager

with a copy to: City of Hollywood, Florida
2600 Hollywood Boulevard
Room 407
Hollywood, Florida 33020
Attention: Douglas R. Gonzales, City Attorney

To the Investor
Member: Bank of America, NA
401 E. Las Olas Boulevard, 9th Floor
Fort Lauderdale, Florida 33301
Attention: _____

with a copy to: Holland & Knight, LLP
601 SW Seceond Avenue, Suite 1800
Portland, Oregon 97204
Attention: Sara Haskett, Esq.
Telephone (503) 241-8014
Email: Sara.haskett@hklaw.com

Broward County: Broward County

Broward County Administrator
115 South Andrews Avenue, Room 409
Fort Lauderdale, Florida 33301
Email address: mcepero@broward.org

with a copy to: Director of Housing Finance Division
Housing Finance Authority of Broward County
110 NE 3rd Street, Suite 300
Fort Lauderdale, Florida 33301
Email address: rstone@broward.org

Servicer: Seltzer Management Group, Inc.
17633 Ashley Drive
Panama City Beach, Florida 32413
Attention: Benjamin S. Johnson
Telephone: (850) 233-3616
Email: ben@seltzermanagement.com

Any party may, by notice given pursuant to this Section, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses for its notices, but notice of a change of address shall only be effective upon receipt

12. General

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

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

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

(d) Subordinate Lender Executes Solely In Capacity As Lender. Subordinate Lender executes this Agreement solely in its capacity as a lender toward the Property. Nothing contained in this Agreement is intended, nor will it be construed, to in any way restrict, limit or govern the rights of Subordinate Lender under circumstances, including but not limited to (i) when acting in its capacity as a sovereign, (ii) when exercising its governmental powers (including police, regulatory and taxing powers), (iii) when exercising its powers to take by eminent domain, or (iv) when acting in its capacity as an enforcement authority with respect to Borrower or the Property to the same extent as if it were not a party to this Agreement. Therefore, nothing contained herein shall affect Subordinate Lender's ability to lawfully (i) enforce the City of Hollywood Code of Ordinances, (ii) take property and give just compensation for said taking, (iii)

to be compensated if the Property is taken by a sovereign other than the City of Hollywood, or (iv) exercise any other rights and powers outside its role of Subordinate Lender.

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

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

(g) **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Florida. Any dispute arising under, in connection with or related to this Agreement or related to any matter which is the subject of this Agreement shall be subject to the exclusive jurisdiction of the state and/or federal courts in Broward County, Florida or Leon County, Florida.

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

(i) **Term.** The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the Senior Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which the Subordinate Lender is obligated to remit to the Senior Lender pursuant to Section 4 hereof; (iii) the acquisition by the Senior Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Senior Security Instrument; or (iv) the acquisition by the Subordinate Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Subordinate Security Instruments, but only if such acquisition of title does not violate any of the terms of this Agreement.

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

[COUNTERPART SIGNATURE PAGES TO FOLLOW]

**COUNTERPART SIGNATURE PAGE TO
SUBORDINATION AGREEMENT TO CITY MORTGAGE**

(PINNACLE 441, PHASE 2 / SAIL / ELI / NHTF / RFA 2022-205 / 2023-119SN)

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

WITNESSES:

SENIOR LENDER:

FLORIDA HOUSING FINANCE CORPORATION

Print:_____

By:_____

Name: Melissa Levy

Print:_____

Title: Managing Director of Multifamily Programs

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

[SEAL]

STATE OF FLORIDA

COUNTY OF LEON

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____ 2023, by MELISSA LEVY, as Managing Director of Multifamily Programs of the FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic duly created and existing under the laws of the State of Florida, on behalf of Florida Housing. Said person is personally known to me or has produced a valid driver's license as identification.

[SEAL]

Notary Public; State of Florida

Print Name:_____

Commission Expires:_____

Commission No.:_____

**COUNTERPART SIGNATURE PAGE TO
SUBORDINATION AGREEMENT TO CITY MORTGAGE**

(PINNACLE 441, PHASE 2 / SAIL / ELI / NHTF / RFA 2022-205 / 2023-119SN)

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

SUBORDINATE LENDER:

CITY OF HOLLYWOOD, FLORIDA

By: _____
Name: George R. Keller, Jr. CPPT
Title: City Manager

APPROVED AS TO FORM:

By: _____
Name: Douglas R. Gonzales
Title: City Manager

ATTEST:

By: _____
Name: Patricia Cerny
Title: City Clerk

Address: 2600 Hollywood Boulevard
Room 419
Hollywood, Florida 33020

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____ 2023 by George R. Keller, Jr. CPPT, as City Manager of CITY OF HOLLYWOOD, FLORIDA on behalf of the City. Said person is personally known to me or has produced a valid driver's license as identification.

[SEAL]

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

**COUNTERPART SIGNATURE PAGE TO
SUBORDINATION AGREEMENT TO CITY MORTGAGE**

(PINNACLE 441, PHASE 2 / SAIL / ELI / NHTF / RFA 2022-205 / 2023-119SN)

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

WITNESSES:

Print: _____

Print: _____

MORTGAGOR:

PINNACLE 441 PHASE 2, LLC,
a Florida limited liability company

By: PC 441 Phase 2, LLC,
a Florida limited liability company,
its Authorized Member

By: _____
David O. Deutch, President

Address: 9400 South Dadeland Boulevard, Suite 100
Miami, FL 33156

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ____ physical presence or _____online notarization this _____ day of _____, 2023, by David O. Deutch, as President of PC 441 Phase 2, LLC, a Florida limited liability company, the manager of PINNACLE 441 PHASE 2, LLC, a Florida limited liability company, on behalf of the company. Who is _____ personally known to me or _____ has produced a _____ as identification.

[SEAL]

Notary Public
Print Name: _____
Commission Expires: _____
Commission No.: _____

EXHIBIT "A"

LEGAL DESCRIPTION

(PINNACLE 441, PHASE 2 / SAIL / ELI / NHTF / RFA 2022-205 / 2023-119SN)

Parcel 1: (Fee Simple)

The West 220 feet of Lot 11, Block 2 of Pine Ridge Estates, according to the Plat thereof, as recorded in Plat Book 24, Page 10, of the Public Records of Broward County, Florida.

Parcel 2: (Easement)

Nonexclusive easements for the benefit of Parcel 1 hereinabove, as created by and pursuant to that certain Reciprocal Easement Agreement between Pinnacle 441, LLC, a Florida limited liability company and Pinnacle 441 Phase 2, LLC, a Florida limited liability company, dated _____, 2023, recorded on _____, 2023 in Instrument # _____, of the Public Records of Broward County, Florida, over and across the lands more particularly described in Article 3.2 (a) through (e) inclusive, (g) and (h) thereof and for the purposes therein expressed.

All of said lands situate, lying and being in Broward County, Florida.

EXHIBIT “F-3”

FORM OF BROWARD COUNTY SUBORDINATION

Document prepared by:
Reno V. Pierre
Office of County Attorney
115 South Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301

Return recorded document to:
Housing Finance Division
110 N.E. 3rd Street, Suite 300
Fort Lauderdale Florida 33301

Tax Parcel Number:

(For Recorder's Use Only)

SUBORDINATION AGREEMENT

(Broward County Subordination to City of Hollywood)

(PINNACLE 441 PHASE 2)

THIS SUBORDINATION AGREEMENT (“Agreement”) is entered into this ____ day of _____, 2023, by and among (i) Broward County, a political subdivision of the State of Florida (“Senior Lender”), (ii) City of Hollywood, a municipal corporation organized and existing under the laws of the state of Florida (“Subordinate Lender”), and (iii) Pinnacle 441 Phase 2, LLC, a Florida limited liability company (“Borrower”).

Recitals

- A. The Senior Lender has made or is making a loan to the Borrower in the original principal amount of up to TEN MILLION AND 00/100 DOLLARS (\$10,000,000.00) (the “Senior Loan”). The Senior Loan is being advanced pursuant to that certain Loan Agreement dated the date hereof (“Senior Loan Agreement”) and is secured by, among other things, a mortgage lien, on certain real property located in the City of Hollywood, Broward County, Florida (“Property”) pursuant to that certain Leasehold Mortgage and Security Agreement and Assignment of Leases, Rents, and Profits dated the date hereof from the Borrower to the Senior Lender (“Senior Mortgage”). The Property is more fully described in **Exhibit A** attached hereto. The Borrower’s

obligation to repay the Senior Loan is evidenced by that certain Promissory Note dated the date hereof ("Senior Note") in the original principal amount of up to TEN MILLION AND 00/100 DOLLARS (\$10,000,000.00).

- B. The Borrower has requested that Senior Lender permit the Subordinate Lender to make a subordinate loan to Borrower in the original principal amount of ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) ("Subordinate Loan") and to secure the Subordinate Loan by placing a mortgage lien against the Property.
- C. The Senior Lender has agreed to permit the Subordinate Lender to make the Subordinate Loan and to place a subordinate mortgage lien against the Property subject to all of the conditions contained in this Agreement.

NOW, THEREFORE, in order to induce the Senior Lender to permit the Subordinate Lender to make the Subordinate Loan to the Borrower and to place a subordinate mortgage lien against the Property, and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Senior Lender, the Subordinate Lender, and the Borrower agree as follows:

1. Definitions.

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

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

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

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

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

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

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

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

“Senior Loan Documents” means the Senior Note, the Senior Mortgage, the Senior Loan Agreement, and all other documents evidencing, securing or otherwise executed and delivered in connection with the Senior Loan.

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

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

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

“Subordinate Mortgage” means collectively that certain Subordinate Leasehold Mortgage and Security Agreement dated even date herewith, encumbering the Property as security for the Subordinate Loan, which the Subordinate Lender will cause to be recorded among the applicable land records immediately before this Agreement.

“Subordinate Note” means collectively that certain Promissory Note dated on or about the date hereof issued by the Borrower to the Subordinate Lender, or order, to evidence the Subordinate Loan.

2. Permission to Place Mortgage Lien Against Property.

The Senior Lender agrees, notwithstanding the prohibition against inferior liens on the Property contained in the Senior Loan Documents and subject to the provisions of this Agreement, to permit the Subordinate Mortgage and other recordable Subordinate Loan Documents against the Property (which are subordinate in all respects to the lien of the Senior Mortgage) to secure the Borrower’s obligation to repay the Subordinate Note and all other obligations, indebtedness and liabilities of the Borrower to the Subordinate Lender under and in connection with the Subordinate Loan. Such permission is subject to the condition that each of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 is true and correct on the date of this Agreement and on the date on which the proceeds of the Subordinate Loan are disbursed to the Borrower, if occurring after the date of this Agreement. If any of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 is not true and correct on both of those dates, the provisions of the Senior Loan Documents applicable to unpermitted liens on the Property shall apply.

3. Borrower’s and Subordinate Lender’s Representations and Warranties.

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

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

The indebtedness evidenced by this Note is and shall be subordinate in right of payment to the prior payment in full of the indebtedness evidenced by a Promissory Note dated on or about the date hereof in the original principal amount of up to \$10,000,000.00 (the “Senior Note”) issued by Pinnacle 441 Phase 2, LLC, and payable to Broward County, a political subdivision of the State of Florida (“Senior Lender”), or order, to the extent and in the manner provided in that certain Subordination Agreement, dated as of _____, 2023 (the “Subordination Agreement”), among the Senior Lender, Borrower, and City of Hollywood (“Subordinate Lender”). The Leasehold Mortgage and Security Agreement securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants, and conditions of the Senior Mortgage securing the Senior Note, as more fully set forth in the Subordination Agreement. The rights and remedies of the Subordinate Lender and each subsequent holder of this Note under the Leasehold Mortgage and Security Agreement securing this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of

this Note shall be deemed, by virtue of such holder's acquisition of the Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Subordinate Lender under the Subordination Agreement.

(b) Relationship of Borrower to Subordinate Lender and Senior Lender. The Subordinate Lender is not in possession of any facts which would lead it to believe that the Senior Lender is an Affiliate of the Borrower.

(c) Subordinate Loan Documents. The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, Senior Lender prior to the date of this Agreement. Upon execution and delivery of the Subordinate Loan Documents, Borrower shall deliver to Senior Lender an executed copy of each of the Subordinate Loan Documents, certified to be true, correct, and complete.

(d) Term. The term of the Subordinate Note ends before the term of the Senior Note.

4. Terms of Subordination.

(a) Agreement to Subordinate. The Senior Lender and the Subordinate Lender agree that: (i) the indebtedness evidenced by the Subordinate Loan Documents is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement to the prior payment in full of the indebtedness evidenced by the Senior Loan Documents, and (ii) the Subordinate Mortgage and the other Subordinate Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Mortgage and the other Senior Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the Senior Mortgage and the other Senior Loan Documents (including, but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the Senior Mortgage, curing defaults by the Borrower under the Senior Loan Documents or for any other purpose expressly permitted by the Senior Mortgage, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Property).

(b) Subordination of Subrogation Rights. The Subordinate Lender agrees that if, by reason of its payment of real estate taxes or other monetary obligations of the Borrower, or by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, it acquires by right of subrogation or otherwise a lien on the Property which (but for this Section 4(b)) would be senior to the lien of the Senior Mortgage, then, in that event, such lien shall be subject and subordinate to the lien of the Senior Mortgage.

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

(d) Payments After Senior Loan Default. The Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a Senior Loan Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including, but not limited to, principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) without the Senior Lender's prior written consent. The Subordinate Lender agrees that, after it receives a Default Notice from the Senior Lender with written instructions directing the Subordinate Lender not to accept payments from the Borrower on account of the Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including, but not limited to, principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) without the Senior Lender's prior written consent. If the Subordinate Lender receives written notice from the Senior Lender that the Senior Loan Default which gave rise to the Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by the Senior Lender, the restrictions on payment to the Subordinate Lender in this Section 4 shall terminate, and the Senior Lender shall have no right to any subsequent payments made to the Subordinate Lender by the Borrower prior to the Subordinate Lender's receipt of a new Default Notice from the Senior Lender in accordance with the provisions of this Section 4(d). Notwithstanding the foregoing, this provision shall not apply to liens for taxes, special assessments, code enforcement, utility service, and other liens with priority as a matter of law which accrue to Subordinate Lender in its governmental authority as a political subdivision of the State of Florida and not in its capacity as Subordinate Lender.

(e) Remitting Subordinate Loan Payments to Senior Lender. If, after the Subordinate Lender receives a Default Notice from the Senior Lender in accordance with Section 4(d), the Subordinate Lender receives any payments under the Subordinate Loan Documents, the Subordinate Lender agrees that such payment or other distribution will be received and held in trust for the Senior Lender and unless the Senior Lender otherwise notifies the Subordinate Lender in writing, will be promptly remitted, in kind to the Senior Lender, properly endorsed to the Senior Lender, to be applied to the principal of, interest on and other amounts due under the Senior Loan Documents in accordance with the provisions of the Senior Loan Documents. By executing this Agreement, the Borrower specifically authorizes the Subordinate Lender to endorse and remit any such payments to the Senior Lender, and specifically waives any and all rights to have such payments returned to the Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by the Subordinate Lender, and

remitted to the Senior Lender under this Section 4(e), shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to the Senior Lender waive any Subordinate Loan Default which may arise from the inability of the Subordinate Lender to retain such payment or apply such payment to the Subordinate Loan.

(f) Agreement Not to Commence Bankruptcy Proceeding. The Subordinate Lender agrees that during the term of this Agreement (as described in Section 12(h)) it will not commence or join with any other creditor in commencing any bankruptcy reorganization, arrangement, insolvency or liquidation proceedings with respect to the Borrower, without the Senior Lender's prior written consent.

5. Default Under Subordinate Loan Documents.

(a) Notice of Default and Cure Rights. The Subordinate Lender shall deliver to the Senior Lender a Default Notice within five (5) Business Days in each case where the Subordinate Lender has given a Default Notice to the Borrower. Failure of the Subordinate Lender to send a Default Notice to the Senior Lender shall not prevent the exercise of the Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. The Senior Lender shall have the right, but not the obligation, to cure any Subordinate Loan Default within ninety (90) days following the date of such notice; provided, however that the Subordinate Lender shall be entitled, during such 90-day period, to continue to pursue its rights and remedies under the Subordinate Loan Documents. All amounts paid by the Senior Lender in accordance with the Senior Loan Documents to cure a Subordinate Loan Default shall be deemed to have been advanced by the Senior Lender pursuant to, and shall be secured by the lien of, the Senior Mortgage.

(b) Subordinate Lender's Exercise of Remedies After Notice to Senior Lender. If a Subordinate Loan Default occurs and is continuing, the Subordinate Lender agrees that, without the Senior Lender's prior written consent, it will not commence foreclosure proceedings with respect to the Property under the Subordinate Loan Documents or exercise any other rights or remedies it may have under the Subordinate Loan Documents, including, but not limited to, accelerating the Subordinate Loan, collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder unless and until it has given the Senior Lender at least sixty (60) days' prior written notice; during such 60-day period, however, the Subordinate Lender shall be entitled to exercise and enforce all other rights and remedies available to the Subordinate Lender under the Subordinate Loan Documents and/or under applicable laws. Notwithstanding, anything to the contrary in this Section 5(b), during such 60 day period, the Subordinate Lender shall be entitled to exercise its rights to enforce covenants and agreements of the Borrower relating to income, rent or affordability restrictions, including the affordability requirements of the Subordinate Loan Documents.

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

6. Default Under Senior Loan Documents.

(a) Notice of Default and Cure Rights. The Senior Lender shall deliver to the Subordinate Lender a Default Notice within five (5) Business Days in each case where the Senior Lender has given a Default Notice to the Borrower. Failure of the Senior Lender to send a Default Notice to the Subordinate Lender shall not prevent the exercise of the Senior Lender's rights and remedies under the Senior Loan Documents, subject to the provisions of this Agreement. The Subordinate Lender shall have the right, but not the obligation, to cure any such Senior Loan Default within ninety (90) days following the date of such notice; provided, however, that the Senior Lender shall be entitled during such 90-day period to continue to pursue its remedies under the Senior Loan Documents. All amounts paid by the Subordinate Lender to the Senior Lender to cure a Senior Loan Default shall be deemed to have been advanced by the Subordinate Lender pursuant to, and shall be secured by the lien of, the Subordinate Mortgage.

(b) Cross Default. The Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a Senior Loan Default shall not constitute a default under the Subordinate Loan Documents if no other default occurred under the Subordinate Loan Documents until either (i) the Senior Lender has accelerated the maturity of the Senior Loan, or (ii) the Senior Lender has taken affirmative action to exercise its rights under the Senior Mortgage to collect rent, to appoint (or seek the appointment of) a receiver, or to foreclose on (or to exercise a power of sale contained in) the Senior Mortgage. At any time after a Senior Loan Default is determined to constitute a default under the Subordinate Loan Documents, the Subordinate Lender shall be permitted to pursue its remedies for default under the Subordinate Loan Documents, subject to the restrictions and limitations of this Agreement. If at any time the Borrower cures any Senior Loan Default to the satisfaction of the Senior Lender, as evidenced by written notice from

the Senior Lender to the Subordinate Lender, any default under the Subordinate Loan Documents arising from such Senior Loan Default shall be deemed cured and the Subordinate Loan shall be retroactively reinstated as if such Senior Loan Default had never occurred.

7. Conflict.

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

8. Rights and Obligations of the Subordinate Lender under the Subordinate Loan Documents and of the Senior Lender under the Senior Loan Documents.

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

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

(b) Condemnation or Casualty. In the event of: a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Property (collectively, a "Taking"); or the occurrence of a fire or other casualty

resulting in damage to all or a portion of the Property (collectively, a "Casualty"), at any time or times when the Senior Mortgage remains a lien on the Property the following provisions shall apply:

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

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

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

Loan without the Senior Lender's consent shall be void ab initio and of no effect whatsoever.

9. Modification or Refinancing of Senior Loan.

The Subordinate Lender consents to any agreement or arrangement in which the Senior Lender waives, postpones, extends, reduces or modifies any provisions of the Senior Loan Documents, including any provision requiring the payment of money. Subordinate Lender further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Loan (including reasonable and necessary costs associated with the closing and/or the refinancing); and that all the terms and covenants of this Agreement shall inure to the benefit of any holder of any such refinanced debt; and that all references to the Senior Loan, the Senior Note, the Senior Mortgage, the Senior Loan Documents and Senior Lender shall mean, respectively, the refinance loan, the refinance note, the mortgage securing the refinance note, all documents evidencing securing or otherwise pertaining to the refinance note and the holder of the refinance note.

10. Default by the Subordinate Lender or Senior Lender.

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

11. Notices.

Each notice, request, demand, consent, approval or other communication (hereinafter in this Section 11 referred to collectively as "notices" and referred to singly as a "notice") which the Senior Lender or the Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two days after mailing in the United States), addressed to the respective parties as follows:

SENIOR LENDER:

Broward County
Broward County Administrator
115 South Andrews Avenue, Room 409

Fort Lauderdale, Florida 33301

With a copy to:

Director of Housing Finance Division
Housing Finance Authority of Broward County
110 NE 3rd Street, Suite 300
Fort Lauderdale, Florida 33301

SUBORDINATE LENDER:

City of Hollywood, Florida
Office of the City Manager
2600 Hollywood Boulevard, Room 419
Hollywood, Florida 33020
Attention: Raelin Storey, Assistant City Manager
Email: rstorey@hollywoodfl.org

With a copy to:

Office of the City Attorney
City of Hollywood
2600 Hollywood Boulevard, Room 407
Hollywood, Florida 33020
Attention: Douglas R. Gonzales, City Attorney
Email: dgonzales@hollywoodfl.org

BORROWER:

Pinnacle 441 Phase 2, LLC
9400 South Dadeland Boulevard, Suite 100
Miami, Florida 33156
Attention: David O. Deutch
Email Address: david@pinnaclehousing.com

with a copy to:

Shutts & Bowen LLP
200 South Biscayne Boulevard, Suite 4100
Miami, Florida 33131
Attention: Robert Cheng, Esq.
Email Address: rcheng@shutts.com

Either party may, by notice given pursuant to this Section 11, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional

address or addresses for its notices, but notice of a change of address shall only be effective upon receipt.

12. General.

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

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

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

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

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

(f) Governing Law. This Agreement shall be governed by the laws of the State of Florida. Any dispute arising under, in connection with or related to this Agreement or related to any matter which is the subject of this Agreement shall be subject to the exclusive jurisdiction of the state and/or federal courts located in Broward County, Florida.

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

(h) Term. The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the Senior Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which the Subordinate Lender is obligated to remit to the Senior Lender pursuant to Section 4 hereof; (iii) the acquisition by the Senior Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Senior Mortgage; or (iv) the acquisition by the Subordinate Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Subordinate Mortgage, but only if such acquisition of title does not violate any of the terms of this Agreement.

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

[Signature Pages Follow]

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

SENIOR LENDER:

Broward County, a political subdivision of the State of Florida

WITNESSES:

Signature of Witness 1

Print Name of Witness 1

Signature of Witness 2

Print Name of Witness 2

By: _____
Name: Monica Cepero
Title: Broward County Administrator

Approved as to form and legal sufficiency:

By: _____
Reno V. Pierre
Assistant County Attorney

By: _____
Annika E. Ashton
Deputy County Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of [] physical presence or [] online notarization, this ____ day of _____, 2023, by Monica Cepero, as County Administrator of Broward County, a political subdivision of the State of Florida. Said person [] is personally known to me or [] has produced _____ as identification.

(SEAL)

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

Witnesses:

SUBORDINATE LENDER:

CITY OF HOLLYWOOD

(Signature)

By: _____

George R. Keller, Jr., CPPT
City Manager

(Print Name)

Attest:

Patricia A. Cerny, City Clerk

(SEAL)

APPROVED AS TO FORM:

Douglas R. Gonzales
City Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instruments were acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2023, by **GEORGE R. KELLER, JR.** as City Manager and **PATRICIA A. CERNY** as City Clerk of the City of Hollywood, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

BORROWER:

Signed sealed and delivered in the presence of:

PINNACLE 441 PHASE 2, LLC,
a Florida limited liability company

By: PC 441 Phase 2, LLC, a Florida
limited liability company, its Authorized
Member

Unofficial Witness

By: _____
David O. Deutch, President

Unofficial Witness

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2023, by David O. Deutch, as President, of PC 441 Phase 2, LLC, a Florida limited liability company, on behalf of Pinnacle 441 Phase 2, LLC, who ☐ is personally known to me or who ☐ produced _____ as identification.

[Notary Seal]

Print Name: _____
Notary Public
Commission Number: _____
Commission Expires: _____

EXHIBIT A
Legal Description of Property

Address:

6028 Johnson Street
Hollywood, Florida 33024

Legal Description of Land:

Parcel 1: (Fee Simple)

The West 220 feet of Lot 11, Block 2 of Pine Ridge Estates, according to the Plat thereof, as recorded in Plat Book 24, Page 10, of the Public Records of Broward County, Florida.

Parcel 2: (Easement)

Nonexclusive easements for the benefit of Parcel 1 hereinabove, as created by and pursuant to that certain Reciprocal Easement Agreement between Pinnacle 441, LLC, a Florida limited liability company and Pinnacle 441 Phase 2, LLC, a Florida limited liability company, dated _____, 2023, recorded on _____, 2023 in Instrument #_____, of the Public Records of Broward County, Florida, over and across the lands more particularly described in Article 3.2 (a) through (e) inclusive, (g) and (h) thereof and for the purposes therein expressed.

All of said lands situate, lying and being in Broward County, Florida.

EXHIBIT "G"

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 City, at the time of execution of this Agreement, with Certificates of Insurance and required endorsements 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 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 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